

**AMENDMENT TO SENATE AMENDMENT TO HOUSE
AMENDMENTS TO SENATE AMENDMENT TO
H.R. 3221
OFFERED BY MR. FRANK OF MASSACHUSETTS**

1 In lieu of the matter proposed to be inserted by the
2 amendment of the Senate, insert the following:

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Housing and Economic Recovery Act of 2008”.

6 (b) **TABLE OF CONTENT.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—HOUSING FINANCE REFORM

Sec. 1001. Short title.

Sec. 1002. Definitions.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

Sec. 1101. Establishment of the Federal Housing Finance Agency.

Sec. 1102. Duties and authorities of the Director.

Sec. 1103. Federal Housing Finance Oversight Board.

Sec. 1104. Authority to require reports by regulated entities.

Sec. 1105. Examiners and accountants; authority to contract for reviews of regulated entities; ombudsman.

Sec. 1106. Assessments.

Sec. 1107. Regulations and orders.

Sec. 1108. Prudential management and operations standards.

Sec. 1109. Review of and authority over enterprise assets and liabilities.

Sec. 1110. Risk-based capital requirements.

Sec. 1111. Minimum capital levels.

Sec. 1112. Registration under the securities laws.

Sec. 1113. Prohibition and withholding of executive compensation.

Sec. 1114. Limit on golden parachutes.

Sec. 1115. Reporting of fraudulent loans.

- Sec. 1116. Inclusion of minorities and women; diversity in Agency workforce.
- Sec. 1117. Temporary authority for purchase of obligations of regulated entities by Secretary of Treasury.
- Sec. 1118. Consultation between the Director of the Federal Housing Finance Agency and the Board of Governors of the Federal Reserve System to ensure financial market stability .

Subtitle B—Improvement of Mission Supervision

- Sec. 1121. Transfer of program approval and housing goal oversight.
- Sec. 1122. Assumption by the Director of certain other HUD responsibilities.
- Sec. 1123. Review of enterprise products.
- Sec. 1124. Conforming loan limits.
- Sec. 1125. Annual housing report.
- Sec. 1126. Public use database.
- Sec. 1127. Reporting of mortgage data.
- Sec. 1128. Revision of housing goals.
- Sec. 1129. Duty to serve underserved markets.
- Sec. 1130. Monitoring and enforcing compliance with housing goals.
- Sec. 1131. Affordable housing programs.
- Sec. 1132. Financial education and counseling.
- Sec. 1133. Transfer and rights of certain HUD employees.

Subtitle C—Prompt Corrective Action

- Sec. 1141. Critical capital levels.
- Sec. 1142. Capital classifications.
- Sec. 1143. Supervisory actions applicable to undercapitalized regulated entities.
- Sec. 1144. Supervisory actions applicable to significantly undercapitalized regulated entities.
- Sec. 1145. Authority over critically undercapitalized regulated entities.

Subtitle D—Enforcement Actions

- Sec. 1151. Cease and desist proceedings.
- Sec. 1152. Temporary cease and desist proceedings.
- Sec. 1153. Removal and prohibition authority.
- Sec. 1154. Enforcement and jurisdiction.
- Sec. 1155. Civil money penalties.
- Sec. 1156. Criminal penalty.
- Sec. 1157. Notice after separation from service.
- Sec. 1158. Subpoena authority.

Subtitle E—General Provisions

- Sec. 1161. Conforming and technical amendments.
- Sec. 1162. Presidentially-appointed directors of enterprises.
- Sec. 1163. Effective date.

TITLE II—FEDERAL HOME LOAN BANKS

- Sec. 1201. Recognition of distinctions between the enterprises and the Federal Home Loan Banks.
- Sec. 1202. Directors.
- Sec. 1203. Definitions.
- Sec. 1204. Agency oversight of Federal Home Loan Banks.
- Sec. 1205. Housing goals.

- Sec. 1206. Community development financial institutions.
- Sec. 1207. Sharing of information among Federal Home Loan Banks.
- Sec. 1208. Exclusion from certain requirements.
- Sec. 1209. Voluntary mergers.
- Sec. 1210. Authority to reduce districts.
- Sec. 1211. Community financial institution members.
- Sec. 1212. Public use database; reports to Congress.
- Sec. 1213. Semiannual reports.
- Sec. 1214. Liquidation or reorganization of a Federal Home Loan Bank.
- Sec. 1215. Study and report to Congress on securitization of acquired member assets.
- Sec. 1216. Technical and conforming amendments.
- Sec. 1217. Study on Federal Home Loan Bank advances.
- Sec. 1218. Federal Home Loan Bank refinancing authority for certain residential mortgage loans.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Subtitle A—OFHEO

- Sec. 1301. Abolishment of OFHEO.
- Sec. 1302. Continuation and coordination of certain actions.
- Sec. 1303. Transfer and rights of employees of OFHEO.
- Sec. 1304. Transfer of property and facilities.

Subtitle B—Federal Housing Finance Board

- Sec. 1311. Abolishment of the Federal Housing Finance Board.
- Sec. 1312. Continuation and coordination of certain actions.
- Sec. 1313. Transfer and rights of employees of the Federal Housing Finance Board.
- Sec. 1314. Transfer of property and facilities.

TITLE IV—HOPE FOR HOMEOWNERS

- Sec. 1401. Short title.
- Sec. 1402. Establishment of HOPE for Homeowners Program.
- Sec. 1403. Fiduciary duty of servicers of pooled residential mortgage loans.
- Sec. 1404. Revised standards for FHA appraisers.

TITLE V—S.A.F.E. MORTGAGE LICENSING ACT

- Sec. 1501. Short title.
- Sec. 1502. Purposes and methods for establishing a mortgage licensing system and registry.
- Sec. 1503. Definitions.
- Sec. 1504. License or registration required.
- Sec. 1505. State license and registration application and issuance.
- Sec. 1506. Standards for State license renewal.
- Sec. 1507. System of registration administration by Federal agencies.
- Sec. 1508. Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system.
- Sec. 1509. Backup authority to establish a nationwide mortgage licensing and registry system.
- Sec. 1510. Fees.

- Sec. 1511. Background checks of loan originators.
- Sec. 1512. Confidentiality of information.
- Sec. 1513. Liability provisions.
- Sec. 1514. Enforcement under HUD backup licensing system.
- Sec. 1515. State examination authority.
- Sec. 1516. Reports and recommendations to Congress.
- Sec. 1517. Study and reports on defaults and foreclosures.

TITLE VI—MISCELLANEOUS

- Sec. 1601. Study and reports on guarantee fees.
- Sec. 1602. Study and report on default risk evaluation.
- Sec. 1603. Conversion of HUD contracts.
- Sec. 1604. Bridge depository institutions.
- Sec. 1605. Sense of the Senate.

DIVISION B—FORECLOSURE PREVENTION

- Sec. 2001. Short title.
- Sec. 2002. Emergency designation.

TITLE I—FHA MODERNIZATION ACT OF 2008

- Sec. 2101. Short title.

Subtitle A—Building American Homeownership

- Sec. 2111. Short title.
- Sec. 2112. Maximum principal loan obligation.
- Sec. 2113. Cash investment requirement and prohibition of seller-funded down payment assistance.
- Sec. 2114. Mortgage insurance premiums.
- Sec. 2115. Rehabilitation loans.
- Sec. 2116. Discretionary action.
- Sec. 2117. Insurance of condominiums.
- Sec. 2118. Mutual Mortgage Insurance Fund.
- Sec. 2119. Hawaiian home lands and Indian reservations.
- Sec. 2120. Conforming and technical amendments.
- Sec. 2121. Insurance of mortgages.
- Sec. 2122. Home equity conversion mortgages.
- Sec. 2123. Energy efficient mortgages program.
- Sec. 2124. Pilot program for automated process for borrowers without sufficient credit history.
- Sec. 2125. Homeownership preservation.
- Sec. 2126. Use of FHA savings for improvements in FHA technologies, procedures, processes, program performance, staffing, and salaries.
- Sec. 2127. Post-purchase housing counseling eligibility improvements.
- Sec. 2128. Pre-purchase homeownership counseling demonstration.
- Sec. 2129. Fraud prevention.
- Sec. 2130. Limitation on mortgage insurance premium increases.
- Sec. 2131. Savings provision.
- Sec. 2132. Implementation.
- Sec. 2133. Moratorium on implementation of risk-based premiums.

Subtitle B—Manufactured Housing Loan Modernization

- Sec. 2141. Short title.

- Sec. 2142. Purposes.
- Sec. 2143. Exception to limitation on financial institution portfolio.
- Sec. 2144. Insurance benefits.
- Sec. 2145. Maximum loan limits.
- Sec. 2146. Insurance premiums.
- Sec. 2147. Technical corrections.
- Sec. 2148. Revision of underwriting criteria.
- Sec. 2149. Prohibition against kickbacks and unearned fees.
- Sec. 2150. Leasehold requirements.

TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

- Sec. 2201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.
- Sec. 2202. Counseling on mortgage foreclosures for members of the Armed Forces returning from service abroad.
- Sec. 2203. Enhancement of protections for servicemembers relating to mortgages and mortgage foreclosures.

TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

- Sec. 2301. Emergency assistance for the redevelopment of abandoned and foreclosed homes.
- Sec. 2302. Nationwide distribution of resources.
- Sec. 2303. Limitation on use of funds with respect to eminent domain.
- Sec. 2304. Limitation on distribution of funds.
- Sec. 2305. Counseling intermediaries.

TITLE IV—HOUSING COUNSELING RESOURCES

- Sec. 2401. Housing counseling resources.
- Sec. 2402. Credit counseling.

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

- Sec. 2501. Short title.
- Sec. 2502. Enhanced mortgage loan disclosures.
- Sec. 2503. Community Development Investment Authority for depository institutions.

TITLE VI—VETERANS HOUSING MATTERS

- Sec. 2601. Home improvements and structural alterations for totally disabled members of the Armed Forces before discharge or release from the Armed Forces.
- Sec. 2602. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with service-connected disabilities and individuals residing outside the United States.
- Sec. 2603. Specially adapted housing assistance for individuals with severe burn injuries.
- Sec. 2604. Extension of assistance for individuals residing temporarily in housing owned by a family member.
- Sec. 2605. Increase in specially adapted housing benefits for disabled veterans.
- Sec. 2606. Report on specially adapted housing for disabled individuals.

- Sec. 2607. Report on specially adapted housing assistance for individuals who reside in housing owned by a family member on permanent basis.
- Sec. 2608. Definition of annual income for purposes of section 8 and other public housing programs.
- Sec. 2609. Payment of transportation of baggage and household effects for members of the Armed Forces who relocate due to foreclosure of leased housing.

TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK
REDUCTION ACT

- Sec. 2701. Short title.
- Sec. 2702. Public housing agency plans for certain qualified public housing agencies.

TITLE VIII—HOUSING PRESERVATION

Subtitle A—Preservation Under Federal Housing Programs

- Sec. 2801. Clarification of disposition of certain properties.
- Sec. 2802. Eligibility of certain projects for enhanced voucher assistance.
- Sec. 2803. Transfer of certain rental assistance contracts.
- Sec. 2804. Public housing disaster relief.
- Sec. 2805. Preservation of certain affordable housing.

Subtitle B—Coordination of Federal Housing Programs and Tax Incentives
for Housing

- Sec. 2831. Short title.
- Sec. 2832. Approvals by Department of Housing and Urban Development.
- Sec. 2833. Project approvals by rural housing service.
- Sec. 2834. Use of FHA loans with housing tax credits.
- Sec. 2835. Other HUD programs.

TITLE IX—MISCELLANEOUS

- Sec. 2901. Homeless assistance.
- Sec. 2902. Increasing access and understanding of energy efficient mortgages.

DIVISION C—TAX-RELATED PROVISIONS

- Sec. 3000. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART I—LOW-INCOME HOUSING TAX CREDIT

- Sec. 3001. Temporary increase in volume cap for low-income housing tax credit.
- Sec. 3002. Determination of credit rate.
- Sec. 3003. Modifications to definition of eligible basis.
- Sec. 3004. Other simplification and reform of low-income housing tax incentives.
- Sec. 3005. Treatment of military basic pay.

PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

Sec. 3007. Recycling of tax-exempt debt for financing residential rental projects.

Sec. 3008. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

Sec. 3009. Hold harmless for reductions in area median gross income.

Sec. 3010. Exception to annual current income determination requirement where determination not relevant.

Subtitle B—Single Family Housing

Sec. 3011. First-time homebuyer credit.

Sec. 3012. Additional standard deduction for real property taxes for non-itemizers.

Subtitle C—General Provisions

Sec. 3021. Temporary liberalization of tax-exempt housing bond rules.

Sec. 3022. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.

Sec. 3023. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.

Sec. 3024. Modification of rules pertaining to FIRPTA nonforeign affidavits.

Sec. 3025. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.

Sec. 3026. Extension of special rule for mortgage revenue bonds for residences located in disaster areas.

Sec. 3027. Transfer of funds appropriated to carry out 2008 recovery rebates for individuals.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

Sec. 3031. Revisions to REIT income tests.

Sec. 3032. Revisions to REIT asset tests.

Sec. 3033. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries

Sec. 3041. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales

Sec. 3051. Holding period under safe harbor.

Sec. 3052. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs

Sec. 3061. Conformity for health care facilities.

Subtitle E—Effective Dates

Sec. 3071. Effective dates.

TITLE III—REVENUE PROVISIONS

Subtitle A—General Provisions

Sec. 3081. Election to accelerate the AMT and research credits in lieu of bonus depreciation.

Sec. 3082. Certain GO Zone incentives.

Sec. 3083. Increase in statutory limit on the public debt.

Subtitle B—Revenue Offsets

Sec. 3091. Returns relating to payments made in settlement of payment card and third party network transactions.

Sec. 3092. Gain from sale of principal residence allocated to nonqualified use not excluded from income.

Sec. 3093. Delay in application of worldwide allocation of interest.

Sec. 3094. Time for payment of corporate estimated taxes.

1 **DIVISION A—HOUSING FINANCE**
2 **REFORM**

3 **SEC. 1001. SHORT TITLE.**

4 This division may be cited as the “Federal Housing
5 Finance Regulatory Reform Act of 2008”.

6 **SEC. 1002. DEFINITIONS.**

7 (a) FEDERAL SAFETY AND SOUNDNESS ACT DEFINI-
8 TIONS.—Section 1303 of the Federal Housing Enterprises
9 Financial Safety and Soundness Act of 1992 (12 U.S.C.
10 4502) is amended—

11 (1) in each of paragraphs (8), (9), (10), and
12 (19), by striking “Secretary” each place that term
13 appears and inserting “Director”;

14 (2) by redesignating paragraphs (16) through
15 (19) as paragraphs (21) through (24), respectively;

16 (3) by striking paragraphs (13) through (15)
17 and inserting the following:

1 “(19) OFFICE OF FINANCE.—The term ‘Office
2 of Finance’ means the Office of Finance of the Fed-
3 eral Home Loan Bank System (or any successor
4 thereto).

5 “(20) REGULATED ENTITY.—The term ‘regu-
6 lated entity’ means—

7 “(A) the Federal National Mortgage Asso-
8 ciation and any affiliate thereof;

9 “(B) the Federal Home Loan Mortgage
10 Corporation and any affiliate thereof; and

11 “(C) any Federal Home Loan Bank.”;

12 (4) by redesignating paragraphs (11) and (12)
13 as paragraphs (17) and (18), respectively;

14 (5) by redesignating paragraph (7) as para-
15 graph (12);

16 (6) by redesignating paragraphs (8) through
17 (10) as paragraphs (14) through (16), respectively;

18 (7) in paragraph (5)—

19 (A) by striking “(5)” and inserting “(9)”;
20 and

21 (B) by striking “Office of Federal Housing
22 Enterprise Oversight of the Department of
23 Housing and Urban Development” and insert-
24 ing “Federal Housing Finance Agency”;

1 (8) by redesignating paragraph (6) as para-
2 graph (10);

3 (9) by redesignating paragraphs (2) through
4 (4) as paragraphs (5) through (7), respectively;

5 (10) by inserting after paragraph (7), as redesi-
6 gnated, the following:

7 “(8) DEFAULT; IN DANGER OF DEFAULT.—

8 “(A) DEFAULT.—The term ‘default’
9 means, with respect to a regulated entity, any
10 adjudication or other official determination by
11 any court of competent jurisdiction, or the
12 Agency, pursuant to which a conservator, re-
13 ceiver, limited-life regulated entity, or legal cus-
14 todian is appointed for a regulated entity.

15 “(B) IN DANGER OF DEFAULT.—The term
16 ‘in danger of default’ means a regulated entity
17 with respect to which, in the opinion of the
18 Agency—

19 “(i) the regulated entity is not likely
20 to be able to pay the obligations of the reg-
21 ulated entity in the normal course of busi-
22 ness; or

23 “(ii) the regulated entity—

1 “(I) has incurred or is likely to
2 incur losses that will deplete all or
3 substantially all of its capital; and

4 “(II) there is no reasonable pros-
5 pect that the capital of the regulated
6 entity will be replenished.”;

7 (11) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) AGENCY.—The term ‘Agency’ means the
10 Federal Housing Finance Agency established under
11 section 1311.

12 “(3) AUTHORIZING STATUTES.—The term ‘au-
13 thorizing statutes’ means—

14 “(A) the Federal National Mortgage Asso-
15 ciation Charter Act;

16 “(B) the Federal Home Loan Mortgage
17 Corporation Act; and

18 “(C) the Federal Home Loan Bank Act.

19 “(4) BOARD.—The term ‘Board’ means the
20 Federal Housing Finance Oversight Board estab-
21 lished under section 1313A.”;

22 (12) by inserting after paragraph (10), as re-
23 designated by this section, the following:

24 “(11) ENTITY-AFFILIATED PARTY.—The term
25 ‘entity-affiliated party’ means—

1 “(A) any director, officer, employee, or
2 controlling stockholder of, or agent for, a regu-
3 lated entity;

4 “(B) any shareholder, affiliate, consultant,
5 or joint venture partner of a regulated entity,
6 and any other person, as determined by the Di-
7 rector (by regulation or on a case-by-case basis)
8 that participates in the conduct of the affairs of
9 a regulated entity, provided that a member of
10 a Federal Home Loan Bank shall not be
11 deemed to have participated in the affairs of
12 that Bank solely by virtue of being a share-
13 holder of, and obtaining advances from, that
14 Bank;

15 “(C) any independent contractor for a reg-
16 ulated entity (including any attorney, appraiser,
17 or accountant), if—

18 “(i) the independent contractor know-
19 ingly or recklessly participates in—

20 “(I) any violation of any law or
21 regulation;

22 “(II) any breach of fiduciary
23 duty; or

24 “(III) any unsafe or unsound
25 practice; and

1 “(ii) such violation, breach, or prac-
2 tice caused, or is likely to cause, more than
3 a minimal financial loss to, or a significant
4 adverse effect on, the regulated entity;

5 “(D) any not-for-profit corporation that re-
6 ceives its principal funding, on an ongoing
7 basis, from any regulated entity; and

8 “(E) the Office of Finance.”;

9 (13) by inserting after paragraph (12), as re-
10 designated by this section, the following:

11 “(13) LIMITED-LIFE REGULATED ENTITY.—
12 The term ‘limited-life regulated entity’ means an en-
13 tity established by the Agency under section 1367(i)
14 with respect to a Federal Home Loan Bank in de-
15 fault or in danger of default or with respect to an
16 enterprise in default or in danger of default.”; and

17 (14) by adding at the end the following:

18 “(25) VIOLATION.—The term ‘violation’ in-
19 cludes any action (alone or in combination with an-
20 other or others) for or toward causing, bringing
21 about, participating in, counseling, or aiding or abet-
22 ting a violation.”.

23 (b) REFERENCES IN THIS ACT.—As used in this Act,
24 unless otherwise specified—

1 (1) the term “Agency” means the Federal
2 Housing Finance Agency;

3 (2) the term “Director” means the Director of
4 the Agency; and

5 (3) the terms “enterprise”, “regulated entity”,
6 and “authorizing statutes” have the same meanings
7 as in section 1303 of the Federal Housing Enter-
8 prises Financial Safety and Soundness Act of 1992,
9 as amended by this Act.

10 **TITLE I—REFORM OF**
11 **REGULATION OF ENTERPRISES**
12 **Subtitle A—Improvement of Safety**
13 **and Soundness Supervision**

14 **SEC. 1101. ESTABLISHMENT OF THE FEDERAL HOUSING FI-**
15 **NANCE AGENCY.**

16 The Federal Housing Enterprises Financial Safety
17 and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is
18 amended by striking sections 1311 and 1312 and inserting
19 the following:

20 **“SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING**
21 **FINANCE AGENCY.**

22 “(a) ESTABLISHMENT.—There is established the
23 Federal Housing Finance Agency, which shall be an inde-
24 pendent agency of the Federal Government.

1 “(b) GENERAL SUPERVISORY AND REGULATORY AU-
2 THORITY.—

3 “(1) IN GENERAL.—Each regulated entity shall,
4 to the extent provided in this title, be subject to the
5 supervision and regulation of the Agency.

6 “(2) AUTHORITY OVER FANNIE MAE, FREDDIE
7 MAC, THE FEDERAL HOME LOAN BANKS, AND THE
8 OFFICE OF FINANCE.—The Director shall have gen-
9 eral regulatory authority over each regulated entity
10 and the Office of Finance, and shall exercise such
11 general regulatory authority, including such duties
12 and authorities set forth under section 1313, to en-
13 sure that the purposes of this Act, the authorizing
14 statutes, and any other applicable law are carried
15 out.

16 “(c) SAVINGS PROVISION.—The authority of the Di-
17 rector to take actions under subtitles B and C shall not
18 in any way limit the general supervisory and regulatory
19 authority granted to the Director under subsection (b).

20 **“SEC. 1312. DIRECTOR.**

21 “(a) ESTABLISHMENT OF POSITION.—There is estab-
22 lished the position of the Director of the Agency, who shall
23 be the head of the Agency.

24 “(b) APPOINTMENT; TERM.—

1 “(1) APPOINTMENT.—The Director shall be ap-
2 pointed by the President, by and with the advice and
3 consent of the Senate, from among individuals who
4 are citizens of the United States, have a dem-
5 onstrated understanding of financial management or
6 oversight, and have a demonstrated understanding
7 of capital markets, including the mortgage securities
8 markets and housing finance.

9 “(2) TERM.—The Director shall be appointed
10 for a term of 5 years, unless removed before the end
11 of such term for cause by the President.

12 “(3) VACANCY.—A vacancy in the position of
13 Director that occurs before the expiration of the
14 term for which a Director was appointed shall be
15 filled in the manner established under paragraph
16 (1), and the Director appointed to fill such vacancy
17 shall be appointed only for the remainder of such
18 term.

19 “(4) SERVICE AFTER END OF TERM.—An indi-
20 vidual may serve as the Director after the expiration
21 of the term for which appointed until a successor
22 has been appointed.

23 “(5) TRANSITIONAL PROVISION.—Notwith-
24 standing paragraphs (1) and (2), during the period
25 beginning on the effective date of the Federal Hous-

1 ing Finance Regulatory Reform Act of 2008, and
2 ending on the date on which the Director is ap-
3 pointed and confirmed, the person serving as the Di-
4 rector of the Office of Federal Housing Enterprise
5 Oversight of the Department of Housing and Urban
6 Development on that effective date shall act for all
7 purposes as, and with the full powers of, the Direc-
8 tor.

9 “(c) DEPUTY DIRECTOR OF THE DIVISION OF EN-
10 TERPRISE REGULATION.—

11 “(1) IN GENERAL.—The Agency shall have a
12 Deputy Director of the Division of Enterprise Regu-
13 lation, who shall be designated by the Director from
14 among individuals who are citizens of the United
15 States, have a demonstrated understanding of finan-
16 cial management or oversight, and have a dem-
17 onstrated understanding of mortgage securities mar-
18 kets and housing finance.

19 “(2) FUNCTIONS.—The Deputy Director of the
20 Division of Enterprise Regulation shall have such
21 functions, powers, and duties with respect to the
22 oversight of the enterprises as the Director shall pre-
23 scribe.

24 “(d) DEPUTY DIRECTOR OF THE DIVISION OF FED-
25 ERAL HOME LOAN BANK REGULATION.—

1 “(1) IN GENERAL.—The Agency shall have a
2 Deputy Director of the Division of Federal Home
3 Loan Bank Regulation, who shall be designated by
4 the Director from among individuals who are citi-
5 zens of the United States, have a demonstrated un-
6 derstanding of financial management or oversight,
7 and have a demonstrated understanding of the Fed-
8 eral Home Loan Bank System and housing finance.

9 “(2) FUNCTIONS.—The Deputy Director of the
10 Division of Federal Home Loan Bank Regulation
11 shall have such functions, powers, and duties with
12 respect to the oversight of the Federal Home Loan
13 Banks as the Director shall prescribe.

14 “(e) DEPUTY DIRECTOR FOR HOUSING MISSION AND
15 GOALS.—

16 “(1) IN GENERAL.—The Agency shall have a
17 Deputy Director for Housing Mission and Goals,
18 who shall be designated by the Director from among
19 individuals who are citizens of the United States,
20 and have a demonstrated understanding of the hous-
21 ing markets and housing finance.

22 “(2) FUNCTIONS.—The Deputy Director for
23 Housing Mission and Goals shall have such func-
24 tions, powers, and duties with respect to the over-
25 sight of the housing mission and goals of the enter-

1 prises, and with respect to oversight of the housing
2 finance and community and economic development
3 mission of the Federal Home Loan Banks, as the
4 Director shall prescribe.

5 “(3) CONSIDERATIONS.—In exercising such
6 functions, powers, and duties, the Deputy Director
7 for Housing Mission and Goals shall consider the
8 differences between the enterprises and the Federal
9 Home Loan Banks, including those described in sec-
10 tion 1313(d).

11 “(f) ACTING DIRECTOR.—In the event of the death,
12 resignation, sickness, or absence of the Director, the
13 President shall designate either the Deputy Director of the
14 Division of Enterprise Regulation, the Deputy Director of
15 the Division of Federal Home Loan Bank Regulation, or
16 the Deputy Director for Housing Mission and Goals, to
17 serve as acting Director until the return of the Director,
18 or the appointment of a successor pursuant to subsection
19 (b).

20 “(g) LIMITATIONS.—The Director and each of the
21 Deputy Directors may not—

22 “(1) have any direct or indirect financial inter-
23 est in any regulated entity or entity-affiliated party;

24 “(2) hold any office, position, or employment in
25 any regulated entity or entity-affiliated party; or

1 “(3) have served as an executive officer or di-
2 rector of any regulated entity or entity-affiliated
3 party at any time during the 3-year period preceding
4 the date of appointment or designation of such indi-
5 vidual as Director or Deputy Director, as applica-
6 ble.”.

7 **SEC. 1102. DUTIES AND AUTHORITIES OF THE DIRECTOR.**

8 (a) IN GENERAL.—Section 1313 of the Federal
9 Housing Enterprises Financial Safety and Soundness Act
10 of 1992 (12 U.S.C. 4513) is amended to read as follows:

11 **“SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.**

12 “(a) DUTIES.—

13 “(1) PRINCIPAL DUTIES.—The principal duties
14 of the Director shall be—

15 “(A) to oversee the prudential operations
16 of each regulated entity; and

17 “(B) to ensure that—

18 “(i) each regulated entity operates in
19 a safe and sound manner, including main-
20 tenance of adequate capital and internal
21 controls;

22 “(ii) the operations and activities of
23 each regulated entity foster liquid, effi-
24 cient, competitive, and resilient national
25 housing finance markets (including activi-

1 ties relating to mortgages on housing for
2 low- and moderate-income families involv-
3 ing a reasonable economic return that may
4 be less than the return earned on other ac-
5 tivities);

6 “(iii) each regulated entity complies
7 with this title and the rules, regulations,
8 guidelines, and orders issued under this
9 title and the authorizing statutes;

10 “(iv) each regulated entity carries out
11 its statutory mission only through activi-
12 ties that are authorized under and con-
13 sistent with this title and the authorizing
14 statutes; and

15 “(v) the activities of each regulated
16 entity and the manner in which such regu-
17 lated entity is operated are consistent with
18 the public interest.

19 “(2) SCOPE OF AUTHORITY.—The authority of
20 the Director shall include the authority—

21 “(A) to review and, if warranted based on
22 the principal duties described in paragraph (1),
23 reject any acquisition or transfer of a control-
24 ling interest in a regulated entity; and

1 “(B) to exercise such incidental powers as
2 may be necessary or appropriate to fulfill the
3 duties and responsibilities of the Director in the
4 supervision and regulation of each regulated en-
5 tity.

6 “(b) DELEGATION OF AUTHORITY.—The Director
7 may delegate to officers and employees of the Agency any
8 of the functions, powers, or duties of the Director, as the
9 Director considers appropriate.

10 “(c) LITIGATION AUTHORITY.—

11 “(1) IN GENERAL.—In enforcing any provision
12 of this title, any regulation or order prescribed under
13 this title, or any other provision of law, rule, regula-
14 tion, or order, or in any other action, suit, or pro-
15 ceeding to which the Director is a party or in which
16 the Director is interested, and in the administration
17 of conservatorships and receiverships, the Director
18 may act in the Director’s own name and through the
19 Director’s own attorneys.

20 “(2) SUBJECT TO SUIT.—Except as otherwise
21 provided by law, the Director shall be subject to suit
22 (other than suits on claims for money damages) by
23 a regulated entity with respect to any matter under
24 this title or any other applicable provision of law,
25 rule, order, or regulation under this title, in the

1 United States district court for the judicial district
2 in which the regulated entity has its principal place
3 of business, or in the United States District Court
4 for the District of Columbia, and the Director may
5 be served with process in the manner prescribed by
6 the Federal Rules of Civil Procedure.”.

7 (b) INDEPENDENCE IN CONGRESSIONAL TESTIMONY
8 AND RECOMMENDATIONS.—Section 111 of Public Law
9 93–495 (12 U.S.C. 250) is amended by striking “the Fed-
10 eral Housing Finance Board” and inserting “the Director
11 of the Federal Housing Finance Agency”.

12 **SEC. 1103. FEDERAL HOUSING FINANCE OVERSIGHT**
13 **BOARD.**

14 (a) IN GENERAL.—The Federal Housing Enterprises
15 Financial Safety and Soundness Act of 1992 (12 U.S.C.
16 4501 et seq.) is amended by inserting after section 1313
17 the following:

18 **“SEC. 1313A. FEDERAL HOUSING FINANCE OVERSIGHT**
19 **BOARD.**

20 “(a) IN GENERAL.—There is established the Federal
21 Housing Finance Oversight Board, which shall advise the
22 Director with respect to overall strategies and policies in
23 carrying out the duties of the Director under this title.

24 “(b) LIMITATIONS.—The Board may not exercise any
25 executive authority, and the Director may not delegate to

1 the Board any of the functions, powers, or duties of the
2 Director.

3 “(c) COMPOSITION.—The Board shall be comprised
4 of 4 members, of whom—

5 “(1) 1 member shall be the Secretary of the
6 Treasury;

7 “(2) 1 member shall be the Secretary of Hous-
8 ing and Urban Development;

9 “(3) 1 member shall be the Chairman of the
10 Securities and Exchange Commission; and

11 “(4) 1 member shall be the Director, who shall
12 serve as the Chairperson of the Board.

13 “(d) MEETINGS.—

14 “(1) IN GENERAL.—The Board shall meet upon
15 notice by the Director, but in no event shall the
16 Board meet less frequently than once every 3
17 months.

18 “(2) SPECIAL MEETINGS.—Either the Secretary
19 of the Treasury, the Secretary of Housing and
20 Urban Development, or the Chairman of the Securi-
21 ties and Exchange Commission may, upon giving
22 written notice to the Director, require a special
23 meeting of the Board.

24 “(e) TESTIMONY.—On an annual basis, the Board
25 shall testify before Congress regarding—

1 “(1) the safety and soundness of the regulated
2 entities;

3 “(2) any material deficiencies in the conduct of
4 the operations of the regulated entities;

5 “(3) the overall operational status of the regu-
6 lated entities;

7 “(4) an evaluation of the performance of the
8 regulated entities in carrying out their respective
9 missions;

10 “(5) operations, resources, and performance of
11 the Agency; and

12 “(6) such other matters relating to the Agency
13 and its fulfillment of its mission, as the Board deter-
14 mines appropriate.”.

15 (b) ANNUAL REPORT OF THE DIRECTOR.—Section
16 1319B(a) of the Federal Housing Enterprises Financial
17 Safety and Soundness Act of 1992 (12 U.S.C. 4521(a))
18 is amended—

19 (1) by striking “enterprise” each place that
20 term appears and inserting “regulated entity”;

21 (2) by striking “enterprises” each place that
22 term appears and inserting “regulated entities”;

23 (3) in paragraph (3), by striking “; and” and
24 inserting a semicolon;

1 (4) in paragraph (4), by striking “1994.” and
2 inserting “1994; and”; and

3 (5) by adding at the end the following:

4 “(5) the assessment of the Board or any of its
5 members with respect to—

6 “(A) the safety and soundness of the regu-
7 lated entities;

8 “(B) any material deficiencies in the con-
9 duct of the operations of the regulated entities;

10 “(C) the overall operational status of the
11 regulated entities; and

12 “(D) an evaluation of the performance of
13 the regulated entities in carrying out their re-
14 spective missions;

15 “(6) operations, resources, and performance of
16 the Agency; and

17 “(7) such other matters relating to the Agency
18 and the fulfillment of its mission.”.

19 **SEC. 1104. AUTHORITY TO REQUIRE REPORTS BY REGU-**
20 **LATED ENTITIES.**

21 (a) IN GENERAL.—Section 1314 of the Federal
22 Housing Enterprises Financial Safety and Soundness Act
23 of 1992 (12 U.S.C. 4514) is amended—

24 (1) in the section heading, by striking “**ENTER-**
25 **PRISES**” and inserting “**REGULATED ENTITIES**”;

1 (2) by striking “an enterprise” each place that
2 term appears and inserting “a regulated entity”;

3 (3) by striking “the enterprise” and inserting
4 “the regulated entity”;

5 (4) in subsection (a)—

6 (A) by striking the subsection heading and
7 all that follows through “and operations” in
8 paragraph (1) and inserting the following:

9 “(a) REGULAR AND SPECIAL REPORTS.—

10 “(1) REGULAR REPORTS.—The Director may
11 require, by general or specific orders, a regulated en-
12 tity to submit regular reports, including financial
13 statements determined on a fair value basis, on the
14 condition (including financial condition), manage-
15 ment, activities, or operations of the regulated enti-
16 ty, as the Director considers appropriate”; and

17 (B) in paragraph (2)—

18 (i) by inserting “, by general or spe-
19 cific orders,” after “may also require”; and

20 (ii) by striking “whenever” and insert-
21 ing “on any of the topics specified in para-
22 graph (1) or any other relevant topics, if”;

23 and

24 (5) by adding at the end the following:

1 “(c) PENALTIES FOR FAILURE TO MAKE RE-
2 PORTS.—

3 “(1) VIOLATIONS.—It shall be a violation of
4 this section for any regulated entity—

5 “(A) to fail to make, transmit, or publish
6 any report or obtain any information required
7 by the Director under this section, section
8 309(k) of the Federal National Mortgage Asso-
9 ciation Charter Act, section 307(c) of the Fed-
10 eral Home Loan Mortgage Corporation Act, or
11 section 20 of the Federal Home Loan Bank
12 Act, within the period of time specified in such
13 provision of law or otherwise by the Director; or

14 “(B) to submit or publish any false or mis-
15 leading report or information under this sec-
16 tion.

17 “(2) PENALTIES.—

18 “(A) FIRST TIER.—

19 “(i) IN GENERAL.—A violation de-
20 scribed in paragraph (1) shall be subject to
21 a penalty of not more than \$2,000 for each
22 day during which such violation continues,
23 in any case in which—

24 “(I) the subject regulated entity
25 maintains procedures reasonably

1 adapted to avoid any inadvertent error
2 and the violation was unintentional
3 and a result of such an error; or

4 “(II) the violation was an inad-
5 vertent transmittal or publication of
6 any report which was minimally late.

7 “(ii) BURDEN OF PROOF.—For pur-
8 poses of this subparagraph, the regulated
9 entity shall have the burden of proving
10 that the error was inadvertent or that a re-
11 port was inadvertently transmitted or pub-
12 lished late.

13 “(B) SECOND TIER.—A violation described
14 in paragraph (1) shall be subject to a penalty
15 of not more than \$20,000 for each day during
16 which such violation continues or such false or
17 misleading information is not corrected, in any
18 case that is not addressed in subparagraph (A)
19 or (C).

20 “(C) THIRD TIER.—A violation described
21 in paragraph (1) shall be subject to a penalty
22 of not more than \$1,000,000 per day for each
23 day during which such violation continues or
24 such false or misleading information is not cor-
25 rected, in any case in which the subject regu-

1 lated entity committed such violation knowingly
2 or with reckless disregard for the accuracy of
3 any such information or report.

4 “(3) ASSESSMENTS.—Any penalty imposed
5 under this subsection shall be in lieu of a penalty
6 under section 1376, but shall be assessed and col-
7 lected by the Director in the manner provided in sec-
8 tion 1376 for penalties imposed under that section,
9 and any such assessment (including the determina-
10 tion of the amount of the penalty) shall be otherwise
11 subject to the provisions of section 1376.

12 “(4) HEARING.—A regulated entity against
13 which a penalty is assessed under this section shall
14 be afforded an agency hearing if the regulated entity
15 submits a request for a hearing not later than 20
16 days after the date of the issuance of the notice of
17 assessment. Section 1374 shall apply to any such
18 proceedings.”.

19 (b) CONFORMING AMENDMENT.—The Federal Hous-
20 ing Enterprises Financial Safety and Soundness Act of
21 1992 (12 U.S.C. 4501 et seq.) is amended by striking sec-
22 tions 1327 and 1328.

1 **SEC. 1105. EXAMINERS AND ACCOUNTANTS; AUTHORITY TO**
2 **CONTRACT FOR REVIEWS OF REGULATED EN-**
3 **TITIES; OMBUDSMAN.**

4 (a) IN GENERAL.—Section 1317 of the Federal
5 Housing Enterprises Financial Safety and Soundness Act
6 of 1992 (12 U.S.C. 4517) is amended—

7 (1) in subsection (a), by striking “enterprise”
8 each place that term appears and inserting “regu-
9 lated entity”;

10 (2) in subsection (b)—

11 (A) by inserting “of a regulated entity”
12 after “under this section”; and

13 (B) by striking “to determine the condition
14 of an enterprise for the purpose of ensuring its
15 financial safety and soundness” and inserting
16 “or appropriate”;

17 (3) in subsection (c), in the second sentence, by
18 inserting before the period “to conduct examinations
19 under this section”;

20 (4) by redesignating subsections (d) through (f)
21 as subsections (e) through (g), respectively; and

22 (5) by inserting after subsection (c) the fol-
23 lowing:

24 “(d) INSPECTOR GENERAL.—There shall be within
25 the Agency an Inspector General, who shall be appointed

1 in accordance with section 3(a) of the Inspector General
2 Act of 1978.”.

3 (b) DIRECT HIRE AUTHORITY TO HIRE ACCOUNT-
4 ANTS, ECONOMISTS, AND EXAMINERS.—Section 1317 of
5 the Federal Housing Enterprises Financial Safety and
6 Soundness Act of 1992 (12 U.S.C. 4517) is amended by
7 adding at the end the following:

8 “(h) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS,
9 AND EXAMINERS.—

10 “(1) APPLICABILITY.—This section shall apply
11 with respect to any position of examiner, accountant,
12 economist, and specialist in financial markets and in
13 technology at the Agency, with respect to supervision
14 and regulation of the regulated entities, that is in
15 the competitive service.

16 “(2) APPOINTMENT AUTHORITY.—The Director
17 may appoint candidates to any position described in
18 paragraph (1)—

19 “(A) in accordance with the statutes, rules,
20 and regulations governing appointments in the
21 excepted service; and

22 “(B) notwithstanding any statutes, rules,
23 and regulations governing appointments in the
24 competitive service.”.

1 (c) AMENDMENTS TO INSPECTOR GENERAL ACT.—
2 Section 11 of the Inspector General Act of 1978 (5 U.S.C.
3 App.) is amended—

4 (1) in paragraph (1), by inserting “; the Direc-
5 tor of the Federal Housing Finance Agency” after
6 “Social Security Administration”; and

7 (2) in paragraph (2), by inserting “, the Fed-
8 eral Housing Finance Agency” after “Social Secu-
9 rity Administration”.

10 (d) AUTHORITY TO CONTRACT FOR REVIEWS OF
11 REGULATED ENTITIES.—Section 1319 of the Federal
12 Housing Enterprises Financial Safety and Soundness Act
13 of 1992 (12 U.S.C. 4519) is amended—

14 (1) in the section heading, by striking “**ENTER-**
15 **PRISES BY RATING ORGANIZATION**” and insert-
16 ing “**REGULATED ENTITIES**”; and

17 (2) by striking “enterprises” and inserting
18 “regulated entities”.

19 (e) OFFICE OF THE OMBUDSMAN.—Section 1317 of
20 the Federal Housing Enterprises Financial Safety and
21 Soundness Act of 1992 (12 U.S.C. 4517) is amended by
22 adding at the end the following:

23 “(i) OMBUDSMAN.—The Director shall establish, by
24 regulation, an Office of the Ombudsman within the Agen-
25 cy, which shall be responsible for considering complaints

1 and appeals, from any regulated entity and any person
2 that has a business relationship with a regulated entity,
3 regarding any matter relating to the regulation and super-
4 vision of such regulated entity by the Agency. The regula-
5 tion issued by the Director under this subsection shall
6 specify the authority and duties of the Office of the Om-
7 budsman.”.

8 **SEC. 1106. ASSESSMENTS.**

9 Section 1316 of the Federal Housing Enterprises Fi-
10 nancial Safety and Soundness Act of 1992 (12 U.S.C.
11 4516) is amended—

12 (1) by striking subsection (a) and inserting the
13 following:

14 “(a) ANNUAL ASSESSMENTS.—The Director shall es-
15 tablish and collect from the regulated entities annual as-
16 sessments in an amount not exceeding the amount suffi-
17 cient to provide for reasonable costs (including administra-
18 tive costs) and expenses of the Agency, including—

19 “(1) the expenses of any examinations under
20 section 1317 of this Act and under section 20 of the
21 Federal Home Loan Bank Act;

22 “(2) the expenses of obtaining any reviews and
23 credit assessments under section 1319;

24 “(3) such amounts in excess of actual expenses
25 for any given year as deemed necessary by the Di-

1 rector to maintain a working capital fund in accord-
2 ance with subsection (e); and

3 “(4) the windup of the affairs of the Office of
4 Federal Housing Enterprise Oversight and the Fed-
5 eral Housing Finance Board under title III of the
6 Federal Housing Finance Regulatory Reform Act of
7 2008.”;

8 (2) in subsection (b)—

9 (A) by realigning the margins of para-
10 graph (2) two ems from the left, so as to align
11 the left margin of such paragraph with the left
12 margins of paragraph (1);

13 (B) by redesignating paragraphs (2) and
14 (3) as paragraphs (3) and (4), respectively; and

15 (C) by inserting after paragraph (1) the
16 following:

17 “(2) SEPARATE TREATMENT OF FEDERAL
18 HOME LOAN BANK AND ENTERPRISE ASSESS-
19 MENTS.—Assessments collected from the enterprises
20 shall not exceed the amounts sufficient to provide
21 for the costs and expenses described in subsection
22 (a) relating to the enterprises. Assessments collected
23 from the Federal Home Loan Banks shall not ex-
24 ceed the amounts sufficient to provide for the costs

1 and expenses described in subsection (a) relating to
2 the Federal Home Loan Banks.”;

3 (3) by striking subsection (c) and inserting the
4 following:

5 “(c) INCREASED COSTS OF REGULATION.—

6 “(1) INCREASE FOR INADEQUATE CAPITALIZA-
7 TION.—The semiannual payments made pursuant to
8 subsection (b) by any regulated entity that is not
9 classified (for purposes of subtitle B) as adequately
10 capitalized may be increased, as necessary, in the
11 discretion of the Director to pay additional esti-
12 mated costs of regulation of the regulated entity.

13 “(2) ADJUSTMENT FOR ENFORCEMENT ACTIVI-
14 TIES.—The Director may adjust the amounts of any
15 semiannual payments for an assessment under sub-
16 section (a) that are to be paid pursuant to sub-
17 section (b) by a regulated entity, as necessary in the
18 discretion of the Director, to ensure that the costs
19 of enforcement activities under this Act for a regu-
20 lated entity are borne only by such regulated entity.

21 “(3) ADDITIONAL ASSESSMENT FOR DEFICI-
22 CIENCIES.—If at any time, as a result of increased
23 costs of regulation of a regulated entity that is not
24 classified (for purposes of subtitle B) as adequately
25 capitalized or as the result of supervisory or enforce-

1 ment activities under this Act for a regulated entity,
2 the amount available from any semiannual payment
3 made by such regulated entity pursuant to sub-
4 section (b) is insufficient to cover the costs of the
5 Agency with respect to such entity, the Director may
6 make and collect from such regulated entity an im-
7 mediate assessment to cover the amount of such de-
8 ficiency for the semiannual period. If, at the end of
9 any semiannual period during which such an assess-
10 ment is made, any amount remains from such as-
11 sessment, such remaining amount shall be deducted
12 from the assessment for such regulated entity for
13 the following semiannual period.”;

14 (4) in subsection (d), by striking “If” and in-
15 serting “Except with respect to amounts collected
16 pursuant to subsection (a)(3), if”;

17 (5) by striking subsections (e) through (g) and
18 inserting the following:

19 “(e) WORKING CAPITAL FUND.—At the end of each
20 year for which an assessment under this section is made,
21 the Director shall remit to each regulated entity any
22 amount of assessment collected from such regulated entity
23 that is attributable to subsection (a)(3) and is in excess
24 of the amount the Director deems necessary to maintain
25 a working capital fund.

1 “(f) TREATMENT OF ASSESSMENTS.—

2 “(1) DEPOSIT.—Amounts received by the Di-
3 rector from assessments under this section may be
4 deposited by the Director in the manner provided in
5 section 5234 of the Revised Statutes of the United
6 States (12 U.S.C. 192) for monies deposited by the
7 Comptroller of the Currency.

8 “(2) NOT GOVERNMENT FUNDS.—The amounts
9 received by the Director from any assessment under
10 this section shall not be construed to be Government
11 or public funds or appropriated money.

12 “(3) NO APPORTIONMENT OF FUNDS.—Not-
13 withstanding any other provision of law, the
14 amounts received by the Director from any assess-
15 ment under this section shall not be subject to ap-
16 portionment for the purpose of chapter 15 of title
17 31, United States Code, or under any other author-
18 ity.

19 “(4) USE OF FUNDS.—The Director may use
20 any amounts received by the Director from assess-
21 ments under this section for compensation of the Di-
22 rector and other employees of the Agency and for all
23 other expenses of the Director and the Agency.

24 “(5) AVAILABILITY OF OVERSIGHT FUND
25 AMOUNTS.—Notwithstanding any other provision of

1 law, any amounts remaining in the Federal Housing
2 Enterprises Oversight Fund established under this
3 section (as in effect before the effective date of the
4 Federal Housing Finance Regulatory Reform Act of
5 2008, and any amounts remaining from assessments
6 on the Federal Home Loan Banks pursuant to sec-
7 tion 18(b) of the Federal Home Loan Bank Act (12
8 U.S.C. 1438(b)), shall, upon such effective date, be
9 treated for purposes of this subsection as amounts
10 received from assessments under this section.

11 “(6) TREASURY INVESTMENTS.—

12 “(A) AUTHORITY.—The Director may re-
13 quest the Secretary of the Treasury to invest
14 such portions of amounts received by the Direc-
15 tor from assessments paid under this section
16 that, in the Director’s discretion, are not re-
17 quired to meet the current working needs of the
18 Agency.

19 “(B) GOVERNMENT OBLIGATIONS.—Pursu-
20 ant to a request under subparagraph (A), the
21 Secretary of the Treasury shall invest such
22 amounts in Government obligations guaranteed
23 as to principal and interest by the United
24 States with maturities suitable to the needs of
25 the Agency and bearing interest at a rate deter-

1 mined by the Secretary of the Treasury taking
2 into consideration current market yields on out-
3 standing marketable obligations of the United
4 States of comparable maturity.

5 “(g) BUDGET AND FINANCIAL MANAGEMENT.—

6 “(1) FINANCIAL OPERATING PLANS AND FORE-
7 CASTS.—The Director shall provide to the Director
8 of the Office of Management and Budget copies of
9 the Director’s financial operating plans and fore-
10 casts, as prepared by the Director in the ordinary
11 course of the Agency’s operations, and copies of the
12 quarterly reports of the Agency’s financial condition
13 and results of operations, as prepared by the Direc-
14 tor in the ordinary course of the Agency’s oper-
15 ations.

16 “(2) FINANCIAL STATEMENTS.—The Agency
17 shall prepare annually a statement of—

18 “(A) assets and liabilities and surplus or
19 deficit;

20 “(B) income and expenses; and

21 “(C) sources and application of funds.

22 “(3) FINANCIAL MANAGEMENT SYSTEMS.—The
23 Agency shall implement and maintain financial man-
24 agement systems that—

1 “(A) comply substantially with Federal fi-
2 nancial management systems requirements and
3 applicable Federal accounting standards; and

4 “(B) use a general ledger system that ac-
5 counts for activity at the transaction level.

6 “(4) ASSERTION OF INTERNAL CONTROLS.—
7 The Director shall provide to the Comptroller Gen-
8 eral of the United States an assertion as to the ef-
9 fectiveness of the internal controls that apply to fi-
10 nancial reporting by the Agency, using the standards
11 established in section 3512(c) of title 31, United
12 States Code.

13 “(5) RULE OF CONSTRUCTION.—This sub-
14 section may not be construed as implying any obliga-
15 tion on the part of the Director to consult with or
16 obtain the consent or approval of the Director of the
17 Office of Management and Budget with respect to
18 any report, plan, forecast, or other information re-
19 ferred to in paragraph (1) or any jurisdiction or
20 oversight over the affairs or operations of the Agen-
21 cy.

22 “(h) AUDIT OF AGENCY.—

23 “(1) IN GENERAL.—The Comptroller General
24 shall annually audit the financial transactions of the
25 Agency in accordance with the United States gen-

1 erally accepted government auditing standards as
2 may be prescribed by the Comptroller General of the
3 United States. The audit shall be conducted at the
4 place or places where accounts of the Agency are
5 normally kept. The representatives of the Govern-
6 ment Accountability Office shall have access to the
7 personnel and to all books, accounts, documents, pa-
8 pers, records (including electronic records), reports,
9 files, and all other papers, automated data, things,
10 or property belonging to or under the control of or
11 used or employed by the Agency pertaining to its fi-
12 nancial transactions and necessary to facilitate the
13 audit, and such representatives shall be afforded full
14 facilities for verifying transactions with the balances
15 or securities held by depositories, fiscal agents, and
16 custodians. All such books, accounts, documents,
17 records, reports, files, papers, and property of the
18 Agency shall remain in possession and custody of
19 the Agency. The Comptroller General may obtain
20 and duplicate any such books, accounts, documents,
21 records, working papers, automated data and files,
22 or other information relevant to such audit without
23 cost to the Comptroller General and the Comptroller
24 General's right of access to such information shall

1 be enforceable pursuant to section 716(c) of title 31,
2 United States Code.

3 “(2) REPORT.—The Comptroller General shall
4 submit to the Congress a report of each annual
5 audit conducted under this subsection. The report to
6 the Congress shall set forth the scope of the audit
7 and shall include the statement of assets and liabil-
8 ities and surplus or deficit, the statement of income
9 and expenses, the statement of sources and applica-
10 tion of funds, and such comments and information
11 as may be deemed necessary to inform Congress of
12 the financial operations and condition of the Agency,
13 together with such recommendations with respect
14 thereto as the Comptroller General may deem advis-
15 able. A copy of each report shall be furnished to the
16 President and to the Agency at the time submitted
17 to the Congress.

18 “(3) ASSISTANCE AND COSTS.—For the purpose
19 of conducting an audit under this subsection, the
20 Comptroller General may, in the discretion of the
21 Comptroller General, employ by contract, without re-
22 gard to section 3709 of the Revised Statutes of the
23 United States (41 U.S.C. 5), professional services of
24 firms and organizations of certified public account-
25 ants for temporary periods or for special purposes.

1 Upon the request of the Comptroller General, the
2 Director of the Agency shall transfer to the Govern-
3 ment Accountability Office from funds available, the
4 amount requested by the Comptroller General to
5 cover the full costs of any audit and report con-
6 ducted by the Comptroller General. The Comptroller
7 General shall credit funds transferred to the account
8 established for salaries and expenses of the Govern-
9 ment Accountability Office, and such amount shall
10 be available upon receipt and without fiscal year lim-
11 itation to cover the full costs of the audit and re-
12 port.”.

13 **SEC. 1107. REGULATIONS AND ORDERS.**

14 Section 1319G of the Federal Housing Enterprises
15 Financial Safety and Soundness Act of 1992 (12 U.S.C.
16 4526) is amended—

17 (1) by striking subsection (a) and inserting the
18 following:

19 “(a) **AUTHORITY.**—The Director shall issue any reg-
20 ulations, guidelines, or orders necessary to carry out the
21 duties of the Director under this title or the authorizing
22 statutes, and to ensure that the purposes of this title and
23 the authorizing statutes are accomplished.”; and

24 (2) by striking subsection (c).

1 **SEC. 1108. PRUDENTIAL MANAGEMENT AND OPERATIONS**
2 **STANDARDS.**

3 The Federal Housing Enterprises Financial Safety
4 and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is
5 amended by inserting after section 1313A, as added by
6 this Act, the following new section:

7 **“SEC. 1313B. PRUDENTIAL MANAGEMENT AND OPERATIONS**
8 **STANDARDS.**

9 “(a) STANDARDS.—The Director shall establish
10 standards, by regulation or guideline, for each regulated
11 entity relating to—

12 “(1) adequacy of internal controls and informa-
13 tion systems taking into account the nature and
14 scale of business operations;

15 “(2) independence and adequacy of internal
16 audit systems;

17 “(3) management of interest rate risk exposure;

18 “(4) management of market risk, including
19 standards that provide for systems that accurately
20 measure, monitor, and control market risks and, as
21 warranted, that establish limitations on market risk;

22 “(5) adequacy and maintenance of liquidity and
23 reserves;

24 “(6) management of asset and investment port-
25 folio growth;

1 “(7) investments and acquisitions of assets by
2 a regulated entity, to ensure that they are consistent
3 with the purposes of this title and the authorizing
4 statutes;

5 “(8) overall risk management processes, includ-
6 ing adequacy of oversight by senior management and
7 the board of directors and of processes and policies
8 to identify, measure, monitor, and control material
9 risks, including reputational risks, and for adequate,
10 well-tested business resumption plans for all major
11 systems with remote site facilities to protect against
12 disruptive events;

13 “(9) management of credit and counterparty
14 risk, including systems to identify concentrations of
15 credit risk and prudential limits to restrict exposure
16 of the regulated entity to a single counterparty or
17 groups of related counterparties;

18 “(10) maintenance of adequate records, in ac-
19 cordance with consistent accounting policies and
20 practices that enable the Director to evaluate the fi-
21 nancial condition of the regulated entity; and

22 “(11) such other operational and management
23 standards as the Director determines to be appro-
24 priate.

25 “(b) FAILURE TO MEET STANDARDS.—

1 “(1) PLAN REQUIREMENT.—

2 “(A) IN GENERAL.—If the Director deter-
3 mines that a regulated entity fails to meet any
4 standard established under subsection (a)—

5 “(i) if such standard is established by
6 regulation, the Director shall require the
7 regulated entity to submit an acceptable
8 plan to the Director within the time al-
9 lowed under subparagraph (C); and

10 “(ii) if such standard is established by
11 guideline, the Director may require the
12 regulated entity to submit a plan described
13 in clause (i).

14 “(B) CONTENTS.—Any plan required
15 under subparagraph (A) shall specify the ac-
16 tions that the regulated entity will take to cor-
17 rect the deficiency. If the regulated entity is
18 undercapitalized, the plan may be a part of the
19 capital restoration plan for the regulated entity
20 under section 1369C.

21 “(C) DEADLINES FOR SUBMISSION AND
22 REVIEW.—The Director shall by regulation es-
23 tablish deadlines that—

24 “(i) provide the regulated entities with
25 reasonable time to submit plans required

1 under subparagraph (A), and generally re-
2 quire a regulated entity to submit a plan
3 not later than 30 days after the Director
4 determines that the entity fails to meet
5 any standard established under subsection
6 (a); and

7 “(ii) require the Director to act on
8 plans expeditiously, and generally not later
9 than 30 days after the plan is submitted.

10 “(2) REQUIRED ORDER UPON FAILURE TO SUB-
11 MIT OR IMPLEMENT PLAN.—If a regulated entity
12 fails to submit an acceptable plan within the time al-
13 lowed under paragraph (1)(C), or fails in any mate-
14 rial respect to implement a plan accepted by the Di-
15 rector, the following shall apply:

16 “(A) REQUIRED CORRECTION OF DEFICI-
17 CIENCY.—The Director shall, by order, require
18 the regulated entity to correct the deficiency.

19 “(B) OTHER AUTHORITY.—The Director
20 may, by order, take one or more of the fol-
21 lowing actions until the deficiency is corrected:

22 “(i) Prohibit the regulated entity from
23 permitting its average total assets (as such
24 term is defined in section 1316(b)) during
25 any calendar quarter to exceed its average

1 total assets during the preceding calendar
2 quarter, or restrict the rate at which the
3 average total assets of the entity may in-
4 crease from one calendar quarter to an-
5 other.

6 “(ii) Require the regulated entity—

7 “(I) in the case of an enterprise,
8 to increase its ratio of core capital to
9 assets.

10 “(II) in the case of a Federal
11 Home Loan Bank, to increase its
12 ratio of total capital (as such term is
13 defined in section 6(a)(5) of the Fed-
14 eral Home Loan Bank Act (12 U.S.C.
15 1426(a)(5)) to assets.

16 “(iii) Require the regulated entity to
17 take any other action that the Director de-
18 termines will better carry out the purposes
19 of this section than any of the actions de-
20 scribed in this subparagraph.

21 “(3) MANDATORY RESTRICTIONS.—In com-
22 plying with paragraph (2), the Director shall take
23 one or more of the actions described in clauses (i)
24 through (iii) of paragraph (2)(B) if—

1 “(A) the Director determines that the reg-
2 ulated entity fails to meet any standard pre-
3 scribed under subsection (a);

4 “(B) the regulated entity has not corrected
5 the deficiency; and

6 “(C) during the 18-month period before
7 the date on which the regulated entity first
8 failed to meet the standard, the entity under-
9 went extraordinary growth, as defined by the
10 Director.

11 “(c) OTHER ENFORCEMENT AUTHORITY NOT AF-
12 FECTED.—The authority of the Director under this sec-
13 tion is in addition to any other authority of the Director.”.

14 **SEC. 1109. REVIEW OF AND AUTHORITY OVER ENTERPRISE**
15 **ASSETS AND LIABILITIES.**

16 (a) IN GENERAL.—Subtitle B of the Federal Housing
17 Enterprises Financial Safety and Soundness Act of 1992
18 (12 U.S.C. 4611 et seq.) is amended—

19 (1) by striking the subtitle designation and
20 heading and inserting the following:

1 **“Subtitle B—Required Capital Lev-**
2 **els for Regulated Entities, Spe-**
3 **cial Enforcement Powers, and**
4 **Reviews of Assets and Liabil-**
5 **ities”;**

6 and

7 (2) by adding at the end the following new sec-
8 tion:

9 **“SEC. 1369E. REVIEWS OF ENTERPRISE ASSETS AND LIABIL-**
10 **ITIES.**

11 “(a) IN GENERAL.—The Director shall, by regula-
12 tion, establish criteria governing the portfolio holdings of
13 the enterprises, to ensure that the holdings are backed by
14 sufficient capital and consistent with the mission and the
15 safe and sound operations of the enterprises. In estab-
16 lishing such criteria, the Director shall consider the ability
17 of the enterprises to provide a liquid secondary market
18 through securitization activities, the portfolio holdings in
19 relation to the overall mortgage market, and adherence to
20 the standards specified in section 1313B.

21 “(b) TEMPORARY ADJUSTMENTS.—The Director
22 may, by order, make temporary adjustments to the estab-
23 lished standards for an enterprise or both enterprises,
24 such as during times of economic distress or market dis-
25 ruption.

1 “(c) **AUTHORITY TO REQUIRE DISPOSITION OR AC-**
2 **QUISITION.**—The Director shall monitor the portfolio of
3 each enterprise. Pursuant to subsection (a) and notwith-
4 standing the capital classifications of the enterprises, the
5 Director may, by order, require an enterprise, under such
6 terms and conditions as the Director determines to be ap-
7 propriate, to dispose of or acquire any asset, if the Direc-
8 tor determines that such action is consistent with the pur-
9 poses of this Act or any of the authorizing statutes.”.

10 (b) **REGULATIONS.**—Not later than the expiration of
11 the 180-day period beginning on the effective date of this
12 Act, the Director shall issue regulations pursuant to sec-
13 tion 1369E(a) of the Federal Housing Enterprises Finan-
14 cial Safety and Soundness Act of 1992 (as added by sub-
15 section (a) of this section) establishing the portfolio hold-
16 ings standards under such section.

17 **SEC. 1110. RISK-BASED CAPITAL REQUIREMENTS.**

18 (a) **IN GENERAL.**—Section 1361 of the Federal
19 Housing Enterprises Financial Safety and Soundness Act
20 of 1992 (12 U.S.C. 4611) is amended to read as follows:

21 **“SEC. 1361. RISK-BASED CAPITAL LEVELS FOR REGULATED**
22 **ENTITIES.**

23 “(a) **IN GENERAL.**—

24 “(1) **ENTERPRISES.**—The Director shall, by
25 regulation, establish risk-based capital requirements

1 for the enterprises to ensure that the enterprises op-
2 erate in a safe and sound manner, maintaining suffi-
3 cient capital and reserves to support the risks that
4 arise in the operations and management of the en-
5 terprises.

6 “(2) FEDERAL HOME LOAN BANKS.—The Di-
7 rector shall establish risk-based capital standards
8 under section 6 of the Federal Home Loan Bank
9 Act for the Federal Home Loan Banks.

10 “(b) NO LIMITATION.—Nothing in this section shall
11 limit the authority of the Director to require other reports
12 or undertakings, or take other action, in furtherance of
13 the responsibilities of the Director under this Act.”

14 (b) FEDERAL HOME LOAN BANKS RISK-BASED CAP-
15 ITAL.—Section 6(a)(3) of the Federal Home Loan Bank
16 Act (12 U.S.C. 1426(a)(3)) is amended—

17 (1) by striking subparagraph (A) and inserting
18 the following:

19 “(A) RISK-BASED CAPITAL STANDARDS.—
20 The Director shall, by regulation, establish risk-
21 based capital standards for the Federal Home
22 Loan Banks to ensure that the Federal Home
23 Loan Banks operate in a safe and sound man-
24 ner, with sufficient permanent capital and re-
25 serves to support the risks that arise in the op-

1 erations and management of the Federal Home
2 Loans Banks.”; and
3 (2) in subparagraph (B), by striking “(A)(ii)”
4 and inserting “(A)”.

5 **SEC. 1111. MINIMUM CAPITAL LEVELS.**

6 Section 1362 of the Federal Housing Enterprises Fi-
7 nancial Safety and Soundness Act of 1992 (12 U.S.C.
8 4612) is amended—

9 (1) in subsection (a), by striking “IN GEN-
10 ERAL” and inserting “ENTERPRISES”; and

11 (2) by striking subsection (b) and inserting the
12 following:

13 “(b) FEDERAL HOME LOAN BANKS.—For purposes
14 of this subtitle, the minimum capital level for each Federal
15 Home Loan Bank shall be the minimum capital required
16 to be maintained to comply with the leverage requirement
17 for the bank established under section 6(a)(2) of the Fed-
18 eral Home Loan Bank Act (12 U.S.C. 1426(a)(2)).

19 “(c) ESTABLISHMENT OF REVISED MINIMUM CAP-
20 ITAL LEVELS.—Notwithstanding subsections (a) and (b)
21 and notwithstanding the capital classifications of the regu-
22 lated entities, the Director may, by regulations issued
23 under section 1319G, establish a minimum capital level
24 for the enterprises, for the Federal Home Loan Banks,
25 or for both the enterprises and the banks, that is higher

1 than the level specified in subsection (a) for the enter-
2 prises or the level specified in subsection (b) for the Fed-
3 eral Home Loan Banks, to the extent needed to ensure
4 that the regulated entities operate in a safe and sound
5 manner.

6 “(d) AUTHORITY TO REQUIRE TEMPORARY IN-
7 CREASE.—

8 “(1) IN GENERAL.—Notwithstanding sub-
9 sections (a) and (b) and any minimum capital level
10 established pursuant to subsection (c), the Director
11 may, by order, increase the minimum capital level
12 for a regulated entity on a temporary basis, when
13 the Director determines that such an increase is nec-
14 essary and consistent with the prudential regulation
15 and the safe and sound operations of a regulated en-
16 tity.

17 “(2) RESCISSION.—The Director shall rescind
18 any temporary minimum capital level established
19 under paragraph (1) when the Director determines
20 that the circumstances or facts no longer justify the
21 temporary minimum capital level.

22 “(3) REGULATIONS REQUIRED.—The Director
23 shall issue regulations establishing—

1 “(A) standards for the imposition of a
2 temporary increase in minimum capital under
3 paragraph (1);

4 “(B) the standards and procedures that
5 the Director will use to make the determination
6 referred to in paragraph (2); and

7 “(C) a reasonable time frame for periodic
8 review of any temporary increase in minimum
9 capital for the purpose of making the deter-
10 mination referred to in paragraph (2).

11 “(e) **AUTHORITY TO ESTABLISH ADDITIONAL CAP-**
12 **ITAL AND RESERVE REQUIREMENTS FOR PARTICULAR**
13 **PURPOSES.**—The Director may, at any time by order or
14 regulation, establish such capital or reserve requirements
15 with respect to any product or activity of a regulated enti-
16 ty, as the Director considers appropriate to ensure that
17 the regulated entity operates in a safe and sound manner,
18 with sufficient capital and reserves to support the risks
19 that arise in the operations and management of the regu-
20 lated entity.

21 “(f) **PERIODIC REVIEW.**—The Director shall periodi-
22 cally review the amount of core capital maintained by the
23 enterprises, the amount of capital retained by the Federal
24 Home Loan Banks, and the minimum capital levels estab-

1 lished for such regulated entities pursuant to this sec-
2 tion.”.

3 **SEC. 1112. REGISTRATION UNDER THE SECURITIES LAWS.**

4 The Securities Exchange Act of 1934 (15 U.S.C. 78a
5 et seq.) is amended by adding at the end the following:

6 **“SEC. 38. FEDERAL NATIONAL MORTGAGE ASSOCIATION,
7 FEDERAL HOME LOAN MORTGAGE CORPORA-
8 TION, FEDERAL HOME LOAN BANKS.**

9 “(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION
10 AND FEDERAL HOME LOAN MORTGAGE CORPORATION.—
11 No class of equity securities of the Federal National Mort-
12 gage Association or the Federal Home Loan Mortgage
13 Corporation shall be treated as an exempted security for
14 purposes of section 12, 13, 14, or 16.

15 “(b) FEDERAL HOME LOAN BANKS.—

16 “(1) REGISTRATION.—Each Federal Home
17 Loan Bank shall register a class of its common
18 stock under section 12(g), not later than 120 days
19 after the date of enactment of the Federal Housing
20 Finance Regulatory Reform Act of 2008, and shall
21 thereafter maintain such registration and be treated
22 for purposes of this title as an ‘issuer’, the securities
23 of which are required to be registered under section
24 12, regardless of the number of members holding
25 such stock at any given time.

1 “(2) STANDARDS RELATING TO AUDIT COMMIT-
2 TEES.—Each Federal Home Loan Bank shall com-
3 ply with the rules issued by the Commission under
4 section 10A(m).

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

7 “(1) FEDERAL HOME LOAN BANK; MEMBER.—
8 The terms ‘Federal Home Loan Bank’ and ‘mem-
9 ber’, have the same meanings as in section 2 of the
10 Federal Home Loan Bank Act.

11 “(2) FEDERAL NATIONAL MORTGAGE ASSOCIA-
12 TION.—The term ‘Federal National Mortgage Asso-
13 ciation’ means the corporation created by the Fed-
14 eral National Mortgage Association Charter Act.

15 “(3) FEDERAL HOME LOAN MORTGAGE COR-
16 PORATION.—The term ‘Federal Home Loan Mort-
17 gage Corporation’ means the corporation created by
18 the Federal Home Loan Mortgage Corporation
19 Act.”.

20 **SEC. 1113. PROHIBITION AND WITHHOLDING OF EXECU-**
21 **TIVE COMPENSATION.**

22 (a) IN GENERAL.—Section 1318 of the Federal
23 Housing Enterprises Financial Safety and Soundness Act
24 of 1992 (12 U.S.C. 4518) is amended—

1 (1) in the section heading, by striking “**OF EX-**
2 **CESSIVE**” and inserting “**AND WITHHOLDING OF**
3 **EXECUTIVE**”;

4 (2) in subsection (a)—

5 (A) by striking “enterprise” and inserting
6 “regulated entity”; and

7 (B) by striking “enterprises” and inserting
8 “regulated entities”;

9 (3) by redesignating subsection (b) as sub-
10 section (d); and

11 (4) by inserting after subsection (a) the fol-
12 lowing:

13 “(b) **FACTORS.**—In making any determination under
14 subsection (a), the Director may take into consideration
15 any factors the Director considers relevant, including any
16 wrongdoing on the part of the executive officer, and such
17 wrongdoing shall include any fraudulent act or omission,
18 breach of trust or fiduciary duty, violation of law, rule,
19 regulation, order, or written agreement, and insider abuse
20 with respect to the regulated entity. The approval of an
21 agreement or contract pursuant to section 309(d)(3)(B)
22 of the Federal National Mortgage Association Charter Act
23 (12 U.S.C. 1723a(d)(3)(B)) or section 303(h)(2) of the
24 Federal Home Loan Mortgage Corporation Act (12 U.S.C.

1 1452(h)(2)) shall not preclude the Director from making
2 any subsequent determination under subsection (a).

3 “(c) WITHHOLDING OF COMPENSATION.—In car-
4 rying out subsection (a), the Director may require a regu-
5 lated entity to withhold any payment, transfer, or dis-
6 bursement of compensation to an executive officer, or to
7 place such compensation in an escrow account, during the
8 review of the reasonableness and comparability of com-
9 pensation.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) FANNIE MAE.—Section 309(d) of the Fed-
12 eral National Mortgage Association Charter Act (12
13 U.S.C. 1723a(d)) is amended by adding at the end
14 the following new paragraph:

15 “(4) Notwithstanding any other provision of this sec-
16 tion, the corporation shall not transfer, disburse, or pay
17 compensation to any executive officer, or enter into an
18 agreement with such executive officer, without the ap-
19 proval of the Director, for matters being reviewed under
20 section 1318 of the Federal Housing Enterprises Finan-
21 cial Safety and Soundness Act of 1992 (12 U.S.C.
22 4518).”.

23 (2) FREDDIE MAC.—Section 303(h) of the Fed-
24 eral Home Loan Mortgage Corporation Act (12

1 U.S.C. 1452(h)) is amended by adding at the end
2 the following new paragraph:

3 “(4) Notwithstanding any other provision of this sec-
4 tion, the Corporation shall not transfer, disburse, or pay
5 compensation to any executive officer, or enter into an
6 agreement with such executive officer, without the ap-
7 proval of the Director, for matters being reviewed under
8 section 1318 of the Federal Housing Enterprises Finan-
9 cial Safety and Soundness Act of 1992 (12 U.S.C.
10 4518).”.

11 (3) FEDERAL HOME LOAN BANKS.—Section 7
12 of the Federal Home Loan Bank Act (12 U.S.C.
13 1427) is amended by adding at the end the following
14 new subsection:

15 “(1) WITHHOLDING OF COMPENSATION.—Notwith-
16 standing any other provision of this section, a Federal
17 Home Loan Bank shall not transfer, disburse, or pay com-
18 pensation to any executive officer, or enter into an agree-
19 ment with such executive officer, without the approval of
20 the Director, for matters being reviewed under section
21 1318 of the Federal Housing Enterprises Financial Safety
22 and Soundness Act of 1992 (12 U.S.C. 4518).”.

1 **SEC. 1114. LIMIT ON GOLDEN PARACHUTES.**

2 Section 1318 of the Federal Housing Enterprises Fi-
3 nancial Safety and Soundness Act of 1992 (12 U.S.C.
4 4518) is amended by adding at the end the following:

5 “(e) **AUTHORITY TO REGULATE OR PROHIBIT CER-**
6 **TAIN FORMS OF BENEFITS TO AFFILIATED PARTIES.—**

7 “(1) **GOLDEN PARACHUTES AND INDEMNIFICA-**
8 **TION PAYMENTS.—**The Director may prohibit or
9 limit, by regulation or order, any golden parachute
10 payment or indemnification payment.

11 “(2) **FACTORS TO BE TAKEN INTO ACCOUNT.—**
12 The Director shall prescribe, by regulation, the fac-
13 tors to be considered by the Director in taking any
14 action pursuant to paragraph (1), which may include
15 such factors as—

16 “(A) whether there is a reasonable basis to
17 believe that the affiliated party has committed
18 any fraudulent act or omission, breach of trust
19 or fiduciary duty, or insider abuse with regard
20 to the regulated entity that has had a material
21 effect on the financial condition of the regulated
22 entity;

23 “(B) whether there is a reasonable basis to
24 believe that the affiliated party is substantially
25 responsible for the insolvency of the regulated
26 entity, the appointment of a conservator or re-

1 ceiver for the regulated entity, or the troubled
2 condition of the regulated entity (as defined in
3 regulations prescribed by the Director);

4 “(C) whether there is a reasonable basis to
5 believe that the affiliated party has materially
6 violated any applicable provision of Federal or
7 State law or regulation that has had a material
8 effect on the financial condition of the regulated
9 entity;

10 “(D) whether the affiliated party was in a
11 position of managerial or fiduciary responsi-
12 bility; and

13 “(E) the length of time that the party was
14 affiliated with the regulated entity, and the de-
15 gree to which—

16 “(i) the payment reasonably reflects
17 compensation earned over the period of
18 employment; and

19 “(ii) the compensation involved rep-
20 resents a reasonable payment for services
21 rendered.

22 “(3) CERTAIN PAYMENTS PROHIBITED.—No
23 regulated entity may prepay the salary or any liabil-
24 ity or legal expense of any affiliated party if such
25 payment is made—

1 “(A) in contemplation of the insolvency of
2 such regulated entity, or after the commission
3 of an act of insolvency; and

4 “(B) with a view to, or having the result
5 of—

6 “(i) preventing the proper application
7 of the assets of the regulated entity to
8 creditors; or

9 “(ii) preferring one creditor over an-
10 other.

11 “(4) GOLDEN PARACHUTE PAYMENT DE-
12 FINED.—

13 “(A) IN GENERAL.—For purposes of this
14 subsection, the term ‘golden parachute pay-
15 ment’ means any payment (or any agreement to
16 make any payment) in the nature of compensa-
17 tion by any regulated entity for the benefit of
18 any affiliated party pursuant to an obligation of
19 such regulated entity that—

20 “(i) is contingent on the termination
21 of such party’s affiliation with the regu-
22 lated entity; and

23 “(ii) is received on or after the date
24 on which—

1 “(I) the regulated entity became
2 insolvent;

3 “(II) any conservator or receiver
4 is appointed for such regulated entity;
5 or

6 “(III) the Director determines
7 that the regulated entity is in a trou-
8 bled condition (as defined in the regu-
9 lations of the Director).

10 “(B) CERTAIN PAYMENTS IN CONTEMPLA-
11 TION OF AN EVENT.—Any payment which
12 would be a golden parachute payment but for
13 the fact that such payment was made before the
14 date referred to in subparagraph (A)(ii) shall be
15 treated as a golden parachute payment if the
16 payment was made in contemplation of the oc-
17 currence of an event described in any subclause
18 of such subparagraph.

19 “(C) CERTAIN PAYMENTS NOT IN-
20 CLUDED.—For purposes of this subsection, the
21 term ‘golden parachute payment’ shall not in-
22 clude—

23 “(i) any payment made pursuant to a
24 retirement plan which is qualified (or is in-
25 tended to be qualified) under section 401

1 of the Internal Revenue Code of 1986, or
2 other nondiscriminatory benefit plan;

3 “(ii) any payment made pursuant to a
4 bona fide deferred compensation plan or
5 arrangement which the Director deter-
6 mines, by regulation or order, to be per-
7 missible; or

8 “(iii) any payment made by reason of
9 the death or disability of an affiliated
10 party.

11 “(5) OTHER DEFINITIONS.—For purposes of
12 this subsection, the following definitions shall apply:

13 “(A) INDEMNIFICATION PAYMENT.—Sub-
14 ject to paragraph (6), the term ‘indemnification
15 payment’ means any payment (or any agree-
16 ment to make any payment) by any regulated
17 entity for the benefit of any person who is or
18 was an affiliated party, to pay or reimburse
19 such person for any liability or legal expense
20 with regard to any administrative proceeding or
21 civil action instituted by the Agency which re-
22 sults in a final order under which such per-
23 son—

24 “(i) is assessed a civil money penalty;

1 “(ii) is removed or prohibited from
2 participating in conduct of the affairs of
3 the regulated entity; or

4 “(iii) is required to take any affirma-
5 tive action to correct certain conditions re-
6 sulting from violations or practices, by
7 order of the Director.

8 “(B) LIABILITY OR LEGAL EXPENSE.—The
9 term ‘liability or legal expense’ means—

10 “(i) any legal or other professional ex-
11 pense incurred in connection with any
12 claim, proceeding, or action;

13 “(ii) the amount of, and any cost in-
14 curred in connection with, any settlement
15 of any claim, proceeding, or action; and

16 “(iii) the amount of, and any cost in-
17 curred in connection with, any judgment or
18 penalty imposed with respect to any claim,
19 proceeding, or action.

20 “(C) PAYMENT.—The term ‘payment’ in-
21 cludes—

22 “(i) any direct or indirect transfer of
23 any funds or any asset; and

24 “(ii) any segregation of any funds or
25 assets for the purpose of making, or pursu-

1 ant to an agreement to make, any payment
2 after the date on which such funds or as-
3 sets are segregated, without regard to
4 whether the obligation to make such pay-
5 ment is contingent on—

6 “(I) the determination, after such
7 date, of the liability for the payment
8 of such amount; or

9 “(II) the liquidation, after such
10 date, of the amount of such payment.

11 “(6) CERTAIN COMMERCIAL INSURANCE COV-
12 ERAGE NOT TREATED AS COVERED BENEFIT PAY-
13 MENT.—No provision of this subsection shall be con-
14 strued as prohibiting any regulated entity from pur-
15 chasing any commercial insurance policy or fidelity
16 bond, except that, subject to any requirement de-
17 scribed in paragraph (5)(A)(iii), such insurance pol-
18 icy or bond shall not cover any legal or liability ex-
19 pense of the regulated entity which is described in
20 paragraph (5)(A).”.

21 **SEC. 1115. REPORTING OF FRAUDULENT LOANS.**

22 Part 1 of subtitle C of the Federal Housing Enter-
23 prises Financial Safety and Soundness Act of 1992 (12
24 U.S.C. 4631 et seq.), as amended by this Act, is amended
25 by adding at the end the following:

1 **“SEC. 1379E. REPORTING OF FRAUDULENT LOANS.**

2 “(a) REQUIREMENT TO REPORT.—The Director shall
3 require a regulated entity to submit to the Director a time-
4 ly report upon discovery by the regulated entity that it
5 has purchased or sold a fraudulent loan or financial in-
6 strument, or suspects a possible fraud relating to the pur-
7 chase or sale of any loan or financial instrument. The Di-
8 rector shall require each regulated entity to establish and
9 maintain procedures designed to discover any such trans-
10 actions.

11 “(b) PROTECTION FROM LIABILITY FOR REPORTS.—
12 Any regulated entity that, in good faith, makes a report
13 pursuant to subsection (a), and any entity-affiliated party,
14 that, in good faith, makes or requires another to make
15 any such report, shall not be liable to any person under
16 any provision of law or regulation, any constitution, law,
17 or regulation of any State or political subdivision of any
18 State, or under any contract or other legally enforceable
19 agreement (including any arbitration agreement) for such
20 report or for any failure to provide notice of such report
21 to the person who is the subject of such report or any
22 other persons identified in the report.”.

23 **SEC. 1116. INCLUSION OF MINORITIES AND WOMEN; DIVER-**
24 **SITY IN AGENCY WORKFORCE.**

25 Section 1319A of the Housing and Community De-
26 velopment Act of 1992 (12 U.S.C. 4520) is amended—

1 (1) in the section heading, by striking “**EQUAL**
2 **OPPORTUNITY IN SOLICITATION OF CON-**
3 **TRACTS**” and inserting “**MINORITY AND WOMEN**
4 **INCLUSION; DIVERSITY REQUIREMENTS**”;

5 (2) in subsection (a), by striking “(a) IN GEN-
6 ERAL.—Each enterprise” and inserting “(e) OUT-
7 REACH.—Each regulated entity”; and

8 (3) by striking subsection (b);

9 (4) by inserting before subsection (e), as so re-
10 designated by paragraph (2) of this section, the fol-
11 lowing new subsections:

12 “(a) **OFFICE OF MINORITY AND WOMEN INCLU-**
13 **SION.**—Each regulated entity shall establish an Office of
14 Minority and Women Inclusion, or designate an office of
15 the entity, that shall be responsible for carrying out this
16 section and all matters of the entity relating to diversity
17 in management, employment, and business activities in ac-
18 cordance with such standards and requirements as the Di-
19 rector shall establish.

20 “(b) **INCLUSION IN ALL LEVELS OF BUSINESS AC-**
21 **TIVITIES.**—Each regulated entity shall develop and imple-
22 ment standards and procedures to ensure, to the max-
23 imum extent possible, the inclusion and utilization of mi-
24 norities (as such term is defined in section 1204(c) of the
25 Financial Institutions Reform, Recovery, and Enforce-

1 ment Act of 1989 (12 U.S.C. 1811 note)) and women,
2 and minority- and women-owned businesses (as such
3 terms are defined in section 21A(r)(4) of the Federal
4 Home Loan Bank Act (12 U.S.C. 1441a(r)(4)) (including
5 financial institutions, investment banking firms, mortgage
6 banking firms, asset management firms, broker-dealers, fi-
7 nancial services firms, underwriters, accountants, brokers,
8 investment consultants, and providers of legal services) in
9 all business and activities of the regulated entity at all
10 levels, including in procurement, insurance, and all types
11 of contracts (including contracts for the issuance or guar-
12 antee of any debt, equity, or mortgage-related securities,
13 the management of its mortgage and securities portfolios,
14 the making of its equity investments, the purchase, sale
15 and servicing of single- and multi-family mortgage loans,
16 and the implementation of its affordable housing program
17 and initiatives). The processes established by each regu-
18 lated entity for review and evaluation for contract pro-
19 posals and to hire service providers shall include a compo-
20 nent that gives consideration to the diversity of the appli-
21 cant.

22 “(c) APPLICABILITY.—This section shall apply to all
23 contracts of a regulated entity for services of any kind,
24 including services that require the services of investment
25 banking, asset management entities, broker-dealers, finan-

1 cial services entities, underwriters, accountants, invest-
2 ment consultants, and providers of legal services.

3 “(d) INCLUSION IN ANNUAL REPORTS.—Each regu-
4 lated entity shall include, in the annual report submitted
5 by the entity to the Director pursuant to section 309(k)
6 of the Federal National Mortgage Association Charter Act
7 (12 U.S.C. 1723a(k)), section 307(c) of the Federal Home
8 Loan Mortgage Corporation Act (12 U.S.C. 1456(c)), and
9 section 20 of the Federal Home Loan Bank Act (12
10 U.S.C. 1440), as applicable, detailed information describ-
11 ing the actions taken by the entity pursuant to this sec-
12 tion, which shall include a statement of the total amounts
13 paid by the entity to third party contractors since the last
14 such report and the percentage of such amounts paid to
15 businesses described in subsection (b) of this section.”;
16 and

17 (5) by adding at the end the following new sub-
18 section:

19 “(f) DIVERSITY IN AGENCY WORKFORCE.—The
20 Agency shall take affirmative steps to seek diversity in its
21 workforce at all levels of the agency consistent with the
22 demographic diversity of the United States, which shall
23 include—

24 “(1) heavily recruiting at historically Black col-
25 leges and universities, Hispanic-serving institutions,

1 women's colleges, and colleges that typically serve
2 majority minority populations;

3 “(2) sponsoring and recruiting at job fairs in
4 urban communities, and placing employment adver-
5 tisements in newspapers and magazines oriented to-
6 ward women and people of color;

7 “(3) partnering with organizations that are fo-
8 cused on developing opportunities for minorities and
9 women to place talented young minorities and
10 women in industry internships, summer employment,
11 and full-time positions; and

12 “(4) where feasible, partnering with inner-city
13 high schools, girls' high schools, and high schools
14 with majority minority populations to establish or
15 enhance financial literacy programs and provide
16 mentoring.”.

17 **SEC. 1117. TEMPORARY AUTHORITY FOR PURCHASE OF OB-**
18 **LIGATIONS OF REGULATED ENTITIES BY SEC-**
19 **RETARY OF TREASURY.**

20 (a) FANNIE MAE.—Section 304 of the Federal Na-
21 tional Mortgage Association Charter Act (12 U.S.C. 1719)
22 is amended by adding at the end the following new sub-
23 section:

1 “(g) TEMPORARY AUTHORITY OF TREASURY TO
2 PURCHASE OBLIGATIONS AND SECURITIES; CONDI-
3 TIONS.—

4 “(1) AUTHORITY TO PURCHASE.—

5 “(A) GENERAL AUTHORITY.—In addition
6 to the authority under subsection (c) of this
7 section, the Secretary of the Treasury is au-
8 thorized to purchase any obligations and other
9 securities issued by the corporation under any
10 section of this Act, on such terms and condi-
11 tions as the Secretary may determine and in
12 such amounts as the Secretary may determine.
13 Nothing in this subsection requires the corpora-
14 tion to issue obligations or securities to the Sec-
15 retary without mutual agreement between the
16 Secretary and the corporation. Nothing in this
17 subsection permits or authorizes the Secretary,
18 without the agreement of the corporation, to en-
19 gage in open market purchases of the common
20 securities of the corporation.

21 “(B) EMERGENCY DETERMINATION RE-
22 QUIRED.—In connection with any use of this
23 authority, the Secretary must determine that
24 such actions are necessary to—

1 “(i) provide stability to the financial
2 markets;

3 “(ii) prevent disruptions in the avail-
4 ability of mortgage finance; and

5 “(iii) protect the taxpayer.

6 “(C) CONSIDERATIONS.—To protect the
7 taxpayers, the Secretary of the Treasury shall
8 take into consideration the following in connec-
9 tion with exercising the authority contained in
10 this paragraph:

11 “(i) The need for preferences or prior-
12 ities regarding payments to the Govern-
13 ment.

14 “(ii) Limits on maturity or disposition
15 of obligations or securities to be purchased.

16 “(iii) The corporation’s plan for the
17 orderly resumption of private market fund-
18 ing or capital market access.

19 “(iv) The probability of the corpora-
20 tion fulfilling the terms of any such obliga-
21 tion or other security, including repay-
22 ment.

23 “(v) The need to maintain the cor-
24 poration’s status as a private shareholder-
25 owned company.

1 “(vi) Restrictions on the use of cor-
2 poration resources, including limitations on
3 the payment of dividends and executive
4 compensation and any such other terms
5 and conditions as appropriate for those
6 purposes.

7 “(D) REPORTS TO CONGRESS.—Upon exer-
8 cise of this authority, the Secretary shall report
9 to the Committees on the Budget, Financial
10 Services, and Ways and Means of the House of
11 Representatives and the Committees on the
12 Budget, Finance, and Banking, Housing, and
13 Urban Affairs of the Senate as to the necessity
14 for the purchase and the determinations made
15 by the Secretary under subparagraph (B) and
16 with respect to the considerations required
17 under subparagraph (C), and the size, terms,
18 and probability of repayment or fulfillment of
19 other terms of such purchase.

20 “(2) RIGHTS; SALE OF OBLIGATIONS AND SECUR-
21 ITIES.—

22 “(A) EXERCISE OF RIGHTS.—The Sec-
23 retary of the Treasury may, at any time, exer-
24 cise any rights received in connection with such
25 purchases.

1 “(B) SALE OF OBLIGATION AND SECURI-
2 TIES.—The Secretary of the Treasury may, at
3 any time, subject to the terms of the security
4 or otherwise upon terms and conditions and at
5 prices determined by the Secretary, sell any ob-
6 ligation or security acquired by the Secretary
7 under this subsection.

8 “(C) APPLICATION OF SUNSET TO PUR-
9 CHASED OBLIGATIONS OR SECURITIES.—The
10 authority of the Secretary of the Treasury to
11 hold, exercise any rights received in connection
12 with, or sell, any obligations or securities pur-
13 chased is not subject to the provisions of para-
14 graph (4).

15 “(3) FUNDING.—For the purpose of the au-
16 thorities granted in this subsection, the Secretary of
17 the Treasury may use the proceeds of the sale of any
18 securities issued under chapter 31 of Title 31, and
19 the purposes for which securities may be issued
20 under chapter 31 of Title 31 are extended to include
21 such purchases and the exercise of any rights in con-
22 nection with such purchases. Any funds expended
23 for the purchase of, or modifications to, obligations
24 and securities, or the exercise of any rights received
25 in connection with such purchases under this sub-

1 section shall be deemed appropriated at the time of
2 such purchase, modification, or exercise.

3 “(4) TERMINATION OF AUTHORITY.—The au-
4 thority under this subsection (g), with the exception
5 of paragraphs (2) and (3) of this subsection, shall
6 expire December 31, 2009.

7 “(5) AUTHORITY OF THE DIRECTOR WITH RE-
8 SPECT TO EXECUTIVE COMPENSATION.—The Direc-
9 tor shall have the power to approve, disapprove, or
10 modify the executive compensation of the corpora-
11 tion, as defined under Regulation S-K, 17 C.F.R.
12 229.”.

13 (b) FREDDIE MAC.—Section 306 of the Federal
14 Home Loan Mortgage Corporation Act (12 U.S.C. 1455)
15 is amended by adding at the end the following new sub-
16 section:

17 “(1) TEMPORARY AUTHORITY OF TREASURY TO PUR-
18 CHASE OBLIGATIONS AND SECURITIES; CONDITIONS.—

19 “(1) AUTHORITY TO PURCHASE.—

20 “(A) GENERAL AUTHORITY.—In addition
21 to the authority under subsection (c) of this
22 section, the Secretary of the Treasury is au-
23 thorized to purchase any obligations and other
24 securities issued by the Corporation under any
25 section of this Act, on such terms and condi-

1 tions as the Secretary may determine and in
2 such amounts as the Secretary may determine.
3 Nothing in this subsection requires the Cor-
4 poration to issue obligations or securities to the
5 Secretary without mutual agreement between
6 the Secretary and the Corporation. Nothing in
7 this subsection permits or authorizes the Sec-
8 retary, without the agreement of the Corpora-
9 tion, to engage in open market purchases of the
10 common securities of the Corporation.

11 “(B) EMERGENCY DETERMINATION RE-
12 QUIRED.—In connection with any use of this
13 authority, the Secretary must determine that
14 such actions are necessary to—

15 “(i) provide stability to the financial
16 markets;

17 “(ii) prevent disruptions in the avail-
18 ability of mortgage finance; and

19 “(iii) protect the taxpayer.

20 “(C) CONSIDERATIONS.—To protect the
21 taxpayers, the Secretary of the Treasury shall
22 take into consideration the following in connec-
23 tion with exercising the authority contained in
24 this paragraph:

1 “(i) The need for preferences or prior-
2 ities regarding payments to the Govern-
3 ment.

4 “(ii) Limits on maturity or disposition
5 of obligations or securities to be purchased.

6 “(iii) The Corporation’s plan for the
7 orderly resumption of private market fund-
8 ing or capital market access.

9 “(iv) The probability of the Corpora-
10 tion fulfilling the terms of any such obliga-
11 tion or other security, including repay-
12 ment.

13 “(v) The need to maintain the Cor-
14 poration’s status as a private shareholder-
15 owned company.

16 “(vi) Restrictions on the use of Cor-
17 poration resources, including limitations on
18 the payment of dividends and executive
19 compensation and any such other terms
20 and conditions as appropriate for those
21 purposes.

22 “(D) REPORTS TO CONGRESS.—Upon exer-
23 cise of this authority, the Secretary shall report
24 to the Committees on the Budget, Financial
25 Services, and Ways and Means of the House of

1 Representatives and the Committees on the
2 Budget, Finance, and Banking, Housing, and
3 Urban Affairs of the Senate as to the necessity
4 for the purchase and the determinations made
5 by the Secretary under subparagraph (B) and
6 with respect to the considerations required
7 under subparagraph (C), and the size, terms,
8 and probability of repayment or fulfillment of
9 other terms of such purchase.

10 “(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—
11 RITIES.—

12 “(A) EXERCISE OF RIGHTS.—The Sec-
13 retary of the Treasury may, at any time, exer-
14 cise any rights received in connection with such
15 purchases.

16 “(B) SALE OF OBLIGATION AND SECURITIES.—The Secretary of the Treasury may, at
17 any time, subject to the terms of the security
18 or otherwise upon terms and conditions and at
19 prices determined by the Secretary, sell any ob-
20 ligation or security acquired by the Secretary
21 under this subsection.

22 “(C) APPLICATION OF SUNSET TO PUR-
23 CHASED OBLIGATIONS OR SECURITIES.—The
24 authority of the Secretary of the Treasury to
25

1 hold, exercise any rights received in connection
2 with, or sell, any obligations or securities pur-
3 chased is not subject to the provisions of para-
4 graph (4).

5 “(3) FUNDING.—For the purpose of the au-
6 thorities granted in this subsection, the Secretary of
7 the Treasury may use the proceeds of the sale of any
8 securities issued under chapter 31 of Title 31, and
9 the purposes for which securities may be issued
10 under chapter 31 of Title 31 are extended to include
11 such purchases and the exercise of any rights in con-
12 nection with such purchases. Any funds expended
13 for the purchase of, or modifications to, obligations
14 and securities, or the exercise of any rights received
15 in connection with such purchases under this sub-
16 section shall be deemed appropriated at the time of
17 such purchase, modification, or exercise.

18 “(4) TERMINATION OF AUTHORITY.—The au-
19 thority under this subsection (1), with the exception
20 of paragraphs (2) and (3) of this subsection, shall
21 expire December 31, 2009.

22 “(5) AUTHORITY OF THE DIRECTOR WITH RE-
23 SPECT TO EXECUTIVE COMPENSATION.—The Direc-
24 tor shall have the power to approve, disapprove, or
25 modify the executive compensation of the Corpora-

1 tion, as defined under Regulation S-K, 17 C.F.R.
2 229.”.

3 (c) FEDERAL HOME LOAN BANKS.—Section 11 of
4 the Federal Home Loan Bank Act (12 U.S.C. 1431) is
5 amended by adding at the end the following new sub-
6 section:

7 “(1) TEMPORARY AUTHORITY OF TREASURY TO PUR-
8 CHASE OBLIGATIONS; CONDITIONS.—

9 “(1) AUTHORITY TO PURCHASE.—

10 “(A) GENERAL AUTHORITY.—In addition
11 to the authority under subsection (i) of this sec-
12 tion, the Secretary of the Treasury is author-
13 ized to purchase any obligations issued by any
14 Federal Home Loan Bank under any section of
15 this Act, on such terms and conditions as the
16 Secretary may determine and in such amounts
17 as the Secretary may determine. Nothing in
18 this subsection requires a Federal Home Loan
19 Bank to issue obligations or securities to the
20 Secretary without mutual agreement between
21 the Secretary and the Federal Home Loan
22 Bank. Nothing in this subsection permits or au-
23 thORIZES the Secretary, without the agreement
24 of the Federal Home Loan Bank, to engage in

1 open market purchases of the common securi-
2 ties of any Federal Home Loan Bank.

3 “(B) EMERGENCY DETERMINATION RE-
4 QUIRED.—In connection with any use of this
5 authority, the Secretary must determine that
6 such actions are necessary to—

7 “(i) provide stability to the financial
8 markets;

9 “(ii) prevent disruptions in the avail-
10 ability of mortgage finance; and

11 “(iii) protect the taxpayer.

12 “(C) CONSIDERATIONS.—To protect the
13 taxpayers, the Secretary of the Treasury shall
14 take into consideration the following in connec-
15 tion with exercising the authority contained in
16 this paragraph:

17 “(i) The need for preferences or prior-
18 ities regarding payments to the Govern-
19 ment.

20 “(ii) Limits on maturity or disposition
21 of obligations or securities to be purchased.

22 “(iii) The Federal Home Loan Bank’s
23 plan for the orderly resumption of private
24 market funding or capital market access.

1 “(iv) The probability of the Federal
2 Home Loan Bank fulfilling the terms of
3 any such obligation or other security, in-
4 cluding repayment.

5 “(v) The need to maintain the Federal
6 Home Loan Bank’s status as a private
7 shareholder-owned company.

8 “(vi) Restrictions on the use of Fed-
9 eral Home Loan Bank resources, including
10 limitations on the payment of dividends
11 and executive compensation and any such
12 other terms and conditions as appropriate
13 for those purposes.

14 “(D) REPORTS TO CONGRESS.—Upon exer-
15 cise of this authority, the Secretary shall report
16 to the Committees on the Budget, Financial
17 Services, and Ways and Means of the House of
18 Representatives and the Committees on the
19 Budget, Finance, and Banking, Housing, and
20 Urban Affairs of the Senate as to the necessity
21 for the purchase and the determinations made
22 by the Secretary under subparagraph (B) and
23 with respect to the considerations required
24 under subparagraph (C), and the size, terms,

1 and probability of repayment or fulfillment of
2 other terms of such purchase.

3 “(2) RIGHTS; SALE OF OBLIGATIONS AND SECURITIES.—
4

5 “(A) EXERCISE OF RIGHTS.—The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.
6
7
8

9 “(B) SALE OF OBLIGATIONS.—The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation acquired by the Secretary under this subsection.
10
11
12
13
14

15 “(C) APPLICATION OF SUNSET TO PURCHASED OBLIGATIONS.—The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations purchased is not subject to the provisions of paragraph (4).
16
17
18
19
20

21 “(3) FUNDING.—For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and
22
23
24
25 the purposes for which securities may be issued

1 under chapter 31 of Title 31 are extended to include
2 such purchases and the exercise of any rights in con-
3 nection with such purchases. Any funds expended
4 for the purchase of, or modifications to, obligations
5 and securities, or the exercise of any rights received
6 in connection with such purchases under this sub-
7 section shall be deemed appropriated at the time of
8 such purchase, modification, or exercise.

9 “(4) TERMINATION OF AUTHORITY.—The au-
10 thority under this subsection (1), with the exception
11 of paragraphs (2) and (3) of this subsection, shall
12 expire December 31, 2009.

13 “(5) AUTHORITY OF THE DIRECTOR WITH RE-
14 SPECT TO EXECUTIVE COMPENSATION.—The Direc-
15 tor shall have the power to approve, disapprove, or
16 modify the executive compensation of the Federal
17 Home Loan Bank, as defined under Regulation S-
18 K, 17 C.F.R. 229.”.

19 **SEC. 1118. CONSULTATION BETWEEN THE DIRECTOR OF**
20 **THE FEDERAL HOUSING FINANCE AGENCY**
21 **AND THE BOARD OF GOVERNORS OF THE**
22 **FEDERAL RESERVE SYSTEM TO ENSURE FI-**
23 **NANCIAL MARKET STABILITY .**

24 Subsection (a) of section 1313 of the Federal Hous-
25 ing Enterprises Financial Safety and Soundness Act of

1 1992 (12 U.S.C. 4513), as amended by the preceding pro-
2 visions of this Act, is further amended by adding at the
3 end the following new paragraph:

4 “(3) COORDINATION WITH THE CHAIRMAN OF
5 THE BOARD OF GOVERNORS OF THE FEDERAL RE-
6 SERVE SYSTEM.—

7 “(A) CONSULTATION.— The Director shall
8 consult with, and consider the views of, the
9 Chairman of the Board of Governors of the
10 Federal Reserve System, with respect to the
11 risks posed by the regulated entities to the fi-
12 nancial system, prior to issuing any proposed or
13 final regulations, orders, and guidelines with re-
14 spect to the exercise of the additional authority
15 provided in this Act regarding prudential man-
16 agement and operations standards, safe and
17 sound operations of, and capital requirements
18 and portfolio standards applicable to the regu-
19 lated entities (as such term is defined in section
20 1303). The Director also shall consult with the
21 Chairman regarding any decision to place a reg-
22 ulated entity into conservatorship or receiver-
23 ship.

24 “(B) INFORMATION SHARING.—To facili-
25 tate the consultative process, the Director shall

1 share information with the Board of Governors
2 of the Federal Reserve System on a regular,
3 periodic basis as determined by the Director
4 and the Board regarding the capital, asset and
5 liabilities, financial condition, and risk manage-
6 ment practices of the regulated entities as well
7 as any information related to financial market
8 stability.

9 “(C) TERMINATION OF CONSULTATION RE-
10 QUIREMENT.—The requirement of the Director
11 to consult with the Board of Governors of the
12 Federal Reserve System under this paragraph
13 shall expire at the conclusion of December 31,
14 2009.”.

15 **Subtitle B—Improvement of** 16 **Mission Supervision**

17 **SEC. 1121. TRANSFER OF PROGRAM APPROVAL AND HOUS-**
18 **ING GOAL OVERSIGHT.**

19 Part 2 of subtitle A of the Federal Housing Enter-
20 prises Financial Safety and Soundness Act of 1992 (12
21 U.S.C. 4541 et seq.) is amended—

22 (1) by striking the heading for the part and in-
23 serting the following:

1 **“PART 2—ADDITIONAL AUTHORITIES OF THE**
2 **DIRECTOR”;**

3 and

4 (2) by striking sections 1321 and 1322.

5 **SEC. 1122. ASSUMPTION BY THE DIRECTOR OF CERTAIN**
6 **OTHER HUD RESPONSIBILITIES.**

7 (a) IN GENERAL.—Part 2 of subtitle A of the Federal
8 Housing Enterprises Financial Safety and Soundness Act
9 of 1992 (12 U.S.C. 4541 et seq.) is amended—

10 (1) by striking “Secretary” each place that
11 term appears and inserting “Director” in each of
12 sections 1323, 1326, 1327, 1328, and 1336; and

13 (2) by striking sections 1338 and 1349 (12
14 U.S.C. 4562 note and 4589).

15 (b) RETENTION OF FAIR HOUSING RESPONSIBIL-
16 ITIES.—Section 1325 of the Federal Housing Enterprises
17 Financial Safety and Soundness Act of 1992 (12 U.S.C.
18 4545) is amended in the matter preceding paragraph (1),
19 by inserting “of Housing and Urban Development” after
20 “The Secretary”.

21 **SEC. 1123. REVIEW OF ENTERPRISE PRODUCTS.**

22 Part 2 of subtitle A of the Federal Housing Enter-
23 prises Financial Safety and Soundness Act of 1992 (12
24 U.S.C. 4541 et seq.) is amended by inserting before sec-
25 tion 1323 the following:

1 **“SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS.**

2 “(a) IN GENERAL.—The Director shall require each
3 enterprise to obtain the approval of the Director for any
4 product of the enterprise before initially offering the prod-
5 uct.

6 “(b) STANDARD FOR APPROVAL.—In considering any
7 request for approval of a product pursuant to subsection
8 (a), the Director shall make a determination that—

9 “(1) in the case of a product of the Federal Na-
10 tional Mortgage Association, the product is author-
11 ized under paragraph (2), (3), (4), or (5) of section
12 302(b) or section 304 of the Federal National Mort-
13 gage Association Charter Act (12 U.S.C. 1717(b),
14 1719);

15 “(2) in the case of a product of the Federal
16 Home Loan Mortgage Corporation, the product is
17 authorized under paragraph (1), (4), or (5) of sec-
18 tion 305(a) of the Federal Home Loan Mortgage
19 Corporation Act (12 U.S.C. 1454(a));

20 “(3) the product is in the public interest; and

21 “(4) the product is consistent with the safety
22 and soundness of the enterprise or the mortgage fi-
23 nance system.

24 “(c) PROCEDURE FOR APPROVAL.—

25 “(1) SUBMISSION OF REQUEST.—An enterprise
26 shall submit to the Director a written request for

1 approval of a product that describes the product in
2 such form as prescribed by order or regulation of the
3 Director.

4 “(2) REQUEST FOR PUBLIC COMMENT.—Imme-
5 diately upon receipt of a request for approval of a
6 product, as required under paragraph (1), the Direc-
7 tor shall publish notice of such request and of the
8 period for public comment pursuant to paragraph
9 (3) regarding the product, and a description of the
10 product proposed by the request. The Director shall
11 give interested parties the opportunity to respond in
12 writing to the proposed product.

13 “(3) PUBLIC COMMENT PERIOD.—During the
14 30-day period beginning on the date of publication
15 pursuant to paragraph (2) of a request for approval
16 of a product, the Director shall receive public com-
17 ments regarding the proposed product.

18 “(4) OFFERING OF PRODUCT.—

19 “(A) IN GENERAL.—Not later than 30
20 days after the close of the public comment pe-
21 riod described in paragraph (3), the Director
22 shall approve or deny the product, specifying
23 the grounds for such decision in writing.

24 “(B) FAILURE TO ACT.—If the Director
25 fails to act within the 30-day period described

1 in subparagraph (A), then the enterprise may
2 offer the product.

3 “(C) TEMPORARY APPROVAL.—The Direc-
4 tor may, subject to the rules of the Director,
5 provide for temporary approval of the offering
6 of a product without a public comment period,
7 if the Director finds that the existence of exi-
8 gent circumstances makes such delay contrary
9 to the public interest.

10 “(d) CONDITIONAL APPROVAL.—If the Director ap-
11 proves the offering of any product by an enterprise, the
12 Director may establish terms, conditions, or limitations
13 with respect to such product with which the enterprise
14 must comply in order to offer such product.

15 “(e) EXCLUSIONS.—

16 “(1) IN GENERAL.—The requirements of sub-
17 sections (a) through (d) do not apply with respect
18 to—

19 “(A) the automated loan underwriting sys-
20 tem of an enterprise in existence as of the date
21 of enactment of the Federal Housing Finance
22 Regulatory Reform Act of 2008, including any
23 upgrade to the technology, operating system, or
24 software to operate the underwriting system;

1 “(B) any modification to the mortgage
2 terms and conditions or mortgage underwriting
3 criteria relating to the mortgages that are pur-
4 chased or guaranteed by an enterprise, provided
5 that such modifications do not alter the under-
6 lying transaction so as to include services or fi-
7 nancing, other than residential mortgage fi-
8 nancing; or

9 “(C) any other activity that is substantially
10 similar, as determined by rule of the Director
11 to—

12 “(i) the activities described in sub-
13 paragraphs (A) and (B); and

14 “(ii) other activities that have been
15 approved by the Director in accordance
16 with this section.

17 “(2) EXPEDITED REVIEW.—

18 “(A) ENTERPRISE NOTICE.—For any new
19 activity that an enterprise considers not to be
20 a product, the enterprise shall provide written
21 notice to the Director of such activity, and may
22 not commence such activity until the date of re-
23 ceipt of a notice under subparagraph (B) or the
24 expiration of the period described in subpara-
25 graph (C). The Director shall establish, by reg-

1 ulation, the form and content of such written
2 notice.

3 “(B) DIRECTOR DETERMINATION.—Not
4 later than 15 days after the date of receipt of
5 a notice under subparagraph (A), the Director
6 shall determine whether such activity is a prod-
7 uct subject to approval under this section. The
8 Director shall, immediately upon so deter-
9 mining, notify the enterprise.

10 “(C) FAILURE TO ACT.—If the Director
11 fails to determine whether such activity is a
12 product within the 15-day period described in
13 subparagraph (B), the enterprise may com-
14 mence the new activity in accordance with sub-
15 paragraph (A).

16 “(f) NO LIMITATION.—Nothing in this section may
17 be construed to restrict—

18 “(1) the safety and soundness authority of the
19 Director over all new and existing products or activi-
20 ties; or

21 “(2) the authority of the Director to review all
22 new and existing products or activities to determine
23 that such products or activities are consistent with
24 the statutory mission of an enterprise.”.

1 **SEC. 1124. CONFORMING LOAN LIMITS.**

2 (a) FANNIE MAE.—

3 (1) GENERAL LIMIT.—Section 302(b)(2) of the
4 Federal National Mortgage Association Charter Act
5 (12 U.S.C. 1717(b)(2)) is amended by striking the
6 7th and 8th sentences and inserting the following
7 new sentences: “Such limitations shall not exceed
8 \$417,000 for a mortgage secured by a single-family
9 residence, \$533,850 for a mortgage secured by a 2-
10 family residence, \$645,300 for a mortgage secured
11 by a 3-family residence, and \$801,950 for a mort-
12 gage secured by a 4-family residence, except that
13 such maximum limitations shall be adjusted effective
14 January 1 of each year beginning after the effective
15 date of the Federal Housing Finance Regulatory Re-
16 form Act of 2008, subject to the limitations in this
17 paragraph. Each adjustment shall be made by add-
18 ing to each such amount (as it may have been pre-
19 viously adjusted) a percentage thereof equal to the
20 percentage increase, during the most recent 12-
21 month or 4-quarter period ending before the time of
22 determining such annual adjustment, in the housing
23 price index maintained by the Director of the Fed-
24 eral Housing Finance Agency (pursuant to section
25 1322 of the Federal Housing Enterprises Financial
26 Safety and Soundness Act of 1992 (12 U.S.C.

1 4541)). If the change in such house price index dur-
2 ing the most recent 12-month or 4-quarter period
3 ending before the time of determining such annual
4 adjustment is a decrease, then no adjustment shall
5 be made for the next year, and the next adjustment
6 shall take into account prior declines in the house
7 price index, so that any adjustment shall reflect the
8 net change in the house price index since the last
9 adjustment. Declines in the house price index shall
10 be accumulated and then reduce increases until sub-
11 sequent increases exceed prior declines.”.

12 (2) HIGH-COST AREA LIMIT.—Section 302(b)(2)
13 of the Federal National Mortgage Association Char-
14 ter Act (12 U.S.C. 1717(b)(2)) is amended by add-
15 ing after the period at the end the following: “Such
16 foregoing limitations shall also be increased, with re-
17 spect to properties of a particular size located in any
18 area for which 115 percent of the median house
19 price for such size residence exceeds the foregoing
20 limitation for such size residence, to the lesser of
21 150 percent of such limitation for such size resi-
22 dence or the amount that is equal to 115 percent of
23 the median house price in such area for such size
24 residence.”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by paragraphs (1) and (2) of this subsection shall
3 take effect upon the expiration of the date described
4 in section 201(a) of the Economic Stimulus Act of
5 2008 (Public Law 110–185).

6 (b) FREDDIE MAC.—

7 (1) GENERAL LIMIT.—Section 305(a)(2) of the
8 Federal Home Loan Mortgage Corporation Act (12
9 U.S.C. 1454(a)(2)) is amended by striking the 6th
10 and 7th sentences and inserting the following new
11 sentences: “Such limitations shall not exceed
12 \$417,000 for a mortgage secured by a single-family
13 residence, \$533,850 for a mortgage secured by a 2-
14 family residence, \$645,300 for a mortgage secured
15 by a 3-family residence, and \$801,950 for a mort-
16 gage secured by a 4-family residence, except that
17 such maximum limitations shall be adjusted effective
18 January 1 of each year beginning after the effective
19 date of the Federal Housing Finance Regulatory Re-
20 form Act of 2008, subject to the limitations in this
21 paragraph. Each adjustment shall be made by add-
22 ing to each such amount (as it may have been pre-
23 viously adjusted) a percentage thereof equal to the
24 percentage increase, during the most recent 12-
25 month or 4-quarter period ending before the time of

1 determining such annual adjustment, in the housing
2 price index maintained by the Director of the Fed-
3 eral Housing Finance Agency (pursuant to section
4 1322 of the Federal Housing Enterprises Financial
5 Safety and Soundness Act of 1992 (12 U.S.C.
6 4541)). If the change in such house price index dur-
7 ing the most recent 12-month or 4-quarter period
8 ending before the time of determining such annual
9 adjustment is a decrease, then no adjustment shall
10 be made for the next year, and the next adjustment
11 shall take into account prior declines in the house
12 price index, so that any adjustment shall reflect the
13 net change in the house price index since the last
14 adjustment. Declines in the house price index shall
15 be accumulated and then reduce increases until sub-
16 sequent increases exceed prior declines.”.

17 (2) HIGH-COST AREA LIMIT.—Section 305(a)(2)
18 of the Federal Home Loan Mortgage Corporation
19 Act (12 U.S.C. 1454(a)(2)) is amended by adding
20 after the period at the end the following: “Such fore-
21 going limitations shall also be increased, with respect
22 to properties of a particular size located in any area
23 for which 115 percent of the median house price for
24 such size residence exceeds the foregoing limitation
25 for such size residence, to the lesser of 150 percent

1 of such limitation for such size residence or the
2 amount that is equal to 115 percent of the median
3 house price in such area for such size residence.”.

4 (3) EFFECTIVE DATE.—The amendments made
5 by paragraphs (1) and (2) of this subsection shall
6 take effect upon the expiration of the date described
7 in section 201(a) of the Economic Stimulus Act of
8 2008 (Public Law 110–185).

9 (c) SENSE OF CONGRESS.—It is the sense of the Con-
10 gress that the securitization of mortgages by the Federal
11 National Mortgage Association and the Federal Home
12 Loan Mortgage Corporation plays an important role in
13 providing liquidity to the United States housing markets.
14 Therefore, the Congress encourages the Federal National
15 Mortgage Association and the Federal Home Loan Mort-
16 gage Corporation to securitize mortgages acquired under
17 the increased conforming loan limits established under this
18 Act.

19 (d) HOUSING PRICE INDEX.—Part 2 of subtitle A of
20 the Federal Housing Enterprises Financial Safety and
21 Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amend-
22 ed by inserting after section 1321 (as added by section
23 1123 of this Act) the following new section:

1 **“SEC. 1322. HOUSING PRICE INDEX.**

2 “The Director shall establish and maintain a method
3 of assessing the national average 1-family house price for
4 use for adjusting the conforming loan limitations of the
5 enterprises. In establishing such method, the Director
6 shall take into consideration the monthly survey of all
7 major lenders conducted by the Federal Housing Finance
8 Agency to determine the national average 1-family house
9 price, the House Price Index maintained by the Office of
10 Federal Housing Enterprise Oversight of the Department
11 of Housing and Urban Development before the effective
12 date of the Federal Housing Finance Regulatory Reform
13 Act of 2008, any appropriate house price indexes of the
14 Bureau of the Census of the Department of Commerce,
15 and any other indexes or measures that the Director con-
16 siderers appropriate.”.

17 **SEC. 1125. ANNUAL HOUSING REPORT.**

18 (a) REPEAL.—Section 1324 of the Federal Housing
19 Enterprises Financial Safety and Soundness Act of 1992
20 (12 U.S.C. 4544) is hereby repealed.

21 (b) ANNUAL HOUSING REPORT.—The Federal Hous-
22 ing Enterprises Financial Safety and Soundness Act of
23 1992 is amended by inserting after section 1323 the fol-
24 lowing:

1 **“SEC. 1324. ANNUAL HOUSING REPORT.**

2 “(a) IN GENERAL.—After reviewing and analyzing
3 the reports submitted under section 309(n) of the Federal
4 National Mortgage Association Charter Act and section
5 307(f) of the Federal Home Loan Mortgage Corporation
6 Act, the Director shall submit a report, not later than Oc-
7 tober 30 of each year, to the Committee on Banking,
8 Housing, and Urban Affairs of the Senate and the Com-
9 mittee on Financial Services of the House of Representa-
10 tives, on the activities of each enterprise.

11 “(b) CONTENTS.—The report required under sub-
12 section (a) shall—

13 “(1) discuss—

14 “(A) the extent to and manner in which—

15 “(i) each enterprise is achieving the
16 annual housing goals established under
17 subpart B;

18 “(ii) each enterprise is complying with
19 its duty to serve underserved markets, as
20 established under section 1335;

21 “(iii) each enterprise is complying
22 with section 1337;

23 “(iv) each enterprise received credit
24 towards achieving each of its goals result-
25 ing from a transaction or activity pursuant
26 to section 1331(b)(2); and

1 “(v) each enterprise is achieving the
2 purposes of the enterprise established by
3 law; and

4 “(B) the actions that each enterprise could
5 undertake to promote and expand the purposes
6 of the enterprise;

7 “(2) aggregate and analyze relevant data on in-
8 come to assess the compliance of each enterprise
9 with the housing goals established under subpart B;

10 “(3) aggregate and analyze data on income,
11 race, and gender by census tract and other relevant
12 classifications, and compare such data with larger
13 demographic, housing, and economic trends;

14 “(4) identify the extent to which each enter-
15 prise is involved in mortgage purchases and sec-
16 ondary market activities involving subprime and
17 nontraditional loans;

18 “(5) compare the characteristics of subprime
19 and nontraditional loans both purchased and
20 securitized by each enterprise to other loans pur-
21 chased and securitized by each enterprise; and

22 “(6) compare the characteristics of high-cost
23 loans purchased and securitized, where such securi-
24 ties are not held on portfolio to loans purchased and
25 securitized, where such securities are either retained

1 on portfolio or repurchased by the enterprise, includ-
2 ing such characteristics as—

3 “(A) the purchase price of the property
4 that secures the mortgage;

5 “(B) the loan-to-value ratio of the mort-
6 gage, which shall reflect any secondary liens on
7 the relevant property;

8 “(C) the terms of the mortgage;

9 “(D) the creditworthiness of the borrower;
10 and

11 “(E) any other relevant data, as deter-
12 mined by the Director.

13 “(c) DATA COLLECTION AND REPORTING.—

14 “(1) IN GENERAL.—To assist the Director in
15 analyzing the matters described in subsection (b),
16 the Director shall conduct, on a monthly basis, a
17 survey of mortgage markets in accordance with this
18 subsection.

19 “(2) DATA POINTS.—Each monthly survey con-
20 ducted by the Director under paragraph (1) shall
21 collect data on—

22 “(A) the characteristics of individual mort-
23 gages that are eligible for purchase by the en-
24 terprises and the characteristics of individual
25 mortgages that are not eligible for purchase by

1 the enterprises including, in both cases, infor-
2 mation concerning—

3 “(i) the price of the house that se-
4 cures the mortgage;

5 “(ii) the loan-to-value ratio of the
6 mortgage, which shall reflect any sec-
7 ondary liens on the relevant property;

8 “(iii) the terms of the mortgage;

9 “(iv) the creditworthiness of the bor-
10 rower or borrowers; and

11 “(v) whether the mortgage, in the
12 case of a conforming mortgage, was pur-
13 chased by an enterprise;

14 “(B) the characteristics of individual
15 subprime and nontraditional mortgages that are
16 eligible for purchase by the enterprises and the
17 characteristics of borrowers under such mort-
18 gages, including the creditworthiness of such
19 borrowers and determination whether such bor-
20 rowers would qualify for prime lending; and

21 “(C) such other matters as the Director
22 determines to be appropriate.

23 “(3) PUBLIC AVAILABILITY.—The Director
24 shall make any data collected by the Director in con-
25 nection with the conduct of a monthly survey avail-

1 able to the public in a timely manner, provided that
2 the Director may modify the data released to the
3 public to ensure that the data—

4 “(A) is not released in an identifiable
5 form; and

6 “(B) is not otherwise obtainable from
7 other publicly available data sets.

8 “(4) DEFINITION.—For purposes of this sub-
9 section, the term ‘identifiable form’ means any rep-
10 resentation of information that permits the identity
11 of a borrower to which the information relates to be
12 reasonably inferred by either direct or indirect
13 means.”.

14 **SEC. 1126. PUBLIC USE DATABASE.**

15 Section 1323 of the Federal Housing Enterprises Fi-
16 nancial Safety and Soundness Act of 1992 (42 U.S.C.
17 4543) is amended—

18 (1) in subsection (a)—

19 (A) by striking “(a) IN GENERAL.—The
20 Secretary” and inserting the following:

21 “(a) AVAILABILITY.—

22 “(1) IN GENERAL.—The Director”; and

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

1 “(2) CENSUS TRACT LEVEL REPORTING.—Such
2 data shall include the data elements required to be
3 reported under the Home Mortgage Disclosure Act
4 of 1975, at the census tract level.”;

5 (2) in subsection (b)(2), by inserting before the
6 period at the end the following: “or with subsection
7 (a)(2)”;

8 (3) by adding at the end the following new sub-
9 section:

10 “(d) TIMING.—Data submitted under this section by
11 an enterprise in connection with a provision referred to
12 in subsection (a) shall be made publicly available in ac-
13 cordance with this section not later than September 30
14 of the year following the year to which the data relates.”.

15 **SEC. 1127. REPORTING OF MORTGAGE DATA.**

16 Section 1326 of the Federal Housing Enterprises Fi-
17 nancial Safety and Soundness Act of 1992 (12 U.S.C.
18 4546) is amended—

19 (1) in subsection (a), by striking “The Direc-
20 tor” and inserting “Subject to subsection (d), the
21 Director”;

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

23 “(d) MORTGAGE INFORMATION.—Subject to privacy
24 considerations, as described in section 304(j) of the Home
25 Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(j)), the

1 Director shall, by regulation or order, provide that certain
2 information relating to single family mortgage data of the
3 enterprises shall be disclosed to the public, in order to
4 make available to the public—

5 “(1) the same data from the enterprises that is
6 required of insured depository institutions under the
7 Home Mortgage Disclosure Act of 1975; and

8 “(2) information collected by the Director
9 under section 1324(b)(6).”.

10 **SEC. 1128. REVISION OF HOUSING GOALS.**

11 (a) REPEAL.—Sections 1331 through 1334 of the
12 Federal Housing Enterprises Financial Safety and Sound-
13 ness Act of 1992 (12 U.S.C. 4561 through 4564) are here-
14 by repealed.

15 (b) HOUSING GOALS.—The Federal Housing Enter-
16 prises Financial Safety and Soundness Act of 1992 is
17 amended by inserting before section 1335 the following:

18 **“SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.**

19 “(a) IN GENERAL.—The Director shall, by regula-
20 tion, establish effective for 2010 and each year thereafter,
21 annual housing goals, with respect to the mortgage pur-
22 chases by the enterprises, as follows:

23 “(1) SINGLE-FAMILY HOUSING GOALS.—Four
24 single-family housing goals under section 1332.

1 “(2) MULTIFAMILY SPECIAL AFFORDABLE
2 HOUSING GOAL.—One multifamily special affordable
3 housing goal under section 1333.

4 “(b) TIMING.—The Director shall, by regulation, es-
5 tablish an annual deadline by which the Director shall es-
6 tablish the annual housing goals under this subpart for
7 each year, taking into consideration the need for the enter-
8 prises to reasonably and sufficiently plan their operations
9 and activities in advance, including operations and activi-
10 ties necessary to meet such annual goals.

11 “(c) TRANSITION.—The annual housing goals effec-
12 tive for 2008 pursuant to this subpart, as in effect before
13 the enactment of the Federal Housing Finance Regulatory
14 Reform Act of 2008, shall remain in effect for 2009, ex-
15 cept that not later than the expiration of the 270-day pe-
16 riod beginning on the date of the enactment of such Act,
17 the Director shall review such goals applicable for 2009
18 to determine the feasibility of such goals given the market
19 conditions current at such time and, after seeking public
20 comment for a period not to exceed 30 days, may make
21 appropriate adjustments consistent with such market con-
22 ditions.

23 “(d) ELIMINATING INTEREST RATE DISPARITIES.—

24 “(1) IN GENERAL.—Upon request by the Direc-
25 tor, an enterprise shall provide to the Director, in a

1 form determined by the Director, data the Director
2 may review to determine whether there exist dispari-
3 ties in interest rates charged on mortgages to bor-
4 rowers who are minorities as compared with com-
5 parable mortgages to borrowers of similar credit-
6 worthiness who are not minorities.

7 “(2) REMEDIAL ACTIONS UPON PRELIMINARY
8 FINDING.—Upon a preliminary finding by the Direc-
9 tor that a pattern of disparities in interest rates
10 with respect to any lender or lenders exists pursuant
11 to the data provided by an enterprise in paragraph
12 (1), the Director shall__

13 “(A) refer the preliminary finding to the
14 appropriate regulatory or enforcement agency
15 for further review; and

16 “(B) require the enterprise to submit addi-
17 tional data with respect to any lender or lend-
18 ers, as appropriate and to the extent prac-
19 ticable, to the Director who shall submit any
20 such additional data to the regulatory or en-
21 forcement agency for appropriate action.

22 “(3) ANNUAL REPORT TO CONGRESS.—The Di-
23 rector shall submit to the Committee on Financial
24 Services of the House of Representatives and the
25 Committee on Banking, Housing, and Urban Affairs

1 of the Senate a report describing the actions taken,
2 and being taken, by the Director to carry out this
3 subsection. No such report shall identify any lender
4 or lenders who have not been found to have engaged
5 in discriminatory lending practices pursuant to a
6 final adjudication on the record, and after oppor-
7 tunity for an administrative hearing, in accordance
8 with subchapter II of chapter 5 of title 5, United
9 States Code.

10 “(4) PROTECTION OF IDENTITY OF INDIVID-
11 UALS.—In carrying out this subsection, the Director
12 shall ensure that no property-related or financial in-
13 formation that would enable a borrower to be identi-
14 fied shall be made public.

15 **“SEC. 1332. SINGLE-FAMILY HOUSING GOALS.**

16 “(a) IN GENERAL.—The Director shall, by regula-
17 tion, establish annual goals for the purchase by each en-
18 terprise of the following types of mortgages for the fol-
19 lowing categories of families:

20 “(1) PURCHASE-MONEY MORTGAGES.—A goal
21 for purchase of conventional, conforming, single-
22 family, purchase money mortgages financing owner-
23 occupied housing for each of the following categories
24 of families:

25 “(A) Low-income families.

1 “(B) Families that reside in low-income
2 areas.

3 “(C) Very low-income families.

4 “(2) REFINANCING MORTGAGES.—A goal for
5 purchase of conventional, conforming mortgages on
6 owner-occupied, single-family housing for low-income
7 families that are given to pay off or prepay an exist-
8 ing loan secured by the same property.

9 “(b) GOALS AS A PERCENTAGE OF TOTAL MORT-
10 GAGE PURCHASES.—The goals established under para-
11 graphs (1) and (2) of subsection (a) shall be established
12 as a percentage of the total number of conventional, con-
13 forming, single-family, owner-occupied, purchase money
14 mortgages purchased by the enterprise, or as percentage
15 of the total number of conventional, single-family, owner-
16 occupied refinance mortgages purchased by the enterprise,
17 as applicable, that are mortgages for the types of families
18 specified in paragraphs (1) and (2) of subsection (a).

19 “(c) SINGLE-FAMILY, OWNER-OCCUPIED RENTAL
20 HOUSING UNITS.—The Director shall require each enter-
21 prise to report the number of rental housing units afford-
22 able to low-income families each year which are contained
23 in mortgages purchased by the enterprise financing 2- to
24 4-unit single-family, owner-occupied properties and may,

1 by regulation, establish additional requirements relating to
2 such units.

3 “(d) DETERMINATION OF COMPLIANCE.—

4 “(1) IN GENERAL.—The Director shall deter-
5 mine, for each year that the housing goals under
6 this section are in effect pursuant to section
7 1331(a), whether each enterprise has complied with
8 each such goal established under subsection (a) of
9 this section and any additional requirements which
10 may be established under subsection (c) of this sec-
11 tion.

12 “(2) PURCHASE-MONEY MORTGAGE GOALS.—An
13 enterprise shall be considered to be in compliance
14 with a housing goal under subparagraph (A), (B), or
15 (C) of subsection (a)(1) for a year only if, for the
16 type of family described in such subparagraph, the
17 percentage of the number of conventional, con-
18 forming, single-family, owner-occupied, purchase
19 money mortgages purchased by the enterprise in
20 such year that serve such families, meets or exceeds
21 the target for the year for such type of family that
22 is established under subsection (e).

23 “(3) REFINANCE GOAL.—An enterprise shall be
24 considered to be in compliance with the refinance
25 goal under subsection (a)(2) for a year only if the

1 percentage of the number of conventional, con-
2 forming, single-family, owner-occupied refinance
3 mortgages purchased by the enterprise in such year
4 that serve low-income families meets or exceeds the
5 target for the year that is established under sub-
6 section (e).

7 “(e) ANNUAL TARGETS.—

8 “(1) IN GENERAL.—The Director shall, by reg-
9 ulation, establish annual targets for each goal and
10 subgoal under this section, provided that the Direc-
11 tor shall not set prospective targets longer than
12 three years. In establishing such targets, the Direc-
13 tor shall not consider segments of the market deter-
14 mined to be unacceptable or contrary to good lend-
15 ing practices, inconsistent with safety and sound-
16 ness, or unauthorized for purchase by the enter-
17 prises.

18 “(2) GOALS TARGETS.—

19 “(A) CALCULATION.—The Director shall
20 calculate, for each of the types of families de-
21 scribed in subsection (a), the percentage, for
22 each of the three years that most recently pre-
23 ceede such year and for which information under
24 the Home Mortgage Disclosure Act of 1975 is
25 publicly available—

1 “(i) of the number of conventional,
2 conforming, single-family, owner-occupied
3 purchase money mortgages originated in
4 such year that serve such type of family, or

5 “(ii) the number of conventional, con-
6 forming, single-family, owner-occupied refi-
7 nance mortgages originated in such year
8 that serve low-income families,

9 as applicable, as determined by the Director
10 using the information obtained and determined
11 pursuant to paragraphs (4) and (5).

12 “(B) ESTABLISHMENT OF GOAL TAR-
13 GETS.—The Director shall, by regulation, estab-
14 lish targets for each of the goal categories, tak-
15 ing into consideration the calculations under
16 subparagraph (A) and the following factors:

17 “(i) National housing needs.

18 “(ii) Economic, housing, and demo-
19 graphic conditions, including expected mar-
20 ket developments.

21 “(iii) The performance and effort of
22 the enterprises toward achieving the hous-
23 ing goals under this section in previous
24 years.

1 “(iv) The ability of the enterprise to
2 lead the industry in making mortgage
3 credit available.

4 “(v) Such other reliable mortgage
5 data as may be available.

6 “(vi) The size of the purchase money
7 conventional mortgage market, or refi-
8 nance conventional mortgage market, as
9 applicable, serving each of the types of
10 families described in subsection (a), rel-
11 ative to the size of the overall purchase
12 money mortgage market or the overall refi-
13 nance mortgage market, respectively.

14 “(vii) The need to maintain the sound
15 financial condition of the enterprises.

16 “(3) AUTHORITY TO ADJUST TARGETS.—The
17 Director may, by regulation, adjust the percentage
18 targets previously established by regulation pursuant
19 to paragraph (2)(B) for any year, to reflect subse-
20 quent available data and market developments.

21 “(4) HMDA INFORMATION.—The Director
22 shall annually obtain information submitted in com-
23 pliance with the Home Mortgage Disclosure Act of
24 1975 regarding conventional, conforming, single-
25 family, owner-occupied, purchase money and refi-

1 nance mortgages originated and purchased for the
2 previous year.

3 “(5) CONFORMING MORTGAGES.—In deter-
4 mining whether a mortgage is a conforming mort-
5 gage for purposes of this paragraph, the Director
6 shall consider the original principal balance of the
7 mortgage loan to be the principal balance as re-
8 ported in the information referred to in paragraph
9 (4), as rounded to the nearest thousand dollars.

10 “(f) NOTICE OF DETERMINATION AND ENTERPRISE
11 COMMENT.—

12 “(1) NOTICE.—Within 30 days of making a de-
13 termination under subsection (d) regarding compli-
14 ance of an enterprise for a year with a housing goal
15 established under this section and before any public
16 disclosure thereof, the Director shall provide notice
17 of the determination to the enterprise, which shall
18 include an analysis and comparison, by the Director,
19 of the performance of the enterprise for the year and
20 the targets for the year under subsection (e).

21 “(2) COMMENT PERIOD.—The Director shall
22 provide each enterprise an opportunity to comment
23 on the determination during the 30-day period be-
24 ginning upon receipt by the enterprise of the notice.

1 “(g) USE OF BORROWER INCOME.—In monitoring
2 the performance of each enterprise pursuant to the hous-
3 ing goals under this section and evaluating such perform-
4 ance (for purposes of section 1336), the Director shall
5 consider a mortgagor’s income to be such income at the
6 time of origination of the mortgage.

7 “(h) CONSIDERATION OF PROPERTIES WITH RENT-
8 AL UNITS.—Mortgages financing two- to four-unit owner-
9 occupied properties shall count toward the achievement of
10 the single-family housing goals under this section, if such
11 properties otherwise meet the requirements under this sec-
12 tion, notwithstanding the use of one or more units for
13 rental purposes.

14 “(i) GOALS CREDIT.—The Director shall determine
15 whether an enterprise shall receive full, partial, or no cred-
16 it for a transaction toward achievement of any of the hous-
17 ing goals established pursuant to section 1332 and 1333.
18 In making any such determination, the Director shall con-
19 sider whether a transaction or activity of an enterprise is
20 substantially equivalent to a mortgage purchase and either
21 (1) creates a new market, or (2) adds liquidity to an exist-
22 ing market. No credit toward the achievement of the hous-
23 ing goals and subgoals established under this section may
24 be given to the purchase of mortgages, including any
25 transaction or activity of an enterprise determined to be

1 substantially equivalent to a mortgage purchase, that is
2 determined to be unacceptable or contrary to good lending
3 practices, inconsistent with safety and soundness, or unau-
4 thorized for purchase by the enterprises, pursuant to regu-
5 lations issued by the Director.

6 **“SEC. 1333. MULTIFAMILY SPECIAL AFFORDABLE HOUSING**

7 **GOAL.**

8 “(a) ESTABLISHMENT OF GOAL.—

9 “(1) IN GENERAL.—The Director shall, by reg-
10 ulation, establish a single annual goal, by either unit
11 or dollar volume, of purchases by each enterprise of
12 mortgages on multifamily housing that finance
13 dwelling units affordable to low-income families.

14 “(2) ADDITIONAL REQUIREMENTS FOR UNITS
15 AFFORDABLE TO VERY LOW-INCOME FAMILIES.—

16 When establishing the goal under this section, the
17 Director shall establish additional requirements for
18 the purchase by each enterprise of mortgages on
19 multifamily housing that finance dwelling units af-
20 fordable to very low-income families.

21 “(3) REPORTING ON SMALLER PROPERTIES.—

22 The Director shall require each enterprise to report
23 on the purchase by each enterprise of multifamily
24 housing of a smaller or limited size that is affordable
25 to low-income families, which may be based on mul-

1 multifamily projects of 5 to 50 units (as such numbers
2 may be adjusted by the Director) or on mortgages
3 of up to \$5,000,000 (as such amount may be ad-
4 justed by the Director), and may, by regulation, es-
5 tablish such additional requirements related to such
6 units.

7 “(4) FACTORS.—In establishing the goal and
8 additional requirements under this section, the Di-
9 rector shall not consider segments of the market de-
10 terminated to be inconsistent with safety and sound-
11 ness or unauthorized for purchase by the enter-
12 prises, and shall take into consideration—

13 “(A) national multifamily mortgage credit
14 needs and the ability of the enterprise to pro-
15 vide additional liquidity and stability for the
16 multifamily mortgage market;

17 “(B) the performance and effort of the en-
18 terprise in making mortgage credit available for
19 multifamily housing in previous years;

20 “(C) the size of the multifamily mortgage
21 market for housing affordable to low-income
22 and very low-income families, including the size
23 of the multifamily markets for housing of a
24 smaller or limited size;

1 “(D) the ability of the enterprise to lead
2 the market in making multifamily mortgage
3 credit available, especially for multifamily hous-
4 ing described in paragraphs (1) and (2);

5 “(E) the availability of public subsidies;
6 and

7 “(F) the need to maintain the sound finan-
8 cial condition of the enterprise.

9 “(b) UNITS FINANCED BY HOUSING FINANCE AGEN-
10 CY BONDS.—The Director shall give full credit toward the
11 achievement of the multifamily special affordable housing
12 goal under this section (for purposes of section 1336) to
13 dwelling units in multifamily housing that otherwise quali-
14 fies under such goal and that is financed by tax-exempt
15 or taxable bonds issued by a State or local housing finance
16 agency, if such bonds, in whole or in part—

17 “(1) are secured by a guarantee of the enter-
18 prise; or

19 “(2) are purchased by the enterprise, except
20 that the Director may give less than full credit for
21 purchases of investment grade bonds, to the extent
22 that such purchases do not provide a new market or
23 add liquidity to an existing market.

24 “(c) MEASUREMENT OF PERFORMANCE.—The Direc-
25 tor shall monitor the performance of each enterprise in

1 meeting the goals established under this section and shall
2 evaluate such performance (for purposes of section 1336)
3 based on whether the rent levels are affordable. A rent
4 level shall be considered to be affordable for purposes of
5 this subsection for low-income families if it does not exceed
6 30 percent of the maximum income level of such income
7 category, with appropriate adjustments for unit size as
8 measured by the number of bedrooms.

9 “(d) DETERMINATION OF COMPLIANCE.—The Direc-
10 tor shall determine, for each year that the housing goal
11 under this section is in effect pursuant to section 1331(a),
12 whether each enterprise has complied with such goal and
13 the additional requirements under subsection (a)(2).

14 **“SEC. 1334. DISCRETIONARY ADJUSTMENT OF HOUSING**
15 **GOALS.**

16 “(a) AUTHORITY.—An enterprise may petition the
17 Director in writing at any time during a year to reduce
18 the level of any goal or subgoal for such year established
19 pursuant to this subpart.

20 “(b) STANDARD FOR REDUCTION.—The Director
21 may reduce the level for a goal or subgoal pursuant to
22 such a petition only if—

23 “(1) market and economic conditions or the fi-
24 nancial condition of the enterprise require such ac-
25 tion; or

1 “(2) efforts to meet the goal or subgoal would
2 result in the constraint of liquidity, over-investment
3 in certain market segments, or other consequences
4 contrary to the intent of this subpart, or section
5 301(3) of the Federal National Mortgage Associa-
6 tion Charter Act (12 U.S.C. 1716(3)) or section
7 301(b)(3) of the Federal Home Loan Mortgage Cor-
8 poration Act (12 U.S.C. 1451 note), as applicable.

9 “(c) DETERMINATION.—The Director shall, promptly
10 upon receipt of a petition regarding a reduction, seek pub-
11 lic comment on the reduction for a period of 30 days. The
12 Director shall make a determination regarding any pro-
13 posed reduction within 30 days after the expiration of such
14 public comment period. The Director may extend such de-
15 termination period for a single additional 15-day period,
16 but only if the Director requests additional information
17 from the enterprise.”.

18 (c) CONFORMING AMENDMENTS.—The Housing and
19 Community Development Act of 1992 is amended__

20 (1) in section 1335(a) (12 U.S.C. 4565(a)), in
21 the matter preceding paragraph (1), by striking
22 “low- and moderate-income housing goal” and all
23 that follows through “section 1334” and inserting
24 “housing goals established under this subpart”; and

1 (2) in section 1336(a)(1) (12 U.S.C.
2 4566(a)(1)), by striking “sections 1332, 1333, and
3 1334,” and inserting “this subpart”.

4 (d) DEFINITIONS.—Section 1303 of the Federal
5 Housing Enterprises Financial Safety and Soundness Act
6 of 1992 (12 U.S.C. 4502) is amended—

7 (1) by striking paragraph (24), as so designated
8 by section 1002 of this Act, and inserting the fol-
9 lowing:

10 “(24) VERY LOW-INCOME.—

11 “(A) IN GENERAL.—The term ‘very low-in-
12 come’ means—

13 “(i) in the case of owner-occupied
14 units, families having incomes not greater
15 than 50 percent of the area median in-
16 come; and

17 “(ii) in the case of rental units, fami-
18 lies having incomes not greater than 50
19 percent of the area median income, with
20 adjustments for smaller and larger fami-
21 lies, as determined by the Director.

22 “(B) RULE OF CONSTRUCTION.—For pur-
23 poses of section 1338 and 1339, the term ‘very
24 low-income’ means—

1 “(i) in the case of owner-occupied
2 units, income in excess of 30 percent but
3 not greater than 50 percent of the area
4 median income; and

5 “(ii) in the case of rental units, in-
6 come in excess of 30 percent but not great-
7 er than 50 percent of the area median in-
8 come, with adjustments for smaller and
9 larger families, as determined by the Di-
10 rector.”; and

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

12 “(26) CONFORMING MORTGAGE.—The term
13 ‘conforming mortgage’ means, with respect to an en-
14 terprise, a conventional mortgage having an original
15 principal obligation that does not exceed the dollar
16 amount limitation in effect at the time of such origi-
17 nation and applicable to such mortgage, under, as
18 applicable—

19 “(A) section 302(b)(2) of the Federal Na-
20 tional Mortgage Association Charter Act; or

21 “(B) section 305(a)(2) of the Federal
22 Home Loan Mortgage Corporation Act.

23 “(27) EXTREMELY LOW-INCOME.—The term
24 ‘extremely low-income’ means—

1 “(A) in the case of owner-occupied units,
2 income not in excess of 30 percent of the area
3 median income; and

4 “(B) in the case of rental units, income
5 not in excess of 30 percent of the area median
6 income, with adjustments for smaller and larger
7 families, as determined by the Director.

8 “(28) LOW-INCOME AREA.—The term ‘low-in-
9 come area’ means a census tract or block numbering
10 area in which the median income does not exceed 80
11 percent of the median income for the area in which
12 such census tract or block numbering area is lo-
13 cated, and, for the purposes of section
14 1332(a)(1)(B), shall include families having incomes
15 not greater than 100 percent of the area median in-
16 come who reside in minority census tracts and shall
17 include families having incomes not greater than
18 100 percent of the area median income who reside
19 in designated disaster areas.

20 “(29) MINORITY CENSUS TRACT.—The term
21 ‘minority census tract’ means a census tract that
22 has a minority population of at least 30 percent and
23 a median family income of less than 100 percent of
24 the area family median income.

1 “(30) SHORTAGE OF STANDARD RENTAL UNITS
2 BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY
3 LOW-INCOME RENTER HOUSEHOLDS.—

4 “(A) IN GENERAL.—The term ‘shortage of
5 standard rental units both affordable and avail-
6 able to extremely low-income renter households’
7 means the gap between—

8 “(i) the number of units with com-
9 plete plumbing and kitchen facilities with a
10 rent that is 30 percent or less of 30 per-
11 cent of the adjusted area median income as
12 determined by the Director that are occu-
13 pied by extremely low-income renter house-
14 holds or are vacant for rent; and

15 “(ii) the number of extremely low-in-
16 come renter households.

17 “(B) RULE OF CONSTRUCTION.—If the
18 number of units described in subparagraph
19 (A)(i) exceeds the number of extremely low-in-
20 come households as described in subparagraph
21 (A)(ii), there is no shortage.

22 “(31) SHORTAGE OF STANDARD RENTAL UNITS
23 BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-
24 INCOME RENTER HOUSEHOLDS.—

1 “(A) IN GENERAL.—The term ‘shortage of
2 standard rental units both affordable and avail-
3 able to very low-income renter households’
4 means the gap between—

5 “(i) the number of units with com-
6 plete plumbing and kitchen facilities with a
7 rent that is 30 percent or less of 50 per-
8 cent of the adjusted area median income as
9 determined by the Director that are occu-
10 pied by either extremely low- or very low-
11 income renter households or are vacant for
12 rent; and

13 “(ii) the number of extremely low-
14 and very low-income renter households.

15 “(B) RULE OF CONSTRUCTION.—If the
16 number of units described in subparagraph
17 (A)(i) exceeds the number of extremely low- and
18 very low-income households as described in sub-
19 paragraph (A)(ii), there is no shortage.”.

20 **SEC. 1129. DUTY TO SERVE UNDERSERVED MARKETS.**

21 (a) ESTABLISHMENT AND EVALUATION OF PER-
22 FORMANCE.—Section 1335 of the Federal Housing Enter-
23 prises Financial Safety and Soundness Act of 1992 (12
24 U.S.C. 4565) is amended—

1 (1) in the section heading, by inserting “**DUTY**
2 **TO SERVE UNDERSERVED MARKETS AND**” be-
3 fore “**OTHER**”;

4 (2) by striking subsection (b);

5 (3) in subsection (a)—

6 (A) in the matter preceding paragraph (1),
7 by inserting “and to carry out the duty under
8 subsection (a) of this section” before “, each
9 enterprise shall”;

10 (B) in paragraph (3), by inserting “and”
11 after the semicolon at the end;

12 (C) in paragraph (4), by striking “; and”
13 and inserting a period;

14 (D) by striking paragraph (5); and

15 (E) by redesignating such subsection as
16 subsection (b);

17 (4) by inserting before subsection (b) (as so re-
18 designated by paragraph (3)(E) of this subsection)
19 the following new subsection:

20 “(a) **DUTY TO SERVE UNDERSERVED MARKETS.—**

21 “(1) **DUTY.—**To increase the liquidity of mort-
22 gage investments and improve the distribution of in-
23 vestment capital available for mortgage financing for
24 underserved markets, each enterprise shall provide
25 leadership to the market in developing loan products

1 and flexible underwriting guidelines to facilitate a
2 secondary market for mortgages for very low-, low-
3 , and moderate-income families with respect to the
4 following underserved markets:

5 “(A) MANUFACTURED HOUSING.—The en-
6 terprise shall develop loan products and flexible
7 underwriting guidelines to facilitate a secondary
8 market for mortgages on manufactured homes
9 for very low-, low-, and moderate-income fami-
10 lies.

11 “(B) AFFORDABLE HOUSING PRESERVA-
12 TION.—The enterprise shall develop loan prod-
13 ucts and flexible underwriting guidelines to fa-
14 cilitate a secondary market to preserve housing
15 affordable to very low-, low-, and moderate-in-
16 come families, including housing projects sub-
17 sidized under__

18 “(i) the project-based and tenant-
19 based rental assistance programs under
20 section 8 of the United States Housing Act
21 of 1937;

22 “(ii) the program under section 236
23 of the National Housing Act;

1 “(iii) the below-market interest rate
2 mortgage program under section 221(d)(4)
3 of the National Housing Act;

4 “(iv) the supportive housing for the
5 elderly program under section 202 of the
6 Housing Act of 1959;

7 “(v) the supportive housing program
8 for persons with disabilities under section
9 811 of the Cranston-Gonzalez National Af-
10 fordable Housing Act;

11 “(vi) the programs under title IV of
12 the McKinney-Vento Homeless Assistance
13 Act (42 U.S.C. 11361 et seq.), but only
14 permanent supportive housing projects
15 subsidized under such programs;

16 “(vii) the rural rental housing pro-
17 gram under section 515 of the Housing
18 Act of 1949;

19 “(viii) the low-income housing tax
20 credit under section 42 of the Internal
21 Revenue Code of 1986; and

22 “(ix) comparable state and local af-
23 fordable housing programs.

24 “(C) RURAL MARKETS.—The enterprise
25 shall develop loan products and flexible under-

1 writing guidelines to facilitate a secondary mar-
2 ket for mortgages on housing for very low-, and
3 low-, and moderate-income families in rural
4 areas.”; and

5 (5) by adding at the end the following new sub-
6 sections:

7 “(c) **ADDITIONAL CATEGORIES.**—The Director may
8 submit recommendations to the Committee on Financial
9 Services of the House of Representatives and the Com-
10 mittee on Banking, Housing, and Urban Affairs of the
11 Senate for the establishment of additional categories
12 under subsection (a), provided that the Director makes a
13 preliminary determination that any such category is im-
14 portant to the mission of the enterprises, that the category
15 is an underserved market, and that the establishment of
16 such category is warranted.

17 “(d) **EVALUATION AND REPORTING OF COMPLI-**
18 **ANCE.**—

19 “(1) **IN GENERAL.**—The Director shall, by reg-
20 ulation, establish effective for 2010 and thereafter a
21 manner for evaluating whether, and the extent to
22 which, the enterprises have complied with the duty
23 under subsection (a) to serve underserved markets
24 and for rating the extent of such compliance. Using
25 such method, the Director shall, for 2010 and each

1 year thereafter, evaluate such compliance and rate
2 the performance of each enterprise as to extent of
3 compliance. The Director shall include such evalua-
4 tion and rating for each enterprise for a year in the
5 report for that year submitted pursuant to section
6 1319B(a).

7 “(2) SEPARATE EVALUATIONS.—In determining
8 whether an enterprise has complied with the duty re-
9 ferred to in paragraph (1), the Director shall sepa-
10 rately evaluate whether the enterprise has complied
11 with such duty with respect to each of the under-
12 served markets identified in subsection (a), taking
13 into consideration__

14 “(A) the development of loan products,
15 more flexible underwriting guidelines, and other
16 innovative approaches to providing financing to
17 each of such underserved markets;

18 “(B) the extent of outreach to qualified
19 loan sellers and other market participants in
20 each of such underserved markets;

21 “(C) the volume of loans purchased in each
22 of such underserved markets relative to the
23 market opportunities available to the enterprise,
24 except that the Director shall not establish spe-
25 cific quantitative targets nor evaluate the enter-

1 prises based solely on the volume of loans pur-
2 chased; and

3 “(D) the amount of investments and
4 grants in projects which assist in meeting the
5 needs of such underserved markets.

6 “(3) MANUFACTURED HOUSING MARKET.—In
7 determining whether an enterprise has complied with
8 the duty under subparagraph (A) of subsection
9 (a)(1), the Director may consider loans secured by
10 both real and personal property.

11 “(4) PROHIBITION OF CONSIDERATION OF AF-
12 FORDABLE HOUSING FUND GRANTS FOR MEETING
13 DUTY TO SERVE.— In determining whether an en-
14 terprise has complied with the duty referred to in
15 paragraph (1), the Director may not consider any
16 affordable housing fund grant amounts used under
17 section 1337 for eligible activities under subsection
18 (g) of such section.”.

19 “(b) ENFORCEMENT.—Subsection (a) of section 1336
20 of the Housing and Community Development Act of 1992
21 (12 U.S.C. 4566(a)) is amended—

22 (1) in paragraph (1), by inserting “and with
23 the duty under section 1335(a) of each enterprise
24 with respect to underserved markets,” before “as
25 provided in this section”; and

1 (2) by adding at the end of such subsection, as
2 amended by the preceding provisions of this title, the
3 following new paragraph:

4 “(4) ENFORCEMENT OF DUTY TO PROVIDE
5 MORTGAGE CREDIT TO UNDERSERVED MARKETS.—
6 The duty under section 1335(a) of each enterprise
7 to serve underserved markets (as determined in ac-
8 cordance with section 1335(c)) shall be enforceable
9 under this section to the same extent and under the
10 same provisions that the housing goals established
11 under this subpart are enforceable. Such duty shall
12 be enforceable only under this section, except that
13 such duty shall not be subject to subsection (c)(7)
14 of this section and shall not be enforceable under
15 any other provision of this title (including subpart C
16 of this part) or under any provision of the Federal
17 National Mortgage Association Charter Act or the
18 Federal Home Loan Mortgage Corporation Act.”.

19 (c) ADDITIONAL CREDIT FOR CERTAIN MORT-
20 GAGES.—Section 1336(a) of the Housing and Community
21 Development Act of 1992 (12 U.S.C. 4566(a)) is amend-
22 ed__

23 (1) in paragraph (2), by inserting “, except as
24 provided in paragraph (5),” after “which”; and

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

3 “(5) **ADDITIONAL CREDIT.**—The Director may
4 assign additional credit toward achievement, under
5 this section, of the housing goals for mortgage pur-
6 chase activities of the enterprises that comply with
7 the requirements of such goals and support housing
8 that includes a licensed childcare center. The avail-
9 ability of additional credit under this paragraph
10 shall not be used to increase any housing goal,
11 subgoal, or target established under this subpart.”.

12 **SEC. 1130. MONITORING AND ENFORCING COMPLIANCE**
13 **WITH HOUSING GOALS.**

14 (a) **IN GENERAL.**—Section 1336 of the Federal
15 Housing Enterprises Financial Safety and Soundness Act
16 of 1992 (12 U.S.C. 4566) is amended by striking sub-
17 sections (b) and (c) and inserting the following:

18 “(b) **NOTICE AND PRELIMINARY DETERMINATION OF**
19 **FAILURE TO MEET GOALS.**—

20 “(1) **NOTICE.**—If the Director preliminarily de-
21 termines that an enterprise has failed, or that there
22 is a substantial probability that an enterprise will
23 fail, to meet any housing goal under this subpart,
24 the Director shall provide written notice to the en-
25 terprise of such a preliminary determination, the

1 reasons for such determination, and the information
2 on which the Director based the determination.

3 “(2) RESPONSE PERIOD.—

4 “(A) IN GENERAL.—During the 30-day pe-
5 riod beginning on the date on which an enter-
6 prise is provided notice under paragraph (1),
7 the enterprise may submit to the Director any
8 written information that the enterprise con-
9 siders appropriate for consideration by the Di-
10 rector in finally determining whether such fail-
11 ure has occurred or whether the achievement of
12 such goal was or is feasible.

13 “(B) EXTENDED PERIOD.—The Director
14 may extend the period under subparagraph (A)
15 for good cause for not more than 30 additional
16 days.

17 “(C) SHORTENED PERIOD.—The Director
18 may shorten the period under subparagraph (A)
19 for good cause.

20 “(D) FAILURE TO RESPOND.—The failure
21 of an enterprise to provide information during
22 the 30-day period under this paragraph (as ex-
23 tended or shortened) shall waive any right of
24 the enterprise to comment on the proposed de-
25 termination or action of the Director.

1 “(3) CONSIDERATION OF INFORMATION AND
2 FINAL DETERMINATION.—

3 “(A) IN GENERAL.—After the expiration of
4 the response period under paragraph (2), or
5 upon receipt of information provided during
6 such period by the enterprise, whichever occurs
7 earlier, the Director shall issue a final deter-
8 mination on—

9 “(i) whether the enterprise has failed,
10 or there is a substantial probability that
11 the enterprise will fail, to meet the housing
12 goal; and

13 “(ii) whether (taking into consider-
14 ation market and economic conditions and
15 the financial condition of the enterprise)
16 the achievement of the housing goal was or
17 is feasible.

18 “(B) CONSIDERATIONS.—In making a
19 final determination under subparagraph (A),
20 the Director shall take into consideration any
21 relevant information submitted by the enter-
22 prise during the response period.

23 “(C) NOTICE.—The Director shall provide
24 written notice, including a response to any in-
25 formation submitted during the response pe-

1 riod, to the enterprise, the Committee on Bank-
2 ing, Housing, and Urban Affairs of the Senate,
3 and the Committee on Financial Services of the
4 House of Representatives, of—

5 “(i) each final determination under
6 this paragraph that an enterprise has
7 failed, or that there is a substantial prob-
8 ability that the enterprise will fail, to meet
9 a housing goal;

10 “(ii) each final determination that the
11 achievement of a housing goal was or is
12 feasible; and

13 “(iii) the reasons for each such final
14 determination.

15 “(c) CEASE AND DESIST, CIVIL MONEY PENALTIES,
16 AND REMEDIES INCLUDING HOUSING PLANS.—

17 “(1) REQUIREMENT.—If the Director finds,
18 pursuant to subsection (b), that there is a substan-
19 tial probability that an enterprise will fail, or has ac-
20 tually failed, to meet any housing goal under this
21 subpart, and that the achievement of the housing
22 goal was or is feasible, the Director may require that
23 the enterprise submit a housing plan under this sub-
24 section. If the Director makes such a finding and
25 the enterprise refuses to submit such a plan, sub-

1 mits an unacceptable plan, or fails to comply with
2 the plan, the Director may issue a cease and desist
3 order in accordance with section 1341 and impose
4 civil money penalties in accordance with section
5 1345.

6 “(2) HOUSING PLAN.—If the Director requires
7 a housing plan under this subsection, such a plan
8 shall be—

9 “(A) a feasible plan describing the specific
10 actions the enterprise will take—

11 “(i) to achieve the goal for the next
12 calendar year; and

13 “(ii) if the Director determines that
14 there is a substantial probability that the
15 enterprise will fail to meet a goal in the
16 current year, to make such improvements
17 and changes in its operations as are rea-
18 sonable in the remainder of such year; and

19 “(B) sufficiently specific to enable the Di-
20 rector to monitor compliance periodically.

21 “(3) DEADLINE FOR SUBMISSION.—The Direc-
22 tor shall establish a deadline for an enterprise to
23 submit a housing plan to the Director, which may
24 not be more than 45 days after the enterprise is pro-
25 vided notice. The Director may extend the deadline

1 to the extent that the Director determines necessary.
2 Any extension of the deadline shall be in writing and
3 for a time certain.

4 “(4) APPROVAL.—The Director shall review
5 each submission by an enterprise, including a hous-
6 ing plan submitted under this subsection, and, not
7 later than 30 days after submission, approve or dis-
8 approve the plan or other action. The Director may
9 extend the period for approval or disapproval for a
10 single additional 30-day period if the Director deter-
11 mines it necessary. The Director shall approve any
12 plan that the Director determines is likely to suc-
13 ceed, and conforms with the Federal National Mort-
14 gage Association Charter Act or the Federal Home
15 Loan Mortgage Corporation Act (as applicable), this
16 title, and any other applicable provision of law.

17 “(5) NOTICE OF APPROVAL AND DIS-
18 APPROVAL.—The Director shall provide written no-
19 tice to any enterprise submitting a housing plan of
20 the approval or disapproval of the plan (which shall
21 include the reasons for any disapproval of the plan)
22 and of any extension of the period for approval or
23 disapproval.

24 “(6) RESUBMISSION.—If the initial housing
25 plan submitted by an enterprise under this section

1 is disapproved, the enterprise shall submit an
2 amended plan acceptable to the Director not later
3 than 15 days after such disapproval, or such longer
4 period that the Director determines is in the public
5 interest.

6 “(7) CEASE AND DESIST ORDERS; CIVIL MONEY
7 PENALTIES.—Solely with respect to the housing
8 goals established under sections 1332(a) and
9 1333(a)(1), if the Director requires an enterprise to
10 submit a housing plan under this subsection and the
11 enterprise refuses to submit such a plan, submits an
12 unacceptable plan, or fails to comply with the plan,
13 the Director may issue a cease and desist order in
14 accordance with section 1341, impose civil money
15 penalties in accordance with section 1345, exercise
16 other appropriate enforcement authority or seek
17 other appropriate actions.”.

18 (b) CONFORMING AMENDMENT.—The heading for
19 subpart C of part 2 of subtitle A of the Federal Housing
20 Enterprises Financial Safety and Soundness Act of 1992
21 is amended to read as follows:

22 **“Subpart C—Enforcement”.**

23 (c) CEASE AND DESIST PROCEEDINGS.—

24 (1) REPEAL.—Section 1341 of the Federal
25 Housing Enterprises Financial Safety and Sound-

1 ness Act of 1992 (12 U.S.C. 4581) is hereby re-
2 pealed.

3 (2) CEASE AND DESIST PROCEEDINGS.—The
4 Federal Housing Enterprises Financial Safety and
5 Soundness Act of 1992 is amended by inserting be-
6 fore section 1342 the following:

7 **“SEC. 1341. CEASE AND DESIST PROCEEDINGS.**

8 “(a) GROUNDS FOR ISSUANCE.—The Director may
9 issue and serve a notice of charges under this section upon
10 an enterprise if the Director determines that—

11 “(1) the enterprise has failed to submit a report
12 under section 1327, following a notice of such fail-
13 ure, an opportunity for comment by the enterprise,
14 and a final determination by the Director;

15 “(2) the enterprise has failed to submit the in-
16 formation required under subsection (m) or (n) of
17 section 309 of the Federal National Mortgage Asso-
18 ciation Charter Act, or subsection (e) or (f) of sec-
19 tion 307 of the Federal Home Loan Mortgage Cor-
20 poration Act;

21 “(3) solely with respect to the housing goals es-
22 tablished under sections 1332(a) and 1333(a)(1),
23 the enterprise has failed to submit a housing plan
24 that complies with section 1336(c) within the appli-
25 cable period; or

1 “(4) solely with respect to the housing goals es-
2 tablished under sections 1332(a) and 1333(a)(1),
3 the enterprise has failed to comply with a housing
4 plan under section 1336(c).

5 “(b) PROCEDURE.—

6 “(1) NOTICE OF CHARGES.—Each notice of
7 charges issued under this section shall contain a
8 statement of the facts constituting the alleged con-
9 duct and shall fix a time and place at which a hear-
10 ing will be held to determine on the record whether
11 an order to cease and desist from such conduct
12 should issue.

13 “(2) ISSUANCE OF ORDER.—If the Director
14 finds on the record made at a hearing described in
15 paragraph (1) that any conduct specified in the no-
16 tice of charges has been established (or the enter-
17 prise consents pursuant to section 1342(a)(4)), the
18 Director may issue and serve upon the enterprise an
19 order requiring the enterprise to—

20 “(A) submit a report under section 1327;

21 “(B) solely with respect to the housing
22 goals established under sections 1332(a) and
23 1333(a)(1), submit a housing plan in compli-
24 ance with section 1336(c);

1 “(C) solely with respect to the housing
2 goals established under sections 1332(a) and
3 1333(a)(1), comply with the housing plan in
4 compliance with section 1336(c); or

5 “(D) provide the information required
6 under subsection (m) or (n) of section 309 of
7 the Federal National Mortgage Association
8 Charter Act, or subsection (e) or (f) of section
9 307 of the Federal Home Loan Mortgage Cor-
10 poration Act.

11 “(c) EFFECTIVE DATE.—An order under this section
12 shall become effective upon the expiration of the 30-day
13 period beginning on the date of service of the order upon
14 the enterprise (except in the case of an order issued upon
15 consent, which shall become effective at the time specified
16 therein), and shall remain effective and enforceable as pro-
17 vided in the order, except to the extent that the order is
18 stayed, modified, terminated, or set aside by action of the
19 Director or otherwise, as provided in this subpart.”.

20 (d) CIVIL MONEY PENALTIES.—

21 (1) REPEAL.—Section 1345 of the Federal
22 Housing Enterprises Financial Safety and Sound-
23 ness Act of 1992 (12 U.S.C. 4585) is hereby re-
24 pealed.

1 (2) CIVIL MONEY PENALTIES.—The Federal
2 Housing Enterprises Financial Safety and Sound-
3 ness Act of 1992 is amended by inserting after sec-
4 tion 1344 the following:

5 **“SEC. 1345. CIVIL MONEY PENALTIES.**

6 “(a) AUTHORITY.—The Director may impose a civil
7 money penalty, in accordance with the provisions of this
8 section, on any enterprise that has failed to—

9 “(1) submit a report under section 1327, fol-
10 lowing a notice of such failure, an opportunity for
11 comment by the enterprise, and a final determina-
12 tion by the Director;

13 “(2) submit the information required under
14 subsection (m) or (n) of section 309 of the Federal
15 National Mortgage Association Charter Act or sub-
16 section (e) or (f) of section 307 of the Federal Home
17 Loan Mortgage Corporation Act;

18 “(3) solely with respect to the housing goals es-
19 tablished under sections 1332(a) and 1333(a)(1),
20 submit a housing plan or perform its responsibilities
21 under a remedial order issued pursuant to section
22 1336(e) within the required period; or

23 “(4) solely with respect to the housing goals es-
24 tablished under sections 1332(a) and 1333(a)(1),

1 comply with a housing plan for the enterprise under
2 section 1336(c).

3 “(b) AMOUNT OF PENALTY.—The amount of a pen-
4 alty under this section, as determined by the Director,
5 may not exceed—

6 “(1) for any failure described in paragraph (1),
7 (5), or (6) of subsection (a), \$100,000 for each day
8 that the failure occurs; and

9 “(2) for any failure described in paragraph (2),
10 (3), or (4) of subsection (a), \$50,000 for each day
11 that the failure occurs.

12 “(c) PROCEDURES.—

13 “(1) ESTABLISHMENT.—The Director shall es-
14 tablish standards and procedures governing the im-
15 position of civil money penalties under this section.
16 Such standards and procedures—

17 “(A) shall provide for the Director to no-
18 tify the enterprise in writing of the determina-
19 tion of the Director to impose the penalty,
20 which shall be made on the record;

21 “(B) shall provide for the imposition of a
22 penalty only after the enterprise has been given
23 an opportunity for a hearing on the record pur-
24 suant to section 1342; and

1 “(C) may provide for review by the Direc-
2 tor of any determination or order, or interlocu-
3 tory ruling, arising from a hearing.

4 “(2) FACTORS IN DETERMINING AMOUNT OF
5 PENALTY.—In determining the amount of a penalty
6 under this section, the Director shall give consider-
7 ation to factors including—

8 “(A) the gravity of the offense;

9 “(B) any history of prior offenses;

10 “(C) ability to pay the penalty;

11 “(D) injury to the public;

12 “(E) benefits received;

13 “(F) deterrence of future violations;

14 “(G) the length of time that the enterprise
15 should reasonably take to achieve the goal; and

16 “(H) such other factors as the Director
17 may determine, by regulation, to be appro-
18 priate.

19 “(d) ACTION TO COLLECT PENALTY.—If an enter-
20 prise fails to comply with an order by the Director impos-
21 ing a civil money penalty under this section, after the
22 order is no longer subject to review, as provided in sections
23 1342 and 1343, the Director may bring an action in the
24 United States District Court for the District of Columbia
25 to obtain a monetary judgment against the enterprise, and

1 such other relief as may be available. The monetary judg-
2 ment may, in the court's discretion, include the attorneys'
3 fees and other expenses incurred by the United States in
4 connection with the action. In an action under this sub-
5 section, the validity and appropriateness of the order im-
6 posing the penalty shall not be subject to review.

7 “(e) SETTLEMENT BY DIRECTOR.—The Director
8 may compromise, modify, or remit any civil money penalty
9 which may be, or has been, imposed under this section.

10 “(f) DEPOSIT OF PENALTIES.—The Director shall
11 use any civil money penalties collected under this section
12 to help fund the Housing Trust Fund established under
13 section 1338.”.

14 (e) DIRECTOR AUTHORITY.—

15 (1) AUTHORITY TO BRING A CIVIL ACTION.—

16 Section 1344(a) of the Federal Housing Enterprises
17 Financial Safety and Soundness Act of 1992 (12
18 U.S.C. 4584) is amended by striking “The Secretary
19 may request the Attorney General of the United
20 States to bring a civil action” and inserting “The
21 Director may bring a civil action”.

22 (2) SUBPOENA ENFORCEMENT.—Section

23 1348(e) of the Federal Housing Enterprises Finan-
24 cial Safety and Soundness Act of 1992 (12 U.S.C.

1 4588(e)) is amended by inserting “may bring an ac-
2 tion or” before “may request”.

3 (3) CONFORMING AMENDMENTS.—Subpart C of
4 part 2 of subtitle A of the Federal Housing Enter-
5 prises Financial Safety and Soundness Act of 1992
6 (12 U.S.C. 4581 et seq.) is amended by striking
7 “Secretary” each place that term appears and in-
8 serting “Director” in each of—

9 (A) section 1342 (12 U.S.C. 4582);

10 (B) section 1343 (12 U.S.C. 4583);

11 (C) section 1346 (12 U.S.C. 4586);

12 (D) section 1347 (12 U.S.C. 4587); and

13 (E) section 1348 (12 U.S.C. 4588).

14 **SEC. 1131. AFFORDABLE HOUSING PROGRAMS.**

15 (a) REPEAL.—Section 1337 of the Federal Housing
16 Enterprises Financial Safety and Soundness Act of 1992
17 (12 U.S.C. 4567) is hereby repealed.

18 (b) ANNUAL HOUSING REPORT.—The Federal Hous-
19 ing Enterprises Financial Safety and Soundness Act of
20 1992 (12 U.S.C. 1301 et seq.) is amended by inserting
21 after section 1336 the following:

22 **“SEC. 1337. AFFORDABLE HOUSING ALLOCATIONS.**

23 “(a) SET ASIDE AND ALLOCATION OF AMOUNTS BY
24 ENTERPRISES.—Subject to subsection (b), in each fiscal
25 year—

1 “(1) the Federal Home Loan Mortgage Cor-
2 poration shall—

3 “(A) set aside an amount equal to 4.2
4 basis points for each dollar of the unpaid prin-
5 cipal balance of its total new business pur-
6 chases; and

7 “(B) allocate or otherwise transfer—

8 “(i) 65 percent of such amounts to
9 the Secretary of Housing and Urban De-
10 velopment to fund the Housing Trust
11 Fund established under section 1338; and

12 “(ii) 35 percent of such amounts to
13 fund the Capital Magnet Fund established
14 pursuant to section 1339; and

15 “(2) the Federal National Mortgage Association
16 shall—

17 “(A) set aside an amount equal to 4.2
18 basis points for each dollar of unpaid principal
19 balance of its total new business purchases; and

20 “(B) allocate or otherwise transfer—

21 “(i) 65 percent of such amounts to
22 the Secretary of Housing and Urban De-
23 velopment to fund the Housing Trust
24 Fund established under section 1338; and

1 “(ii) 35 percent of such amounts to
2 fund the Capital Magnet Fund established
3 pursuant to section 1339.

4 “(b) SUSPENSION OF CONTRIBUTIONS.—The Direc-
5 tor shall temporarily suspend allocations under subsection
6 (a) by an enterprise upon a finding by the Director that
7 such allocations—

8 “(1) are contributing, or would contribute, to
9 the financial instability of the enterprise;

10 “(2) are causing, or would cause, the enterprise
11 to be classified as undercapitalized; or

12 “(3) are preventing, or would prevent, the en-
13 terprise from successfully completing a capital res-
14 toration plan under section 1369C.

15 “(c) PROHIBITION OF PASS-THROUGH OF COST OF
16 ALLOCATIONS.—The Director shall, by regulation, pro-
17 hibit each enterprise from redirecting the costs of any allo-
18 cation required under this section, through increased
19 charges or fees, or decreased premiums, or in any other
20 manner, to the originators of mortgages purchased or
21 securitized by the enterprise.

22 “(d) ENFORCEMENT OF REQUIREMENTS ON ENTER-
23 PRISE.—Compliance by the enterprises with the require-
24 ments under this section shall be enforceable under sub-
25 part C. Any reference in such subpart to this part or to

1 an order, rule, or regulation under this part specifically
2 includes this section and any order, rule, or regulation
3 under this section.

4 “(e) **REQUIRED AMOUNT FOR HOPE RESERVE**
5 **FUND.**—Of the aggregate amount allocated under sub-
6 section (a), 25 percent shall be deposited into a fund es-
7 tablished in the Treasury of the United States by the Sec-
8 retary of the Treasury for such purpose.

9 “(f) **LIMITATION.**—No funds under this title may be
10 used in conjunction with property taken by eminent do-
11 main, unless eminent domain is employed only for a public
12 use, except that, for purposes of this section, public use
13 shall not be construed to include economic development
14 that primarily benefits any private entity.

15 **“SEC. 1338. HOUSING TRUST FUND.**

16 “(a) **ESTABLISHMENT AND PURPOSE.**—

17 “(1) **IN GENERAL.**—The Secretary of Housing
18 and Urban Development (in this section referred to
19 as the ‘Secretary’) shall establish and manage a
20 Housing Trust Fund, which shall be funded with
21 amounts allocated by the enterprises under section
22 1337 and any amounts as are or may be appro-
23 priated, transferred, or credited to such Housing
24 Trust Fund under any other provisions of law. The
25 purpose of the Housing Trust Fund under this sec-

1 tion is to provide grants to States (as such term is
2 defined in section 1303) for use—

3 “(A) to increase and preserve the supply of
4 rental housing for extremely low- and very low-
5 income families, including homeless families;
6 and

7 “(B) to increase homeownership for ex-
8 tremely low- and very low-income families.

9 “(2) FEDERAL ASSISTANCE.—For purposes of
10 the application of Federal civil rights laws, all assist-
11 ance provided from the Housing Trust Fund shall be
12 considered Federal financial assistance.

13 “(b) ALLOCATIONS FOR HOPE BOND PAYMENTS.—

14 “(1) IN GENERAL.—Notwithstanding subsection
15 (c), to help address the mortgage crisis, of the
16 amounts allocated pursuant to clauses (i) and (ii) of
17 section 1337(a)(1)(B) and clauses (i) and (ii) of sec-
18 tion 1337(a)(2)(B) in excess of amounts described in
19 section 1337(e)—

20 “(A) 100 percent of such excess shall be
21 used to reimburse the Treasury for payments
22 made pursuant to section 257(w)(1)(C) of the
23 National Housing Act in calendar year 2009;

1 “(B) 50 percent of such excess shall be
2 used to reimburse the Treasury for such pay-
3 ments in calendar year 2010; and

4 “(C) 25 percent of such excess shall be
5 used to reimburse the Treasury for such pay-
6 ments in calendar year 2011.

7 “(2) EXCESS FUNDS.—At the termination of
8 the HOPE for Homeowners Program established
9 under section 257 of the National Housing Act, if
10 amounts used to reimburse the Treasury under
11 paragraph (1) exceed the total net cost to the Gov-
12 ernment of the HOPE for Homeowners Program,
13 such amounts shall be used for their original pur-
14 pose, as described in paragraphs (1)(B) and (2)(B)
15 of section 1337(a).

16 “(3) TREASURY FUND.—The amounts referred
17 to in subparagraphs (A) through (C) of paragraph
18 (1) shall be deposited into a fund established in the
19 Treasury of the United States by the Secretary of
20 the Treasury for such purpose.

21 “(c) ALLOCATION FOR HOUSING TRUST FUND IN
22 FISCAL YEAR 2010 AND SUBSEQUENT YEARS.—

23 “(1) IN GENERAL.—Except as provided in sub-
24 section (b), the Secretary shall distribute the
25 amounts allocated for the Housing Trust Fund

1 under this section to provide affordable housing as
2 described in this subsection.

3 “(2) PERMISSIBLE DESIGNEES.—A State re-
4 ceiving grant amounts under this subsection may
5 designate a State housing finance agency, housing
6 and community development entity, tribally des-
7 igned housing entity (as such term is defined in
8 section 4 of the Native American Housing Assist-
9 ance and Self-Determination Act of 1997 (25 U.S.C.
10 4103)), or any other qualified instrumentality of the
11 State to receive such grant amounts.

12 “(3) DISTRIBUTION TO STATES BY NEEDS-
13 BASED FORMULA.—

14 “(A) IN GENERAL.—The Secretary shall,
15 by regulation, establish a formula within 12
16 months of the date of enactment of the Federal
17 Housing Finance Regulatory Reform Act of
18 2008, to distribute amounts made available
19 under this subsection to each State to provide
20 affordable housing to extremely low- and very
21 low-income households.

22 “(B) BASIS FOR FORMULA.—The formula
23 required under subparagraph (A) shall include
24 the following:

1 “(i) The ratio of the shortage of
2 standard rental units both affordable and
3 available to extremely low-income renter
4 households in the State to the aggregate
5 shortage of standard rental units both af-
6 fordable and available to extremely low-in-
7 come renter households in all the States.

8 “(ii) The ratio of the shortage of
9 standard rental units both affordable and
10 available to very low-income renter house-
11 holds in the State to the aggregate short-
12 age of standard rental units both afford-
13 able and available to very low-income
14 renter households in all the States.

15 “(iii) The ratio of extremely low-in-
16 come renter households in the State living
17 with either (I) incomplete kitchen or
18 plumbing facilities, (II) more than 1 per-
19 son per room, or (III) paying more than
20 50 percent of income for housing costs, to
21 the aggregate number of extremely low-in-
22 come renter households living with either
23 (IV) incomplete kitchen or plumbing facili-
24 ties, (V) more than 1 person per room, or

1 (VI) paying more than 50 percent of in-
2 come for housing costs in all the States.

3 “(iv) The ratio of very low-income
4 renter households in the State paying more
5 than 50 percent of income on rent relative
6 to the aggregate number of very low-in-
7 come renter households paying more than
8 50 percent of income on rent in all the
9 States.

10 “(v) The resulting sum calculated
11 from the factors described in clauses (i)
12 through (iv) shall be multiplied by the rel-
13 ative cost of construction in the State. For
14 purposes of this subclause, the term ‘cost
15 of construction’—

16 “(I) means the cost of construc-
17 tion or building rehabilitation in the
18 State relative to the national cost of
19 construction or building rehabilitation;
20 and

21 “(II) shall be calculated such
22 that values higher than 1.0 indicate
23 that the State’s construction costs are
24 higher than the national average, a
25 value of 1.0 indicates that the State’s

1 construction costs are exactly the
2 same as the national average, and val-
3 ues lower than 1.0 indicate that the
4 State's cost of construction are lower
5 than the national average.

6 “(C) PRIORITY.—The formula required
7 under subparagraph (A) shall give priority em-
8 phasis and consideration to the factor described
9 in subparagraph (B)(i).

10 “(4) ALLOCATION OF GRANT AMOUNTS.—

11 “(A) NOTICE.—Not later than 60 days
12 after the date that the Secretary determines the
13 formula amounts described in paragraph (3),
14 the Secretary shall caused to be published in
15 the Federal Register a notice that such
16 amounts shall be so available.

17 “(B) GRANT AMOUNT.—In each fiscal year
18 other than fiscal year 2009, the Secretary shall
19 make a grant to each State in an amount that
20 is equal to the formula amount determined
21 under paragraph (3) for that State.

22 “(C) MINIMUM STATE ALLOCATIONS.—If
23 the formula amount determined under para-
24 graph (3) for a fiscal year would allocate less
25 than \$3,000,000 to any of the 50 States of the

1 United States or the District of Columbia, the
2 allocation for such State of the United States
3 or the District of Columbia shall be \$3,000,000,
4 and the increase shall be deducted pro rata
5 from the allocations made to all other of the
6 States (as such term is defined in section
7 1303).

8 “(5) ALLOCATION PLANS REQUIRED.—

9 “(A) IN GENERAL.—For each year that a
10 State or State designated entity receives a
11 grant under this subsection, the State or State
12 designated entity shall establish an allocation
13 plan. Such plan shall—

14 “(i) set forth a plan for the distribu-
15 tion of grant amounts received by the
16 State or State designated entity for such
17 year;

18 “(ii) be based on priority housing
19 needs, as determined by the State or State
20 designated entity in accordance with the
21 regulations established under subsection
22 (g)(2)(D);

23 “(iii) comply with paragraph (6); and

24 “(iv) include performance goals that
25 comply with the requirements established

1 by the Secretary pursuant to subsection
2 (g)(2).

3 “(B) ESTABLISHMENT.—In establishing
4 an allocation plan under this paragraph, a
5 State or State designated entity shall—

6 “(i) notify the public of the establish-
7 ment of the plan;

8 “(ii) provide an opportunity for public
9 comments regarding the plan;

10 “(iii) consider any public comments
11 received regarding the plan; and

12 “(iv) make the completed plan avail-
13 able to the public.

14 “(C) CONTENTS.—An allocation plan of a
15 State or State designated entity under this
16 paragraph shall set forth the requirements for
17 eligible recipients under paragraph (8) to apply
18 for such grant amounts, including a require-
19 ment that each such application include—

20 “(i) a description of the eligible activi-
21 ties to be conducted using such assistance;
22 and

23 “(ii) a certification by the eligible re-
24 cipient applying for such assistance that
25 any housing units assisted with such as-

1 sistance will comply with the requirements
2 under this section.

3 “(6) SELECTION OF ACTIVITIES FUNDED USING
4 HOUSING TRUST FUND GRANT AMOUNTS.—Grant
5 amounts received by a State or State designated en-
6 tity under this subsection may be used, or com-
7 mitted for use, only for activities that—

8 “(A) are eligible under paragraph (7) for
9 such use;

10 “(B) comply with the applicable allocation
11 plan of the State or State designated entity
12 under paragraph (5); and

13 “(C) are selected for funding by the State
14 or State designated entity in accordance with
15 the process and criteria for such selection estab-
16 lished pursuant to subsection (g)(2)(D).

17 “(7) ELIGIBLE ACTIVITIES.—Grant amounts al-
18 located to a State or State designated entity under
19 this subsection shall be eligible for use, or for com-
20 mitment for use, only for assistance for—

21 “(A) the production, preservation, and re-
22 habilitation of rental housing, including housing
23 under the programs identified in section
24 1335(a)(2)(B) and for operating costs, except
25 that not less than 75 percent of such grant

1 amounts shall be used for the benefit only of
2 extremely low-income families or families with
3 incomes at or below the poverty line (as such
4 term is defined in section 673 of the Omnibus
5 Budget Reconciliation Act of 1981 (42 U.S.C.
6 9902), including any revision required by such
7 section) applicable to a family of the size in-
8 volved, and not more than 25 percent for the
9 benefit only of very low-income families; and

10 “(B) the production, preservation, and re-
11 habilitation of housing for homeownership, in-
12 cluding such forms as down payment assist-
13 ance, closing cost assistance, and assistance for
14 interest rate buy-downs, that—

15 “(i) is available for purchase only for
16 use as a principal residence by families
17 that qualify both as—

18 “(I) extremely low- and very low-
19 income families at the times described
20 in subparagraphs (A) through (C) of
21 section 215(b)(2) of the Cranston-
22 Gonzalez National Affordable Housing
23 Act (42 U.S.C. 12745(b)(2)); and

24 “(II) first-time homebuyers, as
25 such term is defined in section 104 of

1 the Cranston-Gonzalez National Af-
2 fordable Housing Act (42 U.S.C.
3 12704), except that any reference in
4 such section to assistance under title
5 II of such Act shall for purposes of
6 this subsection be considered to refer
7 to assistance from affordable housing
8 fund grant amounts;

9 “(ii) has an initial purchase price that
10 meets the requirements of section
11 215(b)(1) of the Cranston-Gonzalez Na-
12 tional Affordable Housing Act;

13 “(iii) is subject to the same resale re-
14 strictions established under section
15 215(b)(3) of the Cranston-Gonzalez Na-
16 tional Affordable Housing Act and applica-
17 ble to the participating jurisdiction that is
18 the State in which such housing is located;
19 and

20 “(iv) is made available for purchase
21 only by, or in the case of assistance under
22 this subsection, is made available only to
23 homebuyers who have, before purchase
24 completed a program of independent finan-
25 cial education and counseling from an eli-

1 gible organization that meets the require-
2 ments of section 132 of the Federal Hous-
3 ing Finance Regulatory Reform Act of
4 2008.

5 “(8) TENANT PROTECTIONS AND PUBLIC PAR-
6 TICIPATION.—All amounts from the Trust Fund
7 shall be allocated in accordance with, and any eligi-
8 ble activities carried out in whole or in part with
9 grant amounts under this subtitle (including housing
10 provided with such grant amounts) shall comply with
11 and be operated in compliance with—

12 “(A) laws relating to tenant protections
13 and tenant rights to participate in decision
14 making regarding their residences;

15 “(B) laws requiring public participation,
16 including laws relating to Consolidated Plans,
17 Qualified Allocation Plans, and Public Housing
18 Agency Plans; and

19 “(C) fair housing laws and laws regarding
20 accessibility in federally assisted housing, in-
21 cluding section 504 of the Rehabilitation Act of
22 1973.

23 “(9) ELIGIBLE RECIPIENTS.—Grant amounts
24 allocated to a State or State designated entity under
25 this subsection may be provided only to a recipient

1 that is an organization, agency, or other entity (in-
2 cluding a for-profit entity or a nonprofit entity)
3 that—

4 “(A) has demonstrated experience and ca-
5 pacity to conduct an eligible activity under
6 paragraph (7), as evidenced by its ability to—

7 “(i) own, construct or rehabilitate,
8 manage, and operate an affordable multi-
9 family rental housing development;

10 “(ii) design, construct or rehabilitate,
11 and market affordable housing for home-
12 ownership; or

13 “(iii) provide forms of assistance, such
14 as down payments, closing costs, or inter-
15 est rate buy-downs for purchasers;

16 “(B) demonstrates the ability and financial
17 capacity to undertake, comply, and manage the
18 eligible activity;

19 “(C) demonstrates its familiarity with the
20 requirements of any other Federal, State, or
21 local housing program that will be used in con-
22 junction with such grant amounts to ensure
23 compliance with all applicable requirements and
24 regulations of such programs; and

1 “(D) makes such assurances to the State
2 or State designated entity as the Secretary
3 shall, by regulation, require to ensure that the
4 recipient will comply with the requirements of
5 this subsection during the entire period that be-
6 gins upon selection of the recipient to receive
7 such grant amounts and ending upon the con-
8 clusion of all activities under paragraph (8)
9 that are engaged in by the recipient and funded
10 with such grant amounts.

11 “(10) LIMITATIONS ON USE.—

12 “(A) REQUIRED AMOUNT FOR HOME-
13 OWNERSHIP ACTIVITIES.—Of the aggregate
14 amount allocated to a State or State designated
15 entity under this subsection not more than 10
16 percent shall be used for activities under sub-
17 paragraph (B) of paragraph (7).

18 “(B) DEADLINE FOR COMMITMENT OR
19 USE.—Grant amounts allocated to a State or
20 State designated entity under this subsection
21 shall be used or committed for use within 2
22 years of the date that such grant amounts are
23 made available to the State or State designated
24 entity. The Secretary shall recapture any such
25 amounts not so used or committed for use and

1 reallocate such amounts under this subsection
2 in the first year after such recapture.

3 “(C) USE OF RETURNS.—The Secretary
4 shall, by regulation, provide that any return on
5 a loan or other investment of any grant amount
6 used by a State or State designated entity to
7 provide a loan under this subsection shall be
8 treated, for purposes of availability to and use
9 by the State or State designated entity, as a
10 grant amount authorized under this subsection.

11 “(D) PROHIBITED USES.—The Secretary
12 shall, by regulation—

13 “(i) set forth prohibited uses of grant
14 amounts allocated under this subsection,
15 which shall include use for—

16 “(I) political activities;

17 “(II) advocacy;

18 “(III) lobbying, whether directly
19 or through other parties;

20 “(IV) counseling services;

21 “(V) travel expenses; and

22 “(VI) preparing or providing ad-
23 vice on tax returns;

24 and for the purposes of this subparagraph,
25 the prohibited use of funds for political ac-

1 activities includes influencing the selection,
2 nomination, election, or appointment of
3 one or more candidates to any Federal,
4 State or local office as codified in section
5 501 of the Internal Revenue Code of 1986
6 (26 U.S.C. 501);

7 “(ii) provide that, except as provided
8 in clause (iii), grant amounts of a State or
9 State designated entity may not be used
10 for administrative, outreach, or other costs
11 of—

12 “(I) the State or State des-
13 igned entity; or

14 “(II) any other recipient of such
15 grant amounts; and

16 “(iii) limit the amount of any grant
17 amounts for a year that may be used by
18 the State or State designated entity for ad-
19 ministrative costs of carrying out the pro-
20 gram required under this subsection, in-
21 cluding home ownership counseling, to a
22 percentage of such grant amounts of the
23 State or State designated entity for such
24 year, which may not exceed 10 percent.

1 “(E) PROHIBITION OF CONSIDERATION OF
2 USE FOR MEETING HOUSING GOALS OR DUTY
3 TO SERVE.—In determining compliance with
4 the housing goals under this subpart and the
5 duty to serve underserved markets under sec-
6 tion 1335, the Director may not consider any
7 grant amounts used under this section for eligi-
8 ble activities under paragraph (7). The Director
9 shall give credit toward the achievement of such
10 housing goals and such duty to serve under-
11 served markets to purchases by the enterprises
12 of mortgages for housing that receives funding
13 from such grant amounts, but only to the ex-
14 tent that such purchases by the enterprises are
15 funded other than with such grant amounts.

16 “(d) REDUCTION FOR FAILURE TO OBTAIN RETURN
17 OF MISUSED FUNDS.—If in any year a State or State des-
18 ignated entity fails to obtain reimbursement or return of
19 the full amount required under subsection (e)(1)(B) to be
20 reimbursed or returned to the State or State designated
21 entity during such year—

22 “(1) except as provided in paragraph (2)—

23 “(A) the amount of the grant for the State
24 or State designated entity for the succeeding
25 year, as determined pursuant to this section,

1 shall be reduced by the amount by which such
2 amounts required to be reimbursed or returned
3 exceed the amount actually reimbursed or re-
4 turned; and

5 “(B) the amount of the grant for the suc-
6 ceeding year for each other State or State des-
7 igned entity whose grant is not reduced pur-
8 suant to subparagraph (A) shall be increased by
9 the amount determined by applying the formula
10 established pursuant to this section to the total
11 amount of all reductions for all State or State
12 designated entities for such year pursuant to
13 subparagraph (A); or

14 “(2) in any case in which such failure to obtain
15 reimbursement or return occurs during a year imme-
16 diately preceding a year in which grants under this
17 section will not be made, the State or State des-
18 igned entity shall pay to the Secretary for realloca-
19 tion among the other grantees an amount equal to
20 the amount of the reduction for the entity that
21 would otherwise apply under paragraph (1)(A).

22 “(e) ACCOUNTABILITY OF RECIPIENTS AND GRANT-
23 EES.—

24 “(1) RECIPIENTS.—

1 “(A) TRACKING OF FUNDS.—The Sec-
2 retary shall—

3 “(i) require each State or State des-
4 ignated entity to develop and maintain a
5 system to ensure that each recipient of as-
6 sistance under this section uses such
7 amounts in accordance with this section,
8 the regulations issued under this section,
9 and any requirements or conditions under
10 which such amounts were provided; and

11 “(ii) establish minimum requirements
12 for agreements, between the State or State
13 designated entity and recipients, regarding
14 assistance under this section, which shall
15 include—

16 “(I) appropriate periodic finan-
17 cial and project reporting, record re-
18 tention, and audit requirements for
19 the duration of the assistance to the
20 recipient to ensure compliance with
21 the limitations and requirements of
22 this section and the regulations under
23 this section; and

24 “(II) any other requirements that
25 the Secretary determines are nec-

1 essary to ensure appropriate adminis-
2 tration and compliance.

3 “(B) MISUSE OF FUNDS.—

4 “(i) REIMBURSEMENT REQUIRE-
5 MENT.—If any recipient of assistance
6 under this section is determined, in accord-
7 ance with clause (ii), to have used any
8 such amounts in a manner that is materi-
9 ally in violation of this section, the regula-
10 tions issued under this section, or any re-
11 quirements or conditions under which such
12 amounts were provided, the State or State
13 designated entity shall require that, within
14 12 months after the determination of such
15 misuse, the recipient shall reimburse the
16 State or State designated entity for such
17 misused amounts and return to the State
18 or State designated entity any such
19 amounts that remain unused or uncommit-
20 ted for use. The remedies under this clause
21 are in addition to any other remedies that
22 may be available under law.

23 “(ii) DETERMINATION.—A determina-
24 tion is made in accordance with this clause
25 if the determination is made by the Sec-

1 retary or made by the State or State des-
2 ignated entity, provided that—

3 “**(I)** the State or State des-
4 ignated entity provides notification of
5 the determination to the Secretary for
6 review, in the discretion of the Sec-
7 retary, of the determination; and

8 “**(II)** the Secretary does not sub-
9 sequently reverse the determination.

10 “**(2)** **GRANTEES.**—

11 “**(A)** **REPORT.**—

12 “**(i)** **IN GENERAL.**—The Secretary
13 shall require each State or State des-
14 ignated entity receiving grant amounts in
15 any given year under this section to submit
16 a report, for such year, to the Secretary
17 that—

18 “**(I)** describes the activities fund-
19 ed under this section during such year
20 with such grant amounts; and

21 “**(II)** the manner in which the
22 State or State designated entity com-
23 plied during such year with any allo-
24 cation plan established pursuant to
25 subsection (c).

1 “(ii) PUBLIC AVAILABILITY.—The
2 Secretary shall make such reports pursu-
3 ant to this subparagraph publicly available.

4 “(B) MISUSE OF FUNDS.—If the Secretary
5 determines, after reasonable notice and oppor-
6 tunity for hearing, that a State or State des-
7 ignated entity has failed to comply substantially
8 with any provision of this section, and until the
9 Secretary is satisfied that there is no longer
10 any such failure to comply, the Secretary
11 shall—

12 “(i) reduce the amount of assistance
13 under this section to the State or State
14 designated entity by an amount equal to
15 the amount of grant amounts which were
16 not used in accordance with this section;

17 “(ii) require the State or State des-
18 ignated entity to repay the Secretary any
19 amount of the grant which was not used in
20 accordance with this section;

21 “(iii) limit the availability of assist-
22 ance under this section to the State or
23 State designated entity to activities or re-
24 cipients not affected by such failure to
25 comply; or

1 “(iv) terminate any assistance under
2 this section to the State or State des-
3 ignated entity.

4 “(f) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 “(1) EXTREMELY LOW-INCOME RENTER
7 HOUSEHOLD.—The term ‘extremely low-income
8 renter household’ means a household whose income
9 is not in excess of 30 percent of the area median in-
10 come, with adjustments for smaller and larger fami-
11 lies, as determined by the Secretary.

12 “(2) RECIPIENT.—The term ‘recipient’ means
13 an individual or entity that receives assistance from
14 a State or State designated entity from amounts
15 made available to the State or State designated enti-
16 ty under this section.

17 “(3) SHORTAGE OF STANDARD RENTAL UNITS
18 BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY
19 LOW-INCOME RENTER HOUSEHOLDS.—

20 “(A) IN GENERAL.—The term ‘shortage of
21 standard rental units both affordable and avail-
22 able to extremely low-income renter households’
23 means for any State or other geographical area
24 the gap between—

1 “(i) the number of units with com-
2 plete plumbing and kitchen facilities with a
3 rent that is 30 percent or less of 30 per-
4 cent of the adjusted area median income as
5 determined by the Secretary that are occu-
6 pied by extremely low-income renter house-
7 holds or are vacant for rent; and

8 “(ii) the number of extremely low-in-
9 come renter households.

10 “(B) RULE OF CONSTRUCTION.—If the
11 number of units described in subparagraph
12 (A)(i) exceeds the number of extremely low-in-
13 come households as described in subparagraph
14 (A)(ii), there is no shortage.

15 “(4) SHORTAGE OF STANDARD RENTAL UNITS
16 BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-
17 INCOME RENTER HOUSEHOLDS.—

18 “(A) IN GENERAL.—The term ‘shortage of
19 standard rental units both affordable and avail-
20 able to very low-income renter households’
21 means for any State or other geographical area
22 the gap between—

23 “(i) the number of units with com-
24 plete plumbing and kitchen facilities with a
25 rent that is 30 percent or less of 50 per-

1 cent of the adjusted area median income as
2 determined by the Secretary that are occu-
3 pied by very low-income renter households
4 or are vacant for rent; and

5 “(ii) the number of very low-income
6 renter households.

7 “(B) RULE OF CONSTRUCTION.—If the
8 number of units described in subparagraph
9 (A)(i) exceeds the number of very low-income
10 households as described in subparagraph
11 (A)(ii), there is no shortage.

12 “(5) VERY LOW-INCOME FAMILY.—The term
13 ‘very low-income family’ has the meaning given such
14 term in section 1303, except that such term includes
15 any family that resides in a rural area that has an
16 income that does not exceed the poverty line (as
17 such term is defined in section 673(2) of the Omni-
18 bus Budget Reconciliation Act of 1981 (42 U.S.C.
19 9902(2)), including any revision required by such
20 section) applicable to a family of the size involved.

21 “(6) VERY LOW-INCOME RENTER HOUSE-
22 HOLDS.—The term ‘very low-income renter house-
23 holds’ means a household whose income is in excess
24 of 30 percent but not greater than 50 percent of the

1 area median income, with adjustments for smaller
2 and larger families, as determined by the Secretary.

3 “(g) REGULATIONS.—

4 “(1) IN GENERAL.—The Secretary shall issue
5 regulations to carry out this section.

6 “(2) REQUIRED CONTENTS.—The regulations
7 issued under this subsection shall include—

8 “(A) a requirement that the Secretary en-
9 sure that the use of grant amounts under this
10 section by States or State designated entities is
11 audited not less than annually to ensure compli-
12 ance with this section;

13 “(B) authority for the Secretary to audit,
14 provide for an audit, or otherwise verify a State
15 or State designated entity’s activities to ensure
16 compliance with this section;

17 “(C) a requirement that, for the purposes
18 of subparagraphs (A) and (B), any financial
19 statement submitted by a grantee or recipient
20 to the Secretary shall be reviewed by an inde-
21 pendent certified public accountant in accord-
22 ance with Statements on Standards for Ac-
23 counting and Review Services, issued by the
24 American Institute of Certified Public Account-
25 ants;

1 “(D) requirements for a process for appli-
2 cation to, and selection by, each State or State
3 designated entity for activities meeting the
4 State or State designated entity’s priority hous-
5 ing needs to be funded with grant amounts
6 under this section, which shall provide for pri-
7 ority in funding to be based upon—

8 “(i) geographic diversity;

9 “(ii) ability to obligate amounts and
10 undertake activities so funded in a timely
11 manner;

12 “(iii) in the case of rental housing
13 projects under subsection (c)(7)(A), the ex-
14 tent to which rents for units in the project
15 funded are affordable, especially for ex-
16 tremely low-income families;

17 “(iv) in the case of rental housing
18 projects under subsection (c)(7)(A), the ex-
19 tent of the duration for which such rents
20 will remain affordable;

21 “(v) the extent to which the applica-
22 tion makes use of other funding sources;
23 and

24 “(vi) the merits of an applicant’s pro-
25 posed eligible activity;

1 “(E) requirements to ensure that grant
2 amounts provided to a State or State des-
3 ignated entity under this section that are used
4 for rental housing under subsection (c)(7)(A)
5 are used only for the benefit of extremely low-
6 and very low-income families; and

7 “(F) requirements and standards for es-
8 tablishment, by a State or State designated en-
9 tity, for use of grant amounts in 2009 and sub-
10 sequent years of performance goals, bench-
11 marks, and timetables for the production, pres-
12 ervation, and rehabilitation of affordable rental
13 and homeownership housing with such grant
14 amounts.

15 “(h) AFFORDABLE HOUSING TRUST FUND.—If,
16 after the date of enactment of the Federal Housing Fi-
17 nance Regulatory Reform Act of 2008, in any year, there
18 is enacted any provision of Federal law establishing an
19 affordable housing trust fund other than under this title
20 for use only for grants to provide affordable rental housing
21 and affordable homeownership opportunities, and the sub-
22 sequent year is a year referred to in subsection (c), the
23 Secretary shall in such subsequent year and any remaining
24 years referred to in subsection (c) transfer to such afford-
25 able housing trust fund the aggregate amount allocated

1 pursuant to subsection (c) in such year. Notwithstanding
2 any other provision of law, assistance provided using
3 amounts transferred to such affordable housing trust fund
4 pursuant to this subsection may not be used for any of
5 the activities specified in clauses (i) through (vi) of sub-
6 section (c)(9)(D).

7 “(i) FUNDING ACCOUNTABILITY AND TRANS-
8 PARENCY.—Any grant under this section to a grantee by
9 a State or State designated entity, any assistance provided
10 to a recipient by a State or State designated entity, and
11 any grant, award, or other assistance from an affordable
12 housing trust fund referred to in subsection (h) shall be
13 considered a Federal award for purposes of the Federal
14 Funding Accountability and Transparency Act of 2006
15 (31 U.S.C. 6101 note). Upon the request of the Director
16 of the Office of Management and Budget, the Secretary
17 shall obtain and provide such information regarding any
18 such grants, assistance, and awards as the Director of the
19 Office of Management and Budget considers necessary to
20 comply with the requirements of such Act, as applicable,
21 pursuant to the preceding sentence.

22 **“SEC. 1339. CAPITAL MAGNET FUND.**

23 “(a) ESTABLISHMENT.—There is established in the
24 Treasury of the United States a trust fund to be known
25 as the Capital Magnet Fund, which shall be a special ac-

1 count within the Community Development Financial Insti-
2 tutions Fund.

3 “(b) DEPOSITS TO TRUST FUND.—The Capital Mag-
4 net Fund shall consist of—

5 “(1) any amounts transferred to the Fund pur-
6 suant to section 1337; and

7 “(2) any amounts as are or may be appro-
8 priated, transferred, or credited to such Fund under
9 any other provisions of law.

10 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
11 in the Capital Magnet Fund shall be available to the Sec-
12 retary of the Treasury to carry out a competitive grant
13 program to attract private capital for and increase invest-
14 ment in—

15 “(1) the development, preservation, rehabilita-
16 tion, or purchase of affordable housing for primarily
17 extremely low-, very low-, and low-income families;
18 and

19 “(2) economic development activities or commu-
20 nity service facilities, such as day care centers, work-
21 force development centers, and health care clinics,
22 which in conjunction with affordable housing activi-
23 ties implement a concerted strategy to stabilize or
24 revitalize a low-income area or underserved rural
25 area.

1 “(d) FEDERAL ASSISTANCE.—For purposes of the
2 application of Federal civil rights laws, all assistance pro-
3 vided using amounts in the Capital Magnet Fund shall
4 be considered Federal financial assistance.

5 “(e) ELIGIBLE GRANTEES.—A grant under this sec-
6 tion may be made, pursuant to such requirements as the
7 Secretary of the Treasury shall establish for experience
8 and success in attracting private financing and carrying
9 out the types of activities proposed under the application
10 of the grantee, only to—

11 “(1) a Treasury certified community develop-
12 ment financial institution; or

13 “(2) a nonprofit organization having as 1 of its
14 principal purposes the development or management
15 of affordable housing.

16 “(f) ELIGIBLE USES.—Grant amounts awarded from
17 the Capital Magnet Fund pursuant to this section may
18 be used for the purposes described in paragraphs (1) and
19 (2) of subsection (e), including for the following uses:

20 “(1) To provide loan loss reserves.

21 “(2) To capitalize a revolving loan fund.

22 “(3) To capitalize an affordable housing fund.

23 “(4) To capitalize a fund to support activities
24 described in subsection (e)(2).

25 “(5) For risk-sharing loans.

1 “(g) APPLICATIONS.—

2 “(1) IN GENERAL.—The Secretary of the
3 Treasury shall provide, in a competitive application
4 process established by regulation, for eligible grant-
5 ees under subsection (e) to submit applications for
6 Capital Magnet Fund grants to the Secretary at
7 such time and in such manner as the Secretary shall
8 determine.

9 “(2) CONTENT OF APPLICATION.—The applica-
10 tion required under paragraph (1) shall include a de-
11 tailed description of—

12 “(A) the types of affordable housing, eco-
13 nomic, and community revitalization projects
14 that support or sustain residents of an afford-
15 able housing project funded by a grant under
16 this section for which such grant amounts
17 would be used, including the proposed use of el-
18 igible grants as authorized under this section;

19 “(B) the types, sources, and amounts of
20 other funding for such projects; and

21 “(C) the expected time frame of any grant
22 used for such project.

23 “(h) GRANT LIMITATION.—

24 “(1) IN GENERAL.—Any 1 eligible grantee and
25 its subsidiaries and affiliates may not be awarded

1 more than 15 percent of the aggregate funds avail-
2 able for grants during any year from the Capital
3 Magnet Fund.

4 “(2) GEOGRAPHIC DIVERSITY.—

5 “(A) GOAL.—The Secretary of the Treas-
6 ury shall seek to fund activities in geographi-
7 cally diverse areas of economic distress, includ-
8 ing metropolitan and underserved rural areas in
9 every State.

10 “(B) DIVERSITY DEFINED.—For purposes
11 of this paragraph, geographic diversity includes
12 those areas that meet objective criteria of eco-
13 nomic distress developed by the Secretary of the
14 Treasury, which may include—

15 “(i) the percentage of low-income
16 families or the extent of poverty;

17 “(ii) the rate of unemployment or
18 underemployment;

19 “(iii) extent of blight and disinvest-
20 ment;

21 “(iv) projects that target extremely
22 low-, very low-, and low-income families in
23 or outside a designated economic distress
24 area; or

1 “(v) any other criteria designated by
2 the Secretary of the Treasury.

3 “(3) LEVERAGE OF FUNDS.—Each grant from
4 the Capital Magnet Fund awarded under this section
5 shall be reasonably expected to result in eligible
6 housing, or economic and community development
7 projects that support or sustain an affordable hous-
8 ing project funded by a grant under this section
9 whose aggregate costs total at least 10 times the
10 grant amount.

11 “(4) COMMITMENT FOR USE DEADLINE.—
12 Amounts made available for grants under this sec-
13 tion shall be committed for use within 2 years of the
14 date of such allocation. The Secretary of the Treas-
15 ury shall recapture into the Capital Magnet Fund
16 any amounts not so used or committed for use and
17 allocate such amounts in the first year after such re-
18 capture.

19 “(5) PROHIBITED USES.—The Secretary shall,
20 by regulation, set forth prohibited uses of grant
21 amounts awarded under this section, which shall in-
22 clude use for—

23 “(A) political activities;

24 “(B) advocacy;

1 “(C) lobbying, whether directly or through
2 other parties;

3 “(D) counseling services;

4 “(E) travel expenses; and

5 “(F) preparing or providing advice on tax
6 returns;

7 and for the purposes of this paragraph, the prohib-
8 ited use of funds for political activities includes in-
9 fluencing the selection, nomination, election, or ap-
10 pointment of one or more candidates to any Federal,
11 State or local office as codified in section §501 of
12 the Internal Revenue Code of 1986 (26 U.S.C. 501).

13 “(6) ADDITIONAL LOBBYING RESTRICTIONS.—
14 No assistance or amounts made available under this
15 section may be expended by an eligible grantee to
16 pay any person to influence or attempt to influence
17 any agency, elected official, officer or employee of a
18 State or local government in connection with the
19 making, award, extension, continuation, renewal,
20 amendment, or modification of any State or local
21 government contract, grant, loan, or cooperative
22 agreement as such terms are defined in section 1352
23 of title 31, United States Code.

24 “(7) PROHIBITION OF CONSIDERATION OF USE
25 FOR MEETING HOUSING GOALS OR DUTY TO

1 SERVE.—In determining the compliance of the enter-
2 prises with the housing goals under this section and
3 the duty to serve underserved markets under section
4 1335, the Director of the Federal Housing Finance
5 Agency may not consider any Capital Magnet Fund
6 amounts used under this section for eligible activities
7 under subsection (f). The Director of the Federal
8 Housing Finance Agency shall give credit toward the
9 achievement of such housing goals and such duty to
10 serve underserved markets to purchases by the en-
11 terprises of mortgages for housing that receives
12 funding from Capital Magnet Fund grant amounts,
13 but only to the extent that such purchases by the
14 enterprises are funded other than with such grant
15 amounts.

16 “(8) ACCOUNTABILITY OF RECIPIENTS AND
17 GRANTEES.—

18 “(A) TRACKING OF FUNDS.—The Sec-
19 retary of the Treasury shall—

20 “(i) require each grantee to develop
21 and maintain a system to ensure that each
22 recipient of assistance from the Capital
23 Magnet Fund uses such amounts in ac-
24 cordance with this section, the regulations
25 issued under this section, and any require-

1 ments or conditions under which such
2 amounts were provided; and

3 “(ii) establish minimum requirements
4 for agreements, between the grantee and
5 the Capital Magnet Fund, regarding as-
6 sistance from the Capital Magnet Fund,
7 which shall include—

8 “(I) appropriate periodic finan-
9 cial and project reporting, record re-
10 tention, and audit requirements for
11 the duration of the grant to the re-
12 cipient to ensure compliance with the
13 limitations and requirements of this
14 section and the regulations under this
15 section; and

16 “(II) any other requirements that
17 the Secretary determines are nec-
18 essary to ensure appropriate grant ad-
19 ministration and compliance.

20 “(B) MISUSE OF FUNDS.—If the Secretary
21 of the Treasury determines, after reasonable
22 notice and opportunity for hearing, that a
23 grantee has failed to comply substantially with
24 any provision of this section and until the Sec-

1 retary is satisfied that there is no longer any
2 such failure to comply, the Secretary shall—

3 “(i) reduce the amount of assistance
4 under this section to the grantee by an
5 amount equal to the amount of Capital
6 Magnet Fund grant amounts which were
7 not used in accordance with this section;

8 “(ii) require the grantee to repay the
9 Secretary any amount of the Capital Mag-
10 net Fund grant amounts which were not
11 used in accordance with this section;

12 “(iii) limit the availability of assist-
13 ance under this section to the grantee to
14 activities or recipients not affected by such
15 failure to comply; or

16 “(iv) terminate any assistance under
17 this section to the grantee.

18 “(i) PERIODIC REPORTS.—

19 “(1) IN GENERAL.—The Secretary of the
20 Treasury shall submit a report, on a periodic basis,
21 to the Committee on Banking, Housing, and Urban
22 Affairs of the Senate and the Committee on Finan-
23 cial Services of the House of Representatives de-
24 scribing the activities to be funded under this sec-
25 tion.

1 “(2) REPORTS AVAILABLE TO PUBLIC.—The
2 Secretary of the Treasury shall make the reports re-
3 quired under paragraph (1) publicly available.

4 “(j) REGULATIONS.—

5 “(1) IN GENERAL.—The Secretary of the
6 Treasury shall issue regulations to carry out this
7 section.

8 “(2) REQUIRED CONTENTS.—The regulations
9 issued under this subsection shall include—

10 “(A) authority for the Secretary to audit,
11 provide for an audit, or otherwise verify an en-
12 terprise’s activities, to ensure compliance with
13 this section;

14 “(B) a requirement that the Secretary en-
15 sure that the allocation of each enterprise is au-
16 dited not less than annually to ensure compli-
17 ance with this section;

18 “(C) a requirement that, for the purposes
19 of subparagraphs (A) and (B), any financial
20 statement submitted by a grantee to the Sec-
21 retary shall be reviewed by an independent cer-
22 tified public accountant in accordance with
23 Statements on Standards for Accounting and
24 Review Services, issued by the American Insti-
25 tute of Certified Public Accountants; and

1 “(D) requirements for a process for appli-
2 cation to, and selection by, the Secretary for ac-
3 tivities to be funded with amounts from the
4 Capital Magnet Fund, which shall provide
5 that—

6 “(i) funds be fairly distributed to
7 urban, suburban, and rural areas; and

8 “(ii) selection shall be based upon spe-
9 cific criteria, including a prioritization of
10 funding based upon—

11 “(I) the ability to use such funds
12 to generate additional investments;

13 “(II) affordable housing need
14 (taking into account the distinct needs
15 of different regions of the country);
16 and

17 “(III) ability to obligate amounts
18 and undertake activities so funded in
19 a timely manner.”.

20 **SEC. 1132. FINANCIAL EDUCATION AND COUNSELING.**

21 (a) GOALS.—Financial education and counseling
22 under this section shall have the goal of—

23 (1) increasing the financial knowledge and deci-
24 sion making capabilities of prospective homebuyers;

1 (2) assisting prospective homebuyers to develop
2 monthly budgets, build personal savings, finance or
3 plan for major purchases, reduce their debt, improve
4 their financial stability, and set and reach their fi-
5 nancial goals;

6 (3) helping prospective homebuyers to improve
7 their credit scores by understanding the relationship
8 between their credit histories and their credit scores;
9 and

10 (4) educating prospective homebuyers about the
11 options available to build savings for short- and
12 long-term goals.

13 (b) GRANTS.—

14 (1) IN GENERAL.—The Secretary of the Treas-
15 ury (in this section referred to as the “Secretary”)
16 shall make grants to eligible organizations to enable
17 such organizations to provide a range of financial
18 education and counseling services to prospective
19 homebuyers.

20 (2) SELECTION.—The Secretary shall select eli-
21 gible organizations to receive assistance under this
22 section based on their experience and ability to pro-
23 vide financial education and counseling services that
24 result in documented positive behavioral changes.

25 (c) ELIGIBLE ORGANIZATIONS.—

1 (1) IN GENERAL.—For purposes of this section,
2 the term “eligible organization” means an organiza-
3 tion that is—

4 (A) certified in accordance with section
5 106(e)(1) of the Housing and Urban Develop-
6 ment Act of 1968 (12 U.S.C. 1701x(e)); or

7 (B) certified by the Office of Financial
8 Education of the Department of the Treasury
9 for purposes of this section, in accordance with
10 paragraph (2).

11 (2) OFE CERTIFICATION.—To be certified by
12 the Office of Financial Education for purposes of
13 this section, an eligible organization shall be—

14 (A) a housing counseling agency certified
15 by the Secretary of Housing and Urban Devel-
16 opment under section 106(e) of the Housing
17 and Urban Development Act of 1968;

18 (B) a State, local, or tribal government
19 agency;

20 (C) a community development financial in-
21 stitution (as defined in section 103(5) of the
22 Community Development Banking and Finan-
23 cial Institutions Act of 1994 (12 U.S.C.
24 4702(5)) or a credit union; or

1 (D) any collaborative effort of entities de-
2 scribed in any of subparagraphs (A) through
3 (C).

4 (d) AUTHORITY FOR PILOT PROJECTS.—

5 (1) IN GENERAL.—The Secretary of the Treas-
6 ury shall authorize not more than 5 pilot project
7 grants to eligible organizations under subsection (c)
8 in order to—

9 (A) carry out the services under this sec-
10 tion; and

11 (B) provide such other services that will
12 improve the financial stability and economic
13 condition of low- and moderate-income and low-
14 wealth individuals.

15 (2) GOAL.—The goal of the pilot project grants
16 under this subsection is to—

17 (A) identify successful methods resulting in
18 positive behavioral change for financial em-
19 powerment; and

20 (B) establish program models for organiza-
21 tions to carry out effective counseling services.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary such
24 sums as are necessary to carry out this section and for
25 the provision of additional financial educational services.

1 (f) STUDY AND REPORT ON EFFECTIVENESS AND IM-
2 PACT.—

3 (1) IN GENERAL.—The Comptroller General of
4 the United States shall conduct a study on the effec-
5 tiveness and impact of the grant program estab-
6 lished under this section. Not later than 3 years
7 after the date of enactment of this Act, the Comp-
8 troller General shall submit a report on the results
9 of such study to the Committee on Banking, Hous-
10 ing, and Urban Affairs of the Senate and the Com-
11 mittee on Financial Services of the House of Rep-
12 resentatives.

13 (2) CONTENT OF STUDY.—The study required
14 under paragraph (1) shall include an evaluation of
15 the following:

16 (A) The effectiveness of the grant program
17 established under this section in improving the
18 financial situation of homeowners and prospec-
19 tive homebuyers served by the grant program.

20 (B) The extent to which financial edu-
21 cation and counseling services have resulted in
22 positive behavioral changes.

23 (C) The effectiveness and quality of the eli-
24 gible organizations providing financial education

1 and counseling services under the grant pro-
2 gram.

3 (g) REGULATIONS.—The Secretary is authorized to
4 promulgate such regulations as may be necessary to imple-
5 ment and administer the grant program authorized by this
6 section.

7 **SEC. 1133. TRANSFER AND RIGHTS OF CERTAIN HUD EM-**
8 **PLoyEES.**

9 (a) TRANSFER.—Each employee of the Department
10 of Housing and Urban Development whose position re-
11 sponsibilities primarily involve the establishment and en-
12 forcement of the housing goals under subpart B of part
13 2 of subtitle A of the Federal Housing Enterprises Finan-
14 cial Safety and Soundness Act of 1992 (12 U.S.C. 4561
15 et seq.) shall be transferred to the Federal Housing Fi-
16 nance Agency for employment, not later than the effective
17 date of the Federal Housing Finance Regulatory Reform
18 Act of 2008, and such transfer shall be deemed a transfer
19 of function for purposes of section 3503 of title 5, United
20 States Code.

21 (b) GUARANTEED POSITIONS.—

22 (1) IN GENERAL.—Each employee transferred
23 under subsection (a) shall be guaranteed a position
24 with the same status, tenure, grade, and pay as that
25 held on the day immediately preceding the transfer.

1 (2) NO INVOLUNTARY SEPARATION OR REDUC-
2 TION.—An employee transferred under subsection
3 (a) holding a permanent position on the day imme-
4 diately preceding the transfer may not be involun-
5 tarily separated or reduced in grade or compensation
6 during the 12-month period beginning on the date of
7 transfer, except for cause, or, in the case of a tem-
8 porary employee, separated in accordance with the
9 terms of the appointment of the employee.

10 (c) APPOINTMENT AUTHORITY FOR EXCEPTED AND
11 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

12 (1) IN GENERAL.—In the case of an employee
13 occupying a position in the excepted service or the
14 Senior Executive Service, any appointment authority
15 established under law or by regulations of the Office
16 of Personnel Management for filling such position
17 shall be transferred, subject to paragraph (2).

18 (2) DECLINE OF TRANSFER.—The Director
19 may decline a transfer of authority under paragraph
20 (1) to the extent that such authority relates to—

21 (A) a position excepted from the competi-
22 tive service because of its confidential, policy-
23 making, policy-determining, or policy-advocating
24 character; or

1 (B) a noncareer position in the Senior Ex-
2 ecutive Service (within the meaning of section
3 3132(a)(7) of title 5, United States Code).

4 (d) REORGANIZATION.—If the Director determines,
5 after the end of the 1-year period beginning on the effec-
6 tive date of the Federal Housing Finance Regulatory Re-
7 form Act of 2008, that a reorganization of the combined
8 workforce is required, that reorganization shall be deemed
9 a major reorganization for purposes of affording affected
10 employee retirement under section 8336(d)(2) or
11 8414(b)(1)(B) of title 5, United States Code.

12 (e) EMPLOYEE BENEFIT PROGRAMS.—

13 (1) IN GENERAL.—Any employee described
14 under subsection (a) accepting employment with the
15 Agency as a result of a transfer under subsection (a)
16 may retain, for 12 months after the date on which
17 such transfer occurs, membership in any employee
18 benefit program of the Agency or the Department of
19 Housing and Urban Development, as applicable, in-
20 cluding insurance, to which such employee belongs
21 on such effective date, if—

22 (A) the employee does not elect to give up
23 the benefit or membership in the program; and

1 (B) the benefit or program is continued by
2 the Director of the Federal Housing Finance
3 Agency.

4 (2) COST DIFFERENTIAL.—

5 (A) IN GENERAL.—The difference in the
6 costs between the benefits which would have
7 been provided by the Department of Housing
8 and Urban Development and those provided by
9 this section shall be paid by the Director.

10 (B) HEALTH INSURANCE.—If any em-
11 ployee elects to give up membership in a health
12 insurance program or the health insurance pro-
13 gram is not continued by the Director, the em-
14 ployee shall be permitted to select an alternate
15 Federal health insurance program not later
16 than 30 days after the date of such election or
17 notice, without regard to any other regularly
18 scheduled open season.

19 **Subtitle C—Prompt Corrective** 20 **Action**

21 **SEC. 1141. CRITICAL CAPITAL LEVELS.**

22 (a) IN GENERAL.—Section 1363 of the Federal
23 Housing Enterprises Financial Safety and Soundness Act
24 of 1992 (12 U.S.C. 4613) is amended—

1 (1) by striking “For” and inserting “(a) EN-
2 TERPRISES.—FOR”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(b) FEDERAL HOME LOAN BANKS.—

6 “(1) IN GENERAL.—For purposes of this sub-
7 title, the critical capital level for each Federal Home
8 Loan Bank shall be such amount of capital as the
9 Director shall, by regulation, require.

10 “(2) CONSIDERATION OF OTHER CRITICAL CAP-
11 ITAL LEVELS.—In establishing the critical capital
12 level under paragraph (1) for the Federal Home
13 Loan Banks, the Director shall take due consider-
14 ation of the critical capital level established under
15 subsection (a) for the enterprises, with such modi-
16 fications as the Director determines to be appro-
17 priate to reflect the difference in operations between
18 the banks and the enterprises.”.

19 (b) REGULATIONS.—Not later than the expiration of
20 the 180-day period beginning on the date of enactment
21 of this Act, the Director of the Federal Housing Finance
22 Agency shall issue regulations pursuant to section 1363(b)
23 of the Federal Housing Enterprises Financial Safety and
24 Soundness Act of 1992 (as added by this section) estab-
25 lishing the critical capital level under such section.

1 **SEC. 1142. CAPITAL CLASSIFICATIONS.**

2 (a) IN GENERAL.—Section 1364 of the Federal
3 Housing Enterprises Financial Safety and Soundness Act
4 of 1992 (12 U.S.C. 4614) is amended—

5 (1) in the heading for subsection (a) by striking
6 “In General” and inserting “Enterprises”;

7 (2) in subsection (c)—

8 (A) by striking “subsection (b)” and in-
9 serting “subsection (e)”;

10 (B) by striking “enterprises” and inserting
11 “regulated entities”; and

12 (C) by striking the last sentence;

13 (3) by redesignating subsections (c) (as so
14 amended by paragraph (2) of this subsection) and
15 (d) as subsections (d) and (f), respectively;

16 (4) by striking subsection (b) and inserting the
17 following:

18 “(b) FEDERAL HOME LOAN BANKS.—

19 “(1) ESTABLISHMENT AND CRITERIA.—For
20 purposes of this subtitle, the Director shall, by regu-
21 lation—

22 “(A) establish the capital classifications
23 specified under paragraph (2) for the Federal
24 Home Loan Banks;

25 “(B) establish criteria for each such cap-
26 ital classification based on the amount and

1 types of capital held by a bank and the risk-
2 based, minimum, and critical capital levels for
3 the banks and taking due consideration of the
4 capital classifications established under sub-
5 section (a) for the enterprises, with such modi-
6 fications as the Director determines to be ap-
7 propriate to reflect the difference in operations
8 between the banks and the enterprises; and

9 “(C) shall classify the Federal Home Loan
10 Banks according to such capital classifications.

11 “(2) CLASSIFICATIONS.—The capital classifica-
12 tions specified under this paragraph are—

13 “(A) adequately capitalized;

14 “(B) undercapitalized;

15 “(C) significantly undercapitalized; and

16 “(D) critically undercapitalized.

17 “(c) DISCRETIONARY CLASSIFICATION.—

18 “(1) GROUNDS FOR RECLASSIFICATION.—The
19 Director may reclassify a regulated entity under
20 paragraph (2) if—

21 “(A) at any time, the Director determines
22 in writing that the regulated entity is engaging
23 in conduct that could result in a rapid depletion
24 of core or total capital or the value of collateral
25 pledged as security has decreased significantly

1 or that the value of the property subject to
2 mortgages held by the regulated entity (or
3 securitized in the case of an enterprise) has de-
4 creased significantly;

5 “(B) after notice and an opportunity for
6 hearing, the Director determines that the regu-
7 lated entity is in an unsafe or unsound condi-
8 tion; or

9 “(C) pursuant to section 1371(b), the Di-
10 rector deems the regulated entity to be engag-
11 ing in an unsafe or unsound practice.

12 “(2) RECLASSIFICATION.—In addition to any
13 other action authorized under this title, including
14 the reclassification of a regulated entity for any rea-
15 son not specified in this subsection, if the Director
16 takes any action described in paragraph (1), the Di-
17 rector may classify a regulated entity—

18 “(A) as undercapitalized, if the regulated
19 entity is otherwise classified as adequately cap-
20 italized;

21 “(B) as significantly undercapitalized, if
22 the regulated entity is otherwise classified as
23 undercapitalized; and

1 “(C) as critically undercapitalized, if the
2 regulated entity is otherwise classified as sig-
3 nificantly undercapitalized.”; and

4 (5) by inserting after subsection (d) (as so re-
5 designated by paragraph (3) of this subsection), the
6 following new subsection:

7 “(e) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

8 “(1) IN GENERAL.—A regulated entity shall
9 make no capital distribution if, after making the dis-
10 tribution, the regulated entity would be under-
11 capitalized.

12 “(2) EXCEPTION.—Notwithstanding paragraph
13 (1), the Director may permit a regulated entity, to
14 the extent appropriate or applicable, to repurchase,
15 redeem, retire, or otherwise acquire shares or owner-
16 ship interests if the repurchase, redemption, retire-
17 ment, or other acquisition—

18 “(A) is made in connection with the
19 issuance of additional shares or obligations of
20 the regulated entity in at least an equivalent
21 amount; and

22 “(B) will reduce the financial obligations of
23 the regulated entity or otherwise improve the fi-
24 nancial condition of the entity.”.

1 (b) REGULATIONS.—Not later than the expiration of
2 the 180-day period beginning on the date of enactment
3 of this Act, the Director of the Federal Housing Finance
4 Agency shall issue regulations to carry out section 1364(b)
5 of the Federal Housing Enterprises Financial Safety and
6 Soundness Act of 1992 (as added by this section), relating
7 to capital classifications for the Federal Home Loan
8 Banks.

9 **SEC. 1143. SUPERVISORY ACTIONS APPLICABLE TO UNDER-**
10 **CAPITALIZED REGULATED ENTITIES.**

11 Section 1365 of the Federal Housing Enterprises Fi-
12 nancial Safety and Soundness Act of 1992 (12 U.S.C.
13 4615) is amended—

14 (1) by striking “the enterprise” each place that
15 term appears and inserting “the regulated entity”;

16 (2) by striking “An enterprise” each place that
17 term appears and inserting “A regulated entity”;

18 (3) by striking “an enterprise” each place that
19 term appears and inserting “a regulated entity”;

20 (4) in subsection (a)—

21 (A) by redesignating paragraphs (1) and
22 (2) as paragraphs (2) and (3), respectively;

23 (B) by inserting before paragraph (2), as
24 redesignated, the following:

1 “(1) REQUIRED MONITORING.—The Director
2 shall—

3 “(A) closely monitor the condition of any
4 undercapitalized regulated entity;

5 “(B) closely monitor compliance with the
6 capital restoration plan, restrictions, and re-
7 quirements imposed on an undercapitalized reg-
8 ulated entity under this section; and

9 “(C) periodically review the plan, restric-
10 tions, and requirements applicable to an under-
11 capitalized regulated entity to determine wheth-
12 er the plan, restrictions, and requirements are
13 achieving the purpose of this section.”; and

14 (C) by adding at the end the following:

15 “(4) RESTRICTION OF ASSET GROWTH.—An
16 undercapitalized regulated entity shall not permit its
17 average total assets during any calendar quarter to
18 exceed its average total assets during the preceding
19 calendar quarter, unless—

20 “(A) the Director has accepted the capital
21 restoration plan of the regulated entity;

22 “(B) any increase in total assets is con-
23 sistent with the capital restoration plan; and

24 “(C) the ratio of tangible equity to assets
25 of the regulated entity increases during the cal-

1 endar quarter at a rate sufficient to enable the
2 regulated entity to become adequately capital-
3 ized within a reasonable time.

4 “(5) PRIOR APPROVAL OF ACQUISITIONS AND
5 NEW ACTIVITIES.—An undercapitalized regulated en-
6 tity shall not, directly or indirectly, acquire any in-
7 terest in any entity or engage in any new activity,
8 unless—

9 “(A) the Director has accepted the capital
10 restoration plan of the regulated entity, the reg-
11 ulated entity is implementing the plan, and the
12 Director determines that the proposed action is
13 consistent with and will further the achievement
14 of the plan; or

15 “(B) the Director determines that the pro-
16 posed action will further the purpose of this
17 subtitle.”;

18 (5) in subsection (b)—

19 (A) in the subsection heading, by striking
20 “DISCRETIONARY”;

21 (B) in the matter preceding paragraph (1),
22 by striking “may” and inserting “shall”; and

23 (C) in paragraph (2)—

24 (i) by striking “make, in good faith,
25 reasonable efforts necessary to”; and

1 (ii) by striking the period at the end
2 and inserting “in any material respect.”;
3 and

4 (6) by striking subsection (c) and inserting the
5 following:

6 “(c) OTHER DISCRETIONARY SAFEGUARDS.—The
7 Director may take, with respect to an undercapitalized
8 regulated entity, any of the actions authorized to be taken
9 under section 1366 with respect to a significantly under-
10 capitalized regulated entity, if the Director determines
11 that such actions are necessary to carry out the purpose
12 of this subtitle.”.

13 **SEC. 1144. SUPERVISORY ACTIONS APPLICABLE TO SIG-**
14 **NIFICANTLY UNDERCAPITALIZED REGU-**
15 **LATED ENTITIES.**

16 Section 1366 of the Federal Housing Enterprises Fi-
17 nancial Safety and Soundness Act of 1992 (12 U.S.C.
18 4616) is amended—

19 (1) in subsection (a)(2), by striking “under-
20 capitalized enterprise” and inserting “undercapital-
21 ized”;

22 (2) by striking “the enterprise” each place that
23 term appears and inserting “the regulated entity”;

24 (3) by striking “An enterprise” each place that
25 term appears and inserting “A regulated entity”;

1 (4) by striking “an enterprise” each place that
2 term appears and inserting “a regulated entity”;

3 (5) in subsection (b)—

4 (A) in the subsection heading, by striking
5 “DISCRETIONARY SUPERVISORY” and inserting
6 “SPECIFIC”;

7 (B) in the matter preceding paragraph (1),
8 by striking “may, at any time, take any” and
9 inserting “shall carry out this section by taking,
10 at any time, 1 or more”;

11 (C) by striking paragraph (6);

12 (D) by redesignating paragraph (5) as
13 paragraph (6);

14 (E) by inserting after paragraph (4) the
15 following:

16 “(5) IMPROVEMENT OF MANAGEMENT.—Take 1
17 or more of the following actions:

18 “(A) NEW ELECTION OF BOARD.—Order a
19 new election for the board of directors of the
20 regulated entity.

21 “(B) DISMISSAL OF DIRECTORS OR EXECU-
22 TIVE OFFICERS.—Require the regulated entity
23 to dismiss from office any director or executive
24 officer who had held office for more than 180
25 days immediately before the date on which the

1 regulated entity became undercapitalized. Dis-
2 missal under this subparagraph shall not be
3 construed to be a removal pursuant to the en-
4 forcement powers of the Director under section
5 1377.

6 “(C) EMPLOY QUALIFIED EXECUTIVE OF-
7 FICERS.—Require the regulated entity to em-
8 ploy qualified executive officers (who, if the Di-
9 rector so specifies, shall be subject to approval
10 by the Director).”; and

11 (F) by adding at the end the following:

12 “(7) OTHER ACTION.—Require the regulated
13 entity to take any other action that the Director de-
14 termines will better carry out the purpose of this
15 section than any of the other actions specified in this
16 subsection.”; and

17 (6) by striking subsection (e) and inserting the
18 following:

19 “(c) RESTRICTION ON COMPENSATION OF EXECU-
20 TIVE OFFICERS.—A regulated entity that is classified as
21 significantly undercapitalized in accordance with section
22 1364 may not, without prior written approval by the Di-
23 rector—

24 “(1) pay any bonus to any executive officer; or

1 “(2) provide compensation to any executive offi-
2 cer at a rate exceeding the average rate of com-
3 pensation of that officer (excluding bonuses, stock
4 options, and profit sharing) during the 12 calendar
5 months preceding the calendar month in which the
6 regulated entity became significantly undercapital-
7 ized.”.

8 **SEC. 1145. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
9 **IZED REGULATED ENTITIES.**

10 (a) IN GENERAL.—Section 1367 of the Federal
11 Housing Enterprises Financial Safety and Soundness Act
12 of 1992 (12 U.S.C. 4617) is amended to read as follows:

13 **“SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
14 **IZED REGULATED ENTITIES.**

15 “(a) APPOINTMENT OF THE AGENCY AS CONSER-
16 VATOR OR RECEIVER.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of Federal or State law, the Director may
19 appoint the Agency as conservator or receiver for a
20 regulated entity in the manner provided under para-
21 graph (2) or (4). All references to the conservator or
22 receiver under this section are references to the
23 Agency acting as conservator or receiver.

24 “(2) DISCRETIONARY APPOINTMENT.—The
25 Agency may, at the discretion of the Director, be ap-

1 pointed conservator or receiver for the purpose of re-
2 organizing, rehabilitating, or winding up the affairs
3 of a regulated entity.

4 “(3) GROUNDS FOR DISCRETIONARY APPOINT-
5 MENT OF CONSERVATOR OR RECEIVER.—The
6 grounds for appointing conservator or receiver for
7 any regulated entity under paragraph (2) are as fol-
8 lows:

9 “(A) ASSETS INSUFFICIENT FOR OBLIGA-
10 TIONS.—The assets of the regulated entity are
11 less than the obligations of the regulated entity
12 to its creditors and others.

13 “(B) SUBSTANTIAL DISSIPATION.—Sub-
14 stantial dissipation of assets or earnings due
15 to—

16 “(i) any violation of any provision of
17 Federal or State law; or

18 “(ii) any unsafe or unsound practice.

19 “(C) UNSAFE OR UNSOUND CONDITION.—
20 An unsafe or unsound condition to transact
21 business.

22 “(D) CEASE AND DESIST ORDERS.—Any
23 willful violation of a cease and desist order that
24 has become final.

1 “(E) CONCEALMENT.—Any concealment of
2 the books, papers, records, or assets of the reg-
3 ulated entity, or any refusal to submit the
4 books, papers, records, or affairs of the regu-
5 lated entity, for inspection to any examiner or
6 to any lawful agent of the Director.

7 “(F) INABILITY TO MEET OBLIGATIONS.—
8 The regulated entity is likely to be unable to
9 pay its obligations or meet the demands of its
10 creditors in the normal course of business.

11 “(G) LOSSES.—The regulated entity has
12 incurred or is likely to incur losses that will de-
13 plete all or substantially all of its capital, and
14 there is no reasonable prospect for the regu-
15 lated entity to become adequately capitalized
16 (as defined in section 1364(a)(1)).

17 “(H) VIOLATIONS OF LAW.—Any violation
18 of any law or regulation, or any unsafe or un-
19 sound practice or condition that is likely to—

20 “(i) cause insolvency or substantial
21 dissipation of assets or earnings; or

22 “(ii) weaken the condition of the regu-
23 lated entity.

24 “(I) CONSENT.—The regulated entity, by
25 resolution of its board of directors or its share-

1 holders or members, consents to the appoint-
2 ment.

3 “(J) UNDERCAPITALIZATION.—The regu-
4 lated entity is undercapitalized or significantly
5 undercapitalized (as defined in section
6 1364(a)(3)), and—

7 “(i) has no reasonable prospect of be-
8 coming adequately capitalized;

9 “(ii) fails to become adequately cap-
10 italized, as required by—

11 “(I) section 1365(a)(1) with re-
12 spect to a regulated entity; or

13 “(II) section 1366(a)(1) with re-
14 spect to a significantly undercapital-
15 ized regulated entity;

16 “(iii) fails to submit a capital restora-
17 tion plan acceptable to the Agency within
18 the time prescribed under section 1369C;
19 or

20 “(iv) materially fails to implement a
21 capital restoration plan submitted and ac-
22 cepted under section 1369C.

23 “(K) CRITICAL UNDERCAPITALIZATION.—
24 The regulated entity is critically undercapital-
25 ized, as defined in section 1364(a)(4).

1 “(L) MONEY LAUNDERING.—The Attorney
2 General notifies the Director in writing that the
3 regulated entity has been found guilty of a
4 criminal offense under section 1956 or 1957 of
5 title 18, United States Code, or section 5322 or
6 5324 of title 31, United States Code.

7 “(4) MANDATORY RECEIVERSHIP.—

8 “(A) IN GENERAL.—The Director shall ap-
9 point the Agency as receiver for a regulated en-
10 tity if the Director determines, in writing,
11 that—

12 “(i) the assets of the regulated entity
13 are, and during the preceding 60 calendar
14 days have been, less than the obligations of
15 the regulated entity to its creditors and
16 others; or

17 “(ii) the regulated entity is not, and
18 during the preceding 60 calendar days has
19 not been, generally paying the debts of the
20 regulated entity (other than debts that are
21 the subject of a bona fide dispute) as such
22 debts become due.

23 “(B) PERIODIC DETERMINATION RE-
24 QUIRED FOR CRITICALLY UNDERCAPITALIZED
25 REGULATED ENTITY.—If a regulated entity is

1 critically undercapitalized, the Director shall
2 make a determination, in writing, as to whether
3 the regulated entity meets the criteria specified
4 in clause (i) or (ii) of subparagraph (A)—

5 “(i) not later than 30 calendar days
6 after the regulated entity initially becomes
7 critically undercapitalized; and

8 “(ii) at least once during each suc-
9 ceeding 30-calendar day period.

10 “(C) DETERMINATION NOT REQUIRED IF
11 RECEIVERSHIP ALREADY IN PLACE.—Subpara-
12 graph (B) does not apply with respect to a reg-
13 ulated entity in any period during which the
14 Agency serves as receiver for the regulated enti-
15 ty.

16 “(D) RECEIVERSHIP TERMINATES CON-
17 SERVATORSHIP.—The appointment of the Agen-
18 cy as receiver of a regulated entity under this
19 section shall immediately terminate any con-
20 servatorship established for the regulated entity
21 under this title.

22 “(5) JUDICIAL REVIEW.—

23 “(A) IN GENERAL.—If the Agency is ap-
24 pointed conservator or receiver under this sec-
25 tion, the regulated entity may, within 30 days

1 of such appointment, bring an action in the
2 United States district court for the judicial dis-
3 trict in which the home office of such regulated
4 entity is located, or in the United States Dis-
5 trict Court for the District of Columbia, for an
6 order requiring the Agency to remove itself as
7 conservator or receiver.

8 “(B) REVIEW.—Upon the filing of an ac-
9 tion under subparagraph (A), the court shall,
10 upon the merits, dismiss such action or direct
11 the Agency to remove itself as such conservator
12 or receiver.

13 “(6) DIRECTORS NOT LIABLE FOR ACQUI-
14 ESCING IN APPOINTMENT OF CONSERVATOR OR RE-
15 CEIVER.—The members of the board of directors of
16 a regulated entity shall not be liable to the share-
17 holders or creditors of the regulated entity for acqui-
18 escing in or consenting in good faith to the appoint-
19 ment of the Agency as conservator or receiver for
20 that regulated entity.

21 “(7) AGENCY NOT SUBJECT TO ANY OTHER
22 FEDERAL AGENCY.—When acting as conservator or
23 receiver, the Agency shall not be subject to the di-
24 rection or supervision of any other agency of the

1 United States or any State in the exercise of the
2 rights, powers, and privileges of the Agency.

3 “(b) POWERS AND DUTIES OF THE AGENCY AS CON-
4 SERVATOR OR RECEIVER.—

5 “(1) RULEMAKING AUTHORITY OF THE AGEN-
6 CY.—The Agency may prescribe such regulations as
7 the Agency determines to be appropriate regarding
8 the conduct of conservatorships or receiverships.

9 “(2) GENERAL POWERS.—

10 “(A) SUCCESSOR TO REGULATED ENTI-
11 TY.—The Agency shall, as conservator or re-
12 ceiver, and by operation of law, immediately
13 succeed to—

14 “(i) all rights, titles, powers, and
15 privileges of the regulated entity, and of
16 any stockholder, officer, or director of such
17 regulated entity with respect to the regu-
18 lated entity and the assets of the regulated
19 entity; and

20 “(ii) title to the books, records, and
21 assets of any other legal custodian of such
22 regulated entity.

23 “(B) OPERATE THE REGULATED ENTI-
24 TY.—The Agency may, as conservator or re-
25 ceiver—

1 “(i) take over the assets of and oper-
2 ate the regulated entity with all the powers
3 of the shareholders, the directors, and the
4 officers of the regulated entity and conduct
5 all business of the regulated entity;

6 “(ii) collect all obligations and money
7 due the regulated entity;

8 “(iii) perform all functions of the reg-
9 ulated entity in the name of the regulated
10 entity which are consistent with the ap-
11 pointment as conservator or receiver;

12 “(iv) preserve and conserve the assets
13 and property of the regulated entity; and

14 “(v) provide by contract for assistance
15 in fulfilling any function, activity, action,
16 or duty of the Agency as conservator or re-
17 ceiver.

18 “(C) FUNCTIONS OF OFFICERS, DIREC-
19 TORS, AND SHAREHOLDERS OF A REGULATED
20 ENTITY.—The Agency may, by regulation or
21 order, provide for the exercise of any function
22 by any stockholder, director, or officer of any
23 regulated entity for which the Agency has been
24 named conservator or receiver.

1 “(D) POWERS AS CONSERVATOR.—The
2 Agency may, as conservator, take such action
3 as may be—

4 “(i) necessary to put the regulated en-
5 tity in a sound and solvent condition; and

6 “(ii) appropriate to carry on the busi-
7 ness of the regulated entity and preserve
8 and conserve the assets and property of
9 the regulated entity.

10 “(E) ADDITIONAL POWERS AS RE-
11 CEIVER.—In any case in which the Agency is
12 acting as receiver, the Agency shall place the
13 regulated entity in liquidation and proceed to
14 realize upon the assets of the regulated entity
15 in such manner as the Agency deems appro-
16 priate, including through the sale of assets, the
17 transfer of assets to a limited-life regulated en-
18 tity established under subsection (i), or the ex-
19 ercise of any other rights or privileges granted
20 to the Agency under this paragraph.

21 “(F) ORGANIZATION OF NEW ENTER-
22 PRISE.—The Agency may, as receiver for an en-
23 terprise, organize a successor enterprise that
24 will operate pursuant to subsection (i).

1 “(G) TRANSFER OR SALE OF ASSETS AND
2 LIABILITIES.—The Agency may, as conservator
3 or receiver, transfer or sell any asset or liability
4 of the regulated entity in default, and may do
5 so without any approval, assignment, or consent
6 with respect to such transfer or sale.

7 “(H) PAYMENT OF VALID OBLIGATIONS.—
8 The Agency, as conservator or receiver, shall, to
9 the extent of proceeds realized from the per-
10 formance of contracts or sale of the assets of a
11 regulated entity, pay all valid obligations of the
12 regulated entity that are due and payable at the
13 time of the appointment of the Agency as con-
14 servator or receiver, in accordance with the pre-
15 scriptions and limitations of this section.

16 “(I) SUBPOENA AUTHORITY.—

17 “(i) IN GENERAL.—

18 “(I) AGENCY AUTHORITY.—The
19 Agency may, as conservator or re-
20 ceiver, and for purposes of carrying
21 out any power, authority, or duty with
22 respect to a regulated entity (includ-
23 ing determining any claim against the
24 regulated entity and determining and
25 realizing upon any asset of any person

1 in the course of collecting money due
2 the regulated entity), exercise any
3 power established under section 1348.

4 “(II) APPLICABILITY OF LAW.—
5 The provisions of section 1348 shall
6 apply with respect to the exercise of
7 any power under this subparagraph,
8 in the same manner as such provi-
9 sions apply under that section.

10 “(ii) SUBPOENA.—A subpoena or sub-
11 poena duces tecum may be issued under
12 clause (i) only by, or with the written ap-
13 proval of, the Director, or the designee of
14 the Director.

15 “(iii) RULE OF CONSTRUCTION.—This
16 subsection shall not be construed to limit
17 any rights that the Agency, in any capac-
18 ity, might otherwise have under section
19 1317 or 1379B.

20 “(J) INCIDENTAL POWERS.—The Agency
21 may, as conservator or receiver—

22 “(i) exercise all powers and authori-
23 ties specifically granted to conservators or
24 receivers, respectively, under this section,

1 and such incidental powers as shall be nec-
2 essary to carry out such powers; and

3 “(ii) take any action authorized by
4 this section, which the Agency determines
5 is in the best interests of the regulated en-
6 tity or the Agency.

7 “(K) OTHER PROVISIONS.—

8 “(i) SHAREHOLDERS AND CREDITORS
9 OF FAILED REGULATED ENTITY.—Not-
10 withstanding any other provision of law,
11 the appointment of the Agency as receiver
12 for a regulated entity pursuant to para-
13 graph (2) or (4) of subsection (a) and its
14 succession, by operation of law, to the
15 rights, titles, powers, and privileges de-
16 scribed in subsection (b)(2)(A) shall termi-
17 nate all rights and claims that the stock-
18 holders and creditors of the regulated enti-
19 ty may have against the assets or charter
20 of the regulated entity or the Agency aris-
21 ing as a result of their status as stock-
22 holders or creditors, except for their right
23 to payment, resolution, or other satisfac-
24 tion of their claims, as permitted under
25 subsections (b)(9), (c), and (e).

1 “(ii) ASSETS OF REGULATED ENTI-
2 TY.—Notwithstanding any other provision
3 of law, for purposes of this section, the
4 charter of a regulated entity shall not be
5 considered an asset of the regulated entity.

6 “(3) AUTHORITY OF RECEIVER TO DETERMINE
7 CLAIMS.—

8 “(A) IN GENERAL.—The Agency may, as
9 receiver, determine claims in accordance with
10 the requirements of this subsection and any
11 regulations prescribed under paragraph (4).

12 “(B) NOTICE REQUIREMENTS.—The re-
13 ceiver, in any case involving the liquidation or
14 winding up of the affairs of a closed regulated
15 entity, shall—

16 “(i) promptly publish a notice to the
17 creditors of the regulated entity to present
18 their claims, together with proof, to the re-
19 ceiver by a date specified in the notice
20 which shall be not less than 90 days after
21 the date of publication of such notice; and

22 “(ii) republish such notice approxi-
23 mately 1 month and 2 months, respec-
24 tively, after the date of publication under
25 clause (i).

1 “(C) MAILING REQUIRED.—The receiver
2 shall mail a notice similar to the notice pub-
3 lished under subparagraph (B)(i) at the time of
4 such publication to any creditor shown on the
5 books of the regulated entity—

6 “(i) at the last address of the creditor
7 appearing in such books; or

8 “(ii) upon discovery of the name and
9 address of a claimant not appearing on the
10 books of the regulated entity, within 30
11 days after the discovery of such name and
12 address.

13 “(4) RULEMAKING AUTHORITY RELATING TO
14 DETERMINATION OF CLAIMS.—Subject to subsection
15 (c), the Director may prescribe regulations regarding
16 the allowance or disallowance of claims by the re-
17 ceiver and providing for administrative determina-
18 tion of claims and review of such determination.

19 “(5) PROCEDURES FOR DETERMINATION OF
20 CLAIMS.—

21 “(A) DETERMINATION PERIOD.—

22 “(i) IN GENERAL.—Before the end of
23 the 180-day period beginning on the date
24 on which any claim against a regulated en-
25 tity is filed with the Agency as receiver,

1 the Agency shall determine whether to
2 allow or disallow the claim and shall notify
3 the claimant of any determination with re-
4 spect to such claim.

5 “(ii) EXTENSION OF TIME.—The pe-
6 riod described in clause (i) may be ex-
7 tended by a written agreement between the
8 claimant and the Agency.

9 “(iii) MAILING OF NOTICE SUFFI-
10 CIENT.—The requirements of clause (i)
11 shall be deemed to be satisfied if the notice
12 of any determination with respect to any
13 claim is mailed to the last address of the
14 claimant which appears—

15 “(I) on the books of the regu-
16 lated entity;

17 “(II) in the claim filed by the
18 claimant; or

19 “(III) in documents submitted in
20 proof of the claim.

21 “(iv) CONTENTS OF NOTICE OF DIS-
22 ALLOWANCE.—If any claim filed under
23 clause (i) is disallowed, the notice to the
24 claimant shall contain—

1 “(I) a statement of each reason
2 for the disallowance; and

3 “(II) the procedures available for
4 obtaining agency review of the deter-
5 mination to disallow the claim or judi-
6 cial determination of the claim.

7 “(B) ALLOWANCE OF PROVEN CLAIM.—
8 The receiver shall allow any claim received on
9 or before the date specified in the notice pub-
10 lished under paragraph (3)(B)(i) by the receiver
11 from any claimant which is proved to the satis-
12 faction of the receiver.

13 “(C) DISALLOWANCE OF CLAIMS FILED
14 AFTER FILING PERIOD.—Claims filed after the
15 date specified in the notice published under
16 paragraph (3)(B)(i), or the date specified under
17 paragraph (3)(C), shall be disallowed and such
18 disallowance shall be final.

19 “(D) AUTHORITY TO DISALLOW CLAIMS.—
20 “(i) IN GENERAL.—The receiver may
21 disallow any portion of any claim by a
22 creditor or claim of security, preference, or
23 priority which is not proved to the satisfac-
24 tion of the receiver.

1 “(ii) PAYMENTS TO LESS THAN
2 FULLY SECURED CREDITORS.—In the case
3 of a claim of a creditor against a regulated
4 entity which is secured by any property or
5 other asset of such regulated entity, the re-
6 ceiver—

7 “(I) may treat the portion of
8 such claim which exceeds an amount
9 equal to the fair market value of such
10 property or other asset as an unse-
11 cured claim against the regulated en-
12 tity; and

13 “(II) may not make any payment
14 with respect to such unsecured por-
15 tion of the claim, other than in con-
16 nection with the disposition of all
17 claims of unsecured creditors of the
18 regulated entity.

19 “(iii) EXCEPTIONS.—No provision of
20 this paragraph shall apply with respect
21 to—

22 “(I) any extension of credit from
23 any Federal Reserve Bank, Federal
24 Home Loan Bank, or the United
25 States Treasury; or

1 “(II) any security interest in the
2 assets of the regulated entity securing
3 any such extension of credit.

4 “(E) NO JUDICIAL REVIEW OF DETER-
5 MINATION PURSUANT TO SUBPARAGRAPH (D).—
6 No court may review the determination of the
7 Agency under subparagraph (D) to disallow a
8 claim.

9 “(F) LEGAL EFFECT OF FILING.—

10 “(i) STATUTE OF LIMITATION
11 TOLLED.—For purposes of any applicable
12 statute of limitations, the filing of a claim
13 with the receiver shall constitute a com-
14 mencement of an action.

15 “(ii) NO PREJUDICE TO OTHER AC-
16 TIONS.—Subject to paragraph (10), the fil-
17 ing of a claim with the receiver shall not
18 prejudice any right of the claimant to con-
19 tinue any action which was filed before the
20 date of the appointment of the receiver,
21 subject to the determination of claims by
22 the receiver.

23 “(6) PROVISION FOR JUDICIAL DETERMINATION
24 OF CLAIMS.—

1 “(A) IN GENERAL.—The claimant may file
2 suit on a claim (or continue an action com-
3 menced before the appointment of the receiver)
4 in the district or territorial court of the United
5 States for the district within which the prin-
6 cipal place of business of the regulated entity is
7 located or the United States District Court for
8 the District of Columbia (and such court shall
9 have jurisdiction to hear such claim), before the
10 end of the 60-day period beginning on the ear-
11 lier of—

12 “(i) the end of the period described in
13 paragraph (5)(A)(i) with respect to any
14 claim against a regulated entity for which
15 the Agency is receiver; or

16 “(ii) the date of any notice of dis-
17 allowance of such claim pursuant to para-
18 graph (5)(A)(i).

19 “(B) STATUTE OF LIMITATIONS.—A claim
20 shall be deemed to be disallowed (other than
21 any portion of such claim which was allowed by
22 the receiver), and such disallowance shall be
23 final, and the claimant shall have no further
24 rights or remedies with respect to such claim,
25 if the claimant fails, before the end of the 60-

1 day period described under subparagraph (A),
2 to file suit on such claim (or continue an action
3 commenced before the appointment of the re-
4 ceiver).

5 “(7) REVIEW OF CLAIMS.—

6 “(A) OTHER REVIEW PROCEDURES.—

7 “(i) IN GENERAL.—The Agency shall
8 establish such alternative dispute resolu-
9 tion processes as may be appropriate for
10 the resolution of claims filed under para-
11 graph (5)(A)(i).

12 “(ii) CRITERIA.—In establishing alter-
13 native dispute resolution processes, the
14 Agency shall strive for procedures which
15 are expeditious, fair, independent, and low
16 cost.

17 “(iii) VOLUNTARY BINDING OR NON-
18 BINDING PROCEDURES.—The Agency may
19 establish both binding and nonbinding
20 processes under this subparagraph, which
21 may be conducted by any government or
22 private party. All parties, including the
23 claimant and the Agency, must agree to
24 the use of the process in a particular case.

1 “(B) CONSIDERATION OF INCENTIVES.—

2 The Agency shall seek to develop incentives for
3 claimants to participate in the alternative dis-
4 pute resolution process.

5 “(8) EXPEDITED DETERMINATION OF
6 CLAIMS.—

7 “(A) ESTABLISHMENT REQUIRED.—The
8 Agency shall establish a procedure for expedited
9 relief outside of the routine claims process es-
10 tablished under paragraph (5) for claimants
11 who—

12 “(i) allege the existence of legally
13 valid and enforceable or perfected security
14 interests in assets of any regulated entity
15 for which the Agency has been appointed
16 receiver; and

17 “(ii) allege that irreparable injury will
18 occur if the routine claims procedure is fol-
19 lowed.

20 “(B) DETERMINATION PERIOD.—Before
21 the end of the 90-day period beginning on the
22 date on which any claim is filed in accordance
23 with the procedures established under subpara-
24 graph (A), the Director shall—

25 “(i) determine—

1 “(I) whether to allow or disallow
2 such claim; or

3 “(II) whether such claim should
4 be determined pursuant to the proce-
5 dures established under paragraph
6 (5); and

7 “(ii) notify the claimant of the deter-
8 mination, and if the claim is disallowed,
9 provide a statement of each reason for the
10 disallowance and the procedure for obtain-
11 ing agency review or judicial determina-
12 tion.

13 “(C) PERIOD FOR FILING OR RENEWING
14 SUIT.—Any claimant who files a request for ex-
15 pedited relief shall be permitted to file a suit,
16 or to continue a suit filed before the date of ap-
17 pointment of the receiver, seeking a determina-
18 tion of the rights of the claimant with respect
19 to such security interest after the earlier of—

20 “(i) the end of the 90-day period be-
21 ginning on the date of the filing of a re-
22 quest for expedited relief; or

23 “(ii) the date on which the Agency de-
24 nies the claim.

1 “(D) STATUTE OF LIMITATIONS.—If an
2 action described under subparagraph (C) is not
3 filed, or the motion to renew a previously filed
4 suit is not made, before the end of the 30-day
5 period beginning on the date on which such ac-
6 tion or motion may be filed under subparagraph
7 (B), the claim shall be deemed to be disallowed
8 as of the end of such period (other than any
9 portion of such claim which was allowed by the
10 receiver), such disallowance shall be final, and
11 the claimant shall have no further rights or
12 remedies with respect to such claim.

13 “(E) LEGAL EFFECT OF FILING.—

14 “(i) STATUTE OF LIMITATION
15 TOLLED.—For purposes of any applicable
16 statute of limitations, the filing of a claim
17 with the receiver shall constitute a com-
18 mencement of an action.

19 “(ii) NO PREJUDICE TO OTHER AC-
20 TIONS.—Subject to paragraph (10), the fil-
21 ing of a claim with the receiver shall not
22 prejudice any right of the claimant to con-
23 tinue any action that was filed before the
24 appointment of the receiver, subject to the
25 determination of claims by the receiver.

1 “(9) PAYMENT OF CLAIMS.—

2 “(A) IN GENERAL.—The receiver may, in
3 the discretion of the receiver, and to the extent
4 that funds are available from the assets of the
5 regulated entity, pay creditor claims, in such
6 manner and amounts as are authorized under
7 this section, which are—

8 “(i) allowed by the receiver;

9 “(ii) approved by the Agency pursuant
10 to a final determination pursuant to para-
11 graph (7) or (8); or

12 “(iii) determined by the final judg-
13 ment of any court of competent jurisdic-
14 tion.

15 “(B) AGREEMENTS AGAINST THE INTER-
16 EST OF THE AGENCY.—No agreement that
17 tends to diminish or defeat the interest of the
18 Agency in any asset acquired by the Agency as
19 receiver under this section shall be valid against
20 the Agency unless such agreement is in writing
21 and executed by an authorized officer or rep-
22 resentative of the regulated entity.

23 “(C) PAYMENT OF DIVIDENDS ON
24 CLAIMS.—The receiver may, in the sole discre-
25 tion of the receiver, pay from the assets of the

1 regulated entity dividends on proved claims at
2 any time, and no liability shall attach to the
3 Agency by reason of any such payment, for fail-
4 ure to pay dividends to a claimant whose claim
5 is not proved at the time of any such payment.

6 “(D) RULEMAKING AUTHORITY OF THE
7 DIRECTOR.—The Director may prescribe such
8 rules, including definitions of terms, as the Di-
9 rector deems appropriate to establish a single
10 uniform interest rate for, or to make payments
11 of post-insolvency interest to creditors holding
12 proven claims against the receivership estates of
13 the regulated entity, following satisfaction by
14 the receiver of the principal amount of all cred-
15 itor claims.

16 “(10) SUSPENSION OF LEGAL ACTIONS.—

17 “(A) IN GENERAL.—After the appointment
18 of a conservator or receiver for a regulated enti-
19 ty, the conservator or receiver may, in any judi-
20 cial action or proceeding to which such regu-
21 lated entity is or becomes a party, request a
22 stay for a period not to exceed—

23 “(i) 45 days, in the case of any con-
24 servator; and

1 “(ii) 90 days, in the case of any re-
2 ceiver.

3 “(B) GRANT OF STAY BY ALL COURTS RE-
4 QUIRED.—Upon receipt of a request by the con-
5 servator or receiver under subparagraph (A) for
6 a stay of any judicial action or proceeding in
7 any court with jurisdiction of such action or
8 proceeding, the court shall grant such stay as
9 to all parties.

10 “(11) ADDITIONAL RIGHTS AND DUTIES.—

11 “(A) PRIOR FINAL ADJUDICATION.—The
12 Agency shall abide by any final unappealable
13 judgment of any court of competent jurisdiction
14 which was rendered before the appointment of
15 the Agency as conservator or receiver.

16 “(B) RIGHTS AND REMEDIES OF CONSER-
17 VATOR OR RECEIVER.—In the event of any ap-
18 pealable judgment, the Agency as conservator
19 or receiver—

20 “(i) shall have all of the rights and
21 remedies available to the regulated entity
22 (before the appointment of such conser-
23 vator or receiver) and the Agency, includ-
24 ing removal to Federal court and all appel-
25 late rights; and

1 “(ii) shall not be required to post any
2 bond in order to pursue such remedies.

3 “(C) NO ATTACHMENT OR EXECUTION.—
4 No attachment or execution may issue by any
5 court upon assets in the possession of the re-
6 ceiver, or upon the charter, of a regulated enti-
7 ty for which the Agency has been appointed re-
8 ceiver.

9 “(D) LIMITATION ON JUDICIAL REVIEW.—
10 Except as otherwise provided in this subsection,
11 no court shall have jurisdiction over—

12 “(i) any claim or action for payment
13 from, or any action seeking a determina-
14 tion of rights with respect to, the assets or
15 charter of any regulated entity for which
16 the Agency has been appointed receiver; or

17 “(ii) any claim relating to any act or
18 omission of such regulated entity or the
19 Agency as receiver.

20 “(E) DISPOSITION OF ASSETS.—In exer-
21 cising any right, power, privilege, or authority
22 as conservator or receiver in connection with
23 any sale or disposition of assets of a regulated
24 entity for which the Agency has been appointed

1 conservator or receiver, the Agency shall con-
2 duct its operations in a manner which—

3 “(i) maximizes the net present value
4 return from the sale or disposition of such
5 assets;

6 “(ii) minimizes the amount of any loss
7 realized in the resolution of cases; and

8 “(iii) ensures adequate competition
9 and fair and consistent treatment of
10 offerors.

11 “(12) STATUTE OF LIMITATIONS FOR ACTIONS
12 BROUGHT BY CONSERVATOR OR RECEIVER.—

13 “(A) IN GENERAL.—Notwithstanding any
14 provision of any contract, the applicable statute
15 of limitations with regard to any action brought
16 by the Agency as conservator or receiver shall
17 be—

18 “(i) in the case of any contract claim,
19 the longer of—

20 “(I) the 6-year period beginning
21 on the date on which the claim ac-
22 crues; or

23 “(II) the period applicable under
24 State law; and

1 “(ii) in the case of any tort claim, the
2 longer of—

3 “(I) the 3-year period beginning
4 on the date on which the claim ac-
5 crues; or

6 “(II) the period applicable under
7 State law.

8 “(B) DETERMINATION OF THE DATE ON
9 WHICH A CLAIM ACCRUES.—For purposes of
10 subparagraph (A), the date on which the stat-
11 ute of limitations begins to run on any claim
12 described in such subparagraph shall be the
13 later of—

14 “(i) the date of the appointment of
15 the Agency as conservator or receiver; or

16 “(ii) the date on which the cause of
17 action accrues.

18 “(13) REVIVAL OF EXPIRED STATE CAUSES OF
19 ACTION.—

20 “(A) IN GENERAL.—In the case of any tort
21 claim described under clause (ii) for which the
22 statute of limitations applicable under State law
23 with respect to such claim has expired not more
24 than 5 years before the appointment of the
25 Agency as conservator or receiver, the Agency

1 may bring an action as conservator or receiver
2 on such claim without regard to the expiration
3 of the statute of limitations applicable under
4 State law.

5 “(B) CLAIMS DESCRIBED.—A tort claim
6 referred to under clause (i) is a claim arising
7 from fraud, intentional misconduct resulting in
8 unjust enrichment, or intentional misconduct
9 resulting in substantial loss to the regulated en-
10 tity.

11 “(14) ACCOUNTING AND RECORDKEEPING RE-
12 QUIREMENTS.—

13 “(A) IN GENERAL.—The Agency as conser-
14 vator or receiver shall, consistent with the ac-
15 counting and reporting practices and proce-
16 dures established by the Agency, maintain a full
17 accounting of each conservatorship and receiv-
18 ership or other disposition of a regulated entity
19 in default.

20 “(B) ANNUAL ACCOUNTING OR REPORT.—
21 With respect to each conservatorship or receiv-
22 ership, the Agency shall make an annual ac-
23 counting or report available to the Board, the
24 Comptroller General of the United States, the
25 Committee on Banking, Housing, and Urban

1 Affairs of the Senate, and the Committee on
2 Financial Services of the House of Representa-
3 tives.

4 “(C) AVAILABILITY OF REPORTS.—Any re-
5 port prepared under subparagraph (B) shall be
6 made available by the Agency upon request to
7 any shareholder of a regulated entity or any
8 member of the public.

9 “(D) RECORDKEEPING REQUIREMENT.—
10 After the end of the 6-year period beginning on
11 the date on which the conservatorship or receiv-
12 ership is terminated by the Director, the Agen-
13 cy may destroy any records of such regulated
14 entity which the Agency, in the discretion of the
15 Agency, determines to be unnecessary, unless
16 directed not to do so by a court of competent
17 jurisdiction or governmental agency, or prohib-
18 ited by law.

19 “(15) FRAUDULENT TRANSFERS.—

20 “(A) IN GENERAL.—The Agency, as con-
21 servator or receiver, may avoid a transfer of
22 any interest of an entity-affiliated party, or any
23 person determined by the conservator or re-
24 ceiver to be a debtor of the regulated entity, in
25 property, or any obligation incurred by such

1 party or person, that was made within 5 years
2 of the date on which the Agency was appointed
3 conservator or receiver, if such party or person
4 voluntarily or involuntarily made such transfer
5 or incurred such liability with the intent to
6 hinder, delay, or defraud the regulated entity,
7 the Agency, the conservator, or receiver.

8 “(B) RIGHT OF RECOVERY.—To the extent
9 a transfer is avoided under subparagraph (A),
10 the conservator or receiver may recover, for the
11 benefit of the regulated entity, the property
12 transferred, or, if a court so orders, the value
13 of such property (at the time of such transfer)
14 from—

15 “(i) the initial transferee of such
16 transfer or the entity-affiliated party or
17 person for whose benefit such transfer was
18 made; or

19 “(ii) any immediate or mediate trans-
20 feree of any such initial transferee.

21 “(C) RIGHTS OF TRANSFEREE OR OBLI-
22 GEE.—The conservator or receiver may not re-
23 cover under subparagraph (B) from—

24 “(i) any transferee that takes for
25 value, including satisfaction or securing of

1 a present or antecedent debt, in good faith;

2 or

3 “(ii) any immediate or mediate good
4 faith transferee of such transferee.

5 “(D) RIGHTS UNDER THIS PARAGRAPH.—

6 The rights under this paragraph of the conser-
7 vator or receiver described under subparagraph
8 (A) shall be superior to any rights of a trustee
9 or any other party (other than any party which
10 is a Federal agency) under title 11, United
11 States Code.

12 “(16) ATTACHMENT OF ASSETS AND OTHER IN-
13 JUNCTIVE RELIEF.—Subject to paragraph (17), any
14 court of competent jurisdiction may, at the request
15 of the conservator or receiver, issue an order in ac-
16 cordance with rule 65 of the Federal Rules of Civil
17 Procedure, including an order placing the assets of
18 any person designated by the conservator or receiver
19 under the control of the court, and appointing a
20 trustee to hold such assets.

21 “(17) STANDARDS OF PROOF.—Rule 65 of the
22 Federal Rules of Civil Procedure shall apply with re-
23 spect to any proceeding under paragraph (16) with-
24 out regard to the requirement of such rule that the

1 applicant show that the injury, loss, or damage is ir-
2 reparable and immediate.

3 “(18) TREATMENT OF CLAIMS ARISING FROM
4 BREACH OF CONTRACTS EXECUTED BY THE CON-
5 SERVATOR OR RECEIVER.—

6 “(A) IN GENERAL.—Notwithstanding any
7 other provision of this subsection, any final and
8 unappealable judgment for monetary damages
9 entered against the conservator or receiver for
10 the breach of an agreement executed or ap-
11 proved in writing by the conservator or receiver
12 after the date of its appointment, shall be paid
13 as an administrative expense of the conservator
14 or receiver.

15 “(B) NO LIMITATION OF POWER.—Nothing
16 in this paragraph shall be construed to limit the
17 power of the conservator or receiver to exercise
18 any rights under contract or law, including to
19 terminate, breach, cancel, or otherwise dis-
20 continue such agreement.

21 “(19) GENERAL EXCEPTIONS.—

22 “(A) LIMITATIONS.—The rights of the
23 conservator or receiver appointed under this
24 section shall be subject to the limitations on the
25 powers of a receiver under sections 402 through

1 407 of the Federal Deposit Insurance Corpora-
2 tion Improvement Act of 1991 (12 U.S.C. 4402
3 through 4407).

4 “(B) MORTGAGES HELD IN TRUST.—

5 “(i) IN GENERAL.—Any mortgage,
6 pool of mortgages, or interest in a pool of
7 mortgages held in trust, custodial, or agen-
8 cy capacity by a regulated entity for the
9 benefit of any person other than the regu-
10 lated entity shall not be available to satisfy
11 the claims of creditors generally, except
12 that nothing in this clause shall be con-
13 strued to expand or otherwise affect the
14 authority of any regulated entity.

15 “(ii) HOLDING OF MORTGAGES.—Any
16 mortgage, pool of mortgages, or interest in
17 a pool of mortgages described in clause (i)
18 shall be held by the conservator or receiver
19 appointed under this section for the bene-
20 ficial owners of such mortgage, pool of
21 mortgages, or interest in accordance with
22 the terms of the agreement creating such
23 trust, custodial, or other agency arrange-
24 ment.

1 “(iii) LIABILITY OF CONSERVATOR OR
2 RECEIVER.—The liability of the conser-
3 vator or receiver appointed under this sec-
4 tion for damages shall, in the case of any
5 contingent or unliquidated claim relating
6 to the mortgages held in trust, be esti-
7 mated in accordance with the regulations
8 of the Director.

9 “(c) PRIORITY OF EXPENSES AND UNSECURED
10 CLAIMS.—

11 “(1) IN GENERAL.—Unsecured claims against a
12 regulated entity, or the receiver therefor, that are
13 proven to the satisfaction of the receiver shall have
14 priority in the following order:

15 “(A) Administrative expenses of the re-
16 ceiver.

17 “(B) Any other general or senior liability
18 of the regulated entity (which is not a liability
19 described under subparagraph (C) or (D)).

20 “(C) Any obligation subordinated to gen-
21 eral creditors (which is not an obligation de-
22 scribed under subparagraph (D)).

23 “(D) Any obligation to shareholders or
24 members arising as a result of their status as
25 shareholder or members.

1 “(2) CREDITORS SIMILARLY SITUATED.—All
2 creditors that are similarly situated under paragraph
3 (1) shall be treated in a similar manner, except that
4 the receiver may take any action (including making
5 payments) that does not comply with this subsection,
6 if—

7 “(A) the Director determines that such ac-
8 tion is necessary to maximize the value of the
9 assets of the regulated entity, to maximize the
10 present value return from the sale or other dis-
11 position of the assets of the regulated entity, or
12 to minimize the amount of any loss realized
13 upon the sale or other disposition of the assets
14 of the regulated entity; and

15 “(B) all creditors that are similarly situ-
16 ated under paragraph (1) receive not less than
17 the amount provided in subsection (e)(2).

18 “(3) DEFINITION.—As used in this subsection,
19 the term ‘administrative expenses of the receiver’ in-
20 cludes—

21 “(A) the actual, necessary costs and ex-
22 penses incurred by the receiver in preserving
23 the assets of a failed regulated entity or liqui-
24 dating or otherwise resolving the affairs of a
25 failed regulated entity; and

1 “(B) any obligations that the receiver de-
2 termines are necessary and appropriate to fa-
3 cilitate the smooth and orderly liquidation or
4 other resolution of the regulated entity.

5 “(d) PROVISIONS RELATING TO CONTRACTS EN-
6 TERED INTO BEFORE APPOINTMENT OF CONSERVATOR
7 OR RECEIVER.—

8 “(1) AUTHORITY TO REPUDIATE CONTRACTS.—
9 In addition to any other rights a conservator or re-
10 ceiver may have, the conservator or receiver for any
11 regulated entity may disaffirm or repudiate any con-
12 tract or lease—

13 “(A) to which such regulated entity is a
14 party;

15 “(B) the performance of which the conser-
16 vator or receiver, in its sole discretion, deter-
17 mines to be burdensome; and

18 “(C) the disaffirmance or repudiation of
19 which the conservator or receiver determines, in
20 its sole discretion, will promote the orderly ad-
21 ministration of the affairs of the regulated enti-
22 ty.

23 “(2) TIMING OF REPUDIATION.—The conser-
24 vator or receiver shall determine whether or not to
25 exercise the rights of repudiation under this sub-

1 section within a reasonable period following such ap-
2 pointment.

3 “(3) CLAIMS FOR DAMAGES FOR REPUDI-
4 ATION.—

5 “(A) IN GENERAL.—Except as otherwise
6 provided under subparagraph (C) and para-
7 graphs (4), (5), and (6), the liability of the con-
8 servator or receiver for the disaffirmance or re-
9 pudiation of any contract pursuant to para-
10 graph (1) shall be—

11 “(i) limited to actual direct compen-
12 satory damages; and

13 “(ii) determined as of—

14 “(I) the date of the appointment
15 of the conservator or receiver; or

16 “(II) in the case of any contract
17 or agreement referred to in paragraph
18 (8), the date of the disaffirmance or
19 repudiation of such contract or agree-
20 ment.

21 “(B) NO LIABILITY FOR OTHER DAM-
22 AGES.—For purposes of subparagraph (A), the
23 term ‘actual direct compensatory damages’ shall
24 not include—

25 “(i) punitive or exemplary damages;

1 “(ii) damages for lost profits or op-
2 portunity; or

3 “(iii) damages for pain and suffering.

4 “(C) MEASURE OF DAMAGES FOR REPUDI-
5 ATION OF FINANCIAL CONTRACTS.—In the case
6 of any qualified financial contract or agreement
7 to which paragraph (8) applies, compensatory
8 damages shall be—

9 “(i) deemed to include normal and
10 reasonable costs of cover or other reason-
11 able measures of damages utilized in the
12 industries for such contract and agreement
13 claims; and

14 “(ii) paid in accordance with this sub-
15 section and subsection (e), except as other-
16 wise specifically provided in this section.

17 “(4) LEASES UNDER WHICH THE REGULATED
18 ENTITY IS THE LESSEE.—

19 “(A) IN GENERAL.—If the conservator or
20 receiver disaffirms or repudiates a lease under
21 which the regulated entity was the lessee, the
22 conservator or receiver shall not be liable for
23 any damages (other than damages determined
24 under subparagraph (B)) for the disaffirmance
25 or repudiation of such lease.

1 “(B) PAYMENTS OF RENT.—Notwith-
2 standing subparagraph (A), the lessor under a
3 lease to which that subparagraph applies
4 shall—

5 “(i) be entitled to the contractual rent
6 accruing before the later of the date on
7 which—

8 “(I) the notice of disaffirmance
9 or repudiation is mailed; or

10 “(II) the disaffirmance or repudi-
11 ation becomes effective, unless the les-
12 sor is in default or breach of the
13 terms of the lease;

14 “(ii) have no claim for damages under
15 any acceleration clause or other penalty
16 provision in the lease; and

17 “(iii) have a claim for any unpaid
18 rent, subject to all appropriate offsets and
19 defenses, due as of the date of the appoint-
20 ment, which shall be paid in accordance
21 with this subsection and subsection (e).

22 “(5) LEASES UNDER WHICH THE REGULATED
23 ENTITY IS THE LESSOR.—

24 “(A) IN GENERAL.—If the conservator or
25 receiver repudiates an unexpired written lease

1 of real property of the regulated entity under
2 which the regulated entity is the lessor and the
3 lessee is not, as of the date of such repudiation,
4 in default, the lessee under such lease may ei-
5 ther—

6 “(i) treat the lease as terminated by
7 such repudiation; or

8 “(ii) remain in possession of the lease-
9 hold interest for the balance of the term of
10 the lease, unless the lessee defaults under
11 the terms of the lease after the date of
12 such repudiation.

13 “(B) PROVISIONS APPLICABLE TO LESSEE
14 REMAINING IN POSSESSION.—If any lessee
15 under a lease described under subparagraph (A)
16 remains in possession of a leasehold interest
17 under clause (ii) of subparagraph (A)—

18 “(i) the lessee—

19 “(I) shall continue to pay the
20 contractual rent pursuant to the
21 terms of the lease after the date of
22 the repudiation of such lease; and

23 “(II) may offset against any rent
24 payment which accrues after the date
25 of the repudiation of the lease, and

1 any damages which accrue after such
2 date due to the nonperformance of
3 any obligation of the regulated entity
4 under the lease after such date; and

5 “(ii) the conservator or receiver shall
6 not be liable to the lessee for any damages
7 arising after such date as a result of the
8 repudiation, other than the amount of any
9 offset allowed under clause (i)(II).

10 “(6) CONTRACTS FOR THE SALE OF REAL
11 PROPERTY.—

12 “(A) IN GENERAL.—If the conservator or
13 receiver repudiates any contract for the sale of
14 real property and the purchaser of such real
15 property under such contract is in possession,
16 and is not, as of the date of such repudiation,
17 in default, such purchaser may either—

18 “(i) treat the contract as terminated
19 by such repudiation; or

20 “(ii) remain in possession of such real
21 property.

22 “(B) PROVISIONS APPLICABLE TO PUR-
23 CHASER REMAINING IN POSSESSION.—If any
24 purchaser of real property under any contract
25 described under subparagraph (A) remains in

1 possession of such property under clause (ii) of
2 subparagraph (A)—

3 “(i) the purchaser—

4 “(I) shall continue to make all
5 payments due under the contract after
6 the date of the repudiation of the con-
7 tract; and

8 “(II) may offset against any such
9 payments any damages which accrue
10 after such date due to the non-
11 performance (after such date) of any
12 obligation of the regulated entity
13 under the contract; and

14 “(ii) the conservator or receiver
15 shall—

16 “(I) not be liable to the pur-
17 chaser for any damages arising after
18 such date as a result of the repudi-
19 ation, other than the amount of any
20 offset allowed under clause (i)(II);

21 “(II) deliver title to the pur-
22 chaser in accordance with the provi-
23 sions of the contract; and

1 “(III) have no obligation under
2 the contract other than the perform-
3 ance required under subclause (II).

4 “(C) ASSIGNMENT AND SALE ALLOWED.—

5 “(i) IN GENERAL.—No provision of
6 this paragraph shall be construed as lim-
7 iting the right of the conservator or re-
8 ceiver to assign the contract described
9 under subparagraph (A), and sell the prop-
10 erty subject to the contract and the provi-
11 sions of this paragraph.

12 “(ii) NO LIABILITY AFTER ASSIGN-
13 MENT AND SALE.—If an assignment and
14 sale described under clause (i) is con-
15 summated, the conservator or receiver
16 shall have no further liability under the
17 contract described under subparagraph
18 (A), or with respect to the real property
19 which was the subject of such contract.

20 “(7) SERVICE CONTRACTS.—

21 “(A) SERVICES PERFORMED BEFORE AP-
22 POINTMENT.—In the case of any contract for
23 services between any person and any regulated
24 entity for which the Agency has been appointed
25 conservator or receiver, any claim of such per-

1 son for services performed before the appoint-
2 ment of the conservator or receiver shall be—

3 “(i) a claim to be paid in accordance
4 with subsections (b) and (e); and

5 “(ii) deemed to have arisen as of the
6 date on which the conservator or receiver
7 was appointed.

8 “(B) SERVICES PERFORMED AFTER AP-
9 POINTMENT AND PRIOR TO REPUDIATION.—If,
10 in the case of any contract for services de-
11 scribed under subparagraph (A), the conser-
12 vator or receiver accepts performance by the
13 other person before the conservator or receiver
14 makes any determination to exercise the right
15 of repudiation of such contract under this sec-
16 tion—

17 “(i) the other party shall be paid
18 under the terms of the contract for the
19 services performed; and

20 “(ii) the amount of such payment
21 shall be treated as an administrative ex-
22 pense of the conservatorship or receiver-
23 ship.

24 “(C) ACCEPTANCE OF PERFORMANCE NO
25 BAR TO SUBSEQUENT REPUDIATION.—The ac-

1 ceptance by the conservator or receiver of serv-
2 ices referred to under subparagraph (B) in con-
3 nection with a contract described in such sub-
4 paragraph shall not affect the right of the con-
5 servator or receiver to repudiate such contract
6 under this section at any time after such per-
7 formance.

8 “(8) CERTAIN QUALIFIED FINANCIAL CON-
9 TRACTS.—

10 “(A) RIGHTS OF PARTIES TO CON-
11 TRACTS.—Subject to paragraphs (9) and (10),
12 and notwithstanding any other provision of this
13 title (other than subsection (b)(9)(B) of this
14 section), any other Federal law, or the law of
15 any State, no person shall be stayed or prohib-
16 ited from exercising—

17 “(i) any right of that person to cause
18 the termination, liquidation, or acceleration
19 of any qualified financial contract with a
20 regulated entity that arises upon the ap-
21 pointment of the Agency as receiver for
22 such regulated entity at any time after
23 such appointment;

24 “(ii) any right under any security
25 agreement or arrangement or other credit

1 enhancement relating to one or more quali-
2 fied financial contracts; or

3 “(iii) any right to offset or net out
4 any termination value, payment amount, or
5 other transfer obligation arising under or
6 in connection with 1 or more contracts and
7 agreements described in clause (i), includ-
8 ing any master agreement for such con-
9 tracts or agreements.

10 “(B) APPLICABILITY OF OTHER PROVI-
11 SIONS.—Subsection (b)(10) shall apply in the
12 case of any judicial action or proceeding
13 brought against any receiver referred to under
14 subparagraph (A), or the regulated entity for
15 which such receiver was appointed, by any
16 party to a contract or agreement described
17 under subparagraph (A)(i) with such regulated
18 entity.

19 “(C) CERTAIN TRANSFERS NOT AVOID-
20 ABLE.—

21 “(i) IN GENERAL.—Notwithstanding
22 paragraph (11), or any other provision of
23 Federal or State law relating to the avoid-
24 ance of preferential or fraudulent trans-
25 fers, the Agency, whether acting as such or

1 as conservator or receiver of a regulated
2 entity, may not avoid any transfer of
3 money or other property in connection with
4 any qualified financial contract with a reg-
5 ulated entity.

6 “(ii) EXCEPTION FOR CERTAIN
7 TRANSFERS.—Clause (i) shall not apply to
8 any transfer of money or other property in
9 connection with any qualified financial con-
10 tract with a regulated entity if the Agency
11 determines that the transferee had actual
12 intent to hinder, delay, or defraud such
13 regulated entity, the creditors of such reg-
14 ulated entity, or any conservator or re-
15 ceiver appointed for such regulated entity.

16 “(D) CERTAIN CONTRACTS AND AGREE-
17 MENTS DEFINED.—In this subsection the fol-
18 lowing definitions shall apply:

19 “(i) QUALIFIED FINANCIAL CON-
20 TRACT.—The term ‘qualified financial con-
21 tract’ means any securities contract, com-
22 modity contract, forward contract, repur-
23 chase agreement, swap agreement, and any
24 similar agreement that the Agency deter-
25 mines by regulation, resolution, or order to

1 be a qualified financial contract for pur-
2 poses of this paragraph.

3 “(ii) SECURITIES CONTRACT.—The
4 term ‘securities contract’—

5 “(I) means a contract for the
6 purchase, sale, or loan of a security, a
7 certificate of deposit, a mortgage loan,
8 or any interest in a mortgage loan, a
9 group or index of securities, certifi-
10 cates of deposit, or mortgage loans or
11 interests therein (including any inter-
12 est therein or based on the value
13 thereof) or any option on any of the
14 foregoing, including any option to
15 purchase or sell any such security,
16 certificate of deposit, mortgage loan,
17 interest, group or index, or option,
18 and including any repurchase or re-
19 verse repurchase transaction on any
20 such security, certificate of deposit,
21 mortgage loan, interest, group or
22 index, or option;

23 “(II) does not include any pur-
24 chase, sale, or repurchase obligation
25 under a participation in a commercial

1 mortgage loan, unless the Agency de-
2 termines by regulation, resolution, or
3 order to include any such agreement
4 within the meaning of such term;

5 “(III) means any option entered
6 into on a national securities exchange
7 relating to foreign currencies;

8 “(IV) means the guarantee by or
9 to any securities clearing agency of
10 any settlement of cash, securities, cer-
11 tificates of deposit, mortgage loans or
12 interests therein, group or index of se-
13 curities, certificates of deposit, or
14 mortgage loans or interests therein
15 (including any interest therein or
16 based on the value thereof) or option
17 on any of the foregoing, including any
18 option to purchase or sell any such se-
19 curity, certificate of deposit, mortgage
20 loan, interest, group or index, or op-
21 tion;

22 “(V) means any margin loan;

23 “(VI) means any other agree-
24 ment or transaction that is similar to

1 any agreement or transaction referred
2 to in this clause;

3 “(VII) means any combination of
4 the agreements or transactions re-
5 ferred to in this clause;

6 “(VIII) means any option to
7 enter into any agreement or trans-
8 action referred to in this clause;

9 “(IX) means a master agreement
10 that provides for an agreement or
11 transaction referred to in subclause
12 (I), (III), (IV), (V), (VI), (VII), or
13 (VIII), together with all supplements
14 to any such master agreement, with-
15 out regard to whether the master
16 agreement provides for an agreement
17 or transaction that is not a securities
18 contract under this clause, except that
19 the master agreement shall be consid-
20 ered to be a securities contract under
21 this clause only with respect to each
22 agreement or transaction under the
23 master agreement that is referred to
24 in subclause (I), (III), (IV), (V), (VI),
25 (VII), or (VIII); and

1 “(X) means any security agree-
2 ment or arrangement or other credit
3 enhancement related to any agree-
4 ment or transaction referred to in this
5 clause, including any guarantee or re-
6 imbursement obligation in connection
7 with any agreement or transaction re-
8 ferred to in this clause.

9 “(iii) COMMODITY CONTRACT.—The
10 term ‘commodity contract’ means—

11 “(I) with respect to a futures
12 commission merchant, a contract for
13 the purchase or sale of a commodity
14 for future delivery on, or subject to
15 the rules of, a contract market or
16 board of trade;

17 “(II) with respect to a foreign fu-
18 tures commission merchant, a foreign
19 future;

20 “(III) with respect to a leverage
21 transaction merchant, a leverage
22 transaction;

23 “(IV) with respect to a clearing
24 organization, a contract for the pur-
25 chase or sale of a commodity for fu-

1 ture delivery on, or subject to the
2 rules of, a contract market or board
3 of trade that is cleared by such clear-
4 ing organization, or commodity option
5 traded on, or subject to the rules of,
6 a contract market or board of trade
7 that is cleared by such clearing orga-
8 nization;

9 “(V) with respect to a commodity
10 options dealer, a commodity option;

11 “(VI) any other agreement or
12 transaction that is similar to any
13 agreement or transaction referred to
14 in this clause;

15 “(VII) any combination of the
16 agreements or transactions referred to
17 in this clause;

18 “(VIII) any option to enter into
19 any agreement or transaction referred
20 to in this clause;

21 “(IX) a master agreement that
22 provides for an agreement or trans-
23 action referred to in subclause (I),
24 (II), (III), (IV), (V), (VI), (VII), or
25 (VIII), together with all supplements

1 to any such master agreement, with-
2 out regard to whether the master
3 agreement provides for an agreement
4 or transaction that is not a com-
5 modity contract under this clause, ex-
6 cept that the master agreement shall
7 be considered to be a commodity con-
8 tract under this clause only with re-
9 spect to each agreement or trans-
10 action under the master agreement
11 that is referred to in subclause (I),
12 (II), (III), (IV), (V), (VI), (VII), or
13 (VIII); or

14 “(X) any security agreement or
15 arrangement or other credit enhance-
16 ment related to any agreement or
17 transaction referred to in this clause,
18 including any guarantee or reimburse-
19 ment obligation in connection with
20 any agreement or transaction referred
21 to in this clause.

22 “(iv) FORWARD CONTRACT.—The
23 term ‘forward contract’ means—

24 “(I) a contract (other than a
25 commodity contract) for the purchase,

1 sale, or transfer of a commodity or
2 any similar good, article, service,
3 right, or interest which is presently or
4 in the future becomes the subject of
5 dealing in the forward contract trade,
6 or product or byproduct thereof, with
7 a maturity date more than 2 days
8 after the date on which the contract is
9 entered into, including a repurchase
10 transaction, reverse repurchase trans-
11 action, consignment, lease, swap,
12 hedge transaction, deposit, loan, op-
13 tion, allocated transaction, unallocated
14 transaction, or any other similar
15 agreement;

16 “(II) any combination of agree-
17 ments or transactions referred to in
18 subclauses (I) and (III);

19 “(III) any option to enter into
20 any agreement or transaction referred
21 to in subclause (I) or (II);

22 “(IV) a master agreement that
23 provides for an agreement or trans-
24 action referred to in subclauses (I),
25 (II), or (III), together with all supple-

1 ments to any such master agreement,
2 without regard to whether the master
3 agreement provides for an agreement
4 or transaction that is not a forward
5 contract under this clause, except that
6 the master agreement shall be consid-
7 ered to be a forward contract under
8 this clause only with respect to each
9 agreement or transaction under the
10 master agreement that is referred to
11 in subclause (I), (II), or (III); or

12 “(V) any security agreement or
13 arrangement or other credit enhance-
14 ment related to any agreement or
15 transaction referred to in subclause
16 (I), (II), (III), or (IV), including any
17 guarantee or reimbursement obliga-
18 tion in connection with any agreement
19 or transaction referred to in any such
20 subclause.

21 “(v) REPURCHASE AGREEMENT.—The
22 term ‘repurchase agreement’ (including a
23 reverse repurchase agreement)—

24 “(I) means an agreement, includ-
25 ing related terms, which provides for

1 the transfer of one or more certifi-
2 cates of deposit, mortgage-related se-
3 curities (as such term is defined in
4 section 3 of the Securities Exchange
5 Act of 1934), mortgage loans, inter-
6 ests in mortgage-related securities or
7 mortgage loans, eligible bankers' ac-
8 ceptances, qualified foreign govern-
9 ment securities (defined for purposes
10 of this clause as a security that is a
11 direct obligation of, or that is fully
12 guaranteed by, the central government
13 of a member of the Organization for
14 Economic Cooperation and Develop-
15 ment, as determined by regulation or
16 order adopted by the appropriate Fed-
17 eral banking authority), or securities
18 that are direct obligations of, or that
19 are fully guaranteed by, the United
20 States or any agency of the United
21 States against the transfer of funds
22 by the transferee of such certificates
23 of deposit, eligible bankers' accept-
24 ances, securities, mortgage loans, or
25 interests with a simultaneous agree-

1 ment by such transferee to transfer to
2 the transferor thereof certificates of
3 deposit, eligible bankers' acceptances,
4 securities, mortgage loans, or interests
5 as described above, at a date certain
6 not later than 1 year after such trans-
7 fers or on demand, against the trans-
8 fer of funds, or any other similar
9 agreement;

10 “(II) does not include any repur-
11 chase obligation under a participation
12 in a commercial mortgage loan, unless
13 the Agency determines by regulation,
14 resolution, or order to include any
15 such participation within the meaning
16 of such term;

17 “(III) means any combination of
18 agreements or transactions referred to
19 in subclauses (I) and (IV);

20 “(IV) means any option to enter
21 into any agreement or transaction re-
22 ferred to in subclause (I) or (III);

23 “(V) means a master agreement
24 that provides for an agreement or
25 transaction referred to in subclause

1 (I), (III), or (IV), together with all
2 supplements to any such master
3 agreement, without regard to whether
4 the master agreement provides for an
5 agreement or transaction that is not a
6 repurchase agreement under this
7 clause, except that the master agree-
8 ment shall be considered to be a re-
9 purchase agreement under this sub-
10 clause only with respect to each agree-
11 ment or transaction under the master
12 agreement that is referred to in sub-
13 clause (I), (III), or (IV); and

14 “(VI) means any security agree-
15 ment or arrangement or other credit
16 enhancement related to any agree-
17 ment or transaction referred to in
18 subclause (I), (III), (IV), or (V), in-
19 cluding any guarantee or reimburse-
20 ment obligation in connection with
21 any agreement or transaction referred
22 to in any such subclause.

23 “(vi) SWAP AGREEMENT.—The term
24 ‘swap agreement’ means—

1 “(I) any agreement, including the
2 terms and conditions incorporated by
3 reference in any such agreement,
4 which is an interest rate swap, option,
5 future, or forward agreement, includ-
6 ing a rate floor, rate cap, rate collar,
7 cross-currency rate swap, and basis
8 swap; a spot, same day-tomorrow, to-
9 morrow-next, forward, or other for-
10 eign exchange or precious metals
11 agreement; a currency swap, option,
12 future, or forward agreement; an eq-
13 uity index or equity swap, option, fu-
14 ture, or forward agreement; a debt
15 index or debt swap, option, future, or
16 forward agreement; a total return,
17 credit spread or credit swap, option,
18 future, or forward agreement; a com-
19 modity index or commodity swap, op-
20 tion, future, or forward agreement; or
21 a weather swap, weather derivative, or
22 weather option;

23 “(II) any agreement or trans-
24 action that is similar to any other
25 agreement or transaction referred to

1 in this clause and that is of a type
2 that has been, is presently, or in the
3 future becomes, the subject of recur-
4 rent dealings in the swap markets (in-
5 cluding terms and conditions incor-
6 porated by reference in such agree-
7 ment) and that is a forward, swap, fu-
8 ture, or option on one or more rates,
9 currencies, commodities, equity securi-
10 ties or other equity instruments, debt
11 securities or other debt instruments,
12 quantitative measures associated with
13 an occurrence, extent of an occur-
14 rence, or contingency associated with
15 a financial, commercial, or economic
16 consequence, or economic or financial
17 indices or measures of economic or fi-
18 nancial risk or value;

19 “(III) any combination of agree-
20 ments or transactions referred to in
21 this clause;

22 “(IV) any option to enter into
23 any agreement or transaction referred
24 to in this clause;

1 “(V) a master agreement that
2 provides for an agreement or trans-
3 action referred to in subclause (I),
4 (II), (III), or (IV), together with all
5 supplements to any such master
6 agreement, without regard to whether
7 the master agreement contains an
8 agreement or transaction that is not a
9 swap agreement under this clause, ex-
10 cept that the master agreement shall
11 be considered to be a swap agreement
12 under this clause only with respect to
13 each agreement or transaction under
14 the master agreement that is referred
15 to in subclause (I), (II), (III), or (IV);
16 and

17 “(VI) any security agreement or
18 arrangement or other credit enhance-
19 ment related to any agreements or
20 transactions referred to in subclause
21 (I), (II), (III), (IV), or (V), including
22 any guarantee or reimbursement obli-
23 gation in connection with any agree-
24 ment or transaction referred to in any
25 such subclause.

1 “(vii) TREATMENT OF MASTER
2 AGREEMENT AS ONE AGREEMENT.—Any
3 master agreement for any contract or
4 agreement described in any preceding
5 clause of this subparagraph (or any master
6 agreement for such master agreement or
7 agreements), together with all supplements
8 to such master agreement, shall be treated
9 as a single agreement and a single quali-
10 fied financial contract. If a master agree-
11 ment contains provisions relating to agree-
12 ments or transactions that are not them-
13 selves qualified financial contracts, the
14 master agreement shall be deemed to be a
15 qualified financial contract only with re-
16 spect to those transactions that are them-
17 selves qualified financial contracts.

18 “(viii) TRANSFER.—The term ‘trans-
19 fer’ means every mode, direct or indirect,
20 absolute or conditional, voluntary or invol-
21 untary, of disposing of or parting with
22 property or with an interest in property,
23 including retention of title as a security in-
24 terest and foreclosure of the equity of re-
25 demption of the regulated entity.

1 “(E) CERTAIN PROTECTIONS IN EVENT OF
2 APPOINTMENT OF CONSERVATOR.—Notwith-
3 standing any other provision of this section, any
4 other Federal law, or the law of any State
5 (other than paragraph (10) of this subsection
6 and subsection (b)(9)(B)), no person shall be
7 stayed or prohibited from exercising—

8 “(i) any right such person has to
9 cause the termination, liquidation, or accel-
10 eration of any qualified financial contract
11 with a regulated entity in a conservator-
12 ship based upon a default under such fi-
13 nancial contract which is enforceable under
14 applicable noninsolvency law;

15 “(ii) any right under any security
16 agreement or arrangement or other credit
17 enhancement relating to 1 or more such
18 qualified financial contracts; or

19 “(iii) any right to offset or net out
20 any termination values, payment amounts,
21 or other transfer obligations arising under
22 or in connection with such qualified finan-
23 cial contracts.

24 “(F) CLARIFICATION.—No provision of law
25 shall be construed as limiting the right or

1 power of the Agency, or authorizing any court
2 or agency to limit or delay in any manner, the
3 right or power of the Agency to transfer any
4 qualified financial contract in accordance with
5 paragraphs (9) and (10), or to disaffirm or re-
6 pudiate any such contract in accordance with
7 subsection (d)(1).

8 “(G) WALKAWAY CLAUSES NOT EFFEC-
9 TIVE.—

10 “(i) IN GENERAL.—Notwithstanding
11 the provisions of subparagraphs (A) and
12 (E), and sections 403 and 404 of the Fed-
13 eral Deposit Insurance Corporation Im-
14 provement Act of 1991, no walkaway
15 clause shall be enforceable in a qualified fi-
16 nancial contract of a regulated entity in
17 default.

18 “(ii) WALKAWAY CLAUSE DEFINED.—
19 For purposes of this subparagraph, the
20 term ‘walkaway clause’ means a provision
21 in a qualified financial contract that, after
22 calculation of a value of a party’s position
23 or an amount due to or from 1 of the par-
24 ties in accordance with its terms upon ter-
25 mination, liquidation, or acceleration of the

1 qualified financial contract, either does not
2 create a payment obligation of a party or
3 extinguishes a payment obligation of a
4 party in whole or in part solely because of
5 the status of such party as a nondefaulting
6 party.

7 “(9) TRANSFER OF QUALIFIED FINANCIAL CON-
8 TRACTS.—In making any transfer of assets or liabil-
9 ities of a regulated entity in default which includes
10 any qualified financial contract, the conservator or
11 receiver for such regulated entity shall either—

12 “(A) transfer to 1 person—

13 “(i) all qualified financial contracts
14 between any person (or any affiliate of
15 such person) and the regulated entity in
16 default;

17 “(ii) all claims of such person (or any
18 affiliate of such person) against such regu-
19 lated entity under any such contract (other
20 than any claim which, under the terms of
21 any such contract, is subordinated to the
22 claims of general unsecured creditors of
23 such regulated entity);

1 “(iii) all claims of such regulated enti-
2 ty against such person (or any affiliate of
3 such person) under any such contract; and

4 “(iv) all property securing, or any
5 other credit enhancement for any contract
6 described in clause (i), or any claim de-
7 scribed in clause (ii) or (iii) under any
8 such contract; or

9 “(B) transfer none of the financial con-
10 tracts, claims, or property referred to under
11 subparagraph (A) (with respect to such person
12 and any affiliate of such person).

13 “(10) NOTIFICATION OF TRANSFER.—

14 “(A) IN GENERAL.—The conservator or re-
15 ceiver shall notify any person that is a party to
16 a contract or transfer by 5:00 p.m. (Eastern
17 Standard Time) on the business day following
18 the date of the appointment of the receiver in
19 the case of a receivership, or the business day
20 following such transfer in the case of a con-
21 servatorship, if—

22 “(i) the conservator or receiver for a
23 regulated entity in default makes any
24 transfer of the assets and liabilities of such
25 regulated entity; and

1 “(ii) such transfer includes any quali-
2 fied financial contract.

3 “(B) CERTAIN RIGHTS NOT ENFORCE-
4 ABLE.—

5 “(i) RECEIVERSHIP.—A person who is
6 a party to a qualified financial contract
7 with a regulated entity may not exercise
8 any right that such person has to termi-
9 nate, liquidate, or net such contract under
10 paragraph (8)(A) of this subsection or
11 under section 403 or 404 of the Federal
12 Deposit Insurance Corporation Improve-
13 ment Act of 1991, solely by reason of or
14 incidental to the appointment of a receiver
15 for the regulated entity (or the insolvency
16 or financial condition of the regulated enti-
17 ty for which the receiver has been ap-
18 pointed)—

19 “(I) until 5:00 p.m. (Eastern
20 Standard Time) on the business day
21 following the date of the appointment
22 of the receiver; or

23 “(II) after the person has re-
24 ceived notice that the contract has

1 been transferred pursuant to para-
2 graph (9)(A).

3 “(ii) CONSERVATORSHIP.—A person
4 who is a party to a qualified financial con-
5 tract with a regulated entity may not exer-
6 cise any right that such person has to ter-
7 minate, liquidate, or net such contract
8 under paragraph (8)(E) of this subsection
9 or under section 403 or 404 of the Federal
10 Deposit Insurance Corporation Improve-
11 ment Act of 1991, solely by reason of or
12 incidental to the appointment of a conser-
13 vator for the regulated entity (or the insol-
14 vency or financial condition of the regu-
15 lated entity for which the conservator has
16 been appointed).

17 “(iii) NOTICE.—For purposes of this
18 paragraph, the conservator or receiver of a
19 regulated entity shall be deemed to have
20 notified a person who is a party to a quali-
21 fied financial contract with such regulated
22 entity, if the conservator or receiver has
23 taken steps reasonably calculated to pro-
24 vide notice to such person by the time
25 specified in subparagraph (A).

1 “(C) BUSINESS DAY DEFINED.—For pur-
2 poses of this paragraph, the term ‘business day’
3 means any day other than any Saturday, Sun-
4 day, or any day on which either the New York
5 Stock Exchange or the Federal Reserve Bank
6 of New York is closed.

7 “(11) DISAFFIRMANCE OR REPUDIATION OF
8 QUALIFIED FINANCIAL CONTRACTS.—In exercising
9 the rights of disaffirmance or repudiation of a con-
10 servator or receiver with respect to any qualified fi-
11 nancial contract to which a regulated entity is a
12 party, the conservator or receiver for such institution
13 shall either—

14 “(A) disaffirm or repudiate all qualified fi-
15 nancial contracts between—

16 “(i) any person or any affiliate of
17 such person; and

18 “(ii) the regulated entity in default; or

19 “(B) disaffirm or repudiate none of the
20 qualified financial contracts referred to in sub-
21 paragraph (A) (with respect to such person or
22 any affiliate of such person).

23 “(12) CERTAIN SECURITY INTERESTS NOT
24 AVOIDABLE.—No provision of this subsection shall
25 be construed as permitting the avoidance of any le-

1 gally enforceable or perfected security interest in any
2 of the assets of any regulated entity, except where
3 such an interest is taken in contemplation of the in-
4 solvency of the regulated entity, or with the intent
5 to hinder, delay, or defraud the regulated entity or
6 the creditors of such regulated entity.

7 “(13) AUTHORITY TO ENFORCE CONTRACTS.—

8 “(A) IN GENERAL.—Notwithstanding any
9 provision of a contract providing for termi-
10 nation, default, acceleration, or exercise of
11 rights upon, or solely by reason of, insolvency
12 or the appointment of, or the exercise of rights
13 or powers by, a conservator or receiver, the con-
14 servator or receiver may enforce any contract,
15 other than a contract for liability insurance for
16 a director or officer, or a contract or a regu-
17 lated entity bond, entered into by the regulated
18 entity.

19 “(B) CERTAIN RIGHTS NOT AFFECTED.—

20 No provision of this paragraph may be con-
21 strued as impairing or affecting any right of the
22 conservator or receiver to enforce or recover
23 under a liability insurance contract for an offi-
24 cer or director, or regulated entity bond under
25 other applicable law.

1 “(C) CONSENT REQUIREMENT.—

2 “(i) IN GENERAL.—Except as other-
3 wise provided under this section, no person
4 may exercise any right or power to termi-
5 nate, accelerate, or declare a default under
6 any contract to which a regulated entity is
7 a party, or to obtain possession of or exer-
8 cise control over any property of the regu-
9 lated entity, or affect any contractual
10 rights of the regulated entity, without the
11 consent of the conservator or receiver, as
12 appropriate, for a period of—

13 “(I) 45 days after the date of ap-
14 pointment of a conservator; or

15 “(II) 90 days after the date of
16 appointment of a receiver.

17 “(ii) EXCEPTIONS.—This subpara-
18 graph shall not—

19 “(I) apply to a contract for liabil-
20 ity insurance for an officer or direc-
21 tor;

22 “(II) apply to the rights of par-
23 ties to certain qualified financial con-
24 tracts under subsection (d)(8); and

1 “(III) be construed as permitting
2 the conservator or receiver to fail to
3 comply with otherwise enforceable
4 provisions of such contracts.

5 “(14) SAVINGS CLAUSE.—The meanings of
6 terms used in this subsection are applicable for pur-
7 poses of this subsection only, and shall not be con-
8 strued or applied so as to challenge or affect the
9 characterization, definition, or treatment of any
10 similar terms under any other statute, regulation, or
11 rule, including the Gramm-Leach-Bliley Act, the
12 Legal Certainty for Bank Products Act of 2000, the
13 securities laws (as that term is defined in section
14 3(a)(47) of the Securities Exchange Act of 1934),
15 and the Commodity Exchange Act.

16 “(15) EXCEPTION FOR FEDERAL RESERVE AND
17 FEDERAL HOME LOAN BANKS.—No provision of this
18 subsection shall apply with respect to—

19 “(A) any extension of credit from any Fed-
20 eral Home Loan Bank or Federal Reserve
21 Bank to any regulated entity; or

22 “(B) any security interest in the assets of
23 the regulated entity securing any such extension
24 of credit.

25 “(e) VALUATION OF CLAIMS IN DEFAULT.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of Federal law or the law of any State, and
3 regardless of the method which the Agency deter-
4 mines to utilize with respect to a regulated entity in
5 default or in danger of default, including trans-
6 actions authorized under subsection (i), this sub-
7 section shall govern the rights of the creditors of
8 such regulated entity.

9 “(2) MAXIMUM LIABILITY.—The maximum li-
10 ability of the Agency, acting as receiver or in any
11 other capacity, to any person having a claim against
12 the receiver or the regulated entity for which such
13 receiver is appointed shall be not more than the
14 amount that such claimant would have received if
15 the Agency had liquidated the assets and liabilities
16 of the regulated entity without exercising the author-
17 ity of the Agency under subsection (i).

18 “(f) LIMITATION ON COURT ACTION.—Except as
19 provided in this section or at the request of the Director,
20 no court may take any action to restrain or affect the exer-
21 cise of powers or functions of the Agency as a conservator
22 or a receiver.

23 “(g) LIABILITY OF DIRECTORS AND OFFICERS.—

24 “(1) IN GENERAL.—A director or officer of a
25 regulated entity may be held personally liable for

1 monetary damages in any civil action described in
2 paragraph (2) brought by, on behalf of, or at the re-
3 quest or direction of the Agency, and prosecuted
4 wholly or partially for the benefit of the Agency—

5 “(A) acting as conservator or receiver of
6 such regulated entity; or

7 “(B) acting based upon a suit, claim, or
8 cause of action purchased from, assigned by, or
9 otherwise conveyed by such receiver or conser-
10 vator.

11 “(2) ACTIONS ADDRESSED.—Paragraph (1) ap-
12 plies in any civil action for gross negligence, includ-
13 ing any similar conduct or conduct that dem-
14 onstrates a greater disregard of a duty of care than
15 gross negligence, including intentional tortious con-
16 duct, as such terms are defined and determined
17 under applicable State law.

18 “(3) NO LIMITATION.—Nothing in this sub-
19 section shall impair or affect any right of the Agency
20 under other applicable law.

21 “(h) DAMAGES.—In any proceeding related to any
22 claim against a director, officer, employee, agent, attorney,
23 accountant, appraiser, or any other party employed by or
24 providing services to a regulated entity, recoverable dam-
25 ages determined to result from the improvident or other-

1 wise improper use or investment of any assets of the regu-
2 lated entity shall include principal losses and appropriate
3 interest.

4 “(i) LIMITED-LIFE REGULATED ENTITIES.—

5 “(1) ORGANIZATION.—

6 “(A) PURPOSE.—The Agency, as receiver
7 appointed pursuant to subsection (a)—

8 “(i) may, in the case of a Federal
9 Home Loan Bank, organize a limited-life
10 regulated entity with those powers and at-
11 tributes of the Federal Home Loan Bank
12 in default or in danger of default as the
13 Director determines necessary, subject to
14 the provisions of this subsection, and the
15 Director shall grant a temporary charter to
16 that limited-life regulated entity, and that
17 limited-life regulated entity may operate
18 subject to that charter; and

19 “(ii) shall, in the case of an enter-
20 prise, organize a limited-life regulated enti-
21 ty with respect to that enterprise in ac-
22 cordance with this subsection.

23 “(B) AUTHORITIES.—Upon the creation of
24 a limited-life regulated entity under subpara-

1 graph (A), the limited-life regulated entity
2 may—

3 “(i) assume such liabilities of the reg-
4 ulated entity that is in default or in danger
5 of default as the Agency may, in its discre-
6 tion, determine to be appropriate, except
7 that the liabilities assumed shall not exceed
8 the amount of assets purchased or trans-
9 ferred from the regulated entity to the lim-
10 ited-life regulated entity;

11 “(ii) purchase such assets of the regu-
12 lated entity that is in default, or in danger
13 of default as the Agency may, in its discre-
14 tion, determine to be appropriate; and

15 “(iii) perform any other temporary
16 function which the Agency may, in its dis-
17 cretion, prescribe in accordance with this
18 section.

19 “(2) CHARTER AND ESTABLISHMENT.—

20 “(A) TRANSFER OF CHARTER.—

21 “(i) FANNIE MAE.—If the Agency is
22 appointed as receiver for the Federal Na-
23 tional Mortgage Association, the limited-
24 life regulated entity established under this
25 subsection with respect to such enterprise

1 shall, by operation of law and immediately
2 upon its organization—

3 “(I) succeed to the charter of the
4 Federal National Mortgage Associa-
5 tion, as set forth in the Federal Na-
6 tional Mortgage Association Charter
7 Act; and

8 “(II) thereafter operate in ac-
9 cordance with, and subject to, such
10 charter, this Act, and any other provi-
11 sion of law to which the Federal Na-
12 tional Mortgage Association is subject,
13 except as otherwise provided in this
14 subsection.

15 “(ii) FREDDIE MAC.—If the Agency is
16 appointed as receiver for the Federal
17 Home Loan Mortgage Corporation, the
18 limited-life regulated entity established
19 under this subsection with respect to such
20 enterprise shall, by operation of law and
21 immediately upon its organization—

22 “(I) succeed to the charter of the
23 Federal Home Loan Mortgage Cor-
24 poration, as set forth in the Federal

1 Home Loan Mortgage Corporation
2 Charter Act; and

3 “(II) thereafter operate in ac-
4 cordance with, and subject to, such
5 charter, this Act, and any other provi-
6 sion of law to which the Federal
7 Home Loan Mortgage Corporation is
8 subject, except as otherwise provided
9 in this subsection.

10 “(B) INTERESTS IN AND ASSETS AND OB-
11 LIGATIONS OF REGULATED ENTITY IN DE-
12 FAULT.—Notwithstanding subparagraph (A) or
13 any other provision of law—

14 “(i) a limited-life regulated entity
15 shall assume, acquire, or succeed to the as-
16 sets or liabilities of a regulated entity only
17 to the extent that such assets or liabilities
18 are transferred by the Agency to the lim-
19 ited-life regulated entity in accordance
20 with, and subject to the restrictions set
21 forth in, paragraph (1)(B);

22 “(ii) a limited-life regulated entity
23 shall not assume, acquire, or succeed to
24 any obligation that a regulated entity for
25 which a receiver has been appointed may

1 have to any shareholder of the regulated
2 entity that arises as a result of the status
3 of that person as a shareholder of the reg-
4 ulated entity; and

5 “(iii) no shareholder or creditor of a
6 regulated entity shall have any right or
7 claim against the charter of the regulated
8 entity once the Agency has been appointed
9 receiver for the regulated entity and a lim-
10 ited-life regulated entity succeeds to the
11 charter pursuant to subparagraph (A).

12 “(C) LIMITED-LIFE REGULATED ENTITY
13 TREATED AS BEING IN DEFAULT FOR CERTAIN
14 PURPOSES.—A limited-life regulated entity shall
15 be treated as a regulated entity in default at
16 such times and for such purposes as the Agency
17 may, in its discretion, determine.

18 “(D) MANAGEMENT.—Upon its establish-
19 ment, a limited-life regulated entity shall be
20 under the management of a board of directors
21 consisting of not fewer than 5 nor more than
22 10 members appointed by the Agency.

23 “(E) BYLAWS.—The board of directors of
24 a limited-life regulated entity shall adopt such
25 bylaws as may be approved by the Agency.

1 “(3) CAPITAL STOCK.—

2 “(A) NO AGENCY REQUIREMENT.—

3 The Agency is not required to pay capital
4 stock into a limited-life regulated entity or
5 to issue any capital stock on behalf of a
6 limited-life regulated entity established
7 under this subsection.

8 “(B) AUTHORITY.—If the Director
9 determines that such action is advisable,
10 the Agency may cause capital stock or
11 other securities of a limited-life regulated
12 entity established with respect to an enter-
13 prise to be issued and offered for sale, in
14 such amounts and on such terms and con-
15 ditions as the Director may determine, in
16 the discretion of the Director.

17 “(4) INVESTMENTS.—Funds of a limited-life
18 regulated entity shall be kept on hand in cash, in-
19 vested in obligations of the United States or obliga-
20 tions guaranteed as to principal and interest by the
21 United States, or deposited with the Agency, or any
22 Federal reserve bank.

23 “(5) EXEMPT TAX STATUS.—Notwithstanding
24 any other provision of Federal or State law, a lim-
25 ited-life regulated entity, its franchise, property, and

1 income shall be exempt from all taxation now or
2 hereafter imposed by the United States, by any ter-
3 ritory, dependency, or possession thereof, or by any
4 State, county, municipality, or local taxing authority.

5 “(6) WINDING UP.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graphs (B) and (C), not later than 2 years after
8 the date of its organization, the Agency shall
9 wind up the affairs of a limited-life regulated
10 entity.

11 “(B) EXTENSION.—The Director may, in
12 the discretion of the Director, extend the status
13 of a limited-life regulated entity for 3 additional
14 1-year periods.

15 “(C) TERMINATION OF STATUS AS LIM-
16 ITED-LIFE REGULATED ENTITY.—

17 “(i) IN GENERAL.—Upon the sale by
18 the Agency of 80 percent or more of the
19 capital stock of a limited-life regulated en-
20 tity, as defined in clause (iv), to 1 or more
21 persons (other than the Agency)—

22 “(I) the status of the limited-life
23 regulated entity as such shall termi-
24 nate; and

1 “(II) the entity shall cease to be
2 a limited-life regulated entity for pur-
3 poses of this subsection.

4 “(ii) DIVESTITURE OF REMAINING
5 STOCK, IF ANY.—

6 “(I) IN GENERAL.—Not later
7 than 1 year after the date on which
8 the status of a limited-life regulated
9 entity is terminated pursuant to
10 clause (i), the Agency shall sell to 1 or
11 more persons (other than the Agency)
12 any remaining capital stock of the
13 former limited-life regulated entity.

14 “(II) EXTENSION AUTHOR-
15 IZED.—The Director may extend the
16 period referred to in subclause (I) for
17 not longer than an additional 2 years,
18 if the Director determines that such
19 action would be in the public interest.

20 “(iii) SAVINGS CLAUSE.—Notwith-
21 standing any provision of law, other than
22 clause (ii), the Agency shall not be re-
23 quired to sell the capital stock of an enter-
24 prise or a limited-life regulated entity es-
25 tablished with respect to an enterprise.

1 “(iv) APPLICABILITY.—This subpara-
2 graph applies only with respect to a lim-
3 ited-life regulated entity that is established
4 with respect to an enterprise.

5 “(7) TRANSFER OF ASSETS AND LIABILITIES.—
6 “(A) IN GENERAL.—

7 “(i) TRANSFER OF ASSETS AND LI-
8 ABILITIES.—The Agency, as receiver, may
9 transfer any assets and liabilities of a reg-
10 ulated entity in default, or in danger of de-
11 fault, to the limited-life regulated entity in
12 accordance with and subject to the restric-
13 tions of paragraph (1).

14 “(ii) SUBSEQUENT TRANSFERS.—At
15 any time after the establishment of a lim-
16 ited-life regulated entity, the Agency, as
17 receiver, may transfer any assets and li-
18 abilities of the regulated entity in default,
19 or in danger of default, as the Agency
20 may, in its discretion, determine to be ap-
21 propriate in accordance with and subject to
22 the restrictions of paragraph (1).

23 “(iii) EFFECTIVE WITHOUT AP-
24 PROVAL.—The transfer of any assets or li-
25 abilities of a regulated entity in default or

1 in danger of default to a limited-life regu-
2 lated entity shall be effective without any
3 further approval under Federal or State
4 law, assignment, or consent with respect
5 thereto.

6 “(iv) EQUITABLE TREATMENT OF
7 SIMILARLY SITUATED CREDITORS.—The
8 Agency shall treat all creditors of a regu-
9 lated entity in default or in danger of de-
10 fault that are similarly situated under sub-
11 section (c)(1) in a similar manner in exer-
12 cising the authority of the Agency under
13 this subsection to transfer any assets or li-
14 abilities of the regulated entity to the lim-
15 ited-life regulated entity established with
16 respect to such regulated entity, except
17 that the Agency may take actions (includ-
18 ing making payments) that do not comply
19 with this clause, if—

20 “(I) the Director determines that
21 such actions are necessary to maxi-
22 mize the value of the assets of the
23 regulated entity, to maximize the
24 present value return from the sale or
25 other disposition of the assets of the

1 regulated entity, or to minimize the
2 amount of any loss realized upon the
3 sale or other disposition of the assets
4 of the regulated entity; and

5 “(II) all creditors that are simi-
6 larly situated under subsection (c)(1)
7 receive not less than the amount pro-
8 vided in subsection (e)(2).

9 “(v) LIMITATION ON TRANSFER OF
10 LIABILITIES.—Notwithstanding any other
11 provision of law, the aggregate amount of
12 liabilities of a regulated entity that are
13 transferred to, or assumed by, a limited-
14 life regulated entity may not exceed the ag-
15 gregate amount of assets of the regulated
16 entity that are transferred to, or purchased
17 by, the limited-life regulated entity.

18 “(8) REGULATIONS.—The Agency may promul-
19 gate such regulations as the Agency determines to
20 be necessary or appropriate to implement this sub-
21 section.

22 “(9) POWERS OF LIMITED-LIFE REGULATED
23 ENTITIES.—

24 “(A) IN GENERAL.—Each limited-life regu-
25 lated entity created under this subsection shall

1 have all corporate powers of, and be subject to
2 the same provisions of law as, the regulated en-
3 tity in default or in danger of default to which
4 it relates, except that—

5 “(i) the Agency may—

6 “(I) remove the directors of a
7 limited-life regulated entity;

8 “(II) fix the compensation of
9 members of the board of directors and
10 senior management, as determined by
11 the Agency in its discretion, of a lim-
12 ited-life regulated entity; and

13 “(III) indemnify the representa-
14 tives for purposes of paragraph
15 (1)(B), and the directors, officers, em-
16 ployees, and agents of a limited-life
17 regulated entity on such terms as the
18 Agency determines to be appropriate;
19 and

20 “(ii) the board of directors of a lim-
21 ited-life regulated entity—

22 “(I) shall elect a chairperson who
23 may also serve in the position of chief
24 executive officer, except that such per-
25 son shall not serve either as chair-

1 person or as chief executive officer
2 without the prior approval of the
3 Agency; and

4 “(II) may appoint a chief execu-
5 tive officer who is not also the chair-
6 person, except that such person shall
7 not serve as chief executive officer
8 without the prior approval of the
9 Agency.

10 “(B) STAY OF JUDICIAL ACTION.—Any ju-
11 dicial action to which a limited-life regulated
12 entity becomes a party by virtue of its acquisi-
13 tion of any assets or assumption of any liabil-
14 ities of a regulated entity in default shall be
15 stayed from further proceedings for a period of
16 not longer than 45 days, at the request of the
17 limited-life regulated entity. Such period may
18 be modified upon the consent of all parties.

19 “(10) NO FEDERAL STATUS.—

20 “(A) AGENCY STATUS.—A limited-life reg-
21 ulated entity is not an agency, establishment, or
22 instrumentality of the United States.

23 “(B) EMPLOYEE STATUS.—Representa-
24 tives for purposes of paragraph (1)(B), interim
25 directors, directors, officers, employees, or

1 agents of a limited-life regulated entity are not,
2 solely by virtue of service in any such capacity,
3 officers or employees of the United States. Any
4 employee of the Agency or of any Federal in-
5 strumentality who serves at the request of the
6 Agency as a representative for purposes of
7 paragraph (1)(B), interim director, director, of-
8 ficer, employee, or agent of a limited-life regu-
9 lated entity shall not—

10 “(i) solely by virtue of service in any
11 such capacity lose any existing status as
12 an officer or employee of the United States
13 for purposes of title 5, United States Code,
14 or any other provision of law; or

15 “(ii) receive any salary or benefits for
16 service in any such capacity with respect to
17 a limited-life regulated entity in addition to
18 such salary or benefits as are obtained
19 through employment with the Agency or
20 such Federal instrumentality.

21 “(11) AUTHORITY TO OBTAIN CREDIT.—

22 “(A) IN GENERAL.—A limited-life regu-
23 lated entity may obtain unsecured credit and
24 issue unsecured debt.

1 “(B) INABILITY TO OBTAIN CREDIT.—If a
2 limited-life regulated entity is unable to obtain
3 unsecured credit or issue unsecured debt, the
4 Director may authorize the obtaining of credit
5 or the issuance of debt by the limited-life regu-
6 lated entity—

7 “(i) with priority over any or all of
8 the obligations of the limited-life regulated
9 entity;

10 “(ii) secured by a lien on property of
11 the limited-life regulated entity that is not
12 otherwise subject to a lien; or

13 “(iii) secured by a junior lien on prop-
14 erty of the limited-life regulated entity that
15 is subject to a lien.

16 “(C) LIMITATIONS.—

17 “(i) IN GENERAL.—The Director,
18 after notice and a hearing, may authorize
19 the obtaining of credit or the issuance of
20 debt by a limited-life regulated entity that
21 is secured by a senior or equal lien on
22 property of the limited-life regulated entity
23 that is subject to a lien (other than mort-
24 gages that collateralize the mortgage-

1 backed securities issued or guaranteed by
2 an enterprise) only if—

3 “(I) the limited-life regulated en-
4 tity is unable to otherwise obtain such
5 credit or issue such debt; and

6 “(II) there is adequate protection
7 of the interest of the holder of the lien
8 on the property with respect to which
9 such senior or equal lien is proposed
10 to be granted.

11 “(D) BURDEN OF PROOF.—In any hearing
12 under this subsection, the Director has the bur-
13 den of proof on the issue of adequate protec-
14 tion.

15 “(12) EFFECT ON DEBTS AND LIENS.—The re-
16 versal or modification on appeal of an authorization
17 under this subsection to obtain credit or issue debt,
18 or of a grant under this section of a priority or a
19 lien, does not affect the validity of any debt so
20 issued, or any priority or lien so granted, to an enti-
21 ty that extended such credit in good faith, whether
22 or not such entity knew of the pendency of the ap-
23 peal, unless such authorization and the issuance of
24 such debt, or the granting of such priority or lien,
25 were stayed pending appeal.

1 “(j) OTHER AGENCY EXEMPTIONS.—

2 “(1) APPLICABILITY.—The provisions of this
3 subsection shall apply with respect to the Agency in
4 any case in which the Agency is acting as a conser-
5 vator or a receiver.

6 “(2) TAXATION.—The Agency, including its
7 franchise, its capital, reserves, and surplus, and its
8 income, shall be exempt from all taxation imposed
9 by any State, county, municipality, or local taxing
10 authority, except that any real property of the Agen-
11 cy shall be subject to State, territorial, county, mu-
12 nicipal, or local taxation to the same extent accord-
13 ing to its value as other real property is taxed, ex-
14 cept that, notwithstanding the failure of any person
15 to challenge an assessment under State law of the
16 value of such property, and the tax thereon, shall be
17 determined as of the period for which such tax is im-
18 posed.

19 “(3) PROPERTY PROTECTION.—No property of
20 the Agency shall be subject to levy, attachment, gar-
21 nishment, foreclosure, or sale without the consent of
22 the Agency, nor shall any involuntary lien attach to
23 the property of the Agency.

24 “(4) PENALTIES AND FINES.—The Agency
25 shall not be liable for any amounts in the nature of

1 penalties or fines, including those arising from the
2 failure of any person to pay any real property, per-
3 sonal property, probate, or recording tax or any re-
4 cording or filing fees when due.

5 “(k) PROHIBITION OF CHARTER REVOCATION.—In
6 no case may the receiver appointed pursuant to this sec-
7 tion revoke, annul, or terminate the charter of an enter-
8 prise.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
10 The Federal Housing Enterprises Financial Safety and
11 Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amend-
12 ed—

13 (1) in section 1368 (12 U.S.C. 4618)—

14 (A) by striking “an enterprise” each place
15 that term appears and inserting “a regulated
16 entity”; and

17 (B) by striking “the enterprise” each place
18 that term appears and inserting “the regulated
19 entity”;

20 (2) in section 1369C (12 U.S.C. 4622), by
21 striking “enterprise” each place that term appears
22 and inserting “regulated entity”;

23 (3) in section 1369D (12 U.S.C. 4623)—

1 (A) by striking “an enterprise” each place
2 that term appears and inserting “a regulated
3 entity”; and

4 (B) in subsection (a)(1), by striking “An
5 enterprise” and inserting “A regulated entity”;
6 and

7 (4) by striking sections 1369, 1369A, and
8 1369B (12 U.S.C. 4619, 4620, and 4621).

9 **Subtitle D—Enforcement Actions**

10 **SEC. 1151. CEASE AND DESIST PROCEEDINGS.**

11 Section 1371 of the Federal Housing Enterprises Fi-
12 nancial Safety and Soundness Act of 1992 (12 U.S.C.
13 4631) is amended—

14 (1) by striking subsections (a) and (b) and in-
15 serting the following:

16 “(a) **ISSUANCE FOR UNSAFE OR UNSOUND PRAC-**
17 **TICES AND VIOLATIONS.—**

18 “(1) **AUTHORITY OF DIRECTOR.—**If, in the
19 opinion of the Director, a regulated entity or any en-
20 tity-affiliated party is engaging or has engaged, or
21 the Director has reasonable cause to believe that the
22 regulated entity or any entity-affiliated party is
23 about to engage, in an unsafe or unsound practice
24 in conducting the business of the regulated entity or
25 the Office of Finance, or is violating or has violated,

1 or the Director has reasonable cause to believe is
2 about to violate, a law, rule, regulation, or order, or
3 any condition imposed in writing by the Director in
4 connection with the granting of any application or
5 other request by the regulated entity or the Office
6 of Finance or any written agreement entered into
7 with the Director, the Director may issue and serve
8 upon the regulated entity or entity-affiliated party a
9 notice of charges in respect thereof.

10 “(2) LIMITATION.—The Director may not, pur-
11 suant to this section, enforce compliance with any
12 housing goal established under subpart B of part 2
13 of subtitle A of this title, with section 1336 or 1337
14 of this title, with subsection (m) or (n) of section
15 309 of the Federal National Mortgage Association
16 Charter Act (12 U.S.C. 1723a(m), (n)), with sub-
17 section (e) or (f) of section 307 of the Federal Home
18 Loan Mortgage Corporation Act (12 U.S.C. 1456(e),
19 (f)), or with paragraph (5) of section 10(j) of the
20 Federal Home Loan Bank Act (12 U.S.C. 1430(j)).

21 “(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a
22 regulated entity receives, in its most recent report of ex-
23 amination, a less-than-satisfactory rating for asset quality,
24 management, earnings, or liquidity, the Director may (if
25 the deficiency is not corrected) deem the regulated entity

1 to be engaging in an unsafe or unsound practice for pur-
2 poses of subsection (a).”;

3 (2) in subsection (c)—

4 (A) in paragraph (1), by inserting before
5 the period at the end the following: “, unless
6 the party served with a notice of charges shall
7 appear at the hearing personally or by a duly
8 authorized representative, the party shall be
9 deemed to have consented to the issuance of the
10 cease and desist order”; and

11 (B) in paragraph (2)—

12 (i) by striking “or director” and in-
13 serting “director, or entity-affiliated
14 party”; and

15 (ii) by inserting “or entity-affiliated
16 party” before “consents”;

17 (3) in each of subsections (c), (d), and (e)—

18 (A) by striking “the enterprise” each place
19 that term appears and inserting “the regulated
20 entity”;

21 (B) by striking “an enterprise” each place
22 that term appears and inserting “a regulated
23 entity”; and

24 (C) by striking “conduct” each place that
25 term appears and inserting “practice”;

1 (4) in subsection (d)—

2 (A) in the matter preceding paragraph

3 (1)—

4 (i) by striking “or director” and in-
5 serting “director, or entity-affiliated
6 party”; and

7 (ii) by inserting “to require a regu-
8 lated entity or entity-affiliated party” after
9 “includes the authority”;

10 (B) in paragraph (1)—

11 (i) by striking “to require an executive
12 officer or a director to”; and

13 (ii) by striking “loss” and all that fol-
14 lows through “person” and inserting “loss,
15 if”;

16 (iii) in subparagraph (A), by inserting
17 “such entity or party or finance facility”
18 before “was”; and

19 (iv) by striking subparagraph (B) and
20 inserting the following:

21 “(B) the violation or practice involved a
22 reckless disregard for the law or any applicable
23 regulations or prior order of the Director;”; and

24 (C) in paragraph (4), by inserting “loan
25 or” before “asset”;

1 (5) in subsection (e), by inserting “or entity-af-
2 filiated party”—

3 (A) before “or any executive”; and

4 (B) before the period at the end; and

5 (6) in subsection (f)—

6 (A) by striking “enterprise” and inserting
7 “regulated entity, finance facility,”; and

8 (B) by striking “or director” and inserting
9 “director, or entity-affiliated party”.

10 **SEC. 1152. TEMPORARY CEASE AND DESIST PROCEEDINGS.**

11 Section 1372 of the Federal Housing Enterprises Fi-
12 nancial Safety and Soundness Act of 1992 (12 U.S.C.
13 4632) is amended—

14 (1) by striking subsection (a) and inserting the
15 following:

16 “(a) **GROUNDS FOR ISSUANCE.**—

17 “(1) **IN GENERAL.**—If the Director determines
18 that the actions specified in the notice of charges
19 served upon a regulated entity or any entity-affili-
20 ated party pursuant to section 1371(a), or the con-
21 tinuation thereof, is likely to cause insolvency or sig-
22 nificant dissipation of assets or earnings of that en-
23 tity, or is likely to weaken the condition of that enti-
24 ty prior to the completion of the proceedings con-

1 ducted pursuant to sections 1371 and 1373, the Di-
2 rector may—

3 “(A) issue a temporary order requiring
4 that regulated entity or entity-affiliated party to
5 cease and desist from any such violation or
6 practice; and

7 “(B) require that regulated entity or enti-
8 ty-affiliated party to take affirmative action to
9 prevent or remedy such insolvency, dissipation,
10 condition, or prejudice pending completion of
11 such proceedings.

12 “(2) ADDITIONAL REQUIREMENTS.—An order
13 issued under paragraph (1) may include any require-
14 ment authorized under subsection 1371(d).”;

15 (2) in subsection (b)—

16 (A) by striking “or director” and inserting
17 “director, or entity-affiliated party”; and

18 (B) by striking “enterprise” each place
19 that term appears and inserting “regulated en-
20 tity”;

21 (3) in subsection (c), by striking “enterprise”
22 each place that term appears and inserting “regu-
23 lated entity”;

24 (4) in subsection (d)—

1 (A) by striking “or director” each place
2 that term appears and inserting “director, or
3 entity-affiliated party”; and

4 (B) by striking “An enterprise” and insert-
5 ing “A regulated entity”; and

6 (5) in subsection (e)—

7 (A) by striking “request the Attorney Gen-
8 eral of the United States to”; and

9 (B) by striking “or may, under the direc-
10 tion and control of the Attorney General, bring
11 such action”.

12 **SEC. 1153. REMOVAL AND PROHIBITION AUTHORITY.**

13 (a) IN GENERAL.—Part 1 of subtitle C of the Federal
14 Housing Enterprises Financial Safety and Soundness Act
15 of 1992 (12 U.S.C. 4631 et seq.) is amended—

16 (1) by redesignating sections 1377 through
17 1379B (12 U.S.C. 4637–4641) as sections 1379
18 through 1379D, respectively; and

19 (2) by inserting after section 1376 (12 U.S.C.
20 4636) the following:

21 **“SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.**

22 **“(a) AUTHORITY TO ISSUE ORDER.—**

23 **“(1) IN GENERAL.—**The Director may serve
24 upon a party described in paragraph (2), or any offi-
25 cer, director, or management of the Office of Fi-

1 nance a written notice of the intention of the Direc-
2 tor to suspend or remove such party from office, or
3 prohibit any further participation by such party, in
4 any manner, in the conduct of the affairs of the reg-
5 ulated entity.

6 “(2) APPLICABILITY.—A party described in this
7 paragraph is an entity-affiliated party or any officer,
8 director, or management of the Office of Finance, if
9 the Director determines that—

10 “(A) that party, officer, or director has, di-
11 rectly or indirectly—

12 “(i) violated—

13 “(I) any law or regulation;

14 “(II) any cease and desist order
15 which has become final;

16 “(III) any condition imposed in
17 writing by the Director in connection
18 with the grant of any application or
19 other request by such regulated enti-
20 ty; or

21 “(IV) any written agreement be-
22 tween such regulated entity and the
23 Director;

24 “(ii) engaged or participated in any
25 unsafe or unsound practice in connection

1 with any regulated entity or business insti-
2 tution; or

3 “(iii) committed or engaged in any
4 act, omission, or practice which constitutes
5 a breach of such party’s fiduciary duty;

6 “(B) by reason of the violation, practice, or
7 breach described in subparagraph (A)—

8 “(i) such regulated entity or business
9 institution has suffered or will probably
10 suffer financial loss or other damage; or

11 “(ii) such party has received financial
12 gain or other benefit; and

13 “(C) the violation, practice, or breach de-
14 scribed in subparagraph (A)—

15 “(i) involves personal dishonesty on
16 the part of such party; or

17 “(ii) demonstrates willful or con-
18 tinuing disregard by such party for the
19 safety or soundness of such regulated enti-
20 ty or business institution.

21 “(b) SUSPENSION ORDER.—

22 “(1) SUSPENSION OR PROHIBITION AUTHOR-
23 ITY.—If the Director serves written notice under
24 subsection (a) upon a party subject to that sub-
25 section (a), the Director may, by order, suspend or

1 remove such party from office, or prohibit such
2 party from further participation in any manner in
3 the conduct of the affairs of the regulated entity, if
4 the Director—

5 “(A) determines that such action is nec-
6 essary for the protection of the regulated entity;
7 and

8 “(B) serves such party with written notice
9 of the order.

10 “(2) EFFECTIVE PERIOD.—Any order issued
11 under this subsection—

12 “(A) shall become effective upon service;
13 and

14 “(B) unless a court issues a stay of such
15 order under subsection (g), shall remain in ef-
16 fect and enforceable until—

17 “(i) the date on which the Director
18 dismisses the charges contained in the no-
19 tice served under subsection (a) with re-
20 spect to such party; or

21 “(ii) the effective date of an order
22 issued under subsection (b).

23 “(3) COPY OF ORDER.—If the Director issues
24 an order under subsection (b) to any party, the Di-
25 rector shall serve a copy of such order on any regu-

1 lated entity with which such party is affiliated at the
2 time such order is issued.

3 “(c) NOTICE, HEARING, AND ORDER.—

4 “(1) NOTICE.—A notice under subsection (a) of
5 the intention of the Director to issue an order under
6 this section shall contain a statement of the facts
7 constituting grounds for such action, and shall fix a
8 time and place at which a hearing will be held on
9 such action.

10 “(2) TIMING OF HEARING.—A hearing shall be
11 fixed for a date not earlier than 30 days, nor later
12 than 60 days, after the date of service of notice
13 under subsection (a), unless an earlier or a later
14 date is set by the Director at the request of—

15 “(A) the party receiving such notice, and
16 good cause is shown; or

17 “(B) the Attorney General of the United
18 States.

19 “(3) CONSENT.—Unless the party that is the
20 subject of a notice delivered under subsection (a) ap-
21 pears at the hearing in person or by a duly author-
22 ized representative, such party shall be deemed to
23 have consented to the issuance of an order under
24 this section.

1 “(4) ISSUANCE OF ORDER OF SUSPENSION.—
2 The Director may issue an order under this section,
3 as the Director may deem appropriate, if—

4 “(A) a party is deemed to have consented
5 to the issuance of an order under paragraph
6 (3); or

7 “(B) upon the record made at the hearing,
8 the Director finds that any of the grounds spec-
9 ified in the notice have been established.

10 “(5) EFFECTIVENESS OF ORDER.—Any order
11 issued under paragraph (4) shall become effective at
12 the expiration of 30 days after the date of service
13 upon the relevant regulated entity and party (except
14 in the case of an order issued upon consent under
15 paragraph (3), which shall become effective at the
16 time specified therein). Such order shall remain ef-
17 fective and enforceable except to such extent as it is
18 stayed, modified, terminated, or set aside by action
19 of the Director or a reviewing court.

20 “(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVI-
21 TIES.—Any person subject to an order issued under this
22 section shall not—

23 “(1) participate in any manner in the conduct
24 of the affairs of any regulated entity or the Office
25 of Finance;

1 “(2) solicit, procure, transfer, attempt to trans-
2 fer, vote, or attempt to vote any proxy, consent, or
3 authorization with respect to any voting rights in
4 any regulated entity;

5 “(3) violate any voting agreement previously
6 approved by the Director; or

7 “(4) vote for a director, or serve or act as an
8 entity-affiliated party of a regulated entity or as an
9 officer or director of the Office of Finance.

10 “(e) INDUSTRY-WIDE PROHIBITION.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), any person who, pursuant to an order
13 issued under this section, has been removed or sus-
14 pended from office in a regulated entity or the Of-
15 fice of Finance, or prohibited from participating in
16 the conduct of the affairs of a regulated entity or
17 the Office of Finance, may not, while such order is
18 in effect, continue or commence to hold any office in,
19 or participate in any manner in the conduct of the
20 affairs of, any regulated entity or the Office of Fi-
21 nance.

22 “(2) EXCEPTION IF DIRECTOR PROVIDES WRIT-
23 TEN CONSENT.—If, on or after the date on which an
24 order is issued under this section which removes or
25 suspends from office any party, or prohibits such

1 party from participating in the conduct of the affairs
2 of a regulated entity or the Office of Finance, such
3 party receives the written consent of the Director,
4 the order shall, to the extent of such consent, cease
5 to apply to such party with respect to the regulated
6 entity or such Office of Finance described in the
7 written consent. Any such consent shall be publicly
8 disclosed.

9 “(3) VIOLATION OF PARAGRAPH (1) TREATED
10 AS VIOLATION OF ORDER.—Any violation of para-
11 graph (1) by any person who is subject to an order
12 issued under subsection (h) shall be treated as a vio-
13 lation of the order.

14 “(f) APPLICABILITY.—This section shall only apply
15 to a person who is an individual, unless the Director spe-
16 cifically finds that it should apply to a corporation, firm,
17 or other business entity.

18 “(g) STAY OF SUSPENSION AND PROHIBITION OF
19 ENTITY-AFFILIATED PARTY.—Not later than 10 days
20 after the date on which any entity-affiliated party has been
21 suspended from office or prohibited from participation in
22 the conduct of the affairs of a regulated entity under this
23 section, such party may apply to the United States Dis-
24 trict Court for the District of Columbia, or the United
25 States district court for the judicial district in which the

1 headquarters of the regulated entity is located, for a stay
2 of such suspension or prohibition pending the completion
3 of the administrative proceedings pursuant to subsection
4 (c). The court shall have jurisdiction to stay such suspen-
5 sion or prohibition.

6 “(h) SUSPENSION OR REMOVAL OF ENTITY-AFFILI-
7 ATED PARTY CHARGED WITH FELONY.—

8 “(1) SUSPENSION OR PROHIBITION.—

9 “(A) IN GENERAL.—Whenever any entity-
10 affiliated party is charged in any information,
11 indictment, or complaint, with the commission
12 of or participation in a crime involving dishon-
13 esty or breach of trust which is punishable by
14 imprisonment for a term exceeding 1 year
15 under Federal or State law, the Director may,
16 if continued service or participation by such
17 party may pose a threat to the regulated entity
18 or impair public confidence in the regulated en-
19 tity, by written notice served upon such party,
20 suspend such party from office or prohibit such
21 party from further participation in any manner
22 in the conduct of the affairs of any regulated
23 entity.

24 “(B) PROVISIONS APPLICABLE TO NO-
25 TICE.—

1 “(i) COPY.—A copy of any notice
2 under subparagraph (A) shall be served
3 upon the relevant regulated entity.

4 “(ii) EFFECTIVE PERIOD.—A suspen-
5 sion or prohibition under subparagraph (A)
6 shall remain in effect until the informa-
7 tion, indictment, or complaint referred to
8 in subparagraph (A) is finally disposed of,
9 or until terminated by the Director.

10 “(2) REMOVAL OR PROHIBITION.—

11 “(A) IN GENERAL.—If a judgment of con-
12 viction or an agreement to enter a pretrial di-
13 version or other similar program is entered
14 against an entity-affiliated party in connection
15 with a crime described in paragraph (1)(A), at
16 such time as such judgment is not subject to
17 further appellate review, the Director may, if
18 continued service or participation by such party
19 may pose a threat to the regulated entity or im-
20 pair public confidence in the regulated entity,
21 issue and serve upon such party an order re-
22 moving such party from office or prohibiting
23 such party from further participation in any
24 manner in the conduct of the affairs of the reg-

1 ulated entity without the prior written consent
2 of the Director.

3 “(B) PROVISIONS APPLICABLE TO
4 ORDER.—

5 “(i) COPY.—A copy of any order
6 under subparagraph (A) shall be served
7 upon the relevant regulated entity, at
8 which time the entity-affiliated party who
9 is subject to the order (if a director or an
10 officer) shall cease to be a director or offi-
11 cer of such regulated entity.

12 “(ii) EFFECT OF ACQUITTAL.—A find-
13 ing of not guilty or other disposition of the
14 charge shall not preclude the Director from
15 instituting proceedings after such finding
16 or disposition to remove a party from of-
17 fice or to prohibit further participation in
18 the affairs of a regulated entity pursuant
19 to subsection (a) or (b).

20 “(iii) EFFECTIVE PERIOD.—Unless
21 terminated by the Director, any notice of
22 suspension or order of removal issued
23 under this subsection shall remain effective
24 and outstanding until the completion of

1 any hearing or appeal authorized under
2 paragraph (4).

3 “(3) AUTHORITY OF REMAINING BOARD MEM-
4 BERS.—

5 “(A) IN GENERAL.—If at any time, be-
6 cause of the suspension of 1 or more directors
7 pursuant to this section, there shall be on the
8 board of directors of a regulated entity less
9 than a quorum of directors not so suspended,
10 all powers and functions vested in or exercisable
11 by such board shall vest in and be exercisable
12 by the director or directors on the board not so
13 suspended, until such time as there shall be a
14 quorum of the board of directors.

15 “(B) APPOINTMENT OF TEMPORARY DI-
16 RECTORS.—If all of the directors of a regulated
17 entity are suspended pursuant to this section,
18 the Director shall appoint persons to serve tem-
19 porarily as directors pending the termination of
20 such suspensions, or until such time as those
21 who have been suspended cease to be directors
22 of the regulated entity and their respective suc-
23 cessors take office.

24 “(4) HEARING REGARDING CONTINUED PAR-
25 TICIPATION.—

1 “(A) IN GENERAL.—Not later than 30
2 days after the date of service of any notice of
3 suspension or order of removal issued pursuant
4 to paragraph (1) or (2), the entity-affiliated
5 party may request in writing an opportunity to
6 appear before the Director to show that the
7 continued service or participation in the con-
8 duct of the affairs of the regulated entity by
9 such party does not, or is not likely to, pose a
10 threat to the interests of the regulated entity,
11 or threaten to impair public confidence in the
12 regulated entity.

13 “(B) TIMING AND FORM OF HEARING.—
14 Upon receipt of a request for a hearing under
15 subparagraph (A), the Director shall fix a time
16 (not later than 30 days after the date of receipt
17 of such request, unless extended at the request
18 of such party) and place at which the entity-af-
19 filiated party may appear, personally or through
20 counsel, before the Director or 1 or more des-
21 ignated employees of the Director to submit
22 written materials (or, at the discretion of the
23 Director, oral testimony) and oral argument.

24 “(C) DETERMINATION.—Not later than 60
25 days after the date of a hearing under subpara-

1 graph (B), the Director shall notify the entity-
2 affiliated party whether the suspension or pro-
3 hibition from participation in any manner in
4 the conduct of the affairs of the regulated enti-
5 ty will be continued, terminated, or otherwise
6 modified, or whether the order removing such
7 party from office or prohibiting such party from
8 further participation in any manner in the con-
9 duct of the affairs of the regulated entity will
10 be rescinded or otherwise modified. Such notifi-
11 cation shall contain a statement of the basis for
12 any adverse decision of the Director.

13 “(5) RULES.—The Director is authorized to
14 prescribe such rules as may be necessary to carry
15 out this subsection.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) SAFETY AND SOUNDNESS ACT.—Subtitle C
18 of the Federal Housing Enterprises Financial Safety
19 and Soundness Act of 1992 (12 U.S.C. 4501 et seq.)
20 is amended—

21 (A) in section 1317(f), by striking “section
22 1379B” and inserting “section 1379D”;

23 (B) in section 1373(a)—

1 (i) in paragraph (1), by striking “or
2 1376(c)” and inserting “, 1376(c), or
3 1377”;

4 (ii) in paragraph (2), by inserting “or
5 1377” after” 1371”; and

6 (iii) in paragraph (4), by inserting “or
7 removal or prohibition” after “cease and
8 desist”; and

9 (C) in section 1374(a)—

10 (i) by striking “or 1376” and insert-
11 ing “1313B, 1376, or 1377”; and

12 (ii) by striking “such section” and in-
13 serting “this title”.

14 (2) FANNIE MAE CHARTER ACT.—Section
15 308(b) of the Federal National Mortgage Associa-
16 tion Charter Act (12 U.S.C. 1723(b)) is amended in
17 the second sentence, by striking “The” and inserting
18 “Except to the extent that action under section
19 1377 of the Federal Housing Enterprises Financial
20 Safety and Soundness Act of 1992 temporarily re-
21 sults in a lesser number, the”.

22 (3) FREDDIE MAC CHARTER ACT.—Section
23 303(a)(2)(A) of the Federal Home Loan Mortgage
24 Corporation Act (12 U.S.C. 1452(a)(2)(A)) is
25 amended, in the second sentence, by striking “The”

1 and inserting “Except to the extent action under
2 section 1377 of the Federal Housing Enterprises Fi-
3 nancial Safety and Soundness Act of 1992 tempo-
4 rarily results in a lesser number, the”.

5 **SEC. 1154. ENFORCEMENT AND JURISDICTION.**

6 Section 1375 of the Federal Housing Enterprises Fi-
7 nancial Safety and Soundness Act of 1992 (12 U.S.C.
8 4635) is amended—

9 (1) by striking subsection (a) and inserting the
10 following new subsection:

11 “(a) ENFORCEMENT.—The Director may, in the dis-
12 cretion of the Director, apply to the United States District
13 Court for the District of Columbia, or the United States
14 district court within the jurisdiction of which the head-
15 quarters of the regulated entity is located, for the enforce-
16 ment of any effective and outstanding notice or order
17 issued under this subtitle or subtitle B, or request that
18 the Attorney General of the United States bring such an
19 action. Such court shall have jurisdiction and power to
20 order and require compliance with such notice or order.”;
21 and

22 (2) in subsection (b), by striking “or 1376” and
23 inserting “1313B, 1376, or 1377”.

1 **SEC. 1155. CIVIL MONEY PENALTIES.**

2 Section 1376 of the Federal Housing Enterprises Fi-
3 nancial Safety and Soundness Act of 1992 (12 U.S.C.
4 4636) is amended—

5 (1) by striking subsection (a) and inserting the
6 following:

7 “(a) IN GENERAL.—The Director may impose a civil
8 money penalty in accordance with this section on any reg-
9 ulated entity or any entity-affiliated party. The Director
10 shall not impose a civil penalty in accordance with this
11 section on any regulated entity or any entity-affiliated
12 party for any violation that is addressed under section
13 1345(a).”;

14 (2) by striking subsection (b) and inserting the
15 following:

16 “(b) AMOUNT OF PENALTY.—

17 “(1) FIRST TIER.—A regulated entity or entity-
18 affiliated party shall forfeit and pay a civil penalty
19 of not more than \$10,000 for each day during which
20 a violation continues, if such regulated entity or
21 party—

22 “(A) violates any provision of this title, the
23 authorizing statutes, or any order, condition,
24 rule, or regulation under this title or any au-
25 thorizing statute;

1 “(B) violates any final or temporary order
2 or notice issued pursuant to this title;

3 “(C) violates any condition imposed in
4 writing by the Director in connection with the
5 grant of any application or other request by
6 such regulated entity; or

7 “(D) violates any written agreement be-
8 tween the regulated entity and the Director.

9 “(2) SECOND TIER.—Notwithstanding para-
10 graph (1), a regulated entity or entity-affiliated
11 party shall forfeit and pay a civil penalty of not
12 more than \$50,000 for each day during which a vio-
13 lation, practice, or breach continues, if—

14 “(A) the regulated entity or entity-affili-
15 ated party, respectively—

16 “(i) commits any violation described
17 in any subparagraph of paragraph (1);

18 “(ii) recklessly engages in an unsafe
19 or unsound practice in conducting the af-
20 fairs of the regulated entity; or

21 “(iii) breaches any fiduciary duty; and

22 “(B) the violation, practice, or breach—

23 “(i) is part of a pattern of mis-
24 conduct;

1 “(ii) causes or is likely to cause more
2 than a minimal loss to the regulated entity;

3 or

4 “(iii) results in pecuniary gain or
5 other benefit to such party.

6 “(3) THIRD TIER.—Notwithstanding para-
7 graphs (1) and (2), any regulated entity or entity-
8 affiliated party shall forfeit and pay a civil penalty
9 in an amount not to exceed the applicable maximum
10 amount determined under paragraph (4) for each
11 day during which such violation, practice, or breach
12 continues, if such regulated entity or entity-affiliated
13 party—

14 “(A) knowingly—

15 “(i) commits any violation described
16 in any subparagraph of paragraph (1);

17 “(ii) engages in any unsafe or un-
18 sound practice in conducting the affairs of
19 the regulated entity; or

20 “(iii) breaches any fiduciary duty; and

21 “(B) knowingly or recklessly causes a sub-
22 stantial loss to the regulated entity or a sub-
23 stantial pecuniary gain or other benefit to such
24 party by reason of such violation, practice, or
25 breach.

1 “(4) MAXIMUM AMOUNTS OF PENALTIES FOR
2 ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—
3 The maximum daily amount of any civil penalty
4 which may be assessed pursuant to paragraph (3)
5 for any violation, practice, or breach described in
6 paragraph (3) is—

7 “(A) in the case of any entity-affiliated
8 party, an amount not to exceed \$2,000,000;
9 and

10 “(B) in the case of any regulated entity,
11 \$2,000,000.”;

12 (3) in subsection (c)—

13 (A) by striking “enterprise” each place
14 that term appears and inserting “regulated en-
15 tity”;

16 (B) by inserting “or entity-affiliated
17 party” before “in writing”; and

18 (C) by inserting “or entity-affiliated party”
19 before “has been given”;

20 (4) in subsection (d)—

21 (A) by striking “or director” each place
22 such term appears and inserting “director, or
23 entity-affiliated party”;

24 (B) by striking “an enterprise” and insert-
25 ing “a regulated entity”;

1 (C) by striking “the enterprise” and in-
2 serting “the regulated entity”;

3 (D) by striking “request the Attorney Gen-
4 eral of the United States to”;

5 (E) by inserting “, or the United States
6 district court within the jurisdiction of which
7 the headquarters of the regulated entity is lo-
8 cated,” after “District of Columbia”;

9 (F) by striking “, or may, under the direc-
10 tion and control of the Attorney General of the
11 United States, bring such an action”; and

12 (G) by striking “and section 1374”; and

13 (5) in subsection (g), by striking “An enter-
14 prise” and inserting “A regulated entity”.

15 **SEC. 1156. CRIMINAL PENALTY.**

16 (a) IN GENERAL.—Subtitle C of the Federal Housing
17 Enterprises Financial Safety and Soundness Act of 1992
18 (12 U.S.C. 4631 et seq.) is amended by inserting after
19 section 1377, as added by this Act, the following:

20 **“SEC. 1378. CRIMINAL PENALTY.**

21 “Whoever, being subject to an order in effect under
22 section 1377, without the prior written approval of the Di-
23 rector, knowingly participates, directly or indirectly, in any
24 manner (including by engaging in an activity specifically
25 prohibited in such an order) in the conduct of the affairs

1 of any regulated entity shall, notwithstanding section
2 3571 of title 18, be fined not more than \$1,000,000, im-
3 prisoned for not more than 5 years, or both.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
5 The Federal Housing Enterprises Financial Safety and
6 Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amend-
7 ed—

8 (1) in section 1379 (as so designated by this
9 Act)—

10 (A) by striking “an enterprise” and insert-
11 ing “a regulated entity”; and

12 (B) by striking “the enterprise” and in-
13 serting “the regulated entity”;

14 (2) in section 1379A (as so designated by this
15 Act), by striking “an enterprise” and inserting “a
16 regulated entity”;

17 (3) in section 1379B(c) (as so designated by
18 this Act), by striking “enterprise” and inserting
19 “regulated entity”; and

20 (4) in section 1379D (as so designated by this
21 Act), by striking “enterprise” and inserting “regu-
22 lated entity”.

1 **SEC. 1157. NOTICE AFTER SEPARATION FROM SERVICE.**

2 Section 1379 of the Federal Housing Enterprises Fi-
3 nancial Safety and Soundness Act of 1992 (12 U.S.C.
4 4637), as so designated by this Act, is amended—

5 (1) by striking “2-year” and inserting “6-year”;

6 (2) by striking “a director or executive officer
7 of an enterprise” and inserting “an entity-affiliated
8 party”;

9 (3) by striking “director or officer” each place
10 that term appears and inserting “entity-affiliated
11 party”; and

12 (4) by striking “enterprise.” and inserting “reg-
13 ulated entity.”.

14 **SEC. 1158. SUBPOENA AUTHORITY.**

15 (a) IN GENERAL.—Section 1379B of the Federal
16 Housing Enterprises Financial Safety and Soundness Act
17 of 1992 (12 U.S.C. 4641) is amended—

18 (1) in subsection (a)—

19 (A) in the matter preceding paragraph

20 (1)—

21 (i) by striking “administrative”;

22 (ii) by inserting “, examination, or in-
23 vestigation” after “proceeding”;

24 (iii) by striking “subtitle” and insert-
25 ing “title”; and

1 (iv) by inserting “or any designated
2 representative thereof, including any per-
3 son designated to conduct any hearing
4 under this subtitle” after “Director”; and
5 (B) in paragraph (4), by striking “issued
6 by the Director”;

7 (2) in subsection (b), by inserting “or in any
8 territory or other place subject to the jurisdiction of
9 the United States” after “State”;

10 (3) by striking subsection (c) and inserting the
11 following:

12 “(c) ENFORCEMENT.—

13 “(1) IN GENERAL.—The Director, or any party
14 to proceedings under this subtitle, may apply to the
15 United States District Court for the District of Co-
16 lumbia, or the United States district court for the
17 judicial district of the United States in any territory
18 in which such proceeding is being conducted, or
19 where the witness resides or carries on business, for
20 enforcement of any subpoena or subpoena duces
21 tecum issued pursuant to this section.

22 “(2) POWER OF COURT.—The courts described
23 under paragraph (1) shall have the jurisdiction and
24 power to order and require compliance with any sub-
25 poena issued under paragraph (1).”;

1 (4) in subsection (d), by inserting “enterprise-
2 affiliated party” before “may allow”; and

3 (5) by adding at the end the following:

4 “(e) PENALTIES.—A person shall be guilty of a mis-
5 demeanor, and upon conviction, shall be subject to a fine
6 of not more than \$1,000 or to imprisonment for a term
7 of not more than 1 year, or both, if that person willfully
8 fails or refuses, in disobedience of a subpoena issued under
9 subsection (c), to—

10 “(1) attend court;

11 “(2) testify in court;

12 “(3) answer any lawful inquiry; or

13 “(4) produce books, papers, correspondence,
14 contracts, agreements, or such other records as re-
15 quested in the subpoena.”.

16 **Subtitle E—General Provisions**

17 **SEC. 1161. CONFORMING AND TECHNICAL AMENDMENTS.**

18 (a) AMENDMENTS TO 1992 ACT.—The Federal
19 Housing Enterprises Financial Safety and Soundness Act
20 of 1992 (12 U.S.C. 4501 et seq.), as amended by this Act,
21 is amended—

22 (1) in section 1315 (12 U.S.C. 4515)—

23 (A) in subsection (a)—

24 (i) by striking “(a) OFFICE PER-
25 SONNEL.—The” and inserting “(a) IN

1 GENERAL.—Subject to title III of the Fed-
2 eral Housing Finance Regulatory Reform
3 Act of 2008, the”; and

4 (ii) by striking “the Office” each place
5 that term appears and inserting “the
6 Agency”;

7 (B) in subsection (c), by striking “the Of-
8 fice” and inserting “the Agency”;

9 (C) in subsection (e), by striking “the Of-
10 fice” and inserting “the Agency”;

11 (D) by striking subsection (d) and redesign-
12 ating subsection (e) as subsection (d); and

13 (E) by striking subsection (f);

14 (2) in section 1319A (12 U.S.C. 4520)—

15 (A) by striking “(a) IN GENERAL.—”; and

16 (B) by striking subsection (b);

17 (3) in section 1364(e) (12 U.S.C. 4614(e)), by
18 striking the last sentence;

19 (4) by striking section 1383 (12 U.S.C. 1451
20 note);

21 (5) in each of sections 1319D, 1319E, and
22 1319F (12 U.S.C. 4523, 4524, 4525) by striking
23 “the Office” each place that term appears and in-
24 serting “the Agency”; and

1 (6) in each of sections 1319B and 1369(a)(3)
2 (12 U.S.C. 4521, 4619(a)(3)), by striking “Com-
3 mittee on Banking, Finance and Urban Affairs”
4 each place such term appears and inserting “Com-
5 mittee on Financial Services”.

6 (b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—
7 The Federal National Mortgage Association Charter Act
8 (12 U.S.C. 1716 et seq.) is amended—

9 (1) in each of sections 303(c)(2) (12 U.S.C.
10 1718(c)(2)), 309(d)(3)(B) (12 U.S.C.
11 1723a(d)(3)(B)), and 309(k)(1) (12 U.S.C.
12 1723a(k)(1)), by striking “Director of the Office of
13 Federal Housing Enterprise Oversight of the De-
14 partment of Housing and Urban Development” each
15 place that term appears, and inserting “Director of
16 the Federal Housing Finance Agency”; and

17 (2) in section 309—

18 (A) in subsection (m) (12 U.S.C.
19 1723a(m))—

20 (i) in paragraph (1), by striking “to
21 the Secretary, in a form determined by the
22 Secretary” and inserting “to the Director
23 of the Federal Housing Finance Agency, in
24 a form determined by the Director”; and

1 (ii) in paragraph (2), by striking “to
2 the Secretary, in a form determined by the
3 Secretary” and inserting “to the Director
4 of the Federal Housing Finance Agency, in
5 a form determined by the Director”;

6 (B) in subsection (n) (12 U.S.C.
7 1723a(n))—

8 (i) in paragraph (1), by striking “and
9 the Secretary” and inserting “and the Di-
10 rector of the Federal Housing Finance
11 Agency”; and

12 (ii) in paragraph (2), by striking
13 “Secretary” each place that term appears
14 and inserting “Director of the Federal
15 Housing Finance Agency”; and

16 (C) in paragraph (3)(B), by striking “Sec-
17 retary” and inserting “Director of the Federal
18 Housing Finance Agency”.

19 (c) AMENDMENTS TO FREDDIE MAC CHARTER
20 ACT.—The Federal Home Loan Mortgage Corporation
21 Act (12 U.S.C. 1451 et seq.) is amended—

22 (1) in each of sections 303(b)(2) (12 U.S.C.
23 1452(b)(2)), 303(h)(2) (12 U.S.C. 1452(h)(2)), and
24 section 307(c)(1) (12 U.S.C. 1456(c)(1)), by strik-
25 ing “Director of the Office of Federal Housing En-

1 terprise Oversight of the Department of Housing
2 and Urban Development” each place that term ap-
3 pears, and inserting “Director of the Federal Hous-
4 ing Finance Agency”;

5 (2) in section 306 (12 U.S.C. 1455)—

6 (A) in subsection (c)(2), by inserting “the”
7 after “Secretary of”;

8 (B) in subsection (i)—

9 (i) by striking “section 1316(c)” and
10 inserting “section 306(c)”; and

11 (ii) by striking “section 106” and in-
12 serting “section 1316”; and

13 (C) in subsection (j)(2), by striking “of
14 substantially” and inserting “or substantially”;
15 and

16 (3) in section 307 (12 U.S.C. 1456)—

17 (A) in subsection (e)—

18 (i) in paragraph (1), by striking “to
19 the Secretary, in a form determined by the
20 Secretary” and inserting “to the Director
21 of the Federal Housing Finance Agency, in
22 a form determined by the Director”; and

23 (ii) in paragraph (2), by striking “to
24 the Secretary, in a form determined by the
25 Secretary” and inserting “to the Director

1 of the Federal Housing Finance Agency, in
2 a form determined by the Director”; and
3 (B) in subsection (f)—

4 (i) in paragraph (1), by striking “and
5 the Secretary” and inserting “and the Di-
6 rector of the Federal Housing Finance
7 Agency”;

8 (ii) in paragraph (2), by striking “the
9 Secretary” each place that term appears
10 and inserting “the Director of the Federal
11 Housing Finance Agency”; and

12 (iii) in paragraph (3)(B), by striking
13 “Secretary” and inserting “Director of the
14 Federal Housing Finance Agency”.

15 (d) AMENDMENT TO TITLE 18, UNITED STATES
16 CODE.—Section 1905 of title 18, United States Code, is
17 amended by striking “Office of Federal Housing Enter-
18 prise Oversight” and inserting “Federal Housing Finance
19 Agency”.

20 (e) AMENDMENTS TO FLOOD DISASTER PROTECTION
21 ACT OF 1973.—Section 102(f)(3)(A) of the Flood Dis-
22 aster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A))
23 is amended by striking “Director of the Office of Federal
24 Housing Enterprise Oversight of the Department of Hous-

1 ing and Urban Development” and inserting “Director of
2 the Federal Housing Finance Agency”.

3 (f) AMENDMENT TO DEPARTMENT OF HOUSING AND
4 URBAN DEVELOPMENT ACT.—Section 5 of the Depart-
5 ment of Housing and Urban Development Act (42 U.S.C.
6 3534) is amended by striking subsection (d).

7 (g) AMENDMENTS TO TITLE 5, UNITED STATES
8 CODE.—Title 5, United States Code, is amended—

9 (1) in section 5313, by striking the item relat-
10 ing to the Director of the Office of Federal Housing
11 Enterprise Oversight, Department of Housing and
12 Urban Development and inserting the following new
13 item:

14 “Director of the Federal Housing Finance
15 Agency.”; and

16 (2) in section 3132(a)(1)—

17 (A) in subparagraph (B), by striking “,
18 and” and inserting “, and”;

19 (B) in subparagraph (D)—

20 (i) by striking “the Federal Housing
21 Finance Board”;

22 (ii) by striking “the Office of Federal
23 Housing Enterprise Oversight of the De-
24 partment of Housing and Urban Develop-

1 ment” and inserting “the Federal Housing
2 Finance Agency”; and

3 (iii) by striking “or or” at the end;

4 (C) in subparagraph (E), as added by sec-
5 tion 8(d)(1)(B)(iii) of Public Law 107–123, by
6 adding “or” at the end; and

7 (D) by redesignating subparagraph (E), as
8 added by section 10702(e)(1)(C) of Public Law
9 107–171, as subparagraph (F).

10 (h) AMENDMENT TO SARBANES-OXLEY ACT.—Sec-
11 tion 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of
12 2002 (15 U.S.C. 7215(b)(5)(B)(ii)(II)) is amended by in-
13 serting “and the Director of the Federal Housing Finance
14 Agency,” after “Commission,”.

15 (i) AMENDMENT TO FEDERAL DEPOSIT INSURANCE
16 ACT.—Section 11(t)(2)(A) of the Federal Deposit Insur-
17 ance Act (12 U.S.C. 1821(t)(2)(A)) is amended by adding
18 at the end the following:

19 “(vii) Federal Housing Finance Agen-
20 cy.”.

21 **SEC. 1162. PRESIDENTIALLY-APPOINTED DIRECTORS OF**
22 **ENTERPRISES.**

23 (a) FANNIE MAE.—

1 (1) IN GENERAL.—Section 308(b) of the Fed-
2 eral National Mortgage Association Charter Act (12
3 U.S.C. 1723(b)) is amended—

4 (A) in the first sentence, by striking
5 “eighteen persons, five of whom shall be ap-
6 pointed annually by the President of the United
7 States, and the remainder of whom” and insert-
8 ing “13 persons, or such other number that the
9 Director determines appropriate, who”;

10 (B) in the second sentence, by striking
11 “appointed by the President”;

12 (C) in the third sentence—

13 (i) by striking “appointed or”; and

14 (ii) by striking “, except that any
15 such appointed member may be removed
16 from office by the President for good
17 cause”;

18 (D) in the fourth sentence, by striking
19 “elective”; and

20 (E) by striking the fifth sentence.

21 (2) TRANSITIONAL PROVISION.—The amend-
22 ments made by paragraph (1) shall not apply to any
23 appointed position of the board of directors of the
24 Federal National Mortgage Association until the ex-

1 piration of the annual term for such position during
2 which the effective date under section 1163 occurs.

3 (b) FREDDIE MAC.—

4 (1) IN GENERAL.—Section 303(a)(2) of the
5 Federal Home Loan Mortgage Corporation Act (12
6 U.S.C. 1452(a)(2)) is amended—

7 (A) in subparagraph (A)—

8 (i) in the first sentence, by striking
9 “18 persons, 5 of whom shall be appointed
10 annually by the President of the United
11 States and the remainder of whom” and
12 inserting “13 persons, or such other num-
13 ber as the Director determines appropriate,
14 who”; and

15 (ii) in the second sentence, by striking
16 “appointed by the President of the United
17 States”;

18 (B) in subparagraph (B)—

19 (i) by striking “such or”; and

20 (ii) by striking “, except that any ap-
21 pointed member may be removed from of-
22 fice by the President for good cause”; and

23 (C) in subparagraph (C)—

24 (i) by striking the first sentence; and

25 (ii) by striking “elective”.

1 (2) TRANSITIONAL PROVISION.—The amend-
2 ments made by paragraph (1) shall not apply to any
3 appointed position of the board of directors of the
4 Federal Home Loan Mortgage Corporation until the
5 expiration of the annual term for such position dur-
6 ing which the effective date under section 1163 oc-
7 curs.

8 **SEC. 1163. EFFECTIVE DATE.**

9 Except as otherwise specifically provided in this title,
10 this title and the amendments made by this title shall take
11 effect on, and shall apply beginning on, the date of enact-
12 ment of this Act.

13 **TITLE II—FEDERAL HOME LOAN**
14 **BANKS**

15 **SEC. 1201. RECOGNITION OF DISTINCTIONS BETWEEN THE**
16 **ENTERPRISES AND THE FEDERAL HOME**
17 **LOAN BANKS.**

18 Section 1313 of the Federal Housing Enterprises Fi-
19 nancial Safety and Soundness Act of 1992 (12 U.S.C.
20 4513) is amended by adding at the end the following:

21 “(f) RECOGNITION OF DISTINCTIONS BETWEEN THE
22 ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.—
23 Prior to promulgating any regulation or taking any other
24 formal or informal agency action of general applicability
25 and future effect relating to the Federal Home Loan

1 Banks (other than any regulation, advisory document, or
2 examination guidance of the Federal Housing Finance
3 Board that the Director reissues after the authority of the
4 Director over the Federal Home Loan Banks takes effect),
5 including the issuance of an advisory document or exam-
6 ination guidance, the Director shall consider the dif-
7 ferences between the Federal Home Loan Banks and the
8 enterprises with respect to—

9 “(1) the Banks’—

10 “(A) cooperative ownership structure;

11 “(B) the mission of providing liquidity to
12 members;

13 “(C) affordable housing and community
14 development mission;

15 “(D) capital structure; and

16 “(E) joint and several liability; and

17 “(2) any other differences that the Director
18 considers appropriate.”.

19 **SEC. 1202. DIRECTORS.**

20 Section 7 of the Federal Home Loan Bank Act (12
21 U.S.C. 1427) is amended—

22 (1) by striking subsection (a) and inserting the
23 following:

24 “(a) NUMBER; ELECTION; QUALIFICATIONS; CON-
25 FLICTS OF INTEREST.—

1 “(1) IN GENERAL.—Subject to paragraphs (2)
2 through (4), the management of each Federal Home
3 Loan Bank shall be vested in a board of 13 direc-
4 tors, or such other number as the Director deter-
5 mines appropriate.

6 “(2) BOARD MAKEUP.—The board of directors
7 of each Bank shall be comprised of—

8 “(A) member directors, who shall comprise
9 at least the majority of the members of the
10 board of directors; and

11 “(B) independent directors, who shall com-
12 prise not fewer than $\frac{2}{5}$ of the members of the
13 board of directors.

14 “(3) SELECTION CRITERIA.—

15 “(A) IN GENERAL.—Each member of the
16 board of directors shall be—

17 “(i) elected by plurality vote of the
18 members, in accordance with procedures
19 established under this section; and

20 “(ii) a citizen of the United States.

21 “(B) INDEPENDENT DIRECTOR CRI-
22 TERIA.—

23 “(i) IN GENERAL.—Each independent
24 director that is not a public interest direc-
25 tor under clause (ii) shall have dem-

1 onstrated knowledge of, or experience in,
2 financial management, auditing and ac-
3 counting, risk management practices, de-
4 rivatives, project development, or organiza-
5 tional management, or such other knowl-
6 edge or expertise as the Director may pro-
7 vide by regulation.

8 “(ii) PUBLIC INTEREST.—Not fewer
9 than 2 of the independent directors shall
10 have more than 4 years of experience in
11 representing consumer or community inter-
12 ests on banking services, credit needs,
13 housing, or financial consumer protections.

14 “(iii) CONFLICTS OF INTEREST.—No
15 independent director may, during the term
16 of service on the board of directors, serve
17 as an officer of any Federal Home Loan
18 Bank or as a director, officer, or employee
19 of any member of a Bank, or of any person
20 that receives advances from a Bank.

21 “(4) DEFINITIONS.—For purposes of this sec-
22 tion, the following definitions shall apply:

23 “(A) INDEPENDENT DIRECTOR.—The
24 terms ‘independent director’ and ‘independent
25 directorship’ mean a member of the board of di-

1 rectors of a Federal Home Loan Bank who is
2 a bona fide resident of the district in which the
3 Federal Home Loan Bank is located, or the di-
4 rectorship held by such a person, respectively.

5 “(B) MEMBER DIRECTOR.—The terms
6 ‘member director’ and ‘member directorship’
7 mean a member of the board of directors of a
8 Federal Home Loan Bank who is an officer or
9 director of a member institution that is located
10 in the district in which the Federal Home Loan
11 Bank is located, or the directorship held by
12 such a person, respectively.”;

13 (2) by striking “elective” each place that term
14 appears, other than in subsections (d), (e), and (f),
15 and inserting “member”;

16 (3) in subsection (b)—

17 (A) by striking the subsection heading and
18 all that follows through “Each elective director-
19 ship” and inserting the following:

20 “(b) DIRECTORSHIPS.—

21 “(1) MEMBER DIRECTORSHIPS.—Each member
22 directorship”; and

23 (B) by adding at the end the following:

24 “(2) INDEPENDENT DIRECTORSHIPS.—

1 “(A) ELECTIONS.—Each independent di-
2 rector—

3 “(i) shall be elected by the members
4 entitled to vote, from among eligible per-
5 sons nominated, after consultation with the
6 Advisory Council of the Bank, by the
7 board of directors of the Bank; and

8 “(ii) shall be elected by a plurality of
9 the votes of the members of the Bank at
10 large, with each member having the num-
11 ber of votes for each such directorship as
12 it has under paragraph (1) in an election
13 to fill member directorships.

14 “(B) CRITERIA.—Nominees shall meet all
15 applicable requirements prescribed in this sec-
16 tion.

17 “(C) NOMINATION AND ELECTION PROCE-
18 DURES.—Procedures for nomination and elec-
19 tion of independent directors shall be prescribed
20 by the bylaws of each Federal Home Loan
21 Bank, in a manner consistent with the rules
22 and regulations of the Agency.”;
23 (4) in subsection (c)—

1 (A) by striking “elective” each place that
2 term appears and inserting “member”, ex-
3 cept—

4 (i) in the second sentence, the second
5 place that term appears; and

6 (ii) each place that term appears in
7 the fifth sentence; and

8 (B) in the second sentence—

9 (i) by inserting “(A) except as pro-
10 vided in clause (B) of this sentence,” be-
11 fore “if at any time”; and

12 (ii) by inserting before the period at
13 the end the following: “, and (B) clause
14 (A) of this sentence shall not apply to the
15 directorships of any Federal Home Loan
16 Bank resulting from the merger of any 2
17 or more such Banks”;

18 (5) in subsection (d)—

19 (A) in the first sentence—

20 (i) by striking “, whether elected or
21 appointed,”; and

22 (ii) by striking “3 years” and insert-
23 ing “4 years”;

24 (B) in the second sentence—

- 1 (i) by striking “Federal Home Loan
2 Bank System Modernization Act of 1999”
3 and inserting “Federal Housing Finance
4 Regulatory Reform Act of 2008”;
- 5 (ii) by striking “ $\frac{1}{3}$ ” and inserting
6 “ $\frac{1}{4}$ ”; and
- 7 (iii) by striking “or appointed”; and
- 8 (C) in the third sentence—
- 9 (i) by striking “an elective” each place
10 that term appears and inserting “a”; and
- 11 (ii) by striking “in any elective direc-
12 torship or elective directorships”;
- 13 (6) in subsection (f)—
- 14 (A) by striking paragraph (2);
- 15 (B) by striking “appointed or” each place
16 that term appears; and
- 17 (C) in paragraph (3)—
- 18 (i) by striking “(3) ELECTED BANK
19 DIRECTORS.—” and inserting “(2) ELEC-
20 TION PROCESS.—”; and
- 21 (ii) by striking “elective” each place
22 that term appears;
- 23 (7) in subsection (i)—

1 (A) in paragraph (1), by striking “Subject
2 to paragraph (2), each” and inserting “Each”;
3 and

4 (B) by striking paragraph (2) and insert-
5 ing the following:

6 “(2) ANNUAL REPORT.—The Director shall in-
7 clude, in the annual report submitted to the Con-
8 gress pursuant to section 1319B of the Federal
9 Housing Enterprises Financial Safety and Sound-
10 ness Act of 1992, information regarding the com-
11 pensation and expenses paid by the Federal Home
12 Loan Banks to the directors on the boards of direc-
13 tors of the Banks.”; and

14 (8) by adding at the end the following:

15 “(1) TRANSITION RULE.—Any member of the board
16 of directors of a Bank elected or appointed in accordance
17 with this section prior to the date of enactment of this
18 subsection may continue to serve as a member of that
19 board of directors for the remainder of the existing term
20 of service.”.

21 **SEC. 1203. DEFINITIONS.**

22 Section 2 of the Federal Home Loan Bank Act (12
23 U.S.C. 1422) is amended—

24 (1) by striking paragraphs (1), (10), and (11);

1 (2) by redesignating paragraphs (2) through
2 (9) as paragraphs (1) through (8), respectively;

3 (3) by redesignating paragraphs (12) and (13)
4 as paragraphs (9) and (10), respectively; and

5 (4) by adding at the end the following:

6 “(11) DIRECTOR.—The term ‘Director’ means
7 the Director of the Federal Housing Finance Agen-
8 cy.

9 “(12) AGENCY.—The term ‘Agency’ means the
10 Federal Housing Finance Agency, established under
11 section 1311 of the Federal Housing Enterprises Fi-
12 nancial Safety and Soundness Act of 1992.”.

13 **SEC. 1204. AGENCY OVERSIGHT OF FEDERAL HOME LOAN**
14 **BANKS.**

15 The Federal Home Loan Bank Act (12 U.S.C. 1421
16 et seq.), other than in provisions of that Act added or
17 amended otherwise by this Act, is amended—

18 (1) by striking sections 2A and 2B (12 U.S.C.
19 1422a, 1422b);

20 (2) in section 18 (12 U.S.C. 1438), by striking
21 subsection (b);

22 (3) in section 11 (12 U.S.C. 1431)—

23 (A) in subsection (b)—

24 (i) in the first sentence—

1 (I) by striking “The Board” and
2 inserting “The Office of Finance, as
3 agent for the Banks,”; and

4 (II) by striking “the Board” and
5 inserting “such Office”; and

6 (ii) in the second and fourth sen-
7 tences, by striking “the Board” each place
8 such term appears and inserting “the Of-
9 fice of Finance”;

10 (B) in subsection (c)—

11 (i) by striking “the Board” the first
12 place such term appears and inserting “the
13 Office of Finance, as agent for the
14 Banks,”; and

15 (ii) by striking “the Board” the sec-
16 ond place such term appears and inserting
17 “such Office”; and

18 (C) in subsection (f)—

19 (i) by striking the 2 commas after
20 “permit” and inserting “or”; and

21 (ii) by striking the comma after “re-
22 quire”;

23 (4) in section 6 (12 U.S.C. 1426)—

24 (A) in subsection (b)(1), in the matter pre-
25 ceding subparagraph (A), by striking “Finance

1 Board approval” and inserting “approval by the
2 Director”; and

3 (B) in each of subsections (c)(4)(B) and
4 (d)(2), by striking “Finance Board regulations”
5 each place that term appears and inserting
6 “regulations of the Director”;

7 (5) in section 10(b) (12 U.S.C. 1430(b))—

8 (A) in the subsection heading, by striking
9 “FORMAL BOARD RESOLUTION” and inserting
10 “APPROVAL OF DIRECTOR”; and

11 (B) by striking “by formal resolution”;

12 (6) in section 21(b)(5) (12 U.S.C. 1441(b)(5)),
13 by striking “Chairperson of the Federal Housing Fi-
14 nance Board” and inserting “Director”;

15 (7) in section 15 (12 U.S.C. 1435), by inserting
16 “or the Director” after “the Board”;

17 (8) by striking “the Board” each place that
18 term appears and inserting “the Director”;

19 (9) by striking “The Board” each place that
20 term appears and inserting “The Director”;

21 (10) by striking “the Finance Board” each
22 place that term appears and inserting “the Direc-
23 tor”;

1 (11) by striking “The Finance Board” each
2 place that term appears and inserting “The Direc-
3 tor”; and

4 (12) by striking “Federal Housing Finance
5 Board” each place that term appears and inserting
6 “Director”.

7 **SEC. 1205. HOUSING GOALS.**

8 The Federal Home Loan Bank Act (12 U.S.C. 1421
9 et seq.) is amended by inserting after section 10b the fol-
10 lowing new section:

11 **“SEC. 10C. HOUSING GOALS.**

12 “(a) IN GENERAL.—The Director shall establish
13 housing goals with respect to the purchase of mortgages,
14 if any, by the Federal Home Loan Banks. Such goals shall
15 be consistent with the goals established under sections
16 1331 through 1334 of the Federal Housing Enterprises
17 Financial Safety and Soundness Act of 1992.

18 “(b) CONSIDERATIONS.—In establishing the goals re-
19 quired by subsection (a), the Director shall consider the
20 unique mission and ownership structure of the Federal
21 Home Loan Banks.

22 “(c) TRANSITION PERIOD.—To facilitate an orderly
23 transition, the Director shall establish interim target goals
24 for purposes of this section for each of the 2 calendar
25 years following the date of enactment of this section.

1 “(d) MONITORING AND ENFORCEMENT OF GOALS.—
2 The requirements of section 1336 of the Federal Housing
3 Enterprises Safety and Soundness Act of 1992, shall
4 apply to this section, in the same manner and to the same
5 extent as that section applies to the Federal housing enter-
6 prises.

7 “(e) ANNUAL REPORT.—The Director shall annually
8 report to Congress on the performance of the Banks in
9 meeting the goals established under this section.”.

10 **SEC. 1206. COMMUNITY DEVELOPMENT FINANCIAL INSTI-
11 TUTIONS.**

12 Section 4(a)(1) of the Federal Home Loan Bank Act
13 (12 U.S.C. 1424(a)(1)) is amended—

14 (1) by inserting after “savings bank,” the fol-
15 lowing: “community development financial institu-
16 tion,”; and

17 (2) in subparagraph (B), by inserting after
18 “United States,” the following: “or, in the case of a
19 community development financial institution, is cer-
20 tified as a community development financial institu-
21 tion under the Community Development Banking
22 and Financial Institutions Act of 1994.”.

1 **SEC. 1207. SHARING OF INFORMATION AMONG FEDERAL**
2 **HOME LOAN BANKS.**

3 The Federal Home Loan Bank Act is amended by
4 inserting after section 20 (12 U.S.C. 1440) the following
5 new section:

6 **“SEC. 20A. SHARING OF INFORMATION AMONG FEDERAL**
7 **HOME LOAN BANKS.**

8 “(a) INFORMATION ON FINANCIAL CONDITION.—In
9 order to enable each Federal Home Loan Bank to evaluate
10 the financial condition of one or more of the other Federal
11 Home Loan Banks individually and the Federal Home
12 Loan Bank System (including any risks associated with
13 the issuance or repayment of consolidated Federal Home
14 Loan Bank bonds and debentures or other borrowings and
15 the joint and several liabilities of the Banks incurred due
16 to such borrowings), as well as to comply with any of its
17 obligations under the Securities Exchange Act of 1934 (15
18 U.S.C. 78a et seq.), the Director shall make available to
19 the Banks such reports, records, or other information as
20 may be available, relating to the condition of any Federal
21 Home Loan Bank.

22 “(b) SHARING OF INFORMATION.—

23 “(1) IN GENERAL.—The Director shall promul-
24 gate regulations to facilitate the sharing of informa-
25 tion made available under subsection (a) directly
26 among the Federal Home Loan Banks.

1 “(2) LIMITATION.—Notwithstanding paragraph
2 (1), a Federal Home Loan Bank responding to a re-
3 quest from another Bank or from the Director for
4 information pursuant to this section may request
5 that the Director determine that such information is
6 proprietary and that the public interest requires that
7 such information not be shared.

8 “(c) LIMITATION.—Nothing in this section shall af-
9 fect the obligations of any Federal Home Loan Bank
10 under the Securities Exchange Act of 1934 (15 U.S.C.
11 78a et seq.) or the regulations issued by the Securities
12 and Exchange Commission thereunder.

13 “(d) NO WAIVER OF PRIVILEGE.—The Director shall
14 not be deemed to have waived any privilege applicable to
15 any information concerning a Federal Home Loan Bank
16 by transferring, or permitting the transfer of, that infor-
17 mation to any other Federal Home Loan Bank for the
18 purposes set out in subsection (a).”.

19 **SEC. 1208. EXCLUSION FROM CERTAIN REQUIREMENTS.**

20 (a) IN GENERAL.—The Federal Home Loan Banks
21 shall be exempt from compliance with—

22 (1) sections 13(e), 14(a), and 14(c) of the Se-
23 curities Exchange Act of 1934, and related Commis-
24 sion regulations;

1 (2) section 15 of the Securities Exchange Act
2 of 1934, and related Commission regulations, with
3 respect to transactions in the capital stock of a Fed-
4 eral Home Loan Bank;

5 (3) section 17A of the Securities Exchange Act
6 of 1934, and related Commission regulations, with
7 respect to the transfer of the securities of a Federal
8 Home Loan Bank; and

9 (4) the Trust Indenture Act of 1939.

10 (b) MEMBER EXEMPTION.—The members of the
11 Federal Home Loan Bank System shall be exempt from
12 compliance with sections 13(d), 13(f), 13(g), 14(d), and
13 16 of the Securities Exchange Act of 1934, and related
14 Commission regulations, with respect to ownership of or
15 transactions in the capital stock of the Federal Home
16 Loan Banks by such members.

17 (c) EXEMPTED AND GOVERNMENT SECURITIES.—

18 (1) CAPITAL STOCK.—The capital stock issued
19 by each of the Federal Home Loan Banks under
20 section 6 of the Federal Home Loan Bank Act are—

21 (A) exempted securities, within the mean-
22 ing of section 3(a)(2) of the Securities Act of
23 1933; and

24 (B) exempted securities, within the mean-
25 ing of section 3(a)(12)(A) of the Securities Ex-

1 change Act of 1934, except to the extent pro-
2 vided in section 38 of that Act.

3 (2) OTHER OBLIGATIONS.—The debentures,
4 bonds, and other obligations issued under section 11
5 of the Federal Home Loan Bank Act (12 U.S.C.
6 1431) are—

7 (A) exempted securities, within the mean-
8 ing of section 3(a)(2) of the Securities Act of
9 1933;

10 (B) government securities, within the
11 meaning of section 3(a)(42) of the Securities
12 Exchange Act of 1934; and

13 (C) government securities, within the
14 meaning of section 2(a)(16) of the Investment
15 Company Act of 1940.

16 (3) BROKERS AND DEALERS.—A person (other
17 than a Federal Home Loan Bank effecting trans-
18 actions for members of the Federal Home Loan
19 Bank System) that effects transactions in the capital
20 stock or other obligations of a Federal Home Loan
21 Bank, for the account of others or for that person's
22 own account, as applicable, is a broker or dealer, as
23 those terms are defined in paragraphs (4) and (5),
24 respectively, of section 3(a) of the Securities Ex-

1 change Act of 1934, but is excluded from the defini-
2 tion of—

3 (A) the term “government securities
4 broker” under section 3(a)(43) of the Securities
5 Exchange Act of 1934; and

6 (B) the term “government securities deal-
7 er” under section 3(a)(44) of the Securities Ex-
8 change Act of 1934.

9 (d) EXEMPTION FROM REPORTING REQUIRE-
10 MENTS.—The Federal Home Loan Banks shall be exempt
11 from periodic reporting requirements under the securities
12 laws pertaining to the disclosure of—

13 (1) related party transactions that occur in the
14 ordinary course of the business of the Banks with
15 members; and

16 (2) the unregistered sales of equity securities.

17 (e) TENDER OFFERS.—Commission rules relating to
18 tender offers shall not apply in connection with trans-
19 actions in the capital stock of the Federal Home Loan
20 Banks.

21 (f) REGULATIONS.—

22 (1) IN GENERAL.—The Commission shall pro-
23 mulgate such rules and regulations as may be nec-
24 essary or appropriate in the public interest or in fur-

1 therance of this section and the exemptions provided
2 in this section.

3 (2) CONSIDERATIONS.—In issuing regulations
4 under this section, the Commission shall consider
5 the distinctive characteristics of the Federal Home
6 Loan Banks when evaluating—

7 (A) the accounting treatment with respect
8 to the payment to the Resolution Funding Cor-
9 poration;

10 (B) the role of the combined financial
11 statements of the Federal Home Loan Banks;

12 (C) the accounting classification of redeem-
13 able capital stock; and

14 (D) the accounting treatment related to
15 the joint and several nature of the obligations
16 of the Banks.

17 (g) DEFINITIONS.—As used in this section—

18 (1) the terms “Bank”, “Federal Home Loan
19 Bank”, “member”, and “Federal Home Loan Bank
20 System” have the same meanings as in section 2 of
21 the Federal Home Loan Bank Act (12 U.S.C.
22 1422);

23 (2) the term “Commission” means the Securi-
24 ties and Exchange Commission; and

1 (3) the term “securities laws” has the same
2 meaning as in section 3(a)(47) of the Securities Ex-
3 change Act of 1934 (15 U.S.C. 78c(a)(47)).

4 **SEC. 1209. VOLUNTARY MERGERS.**

5 Section 26 of the Federal Home Loan Bank Act (12
6 U.S.C. 1446) is amended—

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

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

10 “(b) VOLUNTARY MERGERS AUTHORIZED.—

11 “(1) IN GENERAL.—Any Federal Home Loan
12 Bank may, with the approval of the Director and of
13 the boards of directors of the Banks involved, merge
14 with another Bank.

15 “(2) REGULATIONS REQUIRED.—The Director
16 shall promulgate regulations establishing the condi-
17 tions and procedures for the consideration and ap-
18 proval of any voluntary merger described in para-
19 graph (1), including the procedures for Bank mem-
20 ber approval.”.

21 **SEC. 1210. AUTHORITY TO REDUCE DISTRICTS.**

22 Section 3 of the Federal Home Loan Bank Act (12
23 U.S.C. 1423) is amended—

24 (1) by striking “As soon” and inserting “(a) IN
25 GENERAL.—As soon”; and

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

2 “(b) **AUTHORITY TO REDUCE DISTRICTS.**—Notwith-
3 standing subsection (a), the number of districts may be
4 reduced to a number less than 8—

5 “(1) pursuant to a voluntary merger between
6 Banks, as approved pursuant to section 26(b); or

7 “(2) pursuant to a decision by the Director to
8 liquidate a Bank pursuant to section 1367 of the
9 Federal Housing Enterprises Financial Safety and
10 Soundness Act of 1992.”.

11 **SEC. 1211. COMMUNITY FINANCIAL INSTITUTION MEM-**
12 **BERS.**

13 (a) **TOTAL ASSET REQUIREMENT.**—Paragraph (10)
14 of section 2 of the Federal Home Loan Bank Act (12
15 U.S.C. 1422(10)), as so redesignated by section 201(3)
16 of this Act, is amended by striking “\$500,000,000” each
17 place such term appears and inserting “\$1,000,000,000”.

18 (b) **USE OF ADVANCES FOR COMMUNITY DEVELOP-**
19 **MENT ACTIVITIES.**—Section 10(a) of the Federal Home
20 Loan Bank Act (12 U.S.C. 1430(a)) is amended—

21 (1) in paragraph (2)(B)—

22 (A) by striking “and”; and

23 (B) by inserting “, and community devel-
24 opment activities” before the period at the end;

1 (2) in paragraph (3)(E), by inserting “or com-
2 munity development activities” after “agriculture,”;
3 and

4 (3) in paragraph (6)—

5 (A) by striking “and”; and

6 (B) by inserting “, and ‘community devel-
7 opment activities’” before “shall”.

8 **SEC. 1212. PUBLIC USE DATABASE; REPORTS TO CON-**
9 **GRESS.**

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

12 (1) in subsection (j)(12)—

13 (A) by striking subparagraph (C) and in-
14 serting the following:

15 “(C) REPORTS.—The Director shall annu-
16 ally report to the Committee on Banking, Hous-
17 ing, and Urban Affairs of the Senate and the
18 Committee on Financial Services of the House
19 of Representatives on the collateral pledged to
20 the Banks, including an analysis of collateral by
21 type and by Bank district.”; and

22 (B) by adding at the end the following:

23 “(D) SUBMISSION TO CONGRESS.—The Di-
24 rector shall submit the reports under subpara-
25 graphs (A) and (C) to the Committee on Bank-

1 ing, Housing, and Urban Affairs of the Senate
2 and the Committee on Financial Services of the
3 House of Representatives, not later than 180
4 days after the date of enactment of the Federal
5 Housing Finance Regulatory Reform Act of
6 2008.”; and

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

8 “(k) PUBLIC USE DATABASE.—

9 “(1) DATA.—Each Federal Home Loan Bank
10 shall provide to the Director, in a form determined
11 by the Director, census tract level data relating to
12 mortgages purchased, if any, including—

13 “(A) data consistent with that reported
14 under section 1323 of the Federal Housing En-
15 terprises Financial Safety and Soundness Act
16 of 1992;

17 “(B) data elements required to be reported
18 under the Home Mortgage Disclosure Act of
19 1975; and

20 “(C) any other data elements that the Di-
21 rector considers appropriate.

22 “(2) PUBLIC USE DATABASE.—

23 “(A) IN GENERAL.—The Director shall
24 make available to the public, in a form that is
25 useful to the public (including forms accessible

1 electronically), and to the extent practicable,
2 the data provided to the Director under para-
3 graph (1).

4 “(B) PROPRIETARY INFORMATION.—Not
5 withstanding subparagraph (A), the Director
6 may not provide public access to, or disclose to
7 the public, any information required to be sub-
8 mitted under this subsection that the Director
9 determines is proprietary or that would provide
10 personally identifiable information and that is
11 not otherwise publicly accessible through other
12 forms, unless the Director determines that it is
13 in the public interest to provide such informa-
14 tion.”.

15 **SEC. 1213. SEMIANNUAL REPORTS.**

16 Section 21B of the Federal Home Loan Bank Act
17 is amended in subsection (f)(2)(C), by adding at the end
18 the following:

19 “(v) SEMIANNUAL REPORTS.—The
20 Director shall report semiannually to the
21 Committee on Banking, Housing, and
22 Urban Affairs of the Senate and the Com-
23 mittee on Financial Services of the House
24 of Representatives on the projected date

1 for the completion of contributions re-
2 quired by this section.”.

3 **SEC. 1214. LIQUIDATION OR REORGANIZATION OF A FED-**
4 **ERAL HOME LOAN BANK.**

5 Section 26 of the Federal Home Loan Bank Act (12
6 U.S.C. 1446) is amended by adding at the end the fol-
7 lowing: “At least 30 days prior to liquidating or reorga-
8 nizing any Bank under this section, the Director shall no-
9 tify the Bank of its determination and the facts and cir-
10 cumstances upon which such determination is based. The
11 Bank may contest that determination in a hearing before
12 the Director, in which all issues shall be determined on
13 the record pursuant to section 554 of title 5, United
14 States Code.”.

15 **SEC. 1215. STUDY AND REPORT TO CONGRESS ON**
16 **SECURITIZATION OF ACQUIRED MEMBER AS-**
17 **SETS.**

18 (a) STUDY.—The Director shall conduct a study on
19 securitization of home mortgage loans purchased or to be
20 purchased from member financial institutions under the
21 Acquired Member Assets programs. In conducting the
22 study, the Director shall establish a process for the formal
23 submission of comments.

24 (b) ELEMENTS.—The study shall encompass—

1 (1) the benefits and risks associated with
2 securitization of Acquired Member Assets;

3 (2) the potential impact of securitization upon
4 liquidity in the mortgage and broader credit mar-
5 kets;

6 (3) the ability of the Federal Home Loan Bank
7 or Banks in question to manage the risks associated
8 with such a program;

9 (4) the impact of such a program on the exist-
10 ing activities of the Banks, including their mortgage
11 portfolios and advances; and

12 (5) the joint and several liability of the Banks
13 and the cooperative structure of the Federal Home
14 Loan Bank System.

15 (c) CONSULTATIONS.—In conducting the study under
16 this section, the Director shall consult with the Federal
17 Home Loan Banks, the Banks' fiscal agent, representa-
18 tives of the mortgage lending industry, practitioners in the
19 structured finance field, and other experts as needed.

20 (d) REPORT.—Not later than 1 year after the date
21 of enactment of this Act, the Director shall submit a re-
22 port to Congress on the results of the study conducted
23 under subsection (a), including policy recommendations
24 based on the analysis of the Director of the feasibility of
25 mortgage-backed securities issuance by a Federal Home

1 Loan Bank or Banks and the risks and benefits associated
2 with such program or programs.

3 (e) DEFINITIONS.—As used in this section, the terms
4 “member”, “Bank”, and “Federal Home Loan Bank”
5 have the same meanings as in section 2 of the Federal
6 Home Loan Bank Act (12 U.S.C. 1422).

7 **SEC. 1216. TECHNICAL AND CONFORMING AMENDMENTS.**

8 (a) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—
9 Section 1113(o) of the Right to Financial Privacy Act of
10 1978 (12 U.S.C. 3413(o)) is amended—

11 (1) by striking “Federal Housing Finance
12 Board” and inserting “Federal Housing Finance
13 Agency”; and

14 (2) by striking “Federal Housing Finance
15 Board’s” and inserting “Federal Housing Finance
16 Agency’s”.

17 (b) RIEGLE COMMUNITY DEVELOPMENT AND REGU-
18 LATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of
19 the Riegle Community Development and Regulatory Im-
20 provement Act of 1994 (12 U.S.C. 4716(e)) is amended
21 by striking “Federal Housing Finance Board” and insert-
22 ing “Federal Housing Finance Agency”.

23 (c) TITLE 18, UNITED STATES CODE.—Title 18,
24 United States Code, is amended by striking “Federal
25 Housing Finance Board” each place such term appears

1 in each of sections 212, 657, 1006, and 1014, and insert-
2 ing “Federal Housing Finance Agency”.

3 (d) MAHRA ACT OF 1997.—Section 517(b)(4) of the
4 Multifamily Assisted Housing Reform and Affordability
5 Act of 1997 (42 U.S.C. 1437f note) is amended by strik-
6 ing “Federal Housing Finance Board” and inserting
7 “Federal Housing Finance Agency”.

8 (e) TITLE 44, UNITED STATES CODE.—Section
9 3502(5) of title 44, United States Code, is amended by
10 striking “Federal Housing Finance Board” and inserting
11 “Federal Housing Finance Agency”.

12 (f) ACCESS TO LOCAL TV ACT OF 2000.—Section
13 1004(d)(2)(D)(iii) of the Launching Our Communities’
14 Access to Local Television Act of 2000 (47 U.S.C.
15 1103(d)(2)(D)(iii)) is amended by striking “Office of Fed-
16 eral Housing Enterprise Oversight, the Federal Housing
17 Finance Board” and inserting “Federal Housing Finance
18 Agency”.

19 (g) FIRREA.—Section 1216 of the Financial Institu-
20 tions Reform, Recovery, and Enhancement Act of 1989
21 (12 U.S.C. 1833e) is amended—

22 (1) in subsection (a), by striking paragraph (3)
23 and inserting the following:

24 “(3) the Federal Housing Finance Agency;”;

1 (2) in subsection (b), by striking “Federal Na-
2 tional Mortgage Association” and inserting “Federal
3 Home Loan Banks, the Federal National Mortgage
4 Association,”; and

5 (3) in subsection (c), by striking “Finance
6 Board” and inserting “Finance Agency”.

7 **SEC. 1217. STUDY ON FEDERAL HOME LOAN BANK AD-**
8 **VANCES.**

9 (a) **IN GENERAL.**—Not later than 1 year after the
10 date of enactment of this Act, the Director shall conduct
11 a study and submit a report to the Committee on Banking,
12 Housing, and Urban Affairs of the Senate and the Com-
13 mittee on Financial Services of the House or Representa-
14 tives on the extent to which loans and securities used as
15 collateral to support Federal Home Loan Bank advances
16 are consistent with the interagency guidance on nontradi-
17 tional mortgage products.

18 (b) **REQUIRED CONTENT.**—The study required under
19 subsection (a) shall—

20 (1) consider and recommend any additional reg-
21 ulations, guidance, advisory bulletins, or other ad-
22 ministrative actions necessary to ensure that the
23 Federal Home Loan Banks are not supporting loans
24 with predatory characteristics; and

1 (2) include an opportunity for the public to
2 comment on any recommendations made under para-
3 graph (1).

4 **SEC. 1218. FEDERAL HOME LOAN BANK REFINANCING AU-**
5 **THORITY FOR CERTAIN RESIDENTIAL MORT-**
6 **GAGE LOANS.**

7 Section 10(j)(2) of the Federal Home Loan Bank Act
8 (12 U.S.C. 1430(j)(2)) is amended—

9 (1) in subparagraph (A), by striking “or” at
10 the end;

11 (2) in subparagraph (B), by striking the period
12 at the end and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(C) during the 2-year period beginning on
15 the date of enactment of this subparagraph, use
16 such percentage as the Director may by regula-
17 tion establish of any subsidized advances set
18 aside to finance homeownership under subpara-
19 graph (A) to refinance loans that are secured
20 by a first mortgage on a primary residence of
21 any family having an income at or below 80
22 percent of the median income for the area.”.

1 **TITLE III—TRANSFER OF FUNC-**
2 **TIONS, PERSONNEL, AND**
3 **PROPERTY OF OFHEO AND**
4 **THE FEDERAL HOUSING FI-**
5 **NANCE BOARD**

6 **Subtitle A—OFHEO**

7 **SEC. 1301. ABOLISHMENT OF OFHEO.**

8 (a) IN GENERAL.—Effective at the end of the 1-year
9 period beginning on the date of enactment of this Act, the
10 Office of Federal Housing Enterprise Oversight of the De-
11 partment of Housing and Urban Development and the po-
12 sitions of the Director and Deputy Director of such Office
13 are abolished.

14 (b) DISPOSITION OF AFFAIRS.—During the 1-year
15 period beginning on the date of enactment of this Act, the
16 Director of the Office of Federal Housing Enterprise
17 Oversight, solely for the purpose of winding up the affairs
18 of the Office of Federal Housing Enterprise Oversight—

19 (1) shall manage the employees of such Office
20 and provide for the payment of the compensation
21 and benefits of any such employee which accrue be-
22 fore the effective date of the transfer of such em-
23 ployee under section 1303; and

24 (2) may take any other action necessary for the
25 purpose of winding up the affairs of the Office.

1 (c) STATUS OF EMPLOYEES BEFORE TRANSFER.—

2 The amendments made by title I and the abolishment of
3 the Office of Federal Housing Enterprise Oversight under
4 subsection (a) of this section may not be construed to af-
5 fect the status of any employee of such Office as an em-
6 ployee of an agency of the United States for purposes of
7 any other provision of law before the effective date of the
8 transfer of any such employee under section 1303.

9 (d) USE OF PROPERTY AND SERVICES.—

10 (1) PROPERTY.—The Director may use the
11 property of the Office of Federal Housing Enter-
12 prise Oversight to perform functions which have
13 been transferred to the Director for such time as is
14 reasonable to facilitate the orderly transfer of func-
15 tions transferred under any other provision of this
16 Act or any amendment made by this Act to any
17 other provision of law.

18 (2) AGENCY SERVICES.—Any agency, depart-
19 ment, or other instrumentality of the United States,
20 and any successor to any such agency, department,
21 or instrumentality, which was providing supporting
22 services to the Office of Federal Housing Enterprise
23 Oversight before the expiration of the period under
24 subsection (a) in connection with functions that are
25 transferred to the Director shall—

1 (A) continue to provide such services, on a
2 reimbursable basis, until the transfer of such
3 functions is complete; and

4 (B) consult with any such agency to co-
5 ordinate and facilitate a prompt and reasonable
6 transition.

7 (e) CONTINUATION OF SERVICES.—The Director may
8 use the services of employees and other personnel of the
9 Office of Federal Housing Enterprise Oversight, on a re-
10 imbursable basis, to perform functions which have been
11 transferred to the Director for such time as is reasonable
12 to facilitate the orderly transfer of functions pursuant to
13 any other provision of this Act or any amendment made
14 by this Act to any other provision of law.

15 (f) SAVINGS PROVISIONS.—

16 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
17 TIONS NOT AFFECTED.—Subsection (a) shall not af-
18 fect the validity of any right, duty, or obligation of
19 the United States, the Director of the Office of Fed-
20 eral Housing Enterprise Oversight, or any other per-
21 son, which—

22 (A) arises under—

23 (i) the Federal Housing Enterprises
24 Financial Safety and Soundness Act of
25 1992;

1 (ii) the Federal National Mortgage
2 Association Charter Act;

3 (iii) the Federal Home Loan Mort-
4 gage Corporation Act; or

5 (iv) any other provision of law appli-
6 cable with respect to such Office; and

7 (B) existed on the day before the date of
8 abolishment under subsection (a).

9 (2) CONTINUATION OF SUITS.—No action or
10 other proceeding commenced by or against the Di-
11 rector of the Office of Federal Housing Enterprise
12 Oversight in connection with functions that are
13 transferred to the Director of the Federal Housing
14 Finance Agency shall abate by reason of the enact-
15 ment of this Act, except that the Director of the
16 Federal Housing Finance Agency shall be sub-
17 stituted for the Director of the Office of Federal
18 Housing Enterprise Oversight as a party to any
19 such action or proceeding.

20 **SEC. 1302. CONTINUATION AND COORDINATION OF CER-**
21 **TAIN ACTIONS.**

22 (a) IN GENERAL.—All regulations, orders, and deter-
23 minations described in subsection (b) shall remain in ef-
24 fect according to the terms of such regulations, orders,
25 and determinations, and shall be enforceable by or against

1 the Director or the Secretary of Housing and Urban De-
2 velopment, as the case may be, until modified, terminated,
3 set aside, or superseded in accordance with applicable law
4 by the Director or the Secretary, as the case may be, any
5 court of competent jurisdiction, or operation of law.

6 (b) APPLICABILITY.—A regulation, order, or deter-
7 mination is described in this subsection if it—

8 (1) was issued, made, prescribed, or allowed to
9 become effective by—

10 (A) the Office of Federal Housing Enter-
11 prise Oversight;

12 (B) the Secretary of Housing and Urban
13 Development, and relates to the authority of
14 the Secretary under—

15 (i) the Federal Housing Enterprises
16 Financial Safety and Soundness Act of
17 1992;

18 (ii) the Federal National Mortgage
19 Association Charter Act, with respect to
20 the Federal National Mortgage Associa-
21 tion; or

22 (iii) the Federal Home Loan Mort-
23 gage Corporation Act, with respect to the
24 Federal Home Loan Mortgage Corpora-
25 tion; or

1 (C) a court of competent jurisdiction, and
2 relates to functions transferred by this Act; and
3 (2) is in effect on the effective date of the abol-
4 ishment under section 1301(a).

5 **SEC. 1303. TRANSFER AND RIGHTS OF EMPLOYEES OF**
6 **OFHEO.**

7 (a) TRANSFER.—Each employee of the Office of Fed-
8 eral Housing Enterprise Oversight shall be transferred to
9 the Agency for employment, not later than the effective
10 date of the abolishment under section 1301(a), and such
11 transfer shall be deemed a transfer of function for pur-
12 poses of section 3503 of title 5, United States Code.

13 (b) GUARANTEED POSITIONS.—

14 (1) IN GENERAL.—Each employee transferred
15 under subsection (a) shall be guaranteed a position
16 with the same status, tenure, grade, and pay as that
17 held on the day immediately preceding the transfer.

18 (2) NO INVOLUNTARY SEPARATION OR REDUC-
19 TION.—An employee transferred under subsection
20 (a) holding a permanent position on the day imme-
21 diately preceding the transfer may not be involun-
22 tarily separated or reduced in grade or compensation
23 during the 12-month period beginning on the date of
24 transfer, except for cause, or, in the case of a tem-

1 porary employee, separated in accordance with the
2 terms of the appointment of the employee.

3 (c) APPOINTMENT AUTHORITY FOR EXCEPTED AND
4 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

5 (1) IN GENERAL.—In the case of an employee
6 occupying a position in the excepted service or the
7 Senior Executive Service, any appointment authority
8 established under law or by regulations of the Office
9 of Personnel Management for filling such position
10 shall be transferred, subject to paragraph (2).

11 (2) DECLINE OF TRANSFER.—The Director
12 may decline a transfer of authority under paragraph
13 (1) to the extent that such authority relates to—

14 (A) a position excepted from the competi-
15 tive service because of its confidential, policy-
16 making, policy-determining, or policy-advocating
17 character; or

18 (B) a noncareer position in the Senior Ex-
19 ecutive Service (within the meaning of section
20 3132(a)(7) of title 5, United States Code).

21 (d) REORGANIZATION.—If the Director determines,
22 after the end of the 1-year period beginning on the effec-
23 tive date of the abolishment under section 1301(a), that
24 a reorganization of the combined workforce is required,
25 that reorganization shall be deemed a major reorganiza-

1 tion for purposes of affording affected employee retire-
2 ment under section 8336(d)(2) or 8414(b)(1)(B) of title
3 5, United States Code.

4 (e) EMPLOYEE BENEFIT PROGRAMS.—

5 (1) IN GENERAL.—Any employee of the Office
6 of Federal Housing Enterprise Oversight accepting
7 employment with the Agency as a result of a trans-
8 fer under subsection (a) may retain, for 12 months
9 after the date on which such transfer occurs, mem-
10 bership in any employee benefit program of the
11 Agency or the Office of Federal Housing Enterprise
12 Oversight of the Department of Housing and Urban
13 Development, as applicable, including insurance, to
14 which such employee belongs on the date of the abol-
15 ishment under section 1301(a), if—

16 (A) the employee does not elect to give up
17 the benefit or membership in the program; and

18 (B) the benefit or program is continued by
19 the Director of the Federal Housing Finance
20 Agency.

21 (2) COST DIFFERENTIAL.—

22 (A) IN GENERAL.—The difference in the
23 costs between the benefits which would have
24 been provided by the Office of Federal Housing

1 Enterprise Oversight and those provided by this
2 section shall be paid by the Director.

3 (B) HEALTH INSURANCE.—If any em-
4 ployee elects to give up membership in a health
5 insurance program or the health insurance pro-
6 gram is not continued by the Director, the em-
7 ployee shall be permitted to select an alternate
8 Federal health insurance program not later
9 than 30 days after the date of such election or
10 notice, without regard to any other regularly
11 scheduled open season.

12 **SEC. 1304. TRANSFER OF PROPERTY AND FACILITIES.**

13 Upon the effective date of its abolishment under sec-
14 tion 1301(a), all property of the Office of Federal Housing
15 Enterprise Oversight shall transfer to the Agency.

16 **Subtitle B—Federal Housing**
17 **Finance Board**

18 **SEC. 1311. ABOLISHMENT OF THE FEDERAL HOUSING FI-**
19 **NANCE BOARD.**

20 (a) IN GENERAL.—Effective at the end of the 1-year
21 period beginning on the date of enactment of this Act, the
22 Federal Housing Finance Board (in this subtitle referred
23 to as the “Board”) is abolished.

24 (b) DISPOSITION OF AFFAIRS.—During the 1-year
25 period beginning on the date of enactment of this Act, the

1 Board, solely for the purpose of winding up the affairs
2 of the Board—

3 (1) shall manage the employees of the Board
4 and provide for the payment of the compensation
5 and benefits of any such employee which accrue be-
6 fore the effective date of the transfer of such em-
7 ployee under section 1313; and

8 (2) may take any other action necessary for the
9 purpose of winding up the affairs of the Board.

10 (c) STATUS OF EMPLOYEES BEFORE TRANSFER.—

11 The amendments made by titles I and II and the abolish-
12 ment of the Board under subsection (a) may not be con-
13 strued to affect the status of any employee of the Board
14 as an employee of an agency of the United States for pur-
15 poses of any other provision of law before the effective
16 date of the transfer of any such employee under section
17 1313.

18 (d) USE OF PROPERTY AND SERVICES.—

19 (1) PROPERTY.—The Director may use the
20 property of the Board to perform functions which
21 have been transferred to the Director, for such time
22 as is reasonable to facilitate the orderly transfer of
23 functions transferred under any other provision of
24 this Act or any amendment made by this Act to any
25 other provision of law.

1 (2) AGENCY SERVICES.—Any agency, depart-
2 ment, or other instrumentality of the United States,
3 and any successor to any such agency, department,
4 or instrumentality, which was providing supporting
5 services to the Board before the expiration of the 1-
6 year period under subsection (a) in connection with
7 functions that are transferred to the Director
8 shall—

9 (A) continue to provide such services, on a
10 reimbursable basis, until the transfer of such
11 functions is complete; and

12 (B) consult with any such agency to co-
13 ordinate and facilitate a prompt and reasonable
14 transition.

15 (e) CONTINUATION OF SERVICES.—The Director may
16 use the services of employees and other personnel of the
17 Board, on a reimbursable basis, to perform functions
18 which have been transferred to the Director for such time
19 as is reasonable to facilitate the orderly transfer of func-
20 tions pursuant to any other provision of this Act or any
21 amendment made by this Act to any other provision of
22 law.

23 (f) SAVINGS PROVISIONS.—

24 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
25 TIONS NOT AFFECTED.—Subsection (a) shall not af-

1 fect the validity of any right, duty, or obligation of
2 the United States, a member of the Board, or any
3 other person, which—

4 (A) arises under the Federal Home Loan
5 Bank Act, or any other provision of law applica-
6 ble with respect to the Board; and

7 (B) existed on the day before the effective
8 date of the abolishment under subsection (a).

9 (2) CONTINUATION OF SUITS.—No action or
10 other proceeding commenced by or against the
11 Board in connection with functions that are trans-
12 ferred under this Act to the Director shall abate by
13 reason of the enactment of this Act, except that the
14 Director shall be substituted for the Board or any
15 member thereof as a party to any such action or
16 proceeding.

17 **SEC. 1312. CONTINUATION AND COORDINATION OF CER-**
18 **TAIN ACTIONS.**

19 (a) IN GENERAL.—All regulations, orders, deter-
20 minations, and resolutions described under subsection (b)
21 shall remain in effect according to the terms of such regu-
22 lations, orders, determinations, and resolutions, and shall
23 be enforceable by or against the Director until modified,
24 terminated, set aside, or superseded in accordance with

1 applicable law by the Director, any court of competent ju-
2 risdiction, or operation of law.

3 (b) APPLICABILITY.—A regulation, order, determina-
4 tion, or resolution is described under this subsection if it—

5 (1) was issued, made, prescribed, or allowed to
6 become effective by—

7 (A) the Board; or

8 (B) a court of competent jurisdiction, and
9 relates to functions transferred by this Act; and

10 (2) is in effect on the effective date of the abol-
11 ishment under section 1311(a).

12 **SEC. 1313. TRANSFER AND RIGHTS OF EMPLOYEES OF THE**
13 **FEDERAL HOUSING FINANCE BOARD.**

14 (a) TRANSFER.—Each employee of the Board shall
15 be transferred to the Agency for employment, not later
16 than the effective date of the abolishment under section
17 1311(a), and such transfer shall be deemed a transfer of
18 function for purposes of section 3503 of title 5, United
19 States Code.

20 (b) GUARANTEED POSITIONS.—

21 (1) IN GENERAL.—Each employee transferred
22 under subsection (a) shall be guaranteed a position
23 with the same status, tenure, grade, and pay as that
24 held on the day immediately preceding the transfer.

1 (2) NO INVOLUNTARY SEPARATION OR REDUC-
2 TION.—An employee holding a permanent position
3 on the day immediately preceding the transfer may
4 not be involuntarily separated or reduced in grade or
5 compensation during the 12-month period beginning
6 on the date of transfer, except for cause, or, if the
7 employee is a temporary employee, separated in ac-
8 cordance with the terms of the appointment of the
9 employee.

10 (c) APPOINTMENT AUTHORITY FOR EXCEPTED EM-
11 PLOYEES.—

12 (1) IN GENERAL.—In the case of an employee
13 occupying a position in the excepted service, any ap-
14 pointment authority established under law or by reg-
15 ulations of the Office of Personnel Management for
16 filling such position shall be transferred, subject to
17 paragraph (2).

18 (2) DECLINE OF TRANSFER.—The Director
19 may decline a transfer of authority under paragraph
20 (1), to the extent that such authority relates to a po-
21 sition excepted from the competitive service because
22 of its confidential, policymaking, policy-determining,
23 or policy-advocating character.

24 (d) REORGANIZATION.—If the Director determines,
25 after the end of the 1-year period beginning on the effec-

1 tive date of the abolishment under section 1311(a), that
2 a reorganization of the combined workforce is required,
3 that reorganization shall be deemed a major reorganiza-
4 tion for purposes of affording affected employee retire-
5 ment under section 8336(d)(2) or 8414(b)(1)(B) of title
6 5, United States Code.

7 (e) EMPLOYEE BENEFIT PROGRAMS.—

8 (1) IN GENERAL.—Any employee of the Board
9 accepting employment with the Agency as a result of
10 a transfer under subsection (a) may retain, for 12
11 months after the date on which such transfer occurs,
12 membership in any employee benefit program of the
13 Agency or the Board, as applicable, including insur-
14 ance, to which such employee belongs on the effec-
15 tive date of the abolishment under section 1311(a)
16 if—

17 (A) the employee does not elect to give up
18 the benefit or membership in the program; and

19 (B) the benefit or program is continued by
20 the Director.

21 (2) COST DIFFERENTIAL.—

22 (A) IN GENERAL.—The difference in the
23 costs between the benefits which would have
24 been provided by the Board and those provided
25 by this section shall be paid by the Director.

1 (B) HEALTH INSURANCE.—If any em-
2 ployee elects to give up membership in a health
3 insurance program or the health insurance pro-
4 gram is not continued by the Director, the em-
5 ployee shall be permitted to select an alternate
6 Federal health insurance program not later
7 than 30 days after the date of such election or
8 notice, without regard to any other regularly
9 scheduled open season.

10 **SEC. 1314. TRANSFER OF PROPERTY AND FACILITIES.**

11 Upon the effective date of the abolishment under sec-
12 tion 1311(a), all property of the Board shall transfer to
13 the Agency.

14 **TITLE IV—HOPE FOR**
15 **HOMEOWNERS**

16 **SEC. 1401. SHORT TITLE.**

17 This title may be cited as the “HOPE for Home-
18 owners Act of 2008”.

19 **SEC. 1402. ESTABLISHMENT OF HOPE FOR HOMEOWNERS**
20 **PROGRAM.**

21 (a) ESTABLISHMENT.—Title II of the National Hous-
22 ing Act (12 U.S.C. 1707 et seq.) is amended by adding
23 at the end the following:

1 **“SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.**

2 “(a) ESTABLISHMENT.—There is established in the
3 Federal Housing Administration a HOPE for Home-
4 owners Program.

5 “(b) PURPOSE.—The purpose of the HOPE for
6 Homeowners Program is—

7 “(1) to create an FHA program, participation
8 in which is voluntary on the part of homeowners and
9 existing loan holders to insure refinanced loans for
10 distressed borrowers to support long-term, sustain-
11 able homeownership;

12 “(2) to allow homeowners to avoid foreclosure
13 by reducing the principle balance outstanding, and
14 interest rate charged, on their mortgages;

15 “(3) to help stabilize and provide confidence in
16 mortgage markets by bringing transparency to the
17 value of assets based on mortgage assets;

18 “(4) to target mortgage assistance under this
19 section to homeowners for their principal residence;

20 “(5) to enhance the administrative capacity of
21 the FHA to carry out its expanded role under the
22 HOPE for Homeowners Program;

23 “(6) to ensure the HOPE for Homeowners Pro-
24 gram remains in effect only for as long as is nec-
25 essary to provide stability to the housing market;
26 and

1 “(7) to provide servicers of delinquent mort-
2 gages with additional methods and approaches to
3 avoid foreclosure.

4 “(c) ESTABLISHMENT AND IMPLEMENTATION OF
5 PROGRAM REQUIREMENTS.—

6 “(1) DUTIES OF THE BOARD.—In order to
7 carry out the purposes of the HOPE for Home-
8 owners Program, the Board shall—

9 “(A) establish requirements and standards
10 for the program; and

11 “(B) prescribe such regulations and pro-
12 vide such guidance as may be necessary or ap-
13 propriate to implement such requirements and
14 standards.

15 “(2) DUTIES OF THE SECRETARY.—In carrying
16 out any of the program requirements or standards
17 established under paragraph (1), the Secretary may
18 issue such interim guidance and mortgagee letters as
19 the Secretary determines necessary or appropriate.

20 “(d) INSURANCE OF MORTGAGES.—The Secretary is
21 authorized upon application of a mortgagee to make com-
22 mitments to insure or to insure any eligible mortgage that
23 has been refinanced in a manner meeting the requirements
24 under subsection (e).

1 “(e) REQUIREMENTS OF INSURED MORTGAGES.—To
2 be eligible for insurance under this section, a refinanced
3 eligible mortgage shall comply with all of the following re-
4 quirements:

5 “(1) LACK OF CAPACITY TO PAY EXISTING
6 MORTGAGE.—

7 “(A) BORROWER CERTIFICATION.—

8 “(i) IN GENERAL.—The mortgagor
9 shall provide certification to the Secretary
10 that the mortgagor has not intentionally
11 defaulted on the mortgage or any other
12 debt, and has not knowingly, or willfully
13 and with actual knowledge, furnished ma-
14 terial information known to be false for the
15 purpose of obtaining any eligible mortgage.

16 “(ii) PENALTIES.—

17 “(I) FALSE STATEMENT.—Any
18 certification filed pursuant to clause
19 (i) shall contain an acknowledgment
20 that any willful false statement made
21 in such certification is punishable
22 under section 1001, of title 18, United
23 States Code, by fine or imprisonment
24 of not more than 5 years, or both.

1 “(II) LIABILITY FOR REPAY-
2 MENT.—The mortgagor shall agree in
3 writing that the mortgagor shall be
4 liable to repay to the Federal Housing
5 Administration any direct financial
6 benefit achieved from the reduction of
7 indebtedness on the existing mortgage
8 or mortgages on the residence refi-
9 nanced under this section derived
10 from misrepresentations made in the
11 certifications and documentation re-
12 quired under this subparagraph, sub-
13 ject to the discretion of the Secretary.

14 “(B) CURRENT BORROWER DEBT-TO-IN-
15 COME RATIO.—As of March 1, 2008, the mort-
16 gagor shall have had a ratio of mortgage debt
17 to income, taking into consideration all existing
18 mortgages of that mortgagor at such time,
19 greater than 31 percent (or such higher amount
20 as the Board determines appropriate).

21 “(2) DETERMINATION OF PRINCIPAL OBLIGA-
22 TION AMOUNT.—The principal obligation amount of
23 the refinanced eligible mortgage to be insured
24 shall—

1 “(A) be determined by the reasonable abil-
2 ity of the mortgagor to make his or her mort-
3 gage payments, as such ability is determined by
4 the Secretary pursuant to section 203(b)(4) or
5 by any other underwriting standards established
6 by the Board; and

7 “(B) not exceed 90 percent of the ap-
8 praised value of the property to which such
9 mortgage relates.

10 “(3) REQUIRED WAIVER OF PREPAYMENT PEN-
11 ALTIES AND FEES.—All penalties for prepayment or
12 refinancing of the eligible mortgage, and all fees and
13 penalties related to default or delinquency on the eli-
14 gible mortgage, shall be waived or forgiven.

15 “(4) EXTINGUISHMENT OF SUBORDINATE
16 LIENS.—

17 “(A) REQUIRED AGREEMENT.—All holders
18 of outstanding mortgage liens on the property
19 to which the eligible mortgage relates shall
20 agree to accept the proceeds of the insured loan
21 as payment in full of all indebtedness under the
22 eligible mortgage, and all encumbrances related
23 to such eligible mortgage shall be removed. The
24 Secretary may take such actions, subject to
25 standards established by the Board under sub-

1 paragraph (B), as may be necessary and appro-
2 priate to facilitate coordination and agreement
3 between the holders of the existing senior mort-
4 gage and any existing subordinate mortgages,
5 taking into consideration the subordinate lien
6 status of such subordinate mortgages.

7 “(B) SHARED APPRECIATION.—

8 “(i) IN GENERAL.—The Board shall
9 establish standards and policies that will
10 allow for the payment to the holder of any
11 existing subordinate mortgage of a portion
12 of any future appreciation in the property
13 secured by such eligible mortgage that is
14 owed to the Secretary pursuant to sub-
15 section (k).

16 “(ii) FACTORS.—In establishing the
17 standards and policies required under
18 clause (i), the Board shall take into consid-
19 eration—

20 “(I) the status of any subordi-
21 nate mortgage;

22 “(II) the outstanding principal
23 balance of and accrued interest on the
24 existing senior mortgage and any out-
25 standing subordinate mortgages;

1 “(III) the extent to which the
2 current appraised value of the prop-
3 erty securing a subordinate mortgage
4 is less than the outstanding principal
5 balance and accrued interest on any
6 other liens that are senior to such
7 subordinate mortgage; and

8 “(IV) such other factors as the
9 Board determines to be appropriate.

10 “(C) VOLUNTARY PROGRAM.—This para-
11 graph may not be construed to require any
12 holder of any existing mortgage to participate
13 in the program under this section generally, or
14 with respect to any particular loan.

15 “(5) TERM OF MORTGAGE.—The refinanced eli-
16 gible mortgage to be insured shall—

17 “(A) bear interest at a single rate that is
18 fixed for the entire term of the mortgage; and

19 “(B) have a maturity of not less than 30
20 years from the date of the beginning of amorti-
21 zation of such refinanced eligible mortgage.

22 “(6) MAXIMUM LOAN AMOUNT.—The principal
23 obligation amount of the eligible mortgage to be in-
24 sured shall not exceed 132 percent of the dollar
25 amount limitation in effect for 2007 under section

1 305(a)(2) of the Federal Home Loan Mortgage Cor-
2 poration Act (12 U.S.C. 1454(a)(2)) for a property
3 of the applicable size.

4 “(7) PROHIBITION ON SECOND LIENS.—A
5 mortgagor may not grant a new second lien on the
6 mortgaged property during the first 5 years of the
7 term of the mortgage insured under this section, ex-
8 cept as the Board determines to be necessary to en-
9 sure the maintenance of property standards; and
10 provided that such new outstanding liens (A) do not
11 reduce the value of the Government’s equity in the
12 borrower’s home; and (B) when combined with the
13 mortgagor’s existing mortgage indebtedness, do not
14 exceed 95 percent of the home’s appraised value at
15 the time of the new second lien.

16 “(8) APPRAISALS.—Any appraisal conducted in
17 connection with a mortgage insured under this sec-
18 tion shall—

19 “(A) be based on the current value of the
20 property;

21 “(B) be conducted in accordance with title
22 XI of the Financial Institutions Reform, Recov-
23 ery, and Enforcement Act of 1989 (12 U.S.C.
24 3331 et seq.);

1 “(C) be completed by an appraiser who
2 meets the competency requirements of the Uni-
3 form Standards of Professional Appraisal Prac-
4 tice;

5 “(D) be wholly consistent with the ap-
6 praisal standards, practices, and procedures
7 under section 202(e) of this Act that apply to
8 all loans insured under this Act; and

9 “(E) comply with the requirements of sub-
10 section (g) of this section (relating to appraisal
11 independence).

12 “(9) DOCUMENTATION AND VERIFICATION OF
13 INCOME.—In complying with the FHA underwriting
14 requirements under the HOPE for Homeowners
15 Program under this section, the mortgagee shall
16 document and verify the income of the mortgagor or
17 non-filing status by procuring (A) an income tax re-
18 turn transcript of the income tax returns of the
19 mortgagor, or (B) a copy of the income tax returns
20 from the Internal Revenue Service, for the two most
21 recent years for which the filing deadline for such
22 years has passed and by any other method, in ac-
23 cordance with procedures and standards that the
24 Board shall establish.

1 “(10) MORTGAGE FRAUD.—The mortgagor
2 shall not have been convicted under Federal or State
3 law for fraud during the 10-year period ending upon
4 the insurance of the mortgage under this section.

5 “(11) PRIMARY RESIDENCE.—The mortgagor
6 shall provide documentation satisfactory in the de-
7 termination of the Secretary to prove that the resi-
8 dence covered by the mortgage to be insured under
9 this section is occupied by the mortgagor as the pri-
10 mary residence of the mortgagor, and that such resi-
11 dence is the only residence in which the mortgagor
12 has any present ownership interest.

13 “(f) STUDY OF AUCTION OR BULK REFINANCE PRO-
14 GRAM.—

15 “(1) STUDY.—The Board shall conduct a study
16 of the need for and efficacy of an auction or bulk
17 refinancing mechanism to facilitate refinancing of
18 existing residential mortgages that are at risk for
19 foreclosure into mortgages insured under this sec-
20 tion. The study shall identify and examine various
21 options for mechanisms under which lenders and
22 servicers of such mortgages may make bids for for-
23 ward commitments for such insurance in an expe-
24 dited manner.

25 “(2) CONTENT.—

1 “(A) ANALYSIS.—The study required
2 under paragraph (1) shall analyze—

3 “(i) the feasibility of establishing a
4 mechanism that would facilitate the more
5 rapid refinancing of borrowers at risk of
6 foreclosure into performing mortgages in-
7 sured under this section;

8 “(ii) whether such a mechanism would
9 provide an effective and efficient mecha-
10 nism to reduce foreclosures on qualified ex-
11 isting mortgages;

12 “(iii) whether the use of an auction or
13 bulk refinance program is necessary to sta-
14 bilize the housing market and reduce the
15 impact of turmoil in that market on the
16 economy of the United States;

17 “(iv) whether there are other mecha-
18 nisms or authority that would be useful to
19 reduce foreclosure; and

20 “(v) and any other factors that the
21 Board considers relevant.

22 “(B) DETERMINATIONS.—To the extent
23 that the Board finds that a facility of the type
24 described in subparagraph (A) is feasible and
25 useful, the study shall—

1 “(i) determine and identify any addi-
2 tional authority or resources needed to es-
3 tablish and operate such a mechanism;

4 “(ii) determine whether there is a
5 need for additional authority with respect
6 to the loan underwriting criteria estab-
7 lished in this section or with respect to eli-
8 gibility of participating borrowers, lenders,
9 or holders of liens;

10 “(iii) determine whether such under-
11 writing criteria should be established on
12 the basis of individual loans, in the aggre-
13 gate, or otherwise to facilitate the goal of
14 refinancing borrowers at risk of foreclosure
15 into viable loans insured under this sec-
16 tion.

17 “(3) REPORT.—Not later than the expiration of
18 the 60-day period beginning on the date of the en-
19 actment of this section, the Board shall submit a re-
20 port regarding the results of the study conducted
21 under this subsection to the Committee on Financial
22 Services of the House of Representatives and the
23 Committee on Banking, Housing, and Urban Affairs
24 of the Senate. The report shall include a detailed de-
25 scription of the analysis required under paragraph

1 (2)(A) and of the determinations made pursuant to
2 paragraph (2)(B), and shall include any other find-
3 ings and recommendations of the Board pursuant to
4 the study, including identifying various options for
5 mechanisms described in paragraph (1).

6 “(g) APPRAISAL INDEPENDENCE.—

7 “(1) PROHIBITIONS ON INTERESTED PARTIES
8 IN A REAL ESTATE TRANSACTION.—No mortgage
9 lender, mortgage broker, mortgage banker, real es-
10 tate broker, appraisal management company, em-
11 ployee of an appraisal management company, nor
12 any other person with an interest in a real estate
13 transaction involving an appraisal in connection with
14 a mortgage insured under this section shall improper-
15 ly influence, or attempt to improperly influence,
16 through coercion, extortion, collusion, compensation,
17 instruction, inducement, intimidation, nonpayment
18 for services rendered, or bribery, the development,
19 reporting, result, or review of a real estate appraisal
20 sought in connection with the mortgage.

21 “(2) CIVIL MONETARY PENALTIES.—The Sec-
22 retary may impose a civil money penalty for any
23 knowing and material violation of paragraph (1)
24 under the same terms and conditions as are author-
25 ized in section 536(a) of this Act.

1 “(h) STANDARDS TO PROTECT AGAINST ADVERSE
2 SELECTION.—

3 “(1) IN GENERAL.—The Board shall, by rule or
4 order, establish standards and policies to require the
5 underwriter of the insured loan to provide such rep-
6 resentations and warranties as the Board considers
7 necessary or appropriate to enforce compliance with
8 all underwriting and appraisal standards of the
9 HOPE for Homeowners Program.

10 “(2) EXCLUSION FOR VIOLATIONS.—The Board
11 shall prohibit the Secretary from paying insurance
12 benefits to a mortgagee who violates the representa-
13 tions and warranties, as established under para-
14 graph (1), or in any case in which a mortgagor fails
15 to make the first payment on a refinanced eligible
16 mortgage.

17 “(3) OTHER AUTHORITY.—The Board may es-
18 tablish such other standards or policies as necessary
19 to protect against adverse selection, including requir-
20 ing loans identified by the Secretary as higher risk
21 loans to demonstrate payment performance for a
22 reasonable period of time prior to being insured
23 under the program.

1 “(i) PREMIUMS.—For each refinanced eligible mort-
2 gage insured under this section, the Secretary shall estab-
3 lish and collect—

4 “(1) at the time of insurance, a single premium
5 payment in an amount equal to 3 percent of the
6 amount of the original insured principal obligation of
7 the refinanced eligible mortgage, which shall be paid
8 from the proceeds of the mortgage being insured
9 under this section, through the reduction of the
10 amount of indebtedness that existed on the eligible
11 mortgage prior to refinancing; and

12 “(2) in addition to the premium required under
13 paragraph (1), an annual premium in an amount
14 equal to 1.5 percent of the amount of the remaining
15 insured principal balance of the mortgage.

16 “(j) ORIGINATION FEES AND INTEREST RATE.—The
17 Board shall establish—

18 “(1) a reasonable limitation on origination fees
19 for refinanced eligible mortgages insured under this
20 section; and

21 “(2) procedures to ensure that interest rates on
22 such mortgages shall be commensurate with market
23 rate interest rates on such types of loans.

24 “(k) EQUITY AND APPRECIATION.—

1 “(1) FIVE-YEAR PHASE-IN FOR EQUITY AS A
2 RESULT OF SALE OR REFINANCING.—For each eligi-
3 ble mortgage insured under this section, the Sec-
4 retary and the mortgagor of such mortgage shall,
5 upon any sale or disposition of the property to which
6 such mortgage relates, or upon the subsequent refi-
7 nancing of such mortgage, be entitled to the fol-
8 lowing with respect to any equity created as a direct
9 result of such sale or refinancing:

10 “(A) If such sale or refinancing occurs
11 during the period that begins on the date that
12 such mortgage is insured and ends 1 year after
13 such date of insurance, the Secretary shall be
14 entitled to 100 percent of such equity.

15 “(B) If such sale or refinancing occurs
16 during the period that begins 1 year after such
17 date of insurance and ends 2 years after such
18 date of insurance, the Secretary shall be enti-
19 tled to 90 percent of such equity and the mort-
20 gagor shall be entitled to 10 percent of such eq-
21 uity.

22 “(C) If such sale or refinancing occurs
23 during the period that begins 2 years after such
24 date of insurance and ends 3 years after such
25 date of insurance, the Secretary shall be enti-

1 tled to 80 percent of such equity and the mort-
2 gagor shall be entitled to 20 percent of such eq-
3 uity.

4 “(D) If such sale or refinancing occurs
5 during the period that begins 3 years after such
6 date of insurance and ends 4 years after such
7 date of insurance, the Secretary shall be enti-
8 tled to 70 percent of such equity and the mort-
9 gagor shall be entitled to 30 percent of such eq-
10 uity.

11 “(E) If such sale or refinancing occurs
12 during the period that begins 4 years after such
13 date of insurance and ends 5 years after such
14 date of insurance, the Secretary shall be enti-
15 tled to 60 percent of such equity and the mort-
16 gagor shall be entitled to 40 percent of such eq-
17 uity.

18 “(F) If such sale or refinancing occurs
19 during any period that begins 5 years after
20 such date of insurance, the Secretary shall be
21 entitled to 50 percent of such equity and the
22 mortgagor shall be entitled to 50 percent of
23 such equity.

24 “(2) APPRECIATION IN VALUE.—For each eligi-
25 ble mortgage insured under this section, the Sec-

1 retary and the mortgagor of such mortgage shall,
2 upon any sale or disposition of the property to which
3 such mortgage relates, each be entitled to 50 percent
4 of any appreciation in value of the appraised value
5 of such property that has occurred since the date
6 that such mortgage was insured under this section.

7 “(1) ESTABLISHMENT OF HOPE FUND.—

8 “(1) IN GENERAL.—There is established in the
9 Federal Housing Administration a revolving fund to
10 be known as the Home Ownership Preservation En-
11 tity Fund, which shall be used by the Board for car-
12 rying out the mortgage insurance obligations under
13 this section.

14 “(2) MANAGEMENT OF FUND.—The HOPE
15 Fund shall be administered and managed by the
16 Secretary, who shall establish reasonable and pru-
17 dent criteria for the management and operation of
18 any amounts in the HOPE Fund.

19 “(m) LIMITATION ON AGGREGATE INSURANCE AU-
20 THORITY.—The aggregate original principal obligation of
21 all mortgages insured under this section may not exceed
22 \$300,000,000,000.

23 “(n) REPORTS BY THE BOARD.—The Board shall
24 submit monthly reports to the Congress identifying the

1 progress of the HOPE for Homeowners Program, which
2 shall contain the following information for each month:

3 “(1) The number of new mortgages insured
4 under this section, including the location of the
5 properties subject to such mortgages by census
6 tract.

7 “(2) The aggregate principal obligation of new
8 mortgages insured under this section.

9 “(3) The average amount by which the principle
10 balance outstanding on mortgages insured this sec-
11 tion was reduced.

12 “(4) The amount of premiums collected for in-
13 surance of mortgages under this section.

14 “(5) The claim and loss rates for mortgages in-
15 sured under this section.

16 “(6) Any other information that the Board con-
17 siders appropriate.

18 “(o) REQUIRED OUTREACH EFFORTS.—The Sec-
19 retary shall carry out outreach efforts to ensure that
20 homeowners, lenders, and the general public are aware of
21 the opportunities for assistance available under this sec-
22 tion.

23 “(p) ENHANCEMENT OF FHA CAPACITY.—Under
24 the direction of the Board, the Secretary shall take such
25 actions as may be necessary to—

1 “(1) contract for the establishment of under-
2 writing criteria, automated underwriting systems,
3 pricing standards, and other factors relating to eligi-
4 bility for mortgages insured under this section;

5 “(2) contract for independent quality reviews of
6 underwriting, including appraisal reviews and fraud
7 detection, of mortgages insured under this section or
8 pools of such mortgages; and

9 “(3) increase personnel of the Department as
10 necessary to process or monitor the processing of
11 mortgages insured under this section.

12 “(q) GNMA COMMITMENT AUTHORITY.—

13 “(1) GUARANTEES.—The Secretary shall take
14 such actions as may be necessary to ensure that se-
15 curities based on and backed by a trust or pool com-
16 posed of mortgages insured under this section are
17 available to be guaranteed by the Government Na-
18 tional Mortgage Association as to the timely pay-
19 ment of principal and interest.

20 “(2) GUARANTEE AUTHORITY.—To carry out
21 the purposes of section 306 of the National Housing
22 Act (12 U.S.C. 1721), the Government National
23 Mortgage Association may enter into new commit-
24 ments to issue guarantees of securities based on or
25 backed by mortgages insured under this section, not

1 exceeding \$300,000,000,000. The amount of author-
2 ity provided under the preceding sentence to enter
3 into new commitments to issue guarantees is in ad-
4 dition to any amount of authority to make new com-
5 mitments to issue guarantees that is provided to the
6 Association under any other provision of law.

7 “(r) SUNSET.—The Secretary may not enter into any
8 new commitment to insure any refinanced eligible mort-
9 gage, or newly insure any refinanced eligible mortgage
10 pursuant to this section before October 1, 2008 or after
11 September 30, 2011.

12 “(s) DEFINITIONS.—For purposes of this section, the
13 following definitions shall apply:

14 “(1) APPROVED FINANCIAL INSTITUTION OR
15 MORTGAGEE.—The term ‘approved financial institu-
16 tion or mortgagee’ means a financial institution or
17 mortgagee approved by the Secretary under section
18 203 as responsible and able to service mortgages re-
19 sponsibly.

20 “(2) BOARD.—The term ‘Board’ means the
21 Board of Directors of the HOPE for Homeowners
22 Program. The Board shall be composed of the Sec-
23 retary, the Secretary of the Treasury, the Chair-
24 person of the Board of Governors of the Federal Re-
25 serve System, and the Chairperson of the Board of

1 Directors of the Federal Deposit Insurance Corpora-
2 tion, or their designees.

3 “(3) ELIGIBLE MORTGAGE.—The term ‘eligible
4 mortgage’ means a mortgage—

5 “(A) the mortgagor of which—

6 “(i) occupies such property as his or
7 her principal residence; and

8 “(ii) cannot, subject to subsection
9 (e)(1)(B) and such other standards estab-
10 lished by the Board, afford his or her
11 mortgage payments; and

12 “(B) originated on or before January 1,
13 2008.

14 “(4) EXISTING SENIOR MORTGAGE.—The term
15 ‘existing senior mortgage’ means, with respect to a
16 mortgage insured under this section, the existing
17 mortgage that has superior priority.

18 “(5) EXISTING SUBORDINATE MORTGAGE.—The
19 term ‘existing subordinate mortgage’ means, with re-
20 spect to a mortgage insured under this section, an
21 existing mortgage that has subordinate priority to
22 the existing senior mortgage.

23 “(6) HOPE FOR HOMEOWNERS PROGRAM.—
24 The term ‘HOPE for Homeowners Program’ means
25 the program established under this section.

1 “(7) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of Housing and Urban Development,
3 except where specifically provided otherwise.

4 “(t) REQUIREMENTS RELATED TO THE BOARD.—

5 “(1) COMPENSATION, ACTUAL, NECESSARY,
6 AND TRANSPORTATION EXPENSES.—

7 “(A) FEDERAL EMPLOYEES.—A member
8 of the Board who is an officer or employee of
9 the Federal Government shall serve without ad-
10 ditional pay (or benefits in the nature of com-
11 pensation) for service as a member of the
12 Board.

13 “(B) TRAVEL EXPENSES.—Members of the
14 Board shall be entitled to receive travel ex-
15 penses, including per diem in lieu of subsist-
16 ence, equivalent to those set forth in subchapter
17 I of chapter 57 of title 5, United States Code.

18 “(2) BYLAWS.—The Board may prescribe,
19 amend, and repeal such bylaws as may be necessary
20 for carrying out the functions of the Board.

21 “(3) QUORUM.—A majority of the Board shall
22 constitute a quorum.

23 “(4) STAFF; EXPERTS AND CONSULTANTS.—

24 “(A) DETAIL OF GOVERNMENT EMPLOY-
25 EES.—Upon request of the Board, any Federal

1 Government employee may be detailed to the
2 Board without reimbursement, and such detail
3 shall be without interruption or loss of civil
4 service status or privilege.

5 “(B) EXPERTS AND CONSULTANTS.—The
6 Board shall procure the services of experts and
7 consultants as the Board considers appropriate.

8 “(u) RULE OF CONSTRUCTION RELATED TO VOL-
9 UNTARY NATURE OF THE PROGRAM.—This section shall
10 not be construed to require that any approved financial
11 institution or mortgagee participate in any activity author-
12 ized under this section, including any activity related to
13 the refinancing of an eligible mortgage.

14 “(v) RULE OF CONSTRUCTION RELATED TO INSUR-
15 ANCE OF MORTGAGES.—Except as otherwise provided for
16 in this section or by action of the Board, the provisions
17 and requirements of section 203(b) shall apply with re-
18 spect to the insurance of any eligible mortgage under this
19 section.

20 “(w) HOPE BONDS.—

21 “(1) ISSUANCE AND REPAYMENT OF BONDS.—
22 Notwithstanding section 504(b) of the Federal Cred-
23 it Reform Act of 1990 (2 U.S.C. 661d(b)), the Sec-
24 retary of the Treasury shall—

1 “(A) subject to such terms and conditions
2 as the Secretary of the Treasury deems nec-
3 essary, issue Federal credit instruments, to be
4 known as ‘HOPE Bonds’, that are callable at
5 the discretion of the Secretary of the Treasury
6 and do not, in the aggregate, exceed the
7 amount specified in subsection (m);

8 “(B) provide the subsidy amounts nec-
9 essary for loan guarantees under the HOPE for
10 Homeowners Program, not to exceed the
11 amount specified in subsection (m), in accord-
12 ance with the provisions of the Federal Credit
13 Reform Act of 1990 (2 U.S.C. 661 et seq.), ex-
14 cept as provided in this paragraph; and

15 “(C) use the proceeds from HOPE Bonds
16 only to pay for the net costs to the Federal
17 Government of the HOPE for Homeowners
18 Program, including administrative costs.

19 “(2) REIMBURSEMENTS TO TREASURY.—Funds
20 received pursuant to section 1338(b) of the Federal
21 Housing Enterprises Regulatory Reform Act of
22 1992 shall be used to reimburse the Secretary of the
23 Treasury for amounts borrowed under paragraph
24 (1).

1 “(3) USE OF RESERVE FUND.—If the net cost
2 to the Federal Government for the HOPE for
3 Homeowners Program exceeds the amount of funds
4 received under paragraph (2), remaining debts of
5 the HOPE for Homeowners Program shall be paid
6 from amounts deposited into the fund established by
7 the Secretary under section 1337(e) of the Federal
8 Housing Enterprises Financial Safety and Sound-
9 ness Act of 1992, remaining amounts in such fund
10 to be used to reduce the National debt.

11 “(4) REDUCTION OF NATIONAL DEBT.—
12 Amounts collected under the HOPE for Home-
13 owners Program in accordance with subsections (i)
14 and (k) in excess of the net cost to the Federal Gov-
15 ernment for such Program shall be used to reduce
16 the National debt.”.

17 **SEC. 1403. FIDUCIARY DUTY OF SERVICERS OF POOLED**
18 **RESIDENTIAL MORTGAGE LOANS.**

19 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
20 is amended by inserting after section 129 the following
21 new section:

22 **“SEC. 129A. FIDUCIARY DUTY OF SERVICERS OF POOLED**
23 **RESIDENTIAL MORTGAGES.**

24 “(a) IN GENERAL.—Except as may be established in
25 any investment contract between a servicer of pooled resi-

1 dential mortgages and an investor, a servicer of pooled res-
2 idential mortgages—

3 “(1) owes any duty to maximize the net present
4 value of the pooled mortgages in an investment to all
5 investors and parties having a direct or indirect in-
6 terest in such investment, not to any individual
7 party or group of parties; and

8 “(2) shall be deemed to act in the best interests
9 of all such investors and parties if the servicer
10 agrees to or implements a modification or workout
11 plan, including any modification or refinancing un-
12 dertaken pursuant to the HOPE for Homeowners
13 Act of 2008, for a residential mortgage or a class of
14 residential mortgages that constitute a part or all of
15 the pooled mortgages in such investment, provided
16 that any mortgage so modified meets the following
17 criteria:

18 “(A) Default on the payment of such mort-
19 gage has occurred or is reasonably foreseeable.

20 “(B) The property securing such mortgage
21 is occupied by the mortgagor of such mortgage.

22 “(C) The anticipated recovery on the prin-
23 cipal outstanding obligation of the mortgage
24 under the modification or workout plan exceeds,
25 on a net present value basis, the anticipated re-

1 covery on the principal outstanding obligation
2 of the mortgage through foreclosure.

3 “(b) DEFINITION.—As used in this section, the term
4 ‘servicer’ means the person responsible for servicing of a
5 loan (including the person who makes or holds a loan if
6 such person also services the loan).”.

7 **SEC. 1404. REVISED STANDARDS FOR FHA APPRAISERS.**

8 Section 202(e) of the National Housing Act (12
9 U.S.C. 1708(e)) is amended by adding at the end the fol-
10 lowing:

11 “(5) ADDITIONAL APPRAISER STANDARDS.—
12 Beginning on the date of enactment of the Federal
13 Housing Finance Regulatory Reform Act of 2008,
14 any appraiser chosen or approved to conduct ap-
15 praisals for mortgages under this title shall—

16 “(A) be certified—

17 “(i) by the State in which the prop-
18 erty to be appraised is located; or

19 “(ii) by a nationally recognized profes-
20 sional appraisal organization; and

21 “(B) have demonstrated verifiable edu-
22 cation in the appraisal requirements established
23 by the Federal Housing Administration under
24 this subsection.”.

1 **TITLE V—S.A.F.E. MORTGAGE**
2 **LICENSING ACT**

3 **SEC. 1501. SHORT TITLE.**

4 This title may be cited as the “Secure and Fair En-
5 forcement for Mortgage Licensing Act of 2008” or
6 “S.A.F.E. Mortgage Licensing Act of 2008”.

7 **SEC. 1502. PURPOSES AND METHODS FOR ESTABLISHING A**
8 **MORTGAGE LICENSING SYSTEM AND REG-**
9 **ISTRY.**

10 In order to increase uniformity, reduce regulatory
11 burden, enhance consumer protection, and reduce fraud,
12 the States, through the Conference of State Bank Super-
13 visors and the American Association of Residential Mort-
14 gage Regulators, are hereby encouraged to establish a Na-
15 tionwide Mortgage Licensing System and Registry for the
16 residential mortgage industry that accomplishes all of the
17 following objectives:

18 (1) Provides uniform license applications and
19 reporting requirements for State-licensed loan origi-
20 nators.

21 (2) Provides a comprehensive licensing and su-
22 pervisory database.

23 (3) Aggregates and improves the flow of infor-
24 mation to and between regulators.

1 (4) Provides increased accountability and track-
2 ing of loan originators.

3 (5) Streamlines the licensing process and re-
4 duces the regulatory burden.

5 (6) Enhances consumer protections and sup-
6 ports anti-fraud measures.

7 (7) Provides consumers with easily accessible
8 information, offered at no charge, utilizing electronic
9 media, including the Internet, regarding the employ-
10 ment history of, and publicly adjudicated discipli-
11 nary and enforcement actions against, loan origina-
12 tors.

13 (8) Establishes a means by which residential
14 mortgage loan originators would, to the greatest ex-
15 tent possible, be required to act in the best interests
16 of the consumer.

17 (9) Facilitates responsible behavior in the
18 subprime mortgage market place and provides com-
19 prehensive training and examination requirements
20 related to subprime mortgage lending.

21 (10) Facilitates the collection and disbursement
22 of consumer complaints on behalf of State and Fed-
23 eral mortgage regulators.

1 **SEC. 1503. DEFINITIONS.**

2 For purposes of this title, the following definitions
3 shall apply:

4 (1) **FEDERAL BANKING AGENCIES.**—The term
5 “Federal banking agencies” means the Board of
6 Governors of the Federal Reserve System, the
7 Comptroller of the Currency, the Director of the Of-
8 fice of Thrift Supervision, the National Credit Union
9 Administration, and the Federal Deposit Insurance
10 Corporation.

11 (2) **DEPOSITORY INSTITUTION.**—The term “de-
12 pository institution” has the same meaning as in
13 section 3 of the Federal Deposit Insurance Act, and
14 includes any credit union.

15 (3) **LOAN ORIGINATOR.**—

16 (A) **IN GENERAL.**—The term “loan origi-
17 nator”—

18 (i) means an individual who—

19 (I) takes a residential mortgage
20 loan application; and

21 (II) offers or negotiates terms of
22 a residential mortgage loan for com-
23 pensation or gain;

24 (ii) does not include any individual
25 who is not otherwise described in clause (i)
26 and who performs purely administrative or

1 clerical tasks on behalf of a person who is
2 described in any such clause;

3 (iii) does not include a person or enti-
4 ty that only performs real estate brokerage
5 activities and is licensed or registered in
6 accordance with applicable State law, un-
7 less the person or entity is compensated by
8 a lender, a mortgage broker, or other loan
9 originator or by any agent of such lender,
10 mortgage broker, or other loan originator;
11 and

12 (iv) does not include a person or enti-
13 ty solely involved in extensions of credit re-
14 lating to timeshare plans, as that term is
15 defined in section 101(53D) of title 11,
16 United States Code.

17 (B) OTHER DEFINITIONS RELATING TO
18 LOAN ORIGINATOR.—For purposes of this sub-
19 section, an individual “assists a consumer in
20 obtaining or applying to obtain a residential
21 mortgage loan” by, among other things, advis-
22 ing on loan terms (including rates, fees, other
23 costs), preparing loan packages, or collecting in-
24 formation on behalf of the consumer with re-
25 gard to a residential mortgage loan.

1 (C) ADMINISTRATIVE OR CLERICAL
2 TASKS.—The term “administrative or clerical
3 tasks” means the receipt, collection, and dis-
4 tribution of information common for the proc-
5 essing or underwriting of a loan in the mort-
6 gage industry and communication with a con-
7 sumer to obtain information necessary for the
8 processing or underwriting of a residential
9 mortgage loan.

10 (D) REAL ESTATE BROKERAGE ACTIVITY
11 DEFINED.—The term “real estate brokerage ac-
12 tivity” means any activity that involves offering
13 or providing real estate brokerage services to
14 the public, including—

15 (i) acting as a real estate agent or
16 real estate broker for a buyer, seller, les-
17 sor, or lessee of real property;

18 (ii) bringing together parties inter-
19 ested in the sale, purchase, lease, rental, or
20 exchange of real property;

21 (iii) negotiating, on behalf of any
22 party, any portion of a contract relating to
23 the sale, purchase, lease, rental, or ex-
24 change of real property (other than in con-

1 nection with providing financing with re-
2 spect to any such transaction);

3 (iv) engaging in any activity for which
4 a person engaged in the activity is required
5 to be registered or licensed as a real estate
6 agent or real estate broker under any ap-
7 plicable law; and

8 (v) offering to engage in any activity,
9 or act in any capacity, described in clause
10 (i), (ii), (iii), or (iv).

11 (4) LOAN PROCESSOR OR UNDERWRITER.—

12 (A) IN GENERAL.—The term “loan proc-
13 essor or underwriter” means an individual who
14 performs clerical or support duties at the direc-
15 tion of and subject to the supervision and in-
16 struction of—

17 (i) a State-licensed loan originator; or

18 (ii) a registered loan originator.

19 (B) CLERICAL OR SUPPORT DUTIES.—For
20 purposes of subparagraph (A), the term “cler-
21 ical or support duties” may include—

22 (i) the receipt, collection, distribution,
23 and analysis of information common for
24 the processing or underwriting of a resi-
25 dential mortgage loan; and

1 (ii) communicating with a consumer
2 to obtain the information necessary for the
3 processing or underwriting of a loan, to the
4 extent that such communication does not
5 include offering or negotiating loan rates
6 or terms, or counseling consumers about
7 residential mortgage loan rates or terms.

8 (5) NATIONWIDE MORTGAGE LICENSING SYS-
9 TEM AND REGISTRY.—The term “Nationwide Mort-
10 gage Licensing System and Registry” means a mort-
11 gage licensing system developed and maintained by
12 the Conference of State Bank Supervisors and the
13 American Association of Residential Mortgage Regu-
14 lators for the State licensing and registration of
15 State-licensed loan originators and the registration
16 of registered loan originators or any system estab-
17 lished by the Secretary under section 1509.

18 (6) NONTRADITIONAL MORTGAGE PRODUCT.—
19 The term “nontraditional mortgage product” means
20 any mortgage product other than a 30-year fixed
21 rate mortgage.

22 (7) REGISTERED LOAN ORIGINATOR.—The term
23 “registered loan originator” means any individual
24 who—

1 (A) meets the definition of loan originator
2 and is an employee of—

3 (i) a depository institution;

4 (ii) a subsidiary that is—

5 (I) owned and controlled by a de-
6 pository institution; and

7 (II) regulated by a Federal bank-
8 ing agency; or

9 (iii) an institution regulated by the
10 Farm Credit Administration; and

11 (B) is registered with, and maintains a
12 unique identifier through, the Nationwide Mort-
13 gage Licensing System and Registry.

14 (8) RESIDENTIAL MORTGAGE LOAN.—The term
15 “residential mortgage loan” means any loan pri-
16 marily for personal, family, or household use that is
17 secured by a mortgage, deed of trust, or other equiv-
18 alent consensual security interest on a dwelling (as
19 defined in section 103(v) of the Truth in Lending
20 Act) or residential real estate upon which is con-
21 structed or intended to be constructed a dwelling (as
22 so defined).

23 (9) SECRETARY.—The term “Secretary” means
24 the Secretary of Housing and Urban Development.

1 (10) STATE.—The term “State” means any
2 State of the United States, the District of Columbia,
3 any territory of the United States, Puerto Rico,
4 Guam, American Samoa, the Trust Territory of the
5 Pacific Islands, the Virgin Islands, and the Northern
6 Mariana Islands.

7 (11) STATE-LICENSED LOAN ORIGINATOR.—
8 The term “State-licensed loan originator” means
9 any individual who—

10 (A) is a loan originator;

11 (B) is not an employee of—

12 (i) a depository institution;

13 (ii) a subsidiary that is—

14 (I) owned and controlled by a de-
15 pository institution; and

16 (II) regulated by a Federal bank-
17 ing agency; or

18 (iii) an institution regulated by the
19 Farm Credit Administration; and

20 (C) is licensed by a State or by the Sec-
21 retary under section 1508 and registered as a
22 loan originator with, and maintains a unique
23 identifier through, the Nationwide Mortgage Li-
24 censing System and Registry.

25 (12) UNIQUE IDENTIFIER.—

1 (A) IN GENERAL.—The term “unique identifier” means a number or other identifier
2 that—
3

4 (i) permanently identifies a loan originator;
5

6 (ii) is assigned by protocols established by the Nationwide Mortgage Licens-
7 ing System and Registry and the Federal
8 banking agencies to facilitate electronic
9 tracking of loan originators and uniform
10 identification of, and public access to, the
11 employment history of and the publicly ad-
12 judicated disciplinary and enforcement ac-
13 tions against loan originators; and
14

15 (iii) shall not be used for purposes
16 other than those set forth under this title.

17 (B) RESPONSIBILITY OF STATES.—To the
18 greatest extent possible and to accomplish the
19 purpose of this title, States shall use unique
20 identifiers in lieu of social security numbers.

21 **SEC. 1504. LICENSE OR REGISTRATION REQUIRED.**

22 (a) IN GENERAL.—Subject to the existence of a li-
23 censing or registration regime, as the case may be, an in-
24 dividual may not engage in the business of a loan origi-
25 nator without first—

1 (1) obtaining, and maintaining annually—

2 (A) a registration as a registered loan
3 originator; or

4 (B) a license and registration as a State-
5 licensed loan originator; and

6 (2) obtaining a unique identifier.

7 (b) LOAN PROCESSORS AND UNDERWRITERS.—

8 (1) SUPERVISED LOAN PROCESSORS AND UN-
9 DERWRITERS.—A loan processor or underwriter who
10 does not represent to the public, through advertising
11 or other means of communicating or providing infor-
12 mation (including the use of business cards, sta-
13 tionery, brochures, signs, rate lists, or other pro-
14 motional items), that such individual can or will per-
15 form any of the activities of a loan originator shall
16 not be required to be a State-licensed loan origi-
17 nator.

18 (2) INDEPENDENT CONTRACTORS.—An inde-
19 pendent contractor may not engage in residential
20 mortgage loan origination activities as a loan proc-
21 essor or underwriter unless such independent con-
22 tractor is a State-licensed loan originator.

1 **SEC. 1505. STATE LICENSE AND REGISTRATION APPLICA-**
2 **TION AND ISSUANCE.**

3 (a) **BACKGROUND CHECKS.**—In connection with an
4 application to any State for licensing and registration as
5 a State-licensed loan originator, the applicant shall, at a
6 minimum, furnish to the Nationwide Mortgage Licensing
7 System and Registry information concerning the appli-
8 cant's identity, including—

9 (1) fingerprints for submission to the Federal
10 Bureau of Investigation, and any governmental
11 agency or entity authorized to receive such informa-
12 tion for a State and national criminal history back-
13 ground check; and

14 (2) personal history and experience, including
15 authorization for the System to obtain—

16 (A) an independent credit report obtained
17 from a consumer reporting agency described in
18 section 603(p) of the Fair Credit Reporting
19 Act; and

20 (B) information related to any administra-
21 tive, civil or criminal findings by any govern-
22 mental jurisdiction.

23 (b) **ISSUANCE OF LICENSE.**—The minimum stand-
24 ards for licensing and registration as a State-licensed loan
25 originator shall include the following:

1 (1) The applicant has never had a loan origi-
2 nator license revoked in any governmental jurisdic-
3 tion.

4 (2) The applicant has not been convicted of, or
5 pled guilty or nolo contendere to, a felony in a do-
6 mestic, foreign, or military court—

7 (A) during the 7-year period preceding the
8 date of the application for licensing and reg-
9 istration; or

10 (B) at any time preceding such date of ap-
11 plication, if such felony involved an act of
12 fraud, dishonesty, or a breach of trust, or
13 money laundering.

14 (3) The applicant has demonstrated financial
15 responsibility, character, and general fitness such as
16 to command the confidence of the community and to
17 warrant a determination that the loan originator will
18 operate honestly, fairly, and efficiently within the
19 purposes of this title.

20 (4) The applicant has completed the pre-licens-
21 ing education requirement described in subsection
22 (c).

23 (5) The applicant has passed a written test that
24 meets the test requirement described in subsection
25 (d).

1 (6) The applicant has met either a net worth or
2 surety bond requirement, or paid into a State fund,
3 as required by the State pursuant to section
4 1508(d)(6).

5 (c) PRE-LICENSING EDUCATION OF LOAN ORIGINA-
6 TORS.—

7 (1) MINIMUM EDUCATIONAL REQUIREMENTS.—

8 In order to meet the pre-licensing education require-
9 ment referred to in subsection (b)(4), a person shall
10 complete at least 20 hours of education approved in
11 accordance with paragraph (2), which shall include
12 at least—

13 (A) 3 hours of Federal law and regula-
14 tions;

15 (B) 3 hours of ethics, which shall include
16 instruction on fraud, consumer protection, and
17 fair lending issues; and

18 (C) 2 hours of training related to lending
19 standards for the nontraditional mortgage prod-
20 uct marketplace.

21 (2) APPROVED EDUCATIONAL COURSES.—For
22 purposes of paragraph (1), pre-licensing education
23 courses shall be reviewed, and approved by the Na-
24 tionwide Mortgage Licensing System and Registry.

25 (3) LIMITATION AND STANDARDS.—

1 (A) LIMITATION.—To maintain the inde-
2 pendence of the approval process, the Nation-
3 wide Mortgage Licensing System and Registry
4 shall not directly or indirectly offer pre-licen-
5 sure educational courses for loan originators.

6 (B) STANDARDS.—In approving courses
7 under this section, the Nationwide Mortgage Li-
8 censing System and Registry shall apply rea-
9 sonable standards in the review and approval of
10 courses.

11 (d) TESTING OF LOAN ORIGINATORS.—

12 (1) IN GENERAL.—In order to meet the written
13 test requirement referred to in subsection (b)(5), an
14 individual shall pass, in accordance with the stand-
15 ards established under this subsection, a qualified
16 written test developed by the Nationwide Mortgage
17 Licensing System and Registry and administered by
18 an approved test provider.

19 (2) QUALIFIED TEST.—A written test shall not
20 be treated as a qualified written test for purposes of
21 paragraph (1) unless the test adequately measures
22 the applicant's knowledge and comprehension in ap-
23 propriate subject areas, including—

24 (A) ethics;

1 (B) Federal law and regulation pertaining
2 to mortgage origination;

3 (C) State law and regulation pertaining to
4 mortgage origination;

5 (D) Federal and State law and regulation,
6 including instruction on fraud, consumer pro-
7 tection, the nontraditional mortgage market-
8 place, and fair lending issues.

9 (3) MINIMUM COMPETENCE.—

10 (A) PASSING SCORE.—An individual shall
11 not be considered to have passed a qualified
12 written test unless the individual achieves a test
13 score of not less than 75 percent correct an-
14 swers to questions.

15 (B) INITIAL RETESTS.—An individual may
16 retake a test 3 consecutive times with each con-
17 secutive taking occurring at least 30 days after
18 the preceding test.

19 (C) SUBSEQUENT RETESTS.—After failing
20 3 consecutive tests, an individual shall wait at
21 least 6 months before taking the test again.

22 (D) RETEST AFTER LAPSE OF LICENSE.—
23 A State-licensed loan originator who fails to
24 maintain a valid license for a period of 5 years
25 or longer shall retake the test, not taking into

1 account any time during which such individual
2 is a registered loan originator.

3 (e) MORTGAGE CALL REPORTS.—Each mortgage li-
4 censee shall submit to the Nationwide Mortgage Licensing
5 System and Registry reports of condition, which shall be
6 in such form and shall contain such information as the
7 Nationwide Mortgage Licensing System and Registry may
8 require.

9 **SEC. 1506. STANDARDS FOR STATE LICENSE RENEWAL.**

10 (a) IN GENERAL.—The minimum standards for li-
11 cense renewal for State-licensed loan originators shall in-
12 clude the following:

13 (1) The loan originator continues to meet the
14 minimum standards for license issuance.

15 (2) The loan originator has satisfied the annual
16 continuing education requirements described in sub-
17 section (b).

18 (b) CONTINUING EDUCATION FOR STATE-LICENSED
19 LOAN ORIGINATORS.—

20 (1) IN GENERAL.—In order to meet the annual
21 continuing education requirements referred to in
22 subsection (a)(2), a State-licensed loan originator
23 shall complete at least 8 hours of education ap-
24 proved in accordance with paragraph (2), which
25 shall include at least—

1 (A) 3 hours of Federal law and regula-
2 tions;

3 (B) 2 hours of ethics, which shall include
4 instruction on fraud, consumer protection, and
5 fair lending issues; and

6 (C) 2 hours of training related to lending
7 standards for the nontraditional mortgage prod-
8 uct marketplace.

9 (2) APPROVED EDUCATIONAL COURSES.—For
10 purposes of paragraph (1), continuing education
11 courses shall be reviewed, and approved by the Na-
12 tionwide Mortgage Licensing System and Registry.

13 (3) CALCULATION OF CONTINUING EDUCATION
14 CREDITS.—A State-licensed loan originator—

15 (A) may only receive credit for a con-
16 tinuing education course in the year in which
17 the course is taken; and

18 (B) may not take the same approved
19 course in the same or successive years to meet
20 the annual requirements for continuing edu-
21 cation.

22 (4) INSTRUCTOR CREDIT.—A State-licensed
23 loan originator who is approved as an instructor of
24 an approved continuing education course may receive
25 credit for the originator's own annual continuing

1 education requirement at the rate of 2 hours credit
2 for every 1 hour taught.

3 (5) LIMITATION AND STANDARDS.—

4 (A) LIMITATION.—To maintain the inde-
5 pendence of the approval process, the Nation-
6 wide Mortgage Licensing System and Registry
7 shall not directly or indirectly offer any con-
8 tinuing education courses for loan originators.

9 (B) STANDARDS.—In approving courses
10 under this section, the Nationwide Mortgage Li-
11 censing System and Registry shall apply rea-
12 sonable standards in the review and approval of
13 courses.

14 **SEC. 1507. SYSTEM OF REGISTRATION ADMINISTRATION BY**
15 **FEDERAL AGENCIES.**

16 (a) DEVELOPMENT.—

17 (1) IN GENERAL.—The Federal banking agen-
18 cies shall jointly, through the Federal Financial In-
19 stitutions Examination Council, and together with
20 the Farm Credit Administration, develop and main-
21 tain a system for registering employees of a deposi-
22 tory institution, employees of a subsidiary that is
23 owned and controlled by a depository institution and
24 regulated by a Federal banking agency, or employees
25 of an institution regulated by the Farm Credit Ad-

1 ministration, as registered loan originators with the
2 Nationwide Mortgage Licensing System and Reg-
3 istry. The system shall be implemented before the
4 end of the 1-year period beginning on the date of en-
5 actment of this title.

6 (2) REGISTRATION REQUIREMENTS.—In con-
7 nection with the registration of any loan originator
8 under this subsection, the appropriate Federal bank-
9 ing agency and the Farm Credit Administration
10 shall, at a minimum, furnish or cause to be fur-
11 nished to the Nationwide Mortgage Licensing Sys-
12 tem and Registry information concerning the
13 employees's identity, including—

14 (A) fingerprints for submission to the Fed-
15 eral Bureau of Investigation, and any govern-
16 mental agency or entity authorized to receive
17 such information for a State and national
18 criminal history background check; and

19 (B) personal history and experience, in-
20 cluding authorization for the Nationwide Mort-
21 gage Licensing System and Registry to obtain
22 information related to any administrative, civil
23 or criminal findings by any governmental juris-
24 diction.

25 (b) COORDINATION.—

1 (1) UNIQUE IDENTIFIER.—The Federal bank-
2 ing agencies, through the Financial Institutions Ex-
3 amination Council, and the Farm Credit Administra-
4 tion shall coordinate with the Nationwide Mortgage
5 Licensing System and Registry to establish protocols
6 for assigning a unique identifier to each registered
7 loan originator that will facilitate electronic tracking
8 and uniform identification of, and public access to,
9 the employment history of and publicly adjudicated
10 disciplinary and enforcement actions against loan
11 originators.

12 (2) NATIONWIDE MORTGAGE LICENSING SYS-
13 TEM AND REGISTRY DEVELOPMENT.—To facilitate
14 the transfer of information required by subsection
15 (a)(2), the Nationwide Mortgage Licensing System
16 and Registry shall coordinate with the Federal bank-
17 ing agencies, through the Financial Institutions Ex-
18 amination Council, and the Farm Credit Administra-
19 tion concerning the development and operation, by
20 such System and Registry, of the registration
21 functionality and data requirements for loan origina-
22 tors.

23 (c) CONSIDERATION OF FACTORS AND PROCE-
24 DURES.—In establishing the registration procedures under
25 subsection (a) and the protocols for assigning a unique

1 identifier to a registered loan originator, the Federal bank-
2 ing agencies shall make such de minimis exceptions as
3 may be appropriate to paragraphs (1)(A) and (2) of sec-
4 tion 1504(a), shall make reasonable efforts to utilize exist-
5 ing information to minimize the burden of registering loan
6 originators, and shall consider methods for automating the
7 process to the greatest extent practicable consistent with
8 the purposes of this title.

9 **SEC. 1508. SECRETARY OF HOUSING AND URBAN DEVELOP-**
10 **MENT BACKUP AUTHORITY TO ESTABLISH A**
11 **LOAN ORIGINATOR LICENSING SYSTEM.**

12 (a) **BACKUP LICENSING SYSTEM.**—If, by the end of
13 the 1-year period, or the 2-year period in the case of a
14 State whose legislature meets only biennially, beginning
15 on the date of the enactment of this title or at any time
16 thereafter, the Secretary determines that a State does not
17 have in place by law or regulation a system for licensing
18 and registering loan originators that meets the require-
19 ments of sections 1505 and 1506 and subsection (d) of
20 this section, or does not participate in the Nationwide
21 Mortgage Licensing System and Registry, the Secretary
22 shall provide for the establishment and maintenance of a
23 system for the licensing and registration by the Secretary
24 of loan originators operating in such State as State-li-
25 censed loan originators.

1 (b) LICENSING AND REGISTRATION REQUIRE-
2 MENTS.—The system established by the Secretary under
3 subsection (a) for any State shall meet the requirements
4 of sections 1505 and 1506 for State-licensed loan origina-
5 tors.

6 (c) UNIQUE IDENTIFIER.—The Secretary shall co-
7 ordinate with the Nationwide Mortgage Licensing System
8 and Registry to establish protocols for assigning a unique
9 identifier to each loan originator licensed by the Secretary
10 as a State-licensed loan originator that will facilitate elec-
11 tronic tracking and uniform identification of, and public
12 access to, the employment history of and the publicly adju-
13 dicated disciplinary and enforcement actions against loan
14 originators.

15 (d) STATE LICENSING LAW REQUIREMENTS.—For
16 purposes of this section, the law in effect in a State meets
17 the requirements of this subsection if the Secretary deter-
18 mines the law satisfies the following minimum require-
19 ments:

20 (1) A State loan originator supervisory author-
21 ity is maintained to provide effective supervision and
22 enforcement of such law, including the suspension,
23 termination, or nonrenewal of a license for a viola-
24 tion of State or Federal law.

1 (2) The State loan originator supervisory au-
2 thority ensures that all State-licensed loan origina-
3 tors operating in the State are registered with Na-
4 tionwide Mortgage Licensing System and Registry.

5 (3) The State loan originator supervisory au-
6 thority is required to regularly report violations of
7 such law, as well as enforcement actions and other
8 relevant information, to the Nationwide Mortgage
9 Licensing System and Registry.

10 (4) The State loan originator supervisory au-
11 thority has a process in place for challenging infor-
12 mation contained in the Nationwide Mortgage Li-
13 censing System and Registry.

14 (5) The State loan originator supervisory au-
15 thority has established a mechanism to assess civil
16 money penalties for individuals acting as mortgage
17 originators in their State without a valid license or
18 registration.

19 (6) The State loan originator supervisory au-
20 thority has established minimum net worth or surety
21 bonding requirements that reflect the dollar amount
22 of loans originated by a residential mortgage loan
23 originator, or has established a recovery fund paid
24 into by the loan originators.

1 (e) TEMPORARY EXTENSION OF PERIOD.—The Sec-
2 retary may extend, by not more than 24 months, the 1-
3 year or 2-year period, as the case may be, referred to in
4 subsection (a) for the licensing of loan originators in any
5 State under a State licensing law that meets the require-
6 ments of sections 1505 and 1506 and subsection (d) if
7 the Secretary determines that such State is making a good
8 faith effort to establish a State licensing law that meets
9 such requirements, license mortgage originators under
10 such law, and register such originators with the Nation-
11 wide Mortgage Licensing System and Registry.

12 **SEC. 1509. BACKUP AUTHORITY TO ESTABLISH A NATION-**
13 **WIDE MORTGAGE LICENSING AND REGISTRY**
14 **SYSTEM.**

15 If at any time the Secretary determines that the Na-
16 tionwide Mortgage Licensing System and Registry is fail-
17 ing to meet the requirements and purposes of this title
18 for a comprehensive licensing, supervisory, and tracking
19 system for loan originators, the Secretary shall establish
20 and maintain such a system to carry out the purposes of
21 this title and the effective registration and regulation of
22 loan originators.

23 **SEC. 1510. FEES.**

24 The Federal banking agencies, the Farm Credit Ad-
25 ministration, the Secretary, and the Nationwide Mortgage

1 Licensing System and Registry may charge reasonable
2 fees to cover the costs of maintaining and providing access
3 to information from the Nationwide Mortgage Licensing
4 System and Registry, to the extent that such fees are not
5 charged to consumers for access to such system and reg-
6 istry.

7 **SEC. 1511. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

8 (a) ACCESS TO RECORDS.—Notwithstanding any
9 other provision of law, in providing identification and
10 processing functions, the Attorney General shall provide
11 access to all criminal history information to the appro-
12 priate State officials responsible for regulating State-li-
13 censed loan originators to the extent criminal history
14 background checks are required under the laws of the
15 State for the licensing of such loan originators.

16 (b) AGENT.—For the purposes of this section and in
17 order to reduce the points of contact which the Federal
18 Bureau of Investigation may have to maintain for pur-
19 poses of subsection (a), the Conference of State Bank Su-
20 pervisors or a wholly owned subsidiary may be used as
21 a channeling agent of the States for requesting and dis-
22 tributing information between the Department of Justice
23 and the appropriate State agencies.

1 **SEC. 1512. CONFIDENTIALITY OF INFORMATION.**

2 (a) SYSTEM CONFIDENTIALITY.—Except as other-
3 wise provided in this section, any requirement under Fed-
4 eral or State law regarding the privacy or confidentiality
5 of any information or material provided to the Nationwide
6 Mortgage Licensing System and Registry or a system es-
7 tablished by the Secretary under section 1509, and any
8 privilege arising under Federal or State law (including the
9 rules of any Federal or State court) with respect to such
10 information or material, shall continue to apply to such
11 information or material after the information or material
12 has been disclosed to the system. Such information and
13 material may be shared with all State and Federal regu-
14 latory officials with mortgage industry oversight authority
15 without the loss of privilege or the loss of confidentiality
16 protections provided by Federal and State laws.

17 (b) NONAPPLICABILITY OF CERTAIN REQUIRE-
18 MENTS.—Information or material that is subject to a
19 privilege or confidentiality under subsection (a) shall not
20 be subject to—

21 (1) disclosure under any Federal or State law
22 governing the disclosure to the public of information
23 held by an officer or an agency of the Federal Gov-
24 ernment or the respective State; or

25 (2) subpoena or discovery, or admission into
26 evidence, in any private civil action or administrative

1 process, unless with respect to any privilege held by
2 the Nationwide Mortgage Licensing System and
3 Registry or the Secretary with respect to such infor-
4 mation or material, the person to whom such infor-
5 mation or material pertains waives, in whole or in
6 part, in the discretion of such person, that privilege.

7 (c) COORDINATION WITH OTHER LAW.—Any State
8 law, including any State open record law, relating to the
9 disclosure of confidential supervisory information or any
10 information or material described in subsection (a) that
11 is inconsistent with subsection (a) shall be superseded by
12 the requirements of such provision to the extent State law
13 provides less confidentiality or a weaker privilege.

14 (d) PUBLIC ACCESS TO INFORMATION.—This section
15 shall not apply with respect to the information or material
16 relating to the employment history of, and publicly adju-
17 dicated disciplinary and enforcement actions against, loan
18 originators that is included in Nationwide Mortgage Li-
19 censing System and Registry for access by the public.

20 **SEC. 1513. LIABILITY PROVISIONS.**

21 The Secretary, any State official or agency, any Fed-
22 eral banking agency, or any organization serving as the
23 administrator of the Nationwide Mortgage Licensing Sys-
24 tem and Registry or a system established by the Secretary
25 under section 1509, or any officer or employee of any such

1 entity, shall not be subject to any civil action or proceeding
2 for monetary damages by reason of the good faith action
3 or omission of any officer or employee of any such entity,
4 while acting within the scope of office or employment, re-
5 lating to the collection, furnishing, or dissemination of in-
6 formation concerning persons who are loan originators or
7 are applying for licensing or registration as loan origina-
8 tors.

9 **SEC. 1514. ENFORCEMENT UNDER HUD BACKUP LICENSING**
10 **SYSTEM.**

11 (a) **SUMMONS AUTHORITY.**—The Secretary may—

12 (1) examine any books, papers, records, or
13 other data of any loan originator operating in any
14 State which is subject to a licensing system estab-
15 lished by the Secretary under section 1508; and

16 (2) summon any loan originator referred to in
17 paragraph (1) or any person having possession, cus-
18 tody, or care of the reports and records relating to
19 such loan originator, to appear before the Secretary
20 or any delegate of the Secretary at a time and place
21 named in the summons and to produce such books,
22 papers, records, or other data, and to give testi-
23 mony, under oath, as may be relevant or material to
24 an investigation of such loan originator for compli-
25 ance with the requirements of this title.

1 (b) EXAMINATION AUTHORITY.—

2 (1) IN GENERAL.—If the Secretary establishes
3 a licensing system under section 1508 for any State,
4 the Secretary shall appoint examiners for the pur-
5 poses of administering such section.

6 (2) POWER TO EXAMINE.—Any examiner ap-
7 pointed under paragraph (1) shall have power, on
8 behalf of the Secretary, to make any examination of
9 any loan originator operating in any State which is
10 subject to a licensing system established by the Sec-
11 retary under section 1508 whenever the Secretary
12 determines an examination of any loan originator is
13 necessary to determine the compliance by the origi-
14 nator with this title.

15 (3) REPORT OF EXAMINATION.—Each examiner
16 appointed under paragraph (1) shall make a full and
17 detailed report of examination of any loan originator
18 examined to the Secretary.

19 (4) ADMINISTRATION OF OATHS AND AFFIRMA-
20 TIONS; EVIDENCE.—In connection with examinations
21 of loan originators operating in any State which is
22 subject to a licensing system established by the Sec-
23 retary under section 1508, or with other types of in-
24 vestigations to determine compliance with applicable
25 law and regulations, the Secretary and examiners

1 appointed by the Secretary may administer oaths
2 and affirmations and examine and take and preserve
3 testimony under oath as to any matter in respect to
4 the affairs of any such loan originator.

5 (5) ASSESSMENTS.—The cost of conducting any
6 examination of any loan originator operating in any
7 State which is subject to a licensing system estab-
8 lished by the Secretary under section 1508 shall be
9 assessed by the Secretary against the loan originator
10 to meet the Secretary's expenses in carrying out
11 such examination.

12 (c) CEASE AND DESIST PROCEEDING.—

13 (1) AUTHORITY OF SECRETARY.—If the Sec-
14 retary finds, after notice and opportunity for hear-
15 ing, that any person is violating, has violated, or is
16 about to violate any provision of this title, or any
17 regulation thereunder, with respect to a State which
18 is subject to a licensing system established by the
19 Secretary under section 1508, the Secretary may
20 publish such findings and enter an order requiring
21 such person, and any other person that is, was, or
22 would be a cause of the violation, due to an act or
23 omission the person knew or should have known
24 would contribute to such violation, to cease and de-
25 sist from committing or causing such violation and

1 any future violation of the same provision, rule, or
2 regulation. Such order may, in addition to requiring
3 a person to cease and desist from committing or
4 causing a violation, require such person to comply,
5 or to take steps to effect compliance, with such pro-
6 vision or regulation, upon such terms and conditions
7 and within such time as the Secretary may specify
8 in such order. Any such order may, as the Secretary
9 deems appropriate, require future compliance or
10 steps to effect future compliance, either permanently
11 or for such period of time as the Secretary may
12 specify, with such provision or regulation with re-
13 spect to any loan originator.

14 (2) HEARING.—The notice instituting pro-
15 ceedings pursuant to paragraph (1) shall fix a hear-
16 ing date not earlier than 30 days nor later than 60
17 days after service of the notice unless an earlier or
18 a later date is set by the Secretary with the consent
19 of any respondent so served.

20 (3) TEMPORARY ORDER.—Whenever the Sec-
21 retary determines that the alleged violation or
22 threatened violation specified in the notice insti-
23 tuting proceedings pursuant to paragraph (1), or the
24 continuation thereof, is likely to result in significant
25 dissipation or conversion of assets, significant harm

1 to consumers, or substantial harm to the public in-
2 terest prior to the completion of the proceedings, the
3 Secretary may enter a temporary order requiring the
4 respondent to cease and desist from the violation or
5 threatened violation and to take such action to pre-
6 vent the violation or threatened violation and to pre-
7 vent dissipation or conversion of assets, significant
8 harm to consumers, or substantial harm to the pub-
9 lic interest as the Secretary deems appropriate pend-
10 ing completion of such proceedings. Such an order
11 shall be entered only after notice and opportunity for
12 a hearing, unless the Secretary determines that no-
13 tice and hearing prior to entry would be impracti-
14 cable or contrary to the public interest. A temporary
15 order shall become effective upon service upon the
16 respondent and, unless set aside, limited, or sus-
17 pended by the Secretary or a court of competent ju-
18 risdiction, shall remain effective and enforceable
19 pending the completion of the proceedings.

20 (4) REVIEW OF TEMPORARY ORDERS.—

21 (A) REVIEW BY SECRETARY.—At any time
22 after the respondent has been served with a
23 temporary cease and desist order pursuant to
24 paragraph (3), the respondent may apply to the
25 Secretary to have the order set aside, limited,

1 or suspended. If the respondent has been served
2 with a temporary cease and desist order entered
3 without a prior hearing before the Secretary,
4 the respondent may, within 10 days after the
5 date on which the order was served, request a
6 hearing on such application and the Secretary
7 shall hold a hearing and render a decision on
8 such application at the earliest possible time.

9 (B) JUDICIAL REVIEW.—Within—

10 (i) 10 days after the date the respond-
11 ent was served with a temporary cease and
12 desist order entered with a prior hearing
13 before the Secretary; or

14 (ii) 10 days after the Secretary ren-
15 ders a decision on an application and hear-
16 ing under paragraph (1), with respect to
17 any temporary cease and desist order en-
18 tered without a prior hearing before the
19 Secretary,

20 the respondent may apply to the United States
21 district court for the district in which the re-
22 spondent resides or has its principal place of
23 business, or for the District of Columbia, for an
24 order setting aside, limiting, or suspending the
25 effectiveness or enforcement of the order, and

1 the court shall have jurisdiction to enter such
2 an order. A respondent served with a temporary
3 cease and desist order entered without a prior
4 hearing before the Secretary may not apply to
5 the court except after hearing and decision by
6 the Secretary on the respondent's application
7 under subparagraph (A).

8 (C) NO AUTOMATIC STAY OF TEMPORARY
9 ORDER.—The commencement of proceedings
10 under subparagraph (B) shall not, unless spe-
11 cifically ordered by the court, operate as a stay
12 of the Secretary's order.

13 (5) AUTHORITY OF THE SECRETARY TO PRO-
14 HIBIT PERSONS FROM SERVING AS LOAN ORIGINA-
15 TORS.—In any cease and desist proceeding under
16 paragraph (1), the Secretary may issue an order to
17 prohibit, conditionally or unconditionally, and per-
18 manently or for such period of time as the Secretary
19 shall determine, any person who has violated this
20 title or regulations thereunder, from acting as a loan
21 originator if the conduct of that person dem-
22 onstrates unfitness to serve as a loan originator.

23 (d) AUTHORITY OF THE SECRETARY TO ASSESS
24 MONEY PENALTIES.—

1 (1) IN GENERAL.—The Secretary may impose a
2 civil penalty on a loan originator operating in any
3 State which is subject to a licensing system estab-
4 lished by the Secretary under section 1508, if the
5 Secretary finds, on the record after notice and op-
6 portunity for hearing, that such loan originator has
7 violated or failed to comply with any requirement of
8 this title or any regulation prescribed by the Sec-
9 retary under this title or order issued under sub-
10 section (c).

11 (2) MAXIMUM AMOUNT OF PENALTY.—The
12 maximum amount of penalty for each act or omis-
13 sion described in paragraph (1) shall be \$25,000.

14 **SEC. 1515. STATE EXAMINATION AUTHORITY.**

15 In addition to any authority allowed under State law
16 a State licensing agency shall have the authority to con-
17 duct investigations and examinations as follows:

18 (1) For the purposes of investigating violations
19 or complaints arising under this title, or for the pur-
20 poses of examination, the State licensing agency may
21 review, investigate, or examine any loan originator
22 licensed or required to be licensed under this title,
23 as often as necessary in order to carry out the pur-
24 poses of this title.

1 (2) Each such loan originator shall make avail-
2 able upon request to the State licensing agency the
3 books and records relating to the operations of such
4 originator. The State licensing agency may have ac-
5 cess to such books and records and interview the of-
6 ficers, principals, loan originators, employees, inde-
7 pendent contractors, agents, and customers of the li-
8 censee concerning their business.

9 (3) The authority of this section shall remain in
10 effect, whether such a loan originator acts or claims
11 to act under any licensing or registration law of such
12 State, or claims to act without such authority.

13 (4) No person subject to investigation or exam-
14 ination under this section may knowingly withhold,
15 abstract, remove, mutilate, destroy, or secrete any
16 books, records, computer records, or other informa-
17 tion.

18 **SEC. 1516. REPORTS AND RECOMMENDATIONS TO CON-**
19 **GRESS.**

20 (a) ANNUAL REPORTS.—Not later than 1 year after
21 the date of enactment of this title, and annually there-
22 after, the Secretary shall submit a report to Congress on
23 the effectiveness of the provisions of this title, including
24 legislative recommendations, if any, for strengthening con-
25 sumer protections, enhancing examination standards,

1 streamlining communication between all stakeholders in-
2 volved in residential mortgage loan origination and proc-
3 essing, and establishing performance based bonding re-
4 quirements for mortgage originators or institutions that
5 employ such brokers.

6 (b) LEGISLATIVE RECOMMENDATIONS.—Not later
7 than 6 months after the date of enactment of this title,
8 the Secretary shall make recommendations to Congress on
9 legislative reforms to the Real Estate Settlement Proce-
10 dures Act of 1974, that the Secretary deems appropriate
11 to promote more transparent disclosures, allowing con-
12 sumers to better shop and compare mortgage loan terms
13 and settlement costs.

14 **SEC. 1517. STUDY AND REPORTS ON DEFAULTS AND FORE-**
15 **CLOSURES.**

16 (a) STUDY REQUIRED.—The Secretary shall conduct
17 an extensive study of the root causes of default and fore-
18 closure of home loans, using as much empirical data as
19 is available.

20 (b) PRELIMINARY REPORT TO CONGRESS.—Not later
21 than 6 months after the date of enactment of this title,
22 the Secretary shall submit to Congress a preliminary re-
23 port regarding the study required by this section.

24 (c) FINAL REPORT TO CONGRESS.—Not later than
25 12 months after the date of enactment of this title, the

1 Secretary shall submit to Congress a final report regard-
2 ing the results of the study required by this section, which
3 shall include any recommended legislation relating to the
4 study, and recommendations for best practices and for a
5 process to provide targeted assistance to populations with
6 the highest risk of potential default or foreclosure.

7 **TITLE VI—MISCELLANEOUS**

8 **SEC. 1601. STUDY AND REPORTS ON GUARANTEE FEES.**

9 (a) ONGOING STUDY OF FEES.—The Director shall
10 conduct an ongoing study of fees charged by enterprises
11 for guaranteeing a mortgage.

12 (b) COLLECTION OF DATA.—The Director shall, by
13 regulation or order, establish procedures for the collection
14 of data from enterprises for purposes of this subsection,
15 including the format and the process for collection of such
16 data.

17 (c) REPORTS TO CONGRESS.—The Director shall an-
18 nually submit a report to Congress on the results of the
19 study conducted under subsection (a), based on the aggre-
20 gated data collected under subsection (a) for the subject
21 year, regarding the amount of such fees and the criteria
22 used by the enterprises to determine such fees.

23 (d) CONTENTS OF REPORTS.—The reports required
24 under subsection (c) shall identify and analyze—

1 (1) the factors considered in determining the
2 amount of the guarantee fees charged;

3 (2) the total revenue earned by the enterprises
4 from guarantee fees;

5 (3) the total costs incurred by the enterprises
6 for providing guarantees;

7 (4) the average guarantee fee charged by the
8 enterprises;

9 (5) an analysis of any increase or decrease in
10 guarantee fees from the preceding year;

11 (6) a breakdown of the revenue and costs asso-
12 ciated with providing guarantees, based on product
13 type and risk classifications; and

14 (7) a breakdown of guarantee fees charged
15 based on asset size of the originator and the number
16 of loans sold or transferred to an enterprise.

17 (e) PROTECTION OF INFORMATION.—Nothing in this
18 section may be construed to require or authorize the Di-
19 rector to publicly disclose information that is confidential
20 or proprietary.

21 **SEC. 1602. STUDY AND REPORT ON DEFAULT RISK EVALUA-**
22 **TION.**

23 (a) STUDY.—The Director shall conduct a study of
24 ways to improve the overall default risk evaluation used
25 with respect to residential mortgage loans. Particular at-

1 tention shall be paid to the development and utilization
2 of processes and technologies that provide a means to
3 standardize the measurement of risk.

4 (b) REPORT.—The Director shall submit a report on
5 the study conducted under this section to the Committee
6 on Banking, Housing, and Urban Affairs of the Senate
7 and the Committee on Financial Services of the House of
8 Representatives, not later than 1 year after the date of
9 enactment of this Act.

10 **SEC. 1603. CONVERSION OF HUD CONTRACTS.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
12 sion of law, the Secretary may, at the request of an owner
13 of a multifamily housing project that exceeds 5,000 units
14 to which a contract for project-based rental assistance
15 under section 8 of the United States Housing Act of 1937
16 (“Act”) (42 U.S.C. 1437f) and a Rental Assistance Pay-
17 ment contract is subject, convert such contracts to a con-
18 tract for project-based rental assistance under section 8
19 of the Act.

20 (b) INITIAL RENEWAL.—

21 (1) At the request of an owner under subsection
22 (a) made no later than 90 days prior to a conver-
23 sion, the Secretary may, to the extent sufficient
24 amounts are made available in appropriation Acts
25 and notwithstanding any other law, treat the con-

1 templated resulting contract as if such contract were
2 eligible for initial renewal under section 524(a) of
3 the MultiFamily Assisted Housing Reform and Af-
4 fordability Act of 1997 (42 U.S.C. 1437f note)
5 (“MAHRA”) (42 U.S.C. 1437f note).

6 (2) A request by an owner pursuant to para-
7 graph (1) shall be upon such terms and conditions
8 as the Secretary may require.

9 (c) RESULTING CONTRACT.—The resulting contract
10 shall—

11 (1) be subject to section 524(a) of MAHRA (42
12 U.S.C. 1437f note);

13 (2) be considered for all purposes a contract
14 that has been renewed under section 524(a) of
15 MAHRA (42 U.S.C. 1437f note) for a term not to
16 exceed 20 years;

17 (3) be subsequently renewable at the request of
18 an owner, under any renewal option for which the
19 project is eligible under MAHRA (42 U.S.C. 1437f
20 note);

21 (4) contain provisions limiting distributions, as
22 the Secretary determines appropriate, not to exceed
23 10 percent of the initial investment of the owner;

24 (5) be subject to the availability of sufficient
25 amounts in appropriation Acts; and

1 (6) be subject to such other terms and condi-
2 tions as the Secretary considers appropriate.

3 (d) INCOME TARGETING.—To the extent that as-
4 sisted dwelling units, subject to the resulting contract
5 under subsection (a), serve low-income families, as defined
6 in section 3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the
7 units shall be considered to be in compliance with all in-
8 come targeting requirements under the Act (42 U.S.C.
9 1437 et seq).

10 (e) TENANT ELIGIBILITY.—Notwithstanding any
11 other provision of law, each family residing in an assisted
12 dwelling unit on the date of conversion of a contract under
13 this section, subject to the resulting contract under sub-
14 section (a), shall be considered to meet the applicable re-
15 quirements for income eligibility and occupancy.

16 (f) DEFINITIONS.—As used in this section—

17 (1) the term “Secretary” means the Secretary
18 of Housing and Urban Development;

19 (2) the term “conversion” means the action
20 under which a contract for project-based rental as-
21 sistance under section 8 of the Act and a Rental As-
22 sistance Payment contract become a contract for
23 project-based rental assistance under section 8 of
24 the Act (42 U.S.C. 1437f) pursuant to subsection
25 (a);

1 (3) the term “resulting contract” means the
2 new contract after a conversion pursuant to sub-
3 section (a); and

4 (4) the term “assisted dwelling unit” means a
5 dwelling unit in a multifamily housing project that
6 exceeds 5,000 units that, on the date of conversion
7 of a contract under this section, is subject to a con-
8 tract for project-based rental assistance under sec-
9 tion 8 of the Act (42 U.S.C. 1437f) or a Rental As-
10 sistance Payment contract.

11 **SEC. 1604. BRIDGE DEPOSITORY INSTITUTIONS.**

12 (a) IN GENERAL.—Section 11 of the Federal Deposit
13 Insurance Act (12 U.S.C. 1821) is amended—

14 (1) in subsection (d)(2)—

15 (A) in subparagraph (F), by striking “as
16 receiver” and all that follows through clause (ii)
17 and inserting the following: “as receiver, with
18 respect to any insured depository institution,
19 organize a new depository institution under
20 subsection (m) or a bridge depository institu-
21 tion under subsection (n).”;

22 (B) in subparagraph (G), by striking “new
23 bank or a bridge bank” and inserting “new de-
24 pository institution or a bridge depository insti-
25 tution”;

1 (2) in the heading for subsection (e)(10)(C), by
2 striking “BRIDGE BANKS” and inserting “BRIDGE
3 DEPOSITORY INSTITUTIONS”;

4 (3) in subsection (e)(10)(C)(i), by striking
5 “bridge bank” and inserting “bridge depository in-
6 stitution”;

7 (4) in subsection (m)—

8 (A) in the subsection heading, by striking
9 “BANKS” and inserting “DEPOSITORY INSTITU-
10 TIONS”;

11 (B) by striking “insured bank” each place
12 such term appears and inserting “insured de-
13 pository institution”;

14 (C) by striking “new bank” each place
15 such term appears and inserting “new deposi-
16 tory institution”;

17 (D) by striking “such bank” each place
18 such term appears and inserting “such deposi-
19 tory institution”;

20 (E) by striking “the bank” each place such
21 term appears and inserting “the insured deposi-
22 tory institution”;

23 (F) in paragraph (1), by inserting “or
24 Federal savings association” after “national
25 bank”;

1 (G) in paragraph (6), by striking “only
2 bank” and inserting “only depository institu-
3 tion”;

4 (H) in paragraph (9), by inserting “or the
5 Director of the Office of Thrift Supervision, as
6 appropriate” after “Comptroller of the Cur-
7 rency”;

8 (I) in paragraph (15), by striking “, but in
9 no event” and all that follows through “lo-
10 cated”;

11 (J) in paragraph (16)—

12 (i) by inserting “or the Director of the
13 Office of Thrift Supervision, as appro-
14 priate,” after “Comptroller of the Cur-
15 rency” each place such term appears;

16 (ii) by striking “the bank” each place
17 such term appears and inserting “the de-
18 pository institution”;

19 (iii) by inserting “or Federal savings
20 association” after “national bank” each
21 place such term appears;

22 (iv) by inserting “or Federal savings
23 associations” after “national banks”; and

24 (v) by striking “Such bank” and in-
25 serting “Such depository institution”; and

1 (K) in paragraph (18), by inserting “or the
2 Director of the Office of Thrift Supervision, as
3 appropriate,” after “Comptroller of the Cur-
4 rency” each place such term appears;

5 (5) in subsection (n)—

6 (A) in the subsection heading, by striking
7 “BANKS” and inserting “DEPOSITORY INSTITU-
8 TIONS”;

9 (B) by striking “bridge bank” each place
10 such term appears and inserting “bridge deposi-
11 tory institution”;

12 (C) by striking “bridge banks” each place
13 such term appears (other than in paragraph
14 (1)(A))and inserting “bridge depository institu-
15 tions”;

16 (D) by striking “bridge bank’s” each place
17 such term appears and inserting “bridge deposi-
18 tory institution’s”;

19 (E) by striking “insured bank” each place
20 such term appears and inserting “insured de-
21 pository institution”;

22 (F) by striking “insured banks” each place
23 such term appears and inserting “insured de-
24 pository institutions”;

1 (G) by striking “such bank” each place
2 such term appears (other than in paragraph
3 (4)(J)) and inserting “such depository institu-
4 tion”;

5 (H) by striking “the bank” each place
6 such term appears and inserting “the depository
7 institution”;

8 (I) by striking “bank or banks” each place
9 such term appears and inserting “depository in-
10 stitution or institutions”;

11 (J) in paragraph (1)(A)—

12 (i) by inserting “, with respect to 1 or
13 more insured banks, or the Director of the
14 Office of Thrift Supervision, with respect
15 to 1 or more insured savings associations,”
16 after “Comptroller of the Currency”;

17 (ii) by inserting “or Federal savings
18 associations, as appropriate,” after “na-
19 tional banks”;

20 (iii) by inserting “or Federal savings
21 associations, as applicable,” after “banking
22 associations”; and

23 (iv) by striking “as bridge banks” and
24 inserting “as ‘bridge depository institu-
25 tions’”;

1 (K) in paragraph (1)(B)—

2 (i) by striking “of a bank”; and

3 (ii) by striking “of that bank”;

4 (L) in the heading for paragraph (1)(E),
5 by inserting “OR FEDERAL SAVINGS ASSOCIA-
6 TION” before the period;

7 (M) in paragraph (1)(E), by inserting be-
8 fore the period “, in the case of 1 or more in-
9 sured banks, and as a Federal savings associa-
10 tion, in the case of 1 or more insured savings
11 associations”;

12 (N) in paragraph (2)—

13 (i) by inserting “or Federal savings
14 association” after “national bank” each
15 place such term appears;

16 (ii) in subparagraph (A), by inserting
17 “or the Director of the Office of Thrift Su-
18 pervision” after “Comptroller of the Cur-
19 rency”; and

20 (iii) in the heading for subparagraph
21 (B), by inserting “OR FEDERAL SAVINGS
22 ASSOCIATION” before the period;

23 (O) in paragraph (4)—

24 (i) in the matter preceding subpara-
25 graph (A), by inserting “or Federal sav-

1 ings association, as appropriate” after “na-
2 tional bank”;

3 (ii) in subparagraph (C), by striking
4 “under section 5138 of the Revised Stat-
5 utes or any other” and inserting “under
6 any”;

7 (iii) by inserting “and the Director of
8 the Office of Thrift Supervision, as appro-
9 priate,” after “Comptroller of the Cur-
10 rency” each place such term appears;

11 (iv) in subparagraph (D), by striking
12 “bank’s” and inserting “depository institu-
13 tion’s”; and

14 (v) in subparagraph (H), by striking
15 “a bank in default” and inserting “a de-
16 pository institution in default”;

17 (P) in paragraph (8)—

18 (i) in subparagraph (A), by striking
19 “the banks” and inserting “the depository
20 institutions”;

21 (ii) in subparagraph (B), by striking
22 “bank’s” and inserting “depository institu-
23 tion’s”;

24 (Q) by striking “BRIDGE BANK” or
25 “BRIDGE BANKS” as the case may be in the

1 headings for paragraphs (9), (10), (12), and
2 (13) and inserting “BRIDGE DEPOSITORY INSTI-
3 TUTION” or “BRIDGE DEPOSITORY INSTITU-
4 TIONS” as appropriate;

5 (R) in paragraph (11), by inserting “or a
6 Federal savings association, as the case may
7 be,” after “national bank” each place such term
8 appears;

9 (S) in paragraph (12)—

10 (i) by inserting “or the Director of the
11 Office of Thrift Supervision, as appro-
12 priate,” after “Comptroller of the Cur-
13 rency” each place such term appears; and

14 (ii) by inserting “or Federal savings
15 associations, as appropriate” after “na-
16 tional banks”; and

17 (T) in paragraph (13), by striking “single
18 bank” and inserting “single depository institu-
19 tion”.

20 (b) OTHER CONFORMING AMENDMENTS.—

21 (1) FEDERAL DEPOSIT INSURANCE ACT.—The
22 Federal Deposit Insurance Act (12 U.S.C. 1811 et
23 seq.) is amended—

1 (A) in section 3 (12 U.S.C. 1813), by
2 striking subsection (i) and inserting the fol-
3 lowing:

4 “(i) NEW DEPOSITORY INSTITUTION AND BRIDGE
5 DEPOSITORY INSTITUTION DEFINED.—

6 “(1) NEW DEPOSITORY INSTITUTION.—The
7 term ‘new depository institution’ means a new na-
8 tional bank or Federal savings association, other
9 than a bridge depository institution, organized by
10 the Corporation in accordance with section 11(m).

11 “(2) BRIDGE DEPOSITORY INSTITUTION.—The
12 term ‘bridge depository institution’ means a new na-
13 tional bank or Federal savings association organized
14 by the Corporation in accordance with section
15 11(n).”;

16 (B) in section 10(d)(5)(B) (12 U.S.C.
17 1820(d)(5)(B)), by striking “bridge bank” and
18 inserting “bridge depository institution”;

19 (C) in section 12 (12 U.S.C. 1822), by
20 striking “new bank” each place such term ap-
21 pears and inserting “new depository institu-
22 tion”;and

23 (D) in section 38(j)(2) (12 U.S.C.
24 1831o(j)(2)), by striking “bridge bank” and in-
25 serting “bridge depository institution”.

1 (2) FEDERAL CREDIT UNION ACT.—Section
2 207(c)(10)(C)(i) of the Federal Credit Union Act
3 (12 U.S.C. 1787(c)(10)(C)(i)) is amended by strik-
4 ing “bridge bank” and inserting “bridge depository
5 institution”.

6 (3) TITLE 11, UNITED STATES CODE.—Section
7 783 of title 11, United States Code, is amended by
8 striking “bridge bank” and inserting “bridge depository
9 institution”.

10 (4) TITLE 26, UNITED STATES CODE.—Section
11 414(l)(2)(G) of the Internal Revenue Code of 1986,
12 is amended by striking “bridge bank” and inserting
13 “bridge depository institution”.

14 (c) REPEAL OF DEPOSIT LIMITATION.—Section
15 11(n)(1)(B)(i) of the Federal Deposit Insurance Act (12
16 U.S.C. 1821(n)(1)(B)(i)) is amended by striking “, except
17 that” and all that follows through “another insured depository
18 institution”.

19 (d) FEDERAL RESERVE BANK LENDING TO BRIDGE
20 DEPOSITORY INSTITUTIONS.—Section 11(n)(5) of the
21 Federal Deposit Insurance Act (12 U.S.C. 1821(n)(5)) is
22 amended by adding at the end the following new subpara-
23 graph:

24 “(D) CAPITAL LEVELS.—A bridge depository
25 institution shall not be considered an

1 undercapitalized depository institution or a
2 critically undercapitalized depository institution
3 for purposes of section 10B(b) of the Federal
4 Reserve Act.”.

5 **SEC. 1605. SENSE OF THE SENATE.**

6 It is the sense of the Senate that in implementing
7 or carrying out any provision of this Act, or any amend-
8 ment made by this Act, the Senate supports a policy of
9 noninterference regarding local government requirements
10 that the holder of a foreclosed property maintain that
11 property.

12 **DIVISION B—FORECLOSURE**
13 **PREVENTION**

14 **SECTION 2001. SHORT TITLE.**

15 This division may be cited as the “Foreclosure Pre-
16 vention Act of 2008”.

17 **SEC. 2002. EMERGENCY DESIGNATION.**

18 For purposes of Senate enforcement, all provisions of
19 this division are designated as emergency requirements
20 and necessary to meet emergency needs pursuant to sec-
21 tion 204 of S. Con. Res. 21 (110th Congress), the concur-
22 rent resolution on the budget for fiscal year 2008.

1 **TITLE I—FHA MODERNIZATION**
2 **ACT OF 2008**

3 **SEC. 2101. SHORT TITLE.**

4 This title may be cited as the “FHA Modernization
5 Act of 2008”.

6 **Subtitle A—Building American**
7 **Homeownership**

8 **SEC. 2111. SHORT TITLE.**

9 This subtitle may be cited as the “Building American
10 Homeownership Act of 2008”.

11 **SEC. 2112. MAXIMUM PRINCIPAL LOAN OBLIGATION.**

12 (a) IN GENERAL.—Paragraph (2) of section 203(b)
13 of the National Housing Act (12 U.S.C. 1709(b)(2)) is
14 amended—

15 (1) by striking subparagraphs (A) and (B) and
16 inserting the following:

17 “(A) not to exceed the lesser of—

18 “(i) in the case of a 1-family resi-
19 dence, 115 percent of the median 1-family
20 house price in the area, as determined by
21 the Secretary; and in the case of a 2-, 3-
22 , or 4-family residence, the percentage of
23 such median price that bears the same
24 ratio to such median price as the dollar
25 amount limitation determined under the

1 sixth sentence of section 305(a)(2) of the
2 Federal Home Loan Mortgage Corporation
3 Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or
4 4-family residence, respectively, bears to
5 the dollar amount limitation determined
6 under such section for a 1-family resi-
7 dence; or

8 “(ii) 150 percent of the dollar amount
9 limitation determined under the sixth sen-
10 tence of such section 305(a)(2) for a resi-
11 dence of applicable size;

12 except that the dollar amount limitation in ef-
13 fect under this subparagraph for any size resi-
14 dence for any area may not be less than the
15 greater of: (I) the dollar amount limitation in
16 effect under this section for the area on October
17 21, 1998; or (II) 65 percent of the dollar
18 amount limitation determined under the sixth
19 sentence of such section 305(a)(2) for a resi-
20 dence of the applicable size; and

21 “(B) not to exceed 100 percent of the ap-
22 praised value of the property.”; and

23 (2) in the matter following subparagraph (B),
24 by striking the second sentence (relating to a defini-
25 tion of “average closing cost”) and all that follows

1 through “section 3103A(d) of title 38, United States
2 Code.”.

3 (b) TREATMENT OF UP-FRONT PREMIUMS.—Section
4 203(d) of the National Housing Act (12 U.S.C. 1709(d))
5 is amended—

6 (1) by striking “Notwithstanding any” and in-
7 serting the following: “Except as provided in para-
8 graph (2) of this subsection, notwithstanding”;

9 (2) by inserting “(1)” after “(d)”; and

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

12 “(2) The maximum amount of a mortgage deter-
13 mined under subsection (b)(2)(B) of this section may not
14 be increased as provided in paragraph (1).”.

15 (c) EFFECTIVE DATE.— The amendments made by
16 subsection (a) shall take effect upon the expiration of the
17 date described in section 202(a) of the Economic Stimulus
18 Act of 2008 (Public Law 110–185; 122 Stat. 620).

19 **SEC. 2113. CASH INVESTMENT REQUIREMENT AND PROHI-**
20 **BITION OF SELLER-FUNDED DOWN PAYMENT**
21 **ASSISTANCE.**

22 Paragraph (9) of section 203(b) of the National
23 Housing Act (12 U.S.C. 1709(b)(9)) is amended to read
24 as follows:

25 “(9) CASH INVESTMENT REQUIREMENT.—

1 “(A) IN GENERAL.—A mortgage insured
2 under this section shall be executed by a mort-
3 gagor who shall have paid, in cash or its equiva-
4 lent, on account of the property an amount
5 equal to not less than 3.5 percent of the ap-
6 praised value of the property or such larger
7 amount as the Secretary may determine.

8 “(B) FAMILY MEMBERS.—For purposes of
9 this paragraph, the Secretary shall consider as
10 cash or its equivalent any amounts borrowed
11 from a family member (as such term is defined
12 in section 201), subject only to the require-
13 ments that, in any case in which the repayment
14 of such borrowed amounts is secured by a lien
15 against the property, that—

16 “(i) such lien shall be subordinate to
17 the mortgage; and

18 “(ii) the sum of the principal obliga-
19 tion of the mortgage and the obligation se-
20 cured by such lien may not exceed 100
21 percent of the appraised value of the prop-
22 erty plus any initial service charges, ap-
23 praisal, inspection, and other fees in con-
24 nection with the mortgage.

1 “(C) PROHIBITED SOURCES.—In no case
2 shall the funds required by subparagraph (A)
3 consist, in whole or in part, of funds provided
4 by any of the following parties before, during,
5 or after closing of the property sale:

6 “(i) The seller or any other person or
7 entity that financially benefits from the
8 transaction.

9 “(ii) Any third party or entity that is
10 reimbursed, directly or indirectly, by any of
11 the parties described in clause (i).

12 This subparagraph shall apply only to mort-
13 gages for which the mortgagee has issued credit
14 approval for the borrower on or after October
15 1, 2008.”.

16 **SEC. 2114. MORTGAGE INSURANCE PREMIUMS.**

17 Section 203(c)(2) of the National Housing Act (12
18 U.S.C. 1709(c)(2)) is amended—

19 (1) in the matter preceding subparagraph (A),
20 by striking “or of the General Insurance Fund” and
21 all that follows through “section 234(c),”; and

22 (2) in subparagraph (A)—

23 (A) by striking “2.25 percent” and insert-
24 ing “3 percent”; and

1 (B) by striking “2.0 percent” and inserting
2 “2.75 percent”.

3 **SEC. 2115. REHABILITATION LOANS.**

4 Subsection (k) of section 203 of the National Hous-
5 ing Act (12 U.S.C. 1709(k)) is amended—

6 (1) in paragraph (1), by striking “on” and all
7 that follows through “1978”; and

8 (2) in paragraph (5)—

9 (A) by striking “General Insurance Fund”
10 the first place it appears and inserting “Mutual
11 Mortgage Insurance Fund”; and

12 (B) in the second sentence, by striking the
13 comma and all that follows through “General
14 Insurance Fund”.

15 **SEC. 2116. DISCRETIONARY ACTION.**

16 The National Housing Act is amended—

17 (1) in subsection (e) of section 202 (12 U.S.C.
18 1708(e))—

19 (A) in paragraph (3)(B), by striking “sec-
20 tion 202(e) of the National Housing Act” and
21 inserting “this subsection”; and

22 (B) by redesignating such subsection as
23 subsection (f);

1 (2) by striking paragraph (4) of section 203(s)
2 (12 U.S.C. 1709(s)(4)) and inserting the following
3 new paragraph:

4 “(4) the Secretary of Agriculture;”; and

5 (3) by transferring subsection (s) of section 203
6 (as amended by paragraph (2) of this section) to
7 section 202, inserting such subsection after sub-
8 section (d) of section 202, and redesignating such
9 subsection as subsection (e).

10 **SEC. 2117. INSURANCE OF CONDOMINIUMS.**

11 (a) IN GENERAL.—Section 234 of the National
12 Housing Act (12 U.S.C. 1715y) is amended—

13 (1) in subsection (c), in the first sentence—

14 (A) by striking “and” before “(2)”; and

15 (B) by inserting before the period at the
16 end the following: “, and (3) the project has a
17 blanket mortgage insured by the Secretary
18 under subsection (d)”; and

19 (2) in subsection (g), by striking “, except
20 that” and all that follows and inserting a period.

21 (b) DEFINITION OF MORTGAGE.—Section 201(a) of
22 the National Housing Act (12 U.S.C. 1707(a)) is amend-
23 ed—

24 (1) before “a first mortgage” insert “(A)”; and

1 (2) by striking “or on a leasehold (1)” and in-
2 serting “(B) a first mortgage on a leasehold on real
3 estate (i)”;

4 (3) by striking “or (2)” and inserting “, or
5 (ii)”;

6 (4) by inserting before the semicolon the fol-
7 lowing: “, or (C) a first mortgage given to secure the
8 unpaid purchase price of a fee interest in, or long-
9 term leasehold interest in, real estate consisting of
10 a one-family unit in a multifamily project, including
11 a project in which the dwelling units are attached,
12 or are manufactured housing units, semi-detached,
13 or detached, and an undivided interest in the com-
14 mon areas and facilities which serve the project”.

15 (c) DEFINITION OF REAL ESTATE.—Section 201 of
16 the National Housing Act (12 U.S.C. 1707) is amended
17 by adding at the end the following new subsection:

18 “(g) The term ‘real estate’ means land and all nat-
19 ural resources and structures permanently affixed to the
20 land, including residential buildings and stationary manu-
21 factured housing. The Secretary may not require, for
22 treatment of any land or other property as real estate for
23 purposes of this title, that such land or property be treated
24 as real estate for purposes of State taxation.”.

1 **SEC. 2118. MUTUAL MORTGAGE INSURANCE FUND.**

2 (a) IN GENERAL.—Subsection (a) of section 202 of
3 the National Housing Act (12 U.S.C. 1708(a)) is amended
4 to read as follows:

5 “(a) MUTUAL MORTGAGE INSURANCE FUND.—

6 “(1) ESTABLISHMENT.—Subject to the provi-
7 sions of the Federal Credit Reform Act of 1990,
8 there is hereby created a Mutual Mortgage Insur-
9 ance Fund (in this title referred to as the ‘Fund’),
10 which shall be used by the Secretary to carry out the
11 provisions of this title with respect to mortgages in-
12 sured under section 203. The Secretary may enter
13 into commitments to guarantee, and may guarantee,
14 such insured mortgages.

15 “(2) LIMIT ON LOAN GUARANTEES.—The au-
16 thority of the Secretary to enter into commitments
17 to guarantee such insured mortgages shall be effec-
18 tive for any fiscal year only to the extent that the
19 aggregate original principal loan amount under such
20 mortgages, any part of which is guaranteed, does
21 not exceed the amount specified in appropriations
22 Acts for such fiscal year.

23 “(3) FIDUCIARY RESPONSIBILITY.—The Sec-
24 retary has a responsibility to ensure that the Mutual
25 Mortgage Insurance Fund remains financially sound.

1 “(4) ANNUAL INDEPENDENT ACTUARIAL
2 STUDY.—The Secretary shall provide for an inde-
3 pendent actuarial study of the Fund to be conducted
4 annually, which shall analyze the financial position
5 of the Fund. The Secretary shall submit a report
6 annually to the Congress describing the results of
7 such study and assessing the financial status of the
8 Fund. The report shall recommend adjustments to
9 underwriting standards, program participation, or
10 premiums, if necessary, to ensure that the Fund re-
11 mains financially sound. The report shall also in-
12 clude an evaluation of the quality control procedures
13 and accuracy of information utilized in the process
14 of underwriting loans guaranteed by the Fund. Such
15 evaluation shall include a review of the risk charac-
16 teristics of loans based not only on borrower infor-
17 mation and performance, but on risks associated
18 with loans originated or funded by various entities
19 or financial institutions.

20 “(5) QUARTERLY REPORTS.—During each fiscal
21 year, the Secretary shall submit a report to the Con-
22 gress for each calendar quarter, which shall specify
23 for mortgages that are obligations of the Fund—

24 “(A) the cumulative volume of loan guar-
25 antee commitments that have been made during

1 such fiscal year through the end of the quarter
2 for which the report is submitted;

3 “(B) the types of loans insured, cat-
4 egorized by risk;

5 “(C) any significant changes between ac-
6 tual and projected claim and prepayment activ-
7 ity;

8 “(D) projected versus actual loss rates;
9 and

10 “(E) updated projections of the annual
11 subsidy rates to ensure that increases in risk to
12 the Fund are identified and mitigated by ad-
13 justments to underwriting standards, program
14 participation, or premiums, and the financial
15 soundness of the Fund is maintained.

16 The first quarterly report under this paragraph shall
17 be submitted on the last day of the first quarter of
18 fiscal year 2008, or on the last day of the first full
19 calendar quarter following the enactment of the
20 Building American Homeownership Act of 2008,
21 whichever is later.

22 “(6) ADJUSTMENT OF PREMIUMS.—If, pursu-
23 ant to the independent actuarial study of the Fund
24 required under paragraph (4), the Secretary deter-
25 mines that the Fund is not meeting the operational

1 goals established under paragraph (7) or there is a
2 substantial probability that the Fund will not main-
3 tain its established target subsidy rate, the Secretary
4 may either make programmatic adjustments under
5 this title as necessary to reduce the risk to the
6 Fund, or make appropriate premium adjustments.

7 “(7) OPERATIONAL GOALS.—The operational
8 goals for the Fund are—

9 “(A) to minimize the default risk to the
10 Fund and to homeowners by among other ac-
11 tions instituting fraud prevention quality con-
12 trol screening not later than 18 months after
13 the date of enactment of the Building American
14 Homeownership Act of 2008; and

15 “(B) to meet the housing needs of the bor-
16 rowers that the single family mortgage insur-
17 ance program under this title is designed to
18 serve.”.

19 (b) OBLIGATIONS OF FUND.—The National Housing
20 Act is amended as follows:

21 (1) HOMEOWNERSHIP VOUCHER PROGRAM
22 MORTGAGES.—In section 203(v) (12 U.S.C.
23 1709(v))—

24 (A) by striking “Notwithstanding section
25 202 of this title, the” and inserting “The”; and

1 (B) by striking “General Insurance Fund”
2 the first place such term appears and all that
3 follows through the end of the subsection and
4 inserting “Mutual Mortgage Insurance Fund”.

5 (2) HOME EQUITY CONVERSION MORTGAGES.—
6 Section 255(i)(2)(A) of the National Housing Act
7 (12 U.S.C. 1715z–20(i)(2)(A)) is amended by strik-
8 ing “General Insurance Fund” and inserting “Mu-
9 tual Mortgage Insurance Fund”.

10 (c) CONFORMING AMENDMENTS.—The National
11 Housing Act is amended—

12 (1) in section 205 (12 U.S.C. 1711), by striking
13 subsections (g) and (h); and

14 (2) in section 519(e) (12 U.S.C. 1735c(e)), by
15 striking “203(b)” and all that follows through
16 “203(i)” and inserting “203, except as determined
17 by the Secretary”.

18 **SEC. 2119. HAWAIIAN HOME LANDS AND INDIAN RESERVA-**
19 **TIONS.**

20 (a) HAWAIIAN HOME LANDS.—Section 247(c) of the
21 National Housing Act (12 U.S.C. 1715z–12(c)) is amend-
22 ed—

23 (1) by striking “General Insurance Fund estab-
24 lished in section 519” and inserting “Mutual Mort-
25 gage Insurance Fund”; and

1 (2) in the second sentence, by striking “(1) all
2 references” and all that follows through “and (2)”.

3 (b) INDIAN RESERVATIONS.—Section 248(f) of the
4 National Housing Act (12 U.S.C. 1715z–13(f)) is amend-
5 ed—

6 (1) by striking “General Insurance Fund” the
7 first place it appears through “519” and inserting
8 “Mutual Mortgage Insurance Fund”; and

9 (2) in the second sentence, by striking “(1) all
10 references” and all that follows through “and (2)”.

11 **SEC. 2120. CONFORMING AND TECHNICAL AMENDMENTS.**

12 (a) REPEALS.—The following provisions of the Na-
13 tional Housing Act are repealed:

14 (1) Subsection (i) of section 203 (12 U.S.C.
15 1709(i)).

16 (2) Subsection (o) of section 203 (12 U.S.C.
17 1709(o)).

18 (3) Subsection (p) of section 203 (12 U.S.C.
19 1709(p)).

20 (4) Subsection (q) of section 203 (12 U.S.C.
21 1709(q)).

22 (5) Section 222 (12 U.S.C. 1715m).

23 (6) Section 237 (12 U.S.C. 1715z–2).

24 (7) Section 245 (12 U.S.C. 1715z–10).

1 (b) DEFINITION OF AREA.—Section 203(u)(2)(A) of
2 the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is
3 amended by striking “shall” and all that follows and in-
4 serting “means a metropolitan statistical area as estab-
5 lished by the Office of Management and Budget;”.

6 (c) DEFINITION OF STATE.—Section 201(d) of the
7 National Housing Act (12 U.S.C. 1707(d)) is amended by
8 striking “the Trust Territory of the Pacific Islands” and
9 inserting “the Commonwealth of the Northern Mariana
10 Islands”.

11 **SEC. 2121. INSURANCE OF MORTGAGES.**

12 Subsection (n)(2) of section 203 of the National
13 Housing Act (12 U.S.C. 1709(n)(2)) is amended—

14 (1) in subparagraph (A), by inserting “or sub-
15 ordinate mortgage or” before “lien given”; and

16 (2) in subparagraph (C), by inserting “or sub-
17 ordinate mortgage or” before “lien”.

18 **SEC. 2122. HOME EQUITY CONVERSION MORTGAGES.**

19 (a) IN GENERAL.—Section 255 of the National
20 Housing Act (12 U.S.C. 1715z–20) is amended—

21 (1) in subsection (b)(2), insert “‘real estate,’”
22 after “‘mortgagor,’”;

23 (2) by amending subsection (d)(1) to read as
24 follows:

1 “(1) have been originated by a mortgagee ap-
2 proved by the Secretary;”;

3 (3) by amending subsection (d)(2)(B) to read
4 as follows:

5 “(B) has received adequate counseling, as
6 provided in subsection (f), by an independent
7 third party that is not, either directly or indi-
8 rectly, associated with or compensated by a
9 party involved in—

10 “(i) originating or servicing the mort-
11 gage;

12 “(ii) funding the loan underlying the
13 mortgage; or

14 “(iii) the sale of annuities, invest-
15 ments, long-term care insurance, or any
16 other type of financial or insurance prod-
17 uct;”;

18 (4) in subsection (f)—

19 (A) by striking “(f) INFORMATION SERV-
20 ICES FOR MORTGAGORS.—” and inserting “(f)
21 COUNSELING SERVICES AND INFORMATION FOR
22 MORTGAGORS.—”; and

23 (B) by amending the matter preceding
24 paragraph (1) to read as follows: “The Sec-
25 retary shall provide or cause to be provided ade-

1 quate counseling for the mortgagor, as de-
2 scribed in subsection (d)(2)(B). Such counseling
3 shall be provided by counselors that meet quali-
4 fication standards and follow uniform coun-
5 seling protocols. The qualification standards
6 and counseling protocols shall be established by
7 the Secretary within 12 months of the date of
8 enactment of the Building American Home-
9 ownership Act of 2008. The protocols shall re-
10 quire a qualified counselor to discuss with each
11 mortgagor information which shall include—”

12 (5) in subsection (g), by striking “established
13 under section 203(b)(2)” and all that follows
14 through “located” and inserting “limitation estab-
15 lished under section 305(a)(2) of the Federal Home
16 Loan Mortgage Corporation Act for a 1-family resi-
17 dence”;

18 (6) by striking subsection (l);

19 (7) by redesignating subsection (m) as sub-
20 section (l);

21 (8) by amending subsection (l), as so redesign-
22 ated, to read as follows:

23 “(1) FUNDING FOR COUNSELING.—The Secretary
24 may use a portion of the mortgage insurance premiums
25 collected under the program under this section to ade-

1 quately fund the counseling and disclosure activities re-
2 quired under subsection (f), including counseling for those
3 homeowners who elect not to take out a home equity con-
4 version mortgage, provided that the use of such funds is
5 based upon accepted actuarial principles.”; and

6 (9) by adding at the end the following new sub-
7 section:

8 “(m) AUTHORITY TO INSURE HOME PURCHASE
9 MORTGAGE.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of this section, the Secretary may insure,
12 upon application by a mortgagee, a home equity con-
13 version mortgage upon such terms and conditions as
14 the Secretary may prescribe, when the home equity
15 conversion mortgage will be used to purchase a 1- to
16 4-family dwelling unit, one unit of which the mort-
17 gator will occupy as a primary residence, and to
18 provide for any future payments to the mortgagor,
19 based on available equity, as authorized under sub-
20 section (d)(9).

21 “(2) LIMITATION ON PRINCIPAL OBLIGATION.—

22 A home equity conversion mortgage insured pursu-
23 ant to paragraph (1) shall involve a principal obliga-
24 tion that does not exceed the dollar amount limita-
25 tion determined under section 305(a)(2) of the Fed-

1 eral Home Loan Mortgage Corporation Act for a 1-
2 family residence.

3 “(n) REQUIREMENTS ON MORTGAGE ORIGINA-
4 TORS.—

5 “(1) IN GENERAL.—The mortgagee and any
6 other party that participates in the origination of a
7 mortgage to be insured under this section shall—

8 “(A) not participate in, be associated with,
9 or employ any party that participates in or is
10 associated with any other financial or insurance
11 activity; or

12 “(B) demonstrate to the Secretary that the
13 mortgagee or other party maintains, or will
14 maintain, firewalls and other safeguards de-
15 signed to ensure that—

16 “(i) individuals participating in the
17 origination of the mortgage shall have no
18 involvement with, or incentive to provide
19 the mortgagor with, any other financial or
20 insurance product; and

21 “(ii) the mortgagor shall not be re-
22 quired, directly or indirectly, as a condition
23 of obtaining a mortgage under this section,
24 to purchase any other financial or insur-
25 ance product.

1 “(2) APPROVAL OF OTHER PARTIES.—All par-
2 ties that participate in the origination of a mortgage
3 to be insured under this section shall be approved by
4 the Secretary.

5 “(o) PROHIBITION AGAINST REQUIREMENTS TO
6 PURCHASE ADDITIONAL PRODUCTS.—The mortgagor or
7 any other party shall not be required by the mortgagee
8 or any other party to purchase an insurance, annuity, or
9 other similar product as a requirement or condition of eli-
10 gibility for insurance under subsection (c), except for title
11 insurance, hazard, flood, or other peril insurance, or other
12 such products that are customary and normal under sub-
13 section (c), as determined by the Secretary.

14 “(p) STUDY TO DETERMINE CONSUMER PROTEC-
15 TIONS AND UNDERWRITING STANDARDS.—The Secretary
16 shall conduct a study to examine and determine appro-
17 priate consumer protections and underwriting standards
18 to ensure that the purchase of products referred to in sub-
19 section (o) is appropriate for the consumer. In conducting
20 such study, the Secretary shall consult with consumer ad-
21 vocates (including recognized experts in consumer protec-
22 tion), industry representatives, representatives of coun-
23 seling organizations, and other interested parties.”.

1 (b) MORTGAGES FOR COOPERATIVES.—Subsection
2 (b) of section 255 of the National Housing Act (12 U.S.C.
3 1715z–20(b)) is amended—

4 (1) in paragraph (4)—

5 (A) by inserting “a first or subordinate
6 mortgage or lien” before “on all stock”;

7 (B) by inserting “unit” after “dwelling”;
8 and

9 (C) by inserting “a first mortgage or first
10 lien” before “on a leasehold”; and

11 (2) in paragraph (5), by inserting “a first or
12 subordinate lien on” before “all stock”.

13 (c) LIMITATION ON ORIGINATION FEES.—Section
14 255 of the National Housing Act (12 U.S.C. 1715z–20),
15 as amended by the preceding provisions of this section,
16 is further amended by adding at the end the following new
17 subsection:

18 “(r) LIMITATION ON ORIGINATION FEES.—The Sec-
19 retary shall establish limits on the origination fee that may
20 be charged to a mortgagor under a mortgage insured
21 under this section, which limitations shall—

22 “(1) be equal to 2.0 percent of the maximum
23 claim amount of the mortgage, up to a maximum
24 claim amount of \$200,000 plus 1 percent of any
25 portion of the maximum claim amount that is great-

1 er than \$200,000, unless adjusted thereafter on the
2 basis of an analysis of—

3 “(A) the costs to mortgagors; and

4 “(B) the impact on the reverse mortgage
5 market;

6 “(2) be subject to a minimum allowable
7 amount;

8 “(3) provide that the origination fee may be
9 fully financed with the mortgage;

10 “(4) include any fees paid to correspondent
11 mortgagees approved by the Secretary;

12 “(5) have the same effective date as subsection
13 (m)(2) regarding the limitation on principal obliga-
14 tion; and

15 “(6) be subject to a maximum origination fee of
16 \$6,000, except that such maximum limit shall be ad-
17 justed in accordance with the annual percentage in-
18 crease in the Consumer Price Index of the Bureau
19 of Labor Statistics of the Department of Labor in
20 increments of \$500 only when the percentage in-
21 crease in such index, when applied to the maximum
22 origination fee, produces dollar increases that exceed
23 \$500.”.

24 (d) STUDY REGARDING PROGRAM COSTS AND CRED-
25 IT AVAILABILITY.—

1 (1) IN GENERAL.—The Comptroller General of
2 the United States shall conduct a study regarding
3 the costs and availability of credit under the home
4 equity conversion mortgages for elderly homeowners
5 program under section 255 of the National Housing
6 Act (12 U.S.C. 1715z–20) (in this subsection re-
7 ferred to as the “program”).

8 (2) PURPOSE.—The purpose of the study re-
9 quired under paragraph (1) is to help Congress ana-
10 lyze and determine the effects of limiting the
11 amounts of the costs or fees under the program
12 from the amounts charged under the program as of
13 the date of the enactment of this title.

14 (3) CONTENT OF REPORT.—The study required
15 under paragraph (1) should focus on—

16 (A) the cost to mortgagors of participating
17 in the program;

18 (B) the financial soundness of the pro-
19 gram;

20 (C) the availability of credit under the pro-
21 gram; and

22 (D) the costs to elderly homeowners par-
23 ticipating in the program, including—

24 (i) mortgage insurance premiums
25 charged under the program;

1 (ii) up-front fees charged under the
2 program; and

3 (iii) margin rates charged under the
4 program.

5 (4) TIMING OF REPORT.—Not later than 12
6 months after the date of the enactment of this title,
7 the Comptroller General shall submit a report to the
8 Committee on Banking, Housing, and Urban Affairs
9 of the Senate and the Committee on Financial Serv-
10 ices of the House of Representatives setting forth
11 the results and conclusions of the study required
12 under paragraph (1).

13 **SEC. 2123. ENERGY EFFICIENT MORTGAGES PROGRAM.**

14 Section 106(a)(2) of the Energy Policy Act of 1992
15 (42 U.S.C. 12712 note) is amended—

16 (1) by amending subparagraph (C) to read as
17 follows:

18 “(C) COSTS OF IMPROVEMENTS.—The cost
19 of cost-effective energy efficiency improvements
20 shall not exceed the greater of—

21 “(i) 5 percent of the property value
22 (not to exceed 5 percent of the limit estab-
23 lished under section 203(b)(2)(A)) of the
24 National Housing Act (12 U.S.C.
25 1709(b)(2)(A); or

1 “(ii) 2 percent of the limit established
2 under section 203(b)(2)(B) of such Act.”;
3 and

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

5 “(D) LIMITATION.—In any fiscal year, the
6 aggregate number of mortgages insured pursu-
7 ant to this section may not exceed 5 percent of
8 the aggregate number of mortgages for 1- to 4-
9 family residences insured by the Secretary of
10 Housing and Urban Development under title II
11 of the National Housing Act (12 U.S.C. 1707
12 et seq.) during the preceding fiscal year.”.

13 **SEC. 2124. PILOT PROGRAM FOR AUTOMATED PROCESS**
14 **FOR BORROWERS WITHOUT SUFFICIENT**
15 **CREDIT HISTORY.**

16 (a) ESTABLISHMENT.—Title II of the National Hous-
17 ing Act (12 U.S.C. 1707 et seq.) is amended by adding
18 at the end the following new section:

19 **“SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS**
20 **FOR BORROWERS WITHOUT SUFFICIENT**
21 **CREDIT HISTORY.**

22 “(a) ESTABLISHMENT.—The Secretary shall carry
23 out a pilot program to establish, and make available to
24 mortgagees, an automated process for providing alter-
25 native credit rating information for mortgagors and pro-

1 spective mortgagors under mortgages on 1- to 4-family
2 residences to be insured under this title who have insuffi-
3 cient credit histories for determining their creditworthi-
4 ness. Such alternative credit rating information may in-
5 clude rent, utilities, and insurance payment histories, and
6 such other information as the Secretary considers appro-
7 priate.

8 “(b) SCOPE.—The Secretary may carry out the pilot
9 program under this section on a limited basis or scope,
10 and may consider limiting the program to first-time home-
11 buyers.

12 “(c) LIMITATION.—In any fiscal year, the aggregate
13 number of mortgages insured pursuant to the automated
14 process established under this section may not exceed 5
15 percent of the aggregate number of mortgages for 1- to
16 4-family residences insured by the Secretary under this
17 title during the preceding fiscal year.

18 “(d) SUNSET.—After the expiration of the 5-year pe-
19 riod beginning on the date of the enactment of the Build-
20 ing American Homeownership Act of 2008, the Secretary
21 may not enter into any new commitment to insure any
22 mortgage, or newly insure any mortgage, pursuant to the
23 automated process established under this section.”.

24 (b) GAO REPORT.—Not later than the expiration of
25 the two-year period beginning on the date of the enact-

1 ment of this subtitle, the Comptroller General of the
2 United States shall submit to the Congress a report identi-
3 fying the number of additional mortgagors served using
4 the automated process established pursuant to section 257
5 of the National Housing Act (as added by the amendment
6 made by subsection (a) of this section) and the impact
7 of such process and the insurance of mortgages pursuant
8 to such process on the safety and soundness of the insur-
9 ance funds under the National Housing Act of which such
10 mortgages are obligations.

11 **SEC. 2125. HOMEOWNERSHIP PRESERVATION.**

12 The Secretary of Housing and Urban Development
13 and the Commissioner of the Federal Housing Adminis-
14 tration, in consultation with industry, the Neighborhood
15 Reinvestment Corporation, and other entities involved in
16 foreclosure prevention activities, shall—

17 (1) develop and implement a plan to improve
18 the Federal Housing Administration's loss mitiga-
19 tion process; and

20 (2) report such plan to the Committee on
21 Banking, Housing, and Urban Affairs of the Senate
22 and the Committee on Financial Services of the
23 House of Representatives.

1 **SEC. 2126. USE OF FHA SAVINGS FOR IMPROVEMENTS IN**
2 **FHA TECHNOLOGIES, PROCEDURES, PROC-**
3 **ESSES, PROGRAM PERFORMANCE, STAFFING,**
4 **AND SALARIES.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated for each of fiscal years 2009
7 through 2013, \$25,000,000, from negative credit subsidy
8 for the mortgage insurance programs under title II of the
9 National Housing Act, to the Secretary of Housing and
10 Urban Development for increasing funding for the purpose
11 of improving technology, processes, program performance,
12 eliminating fraud, and for providing appropriate staffing
13 in connection with the mortgage insurance programs
14 under title II of the National Housing Act.

15 (b) CERTIFICATION.—The authorization under sub-
16 section (a) shall not be effective for a fiscal year unless
17 the Secretary of Housing and Urban Development has, by
18 rulemaking in accordance with section 553 of title 5,
19 United States Code (notwithstanding subsections (a)(2),
20 (b)(B), and (d)(3) of such section), made a determination
21 that—

22 (1) premiums being, or to be, charged during
23 such fiscal year for mortgage insurance under title
24 II of the National Housing Act are established at
25 the minimum amount sufficient to—

1 (A) comply with the requirements of sec-
2 tion 205(f) of such Act (relating to required
3 capital ratio for the Mutual Mortgage Insur-
4 ance Fund); and

5 (B) ensure the safety and soundness of the
6 other mortgage insurance funds under such
7 Act; and

8 (2) any negative credit subsidy for such fiscal
9 year resulting from such mortgage insurance pro-
10 grams adequately ensures the efficient delivery and
11 availability of such programs.

12 (c) STUDY AND REPORT.—The Secretary of Housing
13 and Urban Development shall conduct a study to obtain
14 recommendations from participants in the private residen-
15 tial (both single family and multifamily) mortgage lending
16 business and the secondary market for such mortgages on
17 how best to update and upgrade processes and tech-
18 nologies for the mortgage insurance programs under title
19 II of the National Housing Act so that the procedures for
20 originating, insuring, and servicing of such mortgages con-
21 form with those customarily used by secondary market
22 purchasers of residential mortgage loans. Not later than
23 the expiration of the 12-month period beginning on the
24 date of the enactment of this title, the Secretary shall sub-
25 mit a report to the Congress describing the progress made

1 and to be made toward updating and upgrading such pro-
2 cesses and technology, and providing appropriate staffing
3 for such mortgage insurance programs.

4 **SEC. 2127. POST-PURCHASE HOUSING COUNSELING ELIGI-**
5 **BILITY IMPROVEMENTS.**

6 Section 106(c)(4) of the Housing and Urban Devel-
7 opment Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:

8 (1) in subparagraph (C)—

9 (A) in clause (i), by striking “; or” and in-
10 sserting a semicolon;

11 (B) in clause (ii), by striking the period at
12 the end and inserting a semicolon; and

13 (C) by adding at the end the following:

14 “(iii) a significant reduction in the in-
15 come of the household due to divorce or
16 death; or

17 “(iv) a significant increase in basic ex-
18 penses of the homeowner or an immediate
19 family member of the homeowner (includ-
20 ing the spouse, child, or parent for whom
21 the homeowner provides substantial care or
22 financial assistance) due to—

23 “(I) an unexpected or significant
24 increase in medical expenses;

25 “(II) a divorce;

1 “(III) unexpected and significant
2 damage to the property, the repair of
3 which will not be covered by private or
4 public insurance; or

5 “(IV) a large property-tax in-
6 crease; or”;

7 (2) by striking the matter that follows subpara-
8 graph (C); and

9 (3) by adding at the end the following:

10 “(D) the Secretary of Housing and Urban
11 Development determines that the annual in-
12 come of the homeowner is no greater than the
13 annual income established by the Secretary as
14 being of low- or moderate-income.”.

15 **SEC. 2128. PRE-PURCHASE HOMEOWNERSHIP COUNSELING**

16 **DEMONSTRATION.**

17 (a) **ESTABLISHMENT OF PROGRAM.**—For the period
18 beginning on the date of enactment of this title and ending
19 on the date that is 3 years after such date of enactment,
20 the Secretary of Housing and Urban Development shall
21 establish and conduct a demonstration program to test the
22 effectiveness of alternative forms of pre-purchase home-
23 ownership counseling for eligible homebuyers.

24 (b) **FORMS OF COUNSELING.**—The Secretary of
25 Housing and Urban Development shall provide to eligible

1 homebuyers pre-purchase homeownership counseling
2 under this section in the form of—

3 (1) telephone counseling;

4 (2) individualized in-person counseling;

5 (3) web-based counseling;

6 (4) counseling classes; or

7 (5) any other form or type of counseling that
8 the Secretary may, in his discretion, determine ap-
9 propriate.

10 (c) SIZE OF PROGRAM.—The Secretary shall make
11 available the pre-purchase homeownership counseling de-
12 scribed in subsection (b) to not more than 3,000 eligible
13 homebuyers in any given year.

14 (d) INCENTIVE TO PARTICIPATE.—The Secretary of
15 Housing and Urban Development may provide incentives
16 to eligible homebuyers to participate in the demonstration
17 program established under subsection (a). Such incentives
18 may include the reduction of any insurance premium
19 charges owed by the eligible homebuyer to the Secretary.

20 (e) ELIGIBLE HOMEBUYER DEFINED.—For purposes
21 of this section an “eligible homebuyer” means a first-time
22 homebuyer who has been approved for a home loan with
23 a loan-to-value ratio between 97 percent and 98.5 percent.

24 (f) REPORT TO CONGRESS.—The Secretary of Hous-
25 ing and Urban Development shall report to the Committee

1 on Banking, Housing, and Urban Affairs of the Senate
2 and the Committee on Financial Services of the House of
3 Representative—

4 (1) on an annual basis, on the progress and re-
5 sults of the demonstration program established
6 under subsection (a); and

7 (2) for the period beginning on the date of en-
8 actment of this title and ending on the date that is
9 5 years after such date of enactment, on the pay-
10 ment history and delinquency rates of eligible home-
11 buyers who participated in the demonstration pro-
12 gram.

13 **SEC. 2129. FRAUD PREVENTION.**

14 Section 1014 of title 18, United States Code, is
15 amended in the first sentence—

16 (1) by inserting “the Federal Housing Adminis-
17 tration,” before “the Farm Credit Administration”;
18 and

19 (2) by striking “commitment, or loan” and in-
20 sserting “commitment, loan, or insurance agreement
21 or application for insurance or a guarantee”.

1 **SEC. 2130. LIMITATION ON MORTGAGE INSURANCE PRE-**
2 **MIUM INCREASES.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, including any provision of this title and any
5 amendment made by this title—

6 (1) for the period beginning on the date of the
7 enactment of this title and ending on October 1,
8 2009, the premiums charged for mortgage insurance
9 under multifamily housing programs under the Na-
10 tional Housing Act may not be increased above the
11 premium amounts in effect under such program on
12 October 1, 2006, unless the Secretary of Housing
13 and Urban Development determines that, absent
14 such increase, insurance of additional mortgages
15 under such program would, under the Federal Credit
16 Reform Act of 1990, require the appropriation of
17 new budget authority to cover the costs (as such
18 term is defined in section 502 of the Federal Credit
19 Reform Act of 1990 (2 U.S.C. 661a) of such insur-
20 ance; and

21 (2) a premium increase pursuant to paragraph
22 (1) may be made only if not less than 30 days prior
23 to such increase taking effect, the Secretary of
24 Housing and Urban Development—

25 (A) notifies the Committee on Banking,
26 Housing, and Urban Affairs of the Senate and

1 the Committee on Financial Services of the
2 House of Representatives of such increase; and
3 (B) publishes notice of such increase in the
4 Federal Register.

5 (b) **WAIVER.**—The Secretary of Housing and Urban
6 Development may waive the 30-day notice requirement
7 under subsection (a)(2), if the Secretary determines that
8 waiting 30-days before increasing premiums would cause
9 substantial damage to the solvency of multifamily housing
10 programs under the National Housing Act.

11 **SEC. 2131. SAVINGS PROVISION.**

12 Any mortgage insured under title II of the National
13 Housing Act before the date of enactment of this subtitle
14 shall continue to be governed by the laws, regulations, or-
15 ders, and terms and conditions to which it was subject
16 on the day before the date of the enactment of this sub-
17 title.

18 **SEC. 2132. IMPLEMENTATION.**

19 The Secretary of Housing and Urban Development
20 shall by notice establish any additional requirements that
21 may be necessary to immediately carry out the provisions
22 of this subtitle. The notice shall take effect upon issuance.

1 **SEC. 2133. MORATORIUM ON IMPLEMENTATION OF RISK-**
2 **BASED PREMIUMS.**

3 (a) IN GENERAL.—During the 12-month period be-
4 ginning on October 1, 2008, the Secretary of Housing and
5 Urban Development shall not take any action to imple-
6 ment or carry out risk-based premiums, which are de-
7 signed for mortgage lenders to offer borrowers an FHA-
8 insured product that provides a range of mortgage insur-
9 ance premium pricing, based on the risk that the insur-
10 ance contract represents, as such planned implementation
11 was set forth in the Notice published in the Federal Reg-
12 ister on May 13, 2008 (Vol. 73, No. 93, Pages 27703
13 through 27711) (effective July 14, 2008).

14 (b) INSURANCE OF MORTGAGES UNDER THE NA-
15 TIONAL HOUSING ACT.—During the 12-month period be-
16 ginning on October 1, 2008, the Secretary of Housing and
17 Urban Development shall not take any action to imple-
18 ment or carry out any other risk-based premium product
19 related to the insurance of any mortgage on a single fam-
20 ily residence under title II of the National Housing Act,
21 where the premium price for such new product is based
22 in whole or in part on a borrower's Decision Credit Score,
23 as that term is defined in the Notice described under sub-
24 section (a), or any successor thereto.

1 **Subtitle B—Manufactured Housing**
2 **Loan Modernization**

3 **SEC. 2141. SHORT TITLE.**

4 This subtitle may be cited as the “FHA Manufac-
5 tured Housing Loan Modernization Act of 2008”.

6 **SEC. 2142. PURPOSES.**

7 The purposes of this subtitle are—

8 (1) to provide adequate funding for FHA-in-
9 sured manufactured housing loans for low- and mod-
10 erate-income homebuyers during all economic cycles
11 in the manufactured housing industry;

12 (2) to modernize the FHA title I insurance pro-
13 gram for manufactured housing loans to enhance
14 participation by Ginnie Mae and the private lending
15 markets; and

16 (3) to adjust the low loan limits for title I man-
17 ufactured home loan insurance to reflect the increase
18 in costs since such limits were last increased in 1992
19 and to index the limits to inflation.

20 **SEC. 2143. EXCEPTION TO LIMITATION ON FINANCIAL IN-**
21 **STITUTION PORTFOLIO.**

22 The second sentence of section 2(a) of the National
23 Housing Act (12 U.S.C. 1703(a)) is amended—

24 (1) by striking “In no case” and inserting
25 “Other than in connection with a manufactured

1 home or a lot on which to place such a home (or
2 both), in no case”; and

3 (2) by striking “: *Provided*, That with” and in-
4 serting “. With”.

5 **SEC. 2144. INSURANCE BENEFITS.**

6 (a) IN GENERAL.—Subsection (b) of section 2 of the
7 National Housing Act (12 U.S.C. 1703(b)), is amended
8 by adding at the end the following new paragraph:

9 “(8) INSURANCE BENEFITS FOR MANUFAC-
10 TURED HOUSING LOANS.—Any contract of insurance
11 with respect to loans, advances of credit, or pur-
12 chases in connection with a manufactured home or
13 a lot on which to place a manufactured home (or
14 both) for a financial institution that is executed
15 under this title after the date of the enactment of
16 the FHA Manufactured Housing Loan Moderniza-
17 tion Act of 2008 by the Secretary shall be conclusive
18 evidence of the eligibility of such financial institution
19 for insurance, and the validity of any contract of in-
20 surance so executed shall be incontestable in the
21 hands of the bearer from the date of the execution
22 of such contract, except for fraud or misrepresenta-
23 tion on the part of such institution.”.

24 (b) APPLICABILITY.—The amendment made by sub-
25 section (a) shall only apply to loans that are registered

1 or endorsed for insurance after the date of the enactment
2 of this title.

3 **SEC. 2145. MAXIMUM LOAN LIMITS.**

4 (a) DOLLAR AMOUNTS.—Paragraph (1) of section
5 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1))
6 is amended—

7 (1) in clause (ii) of subparagraph (A), by strik-
8 ing “\$17,500” and inserting “\$25,090”;

9 (2) in subparagraph (C) by striking “\$48,600”
10 and inserting “\$69,678”;

11 (3) in subparagraph (D) by striking “\$64,800”
12 and inserting “\$92,904”;

13 (4) in subparagraph (E) by striking “\$16,200”
14 and inserting “\$23,226”; and

15 (5) by realigning subparagraphs (C), (D), and
16 (E) 2 ems to the left so that the left margins of
17 such subparagraphs are aligned with the margins of
18 subparagraphs (A) and (B).

19 (b) ANNUAL INDEXING.—Subsection (b) of section 2
20 of the National Housing Act (12 U.S.C. 1703(b)), as
21 amended by the preceding provisions of this title, is fur-
22 ther amended by adding at the end the following new para-
23 graph:

24 “(9) ANNUAL INDEXING OF MANUFACTURED
25 HOUSING LOANS.—The Secretary shall develop a

1 method of indexing in order to annually adjust the
2 loan limits established in subparagraphs (A)(ii), (C),
3 (D), and (E) of this subsection. Such index shall be
4 based on the manufactured housing price data col-
5 lected by the United States Census Bureau. The
6 Secretary shall establish such index no later than 1
7 year after the date of the enactment of the FHA
8 Manufactured Housing Loan Modernization Act of
9 2008.”

10 (c) TECHNICAL AND CONFORMING CHANGES.—Para-
11 graph (1) of section 2(b) of the National Housing Act (12
12 U.S.C. 1703(b)(1)) is amended—

13 (1) by striking “No” and inserting “Except as
14 provided in the last sentence of this paragraph, no”;
15 and

16 (2) by adding after and below subparagraph
17 (G) the following:

18 “The Secretary shall, by regulation, annually increase
19 the dollar amount limitations in subparagraphs (A)(ii),
20 (C), (D), and (E) (as such limitations may have been pre-
21 viously adjusted under this sentence) in accordance with
22 the index established pursuant to paragraph (9).”.

23 **SEC. 2146. INSURANCE PREMIUMS.**

24 Subsection (f) of section 2 of the National Housing
25 Act (12 U.S.C. 1703(f)) is amended—

1 (1) by inserting “(1) PREMIUM CHARGES.—”
2 after “(f)”; and

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

5 “(2) MANUFACTURED HOME LOANS.—Notwith-
6 standing paragraph (1), in the case of a loan, advance of
7 credit, or purchase in connection with a manufactured
8 home or a lot on which to place such a home (or both),
9 the premium charge for the insurance granted under this
10 section shall be paid by the borrower under the loan or
11 advance of credit, as follows:

12 “(A) At the time of the making of the loan, ad-
13 vance of credit, or purchase, a single premium pay-
14 ment in an amount not to exceed 2.25 percent of the
15 amount of the original insured principal obligation.

16 “(B) In addition to the premium under sub-
17 paragraph (A), annual premium payments during
18 the term of the loan, advance, or obligation pur-
19 chased in an amount not exceeding 1.0 percent of
20 the remaining insured principal balance (excluding
21 the portion of the remaining balance attributable to
22 the premium collected under subparagraph (A) and
23 without taking into account delinquent payments or
24 prepayments).

1 “(C) Premium charges under this paragraph
2 shall be established in amounts that are sufficient,
3 but do not exceed the minimum amounts necessary,
4 to maintain a negative credit subsidy for the pro-
5 gram under this section for insurance of loans, ad-
6 vances of credit, or purchases in connection with a
7 manufactured home or a lot on which to place such
8 a home (or both), as determined based upon risk to
9 the Federal Government under existing underwriting
10 requirements.

11 “(D) The Secretary may increase the limita-
12 tions on premium payments to percentages above
13 those set forth in subparagraphs (A) and (B), but
14 only if necessary, and not in excess of the minimum
15 increase necessary, to maintain a negative credit
16 subsidy as described in subparagraph (C).”.

17 **SEC. 2147. TECHNICAL CORRECTIONS.**

18 (a) DATES.—Subsection (a) of section 2 of the Na-
19 tional Housing Act (12 U.S.C. 1703(a)) is amended—

20 (1) by striking “on and after July 1, 1939,”
21 each place such term appears; and

22 (2) by striking “made after the effective date of
23 the Housing Act of 1954”.

1 (b) AUTHORITY OF SECRETARY.—Subsection (c) of
2 section 2 of the National Housing Act (12 U.S.C. 1703(e))
3 is amended to read as follows:

4 “(c) HANDLING AND DISPOSAL OF PROPERTY.—

5 “(1) AUTHORITY OF SECRETARY.—Notwith-
6 standing any other provision of law, the Secretary
7 may—

8 “(A) deal with, complete, rent, renovate,
9 modernize, insure, or assign or sell at public or
10 private sale, or otherwise dispose of, for cash or
11 credit in the Secretary’s discretion, and upon
12 such terms and conditions and for such consid-
13 eration as the Secretary shall determine to be
14 reasonable, any real or personal property con-
15 veyed to or otherwise acquired by the Secretary,
16 in connection with the payment of insurance
17 heretofore or hereafter granted under this title,
18 including any evidence of debt, contract, claim,
19 personal property, or security assigned to or
20 held by him in connection with the payment of
21 insurance heretofore or hereafter granted under
22 this section; and

23 “(B) pursue to final collection, by way of
24 compromise or otherwise, all claims assigned to
25 or held by the Secretary and all legal or equi-

1 table rights accruing to the Secretary in con-
2 nection with the payment of such insurance, in-
3 cluding unpaid insurance premiums owed in
4 connection with insurance made available by
5 this title.

6 “(2) ADVERTISEMENTS FOR PROPOSALS.—Sec-
7 tion 3709 of the Revised Statutes shall not be con-
8 strued to apply to any contract of hazard insurance
9 or to any purchase or contract for services or sup-
10 plies on account of such property if the amount
11 thereof does not exceed \$25,000.

12 “(3) DELEGATION OF AUTHORITY.—The power
13 to convey and to execute in the name of the Sec-
14 retary, deeds of conveyance, deeds of release, assign-
15 ments and satisfactions of mortgages, and any other
16 written instrument relating to real or personal prop-
17 erty or any interest therein heretofore or hereafter
18 acquired by the Secretary pursuant to the provisions
19 of this title may be exercised by an officer appointed
20 by the Secretary without the execution of any ex-
21 press delegation of power or power of attorney.
22 Nothing in this subsection shall be construed to pre-
23 vent the Secretary from delegating such power by
24 order or by power of attorney, in the Secretary’s dis-

1 cretion, to any officer or agent the Secretary may
2 appoint.”.

3 **SEC. 2148. REVISION OF UNDERWRITING CRITERIA.**

4 (a) IN GENERAL.—Subsection (b) of section 2 of the
5 National Housing Act (12 U.S.C. 1703(b)), as amended
6 by the preceding provisions of this title, is further amend-
7 ed by adding at the end the following new paragraph:

8 “(10) FINANCIAL SOUNDNESS OF MANUFAC-
9 TURED HOUSING PROGRAM.—The Secretary shall es-
10 tablish such underwriting criteria for loans and ad-
11 vances of credit in connection with a manufactured
12 home or a lot on which to place a manufactured
13 home (or both), including such loans and advances
14 represented by obligations purchased by financial in-
15 stitutions, as may be necessary to ensure that the
16 program under this title for insurance for financial
17 institutions against losses from such loans, advances
18 of credit, and purchases is financially sound.”.

19 (b) TIMING.—Not later than the expiration of the 6-
20 month period beginning on the date of the enactment of
21 this title, the Secretary of Housing and Urban Develop-
22 ment shall revise the existing underwriting criteria for the
23 program referred to in paragraph (10) of section 2(b) of
24 the National Housing Act (as added by subsection (a) of

1 this section) in accordance with the requirements of such
2 paragraph.

3 **SEC. 2149. PROHIBITION AGAINST KICKBACKS AND UN-**
4 **EARNED FEES.**

5 Title I of the National Housing Act is amended by
6 adding at the end of section 9 the following new section:

7 **“SEC. 10. PROHIBITION AGAINST KICKBACKS AND UN-**
8 **EARNED FEES.**

9 “(a) IN GENERAL.—Except as provided in subsection
10 (b), the provisions of sections 3, 8, 16, 17, 18, and 19
11 of the Real Estate Settlement Procedures Act of 1974 (12
12 U.S.C. 2601 et seq.) shall apply to each sale of a manufac-
13 tured home financed with an FHA-insured loan or exten-
14 sion of credit, as well as to services rendered in connection
15 with such transactions.

16 “(b) AUTHORITY OF THE SECRETARY.—The Sec-
17 retary is authorized to determine the manner and extent
18 to which the provisions of sections 3, 8, 16, 17, 18, and
19 19 of the Real Estate Settlement Procedures Act of 1974
20 (12 U.S.C. 2601 et seq.) may reasonably be applied to
21 the transactions described in subsection (a), and to grant
22 such exemptions as may be necessary to achieve the pur-
23 poses of this section.

24 “(c) DEFINITIONS.—For purposes of this section—

1 “(1) the term ‘federally related mortgage loan’
2 as used in sections 3, 8, 16, 17, 18, and 19 of the
3 Real Estate Settlement Procedures Act of 1974 (12
4 U.S.C. 2601 et seq.) shall include an FHA-insured
5 loan or extension of credit made to a borrower for
6 the purpose of purchasing a manufactured home
7 that the borrower intends to occupy as a personal
8 residence; and

9 “(2) the term ‘real estate settlement service’ as
10 used in sections 3, 8, 16, 17, 18, and 19 of the Real
11 Estate Settlement Procedures Act of 1974 (12
12 U.S.C. 2601 et seq.) shall include any service ren-
13 dered in connection with a loan or extension of cred-
14 it insured by the Federal Housing Administration
15 for the purchase of a manufactured home.

16 “(d) UNFAIR AND DECEPTIVE PRACTICES.—In con-
17 nection with the purchase of a manufactured home fi-
18 nanced with a loan or extension of credit insured by the
19 Federal Housing Administration under this title, the Sec-
20 retary shall prohibit acts or practices in connection with
21 loans or extensions of credit that the Secretary finds to
22 be unfair, deceptive, or otherwise not in the interests of
23 the borrower.”.

1 **SEC. 2150. LEASEHOLD REQUIREMENTS.**

2 Subsection (b) of section 2 of the National Housing
3 Act (12 U.S.C. 1703(b)), as amended by the preceding
4 provisions of this title, is further amended by adding at
5 the end the following new paragraph:

6 “(11) LEASEHOLD REQUIREMENTS.—No insur-
7 ance shall be granted under this section to any such
8 financial institution with respect to any obligation
9 representing any such loan, advance of credit, or
10 purchase by it, made for the purposes of financing
11 a manufactured home which is intended to be situ-
12 ated in a manufactured home community pursuant
13 to a lease, unless such lease—

14 “(A) expires not less than 3 years after the
15 origination date of the obligation;

16 “(B) is renewable upon the expiration of
17 the original 3 year term by successive 1 year
18 terms; and

19 “(C) requires the lessor to provide the les-
20 see written notice of termination of the lease
21 not less than 180 days prior to the expiration
22 of the current lease term in the event the lessee
23 is required to move due to the closing of the
24 manufactured home community, and further
25 provides that failure to provide such notice to
26 the mortgagor in a timely manner will cause the

1 lease term, at its expiration, to automatically
2 renew for an additional 1 year term.”.

3 **TITLE II—MORTGAGE FORE-**
4 **CLOSURE PROTECTIONS FOR**
5 **SERVICEMEMBERS**

6 **SEC. 2201. TEMPORARY INCREASE IN MAXIMUM LOAN**
7 **GUARANTY AMOUNT FOR CERTAIN HOUSING**
8 **LOANS GUARANTEED BY THE SECRETARY OF**
9 **VETERANS AFFAIRS.**

10 Notwithstanding subparagraph (C) of section
11 3703(a)(1) of title 38, United States Code, for purposes
12 of any loan described in subparagraph (A)(i)(IV) of such
13 section that is originated during the period beginning on
14 the date of the enactment of this Act and ending on De-
15 cember 31, 2008, the term “maximum guaranty amount”
16 shall mean an amount equal to 25 percent of the higher
17 of—

18 (1) the limitation determined under section
19 305(a)(2) of the Federal Home Loan Mortgage Cor-
20 poration Act (12 U.S.C. 1454(a)(2)) for the cal-
21 endar year in which the loan is originated for a sin-
22 gle-family residence; or

23 (2) 125 percent of the area median price for a
24 single-family residence, but in no case to exceed 175
25 percent of the limitation determined under such sec-

1 tion 305(a)(2) for the calendar year in which the
2 loan is originated for a single-family residence.

3 **SEC. 2202. COUNSELING ON MORTGAGE FORECLOSURES**
4 **FOR MEMBERS OF THE ARMED FORCES RE-**
5 **TURNING FROM SERVICE ABROAD.**

6 (a) IN GENERAL.—The Secretary of Defense shall
7 develop and implement a program to advise members of
8 the Armed Forces (including members of the National
9 Guard and Reserve) who are returning from service on
10 active duty abroad (including service in Operation Iraqi
11 Freedom and Operation Enduring Freedom) on actions to
12 be taken by such members to prevent or forestall mortgage
13 foreclosures.

14 (b) ELEMENTS.—The program required by sub-
15 section (a) shall include the following:

16 (1) Credit counseling.

17 (2) Home mortgage counseling.

18 (3) Such other counseling and information as
19 the Secretary considers appropriate for purposes of
20 the program.

21 (c) TIMING OF PROVISION OF COUNSELING.—Coun-
22 seling and other information under the program required
23 by subsection (a) shall be provided to a member of the
24 Armed Forces covered by the program as soon as prac-

1 ticable after the return of the member from service as de-
2 scribed in subsection (a).

3 **SEC. 2203. ENHANCEMENT OF PROTECTIONS FOR**
4 **SERVICEMEMBERS RELATING TO MORT-**
5 **GAGES AND MORTGAGE FORECLOSURES.**

6 (a) EXTENSION OF PERIOD OF PROTECTIONS
7 AGAINST MORTGAGE FORECLOSURES.—

8 (1) EXTENSION OF PROTECTION PERIOD.—Sub-
9 section (c) of section 303 of the Servicemembers
10 Civil Relief Act (50 U.S.C. App. 533) is amended by
11 striking “90 days” and inserting “9 months”.

12 (2) EXTENSION OF STAY OF PROCEEDINGS PE-
13 RIOD.—Subsection (b) of such section is amended by
14 striking “90 days” and inserting “9 months”.

15 (b) TREATMENT OF MORTGAGES AS OBLIGATIONS
16 SUBJECT TO INTEREST RATE LIMITATION.—Section 207
17 of the Servicemembers Civil Relief Act (50 U.S.C. App.
18 527) is amended—

19 (1) in subsection (a)(1), by striking “in excess
20 of 6 percent” the second place it appears and all
21 that follows and inserting “in excess of 6 percent—

22 “(A) during the period of military service
23 and one year thereafter, in the case of an obli-
24 gation or liability consisting of a mortgage,

1 trust deed, or other security in the nature of a
2 mortgage; or

3 “(B) during the period of military service,
4 in the case of any other obligation or liability.”;
5 and

6 (2) by striking subsection (d) and inserting the
7 following new subsection:

8 “(d) DEFINITIONS.—In this section:

9 “(1) INTEREST.—The term ‘interest’ includes
10 service charges, renewal charges, fees, or any other
11 charges (except bona fide insurance) with respect to
12 an obligation or liability.

13 “(2) OBLIGATION OR LIABILITY.—The term
14 ‘obligation or liability’ includes an obligation or li-
15 ability consisting of a mortgage, trust deed, or other
16 security in the nature of a mortgage.”.

17 (c) EFFECTIVE DATE; SUNSET.—

18 (1) EFFECTIVE DATE.—The amendment made
19 by subsection (a) shall take effect on the date of en-
20 actment of this Act.

21 (2) SUNSET.—The amendments made by sub-
22 section (a) shall expire on December 31, 2010. Ef-
23 fective January 1, 2011, the provisions of sub-
24 sections (b) and (c) of section 303 of the
25 Servicemembers Civil Relief Act, as in effect on the

1 day before the date of the enactment of this Act, are
2 hereby revived.

3 **TITLE III—EMERGENCY ASSIST-**
4 **ANCE FOR THE REDEVELOP-**
5 **MENT OF ABANDONED AND**
6 **FORECLOSED HOMES**

7 **SEC. 2301. EMERGENCY ASSISTANCE FOR THE REDEVELOP-**
8 **MENT OF ABANDONED AND FORECLOSED**
9 **HOMES.**

10 (a) DIRECT APPROPRIATIONS.—There are appro-
11 priated out of any money in the Treasury not otherwise
12 appropriated for the fiscal year 2008, \$4,000,000,000, to
13 remain available until expended, for assistance to States
14 and units of general local government (as such terms are
15 defined in section 102 of the Housing and Community De-
16 velopment Act of 1974 (42 U.S.C. 5302)) for the redev-
17 opment of abandoned and foreclosed upon homes and resi-
18 dential properties.

19 (b) ALLOCATION OF APPROPRIATED AMOUNTS.—

20 (1) IN GENERAL.—The amounts appropriated
21 or otherwise made available to States and units of
22 general local government under this section shall be
23 allocated based on a funding formula established by
24 the Secretary of Housing and Urban Development
25 (in this title referred to as the “Secretary”).

1 (2) FORMULA TO BE DEVISED SWIFTLY.—The
2 funding formula required under paragraph (1) shall
3 be established not later than 60 days after the date
4 of enactment of this section.

5 (3) CRITERIA.—The funding formula required
6 under paragraph (1) shall ensure that any amounts
7 appropriated or otherwise made available under this
8 section are allocated to States and units of general
9 local government with the greatest need, as such
10 need is determined in the discretion of the Secretary
11 based on—

12 (A) the number and percentage of home
13 foreclosures in each State or unit of general
14 local government;

15 (B) the number and percentage of homes
16 financed by a subprime mortgage related loan
17 in each State or unit of general local govern-
18 ment; and

19 (C) the number and percentage of homes
20 in default or delinquency in each State or unit
21 of general local government.

22 (4) DISTRIBUTION.—Amounts appropriated or
23 otherwise made available under this section shall be
24 distributed according to the funding formula estab-
25 lished by the Secretary under paragraph (1) not

1 later than 30 days after the establishment of such
2 formula.

3 (c) USE OF FUNDS.—

4 (1) IN GENERAL.—Any State or unit of general
5 local government that receives amounts pursuant to
6 this section shall, not later than 18 months after the
7 receipt of such amounts, use such amounts to pur-
8 chase and redevelop abandoned and foreclosed
9 homes and residential properties.

10 (2) PRIORITY.—Any State or unit of general
11 local government that receives amounts pursuant to
12 this section shall in distributing such amounts give
13 priority emphasis and consideration to those metro-
14 politan areas, metropolitan cities, urban areas, rural
15 areas, low- and moderate-income areas, and other
16 areas with the greatest need, including those—

17 (A) with the greatest percentage of home
18 foreclosures;

19 (B) with the highest percentage of homes
20 financed by a subprime mortgage related loan;
21 and

22 (C) identified by the State or unit of gen-
23 eral local government as likely to face a signifi-
24 cant rise in the rate of home foreclosures.

1 (3) ELIGIBLE USES.—Amounts made available
2 under this section may be used to—

3 (A) establish financing mechanisms for
4 purchase and redevelopment of foreclosed upon
5 homes and residential properties, including such
6 mechanisms as soft-seconds, loan loss reserves,
7 and shared-equity loans for low- and moderate-
8 income homebuyers;

9 (B) purchase and rehabilitate homes and
10 residential properties that have been abandoned
11 or foreclosed upon, in order to sell, rent, or re-
12 develop such homes and properties;

13 (C) establish land banks for homes that
14 have been foreclosed upon;

15 (D) demolish blighted structures; and

16 (E) redevelop demolished or vacant prop-
17 erties.

18 (d) LIMITATIONS.—

19 (1) ON PURCHASES.—Any purchase of a fore-
20 closed upon home or residential property under this
21 section shall be at a discount from the current mar-
22 ket appraised value of the home or property, taking
23 into account its current condition, and such discount
24 shall ensure that purchasers are paying below-mar-
25 ket value for the home or property.

1 (2) REHABILITATION.—Any rehabilitation of a
2 foreclosed-upon home or residential property under
3 this section shall be to the extent necessary to com-
4 ply with applicable laws, codes, and other require-
5 ments relating to housing safety, quality, and habit-
6 ability, in order to sell, rent, or redevelop such
7 homes and properties. Rehabilitation may include
8 improvements to increase the energy efficiency or
9 conservation of such homes and properties or pro-
10 vide a renewable energy source or sources for such
11 homes and properties.

12 (3) SALE OF HOMES.—If an abandoned or fore-
13 closed upon home or residential property is pur-
14 chased, redeveloped, or otherwise sold to an indi-
15 vidual as a primary residence, then such sale shall
16 be in an amount equal to or less than the cost to
17 acquire and redevelop or rehabilitate such home or
18 property up to a decent, safe, and habitable condi-
19 tion.

20 (4) REINVESTMENT OF PROFITS.—

21 (A) PROFITS FROM SALES, RENTALS, AND
22 REDEVELOPMENT.—

23 (i) 5-YEAR REINVESTMENT PERIOD.—

24 During the 5-year period following the
25 date of enactment of this Act, any revenue

1 generated from the sale, rental, redevelop-
2 ment, rehabilitation, or any other eligible
3 use that is in excess of the cost to acquire
4 and redevelop (including reasonable devel-
5 opment fees) or rehabilitate an abandoned
6 or foreclosed upon home or residential
7 property shall be provided to and used by
8 the State or unit of general local govern-
9 ment in accordance with, and in further-
10 ance of, the intent and provisions of this
11 section.

12 (ii) DEPOSITS IN THE TREASURY.—

13 (I) PROFITS.—Upon the expira-
14 tion of the 5-year period set forth
15 under clause (i), any revenue gen-
16 erated from the sale, rental, redevelop-
17 ment, rehabilitation, or any other
18 eligible use that is in excess of the
19 cost to acquire and redevelop (includ-
20 ing reasonable development fees) or
21 rehabilitate an abandoned or fore-
22 closed upon home or residential prop-
23 erty shall be deposited in the Treas-
24 ury of the United States as miscella-
25 neous receipts, unless the Secretary

1 approves a request to use the funds
2 for purposes under this Act.

3 (II) OTHER AMOUNTS.—Upon
4 the expiration of the 5-year period set
5 forth under clause (i), any other rev-
6 enue not described under subclause
7 (I) generated from the sale, rental, re-
8 development, rehabilitation, or any
9 other eligible use of an abandoned or
10 foreclosed upon home or residential
11 property shall be deposited in the
12 Treasury of the United States as mis-
13 cellaneous receipts.

14 (B) OTHER REVENUES.—Any revenue gen-
15 erated under subparagraphs (A), (C) or (D) of
16 subsection (c)(3) shall be provided to and used
17 by the State or unit of general local government
18 in accordance with, and in furtherance of, the
19 intent and provisions of this section.

20 (e) RULES OF CONSTRUCTION.—

21 (1) IN GENERAL.—Except as otherwise pro-
22 vided by this section, amounts appropriated, reve-
23 nues generated, or amounts otherwise made avail-
24 able to States and units of general local government
25 under this section shall be treated as though such

1 funds were community development block grant
2 funds under title I of the Housing and Community
3 Development Act of 1974 (42 U.S.C. 5301 et seq.).

4 (2) NO MATCH.—No matching funds shall be
5 required in order for a State or unit of general local
6 government to receive any amounts under this sec-
7 tion.

8 (f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIRE-
9 MENTS.—

10 (1) IN GENERAL.—In administering any
11 amounts appropriated or otherwise made available
12 under this section, the Secretary may specify alter-
13 native requirements to any provision under title I of
14 the Housing and Community Development Act of
15 1974 (except for those related to fair housing, non-
16 discrimination, labor standards, and the environ-
17 ment) in accordance with the terms of this section
18 and for the sole purpose of expediting the use of
19 such funds.

20 (2) NOTICE.—The Secretary shall provide writ-
21 ten notice of its intent to exercise the authority to
22 specify alternative requirements under paragraph (1)
23 to the Committee on Banking, Housing and Urban
24 Affairs of the Senate and the Committee on Finan-
25 cial Services of the House of Representatives not

1 later than 10 business days before such exercise of
2 authority is to occur.

3 (3) LOW AND MODERATE INCOME REQUIRE-
4 MENT.—

5 (A) IN GENERAL.—Notwithstanding the
6 authority of the Secretary under paragraph
7 (1)—

8 (i) all of the funds appropriated or
9 otherwise made available under this section
10 shall be used with respect to individuals
11 and families whose income does not exceed
12 120 percent of area median income; and

13 (ii) not less than 25 percent of the
14 funds appropriated or otherwise made
15 available under this section shall be used
16 for the purchase and redevelopment of
17 abandoned or foreclosed upon homes or
18 residential properties that will be used to
19 house individuals or families whose in-
20 comes do not exceed 50 percent of area
21 median income.

22 (B) RECURRENT REQUIREMENT.—The
23 Secretary shall, by rule or order, ensure, to the
24 maximum extent practicable and for the longest
25 feasible term, that the sale, rental, or redevelop-

1 ment of abandoned and foreclosed upon homes
2 and residential properties under this section re-
3 main affordable to individuals or families de-
4 scribed in subparagraph (A).

5 (g) PERIODIC AUDITS.—In consultation with the Sec-
6 retary of Housing and Urban Development, the Comp-
7 troller General of the United States shall conduct periodic
8 audits to ensure that funds appropriated, made available,
9 or otherwise distributed under this section are being used
10 in a manner consistent with the criteria provided in this
11 section.

12 **SEC. 2302. NATIONWIDE DISTRIBUTION OF RESOURCES.**

13 Notwithstanding any other provision of this Act or
14 the amendments made by this Act, each State shall receive
15 not less than 0.5 percent of funds made available under
16 section 2301 (relating to emergency assistance for the re-
17 development of abandoned and foreclosed homes).

18 **SEC. 2303. LIMITATION ON USE OF FUNDS WITH RESPECT**
19 **TO EMINENT DOMAIN.**

20 No State or unit of general local government may use
21 any amounts received pursuant to section 2301 to fund
22 any project that seeks to use the power of eminent domain,
23 unless eminent domain is employed only for a public use:
24 *Provided*, That for purposes of this section, public use

1 shall not be construed to include economic development
2 that primarily benefits private entities.

3 **SEC. 2304. LIMITATION ON DISTRIBUTION OF FUNDS.**

4 (a) IN GENERAL.—None of the funds made available
5 under this title or title IV shall be distributed to—

6 (1) an organization which has been indicted for
7 a violation under Federal law relating to an election
8 for Federal office; or

9 (2) an organization which employs applicable
10 individuals.

11 (b) APPLICABLE INDIVIDUALS DEFINED.—In this
12 section, the term “applicable individual” means an indi-
13 vidual who—

14 (1) is—

15 (A) employed by the organization in a per-
16 manent or temporary capacity;

17 (B) contracted or retained by the organiza-
18 tion; or

19 (C) acting on behalf of, or with the express
20 or apparent authority of, the organization; and

21 (2) has been indicted for a violation under Fed-
22 eral law relating to an election for Federal office.

23 **SECTION 2305. COUNSELING INTERMEDIARIES.**

24 Notwithstanding any other provision of this Act, the
25 amount appropriated under section 2301(a) of this Act

1 shall be \$3,920,000,000 and the amount appropriated
2 under section 2401 of this Act shall be \$180,000,000: *Pro-*
3 *vided*, That of the amount appropriated under section
4 2401 of this Act pursuant to this section, not less than
5 15 percent shall be provided to counseling organizations
6 that target counseling services regarding loss mitigation
7 to minority and low-income homeowners or provide such
8 services in neighborhoods with high concentrations of mi-
9 nority and low-income homeowners: *Provided further*, That
10 of amounts appropriated under such section 2401
11 \$30,000,000 shall be used by the Neighborhood Reinvest-
12 ment Corporation (referred to in this section as the
13 “NRC”) to make grants to counseling intermediaries ap-
14 proved by the Department of Housing and Urban Devel-
15 opment or the NRC to hire attorneys to assist homeowners
16 who have legal issues directly related to the homeowner’s
17 foreclosure, delinquency or short sale. Such attorneys shall
18 be capable of assisting homeowners of owner-occupied
19 homes with mortgages in default, in danger of default, or
20 subject to or at risk of foreclosure and who have legal
21 issues that cannot be handled by counselors already em-
22 ployed by such intermediaries: *Provided further*, That of
23 the amounts provided for in the prior provisos the NRC
24 shall give priority consideration to counseling inter-
25 mediaries and legal organizations that (1) provide legal

1 assistance in the 100 metropolitan statistical areas (as de-
2 fined by the Director of the Office of Management and
3 Budget) with the highest home foreclosure rates, and (2)
4 have the capacity to begin using the financial assistance
5 within 90 days after receipt of the assistance: *Provided*
6 *further*, That no funds provided under this Act shall be
7 used to provide, obtain, or arrange on behalf of a home-
8 owner, legal representation involving or for the purposes
9 of civil litigation: *Provided further*, That the NRC, in
10 awarding counseling grants under section 2401 of this
11 Act, may consider, where appropriate, whether the entity
12 has implemented a written plan for providing in-person
13 counseling and for making contact, including personal
14 contact, with defaulted mortgagors, for the purpose of pro-
15 viding counseling or providing information about available
16 counseling.

17 **TITLE IV—HOUSING**
18 **COUNSELING RESOURCES**

19 **SEC. 2401. HOUSING COUNSELING RESOURCES.**

20 There are appropriated out of any money in the
21 Treasury not otherwise appropriated for the fiscal year
22 2008, for an additional amount for the “Neighborhood Re-
23 investment Corporation—Payment to the Neighborhood
24 Reinvestment Corporation” \$100,000,000, to remain
25 available until December 31, 2008, for foreclosure mitiga-

1 tion activities under the terms and conditions contained
2 in the second undesignated paragraph (beginning with the
3 phrase “For an additional amount”) under the heading
4 “Neighborhood Reinvestment Corporation—Payment to
5 the Neighborhood Reinvestment Corporation” of Public
6 Law 110–161.

7 **SEC. 2402. CREDIT COUNSELING.**

8 (a) IN GENERAL.—Entities approved by the Neigh-
9 borhood Reinvestment Corporation or the Secretary and
10 State housing finance entities receiving funds under this
11 title shall work to identify and coordinate with non-profit
12 organizations operating national or statewide toll-free
13 foreclosure prevention hotlines, including those that—

14 (1) serve as a consumer referral source and
15 data repository for borrowers experiencing some
16 form of delinquency or foreclosure;

17 (2) connect callers with local housing counseling
18 agencies approved by the Neighborhood Reinvest-
19 ment Corporation or the Secretary to assist with
20 working out a positive resolution to their mortgage
21 delinquency or foreclosure; or

22 (3) facilitate or offer free assistance to help
23 homeowners to understand their options, negotiate
24 solutions, and find the best resolution for their par-
25 ticular circumstances.

1 **TITLE V—MORTGAGE DISCLO-**
2 **SURE IMPROVEMENT ACT**

3 **SEC. 2501. SHORT TITLE.**

4 This title may be cited as the “Mortgage Disclosure
5 Improvement Act of 2008”.

6 **SEC. 2502. ENHANCED MORTGAGE LOAN DISCLOSURES.**

7 (a) TRUTH IN LENDING ACT DISCLOSURES.—Sec-
8 tion 128(b)(2) of the Truth in Lending Act (15 U.S.C.
9 1638(b)(2)) is amended—

10 (1) by inserting “(A)” before “In the”;

11 (2) by striking “a residential mortgage trans-
12 action, as defined in section 103(w)” and inserting
13 “any extension of credit that is secured by the dwell-
14 ing of a consumer”;

15 (3) by striking “before the credit is extended,
16 or” and inserting “and”;

17 (4) by inserting “, which shall be at least 7
18 business days before consummation of the trans-
19 action” after “written application”;

20 (5) by striking “, whichever is earlier”; and

21 (6) by striking “If the” and all that follows
22 through the end of the paragraph and inserting the
23 following:

24 “(B) In the case of an extension of credit that
25 is secured by the dwelling of a consumer, the dislo-

1 sures provided under subparagraph (A), shall be in
2 addition to the other disclosures required by sub-
3 section (a), and shall—

4 “(i) state in conspicuous type size and for-
5 mat, the following: ‘You are not required to
6 complete this agreement merely because you
7 have received these disclosures or signed a loan
8 application.’; and

9 “(ii) be provided in the form of final dis-
10 closures at the time of consummation of the
11 transaction, in the form and manner prescribed
12 by this section.

13 “(C) In the case of an extension of credit that
14 is secured by the dwelling of a consumer, under
15 which the annual rate of interest is variable, or with
16 respect to which the regular payments may other-
17 wise be variable, in addition to the other disclosures
18 required by subsection (a), the disclosures provided
19 under this subsection shall do the following:

20 “(i) Label the payment schedule as follows:
21 ‘Payment Schedule: Payments Will Vary Based
22 on Interest Rate Changes’.

23 “(ii) State in conspicuous type size and
24 format examples of adjustments to the regular
25 required payment on the extension of credit

1 based on the change in the interest rates speci-
2 fied by the contract for such extension of credit.
3 Among the examples required to be provided
4 under this clause is an example that reflects the
5 maximum payment amount of the regular re-
6 quired payments on the extension of credit,
7 based on the maximum interest rate allowed
8 under the contract, in accordance with the rules
9 of the Board. Prior to issuing any rules pursu-
10 ant to this clause, the Board shall conduct con-
11 sumer testing to determine the appropriate for-
12 mat for providing the disclosures required
13 under this subparagraph to consumers so that
14 such disclosures can be easily understood, in-
15 cluding the fact that the initial regular pay-
16 ments are for a specific time period that will
17 end on a certain date, that payments will adjust
18 afterwards potentially to a higher amount, and
19 that there is no guarantee that the borrower
20 will be able to refinance to a lower amount.

21 “(D) In any case in which the disclosure state-
22 ment under subparagraph (A) contains an annual
23 percentage rate of interest that is no longer accu-
24 rate, as determined under section 107(c), the cred-
25 itor shall furnish an additional, corrected statement

1 to the borrower, not later than 3 business days be-
2 fore the date of consummation of the transaction.

3 “(E) The consumer shall receive the disclosures
4 required under this paragraph before paying any fee
5 to the creditor or other person in connection with
6 the consumer’s application for an extension of credit
7 that is secured by the dwelling of a consumer. If the
8 disclosures are mailed to the consumer, the con-
9 sumer is considered to have received them 3 busi-
10 ness days after they are mailed. A creditor or other
11 person may impose a fee for obtaining the con-
12 sumer’s credit report before the consumer has re-
13 ceived the disclosures under this paragraph, provided
14 the fee is bona fide and reasonable in amount.

15 “(F) WAIVER OF TIMELINESS OF DISCLO-
16 SURES.—To expedite consummation of a trans-
17 action, if the consumer determines that the exten-
18 sion of credit is needed to meet a bona fide personal
19 financial emergency, the consumer may waive or
20 modify the timing requirements for disclosures
21 under subparagraph (A), provided that—

22 “(i) the term ‘bona fide personal emer-
23 gency’ may be further defined in regulations
24 issued by the Board;

1 “(ii) the consumer provides to the creditor
2 a dated, written statement describing the emer-
3 gency and specifically waiving or modifying
4 those timing requirements, which statement
5 shall bear the signature of all consumers enti-
6 tled to receive the disclosures required by this
7 paragraph; and

8 “(iii) the creditor provides to the con-
9 sumers at or before the time of such waiver or
10 modification, the final disclosures required by
11 paragraph (1).

12 “(G) The requirements of subparagraphs (B),
13 (C), (D) and (E) shall not apply to extensions of
14 credit relating to plans described in section
15 101(53D) of title 11, United States Code.”.

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

18 (1) in paragraph (2)(A)(iii), by striking “not
19 less than \$200 or greater than \$2,000” and insert-
20 ing “not less than \$400 or greater than \$4,000”;
21 and

22 (2) in the penultimate sentence of the undesig-
23 nated matter following paragraph (4)—

24 (A) by inserting “or section
25 128(b)(2)(C)(ii),” after “128(a),”; and

1 (B) by inserting “or section
2 128(b)(2)(C)(ii)” before the period.

3 (c) EFFECTIVE DATES.—

4 (1) GENERAL DISCLOSURES.—Except as pro-
5 vided in paragraph (2), the amendments made by
6 subsection (a) shall become effective 12 months after
7 the date of enactment of this Act.

8 (2) VARIABLE INTEREST RATES.—Subpara-
9 graph (C) of section 128(b)(2) of the Truth in
10 Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by
11 subsection (a) of this section, shall become effective
12 on the earlier of—

13 (A) the compliance date established by the
14 Board for such purpose, by regulation; or

15 (B) 30 months after the date of enactment
16 of this Act.

17 **SEC. 2503. COMMUNITY DEVELOPMENT INVESTMENT AU-**
18 **THORITY FOR DEPOSITORY INSTITUTIONS.**

19 (a) NATIONAL BANKS.—The first sentence of the
20 paragraph designated as the “Eleventh” of section 5136
21 of the Revised Statutes of the United States (12 U.S.C.
22 24) is amended by striking “promotes the public welfare
23 by benefitting primarily” and inserting “is designed pri-
24 marily to promote the public welfare, including the welfare
25 of”.

1 (b) STATE MEMBER BANKS.—The first sentence of
2 the 23rd paragraph of section 9 of the Federal Reserve
3 Act (12 U.S.C. 338a) is amended by striking “promotes
4 the public welfare by benefitting primarily” and inserting
5 “is designed primarily to promote the public welfare, in-
6 cluding the welfare of”.

7 **TITLE VI—VETERANS HOUSING**
8 **MATTERS**

9 **SEC. 2601. HOME IMPROVEMENTS AND STRUCTURAL AL-**
10 **TERATIONS FOR TOTALLY DISABLED MEM-**
11 **BERS OF THE ARMED FORCES BEFORE DIS-**
12 **CHARGE OR RELEASE FROM THE ARMED**
13 **FORCES.**

14 Section 1717 of title 38, United States Code, is
15 amended by adding at the end the following new sub-
16 section:

17 “(d)(1) In the case of a member of the Armed Forces
18 who, as determined by the Secretary, has a disability per-
19 manent in nature incurred or aggravated in the line of
20 duty in the active military, naval, or air service, the Sec-
21 retary may furnish improvements and structural alter-
22 ations for such member for such disability or as otherwise
23 described in subsection (a)(2) while such member is hos-
24 pitalized or receiving outpatient medical care, services, or
25 treatment for such disability if the Secretary determines

1 that such member is likely to be discharged or released
2 from the Armed Forces for such disability.

3 “(2) The furnishing of improvements and alterations
4 under paragraph (1) in connection with the furnishing of
5 medical services described in subparagraph (A) or (B) of
6 subsection (a)(2) shall be subject to the limitation speci-
7 fied in the applicable subparagraph.”.

8 **SEC. 2602. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING**
9 **BENEFITS AND ASSISTANCE FOR MEMBERS**
10 **OF THE ARMED FORCES WITH SERVICE-CON-**
11 **NECTED DISABILITIES AND INDIVIDUALS RE-**
12 **SIDING OUTSIDE THE UNITED STATES.**

13 (a) ELIGIBILITY.—Chapter 21 of title 38, United
14 States Code, is amended by inserting after section 2101
15 the following new section:

16 **“§ 2101A. Eligibility for benefits and assistance: mem-**
17 **bers of the Armed Forces with service-**
18 **connected disabilities; individuals resid-**
19 **ing outside the United States**

20 “(a) MEMBERS WITH SERVICE-CONNECTED DIS-
21 ABILITIES.—(1) The Secretary may provide assistance
22 under this chapter to a member of the Armed Forces serv-
23 ing on active duty who is suffering from a disability that
24 meets applicable criteria for benefits under this chapter
25 if the disability is incurred or aggravated in line of duty

1 in the active military, naval, or air service. Such assistance
2 shall be provided to the same extent as assistance is pro-
3 vided under this chapter to veterans eligible for assistance
4 under this chapter and subject to the same requirements
5 as veterans under this chapter.

6 “(2) For purposes of this chapter, any reference to
7 a veteran or eligible individual shall be treated as a ref-
8 erence to a member of the Armed Forces described in sub-
9 section (a) who is similarly situated to the veteran or other
10 eligible individual so referred to.

11 “(b) BENEFITS AND ASSISTANCE FOR INDIVIDUALS
12 RESIDING OUTSIDE THE UNITED STATES.—(1) Subject
13 to paragraph (2), the Secretary may, at the Secretary’s
14 discretion, provide benefits and assistance under this
15 chapter (other than benefits under section 2106 of this
16 title) to any individual otherwise eligible for such benefits
17 and assistance who resides outside the United States.

18 “(2) The Secretary may provide benefits and assist-
19 ance to an individual under paragraph (1) only if—

20 “(A) the country or political subdivision in
21 which the housing or residence involved is or will be
22 located permits the individual to have or acquire a
23 beneficial property interest (as determined by the
24 Secretary) in such housing or residence; and

1 “(B) the individual has or will acquire a bene-
2 ficial property interest (as so determined) in such
3 housing or residence.

4 “(c) REGULATIONS.—Benefits and assistance under
5 this chapter by reason of this section shall be provided
6 in accordance with such regulations as the Secretary may
7 prescribe.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) REPEAL OF SUPERSEDED AUTHORITY.—
10 Section 2101 of title 38, United States Code, is
11 amended—

12 (A) by striking subsection (c); and

13 (B) by redesignating subsection (d) as sub-
14 section (c).

15 (2) LIMITATIONS ON ASSISTANCE.—Section
16 2102 of title 38, United States Code, is amended—

17 (A) in subsection (a)—

18 (i) by striking “veteran” each place it
19 appears and inserting “individual”; and

20 (ii) in paragraph (3), by striking “vet-
21 eran’s” and inserting “individual’s”;

22 (B) in subsection (b)(1), by striking “a
23 veteran” and inserting “an individual”;

24 (C) in subsection (c)—

1 (i) by striking “a veteran” and insert-
2 ing “an individual”; and

3 (ii) by striking “the veteran” each
4 place it appears and inserting “the indi-
5 vidual”; and

6 (D) in subsection (d), by striking “a vet-
7 eran” each place it appears and inserting “an
8 individual”.

9 (3) ASSISTANCE FOR INDIVIDUALS TEMPO-
10 RARILY RESIDING IN HOUSING OF FAMILY MEM-
11 BER.—Section 2102A of title 38, United States
12 Code, is amended—

13 (A) by striking “veteran” each place it ap-
14 pears (other than in subsection (b)) and insert-
15 ing “individual”;

16 (B) in subsection (a), by striking “vet-
17 eran’s” each place it appears and inserting “in-
18 dividual’s”; and

19 (C) in subsection (b), by striking “a vet-
20 eran” each place it appears and inserting “an
21 individual”.

22 (4) FURNISHING OF PLANS AND SPECIFICA-
23 TIONS.—Section 2103 of title 38, United States
24 Code, is amended by striking “veterans” both places
25 it appears and inserting “individuals”.

1 (5) CONSTRUCTION OF BENEFITS.—Section
2 2104 of title 38, United States Code, is amended—

3 (A) in subsection (a), by striking “veteran”
4 each place it appears and inserting “indi-
5 vidual”; and

6 (B) in subsection (b)—

7 (i) in the first sentence, by striking
8 “A veteran” and inserting “An individual”;

9 (ii) in the second sentence, by striking
10 “a veteran” and inserting “an individual”;

11 and

12 (iii) by striking “such veteran” each
13 place it appears and inserting “such indi-
14 vidual”.

15 (6) VETERANS’ MORTGAGE LIFE INSURANCE.—
16 Section 2106 of title 38, United States Code, is
17 amended—

18 (A) in subsection (a)—

19 (i) by striking “any eligible veteran”
20 and inserting “any eligible individual”; and

21 (ii) by striking “the veterans’” and
22 inserting “the individual’s”;

23 (B) in subsection (b), by striking “an eligi-
24 ble veteran” and inserting “an eligible indi-
25 vidual”;

1 (C) in subsection (e), by striking “an eligi-
2 ble veteran” and inserting “an individual”;

3 (D) in subsection (h), by striking “each
4 veteran” and inserting “each individual”;

5 (E) in subsection (i), by striking “the vet-
6 eran’s” each place it appears and inserting “the
7 individual’s”;

8 (F) by striking “the veteran” each place it
9 appears and inserting “the individual”; and

10 (G) by striking “a veteran” each place it
11 appears and inserting “an individual”.

12 (7) HEADING AMENDMENTS.—(A) The heading
13 of section 2101 of title 38, United States Code, is
14 amended to read as follows:

15 **“§ 2101. Acquisition and adaptation of housing: eligi-
16 ble veterans”.**

17 (B) The heading of section 2102A of such title
18 is amended to read as follows:

19 **“§ 2102A. Assistance for individuals residing tempo-
20 rarily in housing owned by a family mem-
21 ber”.**

22 (8) CLERICAL AMENDMENTS.—The table of sec-
23 tions at the beginning of chapter 21 of title 38,
24 United States Code, is amended—

1 (A) by striking the item relating to section
2 2101 and inserting the following new item:

“2101. Acquisition and adaptation of housing: eligible veterans.”;

3 (B) by inserting after the item relating to
4 section 2101, as so amended, the following new
5 item:

“2101A. Eligibility for benefits and assistance: members of the Armed Forces
with service-connected disabilities; individuals residing outside
the United States.”;

6 and

7 (C) by striking the item relating to section
8 2102A and inserting the following new item:

“2102A. Assistance for individuals residing temporarily in housing owned by a
family member.”.

9 **SEC. 2603. SPECIALLY ADAPTED HOUSING ASSISTANCE FOR**
10 **INDIVIDUALS WITH SEVERE BURN INJURIES.**

11 Section 2101 of title 38, United States Code, is
12 amended—

13 (1) in subsection (a)(2), by adding at the end
14 the following new subparagraph:

15 “(E) The disability is due to a severe burn in-
16 jury (as determined pursuant to regulations pre-
17 scribed by the Secretary).”; and

18 (2) in subsection (b)(2)—

19 (A) by striking “either” and inserting
20 “any”; and

21 (B) by adding at the end the following new
22 subparagraph:

1 “(C) The disability is due to a severe burn in-
2 jury (as so determined).”.

3 **SEC. 2604. EXTENSION OF ASSISTANCE FOR INDIVIDUALS**
4 **RESIDING TEMPORARILY IN HOUSING**
5 **OWNED BY A FAMILY MEMBER.**

6 Section 2102A(e) of title 38, United States Code, is
7 amended by striking “after the end of the five-year period
8 that begins on the date of the enactment of the Veterans’
9 Housing Opportunity and Benefits Improvement Act of
10 2006” and inserting “after December 31, 2011”.

11 **SEC. 2605. INCREASE IN SPECIALLY ADAPTED HOUSING**
12 **BENEFITS FOR DISABLED VETERANS.**

13 (a) IN GENERAL.—Section 2102 of title 38, United
14 States Code, is amended—

15 (1) in subsection (b)(2), by striking “\$10,000”
16 and inserting “\$12,000”;

17 (2) in subsection (d)—

18 (A) in paragraph (1), by striking
19 “\$50,000” and inserting “\$60,000”; and

20 (B) in paragraph (2), by striking
21 “\$10,000” and inserting “\$12,000”; and

22 (3) by adding at the end the following new sub-
23 section:

24 “(e)(1) Effective on October 1 of each year (begin-
25 ning in 2009), the Secretary shall increase the amounts

1 described in subsection (b)(2) and paragraphs (1) and (2)
2 of subsection (d) in accordance with this subsection.

3 “(2) The increase in amounts under paragraph (1)
4 to take effect on October 1 of a year shall be by an amount
5 of such amounts equal to the percentage by which—

6 “(A) the residential home cost-of-construction
7 index for the preceding calendar year, exceeds

8 “(B) the residential home cost-of-construction
9 index for the year preceding the year described in
10 subparagraph (A).

11 “(3) The Secretary shall establish a residential home
12 cost-of-construction index for the purposes of this sub-
13 section. The index shall reflect a uniform, national average
14 change in the cost of residential home construction, deter-
15 mined on a calendar year basis. The Secretary may use
16 an index developed in the private sector that the Secretary
17 determines is appropriate for purposes of this sub-
18 section.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on July 1, 2008, and shall
21 apply with respect to payments made in accordance with
22 section 2102 of title 38, United States Code, on or after
23 that date.

1 **SEC. 2606. REPORT ON SPECIALLY ADAPTED HOUSING FOR**
2 **DISABLED INDIVIDUALS.**

3 (a) IN GENERAL.—Not later than December 31,
4 2008, the Secretary of Veterans Affairs shall submit to
5 the Committee on Veterans' Affairs of the Senate and the
6 Committee on Veterans' Affairs of the House of Rep-
7 resentatives a report that contains an assessment of the
8 adequacy of the authorities available to the Secretary
9 under law to assist eligible disabled individuals in acquir-
10 ing—

11 (1) suitable housing units with special fixtures
12 or movable facilities required for their disabilities,
13 and necessary land therefor;

14 (2) such adaptations to their residences as are
15 reasonably necessary because of their disabilities;
16 and

17 (3) residences already adapted with special fea-
18 tures determined by the Secretary to be reasonably
19 necessary as a result of their disabilities.

20 (b) FOCUS ON PARTICULAR DISABILITIES.—The re-
21 port required by subsection (a) shall set forth a specific
22 assessment of the needs of—

23 (1) veterans who have disabilities that are not
24 described in subsections (a)(2) and (b)(2) of section
25 2101 of title 38, United States Code; and

1 (2) other disabled individuals eligible for spe-
2 cially adapted housing under chapter 21 of such title
3 by reason of section 2101A of such title (as added
4 by section 2602(a) of this Act) who have disabilities
5 that are not described in such subsections.

6 **SEC. 2607. REPORT ON SPECIALLY ADAPTED HOUSING AS-**
7 **SISTANCE FOR INDIVIDUALS WHO RESIDE IN**
8 **HOUSING OWNED BY A FAMILY MEMBER ON**
9 **PERMANENT BASIS.**

10 Not later than December 31, 2008, the Secretary of
11 Veterans Affairs shall submit to the Committee on Vet-
12 erans' Affairs of the Senate and the Committee on Vet-
13 erans' Affairs of the House of Representatives a report
14 on the advisability of providing assistance under section
15 2102A of title 38, United States Code, to veterans de-
16 scribed in subsection (a) of such section, and to members
17 of the Armed Forces covered by such section 2102A by
18 reason of section 2101A of title 38, United States Code
19 (as added by section 2602(a) of this Act), who reside with
20 family members on a permanent basis.

21 **SEC. 2608. DEFINITION OF ANNUAL INCOME FOR PUR-**
22 **POSES OF SECTION 8 AND OTHER PUBLIC**
23 **HOUSING PROGRAMS.**

24 Section 3(b)(4) of the United States Housing Act of
25 1937 (42 U.S.C. 1437a(3)(b)(4)) is amended by inserting

1 “or any deferred Department of Veterans Affairs dis-
2 ability benefits that are received in a lump sum amount
3 or in prospective monthly amounts” before “may not be
4 considered”.

5 **SEC. 2609. PAYMENT OF TRANSPORTATION OF BAGGAGE**
6 **AND HOUSEHOLD EFFECTS FOR MEMBERS**
7 **OF THE ARMED FORCES WHO RELOCATE DUE**
8 **TO FORECLOSURE OF LEASED HOUSING.**

9 Section 406 of title 37, United States Code, is
10 amended—

11 (1) by redesignating subsections (k) and (l) as
12 subsections (l) and (m), respectively; and

13 (2) by inserting after subsection (j) the fol-
14 lowing new subsection (k):

15 “(k) A member of the armed forces who relocates
16 from leased or rental housing by reason of the foreclosure
17 of such housing is entitled to transportation of baggage
18 and household effects under subsection (b)(1) in the same
19 manner, and subject to the same conditions and limita-
20 tions, as similarly circumstanced members entitled to
21 transportation of baggage and household effects under
22 that subsection.”.

1 **TITLE VII—SMALL PUBLIC**
2 **HOUSING AUTHORITIES PA-**
3 **PERWORK REDUCTION ACT**

4 **SEC. 2701. SHORT TITLE.**

5 This title may be cited as the “Small Public Housing
6 Authorities Paperwork Reduction Act”.

7 **SEC. 2702. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN**
8 **QUALIFIED PUBLIC HOUSING AGENCIES.**

9 (a) **IN GENERAL.**—Section 5A(b) of the United
10 States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is
11 amended by adding at the end the following:

12 “(3) **EXEMPTION OF CERTAIN PHAS FROM FIL-**
13 **ING REQUIREMENT.**—

14 “(A) **IN GENERAL.**—Notwithstanding para-
15 graph (1) or any other provision of this Act—

16 “(i) the requirement under paragraph
17 (1) shall not apply to any qualified public
18 housing agency; and

19 “(ii) except as provided in subsection
20 (e)(4)(B), any reference in this section or
21 any other provision of law to a ‘public
22 housing agency’ shall not be considered to
23 refer to any qualified public housing agen-
24 cy, to the extent such reference applies to
25 the requirement to submit an annual pub-

1 lic housing agency plan under this sub-
2 section.

3 “(B) CIVIL RIGHTS CERTIFICATION.—Not-
4 withstanding that qualified public housing agen-
5 cies are exempt under subparagraph (A) from
6 the requirement under this section to prepare
7 and submit an annual public housing plan, each
8 qualified public housing agency shall, on an an-
9 nual basis, make the certification described in
10 paragraph (16) of subsection (d), except that
11 for purposes of such qualified public housing
12 agencies, such paragraph shall be applied by
13 substituting ‘the public housing program of the
14 agency’ for ‘the public housing agency plan’.

15 “(C) DEFINITION.—For purposes of this
16 section, the term ‘qualified public housing agen-
17 cy’ means a public housing agency that meets
18 the following requirements:

19 “(i) The sum of (I) the number of
20 public housing dwelling units administered
21 by the agency, and (II) the number of
22 vouchers under section 8(o) of the United
23 States Housing Act of 1937 (42 U.S.C.
24 1437f(o)) administered by the agency, is
25 550 or fewer.

1 “(ii) The agency is not designated
2 under section 6(j)(2) as a troubled public
3 housing agency, and does not have a fail-
4 ing score under the section 8 Management
5 Assessment Program during the prior 12
6 months.”.

7 (b) RESIDENT PARTICIPATION.—Section 5A of the
8 United States Housing Act of 1937 (42 U.S.C. 1437c–
9 1) is amended—

10 (1) in subsection (e), by inserting after para-
11 graph (3) the following:

12 “(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

13 “(A) IN GENERAL.—Except as provided in
14 subparagraph (B), nothing in this section may
15 be construed to exempt a qualified public hous-
16 ing agency from the requirement under para-
17 graph (1) to establish 1 or more resident advi-
18 sory boards. Notwithstanding that qualified
19 public housing agencies are exempt under sub-
20 section (b)(3)(A) from the requirement under
21 this section to prepare and submit an annual
22 public housing plan, each qualified public hous-
23 ing agency shall consult with, and consider the
24 recommendations of the resident advisory
25 boards for the agency, at the annual public

1 hearing required under subsection (f)(5), re-
2 garding any changes to the goals, objectives,
3 and policies of that agency.

4 “(B) APPLICABILITY OF WAIVER AUTHOR-
5 ITY.—Paragraph (3) shall apply to qualified
6 public housing agencies, except that for pur-
7 poses of such qualified public housing agencies,
8 subparagraph (B) of such paragraph shall be
9 applied by substituting ‘the functions described
10 in the second sentence of paragraph (4)(A)’ for
11 ‘the functions described in paragraph (2)’.

12 “(f) PUBLIC HEARINGS.—”; and

13 (2) in subsection (f) (as so designated by the
14 amendment made by paragraph (1)), by adding at
15 the end the following:

16 “(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

17 “(A) REQUIREMENT.—Notwithstanding
18 that qualified public housing agencies are ex-
19 empt under subsection (b)(3)(A) from the re-
20 quirement under this section to conduct a pub-
21 lic hearing regarding the annual public housing
22 plan of the agency, each qualified public hous-
23 ing agency shall annually conduct a public hear-
24 ing—

1 “(i) to discuss any changes to the
2 goals, objectives, and policies of the agen-
3 cy; and

4 “(ii) to invite public comment regard-
5 ing such changes.

6 “(B) AVAILABILITY OF INFORMATION AND
7 NOTICE.—Not later than 45 days before the
8 date of any hearing described in subparagraph
9 (A), a qualified public housing agency shall—

10 “(i) make all information relevant to
11 the hearing and any determinations of the
12 agency regarding changes to the goals, ob-
13 jectives, and policies of the agency to be
14 considered at the hearing available for in-
15 spection by the public at the principal of-
16 fice of the public housing agency during
17 normal business hours; and

18 “(ii) publish a notice informing the
19 public that—

20 “(I) the information is available
21 as required under clause (i); and

22 “(II) a public hearing under sub-
23 paragraph (A) will be conducted.”.

1 **TITLE VIII—HOUSING**
2 **PRESERVATION**
3 **Subtitle A—Preservation Under**
4 **Federal Housing Programs**

5 **SEC. 2801. CLARIFICATION OF DISPOSITION OF CERTAIN**
6 **PROPERTIES.**

7 Notwithstanding any other provision of law, subtitle
8 A of title II of the Deficit Reduction Act of 2005 (12
9 U.S.C. 1701z-11 note) and the amendments made by such
10 title shall not apply to any transaction regarding a multi-
11 family real property for which—

12 (1) the Secretary of Housing and Urban Devel-
13 opment has received, before the date of the enact-
14 ment of such Act, written expressions of interest in
15 purchasing the property from both a city govern-
16 ment and the housing commission of such city;

17 (2) after such receipt, the Secretary acquires
18 title to the property at a foreclosure sale; and

19 (3) such city government and housing commis-
20 sion have resolved a previous disagreement with re-
21 spect to the disposition of the property.

22 **SEC. 2802. ELIGIBILITY OF CERTAIN PROJECTS FOR EN-**
23 **HANCED VOUCHER ASSISTANCE.**

24 Notwithstanding any other provision of law—

1 (1) the property known as The Heritage Apart-
2 ments (FHA No. 023-44804), in Malden, Massachu-
3 setts, shall be considered eligible low-income housing
4 for purposes of the eligibility of residents of the
5 property for enhanced voucher assistance under sec-
6 tion 8(t) of the United States Housing Act of 1937
7 (42 U.S.C. 1437f(t)), pursuant to paragraph (2)(A)
8 of section 223(f) of the Low-Income Housing Pres-
9 ervation and Resident Homeownership Act of 1990
10 (12 U.S.C. 4113(f)(2)(A));

11 (2) such residents shall receive enhanced rental
12 housing vouchers upon the prepayment of the mort-
13 gage loan for the property under section 236 of the
14 National Housing Act (12 U.S.C. 1715z-1); and

15 (3) the Secretary shall approve such prepay-
16 ment and subsequent transfer of the property with-
17 out any further condition, except that the property
18 shall be restricted for occupancy, until the original
19 maturity date of the prepaid mortgage loan, only by
20 families with incomes not exceeding 80 percent of
21 the adjusted median income for the area in which
22 the property is located, as published by the Sec-
23 retary.

24 Amounts for the enhanced vouchers pursuant to this sec-
25 tion shall be provided under amounts appropriated for ten-

1 ant-based rental assistance otherwise authorized under
2 section 8(t) of the United States Housing Act of 1937.

3 **SEC. 2803. TRANSFER OF CERTAIN RENTAL ASSISTANCE**
4 **CONTRACTS.**

5 (a) TRANSFER.—Subject to subsection (c) and not-
6 withstanding any other provision of law, the Secretary of
7 Housing and Urban Development shall, at the request of
8 the owner, transfer or authorize the transfer, of the con-
9 tracts, restrictions, and debt described in subsection (b)—

10 (1) on the housing that is owned or managed
11 by Community Properties of Ohio Management
12 Services LLC or an affiliate of Ohio Capital Cor-
13 poration for Housing and located in Franklin Coun-
14 ty, Ohio, to other properties located in Franklin
15 County, Ohio; and

16 (2) on the housing that is owned or managed
17 by The Model Group, Inc., and located in Hamilton
18 County, Ohio, to other properties located in Ham-
19 ilton County, Ohio.

20 (b) CONTRACTS, RESTRICTIONS, AND DEBT COV-
21 ERED.—The contracts, restrictions, and debt described in
22 this subsection are as follows:

23 (1) All or a portion of a project-based rental as-
24 sistance housing assistance payments contract under

1 section 8 of the United States Housing Act of 1937
2 (42 U.S.C. 1437f).

3 (2) Existing Federal use restrictions, including
4 without limitation use agreements, regulatory agree-
5 ments, and accommodation agreements.

6 (3) Any subordinate debt held by the Secretary
7 or assigned and any mortgages securing such debt,
8 all related loan and security documentation and obli-
9 gations, and reserve and escrow balances.

10 (c) RETENTION OF SAME NUMBER OF UNITS AND
11 AMOUNT OF ASSISTANCE.—Any transfer pursuant to sub-
12 section (a) shall result in—

13 (1) a total number of dwelling units (including
14 units retained by the owners and units transferred)
15 covered by assistance described in subsection (b)(1)
16 after the transfer remaining the same as such num-
17 ber assisted before the transfer, with such increases
18 or decreases in unit sizes as may be contained in a
19 plan approved by a local planning or development
20 commission or department; and

21 (2) no reduction in the total amount of the
22 housing assistance payments under contracts de-
23 scribed in subsection (b)(1).

1 **SEC. 2804. PUBLIC HOUSING DISASTER RELIEF.**

2 Section 9 of the United States Housing Act of 1937
3 (42 U.S.C. 1437g) is amended—

4 (1) by striking subsection (k); and

5 (2) by redesignating subsections (l), (m), and
6 (n) as subsections (k), (l), and (m), respectively.

7 **SEC. 2805. PRESERVATION OF CERTAIN AFFORDABLE**
8 **HOUSING.**

9 Notwithstanding any other provision of law—

10 (1) for the property known as Nihonmachi Ter-
11 race (FHA No. 121-44284), in San Francisco, Cali-
12 fornia, upon the refinancing of the existing federally
13 insured mortgage pursuant to section 236(b) of the
14 National Housing Act (12 U.S.C. 1715z-1(b)), un-
15 assisted low and moderate-income residents of the
16 property shall be deemed eligible for and shall re-
17 ceive voucher assistance under section 8(o) of the
18 United States Housing Act of 1937 (42 U.S.C.
19 1437f(o)); and

20 (2) to preserve the affordability of the property,
21 the housing authority shall utilize such additional
22 voucher assistance pursuant to subsection 8(o)(13)
23 of the United States Housing Act of 1937, without
24 regard to the limitations of subparagraphs (B) and
25 (D) of that subsection.

1 Amounts for the vouchers pursuant to this section shall
2 be provided under amounts appropriated for tenant-based
3 rental assistance otherwise authorized.

4 **Subtitle B—Coordination of Fed-**
5 **eral Housing Programs and Tax**
6 **Incentives for Housing**

7 **SEC. 2831. SHORT TITLE.**

8 This subtitle may be cited as the “Housing Tax Cred-
9 it Coordination Act of 2008”.

10 **SEC. 2832. APPROVALS BY DEPARTMENT OF HOUSING AND**
11 **URBAN DEVELOPMENT.**

12 (a) ADMINISTRATIVE AND PROCEDURAL CHANGES.—

13 (1) IN GENERAL.—The Secretary of Housing
14 and Urban Development (in this section referred to
15 as the “Secretary”) shall, not later than the expira-
16 tion of the 6-month period beginning upon after the
17 date of the enactment of this Act, implement admin-
18 istrative and procedural changes to expedite ap-
19 proval of multifamily housing projects under the ju-
20 risdiction of the Department of Housing and Urban
21 Development that meet the requirements of the Sec-
22 retary for such approvals.

23 (2) PROJECTS.—The multifamily housing
24 projects referred to in paragraph (1) shall include—

1 (A) projects for which assistance is pro-
2 vided by such Department in conjunction with
3 any low-income housing tax credits under sec-
4 tion 42 of the Internal Revenue Code of 1986
5 or tax-exempt housing bonds; and

6 (B) existing public housing projects and
7 assisted housing projects, for which approval of
8 the Secretary is necessary for transactions, in
9 conjunction with any such low-income housing
10 tax credits or tax-exempt housing bonds, involv-
11 ing the preservation or rehabilitation of the
12 project.

13 (3) CHANGES.—The administrative and proce-
14 dural changes referred to in paragraph (1) shall in-
15 clude all actions necessary to carry out paragraph
16 (1), which may include—

17 (A) improving the efficiency of approval
18 procedures;

19 (B) simplifying approval requirements,

20 (C) establishing time deadlines or target
21 deadlines for required approvals;

22 (D) modifying division of approval author-
23 ity between field and national offices;

1 (E) improving outreach to project sponsors
2 regarding information that is required to be
3 submitted for such approvals;

4 (F) requesting additional funding for in-
5 creasing staff, if necessary; and

6 (G) any other actions which would expedite
7 approvals.

8 Any such changes shall be made in a manner that
9 provides for full compliance with any existing re-
10 quirements under law or regulation that are de-
11 signed to protect families receiving public and as-
12 sisted housing assistance, including income tar-
13 geting, rent, and fair housing provisions, and shall
14 also comply with requirements regarding environ-
15 mental review and protection and wages paid to la-
16 borers.

17 (b) CONSULTATION.—The Secretary shall consult
18 with the Commissioner of the Internal Revenue Service
19 and take such actions as are appropriate in conjunction
20 with such consultation to simplify the coordination of
21 rules, regulations, forms, and approval requirements for
22 multifamily housing projects projects for which assistance
23 is provided by such Department in conjunction with any
24 low-income housing tax credits under section 42 of the In-

1 ternal Revenue Code of 1986 or tax-exempt housing
2 bonds.

3 (c) RECOMMENDATIONS.—In implementing the
4 changes required under this section, the Secretary shall
5 solicit recommendations regarding such changes from
6 project owners and sponsors, investors and stakeholders
7 in housing tax credits, State and local housing finance
8 agencies, public housing agencies, tenant advocates, and
9 other stakeholders in such projects.

10 (d) REPORT.—Not later than the expiration of the
11 9-month period beginning on the date of the enactment
12 of this Act, the Secretary shall submit a report to the
13 Committee on Financial Services of the House of Rep-
14 resentatives and the Committee on Banking, Housing, and
15 Urban Affairs of the Senate that—

16 (1) identifies the actions taken by the Secretary
17 to comply with this section;

18 (2) includes information regarding any resulting
19 improvements in the expedited approval for multi-
20 family housing projects;

21 (3) identifies recommendations made pursuant
22 to subsection (c);

23 (4) identifies actions taken by the Secretary to
24 implement the provisions in the amendments made
25 by sections 2834 and 2835 of this Act; and

1 (5) makes recommendations for any legislative
2 changes that are needed to facilitate prompt ap-
3 proval of assistance for such projects.

4 **SEC. 2833. PROJECT APPROVALS BY RURAL HOUSING SERV-**
5 **ICE.**

6 Section 515(h) of the Housing Act of 1949 (42
7 U.S.C. 1485) is amended—

8 (1) by inserting “(1) CONDITION.—” after
9 “(h)”; and

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

12 “(2) ACTIONS TO EXPEDITE PROJECT APPROV-
13 ALS.—

14 “(A) IN GENERAL.—The Secretary shall
15 take actions to facilitate timely approval of re-
16 quests to transfer ownership or control, for the
17 purpose of rehabilitation or preservation, of
18 multifamily housing projects for which assist-
19 ance is provided by the Secretary of Agriculture
20 in conjunction with any low-income housing tax
21 credits under section 42 of the Internal Rev-
22 enue Code of 1986 or tax-exempt housing
23 bonds.

24 “(B) CONSULTATION.—The Secretary of
25 Agriculture shall consult with the Commissioner

1 of the Internal Revenue Service and take such
2 actions as are appropriate in conjunction with
3 such consultation to simplify the coordination of
4 rules, regulations, forms (including applications
5 forms for project transfers), and approval re-
6 quirements multifamily housing projects for
7 which assistance is provided by the Secretary of
8 Agriculture in conjunction with any low-income
9 housing tax credits under section 42 of the In-
10 ternal Revenue Code of 1986 or tax-exempt
11 housing bonds.

12 “(C) EXISTING REQUIREMENTS.—Any ac-
13 tions taken pursuant to this paragraph shall be
14 taken in a manner that provides for full compli-
15 ance with any existing requirements under law
16 or regulation that are designed to protect fami-
17 lies receiving Federal housing assistance, in-
18 cluding income targeting, rent, and fair housing
19 provisions, and shall also comply with require-
20 ments regarding environmental review and pro-
21 tection and wages paid to laborers.

22 “(D) RECOMMENDATIONS.—In imple-
23 menting the changes required under this para-
24 graph, the Secretary shall solicit recommenda-
25 tions regarding such changes from project own-

1 (i) by striking “Notwithstanding” and
2 inserting “Except as provided in subsection
3 (b) and notwithstanding”; and

4 (ii) by redesignating clauses (a) and
5 (b) as clauses (A) and (B), respectively;
6 and

7 (B) by striking “As used in this section—
8 ”;

9 (2) in paragraph (c) (relating to a definition of
10 “actual cost”)—

11 (A) in clause (i), by redesignating clauses
12 (1) and (2) as clauses (I) and (II), respectively;
13 and

14 (B) in clause (ii), by redesignating clauses
15 (1) and (2) as clauses (I) and (II), respectively;
16 (3) by redesignating paragraphs (a), (b), and
17 (c) as paragraphs (1), (2), and (3), respectively;

18 (4) by inserting before paragraph (1) (as so re-
19 designated by paragraph (3) of this subsection) the
20 following:

21 “(b) EXEMPTION FOR CERTAIN PROJECTS ASSISTED
22 WITH LOW-INCOME HOUSING TAX CREDIT.—In the case
23 of any mortgage insured under any provision of this title
24 that is executed in connection with the construction, reha-
25 bilitation, purchase, or refinancing of a multifamily hous-

1 ing project for which equity provided through any low-in-
2 come housing tax credit pursuant to section 42 of the In-
3 ternal Revenue Code of 1986 (26 U.S.C. 42), if the Sec-
4 retary determines at the time of issuance of the firm com-
5 mitment for insurance that the ratio of the loan proceeds
6 to the actual cost of the project is less than 80 percent,
7 subsection (a) of this section shall not apply.

8 “(c) DEFINITIONS.—For purposes of this section, the
9 following definitions shall apply:”; and

10 (5) by inserting “(a) REQUIREMENT.—” after
11 “227.”.

12 (c) OTHER PROVISIONS REGARDING TREATMENT OF
13 MORTGAGES COVERING TAX CREDIT PROJECTS.—Title II
14 of the National Housing Act is amended by inserting after
15 section 227 (12 U.S.C. 1715r) the following new section:

16 **“SEC. 228. TREATMENT OF MORTGAGES COVERING TAX**
17 **CREDIT PROJECTS.**

18 “(a) DEFINITION.—For purposes of this section, the
19 term ‘insured mortgage covering a tax credit project’
20 means a mortgage insured under any provision of this title
21 that is executed in connection with the construction, reha-
22 bilitation, purchase, or refinancing of a multifamily hous-
23 ing project for which equity provided through any low-in-
24 come housing tax credit pursuant to section 42 of the In-
25 ternal Revenue Code of 1986 (26 U.S.C. 42).

1 “(b) ACCEPTANCE OF LETTERS OF CREDIT.—In the
2 case of an insured mortgage covering a tax credit project,
3 the Secretary may not require the escrowing of equity pro-
4 vided by the sale of any low-income housing tax credits
5 for the project pursuant to section 42 of the Internal Rev-
6 enue Code of 1986, or any other form of security, such
7 as a letter of credit.

8 “(c) ASSET MANAGEMENT REQUIREMENTS.—In the
9 case of an insured mortgage covering a tax credit project
10 for which project the applicable tax credit allocating agen-
11 cy is causing to be performed periodic inspections in com-
12 pliance with the requirements of section 42 of the Internal
13 Revenue Code of 1986, such project shall be exempt from
14 requirements imposed by the Secretary regarding periodic
15 inspections of the property by the mortgagee. To the ex-
16 tent that other compliance monitoring is being performed
17 with respect to such a project by such an allocating agency
18 pursuant to such section 42, the Secretary shall, to the
19 extent that the Secretary determines such monitoring is
20 sufficient to ensure compliance with any requirements es-
21 tablished by the Secretary, accept such agency’s evidence
22 of compliance for purposes of determining compliance with
23 the Secretary’s requirements.

24 “(d) STREAMLINED PROCESSING PILOT PROGRAM.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish a pilot program to demonstrate the effectiveness
3 of streamlining the review process, which shall in-
4 clude all applications for mortgage insurance under
5 any provision of this title for mortgages executed in
6 connection with the construction, rehabilitation, pur-
7 chase, or refinancing of a multifamily housing
8 project for which equity provided through any low-
9 income housing tax credit pursuant to section 42 of
10 the Internal Revenue Code of 1986. The Secretary
11 shall issue instructions for implementing the pilot
12 program under this subsection not later than the ex-
13 piration of the 180-day period beginning upon the
14 date of the enactment of the Housing Tax Credit
15 Coordination Act of 2008.

16 “(2) REQUIREMENTS.—Such pilot program
17 shall provide for—

18 “(A) the Secretary to appoint designated
19 underwriters, who shall be responsible for re-
20 viewing such mortgage insurance applications
21 and making determinations regarding the eligi-
22 bility of such applications for such mortgage in-
23 surance in lieu of the processing functions re-
24 garding such applications that are otherwise

1 performed by other employees of the Depart-
2 ment of Housing and Urban Development;

3 “(B) submission of applications for such
4 mortgage insurance by mortgagees who have
5 previously been expressly approved by the Sec-
6 retary; and

7 “(C) determinations regarding the eligi-
8 bility of such applications for such mortgage in-
9 surance to be made by the chief underwriter
10 pursuant to requirements prescribed by the Sec-
11 retary, which shall include requiring submission
12 of reports regarding applications of proposed
13 mortgagees by third-party entities expressly ap-
14 proved by the chief underwriter.”.

15 **SEC. 2835. OTHER HUD PROGRAMS.**

16 (a) SECTION 8 ASSISTANCE.—

17 (1) PHA PROJECT-BASED ASSISTANCE.—Sec-
18 tion 8(o)(13) of the United States Housing Act of
19 1937 (42 U.S.C. 1437f(o)(13)) is amended—

20 (A) in subparagraph (D)(i)—

21 (i) by striking “building” and insert-
22 ing “project”; and

23 (ii) by adding at the end the fol-
24 lowing: “For purposes of this subpara-
25 graph, the term “project” means a single

1 building, multiple contiguous buildings, or
2 multiple buildings on contiguous parcels of
3 land.”;

4 (B) in the first sentence of subparagraph
5 (F), by striking “10 years” and inserting “15
6 years”;

7 (C) in subparagraph (G)—

8 (i) by inserting after the period at the
9 end of the first sentence the following:
10 “Such contract may, at the election of the
11 public housing agency and the owner of the
12 structure, specify that such contract shall
13 be extended for renewal terms of up to 15
14 years each, if the agency makes the deter-
15 mination required by this subparagraph
16 and the owner is in compliance with the
17 terms of the contract.”; and

18 (ii) by adding at the end the fol-
19 lowing: “A public housing agency may
20 agree to enter into such a contract at the
21 time it enters into the initial agreement for
22 a housing assistance payment contract or
23 at any time thereafter that is before the
24 expiration of the housing assistance pay-
25 ment contract.”;

1 (D) in subparagraph (H), by inserting be-
2 fore the period at the end of the first sentence
3 the following: “, except that in the case of a
4 contract unit that has been allocated low-in-
5 come housing tax credits and for which the rent
6 limitation pursuant to such section 42 is less
7 than the amount that would otherwise be per-
8 mitted under this subparagraph, the rent for
9 such unit may, in the sole discretion of a public
10 housing agency, be established at the higher
11 section 8 rent, subject only to paragraph
12 (10)(A)”;

13 (E) in subparagraph (I)(i), by inserting be-
14 fore the semicolon the following: “, except that
15 the contract may provide that the maximum
16 rent permitted for a dwelling unit shall not be
17 less than the initial rent for the dwelling unit
18 under the initial housing assistance payments
19 contract covering the unit”; and

20 (F) by adding at the end the following new
21 subparagraphs:

22 “(L) USE IN COOPERATIVE HOUSING AND
23 ELEVATOR BUILDINGS.—A public housing agen-
24 cy may enter into a housing assistance pay-

1 ments contract under this paragraph with re-
2 spect to—

3 “(i) dwelling units in cooperative
4 housing; and

5 “(ii) notwithstanding subsection (c),
6 dwelling units in a high-rise elevator
7 project, including such a project that is oc-
8 cupied by families with children, without
9 review and approval of the contract by the
10 Secretary.

11 “(M) REVIEWS.—

12 “(i) SUBSIDY LAYERING.—A subsidy
13 layering review in accordance with section
14 102(d) of the Department of Housing and
15 Urban Development Reform Act of 1989
16 (42 U.S.C. 3545(d)) shall not be required
17 for assistance under this paragraph in the
18 case of a housing assistance payments con-
19 tract for an existing structure, or if a sub-
20 sidy layering review has been conducted by
21 the applicable State or local agency.

22 “(ii) ENVIRONMENTAL REVIEW.—A
23 public housing agency shall not be required
24 to undertake any environmental review be-
25 fore entering into a housing assistance

1 payments contract under this paragraph
2 for an existing structure, except to the ex-
3 tent such a review is otherwise required by
4 law or regulation.”.

5 (2) VOUCHER PROGRAM RENT REASONABLE-
6 NESS.—Section 8(o)(10) of the United States Hous-
7 ing Act of 1937 (42 U.S.C. 1437f(o)(10)) is amend-
8 ed by adding at the end the following new subpara-
9 graph;

10 “(F) TAX CREDIT PROJECTS.—In the case
11 of a dwelling unit receiving tax credits pursuant
12 to section 42 of the Internal Revenue Code of
13 1986 or for which assistance is provided under
14 subtitle A of title II of the Cranston Gonzalez
15 National Affordable Housing Act of 1990, for
16 which a housing assistance contract not subject
17 to paragraph (13) of this subsection is estab-
18 lished, rent reasonableness shall be determined
19 as otherwise provided by this paragraph, except
20 that—

21 “(i) comparison with rent for units in
22 the private, unassisted local market shall
23 not be required if the rent is equal to or
24 less than the rent for other comparable
25 units receiving such tax credits or assist-

1 ance in the project that are not occupied
2 by families assisted with tenant-based as-
3 sistance under this subsection; and

4 “(ii) the rent shall not be considered
5 reasonable for purposes of this paragraph
6 if it exceeds the greater of—

7 “(I) the rents charged for other
8 comparable units receiving such tax
9 credits or assistance in the project
10 that are not occupied by families as-
11 sisted with tenant-based assistance
12 under this subsection; and

13 “(II) the payment standard es-
14 tablished by the public housing agency
15 for a unit of the size involved.”.

16 (b) SECTION 202 HOUSING FOR ELDERLY PER-
17 SONS.—Subsection (f) of section 202 of the Housing Act
18 of 1959 (12 U.S.C. 1701q(f)) is amended—

19 (1) by striking “SELECTION CRITERIA.—” and
20 inserting “INITIAL SELECTION CRITERIA AND PROC-
21 ESSING.— (1) SELECTION CRITERIA.—”;

22 (2) by redesignating paragraphs (1) through
23 (7) as subparagraphs (A) through (G), respectively;
24 and

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

3 “(2) DELEGATED PROCESSING.—

4 “(A) In issuing a capital advance under
5 this subsection for any project for which financ-
6 ing for the purposes described in the last two
7 sentences of subsection (b) is provided by a
8 combination of a capital advance under sub-
9 section (c)(1) and sources other than this sec-
10 tion, within 30 days of award of the capital ad-
11 vance, the Secretary shall delegate review and
12 processing of such projects to a State or local
13 housing agency that—

14 “(i) is in geographic proximity to the
15 property;

16 “(ii) has demonstrated experience in
17 and capacity for underwriting multifamily
18 housing loans that provide housing and
19 supportive services;

20 “(iii) may or may not be providing
21 low-income housing tax credits in combina-
22 tion with the capital advance under this
23 section, and

24 “(iv) agrees to issue a firm commit-
25 ment within 12 months of delegation.

1 “(B) The Secretary shall retain the au-
2 thority to process capital advances in cases in
3 which no State or local housing agency has ap-
4 plied to provide delegated processing pursuant
5 to this paragraph or no such agency has en-
6 tered into an agreement with the Secretary to
7 serve as a delegated processing agency.

8 “(C) An agency to which review and proc-
9 essing is delegated pursuant to subparagraph
10 (A) may assess a reasonable fee which shall be
11 included in the capital advance amounts and
12 may recommend project rental assistance
13 amounts in excess of those initially awarded by
14 the Secretary. The Secretary shall develop a
15 schedule for reasonable fees under this subpara-
16 graph to be paid to delegated processing agen-
17 cies, which shall take into consideration any
18 other fees to be paid to the agency for other
19 funding provided to the project by the agency,
20 including bonds, tax credits, and other gap
21 funding.

22 “(D) Under such delegated system, the
23 Secretary shall retain the authority to approve
24 rents and development costs and to execute a
25 capital advance within 60 days of receipt of the

1 commitment from the State or local agency.
2 The Secretary shall provide to such agency and
3 the project sponsor, in writing, the reasons for
4 any reduction in capital advance amounts or
5 project rental assistance and such reductions
6 shall be subject to appeal.”.

7 (c) MCKINNEY-VENTO ACT HOMELESS ASSISTANCE
8 UNDER SHELTER PLUS CARE PROGRAM.—

9 (1) TERM OF CONTRACTS WITH OWNER OR LES-
10 SOR.—Part I of subtitle F of the McKinney-Vento
11 Homeless Assistance Act is amended—

12 (A) by redesignating sections 462 and 463
13 (42 U.S.C. 11403g, 11403h) as sections 463
14 and 464, respectively;

15 (B) by striking “section 463” each place
16 such term appears in sections 471, 476, 481,
17 486, and 488 (42 U.S.C. 11404, 11405, 11406,
18 11407, and 11407b) and inserting “section
19 464”; and

20 (C) by inserting after section 461 (42
21 U.S.C. 11403f) the following new section:

22 **“SEC. 462. TERM OF CONTRACT WITH OWNER OR LESSOR.**

23 “An applicant under this subtitle may enter into a
24 contract with the owner or lessor of a property that re-
25 ceives rental assistance under this subtitle having a term

1 of not more than 15 years, subject to the availability of
2 sufficient funds provided in appropriation Acts for the
3 purpose of renewing expiring contracts for assistance pay-
4 ments. Such contract may, at the election of the applicant
5 and owner or lessor, specify that such contract shall be
6 extended for renewal terms of not more than 15 years
7 each, subject to the availability of sufficient such appro-
8 priated funds.”.

9 (2) PROJECT-BASED RENTAL ASSISTANCE CON-
10 TRACTS.—Section 478(a) of the McKinney-Vento
11 Homeless Assistance Act (42 U.S.C. 11405a(a)) is
12 amended by inserting before the period at the end
13 the following: “; except that, in the case of any
14 project for which equity is provided through any low-
15 income housing tax credit pursuant to section 42 of
16 the Internal Revenue Code of 1986 (26 U.S.C. 42),
17 if an expenditure of such amount for each unit (in-
18 cluding the prorated share of such work) is required
19 to make the structure decent, safe, and sanitary,
20 and the owner agrees to reach initial closing on per-
21 manent financing from such other sources within
22 two years and agrees to carry out the rehabilitation
23 with resources other than assistance under this sub-
24 title within 60 months of notification of grant ap-
25 proval, the contract shall be for a term of 10 years

1 (except that such period may be extended by up to
2 1 year by the Secretary, which extension shall be
3 granted unless the Secretary determines that the
4 sponsor is primarily responsible for the failure to
5 meet such deadline)”).

6 (d) DATA COLLECTION ON TENANTS OF HOUSING
7 TAX CREDIT PROJECTS.—Title I of the United States
8 Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended
9 by adding at the end the following new section:

10 **“SEC. 36. COLLECTION OF INFORMATION ON TENANTS IN**
11 **TAX CREDIT PROJECTS.**

12 “(a) IN GENERAL.—Each State agency admin-
13 istering tax credits under section 42 of the Internal Rev-
14 enue Code of 1986 (26 U.S.C. 42) shall furnish to the
15 Secretary of Housing and Urban Development, not less
16 than annually, information concerning the race, ethnicity,
17 family composition, age, income, use of rental assistance
18 under section 8(o) of the United States Housing Act of
19 1937 or other similar assistance, disability status, and
20 monthly rental payments of households residing in each
21 property receiving such credits through such agency. Such
22 State agencies shall, to the extent feasible, collect such in-
23 formation through existing reporting processes and in a
24 manner that minimizes burdens on property owners. In
25 the case of any household that continues to reside in the

1 same dwelling unit, information provided by the household
2 in a previous year may be used if the information is of
3 a category that is not subject to change or if information
4 for the current year is not readily available to the owner
5 of the property.

6 “(b) STANDARDS.—The Secretary shall establish
7 standards and definitions for the information collected
8 under subsection (a), provide States with technical assist-
9 ance in establishing systems to compile and submit such
10 information, and, in coordination with other Federal agen-
11 cies administering housing programs, establish procedures
12 to minimize duplicative reporting requirements for prop-
13 erties assisted under multiple housing programs.

14 “(c) PUBLIC AVAILABILITY.—The Secretary shall,
15 not less than annually, compile and make publicly avail-
16 able the information submitted to the Secretary pursuant
17 to subsection (a).

18 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
19 is authorized to be appropriated for the cost of activities
20 required under subsections (b) and (c) \$2,500,000 for fis-
21 cal year 2009 and \$900,000 for each of fiscal years 2010
22 through 2013.”.

1 **TITLE IX—MISCELLANEOUS**

2 **SEC. 2901. HOMELESS ASSISTANCE.**

3 (a) APPROPRIATIONS.—Section 726 of the McKin-
4 ney-Vento Homeless Assistance Act (42 U.S.C. 11435) is
5 amended by striking “\$70,000,000” and all that follows
6 and inserting “\$100,000,000 for fiscal year 2009 and
7 such sums as may be necessary for each subsequent fiscal
8 year.”.

9 (b) EMERGENCY ASSISTANCE.—Section 722 of the
10 McKinney-Vento Homeless Assistance Act (42 U.S.C.
11 11432) is amended by adding at the end the following:

12 “(h) SPECIAL RULE FOR EMERGENCY ASSIST-
13 ANCE.—

14 “(1) EMERGENCY ASSISTANCE.—

15 “(A) RESERVATION OF AMOUNTS.—Sub-
16 ject to paragraph (4) and notwithstanding any
17 other provision of this title, the Secretary shall
18 use funds appropriated under section 726 for
19 fiscal year 2009, but not to exceed
20 \$30,000,000, for the purposes of providing
21 emergency assistance through grants.

22 “(B) GENERAL AUTHORITY.—The Sec-
23 retary shall use the funds to make grants to
24 State educational agencies under paragraph (2),
25 to enable the agencies to make subgrants to

1 local educational agencies under paragraph (3),
2 to provide activities described in section 723(d)
3 for individuals referred to in subparagraph (C).

4 “(C) ELIGIBLE INDIVIDUALS.—Funds
5 made available under this subsection shall be
6 used to provide such activities for eligible indi-
7 viduals, consisting of homeless children and
8 youths, and their families, who have become
9 homeless due to home foreclosure, including
10 children and youths, and their families, who be-
11 came homeless when lenders foreclosed on prop-
12 erties rented by the families.

13 “(2) GRANTS TO STATE EDUCATIONAL AGEN-
14 CIES.—

15 “(A) DISBURSEMENT.—The Secretary
16 shall make grants with funds provided under
17 paragraph (1)(A) to State educational agencies
18 based on need, consistent with the number of
19 eligible individuals described in paragraph
20 (1)(C) in the States involved, as determined by
21 the Secretary.

22 “(B) ASSURANCE.—To be eligible to re-
23 ceive a grant under this paragraph, a State
24 educational agency shall provide an assurance
25 to the Secretary that the State educational

1 agency, and each local educational agency re-
2 ceiving a subgrant from the State educational
3 agency under this subsection shall ensure that
4 the activities carried out under this subsection
5 are consistent with the activities described in
6 section 723(d).

7 “(3) SUBGRANTS TO LOCAL EDUCATIONAL
8 AGENCIES.—A State educational agency that re-
9 ceives a grant under paragraph (2) shall use the
10 funds made available through the grant to make
11 subgrants to local educational agencies. The State
12 educational agency shall make the subgrants to local
13 educational agencies based on need, consistent with
14 the number of eligible individuals described in para-
15 graph (1)(C) in the areas served by the local edu-
16 cational agencies, as determined by the State edu-
17 cational agency.

18 “(4) RESTRICTION.—The Secretary—
19 “(A) shall determine the amount (if any)
20 by which the funds appropriated under section
21 726 for fiscal year 2009 exceed \$70,000,000;
22 and
23 “(B) may only use funds from that amount
24 to carry out this subsection.”.

1 **SEC. 2902. INCREASING ACCESS AND UNDERSTANDING OF**
2 **ENERGY EFFICIENT MORTGAGES.**

3 (a) DEFINITION.—As used in this section, the term
4 “energy efficient mortgage” has the same meaning as
5 given that term in paragraph (24) of section 104 of the
6 Cranston-Gonzalez National Affordable Housing Act (42
7 U.S.C. 12704(24)).

8 (b) RECOMMENDATIONS TO ELIMINATE BARRIERS
9 TO USE OF ENERGY EFFICIENT MORTGAGES.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of this section, the Sec-
12 retary of Housing and Urban Development, in con-
13 junction with the Secretary of Energy and the Ad-
14 ministrator of the Environmental Protection Agency,
15 shall consult with the residential mortgage industry
16 and States to develop recommendations to eliminate
17 the barriers that exist to increasing the availability,
18 use, and purchase of energy efficient mortgages, in-
19 cluding such barriers as—

20 (A) the lack of reliable and accessible in-
21 formation on such mortgages, including esti-
22 mated energy savings and other benefits of en-
23 ergy efficient housing;

24 (B) the confusion regarding underwriting
25 requirements and differences among various en-
26 ergy efficient mortgage programs;

1 (C) the complex and time consuming proc-
2 ess of securing such mortgages;

3 (D) the lack of publicly available research
4 on the default risk of such mortgages; and

5 (E) the availability of certified or accred-
6 ited home energy rating services.

7 (2) REPORT TO CONGRESS.—The Secretary of
8 Housing and Urban Development shall submit a re-
9 port to Congress that—

10 (A) summarizes the recommendations de-
11 veloped under paragraph (1); and

12 (B) includes any recommendations for
13 statutory, regulatory, or administrative changes
14 that the Secretary deems necessary to institute
15 such recommendations.

16 (c) ENERGY EFFICIENT MORTGAGES OUTREACH
17 CAMPAIGN.—

18 (1) IN GENERAL.—The Secretary of Housing
19 and Urban Development, in consultation and coordi-
20 nation with the Secretary of Energy, the Adminis-
21 trator of the Environmental Protection Agency, and
22 State Energy and Housing Finance Directors, shall
23 carry out an education and outreach campaign to in-
24 form and educate consumers, home builders, residen-

1 tial lenders, and other real estate professionals on
2 the availability, benefits, and advantages of—

3 (A) improved energy efficiency in housing;

4 and

5 (B) energy efficient mortgages.

6 (2) AUTHORIZATION OF APPROPRIATIONS.—

7 There are authorized to be appropriated such sums
8 as are necessary to carry out the education and out-
9 reach campaign described under paragraph (1).

10 **DIVISION C—TAX-RELATED** 11 **PROVISIONS**

12 **SECTION 3000. SHORT TITLE; ETC.**

13 (a) SHORT TITLE.—This division may be cited as the
14 “Housing Assistance Tax Act of 2008”.

15 (b) AMENDMENT OF 1986 CODE.—Except as other-
16 wise expressly provided, whenever in this division an
17 amendment or repeal is expressed in terms of an amend-
18 ment to, or repeal of, a section or other provision, the ref-
19 erence shall be considered to be made to a section or other
20 provision of the Internal Revenue Code of 1986.

21 (c) TABLE OF CONTENTS.—The table of contents for
22 this division is as follows:

Sec. 3000. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES

Subtitle A—Multi-Family Housing

PART I—LOW-INCOME HOUSING TAX CREDIT

- Sec. 3001. Temporary increase in volume cap for low-income housing tax credit.
- Sec. 3002. Determination of credit rate.
- Sec. 3003. Modifications to definition of eligible basis.
- Sec. 3004. Other simplification and reform of low-income housing tax incentives.
- Sec. 3005. Treatment of military basic pay.

PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES

- Sec. 3007. Recycling of tax-exempt debt for financing residential rental projects.
- Sec. 3008. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS

- Sec. 3009. Hold harmless for reductions in area median gross income.
- Sec. 3010. Exception to annual current income determination requirement where determination not relevant.

Subtitle B—Single Family Housing

- Sec. 3011. First-time homebuyer credit.
- Sec. 3012. Additional standard deduction for real property taxes for non-itemizers.

Subtitle C—General Provisions

- Sec. 3021. Temporary liberalization of tax-exempt housing bond rules.
- Sec. 3022. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.
- Sec. 3023. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.
- Sec. 3024. Modification of rules pertaining to FIRPTA nonforeign affidavits.
- Sec. 3025. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.
- Sec. 3026. Extension of special rule for mortgage revenue bonds for residences located in disaster areas.
- Sec. 3027. Transfer of funds appropriated to carry out 2008 recovery rebates for individuals.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS

Subtitle A—Foreign Currency and Other Qualified Activities

- Sec. 3031. Revisions to REIT income tests.
- Sec. 3032. Revisions to REIT asset tests.
- Sec. 3033. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries

- Sec. 3041. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales

- Sec. 3051. Holding period under safe harbor.
- Sec. 3052. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs

- Sec. 3061. Conformity for health care facilities.

Subtitle E—Effective Dates

- Sec. 3071. Effective dates.

TITLE III—REVENUE PROVISIONS

Subtitle A—General Provisions

- Sec. 3081. Election to accelerate the AMT and research credits in lieu of bonus depreciation.
- Sec. 3082. Certain GO Zone incentives.
- Sec. 3083. Increase in statutory limit on the public debt.

Subtitle B—Revenue Offsets

- Sec. 3091. Returns relating to payments made in settlement of payment card and third party network transactions.
- Sec. 3092. Gain from sale of principal residence allocated to nonqualified use not excluded from income.
- Sec. 3093. Delay in application of worldwide allocation of interest.
- Sec. 3094. Time for payment of corporate estimated taxes.

1 **TITLE I—HOUSING TAX**
 2 **INCENTIVES**
 3 **Subtitle A—Multi-Family Housing**
 4 **PART I—LOW-INCOME HOUSING TAX CREDIT**

5 **SEC. 3001. TEMPORARY INCREASE IN VOLUME CAP FOR**
 6 **LOW-INCOME HOUSING TAX CREDIT.**

7 Paragraph (3) of section 42(h) is amended by adding
 8 at the end the following new subparagraph:

9 “(I) INCREASE IN STATE HOUSING CREDIT
 10 CEILING FOR 2008 AND 2009.—In the case of
 11 calendar years 2008 and 2009—

12 “(i) the dollar amount in effect under
 13 subparagraph (C)(ii)(I) for such calendar

1 year (after any increase under subpara-
2 graph (H)) shall be increased by \$0.20,
3 and

4 “(ii) the dollar amount in effect under
5 subparagraph (C)(ii)(II) for such calendar
6 year (after any increase under subpara-
7 graph (H)) shall be increased by an
8 amount equal to 10 percent of such dollar
9 amount (rounded to the next lowest mul-
10 tiple of \$5,000).”.

11 **SEC. 3002. DETERMINATION OF CREDIT RATE.**

12 (a) **TEMPORARY MINIMUM CREDIT RATE FOR NON-**
13 **FEDERALLY SUBSIDIZED NEW BUILDINGS.—**

14 (1) **IN GENERAL.—**Subsection (b) of section 42
15 is amended by striking paragraph (1), by redesign-
16 ating paragraph (2) as paragraph (1), and by in-
17 serting after paragraph (1), as so redesignated, the
18 following new paragraph:

19 “(2) **TEMPORARY MINIMUM CREDIT RATE FOR**
20 **NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.—**In
21 the case of any new building—

22 “(A) which is placed in service by the tax-
23 payer after the date of the enactment of this
24 paragraph and before December 31, 2013, and

1 “(B) which is not federally subsidized for
2 the taxable year,
3 the applicable percentage shall not be less than 9
4 percent.”.

5 (2) CONFORMING AMENDMENTS.—

6 (A) Subsection (b) of section 42, as
7 amended by paragraph (1), is amended by
8 striking “For purposes of this section—” and
9 all that follows through “means the appro-
10 priate” and inserting the following:

11 “(1) DETERMINATION OF APPLICABLE PER-
12 CENTAGE.—For purposes of this section, the term
13 ‘applicable percentage’ means, with respect to any
14 building, the appropriate”.

15 (B) Clause (i) of section 42(b)(1)(B), as
16 redesignated by paragraph (1), is amended by
17 striking “a building described in paragraph
18 (1)(A)” and inserting “a new building which is
19 not federally subsidized for the taxable year”.

20 (C) Clause (ii) of section 42(b)(1)(B), as
21 redesignated by paragraph (1), is amended by
22 striking “a building described in paragraph
23 (1)(B)” and inserting “a building not described
24 in clause (i)”.

1 (b) MODIFICATIONS TO DEFINITION OF FEDERALLY
2 SUBSIDIZED BUILDING.—

3 (1) IN GENERAL.—Subparagraph (A) of section
4 42(i)(2) is amended by striking “, or any below mar-
5 ket Federal loan,”.

6 (2) CONFORMING AMENDMENTS.—

7 (A) Subparagraph (B) of section 42(i)(2)
8 is amended—

9 (i) by striking “BALANCE OF LOAN
10 OR” in the heading thereof,

11 (ii) by striking “loan or” in the mat-
12 ter preceding clause (i), and

13 (iii) by striking “subsection (d)—”
14 and all that follows and inserting “sub-
15 section (d) the proceeds of such obliga-
16 tion.”.

17 (B) Subparagraph (C) of section 42(i)(2)
18 is amended—

19 (i) by striking “or below market Fed-
20 eral loan” in the matter preceding clause
21 (i),

22 (ii) in clause (i)—

23 (I) by striking “or loan (when
24 issued or made)” and inserting
25 “(when issued)”, and

1 (II) by striking “the proceeds of
2 such obligation or loan” and inserting
3 “the proceeds of such obligation”, and
4 (iii) by striking “, and such loan is re-
5 paid,” in clause (ii).

6 (C) Paragraph (2) of section 42(i) is
7 amended by striking subparagraphs (D) and
8 (E).

9 (c) EFFECTIVE DATE.—The amendments made by
10 this subsection shall apply to buildings placed in service
11 after the date of the enactment of this Act.

12 **SEC. 3003. MODIFICATIONS TO DEFINITION OF ELIGIBLE**
13 **BASIS.**

14 (a) INCREASE IN CREDIT FOR CERTAIN STATE DES-
15 IGNATED BUILDINGS.—Subparagraph (C) of section
16 42(d)(5) (relating to increase in credit for buildings in
17 high cost areas), before redesignation under subsection
18 (g), is amended by adding at the end the following new
19 clause:

20 “(v) BUILDINGS DESIGNATED BY
21 STATE HOUSING CREDIT AGENCY.—Any
22 building which is designated by the State
23 housing credit agency as requiring the in-
24 crease in credit under this subparagraph in
25 order for such building to be financially

1 feasible as part of a qualified low-income
2 housing project shall be treated for pur-
3 poses of this subparagraph as located in a
4 difficult development area which is des-
5 ignated for purposes of this subparagraph.
6 The preceding sentence shall not apply to
7 any building if paragraph (1) of subsection
8 (h) does not apply to any portion of the el-
9 igible basis of such building by reason of
10 paragraph (4) of such subsection.”.

11 (b) MODIFICATION TO REHABILITATION REQUIRE-
12 MENTS.—

13 (1) IN GENERAL.—Clause (ii) of section
14 42(e)(3)(A) is amended—

15 (A) by striking “10 percent” in subclause
16 (I) and inserting “20 percent”, and

17 (B) by striking “\$3,000” in subclause (II)
18 and inserting “\$6,000”.

19 (2) INFLATION ADJUSTMENT.—Paragraph (3)
20 of section 42(e) is amended by adding at the end the
21 following new subparagraph:

22 “(D) INFLATION ADJUSTMENT.—In the
23 case of any expenditures which are treated
24 under paragraph (4) as placed in service during
25 any calendar year after 2009, the \$6,000

1 amount in subparagraph (A)(ii)(II) shall be in-
2 creased by an amount equal to—

3 “(i) such dollar amount, multiplied by

4 “(ii) the cost-of-living adjustment de-
5 termined under section 1(f)(3) for such
6 calendar year by substituting ‘calendar
7 year 2008’ for ‘calendar year 1992’ in sub-
8 paragraph (B) thereof.

9 Any increase under the preceding sentence
10 which is not a multiple of \$100 shall be round-
11 ed to the nearest multiple of \$100.”.

12 (3) CONFORMING AMENDMENT.—Subclause (II)
13 of section 42(f)(5)(B)(ii) is amended by striking “if
14 subsection (e)(3)(A)(ii)(II)” and all that follows and
15 inserting “if the dollar amount in effect under sub-
16 section (e)(3)(A)(ii)(II) were two-thirds of such
17 amount.”.

18 (c) INCREASE IN ALLOWABLE COMMUNITY SERVICE
19 FACILITY SPACE FOR SMALL PROJECTS.—Clause (ii) of
20 section 42(d)(4)(C) (relating to limitation) is amended by
21 striking “10 percent of the eligible basis of the qualified
22 low-income housing project of which it is a part. For pur-
23 poses of” and inserting “the sum of—

24 “(I) 25 percent of so much of the
25 eligible basis of the qualified low-in-

1 come housing project of which it is a
2 part as does not exceed \$15,000,000,
3 plus

4 “(II) 10 percent of so much of
5 the eligible basis of such project as is
6 not taken into account under sub-
7 clause (I).

8 For purposes of”.

9 (d) CLARIFICATION OF TREATMENT OF FEDERAL
10 GRANTS.—Subparagraph (A) of section 42(d)(5) is
11 amended to read as follows:

12 “(A) FEDERAL GRANTS NOT TAKEN INTO
13 ACCOUNT IN DETERMINING ELIGIBLE BASIS.—
14 The eligible basis of a building shall not include
15 any costs financed with the proceeds of a feder-
16 ally funded grant.”.

17 (e) SIMPLIFICATION OF RELATED PARTY RULES.—
18 Clause (iii) of section 42(d)(2)(D), before redesignation
19 under subsection (g)(2), is amended—

20 (1) by striking all that precedes subclause (II),
21 (2) by redesignating subclause (II) as clause
22 (iii) and moving such clause two ems to the left, and
23 (3) by striking the last sentence thereof.

24 (f) EXCEPTION TO 10-YEAR NONACQUISITION PE-
25 RIOD FOR EXISTING BUILDINGS APPLICABLE TO

1 FEDERALLY- OR STATE-ASSISTED BUILDINGS.—Para-
2 graph (6) of section 42(d) is amended to read as follows:

3 “(6) CREDIT ALLOWABLE FOR CERTAIN BUILD-
4 INGS ACQUIRED DURING 10-YEAR PERIOD DE-
5 SCRIBED IN PARAGRAPH (2)(B)(ii).—

6 “(A) IN GENERAL.—Paragraph (2)(B)(ii)
7 shall not apply to any federally- or State-as-
8 sisted building.

9 “(B) BUILDINGS ACQUIRED FROM IN-
10 SURED DEPOSITORY INSTITUTIONS IN DE-
11 FAULT.—On application by the taxpayer, the
12 Secretary may waive paragraph (2)(B)(ii) with
13 respect to any building acquired from an in-
14 sured depository institution in default (as de-
15 fined in section 3 of the Federal Deposit Insur-
16 ance Act) or from a receiver or conservator of
17 such an institution.

18 “(C) FEDERALLY- OR STATE-ASSISTED
19 BUILDING.—For purposes of this paragraph—

20 “(i) FEDERALLY-ASSISTED BUILD-
21 ING.—The term ‘federally-assisted build-
22 ing’ means any building which is substan-
23 tially assisted, financed, or operated under
24 section 8 of the United States Housing Act
25 of 1937, section 221(d)(3), 221(d)(4), or

1 236 of the National Housing Act, section
2 515 of the Housing Act of 1949, or any
3 other housing program administered by the
4 Department of Housing and Urban Devel-
5 opment or by the Rural Housing Service of
6 the Department of Agriculture.

7 “(ii) STATE-ASSISTED BUILDING.—
8 The term ‘State-assisted building’ means
9 any building which is substantially as-
10 sisted, financed, or operated under any
11 State law similar in purposes to any of the
12 laws referred to in clause (i).”.

13 (g) REPEAL OF DEADWOOD.—

14 (1) Clause (ii) of section 42(d)(2)(B) is amend-
15 ed by striking “the later of—” and all that follows
16 and inserting “the date the building was last placed
17 in service,”.

18 (2) Subparagraph (D) of section 42(d)(2) is
19 amended by striking clause (i) and by redesignating
20 clauses (ii) and (iii) as clauses (i) and (ii), respec-
21 tively.

22 (3) Paragraph (5) of section 42(d) is amended
23 by striking subparagraph (B) and by redesignating
24 subparagraph (C) as subparagraph (B).

25 (h) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in paragraph (2), the amendments made by
3 this subsection shall apply to buildings placed in
4 service after the date of the enactment of this Act.

5 (2) REHABILITATION REQUIREMENTS.—

6 (A) IN GENERAL.—The amendments made
7 by subsection (b) shall apply to buildings with
8 respect to which housing credit dollar amounts
9 are allocated after the date of the enactment of
10 this Act.

11 (B) BUILDINGS NOT SUBJECT TO ALLOCA-
12 TION LIMITS.—To the extent paragraph (1) of
13 section 42(h) of the Internal Revenue Code of
14 1986 does not apply to any building by reason
15 of paragraph (4) thereof, the amendments made
16 by subsection (b) shall apply buildings financed
17 with bonds issued pursuant to allocations made
18 after the date of the enactment of this Act.

19 **SEC. 3004. OTHER SIMPLIFICATION AND REFORM OF LOW-**
20 **INCOME HOUSING TAX INCENTIVES.**

21 (a) REPEAL PROHIBITION ON MODERATE REHABILI-
22 TATION ASSISTANCE.—Paragraph (2) of section 42(c) (de-
23 fining qualified low-income building) is amended by strik-
24 ing the flush sentence at the end.

1 (b) MODIFICATION OF TIME LIMIT FOR INCURRING
2 10 PERCENT OF PROJECT'S COST.—Clause (ii) of section
3 42(h)(1)(E) is amended by striking “(as of the later of
4 the date which is 6 months after the date that the alloca-
5 tion was made or the close of the calendar year in which
6 the allocation is made)” and inserting “(as of the date
7 which is 1 year after the date that the allocation was
8 made)”.

9 (c) REPEAL OF BONDING REQUIREMENT ON DIS-
10 POSITION OF BUILDING.—Paragraph (6) of section 42(j)
11 (relating to no recapture on disposition of building (or in-
12 terest therein) where bond posted) is amended to read as
13 follows:

14 “(6) NO RECAPTURE ON DISPOSITION OF
15 BUILDING WHICH CONTINUES IN QUALIFIED USE.—

16 “(A) IN GENERAL.—The increase in tax
17 under this subsection shall not apply solely by
18 reason of the disposition of a building (or an in-
19 terest therein) if it is reasonably expected that
20 such building will continue to be operated as a
21 qualified low-income building for the remaining
22 compliance period with respect to such building.

23 “(B) STATUTE OF LIMITATIONS.—If a
24 building (or an interest therein) is disposed of
25 during any taxable year and there is any reduc-

1 tion in the qualified basis of such building
2 which results in an increase in tax under this
3 subsection for such taxable or any subsequent
4 taxable year, then—

5 “(i) the statutory period for the as-
6 sessment of any deficiency with respect to
7 such increase in tax shall not expire before
8 the expiration of 3 years from the date the
9 Secretary is notified by the taxpayer (in
10 such manner as the Secretary may pre-
11 scribe) of such reduction in qualified basis,
12 and

13 “(ii) such deficiency may be assessed
14 before the expiration of such 3-year period
15 notwithstanding the provisions of any
16 other law or rule of law which would other-
17 wise prevent such assessment.”.

18 (d) ENERGY EFFICIENCY AND HISTORIC NATURE
19 TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—Sub-
20 paragraph (C) of section 42(m)(1) (relating to plans for
21 allocation of credit among projects) is amended by striking
22 “and” at the end of clause (vii), by striking the period
23 at the end of clause (viii) and inserting a comma, and by
24 adding at the end the following new clauses:

1 “(ix) the energy efficiency of the
2 project, and

3 “(x) the historic nature of the
4 project.”.

5 (e) CONTINUED ELIGIBILITY FOR STUDENTS WHO
6 RECEIVED FOSTER CARE ASSISTANCE.—Clause (i) of sec-
7 tion 42(i)(3)(D) is amended by striking “or” at the end
8 of subclause (I), by redesignating subclause (II) as sub-
9 clause (III), and by inserting after subclause (I) the fol-
10 lowing new subclause:

11 “(II) a student who was pre-
12 viously under the care and placement
13 responsibility of the State agency re-
14 sponsible for administering a plan
15 under part B or part E of title IV of
16 the Social Security Act, or”.

17 (f) TREATMENT OF RURAL PROJECTS.—Section
18 42(i) (relating to definitions and special rules) is amended
19 by adding at the end the following new paragraph:

20 “(8) TREATMENT OF RURAL PROJECTS.—For
21 purposes of this section, in the case of any project
22 for residential rental property located in a rural area
23 (as defined in section 520 of the Housing Act of
24 1949), any income limitation measured by reference
25 to area median gross income shall be measured by

1 reference to the greater of area median gross income
2 or national non-metropolitan median income. The
3 preceding sentence shall not apply with respect to
4 any building if paragraph (1) of section 42(h) does
5 not apply by reason of paragraph (4) thereof to any
6 portion of the credit determined under this section
7 with respect to such building.”.

8 (g) CLARIFICATION OF GENERAL PUBLIC USE RE-
9 QUIREMENT.—Subsection (g) of section 42 is amended by
10 adding at the end the following new paragraph:

11 “(9) CLARIFICATION OF GENERAL PUBLIC USE
12 REQUIREMENT.—A project does not fail to meet the
13 general public use requirement solely because of oc-
14 cupancy restrictions or preferences that favor ten-
15 ants—

16 “(A) with special needs,

17 “(B) who are members of a specified group
18 under a Federal program or State program or
19 policy that supports housing for such a speci-
20 fied group, or

21 “(C) who are involved in artistic or literary
22 activities.”.

23 (h) GAO STUDY REGARDING MODIFICATIONS TO
24 LOW-INCOME HOUSING TAX CREDIT.—Not later than
25 December 31, 2012, the Comptroller General of the

1 United States shall submit to Congress a report which
2 analyzes the implementation of the modifications made by
3 this subtitle to the low-income housing tax credit under
4 section 42 of the Internal Revenue Code of 1986. Such
5 report shall include an analysis of the distribution of credit
6 allocations before and after the effective date of such
7 modifications.

8 (i) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, the amendments made by
11 this section shall apply to buildings placed in service
12 after the date of the enactment of this Act.

13 (2) REPEAL OF BONDING REQUIREMENT ON
14 DISPOSITION OF BUILDING.—The amendment made
15 by subsection (c) shall apply to—

16 (A) interests in buildings disposed after
17 the date of the enactment of this Act, and

18 (B) interests in buildings disposed of on or
19 before such date if—

20 (i) it is reasonably expected that such
21 building will continue to be operated as a
22 qualified low-income building (within the
23 meaning of section 42 of the Internal Rev-
24 enue Code of 1986) for the remaining com-

1 pliance period (within the meaning of such
2 section) with respect to such building, and
3 (ii) the taxpayer elects the application
4 of this subparagraph with respect to such
5 disposition.

6 (3) ENERGY EFFICIENCY AND HISTORIC NA-
7 TURE TAKEN INTO ACCOUNT IN MAKING ALLOCA-
8 TIONS.—The amendments made by subsection (d)
9 shall apply to allocations made after December 31,
10 2008.

11 (4) CONTINUED ELIGIBILITY FOR STUDENTS
12 WHO RECEIVED FOSTER CARE ASSISTANCE.—The
13 amendments made by subsection (e) shall apply to
14 determinations made after the date of the enactment
15 of this Act.

16 (5) TREATMENT OF RURAL PROJECTS.—The
17 amendment made by subsection (f) shall apply to de-
18 terminations made after the date of the enactment
19 of this Act.

20 (6) CLARIFICATION OF GENERAL PUBLIC USE
21 REQUIREMENT.—The amendment made by sub-
22 section (g) shall apply to buildings placed in service
23 before, on, or after the date of the enactment of this
24 Act.

1 **SEC. 3005. TREATMENT OF MILITARY BASIC PAY.**

2 (a) IN GENERAL.—Subparagraph (B) of section
3 142(d)(2) (relating to income of individuals; area median
4 gross income) is amended—

5 (1) by striking “The income” and inserting the
6 following:

7 “(i) IN GENERAL.—The income”, and
8 (2) by adding at the end the following:

9 “(ii) SPECIAL RULE RELATING TO
10 BASIC HOUSING ALLOWANCES.—For pur-
11 poses of determining income under this
12 subparagraph, payments under section 403
13 of title 37, United States Code, as a basic
14 pay allowance for housing shall be dis-
15 regarded with respect to any qualified
16 building.

17 “(iii) QUALIFIED BUILDING.—For
18 purposes of clause (ii), the term ‘qualified
19 building’ means any building located—

20 “(I) in any county in which is lo-
21 cated a qualified military installation
22 to which the number of members of
23 the Armed Forces of the United
24 States assigned to units based out of
25 such qualified military installation, as
26 of June 1, 2008, has increased by not

1 less than 20 percent, as compared to
2 such number on December 31, 2005,
3 or

4 “(II) in any county adjacent to a
5 county described in subclause (I).

6 “(iv) QUALIFIED MILITARY INSTALLA-
7 TION.—For purposes of clause (iii), the
8 term ‘qualified military installation’ means
9 any military installation or facility the
10 number of members of the Armed Forces
11 of the United States assigned to which, as
12 of June 1, 2008, is not less than 1,000.”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to—

15 (1) determinations made after the date of the
16 enactment of this Act and before January 1, 2012,
17 in the case of any qualified building (as defined in
18 section 142(d)(2)(B)(iii) of the Internal Revenue
19 Code of 1986)—

20 (A) with respect to which housing credit
21 dollar amounts have been allocated on or before
22 the date of the enactment of this Act, or

23 (B) with respect to buildings placed in
24 service before such date of enactment, to the
25 extent paragraph (1) of section 42(h) of such

1 Code does not apply to such building by reason
2 of paragraph (4) thereof, but only with respect
3 to bonds issued before such date of enactment,
4 and

5 (2) determinations made after the date of en-
6 actment of this Act, in the case of qualified build-
7 ings (as so defined)—

8 (A) with respect to which housing credit
9 dollar amounts are allocated after the date of
10 the enactment of this Act and before January
11 1, 2012, or

12 (B) with respect to which buildings placed
13 in service after the date of enactment of this
14 Act and before January 1, 2012, to the extent
15 paragraph (1) of section 42(h) of such Code
16 does not apply to such building by reason of
17 paragraph (4) thereof, but only with respect to
18 bonds issued after such date of enactment and
19 before January 1, 2012.

1 **PART II—MODIFICATIONS TO TAX-EXEMPT**

2 **HOUSING BOND RULES**

3 **SEC. 3007. RECYCLING OF TAX-EXEMPT DEBT FOR FINANC-**
4 **ING RESIDENTIAL RENTAL PROJECTS.**

5 (a) IN GENERAL.—Subsection (i) of section 146 (re-
6 lating to treatment of refunding issues) is amended by
7 adding at the end the following new paragraph:

8 “(6) TREATMENT OF CERTAIN RESIDENTIAL
9 RENTAL PROJECT BONDS AS REFUNDING BONDS IR-
10 RESPECTIVE OF OBLIGOR.—

11 “(A) IN GENERAL.—If, during the 6-
12 month period beginning on the date of a repay-
13 ment of a loan financed by an issue 95 percent
14 or more of the net proceeds of which are used
15 to provide projects described in section 142(d),
16 such repayment is used to provide a new loan
17 for any project so described, any bond which is
18 issued to refinance such issue shall be treated
19 as a refunding issue to the extent the principal
20 amount of such refunding issue does not exceed
21 the principal amount of the bonds refunded.

22 “(B) LIMITATIONS.—Subparagraph (A)
23 shall apply to only one refunding of the original
24 issue and only if—

1 “(i) the refunding issue is issued not
2 later than 4 years after the date on which
3 the original issue was issued,

4 “(ii) the latest maturity date of any
5 bond of the refunding issue is not later
6 than 34 years after the date on which the
7 refunded bond was issued, and

8 “(iii) the refunding issue is approved
9 in accordance with section 147(f) before
10 the issuance of the refunding issue.”.

11 (b) **LOW-INCOME HOUSING CREDIT.**—Clause (ii) of
12 section 42(h)(4)(A) is amended by inserting “or such fi-
13 nancing is refunded as described in section 146(i)(6)” be-
14 fore the period at the end.

15 (c) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to repayments of loans received
17 after the date of the enactment of this Act.

18 **SEC. 3008. COORDINATION OF CERTAIN RULES APPLICA-**
19 **BLE TO LOW-INCOME HOUSING CREDIT AND**
20 **QUALIFIED RESIDENTIAL RENTAL PROJECT**
21 **EXEMPT FACILITY BONDS.**

22 (a) **DETERMINATION OF NEXT AVAILABLE UNIT.**—
23 Paragraph (3) of section 142(d) (relating to current in-
24 come determinations) is amended by adding at the end
25 the following new subparagraph:

1 “(C) EXCEPTION FOR PROJECTS WITH RE-
2 SPECT TO WHICH AFFORDABLE HOUSING CRED-
3 IT IS ALLOWED.—In the case of a project with
4 respect to which credit is allowed under section
5 42, the second sentence of subparagraph (B)
6 shall be applied by substituting ‘building (with-
7 in the meaning of section 42)’ for ‘project’.”.

8 (b) STUDENTS.—Paragraph (2) of section 142(d)
9 (relating to definitions and special rules) is amended by
10 adding at the end the following new subparagraph:

11 “(C) STUDENTS.—Rules similar to the
12 rules of 42(i)(3)(D) shall apply for purposes of
13 this subsection.”.

14 (c) SINGLE-ROOM OCCUPANCY UNITS.—Paragraph
15 (2) of section 142(d) (relating to definitions and special
16 rules), as amended by subsection (b), is amended by add-
17 ing at the end the following new subparagraph:

18 “(D) SINGLE-ROOM OCCUPANCY UNITS.—A
19 unit shall not fail to be treated as a residential
20 unit merely because such unit is a single-room
21 occupancy unit (within the meaning of section
22 42).”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to determinations of the status of
25 qualified residential rental projects for periods beginning

1 after the date of the enactment of this Act, with respect
2 to bonds issued before, on, or after such date.

3 **PART III—REFORMS RELATED TO THE LOW-IN-**
4 **COME HOUSING CREDIT AND TAX-EXEMPT**
5 **HOUSING BONDS**

6 **SEC. 3009. HOLD HARMLESS FOR REDUCTIONS IN AREA ME-**
7 **DIAN GROSS INCOME.**

8 (a) IN GENERAL.—Paragraph (2) of section 142(d),
9 as amended by section 3008, is amended by adding at the
10 end the following new subparagraph:

11 “(E) HOLD HARMLESS FOR REDUCTIONS
12 IN AREA MEDIAN GROSS INCOME.—

13 “(i) IN GENERAL.—Any determination
14 of area median gross income under sub-
15 paragraph (B) with respect to any project
16 for any calendar year after 2008 shall not
17 be less than the area median gross income
18 determined under such subparagraph with
19 respect to such project for the calendar
20 year preceding the calendar year for which
21 such determination is made.

22 “(ii) SPECIAL RULE FOR CERTAIN
23 CENSUS CHANGES.—In the case of a HUD
24 hold harmless impacted project, the area
25 median gross income with respect to such

1 project for any calendar year after 2008
2 (hereafter in this clause referred to as the
3 current calendar year) shall be the greater
4 of the amount determined without regard
5 to this clause or the sum of—

6 “(I) the area median gross in-
7 come determined under the HUD hold
8 harmless policy with respect to such
9 project for calendar year 2008, plus

10 “(II) any increase in the area
11 median gross income determined
12 under subparagraph (B) (determined
13 without regard to the HUD hold
14 harmless policy and this subpara-
15 graph) with respect to such project
16 for the current calendar year over the
17 area median gross income (as so de-
18 termined) with respect to such project
19 for calendar year 2008.

20 “(iii) HUD HOLD HARMLESS POL-
21 ICY.—The term ‘HUD hold harmless pol-
22 icy’ means the regulations under which a
23 policy similar to the rules of clause (i) ap-
24 plied to prevent a change in the method of
25 determining area median gross income

1 from resulting in a reduction in the area
2 median gross income determined with re-
3 spect to certain projects in calendar years
4 2007 and 2008.

5 “(iv) HUD HOLD HARMLESS IM-
6 PACTED PROJECT.—The term ‘HUD hold
7 harmless impacted project’ means any
8 project with respect to which area median
9 gross income was determined under sub-
10 paragraph (B) for calendar year 2007 or
11 2008 if such determination would have
12 been less but for the HUD hold harmless
13 policy.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to determinations of area median
16 gross income for calendar years after 2008.

17 **SEC. 3010. EXCEPTION TO ANNUAL CURRENT INCOME DE-**
18 **TERMINATION REQUIREMENT WHERE DE-**
19 **TERMINATION NOT RELEVANT.**

20 (a) IN GENERAL.—Subparagraph (A) of section
21 142(d)(3) is amended by adding at the end the following
22 new sentence: “The preceding sentence shall not apply
23 with respect to any project for any year if during such
24 year no residential unit in the project is occupied by a

1 new resident whose income exceeds the applicable income
2 limit.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to years ending after the date of
5 the enactment of this Act.

6 **Subtitle B—Single Family Housing**

7 **SEC. 3011. FIRST-TIME HOMEBUYER CREDIT.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 is amended by redesignating sec-
10 tion 36 as section 37 and by inserting after section 35
11 the following new section:

12 **“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
14 dividual who is a first-time homebuyer of a principal resi-
15 dence in the United States during a taxable year, there
16 shall be allowed as a credit against the tax imposed by
17 this subtitle for such taxable year an amount equal to 10
18 percent of the purchase price of the residence.

19 “(b) LIMITATIONS.—

20 “(1) DOLLAR LIMITATION.—

21 “(A) IN GENERAL.—Except as otherwise
22 provided in this paragraph, the credit allowed
23 under subsection (a) shall not exceed \$7,500.

24 “(B) MARRIED INDIVIDUALS FILING SEPA-
25 RATELY.—In the case of a married individual

1 filing a separate return, subparagraph (A) shall
2 be applied by substituting ‘\$3,750’ for ‘\$7,500’.

3 “(C) OTHER INDIVIDUALS.—If two or
4 more individuals who are not married purchase
5 a principal residence, the amount of the credit
6 allowed under subsection (a) shall be allocated
7 among such individuals in such manner as the
8 Secretary may prescribe, except that the total
9 amount of the credits allowed to all such indi-
10 viduals shall not exceed \$7,500.

11 “(2) LIMITATION BASED ON MODIFIED AD-
12 JUSTED GROSS INCOME.—

13 “(A) IN GENERAL.—The amount allowable
14 as a credit under subsection (a) (determined
15 without regard to this paragraph) for the tax-
16 able year shall be reduced (but not below zero)
17 by the amount which bears the same ratio to
18 the amount which is so allowable as—

19 “(i) the excess (if any) of—

20 “(I) the taxpayer’s modified ad-
21 justed gross income for such taxable
22 year, over

23 “(II) \$75,000 (\$150,000 in the
24 case of a joint return), bears to

25 “(ii) \$20,000.

1 “(B) MODIFIED ADJUSTED GROSS IN-
2 COME.—For purposes of subparagraph (A), the
3 term ‘modified adjusted gross income’ means
4 the adjusted gross income of the taxpayer for
5 the taxable year increased by any amount ex-
6 cluded from gross income under section 911,
7 931, or 933.

8 “(c) DEFINITIONS.—For purposes of this section—

9 “(1) FIRST-TIME HOMEBUYER.—The term
10 ‘first-time homebuyer’ means any individual if such
11 individual (and if married, such individual’s spouse)
12 had no present ownership interest in a principal resi-
13 dence during the 3-year period ending on the date
14 of the purchase of the principal residence to which
15 this section applies.

16 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
17 cipal residence’ has the same meaning as when used
18 in section 121.

19 “(3) PURCHASE.—

20 “(A) IN GENERAL.—The term ‘purchase’
21 means any acquisition, but only if—

22 “(i) the property is not acquired from
23 a person related to the person acquiring
24 such property, and

1 “(ii) the basis of the property in the
2 hands of the person acquiring such prop-
3 erty is not determined—

4 “(I) in whole or in part by ref-
5 erence to the adjusted basis of such
6 property in the hands of the person
7 from whom acquired, or

8 “(II) under section 1014(a) (re-
9 lating to property acquired from a de-
10 cedent).

11 “(B) CONSTRUCTION.—A residence which
12 is constructed by the taxpayer shall be treated
13 as purchased by the taxpayer on the date the
14 taxpayer first occupies such residence.

15 “(4) PURCHASE PRICE.—The term ‘purchase
16 price’ means the adjusted basis of the principal resi-
17 dence on the date such residence is purchased.

18 “(5) RELATED PERSONS.—A person shall be
19 treated as related to another person if the relation-
20 ship between such persons would result in the dis-
21 allowance of losses under section 267 or 707(b) (but,
22 in applying section 267(b) and (c) for purposes of
23 this section, paragraph (4) of section 267(c) shall be
24 treated as providing that the family of an individual

1 shall include only his spouse, ancestors, and lineal
2 descendants).

3 “(d) EXCEPTIONS.—No credit under subsection (a)
4 shall be allowed to any taxpayer for any taxable year with
5 respect to the purchase of a residence if—

6 “(1) a credit under section 1400C (relating to
7 first-time homebuyer in the District of Columbia) is
8 allowable to the taxpayer (or the taxpayer’s spouse)
9 for such taxable year or any prior taxable year,

10 “(2) the residence is financed by the proceeds
11 of a qualified mortgage issue the interest on which
12 is exempt from tax under section 103,

13 “(3) the taxpayer is a nonresident alien, or

14 “(4) the taxpayer disposes of such residence (or
15 such residence ceases to be the principal residence of
16 the taxpayer (and, if married, the taxpayer’s
17 spouse)) before the close of such taxable year.

18 “(e) REPORTING.—If the Secretary requires informa-
19 tion reporting under section 6045 by a person described
20 in subsection (e)(2) thereof to verify the eligibility of tax-
21 payers for the credit allowable by this section, the excep-
22 tion provided by section 6045(e) shall not apply.

23 “(f) RECAPTURE OF CREDIT.—

24 “(1) IN GENERAL.—Except as otherwise pro-
25 vided in this subsection, if a credit under subsection

1 (a) is allowed to a taxpayer, the tax imposed by this
2 chapter shall be increased by $6\frac{2}{3}$ percent of the
3 amount of such credit for each taxable year in the
4 recapture period.

5 “(2) ACCELERATION OF RECAPTURE.—If a tax-
6 payer disposes of the principal residence with respect
7 to which a credit was allowed under subsection (a)
8 (or such residence ceases to be the principal resi-
9 dence of the taxpayer (and, if married, the tax-
10 payer’s spouse)) before the end of the recapture pe-
11 riod—

12 “(A) the tax imposed by this chapter for
13 the taxable year of such disposition or cessation
14 shall be increased by the excess of the amount
15 of the credit allowed over the amounts of tax
16 imposed by paragraph (1) for preceding taxable
17 years, and

18 “(B) paragraph (1) shall not apply with
19 respect to such credit for such taxable year or
20 any subsequent taxable year.

21 “(3) LIMITATION BASED ON GAIN.—In the case
22 of the sale of the principal residence to a person who
23 is not related to the taxpayer, the increase in tax de-
24 termined under paragraph (2) shall not exceed the
25 amount of gain (if any) on such sale. Solely for pur-

1 poses of the preceding sentence, the adjusted basis
2 of such residence shall be reduced by the amount of
3 the credit allowed under subsection (a) to the extent
4 not previously recaptured under paragraph (1).

5 “(4) EXCEPTIONS.—

6 “(A) DEATH OF TAXPAYER.—Paragraphs
7 (1) and (2) shall not apply to any taxable year
8 ending after the date of the taxpayer’s death.

9 “(B) INVOLUNTARY CONVERSION.—Para-
10 graph (2) shall not apply in the case of a resi-
11 dence which is compulsorily or involuntarily
12 converted (within the meaning of section
13 1033(a)) if the taxpayer acquires a new prin-
14 cipal residence during the 2-year period begin-
15 ning on the date of the disposition or cessation
16 referred to in paragraph (2). Paragraph (2)
17 shall apply to such new principal residence dur-
18 ing the recapture period in the same manner as
19 if such new principal residence were the con-
20 verted residence.

21 “(C) TRANSFERS BETWEEN SPOUSES OR
22 INCIDENT TO DIVORCE.—In the case of a trans-
23 fer of a residence to which section 1041(a) ap-
24 plies—

1 “(i) paragraph (2) shall not apply to
2 such transfer, and

3 “(ii) in the case of taxable years end-
4 ing after such transfer, paragraphs (1) and
5 (2) shall apply to the transferee in the
6 same manner as if such transferee were
7 the transferor (and shall not apply to the
8 transferor).

9 “(5) JOINT RETURNS.—In the case of a credit
10 allowed under subsection (a) with respect to a joint
11 return, half of such credit shall be treated as having
12 been allowed to each individual filing such return for
13 purposes of this subsection.

14 “(6) RETURN REQUIREMENT.—If the tax im-
15 posed by this chapter for the taxable year is in-
16 creased under this subsection, the taxpayer shall,
17 notwithstanding section 6012, be required to file a
18 return with respect to the taxes imposed under this
19 subtitle.

20 “(7) RECAPTURE PERIOD.—For purposes of
21 this subsection, the term ‘recapture period’ means
22 the 15 taxable years beginning with the second tax-
23 able year following the taxable year in which the
24 purchase of the principal residence for which a cred-
25 it is allowed under subsection (a) was made.

1 “(g) ELECTION TO TREAT PURCHASE IN PRIOR
2 YEAR.—In the case of a purchase of a principal residence
3 after December 31, 2008, and before July 1, 2009, a tax-
4 payer may elect to treat such purchase as made on Decem-
5 ber 31, 2008, for purposes of this section (other than sub-
6 section (c)).

7 “(h) APPLICATION OF SECTION.—This section shall
8 only apply to a principal residence purchased by the tax-
9 payer on or after April 9, 2008, and before July 1, 2009.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 26(b)(2) is amended by striking
12 “and” at the end of subparagraph (U), by striking
13 the period and inserting “, and” and the end of sub-
14 paragraph (V), and by inserting after subparagraph
15 (V) the following new subparagraph:

16 “(W) section 36(f) (relating to recapture of
17 homebuyer credit).”.

18 (2) Section 6211(b)(4)(A) is amended by strik-
19 ing “34,” and all that follows through “6428” and
20 inserting “34, 35, 36, 53(e), and 6428”.

21 (3) Section 1324(b)(2) of title 31, United
22 States Code, is amended by inserting “36,” after
23 “35,”.

24 (4) The table of sections for subpart C of part
25 IV of subchapter A of chapter 1 is amended by re-

1 designating the item relating to section 36 as an
2 item relating to section 37 and by inserting before
3 such item the following new item:

“Sec. 36. First-time homebuyer credit.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to residences purchased on or after
6 April 9, 2008, in taxable years ending on or after such
7 date.

8 **SEC. 3012. ADDITIONAL STANDARD DEDUCTION FOR REAL**
9 **PROPERTY TAXES FOR NONITEMIZERS.**

10 (a) IN GENERAL.—Section 63(c)(1) (defining stand-
11 ard deduction) is amended by striking “and” at the end
12 of subparagraph (A), by striking the period at the end
13 of subparagraph (B) and inserting “, and”, and by adding
14 at the end the following new subparagraph:

15 “(C) in the case of any taxable year begin-
16 ning in 2008, the real property tax deduction.”.

17 (b) DEFINITION.—Section 63(c) is amended by add-
18 ing at the end the following new paragraph:

19 “(7) REAL PROPERTY TAX DEDUCTION.—For
20 purposes of paragraph (1), the real property tax de-
21 duction is the lesser of—

22 “(A) the amount allowable as a deduction
23 under this chapter for State and local taxes de-
24 scribed in section 164(a)(1), or

1 “(B) \$500 (\$1,000 in the case of a joint
2 return).

3 Any taxes taken into account under section 62(a)
4 shall not be taken into account under this para-
5 graph.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2007.

9 **Subtitle C—General Provisions**

10 **SEC. 3021. TEMPORARY LIBERALIZATION OF TAX-EXEMPT** 11 **HOUSING BOND RULES.**

12 (a) TEMPORARY INCREASE IN VOLUME CAP.—

13 (1) IN GENERAL.—Subsection (d) of section
14 146 is amended by adding at the end the following
15 new paragraph:

16 “(5) INCREASE AND SET ASIDE FOR HOUSING
17 BONDS FOR 2008.—

18 “(A) INCREASE FOR 2008.—In the case of
19 calendar year 2008, the State ceiling for each
20 State shall be increased by an amount equal to
21 \$11,000,000,000 multiplied by a fraction—

22 “(i) the numerator of which is the
23 State ceiling applicable to the State for
24 calendar year 2008, determined without re-
25 gard to this paragraph, and

1 “(ii) the denominator of which is the
2 sum of the State ceilings determined under
3 clause (i) for all States.

4 “(B) SET ASIDE.—

5 “(i) IN GENERAL.—Any amount of
6 the State ceiling for any State which is at-
7 tributable to an increase under this para-
8 graph shall be allocated solely for one or
9 more qualified housing issues.

10 “(ii) QUALIFIED HOUSING ISSUE.—
11 For purposes of this paragraph, the term
12 ‘qualified housing issue’ means—

13 “(I) an issue described in section
14 142(a)(7) (relating to qualified resi-
15 dential rental projects), or

16 “(II) a qualified mortgage issue
17 (determined by substituting ‘12-month
18 period’ for ‘42-month period’ each
19 place it appears in section
20 143(a)(2)(D)(i)).”.

21 (2) CARRYFORWARD OF UNUSED LIMITA-
22 TIONS.—Subsection (f) of section 146 is amended by
23 adding at the end the following new paragraph:

24 “(6) SPECIAL RULES FOR INCREASED VOLUME
25 CAP UNDER SUBSECTION (d)(5).—No amount which

1 is attributable to the increase under subsection
2 (d)(5) may be used—

3 “(A) for any issue other than a qualified
4 housing issue (as defined in subsection (d)(5)),
5 or

6 “(B) to issue any bond after calendar year
7 2010.”.

8 (b) TEMPORARY RULE FOR USE OF QUALIFIED
9 MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFI-
10 NANCING LOANS.—

11 (1) IN GENERAL.—Section 143(k) (relating to
12 other definitions and special rules) is amended by
13 adding at the end the following new paragraph:

14 “(12) SPECIAL RULES FOR SUBPRIME
15 REFINANCINGS.—

16 “(A) IN GENERAL.—Notwithstanding the
17 requirements of subsection (i)(1), the proceeds
18 of a qualified mortgage issue may be used to re-
19 finance a mortgage on a residence which was
20 originally financed by the mortgagor through a
21 qualified subprime loan.

22 “(B) SPECIAL RULES.—In applying sub-
23 paragraph (A) to any refinancing—

24 “(i) subsection (a)(2)(D)(i) shall be
25 applied by substituting ‘12-month period’

1 for '42-month period' each place it ap-
2 pears,

3 “(ii) subsection (d) (relating to 3-year
4 requirement) shall not apply, and

5 “(iii) subsection (e) (relating to pur-
6 chase price requirement) shall be applied
7 by using the market value of the residence
8 at the time of refinancing in lieu of the ac-
9 quisition cost.

10 “(C) QUALIFIED SUBPRIME LOAN.—The
11 term ‘qualified subprime loan’ means an adjust-
12 able rate single-family residential mortgage loan
13 made after December 31, 2001, and before
14 January 1, 2008, that the bond issuer deter-
15 mines would be reasonably likely to cause finan-
16 cial hardship to the borrower if not refinanced.

17 “(D) TERMINATION.—This paragraph
18 shall not apply to any bonds issued after De-
19 cember 31, 2010.”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to bonds issued after the date of
22 the enactment of this Act.

1 **SEC. 3022. REPEAL OF ALTERNATIVE MINIMUM TAX LIMI-**
2 **TATIONS ON TAX-EXEMPT HOUSING BONDS,**
3 **LOW-INCOME HOUSING TAX CREDIT, AND RE-**
4 **HABILITATION CREDIT.**

5 (a) TAX-EXEMPT INTEREST ON CERTAIN HOUSING
6 BONDS EXEMPTED FROM ALTERNATIVE MINIMUM
7 TAX.—

8 (1) IN GENERAL.—Subparagraph (C) of section
9 57(a)(5) (relating to specified private activity bonds)
10 is amended by redesignating clauses (iii) and (iv) as
11 clauses (iv) and (v), respectively, and by inserting
12 after clause (ii) the following new clause:

13 “(iii) EXCEPTION FOR CERTAIN HOUS-
14 ING BONDS.—For purposes of clause (i),
15 the term ‘private activity bond’ shall not
16 include any bond issued after the date of
17 the enactment of this clause if such bond
18 is—

19 “(I) an exempt facility bond
20 issued as part of an issue 95 percent
21 or more of the net proceeds of which
22 are to be used to provide qualified res-
23 idential rental projects (as defined in
24 section 142(d)),

25 “(II) a qualified mortgage bond
26 (as defined in section 143(a)), or

1 “(III) a qualified veterans’ mort-
2 gage bond (as defined in section
3 143(b)).

4 The preceding sentence shall not apply to
5 any refunding bond unless such preceding
6 sentence applied to the refunded bond (or
7 in the case of a series of refundings, the
8 original bond).”.

9 (2) NO ADJUSTMENT TO ADJUSTED CURRENT
10 EARNINGS.—Subparagraph (B) of section 56(g)(4)
11 is amended by adding at the end the following new
12 clause:

13 “(iii) TAX EXEMPT INTEREST ON CER-
14 TAIN HOUSING BONDS.—Clause (i) shall
15 not apply in the case of any interest on a
16 bond to which section 57(a)(5)(C)(iii) ap-
17 plies.”.

18 (b) ALLOWANCE OF LOW-INCOME HOUSING CREDIT
19 AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph
20 (B) of section 38(c)(4) (relating to specified credits) is
21 amended by redesignating clauses (ii) through (iv) as
22 clauses (iii) through (v) and inserting after clause (i) the
23 following new clause:

24 “(ii) the credit determined under sec-
25 tion 42 to the extent attributable to build-

1 ings placed in service after December 31,
2 2007,”.

3 (c) ALLOWANCE OF REHABILITATION CREDIT
4 AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph
5 (B) of section 38(c)(4), as amended by subsection (b), is
6 amended by striking “and” at the end of clause (iv), by
7 redesignating clause (v) as clause (vi), and by inserting
8 after clause (iv) the following new clause:

9 “(v) the credit determined under sec-
10 tion 47 to the extent attributable to quali-
11 fied rehabilitation expenditures properly
12 taken into account for periods after De-
13 cember 31, 2007, and”.

14 (d) EFFECTIVE DATE.—

15 (1) HOUSING BONDS.—The amendments made
16 by subsection (a) shall apply to bonds issued after
17 the date of the enactment of this Act.

18 (2) LOW INCOME HOUSING CREDIT.—The
19 amendments made by subsection (b) shall apply to
20 credits determined under section 42 of the Internal
21 Revenue Code of 1986 to the extent attributable to
22 buildings placed in service after December 31, 2007.

23 (3) REHABILITATION CREDIT.—The amend-
24 ments made by subsection (c) shall apply to credits
25 determined under section 47 of the Internal Revenue

1 Code of 1986 to the extent attributable to qualified
2 rehabilitation expenditures properly taken into ac-
3 count for periods after December 31, 2007.

4 **SEC. 3023. BONDS GUARANTEED BY FEDERAL HOME LOAN**
5 **BANKS ELIGIBLE FOR TREATMENT AS TAX-**
6 **EXEMPT BONDS.**

7 (a) IN GENERAL.—Subparagraph (A) of section
8 149(b)(3) (relating to exceptions for certain insurance
9 programs) is amended by striking “or” at the end of
10 clause (ii), by striking the period at the end of clause (iii)
11 and inserting “, or” and by adding at the end the following
12 new clause:

13 “(iv) subject to subparagraph (E),
14 any guarantee by a Federal home loan
15 bank made in connection with the original
16 issuance of a bond during the period begin-
17 ning on the date of the enactment of this
18 clause and ending on December 31, 2010
19 (or a renewal or extension of a guarantee
20 so made).”.

21 (b) SAFETY AND SOUNDNESS REQUIREMENTS.—
22 Paragraph (3) of section 149(b) is amended by adding at
23 the end the following new subparagraph:

24 “(E) SAFETY AND SOUNDNESS REQUIRE-
25 MENTS FOR FEDERAL HOME LOAN BANKS.—

1 Clause (iv) of subparagraph (A) shall not apply
2 to any guarantee by a Federal home loan bank
3 unless such bank meets safety and soundness
4 collateral requirements for such guarantees
5 which are at least as stringent as such require-
6 ments which apply under regulations applicable
7 to such guarantees by Federal home loan banks
8 as in effect on April 9, 2008.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to guarantees made after the date
11 of the enactment of this Act.

12 **SEC. 3024. MODIFICATION OF RULES PERTAINING TO**
13 **FIRPTA NONFOREIGN AFFIDAVITS.**

14 (a) IN GENERAL.—Subsection (b) of section 1445
15 (relating to exemptions) is amended by adding at the end
16 the following:

17 “(9) ALTERNATIVE PROCEDURE FOR FUR-
18 NISHING NONFOREIGN AFFIDAVIT.—For purposes of
19 paragraphs (2) and (7)—

20 “(A) IN GENERAL.—Paragraph (2) shall
21 be treated as applying to a transaction if, in
22 connection with a disposition of a United States
23 real property interest—

1 “(i) the affidavit specified in para-
2 graph (2) is furnished to a qualified sub-
3 stitute, and

4 “(ii) the qualified substitute furnishes
5 a statement to the transferee stating,
6 under penalty of perjury, that the qualified
7 substitute has such affidavit in his posses-
8 sion.

9 “(B) REGULATIONS.—The Secretary shall
10 prescribe such regulations as may be necessary
11 or appropriate to carry out this paragraph.”.

12 (b) QUALIFIED SUBSTITUTE.—Subsection (f) of sec-
13 tion 1445 (relating to definitions) is amended by adding
14 at the end the following new paragraph:

15 “(6) QUALIFIED SUBSTITUTE.—The term
16 ‘qualified substitute’ means, with respect to a dis-
17 position of a United States real property interest—

18 “(A) the person (including any attorney or
19 title company) responsible for closing the trans-
20 action, other than the transferor’s agent, and

21 “(B) the transferee’s agent.”.

22 (c) EXEMPTION NOT TO APPLY IF KNOWLEDGE OR
23 NOTICE THAT AFFIDAVIT OR STATEMENT IS FALSE.—

1 (1) IN GENERAL.—Paragraph (7) of section
2 1445(b) (relating to special rules for paragraphs (2)
3 and (3)) is amended to read as follows:

4 “(7) SPECIAL RULES FOR PARAGRAPHS (2), (3),
5 AND (9).—Paragraph (2), (3), or (9) (as the case
6 may be) shall not apply to any disposition—

7 “(A) if—

8 “(i) the transferee or qualified sub-
9 stitute has actual knowledge that the affi-
10 davit referred to in such paragraph, or the
11 statement referred to in paragraph
12 (9)(A)(ii), is false, or

13 “(ii) the transferee or qualified sub-
14 stitute receives a notice (as described in
15 subsection (d)) from a transferor’s agent,
16 transferee’s agent, or qualified substitute
17 that such affidavit or statement is false, or

18 “(B) if the Secretary by regulations re-
19 quires the transferee or qualified substitute to
20 furnish a copy of such affidavit or statement to
21 the Secretary and the transferee or qualified
22 substitute fails to furnish a copy of such affi-
23 davit or statement to the Secretary at such
24 time and in such manner as required by such
25 regulations.”.

1 (2) LIABILITY.—

2 (A) NOTICE.—Paragraph (1) of section
3 1445(d) (relating to notice of false affidavit;
4 foreign corporations) is amended to read as fol-
5 lows:

6 “(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN
7 CORPORATIONS.—If—

8 “(A) the transferor furnishes the trans-
9 feree or qualified substitute an affidavit de-
10 scribed in paragraph (2) of subsection (b) or a
11 domestic corporation furnishes the transferee
12 an affidavit described in paragraph (3) of sub-
13 section (b), and

14 “(B) in the case of—

15 “(i) any transferor’s agent—

16 “(I) such agent has actual knowl-
17 edge that such affidavit is false, or

18 “(II) in the case of an affidavit
19 described in subsection (b)(2) fur-
20 nished by a corporation, such corpora-
21 tion is a foreign corporation, or

22 “(ii) any transferee’s agent or quali-
23 fied substitute, such agent or substitute
24 has actual knowledge that such affidavit is
25 false,

1 such agent or qualified substitute shall so notify
2 the transferee at such time and in such manner
3 as the Secretary shall require by regulations.”.

4 (B) FAILURE TO FURNISH NOTICE.—Para-
5 graph (2) of section 1445(d) (relating to failure
6 to furnish notice) is amended to read as follows:

7 “(2) FAILURE TO FURNISH NOTICE.—

8 “(A) IN GENERAL.—If any transferor’s
9 agent, transferee’s agent, or qualified substitute
10 is required by paragraph (1) to furnish notice,
11 but fails to furnish such notice at such time or
12 times and in such manner as may be required
13 by regulations, such agent or substitute shall
14 have the same duty to deduct and withhold that
15 the transferee would have had if such agent or
16 substitute had complied with paragraph (1).

17 “(B) LIABILITY LIMITED TO AMOUNT OF
18 COMPENSATION.—An agent’s or substitute’s li-
19 ability under subparagraph (A) shall be limited
20 to the amount of compensation the agent or
21 substitute derives from the transaction.”.

22 (C) CONFORMING AMENDMENT.—The
23 heading for section 1445(d) is amended by
24 striking “OR TRANSFEREE’S AGENTS” and in-

1 serting “, TRANSFEREE’S AGENTS, OR QUALI-
2 FIED SUBSTITUTES”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to dispositions of United States
5 real property interests after the date of the enactment of
6 this Act.

7 **SEC. 3025. MODIFICATION OF DEFINITION OF TAX-EXEMPT**
8 **USE PROPERTY FOR PURPOSES OF THE RE-**
9 **HABILITATION CREDIT.**

10 (a) **IN GENERAL.**—Subclause (I) of section
11 47(c)(2)(B)(v) is amended by striking “section 168(h)”
12 and inserting “section 168(h), except that ‘50 percent’
13 shall be substituted for ‘35 percent’ in paragraph
14 (1)(B)(iii) thereof”.

15 (b) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to expenditures properly taken into
17 account for periods after December 31, 2007.

18 **SEC. 3026. EXTENSION OF SPECIAL RULE FOR MORTGAGE**
19 **REVENUE BONDS FOR RESIDENCES LOCATED**
20 **IN DISASTER AREAS.**

21 (a) **IN GENERAL.**—Paragraph (11) of section 143(k)
22 is amended—

23 (1) by striking “December 31, 1996” and in-
24 serting “May 1, 2008”, and

1 (2) by striking “January 1, 1999” and insert-
2 ing “January 1, 2010”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to bonds issued after May 1, 2008.

5 **SEC. 3027. TRANSFER OF FUNDS APPROPRIATED TO CARRY**
6 **OUT 2008 RECOVERY REBATES FOR INDIVID-**
7 **UALS.**

8 Of the funds made available by section 101(e)(1)(A)
9 of the Economic Stimulus Act of 2008 (Public Law 110-
10 185), the Secretary of the Treasury may transfer funds
11 among the accounts specified in such section to carry out
12 section 6428 of the Internal Revenue Code of 1986. The
13 Secretary shall provide advance notification of any such
14 transfer to the Committees on Appropriations of the
15 House of Representatives and the Senate, and any trans-
16 fer greater than \$5,000,000 shall be subject to the ap-
17 proval of such Committees.

18 **TITLE II—REFORMS RELATED**
19 **TO REAL ESTATE INVEST-**
20 **MENT TRUSTS**

21 **Subtitle A—Foreign Currency and**
22 **Other Qualified Activities**

23 **SEC. 3031. REVISIONS TO REIT INCOME TESTS.**

24 (a) FOREIGN CURRENCY GAINS NOT GROSS INCOME
25 IN APPLYING REIT INCOME TESTS.—Section 856 (defin-

1 ing real estate investment trust) is amended by adding at
2 the end the following new subsection:

3 “(n) RULES REGARDING FOREIGN CURRENCY
4 TRANSACTIONS.—

5 “(1) IN GENERAL.—For purposes of this part—

6 “(A) passive foreign exchange gain for any
7 taxable year shall not constitute gross income
8 for purposes of subsection (c)(2), and

9 “(B) real estate foreign exchange gain for
10 any taxable year shall not constitute gross in-
11 come for purposes of subsection (c)(3).

12 “(2) REAL ESTATE FOREIGN EXCHANGE
13 GAIN.—For purposes of this subsection, the term
14 ‘real estate foreign exchange gain’ means—

15 “(A) foreign currency gain (as defined in
16 section 988(b)(1)) which is attributable to—

17 “(i) any item of income or gain de-
18 scribed in subsection (c)(3),

19 “(ii) the acquisition or ownership of
20 obligations secured by mortgages on real
21 property or on interests in real property
22 (other than foreign currency gain attrib-
23 utable to any item of income or gain de-
24 scribed in clause (i)), or

1 “(iii) becoming or being the obligor
2 under obligations secured by mortgages on
3 real property or on interests in real prop-
4 erty (other than foreign currency gain at-
5 tributable to any item of income or gain
6 described in clause (i)),

7 “(B) section 987 gain attributable to a
8 qualified business unit (as defined by section
9 989) of the real estate investment trust, but
10 only if such qualified business unit meets the
11 requirements under—

12 “(i) subsection (c)(3) for the taxable
13 year, and

14 “(ii) subsection (c)(4)(A) at the close
15 of each quarter that the real estate invest-
16 ment trust has directly or indirectly held
17 the qualified business unit, and

18 “(C) any other foreign currency gain as
19 determined by the Secretary.

20 “(3) PASSIVE FOREIGN EXCHANGE GAIN.—For
21 purposes of this subsection, the term ‘passive foreign
22 exchange gain’ means—

23 “(A) real estate foreign exchange gain,

24 “(B) foreign currency gain (as defined in
25 section 988(b)(1)) which is not described in

1 subparagraph (A) and which is attributable
2 to—

3 “(i) any item of income or gain de-
4 scribed in subsection (c)(2),

5 “(ii) the acquisition or ownership of
6 obligations (other than foreign currency
7 gain attributable to any item of income or
8 gain described in clause (i)), or

9 “(iii) becoming or being the obligor
10 under obligations (other than foreign cur-
11 rency gain attributable to any item of in-
12 come or gain described in clause (i)), and

13 “(C) any other foreign currency gain as
14 determined by the Secretary.

15 “(4) EXCEPTION FOR INCOME FROM SUBSTAN-
16 TIAL AND REGULAR TRADING.—Notwithstanding
17 this subsection or any other provision of this part,
18 any section 988 gain derived by a corporation, trust,
19 or association from dealing, or engaging in substan-
20 tial and regular trading, in securities (as defined in
21 section 475(c)(2)) shall constitute gross income
22 which does not qualify under paragraph (2) or (3)
23 of subsection (c). This paragraph shall not apply to
24 income which does not constitute gross income by
25 reason of subsection (c)(5)(G).”.

1 (b) ADDITION TO REIT HEDGING RULE.—Subpara-
2 graph (G) of section 856(c)(5) is amended to read as fol-
3 lows:

4 “(G) TREATMENT OF CERTAIN HEDGING
5 INSTRUMENTS.—Except to the extent as deter-
6 mined by the Secretary—

7 “(i) any income of a real estate in-
8 vestment trust from a hedging transaction
9 (as defined in clause (ii) or (iii) of section
10 1221(b)(2)(A)) which is clearly identified
11 pursuant to section 1221(a)(7), including
12 gain from the sale or disposition of such a
13 transaction, shall not constitute gross in-
14 come under paragraphs (2) and (3) to the
15 extent that the transaction hedges any in-
16 debtedness incurred or to be incurred by
17 the trust to acquire or carry real estate as-
18 sets, and

19 “(ii) any income of a real estate in-
20 vestment trust from a transaction entered
21 into by the trust primarily to manage risk
22 of currency fluctuations with respect to
23 any item of income or gain described in
24 paragraph (2) or (3) (or any property
25 which generates such income or gain), in-

1 cluding gain from the termination of such
2 a transaction, shall not constitute gross in-
3 come under paragraphs (2) and (3), but
4 only if such transaction is clearly identified
5 as such before the close of the day on
6 which it was acquired, originated, or en-
7 tered into (or such other time as the Sec-
8 retary may prescribe).”.

9 (c) AUTHORITY TO EXCLUDE ITEMS OF INCOME
10 FROM REIT INCOME TESTS.—Section 856(c)(5) is
11 amended by adding at the end the following new subpara-
12 graph:

13 “(J) SECRETARIAL AUTHORITY TO EX-
14 CLUDE OTHER ITEMS OF INCOME.—To the ex-
15 tent necessary to carry out the purposes of this
16 part, the Secretary is authorized to determine,
17 solely for purposes of this part, whether any
18 item of income or gain which—

19 “(i) does not otherwise qualify under
20 paragraph (2) or (3) may be considered as
21 not constituting gross income for purposes
22 of paragraphs (2) or (3), or

23 “(ii) otherwise constitutes gross in-
24 come not qualifying under paragraph (2)
25 or (3) may be considered as gross income

1 which qualifies under paragraph (2) or
2 (3).”.

3 **SEC. 3032. REVISIONS TO REIT ASSET TESTS.**

4 (a) CLARIFICATION OF VALUATION TEST.—The first
5 sentence in the matter following section
6 856(c)(4)(B)(iii)(III) is amended by inserting “(including
7 a discrepancy caused solely by the change in the foreign
8 currency exchange rate used to value a foreign asset)”
9 after “such requirements”.

10 (b) CLARIFICATION OF PERMISSIBLE ASSET CAT-
11 EGORY.—Section 856(c)(5), as amended by section
12 3031(c), is amended by adding at the end the following
13 new subparagraph:

14 “(K) CASH.—If the real estate investment
15 trust or its qualified business unit (as defined
16 in section 989) uses any foreign currency as its
17 functional currency (as defined in section
18 985(b)), the term ‘cash’ includes such foreign
19 currency but only to the extent such foreign
20 currency—

21 “(i) is held for use in the normal
22 course of the activities of the trust or
23 qualified business unit which give rise to
24 items of income or gain described in para-
25 graph (2) or (3) of subsection (c) or are

1 directly related to acquiring or holding as-
2 sets described in subsection (c)(4), and
3 “(ii) is not held in connection with an
4 activity described in subsection (n)(4).”.

5 **SEC. 3033. CONFORMING FOREIGN CURRENCY REVISIONS.**

6 (a) NET INCOME FROM FORECLOSURE PROPERTY.—
7 Clause (i) of section 857(b)(4)(B) is amended to read as
8 follows:

9 “(i) gain (including any foreign cur-
10 rency gain, as defined in section 988(b)(1))
11 from the sale or other disposition of fore-
12 closure property described in section
13 1221(a)(1) and the gross income for the
14 taxable year derived from foreclosure prop-
15 erty (as defined in section 856(e)), but
16 only to the extent such gross income is not
17 described in (or, in the case of foreign cur-
18 rency gain, not attributable to gross in-
19 come described in) section 856(e)(3) other
20 than subparagraph (F) thereof, over”.

21 (b) NET INCOME FROM PROHIBITED TRANS-
22 ACTIONS.—Clause (i) of section 857(b)(6)(B) is amended
23 to read as follows:

24 “(i) the term ‘net income derived from
25 prohibited transactions’ means the excess

1 of the gain (including any foreign currency
2 gain, as defined in section 988(b)(1)) from
3 prohibited transactions over the deductions
4 (including any foreign currency loss, as de-
5 fined in section 988(b)(2)) allowed by this
6 chapter which are directly connected with
7 prohibited transactions;”.

8 **Subtitle B—Taxable REIT** 9 **Subsidiaries**

10 **SEC. 3041. CONFORMING TAXABLE REIT SUBSIDIARY ASSET**

11 **TEST.**

12 Section 856(c)(4)(B)(ii) is amended—

13 (1) by striking “20 percent” and inserting “25
14 percent”, and

15 (2) by striking “REIT subsidiaries” and all
16 that follows, and inserting “REIT subsidiaries,”.

17 **Subtitle C—Dealer Sales**

18 **SEC. 3051. HOLDING PERIOD UNDER SAFE HARBOR.**

19 (a) IN GENERAL.—Section 857(b)(6) (relating to in-
20 come from prohibited transactions) is amended—

21 (1) by striking “4 years” in subparagraphs
22 (C)(i), (C)(iv), and (D)(i) and inserting “2 years”,

23 (2) by striking “4-year period” in subpara-
24 graphs (C)(ii), (D)(ii), and (D)(iii) and inserting “2-
25 year period”, and

1 (3) by striking “real estate asset” and all that
2 follows through “if” in the matter preceding clause
3 (i) of subparagraphs (C) and (D), respectively, and
4 inserting “real estate asset (as defined in section
5 856(c)(5)(B)) and which is described in section
6 1221(a)(1) if”.

7 (b) RETENTION OF EXISTING LAW.—Section
8 857(b)(6) is amended—

9 (1) by striking subparagraph (G) and redesignating
10 subparagraphs (H) and (I) as subparagraphs
11 (G) and (H), respectively, and

12 (2) in subparagraph (G), as so redesignated, by
13 adding at the end the following: “For purposes of
14 the preceding sentence, the reference to subpara-
15 graph (D) shall be a reference to such subparagraph
16 as in effect on the day before the enactment of the
17 Housing Assistance Tax Act of 2008, as modified by
18 subparagraph (G) as so in effect.”.

19 **SEC. 3052. DETERMINING VALUE OF SALES UNDER SAFE**
20 **HARBOR.**

21 Section 857(b)(6) is amended—

22 (1) by striking the semicolon at the end of sub-
23 paragraph (C)(iii) and inserting “, or (III) the fair
24 market value of property (other than sales of fore-
25 closure property or sales to which section 1033 ap-

1 plies) sold during the taxable year does not exceed
2 10 percent of the fair market value of all of the as-
3 sets of the trust as of the beginning of the taxable
4 year;”, and

5 (2) by adding “or” at the end of subclause (II)
6 of subparagraph (D)(iv) and by adding at the end
7 of such subparagraph the following new subclause:

8 “(III) the fair market value of prop-
9 erty (other than sales of foreclosure prop-
10 erty or sales to which section 1033 applies)
11 sold during the taxable year does not ex-
12 ceed 10 percent of the fair market value of
13 all of the assets of the trust as of the be-
14 ginning of the taxable year,”.

15 **Subtitle D—Health Care REITs**

16 **SEC. 3061. CONFORMITY FOR HEALTH CARE FACILITIES.**

17 (a) RELATED PARTY RENTALS.—Subparagraph (B)
18 of section 856(d)(8) (relating to special rule for taxable
19 REIT subsidiaries) is amended to read as follows:

20 “(B) EXCEPTION FOR CERTAIN LODGING
21 FACILITIES AND HEALTH CARE PROPERTY.—

22 The requirements of this subparagraph are met
23 with respect to an interest in real property
24 which is a qualified lodging facility (as defined
25 in paragraph (9)(D)) or a qualified health care

1 property (as defined in subsection (e)(6)(D)(i))
2 leased by the trust to a taxable REIT sub-
3 sidiary of the trust if the property is operated
4 on behalf of such subsidiary by a person who is
5 an eligible independent contractor. For pur-
6 poses of this section, a taxable REIT subsidiary
7 is not considered to be operating or managing
8 a qualified health care property or qualified
9 lodging facility solely because it—

10 “(i) directly or indirectly possesses a
11 license, permit, or similar instrument ena-
12 bling it to do so, or

13 “(ii) employs individuals working at
14 such facility or property located outside
15 the United States, but only if an eligible
16 independent contractor is responsible for
17 the daily supervision and direction of such
18 individuals on behalf of the taxable REIT
19 subsidiary pursuant to a management
20 agreement or similar service contract.”.

21 (b) ELIGIBLE INDEPENDENT CONTRACTOR.—Sub-
22 paragraphs (A) and (B) of section 856(d)(9) (relating to
23 eligible independent contractor) are amended to read as
24 follows:

1 “(A) IN GENERAL.—The term ‘eligible
2 independent contractor’ means, with respect to
3 any qualified lodging facility or qualified health
4 care property (as defined in subsection
5 (e)(6)(D)(i)), any independent contractor if, at
6 the time such contractor enters into a manage-
7 ment agreement or other similar service con-
8 tract with the taxable REIT subsidiary to oper-
9 ate such qualified lodging facility or qualified
10 health care property, such contractor (or any
11 related person) is actively engaged in the trade
12 or business of operating qualified lodging facili-
13 ties or qualified health care properties, respec-
14 tively, for any person who is not a related per-
15 son with respect to the real estate investment
16 trust or the taxable REIT subsidiary.

17 “(B) SPECIAL RULES.—Solely for purposes
18 of this paragraph and paragraph (8)(B), a per-
19 son shall not fail to be treated as an inde-
20 pendent contractor with respect to any qualified
21 lodging facility or qualified health care property
22 (as so defined) by reason of the following:

23 “(i) The taxable REIT subsidiary
24 bears the expenses for the operation of
25 such qualified lodging facility or qualified

1 health care property pursuant to the man-
2 agement agreement or other similar service
3 contract.

4 “(ii) The taxable REIT subsidiary re-
5 ceives the revenues from the operation of
6 such qualified lodging facility or qualified
7 health care property, net of expenses for
8 such operation and fees payable to the op-
9 erator pursuant to such agreement or con-
10 tract.

11 “(iii) The real estate investment trust
12 receives income from such person with re-
13 spect to another property that is attrib-
14 utable to a lease of such other property to
15 such person that was in effect as of the
16 later of—

17 “(I) January 1, 1999, or

18 “(II) the earliest date that any
19 taxable REIT subsidiary of such trust
20 entered into a management agreement
21 or other similar service contract with
22 such person with respect to such
23 qualified lodging facility or qualified
24 health care property.”.

1 (c) TAXABLE REIT SUBSIDIARIES.—The last sen-
2 tence of section 856(l)(3) is amended—

3 (1) by inserting “or a health care facility” after
4 “a lodging facility”, and

5 (2) by inserting “or health care facility” after
6 “such lodging facility”.

7 **Subtitle E—Effective Dates**

8 **SEC. 3071. EFFECTIVE DATES.**

9 (a) IN GENERAL.—Except as otherwise provided in
10 this section, the amendments made by this title shall apply
11 to taxable years beginning after the date of the enactment
12 of this Act.

13 (b) REIT INCOME TESTS.—

14 (1) The amendments made by section 3031(a)
15 and (c) shall apply to gains and items of income rec-
16 ognized after the date of the enactment of this Act.

17 (2) The amendment made by section 3031(b)
18 shall apply to transactions entered into after the
19 date of the enactment of this Act.

20 (c) CONFORMING FOREIGN CURRENCY REVISIONS.—

21 (1) The amendment made by section 3033(a)
22 shall apply to gains recognized after the date of the
23 enactment of this Act.

1 (2) The amendment made by section 3033(b)
2 shall apply to gains and deductions recognized after
3 the date of the enactment of this Act.

4 (d) DEALER SALES.—The amendments made by sub-
5 title C shall apply to sales made after the date of the en-
6 actment of this Act.

7 **TITLE III—REVENUE** 8 **PROVISIONS**

9 **Subtitle A—General Provisions**

10 **SEC. 3081. ELECTION TO ACCELERATE THE AMT AND RE-** 11 **SEARCH CREDITS IN LIEU OF BONUS DEPRE-** 12 **CIATION.**

13 (a) IN GENERAL.—Section 168(k) is amended by
14 adding at the end the following new paragraph:

15 “(4) ELECTION TO ACCELERATE THE AMT AND
16 RESEARCH CREDITS IN LIEU OF BONUS DEPRECIA-
17 TION.—

18 “(A) IN GENERAL.—If a corporation elects
19 to have this paragraph apply for the first tax-
20 able year of the taxpayer ending after March
21 31, 2008, in the case of such taxable year and
22 each subsequent taxable year—

23 “(i) paragraph (1) shall not apply to
24 any eligible qualified property placed in
25 service by the taxpayer,

1 “(ii) the applicable depreciation meth-
2 od used under this section with respect to
3 such property shall be the straight line
4 method, and

5 “(iii) each of the limitations described
6 in subparagraph (B) for any such taxable
7 year shall be increased by the bonus depre-
8 ciation amount which is—

9 “(I) determined for such taxable
10 year under subparagraph (C), and

11 “(II) allocated to such limitation
12 under subparagraph (E).

13 “(B) LIMITATIONS TO BE INCREASED.—
14 The limitations described in this subparagraph
15 are—

16 “(i) the limitation imposed by section
17 38(e), and

18 “(ii) the limitation imposed by section
19 53(e).

20 “(C) BONUS DEPRECIATION AMOUNT.—
21 For purposes of this paragraph—

22 “(i) IN GENERAL.—The bonus depre-
23 ciation amount for any taxable year is an
24 amount equal to 20 percent of the excess
25 (if any) of—

1 “(I) the aggregate amount of de-
2 preciation which would be allowed
3 under this section for eligible qualified
4 property placed in service by the tax-
5 payer during such taxable year if
6 paragraph (1) applied to all such
7 property, over

8 “(II) the aggregate amount of
9 depreciation which would be allowed
10 under this section for eligible qualified
11 property placed in service by the tax-
12 payer during such taxable year if
13 paragraph (1) did not apply to any
14 such property.

15 The aggregate amounts determined under
16 subclauses (I) and (II) shall be determined
17 without regard to any election made under
18 subsection (b)(2)(C), (b)(3)(D), or (g)(7)
19 and without regard to subparagraph
20 (A)(ii).

21 “(ii) MAXIMUM AMOUNT.—The bonus
22 depreciation amount for any taxable year
23 shall not exceed the maximum increase
24 amount under clause (iii), reduced (but not
25 below zero) by the sum of the bonus depre-

1 ciation amounts for all preceding taxable
2 years.

3 “(iii) MAXIMUM INCREASE AMOUNT.—
4 For purposes of clause (ii), the term ‘max-
5 imum increase amount’ means, with re-
6 spect to any corporation, the lesser of—

7 “(I) \$30,000,000, or

8 “(II) 6 percent of the sum of the
9 business credit increase amount, and
10 the AMT credit increase amount, de-
11 termined with respect to such corpora-
12 tion under subparagraph (E).

13 “(iv) AGGREGATION RULE.—All cor-
14 porations which are treated as a single em-
15 ployer under section 52(a) shall be treat-
16 ed—

17 “(I) as 1 taxpayer for purposes
18 of this paragraph, and

19 “(II) as having elected the appli-
20 cation of this paragraph if any such
21 corporation so elects.

22 “(D) ELIGIBLE QUALIFIED PROPERTY.—
23 For purposes of this paragraph, the term ‘eligi-
24 ble qualified property’ means qualified property

1 under paragraph (2), except that in applying
2 paragraph (2) for purposes of this paragraph—

3 “(i) ‘March 31, 2008’ shall be sub-
4 stituted for ‘December 31, 2007’ each
5 place it appears in subparagraph (A) and
6 clauses (i) and (ii) of subparagraph (E)
7 thereof, and

8 “(ii) only adjusted basis attributable
9 to manufacture, construction, or produc-
10 tion after March 31, 2008, and before Jan-
11 uary 1, 2009, shall be taken into account
12 under subparagraph (B)(ii) thereof.

13 “(E) ALLOCATION OF BONUS DEPRECIA-
14 TION AMOUNTS.—

15 “(i) IN GENERAL.—Subject to clauses
16 (ii) and (iii), the taxpayer shall, at such
17 time and in such manner as the Secretary
18 may prescribe, specify the portion (if any)
19 of the bonus depreciation amount for the
20 taxable year which is to be allocated to
21 each of the limitations described in sub-
22 paragraph (B) for such taxable year.

23 “(ii) LIMITATION ON ALLOCATIONS.—
24 The portion of the bonus depreciation
25 amount which may be allocated under

1 clause (i) to the limitations described in
2 subparagraph (B) for any taxable year
3 shall not exceed—

4 “(I) in the case of the limitation
5 described in subparagraph (B)(i), the
6 excess of the business credit increase
7 amount over the bonus depreciation
8 amount allocated to such limitation
9 for all preceding taxable years, and

10 “(II) in the case of the limitation
11 described in subparagraph (B)(ii), the
12 excess of the AMT credit increase
13 amount over the bonus depreciation
14 amount allocated to such limitation
15 for all preceding taxable years.

16 “(iii) BUSINESS CREDIT INCREASE
17 AMOUNT.—For purposes of this paragraph,
18 the term ‘business credit increase amount’
19 means the amount equal to the portion of
20 the credit allowable under section 38 (de-
21 termined without regard to subsection (c)
22 thereof) for the first taxable year ending
23 after March 31, 2008, which is allocable to
24 business credit carryforwards to such tax-
25 able year which are—

1 “(I) from taxable years beginning
2 before January 1, 2006, and

3 “(II) properly allocable (deter-
4 mined under the rules of section
5 38(d)) to the research credit deter-
6 mined under section 41(a).

7 “(iv) AMT CREDIT INCREASE
8 AMOUNT.—For purposes of this paragraph,
9 the term ‘AMT credit increase amount’
10 means the amount equal to the portion of
11 the minimum tax credit under section
12 53(b) for the first taxable year ending
13 after March 31, 2008, determined by tak-
14 ing into account only the adjusted min-
15 imum tax for taxable years beginning be-
16 fore January 1, 2006. For purposes of the
17 preceding sentence, credits shall be treated
18 as allowed on a first-in, first-out basis.

19 “(F) CREDIT REFUNDABLE.—For pur-
20 poses of section 6401(b), the aggregate increase
21 in the credits allowable under part IV of sub-
22 chapter A for any taxable year resulting from
23 the application of this paragraph shall be treat-
24 ed as allowed under subpart C of such part
25 (and not any other subpart).

1 “(G) OTHER RULES.—

2 “(i) ELECTION.—Any election under
3 this paragraph (including any allocation
4 under subparagraph (E)) may be revoked
5 only with the consent of the Secretary.

6 “(ii) PARTNERSHIPS WITH ELECTING
7 PARTNERS.—In the case of a corporation
8 making an election under subparagraph
9 (A) and which is a partner in a partner-
10 ship, for purposes of determining such cor-
11 poration’s distributive share of partnership
12 items under section 702—

13 “(I) paragraph (1) shall not
14 apply to any eligible qualified prop-
15 erty, and

16 “(II) the applicable depreciation
17 method used under this section with
18 respect to such property shall be the
19 straight line method.

20 “(iii) SPECIAL RULE FOR PASSENGER
21 AIRCRAFT.—In the case of any passenger
22 aircraft, the written binding contract limi-
23 tation under paragraph (2)(A)(iii)(I) shall
24 not apply for purposes of subparagraphs
25 (C)(i)(I) and (D).”.

1 (b) APPLICATION TO CERTAIN AUTOMOTIVE PART-
2 NERSHIPS.—

3 (1) IN GENERAL.—If an applicable partnership
4 elects the application of this subsection—

5 (A) the partnership shall be treated as
6 having made a payment against the tax im-
7 posed by chapter 1 of the Internal Revenue
8 Code of 1986 for any applicable taxable year of
9 the partnership in the amount determined
10 under paragraph (3),

11 (B) in the case of any eligible qualified
12 property placed in service by the partnership
13 during any applicable taxable year—

14 (i) section 168(k) of such Code shall
15 not apply in determining the amount of the
16 deduction allowable with respect to such
17 property under section 168 of such Code,

18 (ii) the applicable depreciation method
19 used with respect to such property shall be
20 the straight line method, and

21 (C) the amount of the credit determined
22 under section 41 of such Code for any applica-
23 ble taxable year with respect to the partnership
24 shall be reduced by the amount of the deemed

1 payment under subparagraph (A) for the tax-
2 able year.

3 (2) TREATMENT OF DEEMED PAYMENT.—

4 (A) IN GENERAL.—Notwithstanding any
5 other provision of the Internal Revenue Code of
6 1986, the Secretary of the Treasury or his dele-
7 gate shall not use the payment of tax described
8 in paragraph (1) as an offset or credit against
9 any tax liability of the applicable partnership or
10 any partner but shall refund such payment to
11 the applicable partnership.

12 (B) NO INTEREST.—The payment de-
13 scribed in paragraph (1) shall not be taken into
14 account in determining any amount of interest
15 under such Code.

16 (3) AMOUNT OF DEEMED PAYMENT.—The
17 amount determined under this paragraph for any
18 applicable taxable year shall be the least of the fol-
19 lowing:

20 (A) The amount which would be deter-
21 mined for the taxable year under section
22 168(k)(4)(C)(i) of the Internal Revenue Code of
23 1986 (as added by the amendments made by
24 this section) if an election under section

1 168(k)(4) of such Code were in effect with re-
2 spect to the partnership.

3 (B) The amount of the credit determined
4 under section 41 of such Code for the taxable
5 year with respect to the partnership.

6 (C) \$30,000,000, reduced by the amount
7 of any payment under this subsection for any
8 preceding taxable year.

9 (4) DEFINITIONS.—For purposes of this sub-
10 section—

11 (A) APPLICABLE PARTNERSHIP.—The
12 term “applicable partnership” means a domes-
13 tic partnership that—

14 (i) was formed effective on August 3,
15 2007, and

16 (ii) will produce in excess of 675,000
17 automobiles during the period beginning on
18 January 1, 2008, and ending on June 30,
19 2008.

20 (B) APPLICABLE TAXABLE YEAR.—The
21 term “applicable taxable year” means any tax-
22 able year during which eligible qualified prop-
23 erty is placed in service.

24 (C) ELIGIBLE QUALIFIED PROPERTY.—
25 The term “eligible qualified property” has the

1 meaning given such term by section
2 168(k)(4)(D) of the Internal Revenue Code of
3 1986 (as added by the amendments made by
4 this section).

5 (c) CONFORMING AMENDMENT.—Section 1324(b)(2)
6 of title 31, United States Code, as amended by this Act,
7 is amended—

8 (1) by inserting “168(k)(4)(F),” after “36,”
9 and

10 (2) by inserting “, or due under section
11 3081(b)(2) of the Housing Assistance Tax Act of
12 2008” before the period at the end.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years ending after
15 March 31, 2008.

16 **SEC. 3082. CERTAIN GO ZONE INCENTIVES.**

17 (a) USE OF AMENDED INCOME TAX RETURNS TO
18 TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-
19 RELATED CASUALTY LOSS GRANTS BY DISALLOWING
20 PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.—

21 (1) IN GENERAL.—Notwithstanding any other
22 provision of the Internal Revenue Code of 1986, if
23 a taxpayer claims a deduction for any taxable year
24 with respect to a casualty loss to a principal resi-
25 dence (within the meaning of section 121 of such

1 Code) resulting from Hurricane Katrina, Hurricane
2 Rita, or Hurricane Wilma and in a subsequent tax-
3 able year receives a grant under Public Law 109–
4 148, 109–234, or 110–116 as reimbursement for
5 such loss, such taxpayer may elect to file an amend-
6 ed income tax return for the taxable year in which
7 such deduction was allowed (and for any taxable
8 year to which such deduction is carried) and reduce
9 (but not below zero) the amount of such deduction
10 by the amount of such reimbursement.

11 (2) TIME OF FILING AMENDED RETURN.—
12 Paragraph (1) shall apply with respect to any grant
13 only if any amended income tax returns with respect
14 to such grant are filed not later than the later of—

15 (A) the due date for filing the tax return
16 for the taxable year in which the taxpayer re-
17 ceives such grant, or

18 (B) the date which is 1 year after the date
19 of the enactment of this Act.

20 (3) WAIVER OF PENALTIES AND INTEREST.—
21 Any underpayment of tax resulting from the reduc-
22 tion under paragraph (1) of the amount otherwise
23 allowable as a deduction shall not be subject to any
24 penalty or interest under such Code if such tax is

1 paid not later than 1 year after the filing of the
2 amended return to which such reduction relates.

3 (b) WAIVER OF DEADLINE ON CONSTRUCTION OF
4 GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECI-
5 TION.—

6 (1) IN GENERAL.—Subparagraph (B) of section
7 1400N(d)(3) is amended to read as follows:

8 “(B) without regard to ‘and before Janu-
9 ary 1, 2009’ in clause (i) thereof, and”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by this subsection shall apply to property placed in
12 service after December 31, 2007.

13 (c) INCLUSION OF CERTAIN COUNTIES IN GULF OP-
14 PORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND
15 FINANCING.—

16 (1) IN GENERAL.—Subsection (a) of section
17 1400N is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(8) INCLUSION OF CERTAIN COUNTIES.—For
20 purposes of this subsection, the Gulf Opportunity
21 Zone includes Colbert County, Alabama and Dallas
22 County, Alabama.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall take effect as if included in

1 the provisions of the Gulf Opportunity Zone Act of
2 2005 to which it relates.

3 **SEC. 3083. INCREASE IN STATUTORY LIMIT ON THE PUBLIC**
4 **DEBT.**

5 Subsection (b) of section 3101 of title 31, United
6 States Code, is amended by striking out the dollar limita-
7 tion contained in such subsection and inserting in lieu
8 thereof \$10,615,000,000,000.

9 **Subtitle B—Revenue Offsets**

10 **SEC. 3091. RETURNS RELATING TO PAYMENTS MADE IN**
11 **SETTLEMENT OF PAYMENT CARD AND THIRD**
12 **PARTY NETWORK TRANSACTIONS.**

13 (a) IN GENERAL.—Subpart B of part III of sub-
14 chapter A of chapter 61 is amended by adding at the end
15 the following new section:

16 **“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN**
17 **SETTLEMENT OF PAYMENT CARD AND THIRD**
18 **PARTY NETWORK TRANSACTIONS.**

19 “(a) IN GENERAL.—Each payment settlement entity
20 shall make a return for each calendar year setting forth—

21 “(1) the name, address, and TIN of each par-
22 ticipating payee to whom one or more payments in
23 settlement of reportable payment transactions are
24 made, and

1 “(2) the gross amount of the reportable pay-
2 ment transactions with respect to each such partici-
3 pating payee.

4 Such return shall be made at such time and in such form
5 and manner as the Secretary may require by regulations.

6 “(b) PAYMENT SETTLEMENT ENTITY.—For pur-
7 poses of this section—

8 “(1) IN GENERAL.—The term ‘payment settle-
9 ment entity’ means—

10 “(A) in the case of a payment card trans-
11 action, the merchant acquiring entity, and

12 “(B) in the case of a third party network
13 transaction, the third party settlement organi-
14 zation.

15 “(2) MERCHANT ACQUIRING ENTITY.—The
16 term ‘merchant acquiring entity’ means the bank or
17 other organization which has the contractual obliga-
18 tion to make payment to participating payees in set-
19 tlement of payment card transactions.

20 “(3) THIRD PARTY SETTLEMENT ORGANIZA-
21 TION.—The term ‘third party settlement organiza-
22 tion’ means the central organization which has the
23 contractual obligation to make payment to partici-
24 pating payees of third party network transactions.

1 “(4) SPECIAL RULES RELATED TO INTER-
2 MEDIARIES.—For purposes of this section—

3 “(A) AGGREGATED PAYEES.—In any case
4 where reportable payment transactions of more
5 than one participating payee are settled
6 through an intermediary—

7 “(i) such intermediary shall be treated
8 as the participating payee for purposes of
9 determining the reporting obligations of
10 the payment settlement entity with respect
11 to such transactions, and

12 “(ii) such intermediary shall be treat-
13 ed as the payment settlement entity with
14 respect to the settlement of such trans-
15 actions with the participating payees.

16 “(B) ELECTRONIC PAYMENT
17 FACILITATORS.—In any case where an elec-
18 tronic payment facilitator or other third party
19 makes payments in settlement of reportable
20 payment transactions on behalf of the payment
21 settlement entity, the return under subsection
22 (a) shall be made by such electronic payment
23 facilitator or other third party in lieu of the
24 payment settlement entity.

1 “(c) REPORTABLE PAYMENT TRANSACTION.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘reportable pay-
4 ment transaction’ means any payment card trans-
5 action and any third party network transaction.

6 “(2) PAYMENT CARD TRANSACTION.—The term
7 ‘payment card transaction’ means any transaction in
8 which a payment card is accepted as payment.

9 “(3) THIRD PARTY NETWORK TRANSACTION.—
10 The term ‘third party network transaction’ means
11 any transaction which is settled through a third
12 party payment network.

13 “(d) OTHER DEFINITIONS.—For purposes of this
14 section—

15 “(1) PARTICIPATING PAYEE.—

16 “(A) IN GENERAL.—The term ‘partici-
17 pating payee’ means—

18 “(i) in the case of a payment card
19 transaction, any person who accepts a pay-
20 ment card as payment, and

21 “(ii) in the case of a third party net-
22 work transaction, any person who accepts
23 payment from a third party settlement or-
24 ganization in settlement of such trans-
25 action.

1 “(B) EXCLUSION OF FOREIGN PERSONS.—
2 Except as provided by the Secretary in regula-
3 tions or other guidance, such term shall not in-
4 clude any person with a foreign address.

5 “(C) INCLUSION OF GOVERNMENTAL
6 UNITS.—The term ‘person’ includes any govern-
7 mental unit (and any agency or instrumentality
8 thereof).

9 “(2) PAYMENT CARD.—The term ‘payment
10 card’ means any card which is issued pursuant to an
11 agreement or arrangement which provides for—

12 “(A) one or more issuers of such cards,

13 “(B) a network of persons unrelated to
14 each other, and to the issuer, who agree to ac-
15 cept such cards as payment, and

16 “(C) standards and mechanisms for set-
17 tling the transactions between the merchant ac-
18 quiring entities and the persons who agree to
19 accept such cards as payment.

20 The acceptance as payment of any account number
21 or other indicia associated with a payment card shall
22 be treated for purposes of this section in the same
23 manner as accepting such payment card as payment.

1 “(3) THIRD PARTY PAYMENT NETWORK.—The
2 term ‘third party payment network’ means any
3 agreement or arrangement—

4 “(A) which involves the establishment of
5 accounts with a central organization by a sub-
6 stantial number of persons who—

7 “(i) are unrelated to such organiza-
8 tion,

9 “(ii) provide goods or services, and

10 “(iii) have agreed to settle trans-
11 actions for the provision of such goods or
12 services pursuant to such agreement or ar-
13 rangement,

14 “(B) which provides for standards and
15 mechanisms for settling such transactions, and

16 “(C) which guarantees persons providing
17 goods or services pursuant to such agreement
18 or arrangement that such persons will be paid
19 for providing such goods or services.

20 Such term shall not include any agreement or ar-
21 rangement which provides for the issuance of pay-
22 ment cards.

23 “(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY
24 THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third
25 party settlement organization shall be required to report

1 any information under subsection (a) with respect to third
2 party network transactions of any participating payee only
3 if—

4 “(1) the amount which would otherwise be re-
5 ported under subsection (a)(2) with respect to such
6 transactions exceeds \$20,000, and

7 “(2) the aggregate number of such transactions
8 exceeds 200.

9 “(f) STATEMENTS TO BE FURNISHED TO PERSONS
10 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

11 Every person required to make a return under subsection
12 (a) shall furnish to each person with respect to whom such
13 a return is required a written statement showing—

14 “(1) the name, address, and phone number of
15 the information contact of the person required to
16 make such return, and

17 “(2) the gross amount of the reportable pay-
18 ment transactions with respect to the person re-
19 quired to be shown on the return.

20 The written statement required under the preceding sen-
21 tence shall be furnished to the person on or before Janu-
22 ary 31 of the year following the calendar year for which
23 the return under subsection (a) was required to be made.
24 Such statement may be furnished electronically, and if so,

1 the email address of the person required to make such
2 return may be shown in lieu of the phone number.

3 “(g) REGULATIONS.—The Secretary may prescribe
4 such regulations or other guidance as may be necessary
5 or appropriate to carry out this section, including rules
6 to prevent the reporting of the same transaction more
7 than once.”.

8 (b) PENALTY FOR FAILURE TO FILE.—

9 (1) RETURN.—Subparagraph (B) of section
10 6724(d)(1) is amended—

11 (A) by striking “or” at the end of clause
12 (xx),

13 (B) by redesignating the clause (xix) that
14 follows clause (xx) as clause (xxi),

15 (C) by striking “and” at the end of clause
16 (xxi), as redesignated by subparagraph (B) and
17 inserting “or”, and

18 (D) by adding at the end the following:

19 “(xxii) section 6050W (relating to re-
20 turns to payments made in settlement of
21 payment card transactions), and”.

22 (2) STATEMENT.—Paragraph (2) of section
23 6724(d) is amended by striking “or” at the end of
24 subparagraph (BB), by striking the period at the
25 end of the subparagraph (CC) and inserting “, or”,

1 and by inserting after subparagraph (CC) the fol-
2 lowing:

3 “(DD) section 6050W(c) (relating to re-
4 turns relating to payments made in settlement
5 of payment card transactions).”.

6 (c) APPLICATION OF BACKUP WITHHOLDING.—
7 Paragraph (3) of section 3406(b) is amended by striking
8 “or” at the end of subparagraph (D), by striking the pe-
9 riod at the end of subparagraph (E) and inserting “, or”,
10 and by adding at the end the following new subparagraph:

11 “(F) section 6050W (relating to returns
12 relating to payments made in settlement of pay-
13 ment card transactions).”.

14 (d) CLERICAL AMENDMENT.—The table of sections
15 for subpart B of part III of subchapter A of chapter 61
16 is amended by inserting after the item relating to section
17 6050V the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment
card transactions.”.

18 (e) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as otherwise pro-
20 vided in this subsection, the amendments made by
21 this section shall apply to returns for calendar years
22 beginning after December 31, 2010.

23 (2) APPLICATION OF BACKUP WITHHOLDING.—

1 (A) IN GENERAL.—The amendment made
2 by subsection (c) shall apply to amounts paid
3 after December 31, 2011.

4 (B) ELIGIBILITY FOR TIN MATCHING PRO-
5 GRAM.—Solely for purposes of carrying out any
6 TIN matching program established by the Sec-
7 retary under section 3406(i) of the Internal
8 Revenue Code of 1986—

9 (i) the amendments made this section
10 shall be treated as taking effect on the
11 date of the enactment of this Act, and

12 (ii) each person responsible for setting
13 the standards and mechanisms referred to
14 in section 6050W(d)(2)(C) of such Code,
15 as added by this section, for settling trans-
16 actions involving payment cards shall be
17 treated in the same manner as a payment
18 settlement entity.

19 **SEC. 3092. GAIN FROM SALE OF PRINCIPAL RESIDENCE AL-**
20 **LOCATED TO NONQUALIFIED USE NOT EX-**
21 **CLUDED FROM INCOME.**

22 (a) IN GENERAL.—Subsection (b) of section 121 of
23 the Internal Revenue Code of 1986 (relating to limita-
24 tions) is amended by adding at the end the following new
25 paragraph:

1 “(4) EXCLUSION OF GAIN ALLOCATED TO NON-
2 QUALIFIED USE.—

3 “(A) IN GENERAL.—Subsection (a) shall
4 not apply to so much of the gain from the sale
5 or exchange of property as is allocated to peri-
6 ods of nonqualified use.

7 “(B) GAIN ALLOCATED TO PERIODS OF
8 NONQUALIFIED USE.—For purposes of subpara-
9 graph (A), gain shall be allocated to periods of
10 nonqualified use based on the ratio which—

11 “(i) the aggregate periods of non-
12 qualified use during the period such prop-
13 erty was owned by the taxpayer, bears to

14 “(ii) the period such property was
15 owned by the taxpayer.

16 “(C) PERIOD OF NONQUALIFIED USE.—
17 For purposes of this paragraph—

18 “(i) IN GENERAL.—The term ‘period
19 of nonqualified use’ means any period
20 (other than the portion of any period pre-
21 ceding January 1, 2009) during which the
22 property is not used as the principal resi-
23 dence of the taxpayer or the taxpayer’s
24 spouse or former spouse.

1 “(ii) EXCEPTIONS.—The term ‘period
2 of nonqualified use’ does not include—

3 “(I) any portion of the 5-year pe-
4 riod described in subsection (a) which
5 is after the last date that such prop-
6 erty is used as the principal residence
7 of the taxpayer or the taxpayer’s
8 spouse,

9 “(II) any period (not to exceed
10 an aggregate period of 10 years) dur-
11 ing which the taxpayer or the tax-
12 payer’s spouse is serving on qualified
13 official extended duty (as defined in
14 subsection (d)(9)(C)) described in
15 clause (i), (ii), or (iii) of subsection
16 (d)(9)(A), and

17 “(III) any other period of tem-
18 porary absence (not to exceed an ag-
19 gregate period of 2 years) due to
20 change of employment, health condi-
21 tions, or such other unforeseen cir-
22 cumstances as may be specified by the
23 Secretary.

1 “(D) COORDINATION WITH RECOGNITION
2 OF GAIN ATTRIBUTABLE TO DEPRECIATION.—
3 For purposes of this paragraph—

4 “(i) subparagraph (A) shall be applied
5 after the application of subsection (d)(6),
6 and

7 “(ii) subparagraph (B) shall be ap-
8 plied without regard to any gain to which
9 subsection (d)(6) applies.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to sales and exchanges after De-
12 cember 31, 2008.

13 **SEC. 3093. DELAY IN APPLICATION OF WORLDWIDE ALLO-**
14 **CATION OF INTEREST.**

15 (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-
16 tion 864(f) are each amended by striking “December 31,
17 2008” and inserting “December 31, 2010”.

18 (b) TRANSITIONAL RULE.—Subsection (f) of section
19 864 is amended by adding at the end the following new
20 paragraph:

21 “(7) TRANSITION.—In the case of the first tax-
22 able year to which this subsection applies, the in-
23 crease (if any) in the amount of the interest expense
24 allocable to sources within the United States by rea-
25 son of the application of this subsection shall be 30

