

In the Senate of the United States,

July 11, 2008.

Resolved, That on June 25, 2008, the Senate concurs in the House amendment, striking section 1 through title V and inserting certain language, to the Senate amendment to the bill (H.R. 3221) entitled “An Act moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation.”, with an amendment

**SENATE AMENDMENT TO HOUSE AMENDMENTS TO
SENATE AMENDMENT:**

In lieu of the matter proposed to be inserted, insert the following:

- 1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***
- 2 (a) *SHORT TITLE.*—*This Act may be cited as the*
- 3 *“Housing and Economic Recovery Act of 2008”.*

- 1 (b) *TABLE OF CONTENT.*—*The table of contents for this*
 2 *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.

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—FORECLOSURE RESCUE FRAUD PROTECTION

- Sec. 2801. Short title.*
Sec. 2802. Definitions.
Sec. 2803. Mortgage rescue fraud protection.
Sec. 2804. Warnings to homeowners of foreclosure rescue scams.
Sec. 2805. Civil liability.
Sec. 2806. Administrative enforcement.
Sec. 2807. Limitation.
Sec. 2808. Preemption.

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.

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 amt and r and d credits in lieu of bonus depreciation.**Sec. 3082. Certain GO Zone incentives.**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. Increase in information return penalties.**Sec. 3094. Increase in penalty for failure to file S corporation returns.**Sec. 3095. Increase in penalty for failure to file partnership returns.**Sec. 3096. Increase in minimum penalty on failure to file a return of tax.*

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 ap-*
 13 *pears and inserting “Director”;*

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

1 (3) by striking paragraphs (13) through (15)
2 and inserting the following:

3 “(19) *OFFICE OF FINANCE*.—The term ‘Office of
4 Finance’ means the Office of Finance of the Federal
5 Home Loan Bank System (or any successor thereto).

6 “(20) *REGULATED ENTITY*.—The term ‘regulated
7 entity’ means—

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

10 “(B) the Federal Home Loan Mortgage Cor-
11 poration and any affiliate thereof; and

12 “(C) any Federal Home Loan Bank.”;

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

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

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

19 (7) in paragraph (5)—

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

22 (B) by striking “Office of Federal Housing
23 Enterprise Oversight of the Department of Hous-
24 ing and Urban Development” and inserting
25 “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 redesign-*
6 *ated, the following:*

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

8 “(A) *DEFAULT.—The term ‘default’ means,*
9 *with respect to a regulated entity, any adjudica-*
10 *tion or other official determination by any court*
11 *of competent jurisdiction, or the Agency, pursu-*
12 *ant to which a conservator, receiver, limited-life*
13 *regulated entity, or legal custodian is appointed*
14 *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 to*
20 *be able to pay the obligations of the regu-*
21 *lated 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 sub-
3 stantially 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 Cor-
17 poration Act; and

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

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

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

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

1 “(A) any director, officer, employee, or con-
2 trolling stockholder of, or agent for, a regulated
3 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 a
10 Federal Home Loan Bank shall not be deemed to
11 have participated in the affairs of that Bank
12 solely by virtue of being a shareholder of, and ob-
13 taining advances from, that Bank;

14 “(C) any independent contractor for a regu-
15 lated entity (including any attorney, appraiser,
16 or accountant), if—

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

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

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

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

1 “(ii) such violation, breach, or practice
2 caused, or is likely to cause, more than a
3 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 reded-
10 ignated by this section, the following:

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

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

18 “(25) *VIOLATION*.—The term ‘violation’ includes
19 any action (alone or in combination with another or
20 others) for or toward causing, bringing about, partici-
21 pating in, counseling, or aiding or abetting a viola-
22 tion.”.

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

1 (1) the term “Agency” means the Federal Hous-
2 ing Finance Agency;

3 (2) the term “Director” means the Director of the
4 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 Enterprises
8 Financial Safety and Soundness Act of 1992, as
9 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 FI-**
21 **NANCE AGENCY.**

22 **“(a) ESTABLISHMENT.—***There is established the Fed-*
23 *eral 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 OF-*
8 *FICE OF FINANCE.*—*The Director shall have general*
9 *regulatory authority over each regulated entity and*
10 *the Office of Finance, and shall exercise such general*
11 *regulatory authority, including such duties and au-*
12 *thorities set forth under section 1313, to ensure that*
13 *the purposes of this Act, the authorizing statutes, and*
14 *any other applicable law are carried out.*

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

19 **“SEC. 1312. DIRECTOR.**

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

23 “(b) *APPOINTMENT; TERM.*—

24 “(1) *APPOINTMENT.*—*The Director shall be ap-*
25 *pointed by the President, by and with the advice and*

1 *consent of the Senate, from among individuals who*
2 *are citizens of the United States, have a demonstrated*
3 *understanding of financial management or oversight,*
4 *and have a demonstrated understanding of capital*
5 *markets, including the mortgage securities markets*
6 *and housing finance.*

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

10 “(3) *VACANCY.—A vacancy in the position of Di-*
11 *rector that occurs before the expiration of the term for*
12 *which a Director was appointed shall be filled in the*
13 *manner established under paragraph (1), and the Di-*
14 *rector appointed to fill such vacancy shall be ap-*
15 *pointed only for the remainder of such term.*

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

20 “(5) *TRANSITIONAL PROVISION.—Notwith-*
21 *standing paragraphs (1) and (2), during the period*
22 *beginning on the effective date of the Federal Housing*
23 *Finance Regulatory Reform Act of 2008, and ending*
24 *on the date on which the Director is appointed and*
25 *confirmed, the person serving as the Director of the*

1 *Office of Federal Housing Enterprise Oversight of the*
2 *Department of Housing and Urban Development on*
3 *that effective date shall act for all purposes as, and*
4 *with the full powers of, the Director.*

5 “(c) *DEPUTY DIRECTOR OF THE DIVISION OF ENTER-*
6 *PRISE REGULATION.—*

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

15 “(2) *FUNCTIONS.—The Deputy Director of the*
16 *Division of Enterprise Regulation shall have such*
17 *functions, powers, and duties with respect to the over-*
18 *sight of the enterprises as the Director shall prescribe.*

19 “(d) *DEPUTY DIRECTOR OF THE DIVISION OF FED-*
20 *ERAL HOME LOAN BANK REGULATION.—*

21 “(1) *IN GENERAL.—The Agency shall have a*
22 *Deputy Director of the Division of Federal Home*
23 *Loan Bank Regulation, who shall be designated by*
24 *the Director from among individuals who are citizens*
25 *of the United States, have a demonstrated under-*

1 *standing of financial management or oversight, and*
2 *have a demonstrated understanding of the Federal*
3 *Home Loan Bank System and housing finance.*

4 “(2) *FUNCTIONS.—The Deputy Director of the*
5 *Division of Federal Home Loan Bank Regulation*
6 *shall have such functions, powers, and duties with re-*
7 *spect to the oversight of the Federal Home Loan*
8 *Banks as the Director shall prescribe.*

9 “(e) *DEPUTY DIRECTOR FOR HOUSING MISSION AND*
10 *GOALS.—*

11 “(1) *IN GENERAL.—The Agency shall have a*
12 *Deputy Director for Housing Mission and Goals, who*
13 *shall be designated by the Director from among indi-*
14 *viduals who are citizens of the United States, and*
15 *have a demonstrated understanding of the housing*
16 *markets and housing finance.*

17 “(2) *FUNCTIONS.—The Deputy Director for*
18 *Housing Mission and Goals shall have such functions,*
19 *powers, and duties with respect to the oversight of the*
20 *housing mission and goals of the enterprises, and*
21 *with respect to oversight of the housing finance and*
22 *community and economic development mission of the*
23 *Federal Home Loan Banks, as the Director shall pre-*
24 *scribe.*

1 “(3) *CONSIDERATIONS.*—*In exercising such func-*
2 *tions, powers, and duties, the Deputy Director for*
3 *Housing Mission and Goals shall consider the dif-*
4 *ferences between the enterprises and the Federal Home*
5 *Loan Banks, including those described in section*
6 *1313(f).*

7 “(f) *ACTING DIRECTOR.*—*In the event of the death, res-*
8 *ignation, sickness, or absence of the Director, the President*
9 *shall designate either the Deputy Director of the Division*
10 *of Enterprise Regulation, the Deputy Director of the Divi-*
11 *sion of Federal Home Loan Bank Regulation, or the Deputy*
12 *Director for Housing Mission and Goals, to serve as acting*
13 *Director until the return of the Director, or the appoint-*
14 *ment of a successor pursuant to subsection (b).*

15 “(g) *LIMITATIONS.*—*The Director and each of the Dep-*
16 *uty Directors may not—*

17 “(1) *have any direct or indirect financial inter-*
18 *est in any regulated entity or entity-affiliated party;*

19 “(2) *hold any office, position, or employment in*
20 *any regulated entity or entity-affiliated party; or*

21 “(3) *have served as an executive officer or direc-*
22 *tor of any regulated entity or entity-affiliated party*
23 *at any time during the 3-year period preceding the*
24 *date of appointment or designation of such individual*
25 *as Director or Deputy Director, as applicable.”.*

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

2 (a) *IN GENERAL.*—Section 1313 of the Federal Hous-
3 *ing Enterprises Financial Safety and Soundness Act of*
4 *1992 (12 U.S.C. 4513) is amended to read as follows:*

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

6 “(a) *DUTIES.*—

7 “(1) *PRINCIPAL DUTIES.*—*The principal duties*
8 *of the Director shall be—*

9 “(A) *to oversee the prudential operations of*
10 *each regulated entity; and*

11 “(B) *to ensure that—*

12 “(i) *each regulated entity operates in a*
13 *safe and sound manner, including mainte-*
14 *nance of adequate capital and internal con-*
15 *trols;*

16 “(ii) *the operations and activities of*
17 *each regulated entity foster liquid, efficient,*
18 *competitive, and resilient national housing*
19 *finance markets (including activities relat-*
20 *ing to mortgages on housing for low- and*
21 *moderate-income families involving a rea-*
22 *sonable economic return that may be less*
23 *than the return earned on other activities);*

24 “(iii) *each regulated entity complies*
25 *with this title and the rules, regulations,*

1 *guidelines, and orders issued under this title*
2 *and the authorizing statutes;*

3 *“(iv) each regulated entity carries out*
4 *its statutory mission only through activities*
5 *that are authorized under and consistent*
6 *with this title and the authorizing statutes;*
7 *and*

8 *“(v) the activities of each regulated en-*
9 *tity and the manner in which such regu-*
10 *lated entity is operated are consistent with*
11 *the public interest.*

12 *“(2) SCOPE OF AUTHORITY.—The authority of*
13 *the Director shall include the authority—*

14 *“(A) to review and, if warranted based on*
15 *the principal duties described in paragraph (1),*
16 *reject any acquisition or transfer of a controlling*
17 *interest in a regulated entity; and*

18 *“(B) to exercise such incidental powers as*
19 *may be necessary or appropriate to fulfill the*
20 *duties and responsibilities of the Director in the*
21 *supervision and regulation of each regulated en-*
22 *tity.*

23 *“(b) DELEGATION OF AUTHORITY.—The Director may*
24 *delegate to officers and employees of the Agency any of the*

1 *functions, powers, or duties of the Director, as the Director*
2 *considers appropriate.*

3 “(c) *LITIGATION AUTHORITY.*—

4 “(1) *IN GENERAL.*—*In enforcing any provision*
5 *of this title, any regulation or order prescribed under*
6 *this title, or any other provision of law, rule, regula-*
7 *tion, or order, or in any other action, suit, or pro-*
8 *ceeding to which the Director is a party or in which*
9 *the Director is interested, and in the administration*
10 *of conservatorships and receiverships, the Director*
11 *may act in the Director’s own name and through the*
12 *Director’s own attorneys.*

13 “(2) *SUBJECT TO SUIT.*—*Except as otherwise*
14 *provided by law, the Director shall be subject to suit*
15 *(other than suits on claims for money damages) by a*
16 *regulated entity with respect to any matter under this*
17 *title or any other applicable provision of law, rule,*
18 *order, or regulation under this title, in the United*
19 *States district court for the judicial district in which*
20 *the regulated entity has its principal place of busi-*
21 *ness, or in the United States District Court for the*
22 *District of Columbia, and the Director may be served*
23 *with process in the manner prescribed by the Federal*
24 *Rules of Civil Procedure.”.*

1 (b) *INDEPENDENCE IN CONGRESSIONAL TESTIMONY*
 2 *AND RECOMMENDATIONS.*—Section 111 of Public Law 93–
 3 495 (12 U.S.C. 250) is amended by striking “the Federal
 4 *Housing Finance Board*” and inserting “the Director of the
 5 *Federal Housing Finance Agency*”.

6 **SEC. 1103. FEDERAL HOUSING FINANCE OVERSIGHT**
 7 **BOARD.**

8 (a) *IN GENERAL.*—The Federal Housing Enterprises
 9 *Financial Safety and Soundness Act of 1992* (12 U.S.C.
 10 *4501 et seq.*) is amended by inserting after section 1313
 11 *the following:*

12 **“SEC. 1313A. FEDERAL HOUSING FINANCE OVERSIGHT**
 13 **BOARD.**

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

18 “(b) *LIMITATIONS.*—The Board may not exercise any
 19 *executive authority, and the Director may not delegate to*
 20 *the Board any of the functions, powers, or duties of the Di-*
 21 *rector.*

22 “(c) *COMPOSITION.*—The Board shall be comprised of
 23 *4 members, of whom—*

24 “(1) *1 member shall be the Secretary of the*
 25 *Treasury;*

1 “(2) 1 member shall be the Secretary of Housing
2 and Urban Development;

3 “(3) 1 member shall be the Chairman of the Se-
4 curities and Exchange Commission; and

5 “(4) 1 member shall be the Director, who shall
6 serve as the Chairperson of the Board.

7 “(d) MEETINGS.—

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

11 “(2) SPECIAL MEETINGS.—Either the Secretary
12 of the Treasury, the Secretary of Housing and Urban
13 Development, or the Chairman of the Securities and
14 Exchange Commission may, upon giving written no-
15 tice to the Director, require a special meeting of the
16 Board.

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

19 “(1) the safety and soundness of the regulated en-
20 tities;

21 “(2) any material deficiencies in the conduct of
22 the operations of the regulated entities;

23 “(3) the overall operational status of the regu-
24 lated entities;

1 “(4) an evaluation of the performance of the reg-
2 ulated entities in carrying out their respective mis-
3 sions;

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

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

9 (b) *ANNUAL REPORT OF THE DIRECTOR.*—Section
10 1319B(a) of the Federal Housing Enterprises Financial
11 Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)) is
12 amended—

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

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

17 (3) in paragraph (3), by striking “; and” and
18 inserting a semicolon;

19 (4) in paragraph (4), by striking “1994.” and
20 inserting “1994; and”; and

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

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

24 “(A) the safety and soundness of the regu-
25 lated entities;

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

3 “(C) the overall operational status of the
4 regulated entities; and

5 “(D) an evaluation of the performance of
6 the regulated entities in carrying out their re-
7 spective missions;

8 “(6) operations, resources, and performance of
9 the Agency; and

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

12 **SEC. 1104. AUTHORITY TO REQUIRE REPORTS BY REGU-**
13 **LATED ENTITIES.**

14 (a) *IN GENERAL.*—Section 1314 of the Federal Hous-
15 ing Enterprises Financial Safety and Soundness Act of
16 1992 (12 U.S.C. 4514) is amended—

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

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

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

23 (4) in subsection (a)—

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

4 “(a) *REGULAR AND SPECIAL REPORTS.*—

5 “(1) *REGULAR REPORTS.*—*The Director may re-*
6 *quire, by general or specific orders, a regulated entity*
7 *to submit regular reports, including financial state-*
8 *ments determined on a fair value basis, on the condi-*
9 *tion (including financial condition), management, ac-*
10 *tivities, or operations of the regulated entity, as the*
11 *Director considers appropriate*”; and

12 (B) in paragraph (2)—

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

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

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

20 “(c) *PENALTIES FOR FAILURE TO MAKE REPORTS.*—

21 “(1) *VIOLATIONS.*—*It shall be a violation of this*
22 *section for any regulated entity—*

23 “(A) to fail to make, transmit, or publish
24 any report or obtain any information required
25 by the Director under this section, section 309(k)

1 *of the Federal National Mortgage Association*
2 *Charter Act, section 307(c) of the Federal Home*
3 *Loan Mortgage Corporation Act, or section 20 of*
4 *the Federal Home Loan Bank Act, within the pe-*
5 *riod of time specified in such provision of law or*
6 *otherwise by the Director; or*

7 *“(B) to submit or publish any false or mis-*
8 *leading report or information under this section.*

9 *“(2) PENALTIES.—*

10 *“(A) FIRST TIER.—*

11 *“(i) IN GENERAL.—A violation de-*
12 *scribed in paragraph (1) shall be subject to*
13 *a penalty of not more than \$2,000 for each*
14 *day during which such violation continues,*
15 *in any case in which—*

16 *“(I) the subject regulated entity*
17 *maintains procedures reasonably*
18 *adapted to avoid any inadvertent error*
19 *and the violation was unintentional*
20 *and a result of such an error; or*

21 *“(II) the violation was an inad-*
22 *vertent transmittal or publication of*
23 *any report which was minimally late.*

24 *“(ii) BURDEN OF PROOF.—For pur-*
25 *poses of this subparagraph, the regulated*

1 *entity shall have the burden of proving that*
2 *the error was inadvertent or that a report*
3 *was inadvertently transmitted or published*
4 *late.*

5 *“(B) SECOND TIER.—A violation described*
6 *in paragraph (1) shall be subject to a penalty of*
7 *not more than \$20,000 for each day during*
8 *which such violation continues or such false or*
9 *misleading information is not corrected, in any*
10 *case that is not addressed in subparagraph (A)*
11 *or (C).*

12 *“(C) THIRD TIER.—A violation described in*
13 *paragraph (1) shall be subject to a penalty of not*
14 *more than \$1,000,000 per day for each day dur-*
15 *ing which such violation continues or such false*
16 *or misleading information is not corrected, in*
17 *any case in which the subject regulated entity*
18 *committed such violation knowingly or with*
19 *reckless disregard for the accuracy of any such*
20 *information or report.*

21 *“(3) ASSESSMENTS.—Any penalty imposed*
22 *under this subsection shall be in lieu of a penalty*
23 *under section 1376, but shall be assessed and collected*
24 *by the Director in the manner provided in section*
25 *1376 for penalties imposed under that section, and*

1 *any such assessment (including the determination of*
2 *the amount of the penalty) shall be otherwise subject*
3 *to the provisions of section 1376.*

4 “(4) *HEARING.*—*A regulated entity against*
5 *which a penalty is assessed under this section shall be*
6 *afforded an agency hearing if the regulated entity*
7 *submits a request for a hearing not later than 20*
8 *days after the date of the issuance of the notice of as-*
9 *essment. Section 1374 shall apply to any such pro-*
10 *ceedings.”.*

11 (b) *CONFORMING AMENDMENT.*—*The Federal Housing*
12 *Enterprises Financial Safety and Soundness Act of 1992*
13 *(12 U.S.C. 4501 et seq.) is amended by striking sections*
14 *1327 and 1328.*

15 **SEC. 1105. EXAMINERS AND ACCOUNTANTS; AUTHORITY TO**
16 **CONTRACT FOR REVIEWS OF REGULATED EN-**
17 **TITIES; OMBUDSMAN.**

18 (a) *IN GENERAL.*—*Section 1317 of the Federal Hous-*
19 *ing Enterprises Financial Safety and Soundness Act of*
20 *1992 (12 U.S.C. 4517) is amended—*

21 (1) *in subsection (a), by striking “enterprise”*
22 *each place that term appears and inserting “regulated*
23 *entity”;*

24 (2) *in subsection (b)—*

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

3 (B) by striking “to determine the condition
4 of an enterprise for the purpose of ensuring its
5 financial safety and soundness” and inserting
6 “or appropriate”;

7 (3) in subsection (c), in the second sentence, by
8 inserting before the period “to conduct examinations
9 under this section”;

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

12 (5) by inserting after subsection (c) the fol-
13 lowing:

14 “(d) *INSPECTOR GENERAL.*—There shall be within the
15 Agency an Inspector General, who shall be appointed in
16 accordance with section 3(a) of the Inspector General Act
17 of 1978.”.

18 (b) *DIRECT HIRE AUTHORITY TO HIRE ACCOUNT-*
19 *ANTS, ECONOMISTS, AND EXAMINERS.*—Section 1317 of the
20 *Federal Housing Enterprises Financial Safety and Sound-*
21 *ness Act of 1992 (12 U.S.C. 4517)* is amended by adding
22 at the end the following:

23 “(h) *APPOINTMENT OF ACCOUNTANTS, ECONOMISTS,*
24 *AND EXAMINERS.*—

1 “(1) *APPLICABILITY.*—*This section shall apply*
2 *with respect to any position of examiner, accountant,*
3 *economist, and specialist in financial markets and in*
4 *technology at the Agency, with respect to supervision*
5 *and regulation of the regulated entities, that is in the*
6 *competitive service.*

7 “(2) *APPOINTMENT AUTHORITY.*—*The Director*
8 *may appoint candidates to any position described in*
9 *paragraph (1)—*

10 “(A) *in accordance with the statutes, rules,*
11 *and regulations governing appointments in the*
12 *excepted service; and*

13 “(B) *notwithstanding any statutes, rules,*
14 *and regulations governing appointments in the*
15 *competitive service.”.*

16 “(c) *AMENDMENTS TO INSPECTOR GENERAL ACT.*—*Sec-*
17 *tion 11 of the Inspector General Act of 1978 (5 U.S.C. App.)*
18 *is amended—*

19 (1) *in paragraph (1), by inserting “; the Direc-*
20 *tor of the Federal Housing Finance Agency” after*
21 *“Social Security Administration”; and*

22 (2) *in paragraph (2), by inserting “, the Federal*
23 *Housing Finance Agency” after “Social Security Ad-*
24 *ministration”.*

1 (d) *AUTHORITY TO CONTRACT FOR REVIEWS OF REG-*
2 *ULATED ENTITIES.*—Section 1319 of the Federal Housing
3 *Enterprises Financial Safety and Soundness Act of 1992*
4 *(12 U.S.C. 4519) is amended—*

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

8 (2) *by striking “enterprises” and inserting “reg-*
9 *ulated entities”.*

10 (e) *OFFICE OF THE OMBUDSMAN.*—Section 1317 of the
11 *Federal Housing Enterprises Financial Safety and Sound-*
12 *ness Act of 1992 (12 U.S.C. 4517) is amended by adding*
13 *at the end the following:*

14 “(i) *OMBUDSMAN.*—*The Director shall establish, by*
15 *regulation, an Office of the Ombudsman within the Agency,*
16 *which shall be responsible for considering complaints and*
17 *appeals, from any regulated entity and any person that has*
18 *a business relationship with a regulated entity, regarding*
19 *any matter relating to the regulation and supervision of*
20 *such regulated entity by the Agency. The regulation issued*
21 *by the Director under this subsection shall specify the au-*
22 *thority and duties of the Office of the Ombudsman.”.*

1 **SEC. 1106. ASSESSMENTS.**

2 *Section 1316 of the Federal Housing Enterprises Fi-*
3 *ancial Safety and Soundness Act of 1992 (12 U.S.C. 4516)*
4 *is amended—*

5 *(1) by striking subsection (a) and inserting the*
6 *following:*

7 *“(a) ANNUAL ASSESSMENTS.—The Director shall es-*
8 *tablish and collect from the regulated entities annual assess-*
9 *ments in an amount not exceeding the amount sufficient*
10 *to provide for reasonable costs (including administrative*
11 *costs) and expenses of the Agency, including—*

12 *“(1) the expenses of any examinations under sec-*
13 *tion 1317 of this Act and under section 20 of the Fed-*
14 *eral Home Loan Bank Act;*

15 *“(2) the expenses of obtaining any reviews and*
16 *credit assessments under section 1319;*

17 *“(3) such amounts in excess of actual expenses*
18 *for any given year as deemed necessary by the Direc-*
19 *tor to maintain a working capital fund in accordance*
20 *with subsection (e); and*

21 *“(4) the windup of the affairs of the Office of*
22 *Federal Housing Enterprise Oversight and the Fed-*
23 *eral Housing Finance Board under title III of the*
24 *Federal Housing Finance Regulatory Reform Act of*
25 *2008.”;*

26 *(2) in subsection (b)—*

1 (A) by realigning the margins of paragraph
2 (2) two ems from the left, so as to align the left
3 margin of such paragraph with the left margins
4 of paragraph (1);

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

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

9 “(2) *SEPARATE TREATMENT OF FEDERAL HOME*
10 *LOAN BANK AND ENTERPRISE ASSESSMENTS.—Assess-*
11 *ments collected from the enterprises shall not exceed*
12 *the amounts sufficient to provide for the costs and ex-*
13 *penditures described in subsection (a) relating to the en-*
14 *terprises. Assessments collected from the Federal*
15 *Home Loan Banks shall not exceed the amounts suffi-*
16 *cient to provide for the costs and expenses described*
17 *in subsection (a) relating to the Federal Home Loan*
18 *Banks.”;*

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

21 “(c) *INCREASED COSTS OF REGULATION.—*

22 “(1) *INCREASE FOR INADEQUATE CAPITALIZA-*
23 *TION.—The semiannual payments made pursuant to*
24 *subsection (b) by any regulated entity that is not*
25 *classified (for purposes of subtitle B) as adequately*

1 *capitalized may be increased, as necessary, in the dis-*
2 *cretion of the Director to pay additional estimated*
3 *costs of regulation of the regulated entity.*

4 “(2) *ADJUSTMENT FOR ENFORCEMENT ACTIVI-*
5 *TIES.—The Director may adjust the amounts of any*
6 *semiannual payments for an assessment under sub-*
7 *section (a) that are to be paid pursuant to subsection*
8 *(b) by a regulated entity, as necessary in the discre-*
9 *tion of the Director, to ensure that the costs of enforce-*
10 *ment activities under this Act for a regulated entity*
11 *are borne only by such regulated entity.*

12 “(3) *ADDITIONAL ASSESSMENT FOR DEFICI-*
13 *ENCIES.—If at any time, as a result of increased*
14 *costs of regulation of a regulated entity that is not*
15 *classified (for purposes of subtitle B) as adequately*
16 *capitalized or as the result of supervisory or enforce-*
17 *ment activities under this Act for a regulated entity,*
18 *the amount available from any semiannual payment*
19 *made by such regulated entity pursuant to subsection*
20 *(b) is insufficient to cover the costs of the Agency with*
21 *respect to such entity, the Director may make and*
22 *collect from such regulated entity an immediate as-*
23 *essment to cover the amount of such deficiency for*
24 *the semiannual period. If, at the end of any semi-*
25 *annual period during which such an assessment is*

1 *made, any amount remains from such assessment,*
2 *such remaining amount shall be deducted from the as-*
3 *essment for such regulated entity for the following*
4 *semiannual period.”;*

5 *(4) in subsection (d), by striking “If” and insert-*
6 *ing “Except with respect to amounts collected pursu-*
7 *ant to subsection (a)(3), if”;* and

8 *(5) by striking subsections (e) through (g) and*
9 *inserting the following:*

10 *“(e) WORKING CAPITAL FUND.—At the end of each*
11 *year for which an assessment under this section is made,*
12 *the Director shall remit to each regulated entity any*
13 *amount of assessment collected from such regulated entity*
14 *that is attributable to subsection (a)(3) and is in excess of*
15 *the amount the Director deems necessary to maintain a*
16 *working capital fund.*

17 *“(f) TREATMENT OF ASSESSMENTS.—*

18 *“(1) DEPOSIT.—Amounts received by the Direc-*
19 *tor from assessments under this section may be depos-*
20 *ited by the Director in the manner provided in sec-*
21 *tion 5234 of the Revised Statutes of the United States*
22 *(12 U.S.C. 192) for monies deposited by the Comp-*
23 *troller of the Currency.*

24 *“(2) NOT GOVERNMENT FUNDS.—The amounts*
25 *received by the Director from any assessment under*

1 *this section shall not be construed to be Government*
2 *or public funds or appropriated money.*

3 “(3) *NO APPORTIONMENT OF FUNDS.—Notwith-*
4 *standing any other provision of law, the amounts re-*
5 *ceived by the Director from any assessment under this*
6 *section shall not be subject to apportionment for the*
7 *purpose of chapter 15 of title 31, United States Code,*
8 *or under any other authority.*

9 “(4) *USE OF FUNDS.—The Director may use any*
10 *amounts received by the Director from assessments*
11 *under this section for compensation of the Director*
12 *and other employees of the Agency and for all other*
13 *expenses of the Director and the Agency.*

14 “(5) *AVAILABILITY OF OVERSIGHT FUND*
15 *AMOUNTS.—Notwithstanding any other provision of*
16 *law, any amounts remaining in the Federal Housing*
17 *Enterprises Oversight Fund established under this*
18 *section (as in effect before the effective date of the Fed-*
19 *eral Housing Finance Regulatory Reform Act of*
20 *2008, and any amounts remaining from assessments*
21 *on the Federal Home Loan Banks pursuant to section*
22 *18(b) of the Federal Home Loan Bank Act (12 U.S.C.*
23 *1438(b)), shall, upon such effective date, be treated for*
24 *purposes of this subsection as amounts received from*
25 *assessments under this section.*

1 “(6) *TREASURY INVESTMENTS.*—

2 “(A) *AUTHORITY.*—*The Director may re-*
3 *quest the Secretary of the Treasury to invest such*
4 *portions of amounts received by the Director*
5 *from assessments paid under this section that, in*
6 *the Director’s discretion, are not required to meet*
7 *the current working needs of the Agency.*

8 “(B) *GOVERNMENT OBLIGATIONS.*—*Pursu-*
9 *ant to a request under subparagraph (A), the*
10 *Secretary of the Treasury shall invest such*
11 *amounts in Government obligations guaranteed*
12 *as to principal and interest by the United States*
13 *with maturities suitable to the needs of the Agen-*
14 *cy and bearing interest at a rate determined by*
15 *the Secretary of the Treasury taking into consid-*
16 *eration current market yields on outstanding*
17 *marketable obligations of the United States of*
18 *comparable maturity.*

19 “(g) *BUDGET AND FINANCIAL MANAGEMENT.*—

20 “(1) *FINANCIAL OPERATING PLANS AND FORE-*
21 *CASTS.*—*The Director shall provide to the Director of*
22 *the Office of Management and Budget copies of the*
23 *Director’s financial operating plans and forecasts, as*
24 *prepared by the Director in the ordinary course of the*
25 *Agency’s operations, and copies of the quarterly re-*

1 *ports of the Agency’s financial condition and results*
2 *of operations, as prepared by the Director in the ordi-*
3 *nary course of the Agency’s operations.*

4 “(2) *FINANCIAL STATEMENTS.—The Agency shall*
5 *prepare annually a statement of—*

6 “(A) *assets and liabilities and surplus or*
7 *deficit;*

8 “(B) *income and expenses; and*

9 “(C) *sources and application of funds.*

10 “(3) *FINANCIAL MANAGEMENT SYSTEMS.—The*
11 *Agency shall implement and maintain financial*
12 *management systems that—*

13 “(A) *comply substantially with Federal fi-*
14 *nancial management systems requirements and*
15 *applicable Federal accounting standards; and*

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

18 “(4) *ASSERTION OF INTERNAL CONTROLS.—The*
19 *Director shall provide to the Comptroller General of*
20 *the United States an assertion as to the effectiveness*
21 *of the internal controls that apply to financial report-*
22 *ing by the Agency, using the standards established in*
23 *section 3512(c) of title 31, United States Code.*

24 “(5) *RULE OF CONSTRUCTION.—This subsection*
25 *may not be construed as implying any obligation on*

1 *the part of the Director to consult with or obtain the*
2 *consent or approval of the Director of the Office of*
3 *Management and Budget with respect to any report,*
4 *plan, forecast, or other information referred to in*
5 *paragraph (1) or any jurisdiction or oversight over*
6 *the affairs or operations of the Agency.*

7 “(h) *AUDIT OF AGENCY.*—

8 “(1) *IN GENERAL.*—*The Comptroller General*
9 *shall annually audit the financial transactions of the*
10 *Agency in accordance with the United States gen-*
11 *erally accepted government auditing standards as*
12 *may be prescribed by the Comptroller General of the*
13 *United States. The audit shall be conducted at the*
14 *place or places where accounts of the Agency are nor-*
15 *mally kept. The representatives of the Government Ac-*
16 *countability Office shall have access to the personnel*
17 *and to all books, accounts, documents, papers, records*
18 *(including electronic records), reports, files, and all*
19 *other papers, automated data, things, or property be-*
20 *longing to or under the control of or used or employed*
21 *by the Agency pertaining to its financial transactions*
22 *and necessary to facilitate the audit, and such rep-*
23 *resentatives shall be afforded full facilities for*
24 *verifying transactions with the balances or securities*
25 *held by depositories, fiscal agents, and custodians. All*

1 *such books, accounts, documents, records, reports,*
2 *files, papers, and property of the Agency shall remain*
3 *in possession and custody of the Agency. The Comp-*
4 *troller General may obtain and duplicate any such*
5 *books, accounts, documents, records, working papers,*
6 *automated data and files, or other information rel-*
7 *evant to such audit without cost to the Comptroller*
8 *General and the Comptroller General's right of access*
9 *to such information shall be enforceable pursuant to*
10 *section 716(c) of title 31, United States Code.*

11 “(2) *REPORT.—The Comptroller General shall*
12 *submit to the Congress a report of each annual audit*
13 *conducted under this subsection. The report to the*
14 *Congress shall set forth the scope of the audit and*
15 *shall include the statement of assets and liabilities*
16 *and surplus or deficit, the statement of income and*
17 *expenses, the statement of sources and application of*
18 *funds, and such comments and information as may*
19 *be deemed necessary to inform Congress of the finan-*
20 *cial operations and condition of the Agency, together*
21 *with such recommendations with respect thereto as the*
22 *Comptroller General may deem advisable. A copy of*
23 *each report shall be furnished to the President and to*
24 *the Agency at the time submitted to the Congress.*

1 “(3) *ASSISTANCE AND COSTS.*—*For the purpose*
2 *of conducting an audit under this subsection, the*
3 *Comptroller General may, in the discretion of the*
4 *Comptroller General, employ by contract, without re-*
5 *gard to section 3709 of the Revised Statutes of the*
6 *United States (41 U.S.C. 5), professional services of*
7 *firms and organizations of certified public account-*
8 *ants for temporary periods or for special purposes.*
9 *Upon the request of the Comptroller General, the Di-*
10 *rector of the Agency shall transfer to the Government*
11 *Accountability Office from funds available, the*
12 *amount requested by the Comptroller General to cover*
13 *the full costs of any audit and report conducted by*
14 *the Comptroller General. The Comptroller General*
15 *shall credit funds transferred to the account estab-*
16 *lished for salaries and expenses of the Government Ac-*
17 *countability Office, and such amount shall be avail-*
18 *able upon receipt and without fiscal year limitation*
19 *to cover the full costs of the audit and report.”.*

20 **SEC. 1107. REGULATIONS AND ORDERS.**

21 *Section 1319G of the Federal Housing Enterprises Fi-*
22 *nanacial Safety and Soundness Act of 1992 (12 U.S.C. 4526)*
23 *is amended—*

24 (1) *by striking subsection (a) and inserting the*
25 *following:*

1 “(a) *AUTHORITY.*—*The Director shall issue any regu-*
 2 *lations, guidelines, or orders necessary to carry out the du-*
 3 *ties of the Director under this title or the authorizing stat-*
 4 *utes, and to ensure that the purposes of this title and the*
 5 *authorizing statutes are accomplished.*”; and

6 (2) *by striking subsection (c).*

7 **SEC. 1108. PRUDENTIAL MANAGEMENT AND OPERATIONS**
 8 **STANDARDS.**

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

13 **“SEC. 1313B. PRUDENTIAL MANAGEMENT AND OPERATIONS**
 14 **STANDARDS.**

15 “(a) *STANDARDS.*—*The Director shall establish stand-*
 16 *ards, by regulation or guideline, for each regulated entity*
 17 *relating to—*

18 “(1) *adequacy of internal controls and informa-*
 19 *tion systems taking into account the nature and scale*
 20 *of business operations;*

21 “(2) *independence and adequacy of internal*
 22 *audit systems;*

23 “(3) *management of interest rate risk exposure;*

24 “(4) *management of market risk, including*
 25 *standards that provide for systems that accurately*

1 *measure, monitor, and control market risks and, as*
2 *warranted, that establish limitations on market risk;*

3 *“(5) adequacy and maintenance of liquidity and*
4 *reserves;*

5 *“(6) management of asset and investment port-*
6 *folio growth;*

7 *“(7) investments and acquisitions of assets by a*
8 *regulated entity, to ensure that they are consistent*
9 *with the purposes of this title and the authorizing*
10 *statutes;*

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

19 *“(9) management of credit and counterparty*
20 *risk, including systems to identify concentrations of*
21 *credit risk and prudential limits to restrict exposure*
22 *of the regulated entity to a single counterparty or*
23 *groups of related counterparties;*

24 *“(10) maintenance of adequate records, in ac-*
25 *cordance with consistent accounting policies and*

1 *practices that enable the Director to evaluate the fi-*
2 *nancial condition of the regulated entity; and*

3 *“(11) such other operational and management*
4 *standards as the Director determines to be appro-*
5 *priate.*

6 *“(b) FAILURE TO MEET STANDARDS.—*

7 *“(1) PLAN REQUIREMENT.—*

8 *“(A) IN GENERAL.—If the Director deter-*
9 *mines that a regulated entity fails to meet any*
10 *standard established under subsection (a)—*

11 *“(i) if such standard is established by*
12 *regulation, the Director shall require the*
13 *regulated entity to submit an acceptable*
14 *plan to the Director within the time allowed*
15 *under subparagraph (C); and*

16 *“(ii) if such standard is established by*
17 *guideline, the Director may require the reg-*
18 *ulated entity to submit a plan described in*
19 *clause (i).*

20 *“(B) CONTENTS.—Any plan required under*
21 *subparagraph (A) shall specify the actions that*
22 *the regulated entity will take to correct the defi-*
23 *ciency. If the regulated entity is undercapital-*
24 *ized, the plan may be a part of the capital res-*

1 *toration plan for the regulated entity under sec-*
2 *tion 1369C.*

3 “(C) *DEADLINES FOR SUBMISSION AND RE-*
4 *VIEW.—The Director shall by regulation establish*
5 *deadlines that—*

6 “(i) *provide the regulated entities with*
7 *reasonable time to submit plans required*
8 *under subparagraph (A), and generally re-*
9 *quire a regulated entity to submit a plan*
10 *not later than 30 days after the Director de-*
11 *termines that the entity fails to meet any*
12 *standard established under subsection (a);*
13 *and*

14 “(ii) *require the Director to act on*
15 *plans expeditiously, and generally not later*
16 *than 30 days after the plan is submitted.*

17 “(2) *REQUIRED ORDER UPON FAILURE TO SUB-*
18 *MIT OR IMPLEMENT PLAN.—If a regulated entity fails*
19 *to submit an acceptable plan within the time allowed*
20 *under paragraph (1)(C), or fails in any material re-*
21 *spect to implement a plan accepted by the Director,*
22 *the following shall apply:*

23 “(A) *REQUIRED CORRECTION OF DEFICI-*
24 *ENCY.—The Director shall, by order, require*
25 *the regulated entity to correct the deficiency.*

1 “(B) *OTHER AUTHORITY.*—*The Director*
2 *may, by order, take one or more of the following*
3 *actions until the deficiency is corrected:*

4 “(i) *Prohibit the regulated entity from*
5 *permitting its average total assets (as such*
6 *term is defined in section 1316(b)) during*
7 *any calendar quarter to exceed its average*
8 *total assets during the preceding calendar*
9 *quarter, or restrict the rate at which the av-*
10 *erage total assets of the entity may increase*
11 *from one calendar quarter to another.*

12 “(ii) *Require the regulated entity—*

13 “(I) *in the case of an enterprise,*
14 *to increase its ratio of core capital to*
15 *assets.*

16 “(II) *in the case of a Federal*
17 *Home Loan Bank, to increase its ratio*
18 *of total capital (as such term is defined*
19 *in section 6(a)(5) of the Federal Home*
20 *Loan Bank Act (12 U.S.C. 1426(a)(5))*
21 *to assets.*

22 “(iii) *Require the regulated entity to*
23 *take any other action that the Director de-*
24 *termines will better carry out the purposes*

1 of this section than any of the actions de-
2 scribed in this subparagraph.

3 “(3) **MANDATORY RESTRICTIONS.**—In complying
4 with paragraph (2), the Director shall take one or
5 more of the actions described in clauses (i) through
6 (iii) of paragraph (2)(B) if—

7 “(A) the Director determines that the regu-
8 lated entity fails to meet any standard pre-
9 scribed under subsection (a);

10 “(B) the regulated entity has not corrected
11 the deficiency; and

12 “(C) during the 18-month period before the
13 date on which the regulated entity first failed to
14 meet the standard, the entity underwent extraor-
15 dinary growth, as defined by the Director.

16 “(c) **OTHER ENFORCEMENT AUTHORITY NOT AF-**
17 **FECTED.**—The authority of the Director under this section
18 **is in addition to any other authority of the Director.”.**

19 **SEC. 1109. REVIEW OF AND AUTHORITY OVER ENTERPRISE**
20 **ASSETS AND LIABILITIES.**

21 (a) **IN GENERAL.**—Subtitle B of the Federal Housing
22 **Enterprises Financial Safety and Soundness Act of 1992**
23 **(12 U.S.C. 4611 et seq.) is amended—**

24 (1) **by striking the subtitle designation and head-**
25 **ing 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 regulation,*
12 *establish criteria governing the portfolio holdings of the en-*
13 *terprises, to ensure that the holdings are backed by sufficient*
14 *capital and consistent with the mission and the safe and*
15 *sound operations of the enterprises. In establishing such cri-*
16 *teria, the Director shall consider the ability of the enter-*
17 *prises to provide a liquid secondary market through*
18 *securitization activities, the portfolio holdings in relation*
19 *to the overall mortgage market, and adherence to the stand-*
20 *ards specified in section 1313B.*

21 *“(b) TEMPORARY ADJUSTMENTS.—The Director may,*
22 *by order, make temporary adjustments to the established*
23 *standards for an enterprise or both enterprises, such as dur-*
24 *ing times of economic distress or market disruption.*

1 “(c) *AUTHORITY TO REQUIRE DISPOSITION OR ACQUI-*
 2 *SITION.—The Director shall monitor the portfolio of each*
 3 *enterprise. Pursuant to subsection (a) and notwithstanding*
 4 *the capital classifications of the enterprises, the Director*
 5 *may, by order, require an enterprise, under such terms and*
 6 *conditions as the Director determines to be appropriate, to*
 7 *dispose of or acquire any asset, if the Director determines*
 8 *that such action is consistent with the purposes of this Act*
 9 *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 section*
 13 *1369E(a) of the Federal Housing Enterprises Financial*
 14 *Safety and Soundness Act of 1992 (as added by subsection*
 15 *(a) of this section) establishing the portfolio holdings stand-*
 16 *ards under such section.*

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

18 (a) *IN GENERAL.—Section 1361 of the Federal Hous-*
 19 *ing Enterprises Financial Safety and Soundness Act of*
 20 *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 reg-*
 25 *ulation, establish risk-based capital requirements for*

1 *the enterprises to ensure that the enterprises operate*
2 *in a safe and sound manner, maintaining sufficient*
3 *capital and reserves to support the risks that arise in*
4 *the operations and management of the enterprises.*

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

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

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

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

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

1 *ations 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. 4612)*
 8 *is amended—*

9 *(1) in subsection (a), by striking “IN GENERAL”*
 10 *and inserting “ENTERPRISES”; and*

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

13 *“(b) FEDERAL HOME LOAN BANKS.—For purposes of*
 14 *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 Federal*
 18 *Home Loan Bank Act (12 U.S.C. 1426(a)(2)).*

19 *“(c) ESTABLISHMENT OF REVISED MINIMUM CAPITAL*
 20 *LEVELS.—Notwithstanding subsections (a) and (b) and*
 21 *notwithstanding the capital classifications of the regulated*
 22 *entities, the Director may, by regulations issued under sec-*
 23 *tion 1319G, establish a minimum capital level for the enter-*
 24 *prises, for the Federal Home Loan Banks, or for both the*
 25 *enterprises and the banks, that is higher than the level speci-*

1 *fied in subsection (a) for the enterprises or the level specified*
2 *in subsection (b) for the Federal Home Loan Banks, to the*
3 *extent needed to ensure that the regulated entities operate*
4 *in a safe and sound manner.*

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

7 “(1) *IN GENERAL.—Notwithstanding subsections*
8 *(a) and (b) and any minimum capital level estab-*
9 *lished pursuant to subsection (c), the Director may,*
10 *by order, increase the minimum capital level for a*
11 *regulated entity on a temporary basis, when the Di-*
12 *rector determines that such an increase is necessary*
13 *and consistent with the prudential regulation and the*
14 *safe and sound operations of a regulated entity.*

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

20 “(3) *REGULATIONS REQUIRED.—The Director*
21 *shall issue regulations establishing—*

22 “(A) *standards for the imposition of a tem-*
23 *porary increase in minimum capital under*
24 *paragraph (1);*

1 “(B) the standards and procedures that the
2 Director will use to make the determination re-
3 ferred to in paragraph (2); and

4 “(C) a reasonable time frame for periodic
5 review of any temporary increase in minimum
6 capital for the purpose of making the determina-
7 tion referred to in paragraph (2).

8 “(e) *AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL*
9 *AND RESERVE REQUIREMENTS FOR PARTICULAR PUR-*
10 *POSES.—The Director may, at any time by order or regula-*
11 *tion, establish such capital or reserve requirements with re-*
12 *spect to any product or activity of a regulated entity, as*
13 *the Director considers appropriate to ensure that the regu-*
14 *lated entity operates in a safe and sound manner, with suf-*
15 *ficient capital and reserves to support the risks that arise*
16 *in the operations and management of the regulated entity.*

17 “(f) *PERIODIC REVIEW.—The Director shall periodi-*
18 *cally review the amount of core capital maintained by the*
19 *enterprises, the amount of capital retained by the Federal*
20 *Home Loan Banks, and the minimum capital levels estab-*
21 *lished for such regulated entities pursuant to this section.”.*

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

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

1 **“SEC. 38. FEDERAL NATIONAL MORTGAGE ASSOCIATION,**
2 **FEDERAL HOME LOAN MORTGAGE CORPORA-**
3 **TION, FEDERAL HOME LOAN BANKS.**

4 *“(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION*
5 *AND FEDERAL HOME LOAN MORTGAGE CORPORATION.—*
6 *No class of equity securities of the Federal National Mort-*
7 *gage Association or the Federal Home Loan Mortgage Cor-*
8 *poration shall be treated as an exempted security for pur-*
9 *poses of section 12, 13, 14, or 16.*

10 *“(b) FEDERAL HOME LOAN BANKS.—*

11 *“(1) REGISTRATION.—Each Federal Home Loan*
12 *Bank shall register a class of its common stock under*
13 *section 12(g), not later than 120 days after the date*
14 *of enactment of the Federal Housing Finance Regu-*
15 *latory Reform Act of 2008, and shall thereafter main-*
16 *tain such registration and be treated for purposes of*
17 *this title as an ‘issuer’, the securities of which are re-*
18 *quired to be registered under section 12, regardless of*
19 *the number of members holding such stock at any*
20 *given time.*

21 *“(2) STANDARDS RELATING TO AUDIT COMMIT-*
22 *TEES.—Each Federal Home Loan Bank shall comply*
23 *with the rules issued by the Commission under section*
24 *10A(m).*

25 *“(c) DEFINITIONS.—For purposes of this section, the*
26 *following definitions shall apply:*

1 “(1) *FEDERAL HOME LOAN BANK; MEMBER.*—
2 *The terms ‘Federal Home Loan Bank’ and ‘member’,*
3 *have the same meanings as in section 2 of the Federal*
4 *Home Loan Bank Act.*

5 “(2) *FEDERAL NATIONAL MORTGAGE ASSOCIA-*
6 *TION.*—*The term ‘Federal National Mortgage Associa-*
7 *tion’ means the corporation created by the Federal*
8 *National Mortgage Association Charter Act.*

9 “(3) *FEDERAL HOME LOAN MORTGAGE CORPORA-*
10 *TION.*—*The term ‘Federal Home Loan Mortgage Cor-*
11 *poration’ means the corporation created by the Fed-*
12 *eral Home Loan Mortgage Corporation Act.’.*”

13 **SEC. 1113. PROHIBITION AND WITHHOLDING OF EXECUTIVE**
14 **COMPENSATION.**

15 (a) *IN GENERAL.*—*Section 1318 of the Federal Hous-*
16 *ing Enterprises Financial Safety and Soundness Act of*
17 *1992 (12 U.S.C. 4518) is amended—*

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

21 (2) *by redesignating subsection (b) as subsection*
22 *(d); and*

23 (3) *by inserting after subsection (a) the fol-*
24 *lowing:*

1 “(b) *FACTORS.*—*In making any determination under*
2 *subsection (a), the Director may take into consideration*
3 *any factors the Director considers relevant, including any*
4 *wrongdoing on the part of the executive officer, and such*
5 *wrongdoing shall include any fraudulent act or omission,*
6 *breach of trust or fiduciary duty, violation of law, rule, reg-*
7 *ulation, order, or written agreement, and insider abuse with*
8 *respect to the regulated entity. The approval of an agree-*
9 *ment or contract pursuant to section 309(d)(3)(B) of the*
10 *Federal National Mortgage Association Charter Act (12*
11 *U.S.C. 1723a(d)(3)(B)) or section 303(h)(2) of the Federal*
12 *Home Loan Mortgage Corporation Act (12 U.S.C.*
13 *1452(h)(2)) shall not preclude the Director from making*
14 *any subsequent determination under subsection (a).*

15 “(c) *WITHHOLDING OF COMPENSATION.*—*In carrying*
16 *out subsection (a), the Director may require a regulated en-*
17 *tity to withhold any payment, transfer, or disbursement of*
18 *compensation to an executive officer, or to place such com-*
19 *pensation in an escrow account, during the review of the*
20 *reasonableness and comparability of compensation.”.*

21 (b) *CONFORMING AMENDMENTS.*—

22 (1) *FANNIE MAE.*—*Section 309(d) of the Federal*
23 *National Mortgage Association Charter Act (12*
24 *U.S.C. 1723a(d)) is amended by adding at the end*
25 *the following new paragraph:*

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

8 (2) *FREDDIE MAC.*—Section 303(h) of the Fed-
9 eral Home Loan Mortgage Corporation Act (12
10 U.S.C. 1452(h)) is amended by adding at the end the
11 following new paragraph:

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

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

23 “(l) *WITHHOLDING OF COMPENSATION.*—Notwith-
24 standing any other provision of this section, a Federal
25 Home Loan Bank shall not transfer, disburse, or pay com-

1 *1 pensionation to any executive officer, or enter into an agree-*
 2 *2 ment with such executive officer, without the approval of*
 3 *3 the Director, for matters being reviewed under section 1318*
 4 *4 of the Federal Housing Enterprises Financial Safety and*
 5 *5 Soundness Act of 1992 (12 U.S.C. 4518).”.*

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

7 *Section 1318 of the Federal Housing Enterprises Fi-*
 8 *8 nancial Safety and Soundness Act of 1992 (12 U.S.C. 4518)*
 9 *9 is amended by adding at the end the following:*

10 *“(e) AUTHORITY TO REGULATE OR PROHIBIT CER-*
 11 *11 TAIN FORMS OF BENEFITS TO AFFILIATED PARTIES.—*

12 *“(1) GOLDEN PARACHUTES AND INDEMNIFICA-*
 13 *13 TION PAYMENTS.—The Director may prohibit or*
 14 *14 limit, by regulation or order, any golden parachute*
 15 *15 payment or indemnification payment.*

16 *“(2) FACTORS TO BE TAKEN INTO ACCOUNT.—*
 17 *17 The Director shall prescribe, by regulation, the factors*
 18 *18 to be considered by the Director in taking any action*
 19 *19 pursuant to paragraph (1), which may include such*
 20 *20 factors as—*

21 *“(A) whether there is a reasonable basis to*
 22 *22 believe that the affiliated party has committed*
 23 *23 any fraudulent act or omission, breach of trust*
 24 *24 or fiduciary duty, or insider abuse with regard*
 25 *25 to the regulated entity that has had a material*

1 *effect on the financial condition of the regulated*
2 *entity;*

3 “(B) *whether there is a reasonable basis to*
4 *believe that the affiliated party is substantially*
5 *responsible for the insolvency of the regulated en-*
6 *tity, the appointment of a conservator or receiver*
7 *for the regulated entity, or the troubled condition*
8 *of the regulated entity (as defined in regulations*
9 *prescribed by the Director);*

10 “(C) *whether there is a reasonable basis to*
11 *believe that the affiliated party has materially*
12 *violated any applicable provision of Federal or*
13 *State law or regulation that has had a material*
14 *effect on the financial condition of the regulated*
15 *entity;*

16 “(D) *whether the affiliated party was in a*
17 *position of managerial or fiduciary responsi-*
18 *bility; and*

19 “(E) *the length of time that the party was*
20 *affiliated with the regulated entity, and the de-*
21 *gree to which—*

22 “(i) *the payment reasonably reflects*
23 *compensation earned over the period of em-*
24 *ployment; and*

1 “(ii) *the compensation involved rep-*
2 *resents a reasonable payment for services*
3 *rendered.*

4 “(3) *CERTAIN PAYMENTS PROHIBITED.—No reg-*
5 *ulated entity may prepay the salary or any liability*
6 *or legal expense of any affiliated party if such pay-*
7 *ment is made—*

8 “(A) *in contemplation of the insolvency of*
9 *such regulated entity, or after the commission of*
10 *an act of insolvency; and*

11 “(B) *with a view to, or having the result*
12 *of—*

13 “(i) *preventing the proper application*
14 *of the assets of the regulated entity to credi-*
15 *tors; or*

16 “(ii) *preferring one creditor over an-*
17 *other.*

18 “(4) *GOLDEN PARACHUTE PAYMENT DEFINED.—*

19 “(A) *IN GENERAL.—For purposes of this*
20 *subsection, the term ‘golden parachute payment’*
21 *means any payment (or any agreement to make*
22 *any payment) in the nature of compensation by*
23 *any regulated entity for the benefit of any affili-*
24 *ated party pursuant to an obligation of such reg-*
25 *ulated entity that—*

1 “(i) is contingent on the termination of
2 such party’s affiliation with the regulated
3 entity; and

4 “(ii) is received on or after the date on
5 which—

6 “(I) the regulated entity became
7 insolvent;

8 “(II) any conservator or receiver
9 is appointed for such regulated entity;
10 or

11 “(III) the Director determines
12 that the regulated entity is in a trou-
13 bled condition (as defined in the regu-
14 lations of the Director).

15 “(B) CERTAIN PAYMENTS IN CONTEMPLA-
16 TION OF AN EVENT.—Any payment which would
17 be a golden parachute payment but for the fact
18 that such payment was made before the date re-
19 ferred to in subparagraph (A)(ii) shall be treated
20 as a golden parachute payment if the payment
21 was made in contemplation of the occurrence of
22 an event described in any subclause of such sub-
23 paragraph.

1 “(C) *CERTAIN PAYMENTS NOT INCLUDED.*—
2 *For purposes of this subsection, the term ‘golden*
3 *parachute payment’ shall not include—*

4 “(i) *any payment made pursuant to a*
5 *retirement plan which is qualified (or is in-*
6 *tended to be qualified) under section 401 of*
7 *the Internal Revenue Code of 1986, or other*
8 *nondiscriminatory benefit plan;*

9 “(ii) *any payment made pursuant to a*
10 *bona fide deferred compensation plan or ar-*
11 *rangement which the Director determines,*
12 *by regulation or order, to be permissible; or*

13 “(iii) *any payment made by reason of*
14 *the death or disability of an affiliated*
15 *party.*

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

18 “(A) *INDEMNIFICATION PAYMENT.*—*Subject*
19 *to paragraph (6), the term ‘indemnification pay-*
20 *ment’ means any payment (or any agreement to*
21 *make any payment) by any regulated entity for*
22 *the benefit of any person who is or was an affili-*
23 *ated party, to pay or reimburse such person for*
24 *any liability or legal expense with regard to any*
25 *administrative proceeding or civil action insti-*

1 *tuted by the Agency which results in a final*
2 *order under which such person—*

3 *“(i) is assessed a civil money penalty;*

4 *“(ii) is removed or prohibited from*
5 *participating in conduct of the affairs of the*
6 *regulated entity; or*

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

11 *“(B) LIABILITY OR LEGAL EXPENSE.—The*
12 *term ‘liability or legal expense’ means—*

13 *“(i) any legal or other professional ex-*
14 *pense incurred in connection with any*
15 *claim, proceeding, or action;*

16 *“(ii) the amount of, and any cost in-*
17 *curring in connection with, any settlement of*
18 *any claim, proceeding, or action; and*

19 *“(iii) the amount of, and any cost in-*
20 *curring in connection with, any judgment or*
21 *penalty imposed with respect to any claim,*
22 *proceeding, or action.*

23 *“(C) PAYMENT.—The term ‘payment’ in-*
24 *cludes—*

1 “(i) any direct or indirect transfer of
2 any funds or any asset; and

3 “(ii) any segregation of any funds or
4 assets for the purpose of making, or pursu-
5 ant to an agreement to make, any payment
6 after the date on which such funds or assets
7 are segregated, without regard to whether
8 the obligation to make such payment is con-
9 tingent on—

10 “(I) the determination, after such
11 date, of the liability for the payment of
12 such amount; or

13 “(II) the liquidation, after such
14 date, of the amount of such payment.

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

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

2 *Part 1 of subtitle C of the Federal Housing Enterprises*
3 *Financial Safety and Soundness Act of 1992 (12 U.S.C.*
4 *4631 et seq.), as amended by this Act, is amended by adding*
5 *at the end the following:*

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

7 *“(a) REQUIREMENT TO REPORT.—The Director shall*
8 *require a regulated entity to submit to the Director a timely*
9 *report upon discovery by the regulated entity that it has*
10 *purchased or sold a fraudulent loan or financial instru-*
11 *ment, or suspects a possible fraud relating to the purchase*
12 *or sale of any loan or financial instrument. The Director*
13 *shall require each regulated entity to establish and main-*
14 *tain procedures designed to discover any such transactions.*

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

1 ***Subtitle B—Improvement of Mission***
 2 ***Supervision***

3 ***SEC. 1121. TRANSFER OF PROGRAM APPROVAL AND HOUS-***
 4 ***ING GOAL OVERSIGHT.***

5 *Part 2 of subtitle A of the Federal Housing Enterprises*
 6 *Financial Safety and Soundness Act of 1992 (12 U.S.C.*
 7 *4541 et seq.) is amended—*

8 *(1) by striking the heading for the part and in-*
 9 *serting the following:*

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

12 *and*

13 *(2) by striking sections 1321 and 1322.*

14 ***SEC. 1122. ASSUMPTION BY THE DIRECTOR OF CERTAIN***
 15 ***OTHER HUD RESPONSIBILITIES.***

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

19 *(1) by striking “Secretary” each place that term*
 20 *appears and inserting “Director” in each of sections*
 21 *1323, 1326, 1327, 1328, and 1336; and*

22 *(2) by striking sections 1338 and 1349 (12*
 23 *U.S.C. 4562 note and 4589).*

24 *(b) RETENTION OF FAIR HOUSING RESPONSIBIL-*
 25 *ITIES.—Section 1325 of the Federal Housing Enterprises*

1 *Financial Safety and Soundness Act of 1992 (12 U.S.C.*
2 *4545) is amended in the matter preceding paragraph (1),*
3 *by inserting “of Housing and Urban Development” after*
4 *“The Secretary”.*

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

6 *Part 2 of subtitle A of the Federal Housing Enterprises*
7 *Financial Safety and Soundness Act of 1992 (12 U.S.C.*
8 *4541 et seq.) is amended by inserting before section 1323*
9 *the following:*

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

11 *“(a) IN GENERAL.—The Director shall require each*
12 *enterprise to obtain the approval of the Director for any*
13 *product of the enterprise before initially offering the prod-*
14 *uct.*

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

18 *“(1) in the case of a product of the Federal Na-*
19 *tional Mortgage Association, the product is authorized*
20 *under paragraph (2), (3), (4), or (5) of section 302(b)*
21 *or section 304 of the Federal National Mortgage Asso-*
22 *ciation Charter Act (12 U.S.C. 1717(b), 1719);*

23 *“(2) in the case of a product of the Federal*
24 *Home Loan Mortgage Corporation, the product is au-*
25 *thorized under paragraph (1), (4), or (5) of section*

1 305(a) of the Federal Home Loan Mortgage Corpora-
2 tion Act (12 U.S.C. 1454(a));

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

4 “(4) the product is consistent with the safety and
5 soundness of the enterprise or the mortgage finance
6 system.

7 “(c) *PROCEDURE FOR APPROVAL.*—

8 “(1) *SUBMISSION OF REQUEST.*—An enterprise
9 shall submit to the Director a written request for ap-
10 proval of a product that describes the product in such
11 form as prescribed by order or regulation of the Di-
12 rector.

13 “(2) *REQUEST FOR PUBLIC COMMENT.*—Imme-
14 diately upon receipt of a request for approval of a
15 product, as required under paragraph (1), the Direc-
16 tor shall publish notice of such request and of the pe-
17 riod for public comment pursuant to paragraph (3)
18 regarding the product, and a description of the prod-
19 uct proposed by the request. The Director shall give
20 interested parties the opportunity to respond in writ-
21 ing to the proposed product.

22 “(3) *PUBLIC COMMENT PERIOD.*—During the 30-
23 day period beginning on the date of publication pur-
24 suant to paragraph (2) of a request for approval of

1 *a product, the Director shall receive public comments*
2 *regarding the proposed product.*

3 *“(4) OFFERING OF PRODUCT.—*

4 *“(A) IN GENERAL.—Not later than 30 days*
5 *after the close of the public comment period de-*
6 *scribed in paragraph (3), the Director shall ap-*
7 *prove or deny the product, specifying the*
8 *grounds for such decision in writing.*

9 *“(B) FAILURE TO ACT.—If the Director*
10 *fails to act within the 30-day period described in*
11 *subparagraph (A), then the enterprise may offer*
12 *the product.*

13 *“(C) TEMPORARY APPROVAL.—The Director*
14 *may, subject to the rules of the Director, provide*
15 *for temporary approval of the offering of a prod-*
16 *uct without a public comment period, if the Di-*
17 *rector finds that the existence of exigent cir-*
18 *cumstances makes such delay contrary to the*
19 *public interest.*

20 *“(d) CONDITIONAL APPROVAL.—If the Director ap-*
21 *proves the offering of any product by an enterprise, the Di-*
22 *rector may establish terms, conditions, or limitations with*
23 *respect to such product with which the enterprise must com-*
24 *ply in order to offer such product.*

25 *“(e) EXCLUSIONS.—*

1 “(1) *IN GENERAL.*—*The requirements of sub-*
2 *sections (a) through (d) do not apply with respect*
3 *to—*

4 “(A) *the automated loan underwriting sys-*
5 *tem of an enterprise in existence as of the date*
6 *of enactment of the Federal Housing Finance*
7 *Regulatory Reform Act of 2008, including any*
8 *upgrade to the technology, operating system, or*
9 *software to operate the underwriting system;*

10 “(B) *any modification to the mortgage*
11 *terms and conditions or mortgage underwriting*
12 *criteria relating to the mortgages that are pur-*
13 *chased or guaranteed by an enterprise, provided*
14 *that such modifications do not alter the under-*
15 *lying transaction so as to include services or fi-*
16 *nancing, other than residential mortgage financ-*
17 *ing; or*

18 “(C) *any other activity that is substantially*
19 *similar, as determined by rule of the Director*
20 *to—*

21 “(i) *the activities described in subpara-*
22 *graphs (A) and (B); and*

23 “(ii) *other activities that have been ap-*
24 *proved by the Director in accordance with*
25 *this section.*

1 “(2) *EXPEDITED REVIEW.*—

2 “(A) *ENTERPRISE NOTICE.*—*For any new*
3 *activity that an enterprise considers not to be a*
4 *product, the enterprise shall provide written no-*
5 *tice to the Director of such activity, and may not*
6 *commence such activity until the date of receipt*
7 *of a notice under subparagraph (B) or the expi-*
8 *ration of the period described in subparagraph*
9 *(C). The Director shall establish, by regulation,*
10 *the form and content of such written notice.*

11 “(B) *DIRECTOR DETERMINATION.*—*Not*
12 *later than 15 days after the date of receipt of a*
13 *notice under subparagraph (A), the Director*
14 *shall determine whether such activity is a prod-*
15 *uct subject to approval under this section. The*
16 *Director shall, immediately upon so determining,*
17 *notify the enterprise.*

18 “(C) *FAILURE TO ACT.*—*If the Director fails*
19 *to determine whether such activity is a product*
20 *within the 15-day period described in subpara-*
21 *graph (B), the enterprise may commence the new*
22 *activity in accordance with subparagraph (A).*

23 “(f) *NO LIMITATION.*—*Nothing in this section may be*
24 *construed to restrict—*

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

4 “(2) the authority of the Director to review all
5 new and existing products or activities to determine
6 that such products or activities are consistent with
7 the statutory mission of an enterprise.”.

8 **SEC. 1124. CONFORMING LOAN LIMITS.**

9 (a) *FANNIE MAE*.—

10 (1) *GENERAL LIMIT*.—Section 302(b)(2) of the
11 *Federal National Mortgage Association Charter Act*
12 (12 U.S.C. 1717(b)(2)) is amended by striking the 7th
13 and 8th sentences and inserting the following new
14 sentences: “Such limitations shall not exceed \$417,000
15 for a mortgage secured by a single-family residence,
16 \$533,850 for a mortgage secured by a 2-family resi-
17 dence, \$645,300 for a mortgage secured by a 3-family
18 residence, and \$801,950 for a mortgage secured by a
19 4-family residence, except that such maximum limita-
20 tions shall be adjusted effective January 1 of each
21 year beginning after the effective date of *Federal*
22 *Housing Finance Regulatory Reform Act of 2008*,
23 subject to the limitations in this paragraph. Each ad-
24 justment shall be made by adding to each such
25 amount (as it may have been previously adjusted) a

1 *percentage thereof equal to the percentage increase,*
2 *during the most recent 12-month or 4th-quarter pe-*
3 *riod ending before the time of determining such an-*
4 *nual adjustment, in the housing price index main-*
5 *tained by the Director of the Federal Housing Fi-*
6 *nance Agency (pursuant to section 1322 of the Fed-*
7 *eral Housing Enterprises Financial Safety and*
8 *Soundness Act of 1992 (12 U.S.C. 4541)). If the*
9 *change in such house price index during the most re-*
10 *cent 12-month or 4th-quarter period ending before the*
11 *time of determining such annual adjustment is a de-*
12 *crease, then no adjustment shall be made for the next*
13 *year, and the next adjustment shall take into account*
14 *prior declines in the house price index, so that any*
15 *adjustment shall reflect the net change in the house*
16 *price index since the last adjustment. Declines in the*
17 *house price index shall be accumulated and then re-*
18 *duce increases until subsequent increases exceed prior*
19 *declines.”.*

20 (2) *HIGH-COST AREA LIMIT.*—Section 302(b)(2)
21 *of the Federal National Mortgage Association Charter*
22 *Act (12 U.S.C. 1717(b)(2)) is amended by adding*
23 *after the period at the end the following: “Such fore-*
24 *going limitations shall also be increased with respect*
25 *to properties of a particular size located in any area*

1 for which the median price for such size residence ex-
2 ceeds the foregoing limitation for such size residence,
3 to the lesser of 150 percent of such foregoing limita-
4 tion for such size residence or the amount that is
5 equal to the median price in such area for such size
6 residence.”.

7 (3) *EFFECTIVE DATE.*—The amendments made
8 by paragraphs (1) and (2) of this subsection shall
9 take effect upon the expiration of the date described
10 in section 201(a) of the *Economic Stimulus Act of*
11 2008 (*Public Law 110–185*).

12 (b) *FREDDIE MAC.*—

13 (1) *GENERAL LIMIT.*—Section 305(a)(2) of the
14 *Federal Home Loan Mortgage Corporation Act* (12
15 U.S.C. 1454(a)(2)) is amended by striking the 6th
16 and 7th sentences and inserting the following new
17 sentences: “Such limitations shall not exceed \$417,000
18 for a mortgage secured by a single-family residence,
19 \$533,850 for a mortgage secured by a 2-family resi-
20 dence, \$645,300 for a mortgage secured by a 3-family
21 residence, and \$801,950 for a mortgage secured by a
22 4-family residence, except that such maximum limita-
23 tions shall be adjusted effective January 1 of each
24 year beginning after the effective date of the *Federal*
25 *Housing Finance Regulatory Reform Act of 2008*,

1 *subject to the limitations in this paragraph. Each ad-*
2 *justment shall be made by adding to each such*
3 *amount (as it may have been previously adjusted) a*
4 *percentage thereof equal to the percentage increase,*
5 *during the most recent 12-month or fourth-quarter pe-*
6 *riod ending before the time of determining such an-*
7 *annual adjustment, in the housing price index main-*
8 *tained by the Director of the Federal Housing Fi-*
9 *nance Agency (pursuant to section 1322 of the Fed-*
10 *eral Housing Enterprises Financial Safety and*
11 *Soundness Act of 1992 (12 U.S.C. 4541)). If the*
12 *change in such house price index during the most re-*
13 *cent 12-month or 4th-quarter period ending before the*
14 *time of determining such annual adjustment is a de-*
15 *crease, then no adjustment shall be made for the next*
16 *year, and the next adjustment shall take into account*
17 *prior declines in the house price index, so that any*
18 *adjustment shall reflect the net change in the house*
19 *price index since the last adjustment. Declines in the*
20 *house price index shall be accumulated and then re-*
21 *duce increases until subsequent increases exceed prior*
22 *declines.”.*

23 (2) *HIGH-COST AREA LIMIT.*—Section 305(a)(2)
24 *of the Federal Home Loan Mortgage Corporation Act*
25 *is amended by adding after the period at the end the*

1 *following: “Such foregoing limitations shall also be*
2 *increased with respect to properties of a particular*
3 *size located in any area for which the median price*
4 *for such size residence exceeds the foregoing limitation*
5 *for such size residence, to the lesser of 150 percent of*
6 *such foregoing limitation for such size residence or the*
7 *amount that is equal to the median price in such*
8 *area for such size residence.”.*

9 (3) *EFFECTIVE DATE.*—*The amendments made*
10 *by paragraphs (1) and (2) of this subsection shall*
11 *take effect upon the expiration of the date described*
12 *in section 201(a) of the Economic Stimulus Act of*
13 *2008 (Public Law 110–185).*

14 (c) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
15 *gress that the securitization of mortgages by the Federal Na-*
16 *tional Mortgage Association and the Federal Home Loan*
17 *Mortgage Corporation plays an important role in providing*
18 *liquidity to the United States housing markets. Therefore,*
19 *the Congress encourages the Federal National Mortgage As-*
20 *sociation and the Federal Home Loan Mortgage Corpora-*
21 *tion to securitize mortgages acquired under the increased*
22 *conforming loan limits established under this Act.*

23 (d) *HOUSING PRICE INDEX.*—*Part 2 of subtitle A of*
24 *the Federal Housing Enterprises Financial Safety and*
25 *Soundness Act of 1992 (12 U.S.C. 4541 et seq.) is amended*

1 *by inserting after section 1321 (as added by section 1123*
2 *of this Act) the following new section:*

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

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

18 **SEC. 1125. ANNUAL HOUSING REPORT.**

19 *(a) REPEAL.—Section 1324 of the Federal Housing*
20 *Enterprises Financial Safety and Soundness Act of 1992*
21 *(12 U.S.C. 4544) is hereby repealed.*

22 *(b) ANNUAL HOUSING REPORT.—The Federal Housing*
23 *Enterprises Financial Safety and Soundness Act of 1992*
24 *is amended by inserting after section 1323 the following:*

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

2 “(a) *IN GENERAL.*—After reviewing and analyzing the
3 reports submitted under section 309(n) of the Federal Na-
4 tional Mortgage Association Charter Act and section 307(f)
5 of the Federal Home Loan Mortgage Corporation Act, the
6 Director shall submit a report, not later than October 30
7 of each year, to the Committee on Banking, Housing, and
8 Urban Affairs of the Senate and the Committee on Finan-
9 cial Services of the House of Representatives, on the activi-
10 ties 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 sub-*
17 *part B;*

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

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

23 “(iv) *each enterprise received credit to-*
24 *wards achieving each of its goals resulting*
25 *from a transaction or activity pursuant to*
26 *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 of
6 the enterprise;

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

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

14 “(4) identify the extent to which each enterprise
15 is involved in mortgage purchases and secondary
16 market activities involving subprime and nontradi-
17 tional loans;

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

22 “(6) compare the characteristics of high-cost
23 loans purchased and securitized, where such securities
24 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 that*
4 *secures the mortgage;*

5 *“(B) the loan-to-value ratio of the mortgage,*
6 *which shall reflect any secondary liens on the*
7 *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 determined*
12 *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), the*
16 *Director shall conduct, on a monthly basis, a survey*
17 *of mortgage markets in accordance with this sub-*
18 *section.*

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

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

1 *terprises including, in both cases, information*
2 *concerning—*

3 *“(i) the price of the house that secures*
4 *the mortgage;*

5 *“(ii) the loan-to-value ratio of the*
6 *mortgage, which shall reflect any secondary*
7 *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 case*
12 *of a conforming mortgage, was purchased*
13 *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 bor-*
19 *rowers and determination whether such bor-*
20 *rowers would qualify for prime lending; and*

21 *“(C) such other matters as the Director de-*
22 *termines to be appropriate.*

23 *“(3) PUBLIC AVAILABILITY.—The Director shall*
24 *make any data collected by the Director in connection*
25 *with the conduct of a monthly survey available to the*

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

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

5 *and*

6 *“(B) is not otherwise obtainable from other*
 7 *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 of*
 11 *a borrower to which the information relates to be rea-*
 12 *sonably inferred by either direct or indirect means.”.*

13 **SEC. 1126. PUBLIC USE DATABASE.**

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

17 *(1) in subsection (a)—*

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

20 *“(a) AVAILABILITY.—*

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

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

24 *“(2) CENSUS TRACT LEVEL REPORTING.—Such*
 25 *data shall include the data elements required to be re-*

1 ported under the Home Mortgage Disclosure Act of
2 1975, at the census tract level.”;

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

6 (3) by adding at the end the following new sub-
7 section:

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

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

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

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

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

21 “(d) *MORTGAGE INFORMATION.*—Subject to privacy
22 considerations, as described in section 304(j) of the Home
23 Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(j)), the
24 Director shall, by regulation or order, provide that certain
25 information relating to single family mortgage data of the

1 *enterprises shall be disclosed to the public, in order to make*
2 *available to the public—*

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

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

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

9 (a) *REPEAL.—Sections 1331 through 1334 of the Fed-*
10 *eral Housing Enterprises Financial Safety and Soundness*
11 *Act of 1992 (12 U.S.C. 4561 through 4564) are hereby re-*
12 *pealed.*

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

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

17 “(a) *IN GENERAL.—The Director shall, by regulation,*
18 *establish effective for the first calendar year that begins*
19 *after the date of enactment of the Federal Housing Finance*
20 *Regulatory Reform Act of 2008, and each year thereafter,*
21 *annual housing goals, as described under this subpart, with*
22 *respect to the mortgage purchases by the enterprises.*

23 “(b) *SPECIAL COUNTING REQUIREMENTS.—*

24 “(1) *IN GENERAL.—The Director shall determine*
25 *whether an enterprise shall receive full, partial, or no*

1 *credit for a transaction toward achievement of any of*
2 *the housing goals established pursuant to this section*
3 *or sections 1332 through 1334.*

4 “(2) *CONSIDERATIONS.*—*In making any deter-*
5 *mination under paragraph (1), the Director shall*
6 *consider whether a transaction or activity of an en-*
7 *terprise is substantially equivalent to a mortgage pur-*
8 *chase and either (A) creates a new market, or (B)*
9 *adds liquidity to an existing market, provided how-*
10 *ever that the terms and conditions of such mortgage*
11 *purchase is neither determined to be unacceptable, nor*
12 *contrary to good lending practices, and otherwise pro-*
13 *motes sustainable homeownership and further, that*
14 *such mortgage purchase actually fulfills the purposes*
15 *of the enterprise and is in accordance with the char-*
16 *tering Act of such enterprise.*

17 “(c) *ELIMINATING INTEREST RATE DISPARITIES.*—

18 “(1) *IN GENERAL.*—*In establishing and imple-*
19 *menting the housing goals under this subpart, the Di-*
20 *rector shall require the enterprises to disclose appro-*
21 *priate information to allow the Director to assess if*
22 *there are any disparities in interest rates charged on*
23 *mortgages to borrowers who are minorities, as com-*
24 *pared with borrowers of similar creditworthiness who*

1 *are not minorities, as evidenced in reports pursuant*
2 *to the Home Mortgage Disclosure Act of 1975.*

3 “(2) *REPORT TO CONGRESS ON DISPARITIES.—*
4 *Upon a finding by the Director that a pattern of dis-*
5 *parities in interest rates exists pursuant to the infor-*
6 *mation provided by an enterprise under paragraph*
7 *(1), the Director shall—*

8 “(A) *forward to the Committee on Banking,*
9 *Housing, and Urban Affairs of the Senate and*
10 *the Committee on Financial Services of the*
11 *House of Representatives a report detailing the*
12 *disparities; and*

13 “(B) *forward the report prepared under*
14 *subparagraph (A) to any other appropriate regu-*
15 *latory or enforcement agency.*

16 “(3) *IDENTITY OF INDIVIDUALS NOT DIS-*
17 *CLOSED.—In carrying out this subsection, the Direc-*
18 *tor shall ensure that no personally identifiable finan-*
19 *cial information that would enable an individual bor-*
20 *rower to be reasonably identified shall be made pub-*
21 *lic.*

22 “(d) *TIMING.—The Director shall establish an annual*
23 *deadline for the establishment of housing goals described in*
24 *subsection (a), taking into consideration the need for the*
25 *enterprises to reasonably and sufficiently plan their oper-*

1 *ations and activities in advance, including operations and*
2 *activities necessary to meet such goals.*

3 **“SEC. 1331A. DISCRETIONARY ADJUSTMENT OF HOUSING**
4 **GOALS.**

5 “(a) *AUTHORITY.*—

6 “(1) *REVIEW.*—*The Director shall review the ap-*
7 *propriateness of each goal established pursuant to this*
8 *subpart at least once during each year to assure that*
9 *given current market conditions that each such goal*
10 *is feasible.*

11 “(2) *PETITION TO REDUCE.*—*An enterprise may*
12 *petition the Director in writing at any time during*
13 *a year to reduce the level of any goal for such year*
14 *established pursuant to this subpart.*

15 “(b) *STANDARD FOR REDUCTION.*—*The Director may*
16 *reduce the level for a goal pursuant to such a petition only*
17 *if—*

18 “(1) *market and economic conditions or the fi-*
19 *nancial condition of the enterprise require such ac-*
20 *tion; or*

21 “(2) *efforts to meet the goal would result in the*
22 *constraint of liquidity, over-investment in certain*
23 *market segments, or other consequences contrary to*
24 *the intent of this subpart, section 301(3) of the Fed-*
25 *eral National Mortgage Association Charter Act (12*

1 *U.S.C. 1716(3)), or section 301(b)(3) of the Federal*
2 *Home Loan Mortgage Corporation Act (12 U.S.C.*
3 *1451 note), as applicable.*

4 “(c) *DETERMINATION.*—

5 “(1) *30-DAY PERIOD.*—*If an enterprise submits a*
6 *petition for reduction to the Director under subsection*
7 *(a)(2), the Director shall make a determination re-*
8 *garding any proposed reduction within 30 days of re-*
9 *ceipt of the petition.*

10 “(2) *EXTENSION.*—*The Director may extend the*
11 *period described in paragraph (1) for a single addi-*
12 *tional 15-day period, but only if the Director requests*
13 *additional information from the enterprise.*

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

15 “(a) *ESTABLISHMENT OF GOALS.*—

16 “(1) *IN GENERAL.*—*The Director shall establish*
17 *annual goals for the purchase by each enterprise of*
18 *conventional, conforming, single-family, owner-occu-*
19 *pled, purchase money mortgages financing housing*
20 *for each of the following:*

21 “(A) *Low-income families.*

22 “(B) *Families that reside in low-income*
23 *areas.*

24 “(C) *Very low-income families.*

1 “(2) *GOALS AS PERCENTAGE OF TOTAL PUR-*
2 *CHASE MONEY MORTGAGE PURCHASES.*—*The goals es-*
3 *tablished under paragraph (1) shall be established as*
4 *a percentage of the total number of single-family*
5 *dwelling units financed by single-family purchase*
6 *money mortgage purchases of the enterprise.*

7 “(b) *DETERMINATION OF COMPLIANCE.*—

8 “(1) *IN GENERAL.*—*The Director shall deter-*
9 *mine, for each year that the housing goals under this*
10 *section are in effect pursuant to section 1331(a),*
11 *whether each enterprise has complied with the single-*
12 *family housing goals established under this section for*
13 *such year.*

14 “(2) *COMPLIANCE REQUIREMENTS.*—*An enter-*
15 *prise shall be considered to be in compliance with a*
16 *goal described under subsection (a) for a year, only*
17 *if, for each of the types of families described in sub-*
18 *section (a), the percentage of the number of conven-*
19 *tional, conforming, single-family, owner-occupied,*
20 *purchase money mortgages purchased by the enter-*
21 *prise in such year that serve such families, meets or*
22 *exceeds the target established under subsection (c) for*
23 *the year for such type of family.*

24 “(c) *ANNUAL TARGETS.*—

1 “(1) *IN GENERAL.*—*The Director shall establish*
2 *annual targets for each goal described in subsection*
3 *(a).*

4 “(2) *CONSIDERATIONS.*—*In establishing annual*
5 *targets under paragraph (1), the Director shall con-*
6 *sider—*

7 “(A) *national housing needs;*

8 “(B) *economic, housing, and demographic*
9 *conditions;*

10 “(C) *the performance and effort of the enter-*
11 *prises toward achieving the housing goals under*
12 *this section in previous years;*

13 “(D) *the ability of the enterprise to lead the*
14 *industry in making mortgage credit available;*

15 “(E) *recent information submitted in com-*
16 *pliance with the Home Mortgage Disclosure Act*
17 *of 1975 and such other reliable mortgage data as*
18 *may be available;*

19 “(F) *the size of the purchase money conven-*
20 *tional mortgage market serving each of the types*
21 *of families described in subsection (a), relative to*
22 *the size of the overall purchase money mortgage*
23 *market; and*

24 “(G) *the need to maintain the sound finan-*
25 *cial condition of the enterprises.*

1 “(3) *HIGH-COST LOANS AND INAPPROPRIATE*
2 *LENDING PRACTICES.*—*In establishing annual targets*
3 *under paragraph (1), the Director shall not consider*
4 *segments of the market determined to be unacceptable*
5 *or contrary to good lending practices pursuant to sec-*
6 *tion 1331(b)(2).*

7 “(d) *NOTICE OF DETERMINATION AND ENTERPRISE*
8 *COMMENT.*—

9 “(1) *NOTICE.*—*Within 30 days of making a de-*
10 *termination under subsection (b) regarding compli-*
11 *ance of an enterprise for a year with the housing*
12 *goals established under this section and before any*
13 *public disclosure thereof, the Director shall provide*
14 *notice of the determination to the enterprise, which*
15 *shall include an analysis and comparison, by the Di-*
16 *rector, of the performance of the enterprise for the*
17 *year and the targets for the year under subsection (c).*

18 “(2) *COMMENT PERIOD.*—*The Director shall pro-*
19 *vide each enterprise and the public an opportunity to*
20 *comment on the determination during the 30-day pe-*
21 *riod beginning upon receipt by the enterprise of the*
22 *notice.*

23 “(e) *USE OF BORROWER INCOME.*—*In monitoring the*
24 *performance of each enterprise pursuant to the housing*
25 *goals under this section and evaluating such performance*

1 *(for purposes of section 1336), the Director shall consider*
 2 *a mortgagor's income to be the income of the mortgagor at*
 3 *the time of origination of the mortgage.*

4 “(f) *CONSIDERATION OF PROPERTIES WITH RENTAL*
 5 *UNITS.—Mortgages financing 1-to-4 unit owner-occupied*
 6 *properties shall count toward the achievement of the single-*
 7 *family housing goal under this section, if such properties*
 8 *otherwise meet the requirements under this section notwith-*
 9 *standing the use of 1 or more units for rental purposes.*

10 **“SEC. 1333. SINGLE-FAMILY HOUSING REFINANCE GOALS.**

11 “(a) *PREPAYMENT OF EXISTING LOANS.—*

12 “(1) *IN GENERAL.—The Director shall establish*
 13 *annual goals for the purchase by each enterprise of*
 14 *mortgages on conventional, conforming, single-family,*
 15 *owner-occupied housing given to pay off or prepay an*
 16 *existing loan served by the same property for each of*
 17 *the following:*

18 “(A) *Low-income families.*

19 “(B) *Families that reside in low-income*
 20 *areas.*

21 “(C) *Very low-income families.*

22 “(2) *GOALS AS PERCENTAGE OF TOTAL REFI-*
 23 *NANCING MORTGAGE PURCHASES.—The goals de-*
 24 *scribed under paragraph (1) shall be established as a*
 25 *percentage of the total number of single-family dwell-*

1 *ing units refinanced by mortgage purchases of each*
2 *enterprise.*

3 “(b) *DETERMINATION OF COMPLIANCE.*—

4 “(1) *IN GENERAL.*—*The Director shall deter-*
5 *mine, for each year that the housing goals under this*
6 *section are in effect pursuant to section 1331(a),*
7 *whether each enterprise has complied with the single-*
8 *family housing refinance goals established under this*
9 *section for such year.*

10 “(2) *COMPLIANCE.*—*An enterprise shall be con-*
11 *sidered to be in compliance with the goals of this sec-*
12 *tion for a year, only if, for each of the types of fami-*
13 *lies described in subsection (a), the percentage of the*
14 *number of conventional, conforming, single-family,*
15 *owner-occupied refinancing mortgages purchased by*
16 *each enterprise in such year that serve such families,*
17 *meets or exceeds the target for the year for such type*
18 *of family that is established under subsection (c).*

19 “(c) *ANNUAL TARGETS.*—

20 “(1) *IN GENERAL.*—*The Director shall establish*
21 *annual targets for each goal described in subsection*
22 *(a).*

23 “(2) *CONSIDERATIONS.*—*In establishing annual*
24 *targets under paragraph (1), the Director shall con-*
25 *sider—*

1 “(A) *national housing needs;*

2 “(B) *economic, housing, and demographic*
3 *conditions;*

4 “(C) *the performance and effort of the enter-*
5 *prises toward achieving the housing goals under*
6 *this section in previous years;*

7 “(D) *the ability of the enterprise to lead the*
8 *industry in making mortgage credit available;*

9 “(E) *recent information submitted in com-*
10 *pliance with the Home Mortgage Disclosure Act*
11 *of 1975 and such other reliable mortgage data as*
12 *may be available;*

13 “(F) *the size of the purchase money conven-*
14 *tional mortgage market serving each of the types*
15 *of families described in subsection (a), relative to*
16 *the size of the overall purchase money mortgage*
17 *market; and*

18 “(G) *the need to maintain the sound finan-*
19 *cial condition of the enterprises.*

20 “(d) *NOTICE OF DETERMINATION AND ENTERPRISE*
21 *COMMENT.—*

22 “(1) *NOTICE.—Within 30 days of making a de-*
23 *termination under subsection (b) regarding compli-*
24 *ance of an enterprise for a year with the housing*
25 *goals established under this section and before any*

1 *public disclosure thereof, the Director shall provide*
2 *notice of the determination to the enterprise, which*
3 *shall include an analysis and comparison, by the Di-*
4 *rector, of the performance of the enterprise for the*
5 *year and the targets for the year under subsection (c).*

6 “(2) *COMMENT PERIOD.*—*The Director shall pro-*
7 *vide each enterprise and the public an opportunity to*
8 *comment on the determination during the 30-day pe-*
9 *riod beginning upon receipt by the enterprise of the*
10 *notice.*

11 “(e) *USE OF BORROWER INCOME.*—*In monitoring the*
12 *performance of each enterprise pursuant to the housing*
13 *goals under this section and evaluating such performance*
14 *(for purposes of section 1336), the Director shall consider*
15 *a mortgagor’s income to be the income of the mortgagor at*
16 *the time of origination of the mortgage.*

17 **“SEC. 1334. MULTIFAMILY SPECIAL AFFORDABLE HOUSING**
18 **GOAL.**

19 “(a) *ESTABLISHMENT.*—

20 “(1) *IN GENERAL.*—*The Director shall establish,*
21 *by regulation, by unit, dollar volume, or percentage*
22 *of multifamily activity, as determined by the Direc-*
23 *tor, an annual goal for the purchase by each enter-*
24 *prise of—*

1 “(A) mortgages that finance dwelling units
2 affordable to very low-income families; and

3 “(B) mortgages that finance dwelling units
4 assisted by the low-income housing tax credit
5 under section 42 of the Internal Revenue Code of
6 1986.

7 “(2) *ADDITIONAL REQUIREMENTS FOR SMALLER*
8 *PROJECTS.*—The Director shall establish, within the
9 housing goal established under this section, additional
10 requirements for the purchase by each enterprise of
11 mortgages described in paragraph (1) for multifamily
12 housing projects of a smaller or limited size, which
13 may be based on the number of dwelling units in the
14 project or the amount of the mortgage, or both, and
15 shall include multifamily housing projects of 5 to 50
16 units (as adjusted by the Director), or with mortgages
17 of up to \$5,000,000 (as adjusted by the Director).

18 “(3) *FACTORS.*—The Director shall establish the
19 goal and additional requirements under this section
20 taking into consideration—

21 “(A) national multifamily mortgage credit
22 needs;

23 “(B) the performance and effort of the en-
24 terprise in making mortgage credit available for
25 multifamily housing in previous years;

1 “(C) the size of the multifamily mortgage
2 market, including the size of the small multi-
3 family mortgage market;

4 “(D) the most recent information available
5 for the Residential Survey published by the Cen-
6 sus Bureau, and such other reliable data as may
7 be available regarding multifamily mortgages;

8 “(E) the ability of the enterprise to lead the
9 industry in expanding mortgage credit avail-
10 ability at favorable terms, especially for under-
11 served markets, such as for—

12 “(i) small multifamily projects;

13 “(ii) multifamily properties in need of
14 preservation and rehabilitation; and

15 “(iii) multifamily properties located in
16 rural areas; and

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

19 “(b) *UNITS FINANCED BY HOUSING FINANCE AGENCY*
20 *BONDS.*—The Director may give credit toward the achieve-
21 ment of the multifamily special affordable housing goal
22 under this section (for purposes of section 1336) to dwelling
23 units in multifamily housing projects that otherwise qualify
24 under such goal and that are financed by tax-exempt or

1 *taxable bonds issued by a State or local housing finance*
2 *agency, but only if such bonds—*

3 “(1) *are secured by a guarantee of the enterprise;*

4 *or*

5 “(2) *are not investment grade and are purchased*
6 *by the enterprise.*

7 “(c) *USE OF TENANT RENT LEVEL.—*

8 “(1) *IN GENERAL.—The Director shall monitor*
9 *the performance of each enterprise in meeting the goal*
10 *established under this section and shall evaluate such*
11 *performance (for purposes of section 1336) based on*
12 *whether the rent levels are affordable to low-income*
13 *and very low-income families.*

14 “(2) *RENT LEVEL.—A rent level shall be consid-*
15 *ered to be affordable for purposes of this subsection for*
16 *an income category referred to in this subsection if it*
17 *does not exceed 30 percent of the maximum income*
18 *level of such income category, with appropriate ad-*
19 *justments for unit size as measured by the number of*
20 *bedrooms.*

21 “(d) *DETERMINATION OF COMPLIANCE.—*

22 “(1) *IN GENERAL.—The Director shall, for each*
23 *year that the housing goal under this section is in ef-*
24 *fect pursuant to section 1331(a), determine whether*

1 *each enterprise has complied with such goal and the*
2 *additional requirements under subsection (a)(2).*

3 “(2) *COMPLIANCE.—An enterprise shall be con-*
4 *sidered to be in compliance with the goal described*
5 *under subsection (a) for a year only if the multi-*
6 *family mortgage purchases of the enterprise meet or*
7 *exceed the goal for the year established under sub-*
8 *section (a).*

9 “(e) *CONSIDERATION OF UNITS IN SINGLE-FAMILY*
10 *RENTAL HOUSING.—In establishing the goal under this sec-*
11 *tion, the Director may take into consideration the number*
12 *of housing units financed by any mortgage purchased by*
13 *an enterprise on single-family rental housing that is not*
14 *owner-occupied.*

15 “(f) *REMOVING CREDIT.—The Director shall subtract*
16 *from the units or mortgages counted toward the goal estab-*
17 *lished under this section in a current year any units or*
18 *mortgages credited toward such goal in a prior year if an*
19 *enterprise requires a lender to repurchase, or reimburse for*
20 *losses, or indemnify the enterprise against potential losses*
21 *on such units or mortgages.*

22 “(g) *NOTICE OF DETERMINATION AND ENTERPRISE*
23 *COMMENT.—*

24 “(1) *NOTICE.—Within 30 days of making a de-*
25 *termination under subsection (d) regarding compli-*

1 *ance of an enterprise for a year with the housing goal*
2 *established under this section and before any public*
3 *disclosure thereof, the Director shall provide notice of*
4 *the determination to the enterprise, which shall in-*
5 *clude an analysis and comparison, by the Director, of*
6 *the performance of the enterprise for the year and the*
7 *goal for the year under subsection (a).*

8 *“(2) COMMENT PERIOD.—The Director shall pro-*
9 *vide each enterprise and the public an opportunity to*
10 *comment on the determination during the 30-day pe-*
11 *riod beginning upon receipt by the enterprise of the*
12 *notice.”.*

13 *(c) CONFORMING AMENDMENTS.—The Federal Hous-*
14 *ing Enterprises Financial Safety and Soundness Act of*
15 *1992 is amended—*

16 *(1) in section 1335(a) (12 U.S.C. 4565(a)), in*
17 *the matter preceding paragraph (1), by striking “low-*
18 *and moderate-income housing goal” and all that fol-*
19 *lows through “section 1334” and inserting “housing*
20 *goals established under this subpart”; and*

21 *(2) in section 1336(a)(1) (12 U.S.C. 4566(a)(1)),*
22 *by striking “sections 1332, 1333, and 1334,” and in-*
23 *serting “this subpart”.*

1 (d) *DEFINITIONS.*—Section 1303 of the Federal Hous-
2 *ing Enterprises Financial Safety and Soundness Act of*
3 *1992 (12 U.S.C. 4502) is amended—*

4 (1) *by striking paragraph (24), as so designated*
5 *by section 1002 of this Act, and inserting the fol-*
6 *lowing:*

7 “(24) *VERY LOW-INCOME.*—

8 “(A) *IN GENERAL.*—The term ‘very low-in-
9 *come’ means—*

10 “(i) *in the case of owner-occupied*
11 *units, families having incomes not greater*
12 *than 50 percent of the area median income;*
13 *and*

14 “(ii) *in the case of rental units, fami-*
15 *lies having incomes not greater than 50 per-*
16 *cent of the area median income, with ad-*
17 *justments for smaller and larger families, as*
18 *determined by the Director.*

19 “(B) *RULE OF CONSTRUCTION.*—For pur-
20 *poses of section 1338 and 1339, the term ‘very*
21 *low-income’ means—*

22 “(i) *in the case of owner-occupied*
23 *units, income in excess of 30 percent but not*
24 *greater than 50 percent of the area median*
25 *income; and*

1 “(ii) in the case of rental units, income
2 in excess of 30 percent but not greater than
3 50 percent of the area median income, with
4 adjustments for smaller and larger families,
5 as determined by the Director.”; and

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

7 “(26) *CONFORMING MORTGAGE*.—The term ‘con-
8 forming mortgage’ means, with respect to an enter-
9 prise, a conventional mortgage having an original
10 principal obligation that does not exceed the applica-
11 ble dollar limitation, in effect at the time of such
12 origination, under—

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

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

17 “(27) *EXTREMELY LOW-INCOME*.—The term ‘ex-
18 tremely low-income’ means—

19 “(A) in the case of owner-occupied units,
20 income not in excess of 30 percent of the area
21 median income; and

22 “(B) in the case of rental units, income not
23 in excess of 30 percent of the area median in-
24 come, with adjustments for smaller and larger
25 families, as determined by the Director.

1 “(28) *LOW-INCOME AREA*.—*The term ‘low-in-*
2 *come area’ means a census tract or block numbering*
3 *area in which the median income does not exceed 80*
4 *percent of the median income for the area in which*
5 *such census tract or block numbering area is located,*
6 *and, for the purposes of section 1332(a)(2), shall in-*
7 *clude families having incomes not greater than 100*
8 *percent of the area median income who reside in mi-*
9 *nority census tracts.*

10 “(29) *MINORITY CENSUS TRACT*.—*The term ‘mi-*
11 *nority census tract’ means a census tract that has a*
12 *minority population of at least 30 percent and a me-*
13 *dian family income of less than 100 percent of the*
14 *area family median income.*

15 “(30) *SHORTAGE OF STANDARD RENTAL UNITS*
16 *BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY*
17 *LOW-INCOME RENTER HOUSEHOLDS*.—

18 “(A) *IN GENERAL*.—*The term ‘shortage of*
19 *standard rental units both affordable and avail-*
20 *able to extremely low-income renter households’*
21 *means the gap between—*

22 “(i) *the number of units with complete*
23 *plumbing and kitchen facilities with a rent*
24 *that is 30 percent or less of 30 percent of*
25 *the adjusted area median income as deter-*

1 mined by the Director that are occupied by
2 extremely low-income renter households or
3 are vacant for rent; and

4 “(ii) the number of extremely low-in-
5 come renter households.

6 “(B) *RULE OF CONSTRUCTION.*—If the
7 number of units described in subparagraph
8 (A)(i) exceeds the number of extremely low-in-
9 come households as described in subparagraph
10 (A)(ii), there is no shortage.

11 “(31) *SHORTAGE OF STANDARD RENTAL UNITS*
12 *BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-IN-*
13 *COME RENTER HOUSEHOLDS.*—

14 “(A) *IN GENERAL.*—The term ‘shortage of
15 standard rental units both affordable and avail-
16 able to very low-income renter households’ means
17 the gap between—

18 “(i) the number of units with complete
19 plumbing and kitchen facilities with a rent
20 that is 30 percent or less of 50 percent of
21 the adjusted area median income as deter-
22 mined by the Director that are occupied by
23 either extremely low- or very low-income
24 renter households or are vacant for rent;
25 and

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

3 “(B) *RULE OF CONSTRUCTION.*—If the
4 number of units described in subparagraph
5 (A)(i) exceeds the number of extremely low- and
6 very low-income households as described in sub-
7 paragraph (A)(ii), there is no shortage.”.

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

9 (a) *ESTABLISHMENT AND EVALUATION OF PERFORM-*
10 *ANCE.*—Section 1335 of the Federal Housing Enterprises
11 *Financial Safety and Soundness Act of 1992 (12 U.S.C.*
12 *4565) is amended—*

13 (1) *in the section heading, by inserting “DUTY*
14 *TO SERVE UNDERSERVED MARKETS AND” before*
15 *“OTHER”;*

16 (2) *by striking subsection (b);*

17 (3) *in subsection (a)—*

18 (A) *in the matter preceding paragraph (1),*
19 *by inserting “and to carry out the duty under*
20 *subsection (a) of this section” before “, each en-*
21 *terprise shall”;*

22 (B) *in paragraph (3), by inserting “and”*
23 *after the semicolon at the end;*

24 (C) *in paragraph (4), by striking “; and”*
25 *and inserting a period;*

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

2 (E) by redesignating such subsection as sub-
3 section (b);

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

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

8 “(1) *DUTY.*—In accordance with the purpose of
9 the enterprises under section 301(3) of the Federal
10 National Mortgage Association Charter Act (12
11 U.S.C. 1716) and section 301(b)(3) of the Federal
12 Home Loan Mortgage Corporation Act (12 U.S.C.
13 1451 note) to undertake activities relating to mort-
14 gages on housing for very low-, low-, and moderate-
15 income families involving a reasonable economic re-
16 turn that may be less than the return earned on other
17 activities, each enterprise shall have the duty to in-
18 crease the liquidity of mortgage investments and im-
19 prove the distribution of investment capital available
20 for mortgage financing for underserved markets by
21 purchasing or securitizing mortgage investments.

22 “(2) *UNDERSERVED MARKETS.*—To meet its
23 duty under paragraph (1), each enterprise shall com-
24 ply with the following requirements with respect to
25 the following underserved markets:

1 “(A) *MANUFACTURED HOUSING.*—*The en-*
2 *terprise shall lead the industry in developing*
3 *loan products and flexible underwriting guide-*
4 *lines to facilitate a secondary market for mort-*
5 *gages on manufactured homes for very low-, low-*
6 *, and moderate-income families.*

7 “(B) *AFFORDABLE HOUSING PRESERVA-*
8 *TION.*—*The enterprise shall lead the industry in*
9 *developing loan products and flexible under-*
10 *writing guidelines to facilitate a secondary mar-*
11 *ket to preserve housing affordable to very*
12 *low-, low-, and moderate-income families, in-*
13 *cluding housing projects subsidized under—*

14 “(i) *the project-based and tenant-based*
15 *rental assistance programs under section 8*
16 *of the United States Housing Act of 1937;*

17 “(ii) *the program under section 236 of*
18 *the National Housing Act;*

19 “(iii) *the below-market interest rate*
20 *mortgage program under section 221(d)(4)*
21 *of the National Housing Act;*

22 “(iv) *the supportive housing for the el-*
23 *derly program under section 202 of the*
24 *Housing Act of 1959;*

1 “(v) *the supportive housing program*
2 *for persons with disabilities under section*
3 *811 of the Cranston-Gonzalez National Af-*
4 *fordable Housing Act;*

5 “(vi) *the programs under title IV of the*
6 *McKinney-Vento Homeless Assistance Act*
7 *(42 U.S.C. 11361 et seq.), but only perma-*
8 *nent supportive housing projects subsidized*
9 *under such programs; and*

10 “(vii) *the rural rental housing pro-*
11 *gram under section 515 of the Housing Act*
12 *of 1949.*

13 “(C) *RURAL AND OTHER UNDERSERVED*
14 *MARKETS.—The enterprise shall lead the indus-*
15 *try in developing loan products and flexible un-*
16 *derwriting guidelines to facilitate a secondary*
17 *market for mortgages on housing for very*
18 *low-, low-, and moderate-income families in*
19 *rural areas, and for mortgages for housing for*
20 *any other underserved market for very low-, low-*
21 *, and moderate-income families that the Director*
22 *identifies as lacking adequate credit through con-*
23 *ventional lending sources. Such underserved*
24 *markets may be identified by borrower type,*
25 *market segment, or geographic area.”; and*

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

3 “(c) *EVALUATION AND REPORTING OF COMPLIANCE.—*

4 “(1) *IN GENERAL.—Not later than 6 months*
5 *after the effective date of the Federal Housing Finance*
6 *Regulatory Reform Act of 2008, the Director shall es-*
7 *tablish a manner for evaluating whether, and the ex-*
8 *tent to which, the enterprises have complied with the*
9 *duty under subsection (a) to serve underserved mar-*
10 *kets and for rating the extent of such compliance.*
11 *Using such method, the Director shall, for each year,*
12 *evaluate such compliance and rate the performance of*
13 *each enterprise as to extent of compliance. The Direc-*
14 *tor shall include such evaluation and rating for each*
15 *enterprise for a year in the report for that year sub-*
16 *mitted pursuant to section 1319B(a).*

17 “(2) *SEPARATE EVALUATIONS.—In determining*
18 *whether an enterprise has complied with the duty re-*
19 *ferred to in paragraph (1), the Director shall sepa-*
20 *rately evaluate whether the enterprise has complied*
21 *with such duty with respect to each of the underserved*
22 *markets identified in subsection (a), taking into con-*
23 *sideration—*

24 “(A) *the development of loan products and*
25 *more flexible underwriting guidelines;*

1 “(B) the extent of outreach to qualified loan
2 sellers in each of such underserved markets; and

3 “(C) the volume of loans purchased in each
4 of such underserved markets.

5 “(3) *MANUFACTURED HOUSING MARKET.*—In de-
6 termining whether an enterprise has complied with
7 the duty under subparagraph (A) of subsection (a)(2),
8 the Director may consider loans secured by both real
9 and personal property.”.

10 (b) *ENFORCEMENT.*—Subsection (a) of section 1336 of
11 the Housing and Community Development Act of 1992 (12
12 U.S.C. 4566(a)) is amended—

13 (1) in paragraph (1), by inserting “and with the
14 duty under section 1335(a) of each enterprise with re-
15 spect to underserved markets,” before “as provided in
16 this section”; and

17 (2) by adding at the end of such subsection, as
18 amended by the preceding provisions of this subtitle,
19 the following new paragraph:

20 “(4) *ENFORCEMENT OF DUTY TO PROVIDE MORT-
21 GAGE CREDIT TO UNDERSERVED MARKETS.*—The duty
22 under section 1335(a) of each enterprise to serve un-
23 derserved markets (as determined in accordance with
24 section 1335(c)) shall be enforceable under this section
25 to the same extent and under the same provisions that

1 *the housing goals established under this subpart are*
2 *enforceable. Such duty shall not be enforceable under*
3 *any other provision of this title (including subpart C*
4 *of this part) other than this section or under any pro-*
5 *vision of the Federal National Mortgage Association*
6 *Charter Act or the Federal Home Loan Mortgage Cor-*
7 *poration Act.”.*

8 **SEC. 1130. MONITORING AND ENFORCING COMPLIANCE**
9 **WITH HOUSING GOALS.**

10 *(a) IN GENERAL.—Section 1336 of the Federal Hous-*
11 *ing Enterprises Financial Safety and Soundness Act of*
12 *1992 (12 U.S.C. 4566) is amended by striking subsections*
13 *(b) and (c) and inserting the following:*

14 *“(b) NOTICE AND PRELIMINARY DETERMINATION OF*
15 *FAILURE TO MEET GOALS.—*

16 *“(1) NOTICE.—If the Director preliminarily de-*
17 *termines that an enterprise has failed, or that there*
18 *is a substantial probability that an enterprise will*
19 *fail, to meet any housing goal under this subpart, the*
20 *Director shall provide written notice to the enterprise*
21 *of such a preliminary determination, the reasons for*
22 *such determination, and the information on which the*
23 *Director based the determination.*

24 *“(2) RESPONSE PERIOD.—*

1 “(A) *IN GENERAL.*—During the 30-day pe-
2 riod beginning on the date on which an enter-
3 prise is provided notice under paragraph (1), the
4 enterprise may submit to the Director any writ-
5 ten information that the enterprise considers ap-
6 propriate for consideration by the Director in fi-
7 nally determining whether such failure has oc-
8 curred or whether the achievement of such goal
9 was or is feasible.

10 “(B) *EXTENDED PERIOD.*—The Director
11 may extend the period under subparagraph (A)
12 for good cause for not more than 30 additional
13 days.

14 “(C) *SHORTENED PERIOD.*—The Director
15 may shorten the period under subparagraph (A)
16 for good cause.

17 “(D) *FAILURE TO RESPOND.*—The failure of
18 an enterprise to provide information during the
19 30-day period under this paragraph (as extended
20 or shortened) shall waive any right of the enter-
21 prise to comment on the proposed determination
22 or action of the Director.

23 “(3) *CONSIDERATION OF INFORMATION AND*
24 *FINAL DETERMINATION.*—

1 “(A) *IN GENERAL.*—After the expiration of
2 the response period under paragraph (2), or
3 upon receipt of information provided during
4 such period by the enterprise, whichever occurs
5 earlier, the Director shall issue a final deter-
6 mination on—

7 “(i) whether the enterprise has failed,
8 or there is a substantial probability that the
9 enterprise will fail, to meet the housing
10 goal; and

11 “(ii) whether (taking into consider-
12 ation market and economic conditions and
13 the financial condition of the enterprise) the
14 achievement of the housing goal was or is
15 feasible.

16 “(B) *CONSIDERATIONS.*—In making a final
17 determination under subparagraph (A), the Di-
18 rector shall take into consideration any relevant
19 information submitted by the enterprise during
20 the response period.

21 “(C) *NOTICE.*—The Director shall provide
22 written notice, including a response to any in-
23 formation submitted during the response period,
24 to the enterprise, the Committee on Banking,
25 Housing, and Urban Affairs of the Senate, and

1 *the Committee on Financial Services of the*
2 *House of Representatives, of—*

3 “(i) *each final determination under*
4 *this paragraph that an enterprise has*
5 *failed, or that there is a substantial prob-*
6 *ability that the enterprise will fail, to meet*
7 *a housing goal;*

8 “(ii) *each final determination that the*
9 *achievement of a housing goal was or is fea-*
10 *sible; and*

11 “(iii) *the reasons for each such final*
12 *determination.*

13 “(c) *CEASE AND DESIST, CIVIL MONEY PENALTIES,*
14 *AND REMEDIES INCLUDING HOUSING PLANS.—*

15 “(1) *REQUIREMENT.—If the Director finds, pur-*
16 *suant to subsection (b), that there is a substantial*
17 *probability that an enterprise will fail, or has actu-*
18 *ally failed, to meet any housing goal under this sub-*
19 *part, and that the achievement of the housing goal*
20 *was or is feasible, the Director may require that the*
21 *enterprise submit a housing plan under this sub-*
22 *section. If the Director makes such a finding and the*
23 *enterprise refuses to submit such a plan, submits an*
24 *unacceptable plan, fails to comply with the plan, or*
25 *the Director finds that the enterprise has failed to*

1 *meet any housing goal under this subpart, in addi-*
2 *tion to requiring an enterprise to submit a housing*
3 *plan, the Director may issue a cease and desist order*
4 *in accordance with section 1341, impose civil money*
5 *penalties in accordance with section 1345, or order*
6 *other remedies as set forth in paragraph (7).*

7 *“(2) HOUSING PLAN.—If the Director requires a*
8 *housing plan under this subsection, such a plan shall*
9 *be—*

10 *“(A) a feasible plan describing the specific*
11 *actions the enterprise will take—*

12 *“(i) to achieve the goal for the next cal-*
13 *endar year; and*

14 *“(ii) if the Director determines that*
15 *there is a substantial probability that the*
16 *enterprise will fail to meet a goal in the*
17 *current year, to make such improvements*
18 *and changes in its operations as are reason-*
19 *able in the remainder of such year; and*

20 *“(B) sufficiently specific to enable the Di-*
21 *rector to monitor compliance periodically.*

22 *“(3) DEADLINE FOR SUBMISSION.—The Director*
23 *shall establish a deadline for an enterprise to comply*
24 *with any remedial action or submit a housing plan*
25 *to the Director, which may not be more than 45 days*

1 *after the enterprise is provided notice. The Director*
2 *may extend the deadline to the extent that the Direc-*
3 *tor determines necessary. Any extension of the dead-*
4 *line shall be in writing and for a time certain.*

5 “(4) *APPROVAL.*—*The Director shall review each*
6 *submission by an enterprise, including a housing*
7 *plan submitted under this subsection, and, not later*
8 *than 30 days after submission, approve or disapprove*
9 *the plan or other action. The Director may extend the*
10 *period for approval or disapproval for a single addi-*
11 *tional 30-day period if the Director determines it nec-*
12 *essary. The Director shall approve any plan that the*
13 *Director determines is likely to succeed, and conforms*
14 *with the Federal National Mortgage Association*
15 *Charter Act or the Federal Home Loan Mortgage Cor-*
16 *poration Act (as applicable), this title, and any other*
17 *applicable provision of law.*

18 “(5) *NOTICE OF APPROVAL AND DISAPPROVAL.*—
19 *The Director shall provide written notice to any en-*
20 *terprise submitting a housing plan of the approval or*
21 *disapproval of the plan (which shall include the rea-*
22 *sons for any disapproval of the plan) and of any ex-*
23 *ension of the period for approval or disapproval.*

24 “(6) *RESUBMISSION.*—*If the initial housing plan*
25 *submitted by an enterprise under this section is dis-*

1 *approved, the enterprise shall submit an amended*
 2 *plan acceptable to the Director not later than 15 days*
 3 *after such disapproval, or such longer period that the*
 4 *Director determines is in the public interest.*

5 *“(7) ADDITIONAL REMEDIES FOR FAILURE TO*
 6 *MEET GOALS.—In addition to ordering a housing*
 7 *plan under this section, issuing cease and desist or-*
 8 *ders under section 1341, and ordering civil money*
 9 *penalties under section 1345, the Director may—*

10 *“(A) seek other actions when an enterprise*
 11 *fails to meet a goal; and*

12 *“(B) exercise appropriate enforcement au-*
 13 *thority available to the Director under this Act.”.*

14 *(b) CONFORMING AMENDMENT.—The heading for sub-*
 15 *part C of part 2 of subtitle A of the Federal Housing Enter-*
 16 *prises Financial Safety and Soundness Act of 1992 is*
 17 *amended to read as follows:*

18 **“Subpart C—Enforcement”.**

19 *(c) CEASE AND DESIST PROCEEDINGS .—*

20 *(1) REPEAL.—Section 1341 of the Federal Hous-*
 21 *ing Enterprises Financial Safety and Soundness Act*
 22 *of 1992 (12 U.S.C. 4581) is hereby repealed.*

23 *(2) CEASE AND DESIST PROCEEDINGS.—The*
 24 *Federal Housing Enterprises Financial Safety and*

1 *Soundness Act of 1992 is amended by inserting before*
2 *section 1342 the following:*

3 **“SEC. 1341. CEASE AND DESIST PROCEEDINGS.**

4 “(a) *GROUNDS FOR ISSUANCE.*—*The Director may*
5 *issue and serve a notice of charges under this section upon*
6 *an enterprise if the Director determines that—*

7 “(1) *the enterprise has failed to meet any hous-*
8 *ing goal established under subpart B, following a*
9 *written notice and determination of such failure in*
10 *accordance with section 1336;*

11 “(2) *the enterprise has failed to submit a report*
12 *under section 1327, following a notice of such failure,*
13 *an opportunity for comment by the enterprise, and a*
14 *final determination by the Director;*

15 “(3) *the enterprise has failed to submit the infor-*
16 *mation required under subsection (m) or (n) of sec-*
17 *tion 309 of the Federal National Mortgage Association*
18 *Charter Act, subsection (e) or (f) of section 307 of the*
19 *Federal Home Loan Mortgage Corporation Act, or*
20 *section 1337 of this title;*

21 “(4) *the enterprise has violated any provision of*
22 *part 2 of this title or any order, rule, or regulation*
23 *under part 2;*

24 “(5) *the enterprise has failed to submit a hous-*
25 *ing plan or perform its responsibilities under a reme-*

1 *dial order that substantially complies with section*
2 *1336(c) within the applicable period; or*

3 *“(6) the enterprise has failed to comply with a*
4 *housing 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 conduct*
9 *and shall fix a time and place at which a hearing*
10 *will be held to determine on the record whether an*
11 *order to cease and desist from such conduct should*
12 *issue.*

13 *“(2) ISSUANCE OF ORDER.—If the Director finds*
14 *on the record made at a hearing described in para-*
15 *graph (1) that any conduct specified in the notice of*
16 *charges has been established (or the enterprise con-*
17 *sents pursuant to section 1342(a)(4)), the Director*
18 *may issue and serve upon the enterprise an order re-*
19 *quiring the enterprise to—*

20 *“(A) comply with the goals;*

21 *“(B) submit a report under section 1327;*

22 *“(C) comply with any provision of part 2*
23 *of this title or any order, rule, or regulation*
24 *under part 2;*

1 “(D) submit a housing plan in compliance
2 with section 1336(c);

3 “(E) comply with the housing plan in com-
4 pliance with section 1336(c); or

5 “(F) provide the information required
6 under subsection (m) or (n) of section 309 of the
7 Federal National Mortgage Association Charter
8 Act, or subsection (e) or (f) of section 307 of the
9 Federal Home Loan Mortgage Corporation Act.

10 “(c) *EFFECTIVE DATE.*—An order under this section
11 shall become effective upon the expiration of the 30-day pe-
12 riod beginning on the date of service of the order upon the
13 enterprise (except in the case of an order issued upon con-
14 sent, which shall become effective at the time specified there-
15 in), and shall remain effective and enforceable as provided
16 in the order, except to the extent that the order is stayed,
17 modified, terminated, or set aside by action of the Director
18 or otherwise, as provided in this subpart.”.

19 (d) *CIVIL MONEY PENALTIES.*—

20 (1) *REPEAL.*—Section 1345 of the Federal Hous-
21 ing Enterprises Financial Safety and Soundness Act
22 of 1992 (12 U.S.C. 4585) is hereby repealed.

23 (2) *CIVIL MONEY PENALTIES.*—The Federal
24 Housing Enterprises Financial Safety and Soundness

1 *Act of 1992 is amended by inserting after section*
2 *1344 the following:*

3 **“SEC. 1345. CIVIL MONEY PENALTIES.**

4 “(a) *AUTHORITY.—The Director may impose a civil*
5 *money penalty, in accordance with the provisions of this*
6 *section, on any enterprise that has failed to—*

7 “(1) *meet any housing goal established under*
8 *subpart B, following a written notice and determina-*
9 *tion of such failure in accordance with section*
10 *1336(b);*

11 “(2) *submit a report under section 1327, fol-*
12 *lowing a notice of such failure, an opportunity for*
13 *comment by the enterprise, and a final determination*
14 *by the Director;*

15 “(3) *submit the information required under sub-*
16 *section (m) or (n) of section 309 of the Federal Na-*
17 *tional Mortgage Association Charter Act or subsection*
18 *(e) or (f) of section 307 of the Federal Home Loan*
19 *Mortgage Corporation Act;*

20 “(4) *comply with any provision of part 2 of this*
21 *title or any order, rule, or regulation under part 2;*

22 “(5) *submit a housing plan or perform its re-*
23 *sponsibilities under a remedial order issued pursuant*
24 *to section 1336(c) within the required period; or*

1 “(6) *comply with a housing plan for the enter-*
2 *prise under section 1336(c).*

3 “(b) *AMOUNT OF PENALTY.—The amount of a penalty*
4 *under this section, as determined by the Director, may not*
5 *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 that*
11 *the failure occurs.*

12 “(c) *PROCEDURES.—*

13 “(1) *ESTABLISHMENT.—The Director shall estab-*
14 *lish standards and procedures governing the imposi-*
15 *tion of civil money penalties under this section. Such*
16 *standards and procedures—*

17 “(A) *shall provide for the Director to notify*
18 *the enterprise in writing of the determination of*
19 *the Director to impose the penalty, which shall*
20 *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 Director
2 of any determination or order, or interlocutory
3 ruling, arising from a hearing.

4 “(2) *FACTORS IN DETERMINING AMOUNT OF PEN-*
5 *ALTY.—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 may*
17 *determine, by regulation, to be appropriate.*

18 “(d) *ACTION TO COLLECT PENALTY.—If an enterprise*
19 *fails to comply with an order by the Director imposing a*
20 *civil money penalty under this section, after the order is*
21 *no longer subject to review, as provided in sections 1342*
22 *and 1343, the Director may bring an action in the United*
23 *States District Court for the District of Columbia to obtain*
24 *a monetary judgment against the enterprise, and such other*
25 *relief as may be available. The monetary judgment may,*

1 *in the court's discretion, include the attorneys' fees and*
2 *other expenses incurred by the United States in connection*
3 *with the action. In an action under this subsection, the va-*
4 *lidity and appropriateness of the order imposing the pen-*
5 *alty shall not be subject to review.*

6 “(e) *SETTLEMENT BY DIRECTOR.*—*The Director may*
7 *compromise, modify, or remit any civil money penalty*
8 *which may be, or has been, imposed under this section.*

9 “(f) *DEPOSIT OF PENALTIES.*—*The Director shall use*
10 *any civil money penalties collected under this section to*
11 *help fund the Housing Trust Fund established under section*
12 *1338.”.*

13 (e) *DIRECTOR AUTHORITY.*—

14 (1) *AUTHORITY TO BRING A CIVIL ACTION.*—*Sec-*
15 *tion 1344(a) of the Federal Housing Enterprises Fi-*
16 *nancial Safety and Soundness Act of 1992 (12 U.S.C.*
17 *4584) is amended by striking “The Secretary may re-*
18 *quest the Attorney General of the United States to*
19 *bring a civil action” and inserting “The Director*
20 *may bring a civil action”.*

21 (2) *SUBPOENA ENFORCEMENT.*—*Section 1348(c)*
22 *of the Federal Housing Enterprises Financial Safety*
23 *and Soundness Act of 1992 (12 U.S.C. 4588(c)) is*
24 *amended by inserting “may bring an action or” be-*
25 *fore “may request”.*

1 (3) *CONFORMING AMENDMENTS.*—*Subpart C of*
 2 *part 2 of subtitle A of the Federal Housing Enter-*
 3 *prises Financial Safety and Soundness Act of 1992*
 4 *(12 U.S.C. 4581 et seq.) is amended by striking “Sec-*
 5 *retary” each place that term appears and inserting*
 6 *“Director” in each of—*

7 (A) *section 1342 (12 U.S.C. 4582);*

8 (B) *section 1343 (12 U.S.C. 4583);*

9 (C) *section 1346 (12 U.S.C. 4586);*

10 (D) *section 1347 (12 U.S.C. 4587); and*

11 (E) *section 1348 (12 U.S.C. 4588).*

12 **SEC. 1131. AFFORDABLE HOUSING PROGRAMS.**

13 (a) *REPEAL.*—*Section 1337 of the Federal Housing*
 14 *Enterprises Financial Safety and Soundness Act of 1992*
 15 *(12 U.S.C. 4567) is hereby repealed.*

16 (b) *ANNUAL HOUSING REPORT.*—*The Federal Housing*
 17 *Enterprises Financial Safety and Soundness Act of 1992*
 18 *(12 U.S.C. 1301 et seq.) is amended by inserting after sec-*
 19 *tion 1336 the following:*

20 **“SEC. 1337. AFFORDABLE HOUSING ALLOCATIONS.**

21 “(a) *SET ASIDE AND ALLOCATION OF AMOUNTS BY*
 22 *ENTERPRISES.*—*Subject to subsection (b), in each fiscal*
 23 *year—*

24 “(1) *the Federal Home Loan Mortgage Corpora-*
 25 *tion shall—*

1 “(A) set aside an amount equal to 4.2 basis
2 points for each dollar of the unpaid principal
3 balance of its total new business purchases; and

4 “(B) allocate or otherwise transfer—

5 “(i) 65 percent of such amounts to the
6 Secretary of Housing and Urban Develop-
7 ment to fund the Housing Trust Fund es-
8 tablished under section 1338; and

9 “(ii) 35 percent of such amounts to
10 fund the Capital Magnet Fund established
11 pursuant to section 1339; and

12 “(2) the Federal National Mortgage Association
13 shall—

14 “(A) set aside an amount equal to 4.2 basis
15 points for each dollar of unpaid principal bal-
16 ance of its total new business purchases; and

17 “(B) allocate or otherwise transfer—

18 “(i) 65 percent of such amounts to the
19 Secretary of Housing and Urban Develop-
20 ment to fund the Housing Trust Fund es-
21 tablished under section 1338; and

22 “(ii) 35 percent of such amounts to
23 fund the Capital Magnet Fund established
24 pursuant to section 1339.

1 “(b) *SUSPENSION OF CONTRIBUTIONS.*—*The Director*
2 *shall temporarily suspend allocations under subsection (a)*
3 *by an enterprise upon a finding by the Director that such*
4 *allocations—*

5 “(1) *are contributing, or would contribute, to the*
6 *financial instability of the enterprise;*

7 “(2) *are causing, or would cause, the enterprise*
8 *to be classified as undercapitalized; or*

9 “(3) *are preventing, or would prevent, the enter-*
10 *prise from successfully completing a capital restora-*
11 *tion plan under section 1369C.*

12 “(c) *PROHIBITION OF PASS-THROUGH OF COST OF AL-*
13 *LOCATIONS.*—*The Director shall, by regulation, prohibit*
14 *each enterprise from redirecting the costs of any allocation*
15 *required under this section, through increased charges or*
16 *fees, or decreased premiums, or in any other manner, to*
17 *the originators of mortgages purchased or securitized by the*
18 *enterprise.*

19 “(d) *ENFORCEMENT OF REQUIREMENTS ON ENTER-*
20 *PRISE.*—*Compliance by the enterprises with the require-*
21 *ments under this section shall be enforceable under subpart*
22 *C. Any reference in such subpart to this part or to an order,*
23 *rule, or regulation under this part specifically includes this*
24 *section and any order, rule, or regulation under this sec-*
25 *tion.*

1 “(e) *REQUIRED AMOUNT FOR HOPE RESERVE*
 2 *FUND.*—*Of the aggregate amount allocated under subsection*
 3 *(a), 25 percent shall be deposited into a fund established*
 4 *in the Treasury of the United States by the Secretary of*
 5 *the Treasury for such purpose.*

6 “(f) *LIMITATION.*—*No funds under this title may be*
 7 *used in conjunction with property taken by eminent do-*
 8 *main, unless eminent domain is employed only for a public*
 9 *use, except that, for purposes of this section, public use shall*
 10 *not be construed to include economic development that pri-*
 11 *marily benefits any private entity.*

12 **“SEC. 1338. HOUSING TRUST FUND.**

13 “(a) *ESTABLISHMENT AND PURPOSE.*—*The Secretary*
 14 *of Housing and Urban Development (in this section referred*
 15 *to as the ‘Secretary’) shall establish and manage a Housing*
 16 *Trust Fund, which shall be funded with amounts allocated*
 17 *by the enterprises under section 1337 and any amounts as*
 18 *are or may be appropriated, transferred, or credited to such*
 19 *Housing Trust Fund under any other provisions of law.*
 20 *The purpose of the Housing Trust Fund under this section*
 21 *is to provide grants to States for use—*

22 “(1) *to increase and preserve the supply of rental*
 23 *housing for extremely low- and very low-income fami-*
 24 *lies, including homeless families; and*

1 “(2) to increase homeownership for extremely
2 low- and very low-income families.

3 “(b) *ALLOCATIONS FOR HOPE BOND PAYMENTS.*—

4 “(1) *IN GENERAL.*—Notwithstanding subsection
5 (c), to help address the mortgage crisis, of the
6 amounts allocated pursuant to clauses (i) and (ii) of
7 section 1337(a)(1)(B) and clauses (i) and (ii) of sec-
8 tion 1337(a)(2)(B) in excess of amounts described in
9 section 1337(e)—

10 “(A) 100 percent of such excess shall be used
11 to reimburse the Treasury for payments made
12 pursuant to section 257(w)(1)(C) of the National
13 Housing Act in calendar year 2009;

14 “(B) 50 percent of such excess shall be used
15 to reimburse the Treasury for such payments in
16 calendar year 2010; and

17 “(C) 25 percent of such excess shall be used
18 to reimburse the Treasury for such payments in
19 calendar year 2011.

20 “(2) *EXCESS FUNDS.*—At the termination of the
21 *HOPE for Homeowners Program* established under
22 section 257 of the National Housing Act, if amounts
23 used to reimburse the Treasury under paragraph (1)
24 exceed the total net cost to the Government of the
25 *HOPE for Homeowners Program*, such amounts shall

1 *be used for their original purpose, as described in*
2 *paragraphs (1)(B) and (2)(B) of section 1337(a).*

3 “(3) *TREASURY FUND.*—*The amounts referred to*
4 *in subparagraphs (A) through (C) of paragraph (1)*
5 *shall be deposited into a fund established in the*
6 *Treasury of the United States by the Secretary of the*
7 *Treasury for such purpose.*

8 “(c) *ALLOCATION FOR HOUSING TRUST FUND IN FIS-*
9 *CAL YEAR 2010 AND SUBSEQUENT YEARS.*—

10 “(1) *IN GENERAL.*—*Except as provided in sub-*
11 *section (b), the Secretary shall distribute the amounts*
12 *allocated for the Housing Trust Fund under this sec-*
13 *tion to provide affordable housing as described in this*
14 *subsection.*

15 “(2) *PERMISSIBLE DESIGNEES.*—*A State receiv-*
16 *ing grant amounts under this subsection may des-*
17 *ignate a State housing finance agency, housing and*
18 *community development entity, tribally designated*
19 *housing entity (as such term is defined in section 4*
20 *of the Native American Housing Assistance and Self-*
21 *Determination Act of 1997 (25 U.S.C. 4103)), or any*
22 *other qualified instrumentality of the State to receive*
23 *such grant amounts.*

24 “(3) *DISTRIBUTION TO STATES BY NEEDS-BASED*
25 *FORMULA.*—

1 “(A) *IN GENERAL.*—*The Secretary shall, by*
2 *regulation, establish a formula within 12 months*
3 *of the date of enactment of the Federal Housing*
4 *Finance Regulatory Reform Act of 2008, to dis-*
5 *tribute amounts made available under this sub-*
6 *section to each State to provide affordable hous-*
7 *ing to extremely low- and very low-income*
8 *households.*

9 “(B) *BASIS FOR FORMULA.*—*The formula*
10 *required under subparagraph (A) shall include*
11 *the following:*

12 “(i) *The ratio of the shortage of stand-*
13 *ard rental units both affordable and avail-*
14 *able to extremely low-income renter house-*
15 *holds in the State to the aggregate shortage*
16 *of standard rental units both affordable and*
17 *available to extremely low-income renter*
18 *households in all the States.*

19 “(ii) *The ratio of the shortage of stand-*
20 *ard rental units both affordable and avail-*
21 *able to very low-income renter households in*
22 *the State to the aggregate shortage of stand-*
23 *ard rental units both affordable and avail-*
24 *able to very low-income renter households in*
25 *all the States.*

1 “(iii) *The ratio of extremely low-in-*
2 *come renter households in the State living*
3 *with either (I) incomplete kitchen or plumb-*
4 *ing facilities, (II) more than 1 person per*
5 *room, or (III) paying more than 50 percent*
6 *of income for housing costs, to the aggregate*
7 *number of extremely low-income renter*
8 *households living with either (IV) incom-*
9 *plete kitchen or plumbing facilities, (V)*
10 *more than 1 person per room, or (VI) pay-*
11 *ing more than 50 percent of income for*
12 *housing costs in all the States.*

13 “(iv) *The ratio of very low-income*
14 *renter households in the State paying more*
15 *than 50 percent of income on rent relative*
16 *to the aggregate number of very low-income*
17 *renter households paying more than 50 per-*
18 *cent of income on rent in all the States.*

19 “(v) *The resulting sum calculated from*
20 *the factors described in clauses (i) through*
21 *(iv) shall be multiplied by the relative cost*
22 *of construction in the State. For purposes of*
23 *this subclause, the term ‘cost of construc-*
24 *tion’—*

1 “(I) means the cost of construction
2 or building rehabilitation in the State
3 relative to the national cost of con-
4 struction or building rehabilitation;
5 and

6 “(II) shall be calculated such that
7 values higher than 1.0 indicate that the
8 State’s construction costs are higher
9 than the national average, a value of
10 1.0 indicates that the State’s construc-
11 tion costs are exactly the same as the
12 national average, and values lower
13 than 1.0 indicate that the State’s cost
14 of construction are lower than the na-
15 tional average.

16 “(C) *PRIORITY.*—The formula required
17 under subparagraph (A) shall give priority em-
18 phasis and consideration to the factor described
19 in subparagraph (B)(i).

20 “(4) *ALLOCATION OF GRANT AMOUNTS.*—

21 “(A) *NOTICE.*—Not later than 60 days after
22 the date that the Secretary determines the for-
23 mula amounts described in paragraph (3), the
24 Secretary shall caused to be published in the

1 *Federal Register* a notice that such amounts
2 shall be so available.

3 “(B) *GRANT AMOUNT.*—*In each fiscal year*
4 *other than fiscal year 2009, the Secretary shall*
5 *make a grant to each State in an amount that*
6 *is equal to the formula amount determined under*
7 *paragraph (3) for that State.*

8 “(C) *MINIMUM STATE ALLOCATIONS.*—*If the*
9 *formula amount determined under paragraph*
10 *(3) for a fiscal year would allocate less than*
11 *\$3,000,000 to any State, the allocation for such*
12 *State shall be \$3,000,000, and the increase shall*
13 *be deducted pro rata from the allocations made*
14 *to all other States.*

15 “(5) *ALLOCATION PLANS REQUIRED.*—

16 “(A) *IN GENERAL.*—*For each year that a*
17 *State or State designated entity receives a grant*
18 *under this subsection, the State or State des-*
19 *ignated entity shall establish an allocation plan.*
20 *Such plan shall—*

21 “(i) *set forth a plan for the distribu-*
22 *tion of grant amounts received by the State*
23 *or State designated entity for such year;*

24 “(ii) *be based on priority housing*
25 *needs, as determined by the State or State*

1 *designated entity in accordance with the*
2 *regulations established under subsection*
3 *(g)(2)(C);*

4 *“(iii) comply with paragraph (6); and*

5 *“(iv) include performance goals that*
6 *comply with the requirements established by*
7 *the Secretary pursuant to subsection (g)(2).*

8 *“(B) ESTABLISHMENT.—In establishing an*
9 *allocation plan under this paragraph, a State or*
10 *State designated entity shall—*

11 *“(i) notify the public of the establish-*
12 *ment of the plan;*

13 *“(ii) provide an opportunity for public*
14 *comments regarding the plan;*

15 *“(iii) consider any public comments*
16 *received regarding the plan; and*

17 *“(iv) make the completed plan avail-*
18 *able to the public.*

19 *“(C) CONTENTS.—An allocation plan of a*
20 *State or State designated entity under this para-*
21 *graph shall set forth the requirements for eligible*
22 *recipients under paragraph (8) to apply for such*
23 *grant amounts, including a requirement that*
24 *each such application include—*

1 “(i) a description of the eligible activi-
2 ties to be conducted using such assistance;
3 and

4 “(ii) a certification by the eligible re-
5 cipient applying for such assistance that
6 any housing units assisted with such assist-
7 ance will comply with the requirements
8 under this section.

9 “(6) *SELECTION OF ACTIVITIES FUNDED USING*
10 *HOUSING TRUST FUND GRANT AMOUNTS.—Grant*
11 *amounts received by a State or State designated enti-*
12 *ty under this subsection may be used, or committed*
13 *for use, only for activities that—*

14 “(A) are eligible under paragraph (7) for
15 such use;

16 “(B) comply with the applicable allocation
17 plan of the State or State designated entity
18 under paragraph (5); and

19 “(C) are selected for funding by the State or
20 State designated entity in accordance with the
21 process and criteria for such selection established
22 pursuant to subsection (g)(2)(C).

23 “(7) *ELIGIBLE ACTIVITIES.—Grant amounts al-*
24 *located to a State or State designated entity under*

1 *this subsection shall be eligible for use, or for commit-*
2 *ment for use, only for assistance for—*

3 *“(A) the production, preservation, and reha-*
4 *ilitation of rental housing, including housing*
5 *under the programs identified in section*
6 *1335(a)(2)(B) and for operating costs, except*
7 *that not less than 75 percent of such grant*
8 *amounts shall be used for the benefit only of ex-*
9 *tremely low-income families and not more than*
10 *25 percent for the benefit only of very low-in-*
11 *come families; and*

12 *“(B) the production, preservation, and re-*
13 *habilitation of housing for homeownership, in-*
14 *cluding such forms as down payment assistance,*
15 *closing cost assistance, and assistance for interest*
16 *rate buy-downs, that—*

17 *“(i) is available for purchase only for*
18 *use as a principal residence by families that*
19 *qualify both as—*

20 *“(I) extremely low- and very low-*
21 *income families at the times described*
22 *in subparagraphs (A) through (C) of*
23 *section 215(b)(2) of the Cranston-Gon-*
24 *zalez National Affordable Housing Act*
25 *(42 U.S.C. 12745(b)(2)); and*

1 “(II) *first-time homebuyers, as*
2 *such term is defined in section 104 of*
3 *the Cranston-Gonzalez National Af-*
4 *fordable Housing Act (42 U.S.C.*
5 *12704), except that any reference in*
6 *such section to assistance under title II*
7 *of such Act shall for purposes of this*
8 *subsection be considered to refer to as-*
9 *istance from affordable housing fund*
10 *grant amounts;*

11 “(ii) *has an initial purchase price that*
12 *meets the requirements of section 215(b)(1)*
13 *of the Cranston-Gonzalez National Afford-*
14 *able Housing Act;*

15 “(iii) *is subject to the same resale re-*
16 *strictions established under section*
17 *215(b)(3) of the Cranston-Gonzalez National*
18 *Affordable Housing Act and applicable to*
19 *the participating jurisdiction that is the*
20 *State in which such housing is located; and*

21 “(iv) *is made available for purchase*
22 *only by, or in the case of assistance under*
23 *this subsection, is made available only to*
24 *homebuyers who have, before purchase com-*
25 *pleted a program of independent financial*

1 *education and counseling from an eligible*
2 *organization that meets the requirements of*
3 *section 132 of the Federal Housing Finance*
4 *Regulatory Reform Act of 2008.*

5 “(8) *ELIGIBLE RECIPIENTS.*—*Grant amounts al-*
6 *located to a State or State designated entity under*
7 *this subsection may be provided only to a recipient*
8 *that is an organization, agency, or other entity (in-*
9 *cluding a for-profit entity or a nonprofit entity)*
10 *that—*

11 “(A) *has demonstrated experience and ca-*
12 *capacity to conduct an eligible activity under*
13 *paragraph (7), as evidenced by its ability to—*

14 “(i) *own, construct or rehabilitate,*
15 *manage, and operate an affordable multi-*
16 *family rental housing development;*

17 “(ii) *design, construct or rehabilitate,*
18 *and market affordable housing for home-*
19 *ownership; or*

20 “(iii) *provide forms of assistance, such*
21 *as down payments, closing costs, or interest*
22 *rate buy-downs for purchasers;*

23 “(B) *demonstrates the ability and financial*
24 *capacity to undertake, comply, and manage the*
25 *eligible activity;*

1 “(C) demonstrates its familiarity with the
2 requirements of any other Federal, State, or local
3 housing program that will be used in conjunc-
4 tion with such grant amounts to ensure compli-
5 ance with all applicable requirements and regu-
6 lations of such programs; and

7 “(D) makes such assurances to the State or
8 State designated entity as the Secretary shall, by
9 regulation, require to ensure that the recipient
10 will comply with the requirements of this sub-
11 section during the entire period that begins upon
12 selection of the recipient to receive such grant
13 amounts and ending upon the conclusion of all
14 activities under paragraph (8) that are engaged
15 in by the recipient and funded with such grant
16 amounts.

17 “(9) LIMITATIONS ON USE.—

18 “(A) REQUIRED AMOUNT FOR HOMEOWNER-
19 SHIP ACTIVITIES.—Of the aggregate amount allo-
20 cated to a State or State designated entity under
21 this subsection not more than 10 percent shall be
22 used for activities under subparagraph (B) of
23 paragraph (7).

24 “(B) DEADLINE FOR COMMITMENT OR
25 USE.—Grant amounts allocated to a State or

1 *State designated entity under this subsection*
2 *shall be used or committed for use within 2 years*
3 *of the date that such grant amounts are made*
4 *available to the State or State designated entity.*
5 *The Secretary shall recapture any such amounts*
6 *not so used or committed for use and reallocate*
7 *such amounts under this subsection in the first*
8 *year after such recapture.*

9 “(C) *USE OF RETURNS.*—*The Secretary*
10 *shall, by regulation, provide that any return on*
11 *a loan or other investment of any grant amount*
12 *used by a State or State designated entity to*
13 *provide a loan under this subsection shall be*
14 *treated, for purposes of availability to and use*
15 *by the State or State designated entity, as a*
16 *grant amount authorized under this subsection.*

17 “(D) *PROHIBITED USES.*—*The Secretary*
18 *shall, by regulation—*

19 “(i) *set forth prohibited uses of grant*
20 *amounts allocated under this subsection,*
21 *which shall include use for—*

22 “(I) *political activities;*

23 “(II) *advocacy;*

24 “(III) *lobbying, whether directly*
25 *or through other parties;*

1 “(IV) *counseling services;*

2 “(V) *travel expenses; and*

3 “(VI) *preparing or providing ad-*
4 *vice on tax returns;*

5 “(ii) *provide that, except as provided*
6 *in clause (iii), grant amounts of a State or*
7 *State designated entity may not be used for*
8 *administrative, outreach, or other costs of—*

9 “(I) *the State or State designated*
10 *entity; or*

11 “(II) *any other recipient of such*
12 *grant amounts; and*

13 “(iii) *limit the amount of any grant*
14 *amounts for a year that may be used by the*
15 *State or State designated entity for admin-*
16 *istrative costs of carrying out the program*
17 *required under this subsection, including*
18 *home ownership counseling, to a percentage*
19 *of such grant amounts of the State or State*
20 *designated entity for such year, which may*
21 *not exceed 10 percent.*

22 “(E) *PROHIBITION OF CONSIDERATION OF*
23 *USE FOR MEETING HOUSING GOALS OR DUTY TO*
24 *SERVE.—In determining compliance with the*
25 *housing goals under this subpart and the duty to*

1 *serve underserved markets under section 1335,*
2 *the Director may not consider any grant*
3 *amounts used under this section for eligible ac-*
4 *tivities under paragraph (7). The Director shall*
5 *give credit toward the achievement of such hous-*
6 *ing goals and such duty to serve underserved*
7 *markets to purchases by the enterprises of mort-*
8 *gages for housing that receives funding from such*
9 *grant amounts, but only to the extent that such*
10 *purchases by the enterprises are funded other*
11 *than with such grant amounts.*

12 “(d) *REDUCTION FOR FAILURE TO OBTAIN RETURN*
13 *OF MISUSED FUNDS.—If in any year a State or State des-*
14 *ignated entity fails to obtain reimbursement or return of*
15 *the full amount required under subsection (e)(1)(B) to be*
16 *reimbursed or returned to the State or State designated en-*
17 *tity during such year—*

18 “(1) *except as provided in paragraph (2)—*

19 “(A) *the amount of the grant for the State*
20 *or State designated entity for the succeeding*
21 *year, as determined pursuant to this section,*
22 *shall be reduced by the amount by which such*
23 *amounts required to be reimbursed or returned*
24 *exceed the amount actually reimbursed or re-*
25 *turned; and*

1 “(B) the amount of the grant for the suc-
2 ceeding year for each other State or State des-
3 ignated entity whose grant is not reduced pursu-
4 ant to subparagraph (A) shall be increased by
5 the amount determined by applying the formula
6 established pursuant to this section to the total
7 amount of all reductions for all State or State
8 designated entities for such year pursuant to
9 subparagraph (A); or

10 “(2) in any case in which such failure to obtain
11 reimbursement or return occurs during a year imme-
12 diately preceding a year in which grants under this
13 section will not be made, the State or State des-
14 ignated entity shall pay to the Secretary for realloca-
15 tion among the other grantees an amount equal to the
16 amount of the reduction for the entity that would oth-
17 erwise apply under paragraph (1)(A).

18 “(e) ACCOUNTABILITY OF RECIPIENTS AND GRANT-
19 EES.—

20 “(1) RECIPIENTS.—

21 “(A) TRACKING OF FUNDS.—The Secretary
22 shall—

23 “(i) require each State or State des-
24 ignated entity to develop and maintain a
25 system to ensure that each recipient of as-

1 *sistance under this section uses such*
2 *amounts in accordance with this section, the*
3 *regulations issued under this section, and*
4 *any requirements or conditions under which*
5 *such amounts were provided; and*

6 “(ii) *establish minimum requirements*
7 *for agreements, between the State or State*
8 *designated entity and recipients, regarding*
9 *assistance under this section, which shall*
10 *include—*

11 “(I) *appropriate periodic finan-*
12 *cial and project reporting, record re-*
13 *tention, and audit requirements for the*
14 *duration of the assistance to the recipi-*
15 *ent to ensure compliance with the limi-*
16 *tations and requirements of this section*
17 *and the regulations under this section;*
18 *and*

19 “(II) *any other requirements that*
20 *the Secretary determines are necessary*
21 *to ensure appropriate administration*
22 *and compliance.*

23 “(B) *MISUSE OF FUNDS.—*

24 “(i) *REIMBURSEMENT REQUIRE-*
25 *MENT.—If any recipient of assistance under*

1 *this section is determined, in accordance*
2 *with clause (ii), to have used any such*
3 *amounts in a manner that is materially in*
4 *violation of this section, the regulations*
5 *issued under this section, or any require-*
6 *ments or conditions under which such*
7 *amounts were provided, the State or State*
8 *designated entity shall require that, within*
9 *12 months after the determination of such*
10 *misuse, the recipient shall reimburse the*
11 *State or State designated entity for such*
12 *misused amounts and return to the State or*
13 *State designated entity any such amounts*
14 *that remain unused or uncommitted for use.*
15 *The remedies under this clause are in addi-*
16 *tion to any other remedies that may be*
17 *available under law.*

18 “(ii) *DETERMINATION.*—*A determina-*
19 *tion is made in accordance with this clause*
20 *if the determination is made by the Sec-*
21 *retary or made by the State or State des-*
22 *ignated entity, provided that—*

23 “(I) *the State or State designated*
24 *entity provides notification of the de-*
25 *termination to the Secretary for re-*

1 *view, in the discretion of the Secretary,*
2 *of the determination; and*

3 *“(II) the Secretary does not subse-*
4 *quently reverse the determination.*

5 *“(2) GRANTEES.—*

6 *“(A) REPORT.—*

7 *“(i) IN GENERAL.—The Secretary shall*
8 *require each State or State designated enti-*
9 *ty receiving grant amounts in any given*
10 *year under this section to submit a report,*
11 *for such year, to the Secretary that—*

12 *“(I) describes the activities funded*
13 *under this section during such year*
14 *with such grant amounts; and*

15 *“(II) the manner in which the*
16 *State or State designated entity com-*
17 *plied during such year with any allo-*
18 *cation plan established pursuant to*
19 *subsection (c).*

20 *“(ii) PUBLIC AVAILABILITY.—The Sec-*
21 *retary shall make such reports pursuant to*
22 *this subparagraph publicly available.*

23 *“(B) MISUSE OF FUNDS.—If the Secretary*
24 *determines, after reasonable notice and oppor-*
25 *tunity for hearing, that a State or State des-*

1 *ignated entity has failed to comply substantially*
2 *with any provision of this section, and until the*
3 *Secretary is satisfied that there is no longer any*
4 *such failure to comply, the Secretary shall—*

5 “(i) *reduce the amount of assistance*
6 *under this section to the State or State des-*
7 *ignated entity by an amount equal to the*
8 *amount of grant amounts which were not*
9 *used in accordance with this section;*

10 “(ii) *require the State or State des-*
11 *ignated entity to repay the Secretary any*
12 *amount of the grant which was not used in*
13 *accordance with this section;*

14 “(iii) *limit the availability of assist-*
15 *ance under this section to the State or State*
16 *designated entity to activities or recipients*
17 *not affected by such failure to comply; or*

18 “(iv) *terminate any assistance under*
19 *this section to the State or State designated*
20 *entity.*

21 “(f) *DEFINITIONS.—For purposes of this section, the*
22 *following definitions shall apply:*

23 “(1) *EXTREMELY LOW-INCOME RENTER HOUSE-*
24 *HOLD.—The term ‘extremely low-income renter house-*
25 *hold’ means a household whose income is not in excess*

1 of 30 percent of the area median income, with adjust-
2 ments for smaller and larger families, as determined
3 by the Secretary.

4 “(2) *RECIPIENT.*—The term ‘recipient’ means an
5 individual or entity that receives assistance from a
6 State or State designated entity from amounts made
7 available to the State or State designated entity
8 under this section.

9 “(3) *SHORTAGE OF STANDARD RENTAL UNITS*
10 *BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY*
11 *LOW-INCOME RENTER HOUSEHOLDS.*—

12 “(A) *IN GENERAL.*—The term ‘shortage of
13 standard rental units both affordable and avail-
14 able to extremely low-income renter households’
15 means for any State or other geographical area
16 the gap between—

17 “(i) the number of units with complete
18 plumbing and kitchen facilities with a rent
19 that is 30 percent or less of 30 percent of
20 the adjusted area median income as deter-
21 mined by the Secretary that are occupied by
22 extremely low-income renter households or
23 are vacant for rent; and

24 “(ii) the number of extremely low-in-
25 come renter households.

1 “(B) *RULE OF CONSTRUCTION.*—If the
2 number of units described in subparagraph
3 (A)(i) exceeds the number of extremely low-in-
4 come households as described in subparagraph
5 (A)(ii), there is no shortage.

6 “(4) *SHORTAGE OF STANDARD RENTAL UNITS*
7 *BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-IN-*
8 *COME RENTER HOUSEHOLDS.*—

9 “(A) *IN GENERAL.*—The term ‘shortage of
10 standard rental units both affordable and avail-
11 able to very low-income renter households’ means
12 for any State or other geographical area the gap
13 between—

14 “(i) the number of units with complete
15 plumbing and kitchen facilities with a rent
16 that is 30 percent or less of 50 percent of
17 the adjusted area median income as deter-
18 mined by the Secretary that are occupied by
19 very low-income renter households or are
20 vacant for rent; and

21 “(ii) the number of very low-income
22 renter households.

23 “(B) *RULE OF CONSTRUCTION.*—If the
24 number of units described in subparagraph
25 (A)(i) exceeds the number of very low-income

1 *households as described in subparagraph (A)(ii),*
2 *there is no shortage.*

3 “(5) *VERY LOW-INCOME FAMILY.*—*The term ‘very*
4 *low-income family’ has the meaning given such term*
5 *in section 1303, except that such term includes any*
6 *family that resides in a rural area that has an in-*
7 *come that does not exceed the poverty line (as such*
8 *term is defined in section 673(2) of the Omnibus*
9 *Budget Reconciliation Act of 1981 (42 U.S.C.*
10 *9902(2)), including any revision required by such sec-*
11 *tion) applicable to a family of the size involved.*

12 “(6) *VERY LOW-INCOME RENTER HOUSE-*
13 *HOLDS.*—*The term ‘very low-income renter house-*
14 *holds’ means a household whose income is in excess of*
15 *30 percent but not greater than 50 percent of the area*
16 *median income, with adjustments for smaller and*
17 *larger families, as determined by the Secretary.*

18 “(g) *REGULATIONS.*—

19 “(1) *IN GENERAL.*—*The Secretary shall issue*
20 *regulations to carry out this section.*

21 “(2) *REQUIRED CONTENTS.*—*The regulations*
22 *issued under this subsection shall include—*

23 “(A) *a requirement that the Secretary en-*
24 *sure that the use of grant amounts under this*
25 *section by States or State designated entities is*

1 *audited not less than annually to ensure compli-*
2 *ance with this section;*

3 *“(B) authority for the Secretary to audit,*
4 *provide for an audit, or otherwise verify a State*
5 *or State designated entity’s activities to ensure*
6 *compliance with this section;*

7 *“(C) requirements for a process for applica-*
8 *tion to, and selection by, each State or State des-*
9 *ignated entity for activities meeting the State or*
10 *State designated entity’s priority housing needs*
11 *to be funded with grant amounts under this sec-*
12 *tion, which shall provide for priority in funding*
13 *to be based upon—*

14 *“(i) geographic diversity;*

15 *“(ii) ability to obligate amounts and*
16 *undertake activities so funded in a timely*
17 *manner;*

18 *“(iii) in the case of rental housing*
19 *projects under subsection (c)(7)(A), the ex-*
20 *tent to which rents for units in the project*
21 *funded are affordable, especially for ex-*
22 *tremely low-income families;*

23 *“(iv) in the case of rental housing*
24 *projects under subsection (c)(7)(A), the ex-*

1 *tent of the duration for which such rents*
2 *will remain affordable;*

3 *“(v) the extent to which the application*
4 *makes use of other funding sources; and*

5 *“(vi) the merits of an applicant’s pro-*
6 *posed eligible activity;*

7 *“(D) requirements to ensure that grant*
8 *amounts provided to a State or State designated*
9 *entity under this section that are used for rental*
10 *housing under subsection (c)(7)(A) are used only*
11 *for the benefit of extremely low- and very low-in-*
12 *come families; and*

13 *“(E) requirements and standards for estab-*
14 *lishment, by a State or State designated entity,*
15 *for use of grant amounts in 2009 and subsequent*
16 *years of performance goals, benchmarks, and*
17 *timetables for the production, preservation, and*
18 *rehabilitation of affordable rental and home-*
19 *ownership housing with such grant amounts.*

20 *“(h) AFFORDABLE HOUSING TRUST FUND.—If, after*
21 *the date of enactment of the Federal Housing Finance Regu-*
22 *latory Reform Act of 2008, in any year, there is enacted*
23 *any provision of Federal law establishing an affordable*
24 *housing trust fund other than under this title for use only*
25 *for grants to provide affordable rental housing and afford-*

1 able homeownership opportunities, and the subsequent year
2 is a year referred to in subsection (c), the Secretary shall
3 in such subsequent year and any remaining years referred
4 to in subsection (c) transfer to such affordable housing trust
5 fund the aggregate amount allocated pursuant to subsection
6 (c) in such year. Notwithstanding any other provision of
7 law, assistance provided using amounts transferred to such
8 affordable housing trust fund pursuant to this subsection
9 may not be used for any of the activities specified in clauses
10 (i) through (vi) of subsection (c)(9)(D).

11 “(i) *FUNDING ACCOUNTABILITY AND TRANS-*
12 *PARENCY.*—Any grant under this section to a grantee by
13 a State or State designated entity, any assistance provided
14 to a recipient by a State or State designated entity, and
15 any grant, award, or other assistance from an affordable
16 housing trust fund referred to in subsection (h) shall be con-
17 sidered a Federal award for purposes of the Federal Fund-
18 ing Accountability and Transparency Act of 2006 (31
19 U.S.C. 6101 note). Upon the request of the Director of the
20 Office of Management and Budget, the Secretary shall ob-
21 tain and provide such information regarding any such
22 grants, assistance, and awards as the Director of the Office
23 of Management and Budget considers necessary to comply
24 with the requirements of such Act, as applicable, pursuant
25 to the preceding sentence.

1 **“SEC. 1339. CAPITAL MAGNET FUND.**

2 “(a) *ESTABLISHMENT.*—*There is established in the*
3 *Treasury of the United States a trust fund to be known*
4 *as the Capital Magnet Fund, which shall be a special ac-*
5 *count within the Community Development Financial Insti-*
6 *tutions Fund.*

7 “(b) *DEPOSITS TO TRUST FUND.*—*The Capital Mag-*
8 *net Fund shall consist of—*

9 “(1) *any amounts transferred to the Fund pur-*
10 *suant to section 1337; and*

11 “(2) *any amounts as are or may be appro-*
12 *propriated, transferred, or credited to such Fund under*
13 *any other provisions of law.*

14 “(c) *EXPENDITURES FROM TRUST FUND.*—*Amounts*
15 *in the Capital Magnet Fund shall be available to the Sec-*
16 *retary of the Treasury to carry out a competitive grant pro-*
17 *gram to attract private capital for and increase investment*
18 *in—*

19 “(1) *the development, preservation, rehabilita-*
20 *tion, or purchase of affordable housing for primarily*
21 *extremely low-, very low-, and low-income families;*
22 *and*

23 “(2) *economic development activities or commu-*
24 *nity service facilities, such as day care centers, work-*
25 *force development centers, and health care clinics,*
26 *which in conjunction with affordable housing activi-*

1 *ties implement a concerted strategy to stabilize or re-*
2 *vitalize a low-income area or underserved rural area.*

3 “(d) *FEDERAL ASSISTANCE.*—*All assistance provided*
4 *using amounts in the Capital Magnet Fund shall be consid-*
5 *ered to be Federal financial assistance.*

6 “(e) *ELIGIBLE GRANTEES.*—*A grant under this section*
7 *may be made, pursuant to such requirements as the Sec-*
8 *retary of the Treasury shall establish for experience and*
9 *success in attracting private financing and carrying out*
10 *the types of activities proposed under the application of the*
11 *grantee, only to—*

12 “(1) *a Treasury certified community develop-*
13 *ment financial institution; or*

14 “(2) *a nonprofit organization having as 1 of its*
15 *principal purposes the development or management of*
16 *affordable housing.*

17 “(f) *ELIGIBLE USES.*—*Grant amounts awarded from*
18 *the Capital Magnet Fund pursuant to this section may be*
19 *used for the purposes described in paragraphs (1) and (2)*
20 *of subsection (c), including for the following uses:*

21 “(1) *To provide loan loss reserves.*

22 “(2) *To capitalize a revolving loan fund.*

23 “(3) *To capitalize an affordable housing fund.*

24 “(4) *To capitalize a fund to support activities*
25 *described in subsection (c)(2).*

1 “(5) *For risk-sharing loans.*

2 “(g) *APPLICATIONS.—*

3 “(1) *IN GENERAL.—The Secretary of the Treas-*
4 *ury shall provide, in a competitive application proc-*
5 *ess established by regulation, for eligible grantees*
6 *under subsection (e) to submit applications for Cap-*
7 *ital Magnet Fund grants to the Secretary at such*
8 *time and in such manner as the Secretary shall deter-*
9 *mine.*

10 “(2) *CONTENT OF APPLICATION.—The applica-*
11 *tion required under paragraph (1) shall include a de-*
12 *tailed description of—*

13 “(A) *the types of affordable housing, eco-*
14 *nomie, and community revitalization projects*
15 *that support or sustain residents of an affordable*
16 *housing project funded by a grant under this sec-*
17 *tion for which such grant amounts would be*
18 *used, including the proposed use of eligible*
19 *grants as authorized under this section;*

20 “(B) *the types, sources, and amounts of*
21 *other funding for such projects; and*

22 “(C) *the expected time frame of any grant*
23 *used for such project.*

24 “(h) *GRANT LIMITATION.—*

1 “(1) *IN GENERAL.*—Any 1 eligible grantee and
2 its subsidiaries and affiliates may not be awarded
3 more than 15 percent of the aggregate funds available
4 for grants during any year from the Capital Magnet
5 Fund.

6 “(2) *GEOGRAPHIC DIVERSITY.*—

7 “(A) *GOAL.*—The Secretary of the Treasury
8 shall seek to fund activities in geographically di-
9 verse areas of economic distress, including metro-
10 politan and underserved rural areas in every
11 State.

12 “(B) *DIVERSITY DEFINED.*—For purposes of
13 this paragraph, geographic diversity includes
14 those areas that meet objective criteria of eco-
15 nomic distress developed by the Secretary of the
16 Treasury, which may include—

17 “(i) the percentage of low-income fami-
18 lies or the extent of poverty;

19 “(ii) the rate of unemployment or
20 underemployment;

21 “(iii) extent of blight and disinvest-
22 ment;

23 “(iv) projects that target extremely
24 low-, very low-, and low-income families in

1 *or outside a designated economic distress*
2 *area; or*

3 *“(v) any other criteria designated by*
4 *the Secretary of the Treasury.*

5 *“(3) LEVERAGE OF FUNDS.—Each grant from*
6 *the Capital Magnet Fund awarded under this section*
7 *shall be reasonably expected to result in eligible hous-*
8 *ing, or economic and community development projects*
9 *that support or sustain an affordable housing project*
10 *funded by a grant under this section whose aggregate*
11 *costs total at least 10 times the grant amount.*

12 *“(4) COMMITMENT FOR USE DEADLINE.—*
13 *Amounts made available for grants under this section*
14 *shall be committed for use within 2 years of the date*
15 *of such allocation. The Secretary of the Treasury shall*
16 *recapture into the Capital Magnet Fund any amounts*
17 *not so used or committed for use and allocate such*
18 *amounts in the first year after such recapture.*

19 *“(5) LOBBYING RESTRICTIONS.—No assistance or*
20 *amounts made available under this section may be ex-*
21 *pended by an eligible grantee to pay any person to*
22 *influence or attempt to influence any agency, elected*
23 *official, officer or employee of a State or local govern-*
24 *ment in connection with the making, award, exten-*
25 *sion, continuation, renewal, amendment, or modifica-*

1 *tion of any State or local government contract, grant,*
2 *loan, or cooperative agreement as such terms are de-*
3 *finied in section 1352 of title 31, United States Code.*

4 *“(6) PROHIBITION OF CONSIDERATION OF USE*
5 *FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—*

6 *In determining the compliance of the enterprises with*
7 *the housing goals under this section and the duty to*
8 *serve underserved markets under section 1335, the Di-*
9 *rector of the Federal Housing Finance Agency may*
10 *not consider any Capital Magnet Fund amounts used*
11 *under this section for eligible activities under sub-*
12 *section (f). The Director of the Federal Housing Fi-*
13 *nance Agency shall give credit toward the achieve-*
14 *ment of such housing goals and such duty to serve un-*
15 *derserved markets to purchases by the enterprises of*
16 *mortgages for housing that receives funding from*
17 *Capital Magnet Fund grant amounts, but only to the*
18 *extent that such purchases by the enterprises are*
19 *funded other than with such grant amounts.*

20 *“(7) ACCOUNTABILITY OF RECIPIENTS AND*
21 *GRANTEES.—*

22 *“(A) TRACKING OF FUNDS.—The Secretary*
23 *of the Treasury shall—*

24 *“(i) require each grantee to develop*
25 *and maintain a system to ensure that each*

1 *recipient of assistance from the Capital*
2 *Magnet Fund uses such amounts in accord-*
3 *ance with this section, the regulations issued*
4 *under this section, and any requirements or*
5 *conditions under which such amounts were*
6 *provided; and*

7 “(i) *establish minimum requirements*
8 *for agreements, between the grantee and the*
9 *Capital Magnet Fund, regarding assistance*
10 *from the Capital Magnet Fund, which shall*
11 *include—*

12 “(I) *appropriate periodic finan-*
13 *cial and project reporting, record re-*
14 *tention, and audit requirements for the*
15 *duration of the grant to the recipient*
16 *to ensure compliance with the limita-*
17 *tions and requirements of this section*
18 *and the regulations under this section;*
19 *and*

20 “(II) *any other requirements that*
21 *the Secretary determines are necessary*
22 *to ensure appropriate grant adminis-*
23 *tration and compliance.*

24 “(B) *MISUSE OF FUNDS.—If the Secretary*
25 *of the Treasury determines, after reasonable no-*

1 *tice and opportunity for hearing, that a grantee*
2 *has failed to comply substantially with any pro-*
3 *vision of this section and until the Secretary is*
4 *satisfied that there is no longer any such failure*
5 *to comply, the Secretary shall—*

6 *“(i) reduce the amount of assistance*
7 *under this section to the grantee by an*
8 *amount equal to the amount of Capital*
9 *Magnet Fund grant amounts which were*
10 *not used in accordance with this section;*

11 *“(ii) require the grantee to repay the*
12 *Secretary any amount of the Capital Mag-*
13 *net Fund grant amounts which were not*
14 *used in accordance with this section;*

15 *“(iii) limit the availability of assist-*
16 *ance under this section to the grantee to ac-*
17 *tivities or recipients not affected by such*
18 *failure to comply; or*

19 *“(iv) terminate any assistance under*
20 *this section to the grantee.*

21 *“(i) PERIODIC REPORTS.—*

22 *“(1) IN GENERAL.—The Secretary of the Treas-*
23 *ury shall submit a report, on a periodic basis, to the*
24 *Committee on Banking, Housing, and Urban Affairs*
25 *of the Senate and the Committee on Financial Serv-*

1 *ices of the House of Representatives describing the ac-*
2 *tivities to be funded under this section.*

3 “(2) *REPORTS AVAILABLE TO PUBLIC.*—*The Sec-*
4 *retary of the Treasury shall make the reports required*
5 *under paragraph (1) publicly available.*

6 “(j) *REGULATIONS.*—

7 “(1) *IN GENERAL.*—*The Secretary of the Treas-*
8 *ury shall issue regulations to carry out this section.*

9 “(2) *REQUIRED CONTENTS.*—*The regulations*
10 *issued under this subsection shall include—*

11 “(A) *authority for the Secretary to audit,*
12 *provide for an audit, or otherwise verify an en-*
13 *terprise’s activities, to ensure compliance with*
14 *this section;*

15 “(B) *a requirement that the Secretary en-*
16 *sure that the allocation of each enterprise is au-*
17 *dated not less than annually to ensure compli-*
18 *ance with this section; and*

19 “(C) *requirements for a process for applica-*
20 *tion to, and selection by, the Secretary for activi-*
21 *ties to be funded with amounts from the Capital*
22 *Magnet Fund, which shall provide that—*

23 “(i) *funds be fairly distributed to*
24 *urban, suburban, and rural areas; and*

1 “(ii) selection shall be based upon spe-
2 cific criteria, including a prioritization of
3 funding based upon—

4 “(I) the ability to use such funds
5 to generate additional investments;

6 “(II) affordable housing need (tak-
7 ing into account the distinct needs of
8 different regions of the country); and

9 “(III) ability to obligate amounts
10 and undertake activities so funded in a
11 timely manner.”.

12 **SEC. 1132. FINANCIAL EDUCATION AND COUNSELING.**

13 (a) *GOALS.*—*Financial education and counseling*
14 *under this section shall have the goal of—*

15 (1) *increasing the financial knowledge and deci-*
16 *sion making capabilities of prospective homebuyers;*

17 (2) *assisting prospective homebuyers to develop*
18 *monthly budgets, build personal savings, finance or*
19 *plan for major purchases, reduce their debt, improve*
20 *their financial stability, and set and reach their fi-*
21 *nancial goals;*

22 (3) *helping prospective homebuyers to improve*
23 *their credit scores by understanding the relationship*
24 *between their credit histories and their credit scores;*
25 *and*

1 (4) *educating prospective homebuyers about the*
2 *options available to build savings for short- and long-*
3 *term goals.*

4 (b) *GRANTS.—*

5 (1) *IN GENERAL.—The Secretary of the Treasury*
6 *(in this section referred to as the “Secretary”) shall*
7 *make grants to eligible organizations to enable such*
8 *organizations to provide a range of financial edu-*
9 *cation and counseling services to prospective home-*
10 *buyers.*

11 (2) *SELECTION.—The Secretary shall select eligi-*
12 *ble organizations to receive assistance under this sec-*
13 *tion based on their experience and ability to provide*
14 *financial education and counseling services that result*
15 *in documented positive behavioral changes.*

16 (c) *ELIGIBLE ORGANIZATIONS.—*

17 (1) *IN GENERAL.—For purposes of this section,*
18 *the term “eligible organization” means an organiza-*
19 *tion that is—*

20 (A) *certified in accordance with section*
21 *106(e)(1) of the Housing and Urban Develop-*
22 *ment Act of 1968 (12 U.S.C. 1701x(e)); or*

23 (B) *certified by the Office of Financial*
24 *Education of the Department of the Treasury for*

1 *purposes of this section, in accordance with*
2 *paragraph (2).*

3 (2) *OFE CERTIFICATION.*—*To be certified by the*
4 *Office of Financial Education for purposes of this sec-*
5 *tion, an eligible organization shall be—*

6 (A) *a housing counseling agency certified by*
7 *the Secretary of Housing and Urban Develop-*
8 *ment under section 106(e) of the Housing and*
9 *Urban Development Act of 1968;*

10 (B) *a State, local, or tribal government*
11 *agency;*

12 (C) *a community development financial in-*
13 *stitution (as defined in section 103(5) of the*
14 *Community Development Banking and Finan-*
15 *cial Institutions Act of 1994 (12 U.S.C. 4702(5))*
16 *or a credit union; or*

17 (D) *any collaborative effort of entities de-*
18 *scribed in any of subparagraphs (A) through*
19 *(C).*

20 (d) *AUTHORITY FOR PILOT PROJECTS.*—

21 (1) *IN GENERAL.*—*The Secretary of the Treasury*
22 *shall authorize not more than 5 pilot project grants*
23 *to eligible organizations under subsection (c) in order*
24 *to—*

1 (A) carry out the services under this section;
2 and

3 (B) provide such other services that will im-
4 prove the financial stability and economic condi-
5 tion of low- and moderate-income and low-
6 wealth individuals.

7 (2) GOAL.—The goal of the pilot project grants
8 under this subsection is to—

9 (A) identify successful methods resulting in
10 positive behavioral change for financial em-
11 powerment; and

12 (B) establish program models for organiza-
13 tions to carry out effective counseling services.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There are
15 authorized to be appropriated to the Secretary such sums
16 as are necessary to carry out this section and for the provi-
17 sion of additional financial educational services.

18 (f) STUDY AND REPORT ON EFFECTIVENESS AND IM-
19 PACT.—

20 (1) IN GENERAL.—The Comptroller General of
21 the United States shall conduct a study on the effec-
22 tiveness and impact of the grant program established
23 under this section. Not later than 3 years after the
24 date of enactment of this Act, the Comptroller General
25 shall submit a report on the results of such study to

1 *the Committee on Banking, Housing, and Urban Af-*
2 *fairs of the Senate and the Committee on Financial*
3 *Services of the House of Representatives.*

4 (2) *CONTENT OF STUDY.*—*The study required*
5 *under paragraph (1) shall include an evaluation of*
6 *the following:*

7 (A) *The effectiveness of the grant program*
8 *established under this section in improving the*
9 *financial situation of homeowners and prospec-*
10 *tive homebuyers served by the grant program.*

11 (B) *The extent to which financial education*
12 *and counseling services have resulted in positive*
13 *behavioral changes.*

14 (C) *The effectiveness and quality of the eli-*
15 *gible organizations providing financial edu-*
16 *cation and counseling services under the grant*
17 *program.*

18 (g) *REGULATIONS.*—*The Secretary is authorized to*
19 *promulgate such regulations as may be necessary to imple-*
20 *ment and administer the grant program authorized by this*
21 *section.*

22 **SEC. 1133. TRANSFER AND RIGHTS OF CERTAIN HUD EM-**
23 **PLOYEES.**

24 (a) *TRANSFER.*—*Each employee of the Department of*
25 *Housing and Urban Development whose position respon-*

1 *sibilities primarily involve the establishment and enforce-*
2 *ment of the housing goals under subpart B of part 2 of*
3 *subtitle A of the Federal Housing Enterprises Financial*
4 *Safety and Soundness Act of 1992 (12 U.S.C. 4561 et seq.)*
5 *shall be transferred to the Federal Housing Finance Agency*
6 *for employment, not later than the effective date of the Fed-*
7 *eral Housing Finance Regulatory Reform Act of 2008, and*
8 *such transfer shall be deemed a transfer of function for pur-*
9 *poses of section 3503 of title 5, United States Code.*

10 *(b) GUARANTEED POSITIONS.—*

11 *(1) IN GENERAL.—Each employee transferred*
12 *under subsection (a) shall be guaranteed a position*
13 *with the same status, tenure, grade, and pay as that*
14 *held on the day immediately preceding the transfer.*

15 *(2) NO INVOLUNTARY SEPARATION OR REDUC-*
16 *TION.—An employee transferred under subsection (a)*
17 *holding a permanent position on the day immediately*
18 *preceding the transfer may not be involuntarily sepa-*
19 *rated or reduced in grade or compensation during the*
20 *12-month period beginning on the date of transfer, ex-*
21 *cept for cause, or, in the case of a temporary em-*
22 *ployee, separated in accordance with the terms of the*
23 *appointment of the employee.*

24 *(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND*
25 *SENIOR EXECUTIVE SERVICE EMPLOYEES.—*

1 (1) *IN GENERAL.*—*In the case of an employee oc-*
2 *cupying a position in the excepted service or the Sen-*
3 *ior Executive Service, any appointment authority es-*
4 *tablished under law or by regulations of the Office of*
5 *Personnel Management for filling such position shall*
6 *be transferred, subject to paragraph (2).*

7 (2) *DECLINE OF TRANSFER.*—*The Director may*
8 *decline a transfer of authority under paragraph (1)*
9 *to the extent that such authority relates to—*

10 (A) *a position excepted from the competitive*
11 *service because of its confidential, policymaking,*
12 *policy-determining, or policy-advocating char-*
13 *acter; or*

14 (B) *a noncareer position in the Senior Ex-*
15 *ecutive Service (within the meaning of section*
16 *3132(a)(7) of title 5, United States Code).*

17 (d) *REORGANIZATION.*—*If the Director determines,*
18 *after the end of the 1-year period beginning on the effective*
19 *date of the Federal Housing Finance Regulatory Reform*
20 *Act of 2008, that a reorganization of the combined work-*
21 *force is required, that reorganization shall be deemed a*
22 *major reorganization for purposes of affording affected em-*
23 *ployee retirement under section 8336(d)(2) or 8414(b)(1)(B)*
24 *of title 5, United States Code.*

25 (e) *EMPLOYEE BENEFIT PROGRAMS.*—

1 (1) *IN GENERAL.*—Any employee described under
2 subsection (a) accepting employment with the Agency
3 as a result of a transfer under subsection (a) may re-
4 tain, for 12 months after the date on which such
5 transfer occurs, membership in any employee benefit
6 program of the Agency or the Department of Housing
7 and Urban Development, as applicable, including in-
8 surance, to which such employee belongs on such effec-
9 tive date, if—

10 (A) the employee does not elect to give up
11 the benefit or membership in the program; and

12 (B) the benefit or program is continued by
13 the Director of the Federal Housing Finance
14 Agency.

15 (2) *COST DIFFERENTIAL.*—

16 (A) *IN GENERAL.*—The difference in the
17 costs between the benefits which would have been
18 provided by the Department of Housing and
19 Urban Development and those provided by this
20 section shall be paid by the Director.

21 (B) *HEALTH INSURANCE.*—If any employee
22 elects to give up membership in a health insur-
23 ance program or the health insurance program is
24 not continued by the Director, the employee shall
25 be permitted to select an alternate Federal health

1 *insurance program not later than 30 days after*
2 *the date of such election or notice, without regard*
3 *to any other regularly scheduled open season.*

4 ***Subtitle C—Prompt Corrective***
5 ***Action***

6 ***SEC. 1141. CRITICAL CAPITAL LEVELS.***

7 *(a) IN GENERAL.—Section 1363 of the Federal Hous-*
8 *ing Enterprises Financial Safety and Soundness Act of*
9 *1992 (12 U.S.C. 4613) is amended—*

10 *(1) by striking “For” and inserting “(a) ENTER-*
11 *PRISES.—FOR”;* and

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

14 *“(b) FEDERAL HOME LOAN BANKS.—*

15 *“(1) IN GENERAL.—For purposes of this subtitle,*
16 *the critical capital level for each Federal Home Loan*
17 *Bank shall be such amount of capital as the Director*
18 *shall, by regulation, require.*

19 *“(2) CONSIDERATION OF OTHER CRITICAL CAP-*
20 *ITAL LEVELS.—In establishing the critical capital*
21 *level under paragraph (1) for the Federal Home Loan*
22 *Banks, the Director shall take due consideration of the*
23 *critical capital level established under subsection (a)*
24 *for the enterprises, with such modifications as the Di-*
25 *rector determines to be appropriate to reflect the dif-*

1 ference in operations between the banks and the enter-
2 prises.”.

3 (b) *REGULATIONS.*—Not later than the expiration of
4 the 180-day period beginning on the date of enactment of
5 this Act, the Director of the Federal Housing Finance Agen-
6 cy shall issue regulations pursuant to section 1363(b) of the
7 Federal Housing Enterprises Financial Safety and Sound-
8 ness Act of 1992 (as added by this section) establishing the
9 critical capital level under such section.

10 **SEC. 1142. CAPITAL CLASSIFICATIONS.**

11 (a) *IN GENERAL.*—Section 1364 of the Federal Hous-
12 ing Enterprises Financial Safety and Soundness Act of
13 1992 (12 U.S.C. 4614) is amended—

14 (1) in the heading for subsection (a) by striking
15 *“In General”* and inserting *“Enterprises”*;

16 (2) in subsection (c)—

17 (A) by striking *“subsection (b)”* and insert-
18 ing *“subsection (c)”*;

19 (B) by striking *“enterprises”* and inserting
20 *“regulated entities”*; and

21 (C) by striking the last sentence;

22 (3) by redesignating subsections (c) (as so
23 amended by paragraph (2) of this subsection) and (d)
24 as subsections (d) and (f), respectively;

1 (4) *by striking subsection (b) and inserting the*
2 *following:*

3 “(b) *FEDERAL HOME LOAN BANKS.—*

4 “(1) *ESTABLISHMENT AND CRITERIA.—For pur-*
5 *poses of this subtitle, the Director shall, by regula-*
6 *tion—*

7 “(A) *establish the capital classifications*
8 *specified under paragraph (2) for the Federal*
9 *Home Loan Banks;*

10 “(B) *establish criteria for each such capital*
11 *classification based on the amount and types of*
12 *capital held by a bank and the risk-based, min-*
13 *imum, and critical capital levels for the banks*
14 *and taking due consideration of the capital clas-*
15 *sifications established under subsection (a) for*
16 *the enterprises, with such modifications as the*
17 *Director determines to be appropriate to reflect*
18 *the difference in operations between the banks*
19 *and the enterprises; and*

20 “(C) *shall classify the Federal Home Loan*
21 *Banks according to such capital classifications.*

22 “(2) *CLASSIFICATIONS.—The capital classifica-*
23 *tions specified under this paragraph are—*

24 “(A) *adequately capitalized;*

25 “(B) *undercapitalized;*

1 “(C) significantly undercapitalized; and

2 “(D) critically undercapitalized.

3 “(c) *DISCRETIONARY CLASSIFICATION.*—

4 “(1) *GROUNDS FOR RECLASSIFICATION.*—*The*
5 *Director may reclassify a regulated entity under*
6 *paragraph (2) if—*

7 “(A) *at any time, the Director determines*
8 *in writing that the regulated entity is engaging*
9 *in conduct that could result in a rapid depletion*
10 *of core or total capital or the value of collateral*
11 *pledged as security has decreased significantly or*
12 *that the value of the property subject to any*
13 *mortgage held by the regulated entity (or*
14 *securitized in the case of an enterprise) has de-*
15 *creased significantly;*

16 “(B) *after notice and an opportunity for*
17 *hearing, the Director determines that the regu-*
18 *lated entity is in an unsafe or unsound condi-*
19 *tion; or*

20 “(C) *pursuant to section 1371(b), the Direc-*
21 *tor deems the regulated entity to be engaging in*
22 *an unsafe or unsound practice.*

23 “(2) *RECLASSIFICATION.*—*In addition to any*
24 *other action authorized under this title, including the*
25 *reclassification of a regulated entity for any reason*

1 *not specified in this subsection, if the Director takes*
2 *any action described in paragraph (1), the Director*
3 *may classify a regulated entity—*

4 *“(A) as undercapitalized, if the regulated*
5 *entity is otherwise classified as adequately cap-*
6 *italized;*

7 *“(B) as significantly undercapitalized, if*
8 *the regulated entity is otherwise classified as*
9 *undercapitalized; and*

10 *“(C) as critically undercapitalized, if the*
11 *regulated entity is otherwise classified as signifi-*
12 *cantly undercapitalized.”; and*

13 *(5) by inserting after subsection (d) (as so reded-*
14 *ignated by paragraph (3) of this subsection), the fol-*
15 *lowing new subsection:*

16 *“(e) RESTRICTION ON CAPITAL DISTRIBUTIONS.—*

17 *“(1) IN GENERAL.—A regulated entity shall*
18 *make no capital distribution if, after making the dis-*
19 *tribution, the regulated entity would be undercapital-*
20 *ized.*

21 *“(2) EXCEPTION.—Notwithstanding paragraph*
22 *(1), the Director may permit a regulated entity, to*
23 *the extent appropriate or applicable, to repurchase,*
24 *redeem, retire, or otherwise acquire shares or owner-*

1 *ship interests if the repurchase, redemption, retire-*
 2 *ment, or other acquisition—*

3 *“(A) is made in connection with the*
 4 *issuance of additional shares or obligations of the*
 5 *regulated entity in at least an equivalent*
 6 *amount; and*

7 *“(B) will reduce the financial obligations of*
 8 *the regulated entity or otherwise improve the fi-*
 9 *nancial condition of the entity.”.*

10 *(b) REGULATIONS.—Not later than the expiration of*
 11 *the 180-day period beginning on the date of enactment of*
 12 *this Act, the Director of the Federal Housing Finance Agen-*
 13 *cy shall issue regulations to carry out section 1364(b) of*
 14 *the Federal Housing Enterprises Financial Safety and*
 15 *Soundness Act of 1992 (as added by this section), relating*
 16 *to capital classifications for the Federal Home Loan Banks.*

17 **SEC. 1143. SUPERVISORY ACTIONS APPLICABLE TO UNDER-**
 18 **CAPITALIZED REGULATED ENTITIES.**

19 *Section 1365 of the Federal Housing Enterprises Fi-*
 20 *nancial Safety and Soundness Act of 1992 (12 U.S.C. 4615)*
 21 *is amended—*

22 *(1) by striking “the enterprise” each place that*
 23 *term appears and inserting “the regulated entity”;*

24 *(2) by striking “An enterprise” each place that*
 25 *term appears and inserting “A regulated entity”;*

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

3 (4) in subsection (a)—

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

6 (B) by inserting before paragraph (2), as
7 redesignated, the following:

8 “(1) *REQUIRED MONITORING.*—*The Director*
9 *shall—*

10 “(A) *closely monitor the condition of any*
11 *undercapitalized regulated entity;*

12 “(B) *closely monitor compliance with the*
13 *capital restoration plan, restrictions, and re-*
14 *quirements imposed on an undercapitalized reg-*
15 *ulated entity under this section; and*

16 “(C) *periodically review the plan, restric-*
17 *tions, and requirements applicable to an under-*
18 *capitalized regulated entity to determine whether*
19 *the plan, restrictions, and requirements are*
20 *achieving the purpose of this section.”; and*

21 (C) by adding at the end the following:

22 “(4) *RESTRICTION OF ASSET GROWTH.*—*An*
23 *undercapitalized regulated entity shall not permit its*
24 *average total assets during any calendar quarter to*

1 *exceed its average total assets during the preceding*
2 *calendar quarter, unless—*

3 *“(A) the Director has accepted the capital*
4 *restoration plan of the regulated entity;*

5 *“(B) any increase in total assets is con-*
6 *sistent with the capital restoration plan; and*

7 *“(C) the ratio of tangible equity to assets of*
8 *the regulated entity increases during the cal-*
9 *endar quarter at a rate sufficient to enable the*
10 *regulated entity to become adequately capitalized*
11 *within a reasonable time.*

12 *“(5) PRIOR APPROVAL OF ACQUISITIONS AND*
13 *NEW ACTIVITIES.—An undercapitalized regulated en-*
14 *tity shall not, directly or indirectly, acquire any in-*
15 *terest in any entity or engage in any new activity,*
16 *unless—*

17 *“(A) the Director has accepted the capital*
18 *restoration plan of the regulated entity, the regu-*
19 *lated entity is implementing the plan, and the*
20 *Director determines that the proposed action is*
21 *consistent with and will further the achievement*
22 *of the plan; or*

23 *“(B) the Director determines that the pro-*
24 *posed action will further the purpose of this sub-*
25 *title.”;*

1 (5) *in subsection (b)—*

2 (A) *in the subsection heading, by striking*

3 “DISCRETIONARY”;

4 (B) *in the matter preceding paragraph (1),*

5 *by striking “may” and inserting “shall”; and*

6 (C) *in paragraph (2)—*

7 (i) *by striking “make, in good faith,*
8 *reasonable efforts necessary to”; and*

9 (ii) *by striking the period at the end*
10 *and inserting “in any material respect.”;*

11 *and*

12 (6) *by striking subsection (c) and inserting the*
13 *following:*

14 “(c) *OTHER DISCRETIONARY SAFEGUARDS.—The Di-*
15 *rector may take, with respect to an undercapitalized regu-*
16 *lated entity, any of the actions authorized to be taken under*
17 *section 1366 with respect to a significantly undercapital-*
18 *ized regulated entity, if the Director determines that such*
19 *actions are necessary to carry out the purpose of this sub-*
20 *title.”.*

1 **SEC. 1144. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFI-**
2 **CANTLY UNDERCAPITALIZED REGULATED EN-**
3 **TITIES.**

4 *Section 1366 of the Federal Housing Enterprises Fi-*
5 *ancial Safety and Soundness Act of 1992 (12 U.S.C. 4616)*
6 *is amended—*

7 (1) *in subsection (a)(2), by striking “under-*
8 *capitalized enterprise” and inserting “undercapital-*
9 *ized”;*

10 (2) *by striking “the enterprise” each place that*
11 *term appears and inserting “the regulated entity”;*

12 (3) *by striking “An enterprise” each place that*
13 *term appears and inserting “A regulated entity”;*

14 (4) *by striking “an enterprise” each place that*
15 *term appears and inserting “a regulated entity”;*

16 (5) *in subsection (b)—*

17 (A) *in the subsection heading, by striking*
18 *“DISCRETIONARY SUPERVISORY” and inserting*
19 *“SPECIFIC”;*

20 (B) *in the matter preceding paragraph (1),*
21 *by striking “may, at any time, take any” and*
22 *inserting “shall carry out this section by taking,*
23 *at any time, 1 or more”;*

24 (C) *by striking paragraph (6);*

25 (D) *by redesignating paragraph (5) as*
26 *paragraph (6);*

1 (E) by inserting after paragraph (4) the fol-
2 lowing:

3 “(5) *IMPROVEMENT OF MANAGEMENT.*—Take 1
4 or more of the following actions:

5 “(A) *NEW ELECTION OF BOARD.*—Order a
6 new election for the board of directors of the reg-
7 ulated entity.

8 “(B) *DISMISSAL OF DIRECTORS OR EXECU-*
9 *TIVE OFFICERS.*—Require the regulated entity to
10 dismiss from office any director or executive offi-
11 cer who had held office for more than 180 days
12 immediately before the date on which the regu-
13 lated entity became undercapitalized. Dismissal
14 under this subparagraph shall not be construed
15 to be a removal pursuant to the enforcement
16 powers of the Director under section 1377.

17 “(C) *EMPLOY QUALIFIED EXECUTIVE OFFI-*
18 *CERS.*—Require the regulated entity to employ
19 qualified executive officers (who, if the Director
20 so specifies, shall be subject to approval by the
21 Director).”; and

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

23 “(7) *OTHER ACTION.*—Require the regulated en-
24 tity to take any other action that the Director deter-
25 mines will better carry out the purpose of this section

1 *than any of the other actions specified in this sub-*
 2 *section.”; and*

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

5 *“(c) RESTRICTION ON COMPENSATION OF EXECUTIVE*
 6 *OFFICERS.—A regulated entity that is classified as signifi-*
 7 *cantly undercapitalized in accordance with section 1364*
 8 *may not, without prior written approval by the Director—*

9 *“(1) pay any bonus to any executive officer; or*

10 *“(2) provide compensation to any executive offi-*
 11 *cer at a rate exceeding the average rate of compensa-*
 12 *tion of that officer (excluding bonuses, stock options,*
 13 *and profit sharing) during the 12 calendar months*
 14 *preceding the calendar month in which the regulated*
 15 *entity became significantly undercapitalized.”.*

16 **SEC. 1145. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
 17 **IZED REGULATED ENTITIES.**

18 *(a) IN GENERAL.—Section 1367 of the Federal Hous-*
 19 *ing Enterprises Financial Safety and Soundness Act of*
 20 *1992 (12 U.S.C. 4617) is amended to read as follows:*

21 **“SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
 22 **IZED REGULATED ENTITIES.**

23 *“(a) APPOINTMENT OF THE AGENCY AS CONSERVATOR*
 24 *OR RECEIVER.—*

1 “(1) *IN GENERAL.*—*Notwithstanding any other*
2 *provision of Federal or State law, the Director may*
3 *appoint the Agency as conservator or receiver for a*
4 *regulated entity in the manner provided under para-*
5 *graph (2) or (4). All references to the conservator or*
6 *receiver under this section are references to the Agen-*
7 *cy acting as conservator or receiver.*

8 “(2) *DISCRETIONARY APPOINTMENT.*—*The Agen-*
9 *cy may, at the discretion of the Director, be ap-*
10 *pointed conservator or receiver for the purpose of re-*
11 *organizing, rehabilitating, or winding up the affairs*
12 *of a regulated entity.*

13 “(3) *GROUNDS FOR DISCRETIONARY APPOINT-*
14 *MENT OF CONSERVATOR OR RECEIVER.*—*The grounds*
15 *for appointing conservator or receiver for any regu-*
16 *lated entity under paragraph (2) are as follows:*

17 “(A) *SUBSTANTIAL DISSIPATION.*—*Substan-*
18 *tial dissipation of assets or earnings due to—*

19 “(i) *any violation of any provision of*
20 *Federal or State law; or*

21 “(ii) *any unsafe or unsound practice.*

22 “(B) *UNSAFE OR UNSOUND CONDITION.*—
23 *An unsafe or unsound condition to transact busi-*
24 *ness.*

1 “(C) *CEASE AND DESIST ORDERS.*—Any
2 willful violation of a cease and desist order that
3 has become final.

4 “(D) *CONCEALMENT.*—Any concealment of
5 the books, papers, records, or assets of the regu-
6 lated entity, or any refusal to submit the books,
7 papers, records, or affairs of the regulated entity,
8 for inspection to any examiner or to any lawful
9 agent of the Director.

10 “(E) *INABILITY TO MEET OBLIGATIONS.*—
11 The regulated entity is likely to be unable to pay
12 its obligations or meet the demands of its credi-
13 tors in the normal course of business.

14 “(F) *LOSSES.*—The regulated entity has in-
15 curred or is likely to incur losses that will de-
16 plete all or substantially all of its capital, and
17 there is no reasonable prospect for the regulated
18 entity to become adequately capitalized (as de-
19 fined in section 1364(a)(1)).

20 “(G) *VIOLATIONS OF LAW.*—Any violation
21 of any law or regulation, or any unsafe or un-
22 sound practice or condition that is likely to—

23 “(i) cause insolvency or substantial
24 dissipation of assets or earnings; or

1 “(ii) *weaken the condition of the regu-*
2 *lated entity.*

3 “(H) *CONSENT.—The regulated entity, by*
4 *resolution of its board of directors or its share-*
5 *holders or members, consents to the appointment.*

6 “(I) *UNDERCAPITALIZATION.—The regu-*
7 *lated entity is undercapitalized or significantly*
8 *undercapitalized (as defined in section*
9 *1364(a)(3)), and—*

10 “(i) *has no reasonable prospect of be-*
11 *coming adequately capitalized;*

12 “(ii) *fails to become adequately cap-*
13 *italized, as required by—*

14 “(I) *section 1365(a)(1) with re-*
15 *spect to a regulated entity; or*

16 “(II) *section 1366(a)(1) with re-*
17 *spect to a significantly undercapital-*
18 *ized regulated entity;*

19 “(iii) *fails to submit a capital restora-*
20 *tion plan acceptable to the Agency within*
21 *the time prescribed under section 1369C; or*

22 “(iv) *materially fails to implement a*
23 *capital restoration plan submitted and ac-*
24 *cepted under section 1369C.*

1 “(J) *CRITICAL UNDERCAPITALIZATION.*—
2 *The regulated entity is critically undercapital-*
3 *ized, as defined in section 1364(a)(4).*

4 “(K) *MONEY LAUNDERING.*—*The Attorney*
5 *General notifies the Director in writing that the*
6 *regulated entity has been found guilty of a*
7 *criminal offense under section 1956 or 1957 of*
8 *title 18, United States Code, or section 5322 or*
9 *5324 of title 31, United States Code.*

10 “(4) *MANDATORY RECEIVERSHIP.*—

11 “(A) *IN GENERAL.*—*The Director shall ap-*
12 *point the Agency as receiver for a regulated enti-*
13 *ty if the Director determines, in writing, that—*

14 “(i) *the assets of the regulated entity*
15 *are, and during the preceding 60 calendar*
16 *days have been, less than the obligations of*
17 *the regulated entity to its creditors and oth-*
18 *ers; or*

19 “(ii) *the regulated entity is not, and*
20 *during the preceding 60 calendar days has*
21 *not been, generally paying the debts of the*
22 *regulated entity (other than debts that are*
23 *the subject of a bona fide dispute) as such*
24 *debts become due.*

1 “(B) *PERIODIC DETERMINATION REQUIRED*
2 *FOR CRITICALLY UNDERCAPITALIZED REGU-*
3 *LATED ENTITY.—If a regulated entity is criti-*
4 *cally undercapitalized, the Director shall make a*
5 *determination, in writing, as to whether the reg-*
6 *ulated entity meets the criteria specified in*
7 *clause (i) or (ii) of subparagraph (A)—*

8 “(i) *not later than 30 calendar days*
9 *after the regulated entity initially becomes*
10 *critically undercapitalized; and*

11 “(ii) *at least once during each suc-*
12 *ceeding 30-calendar day period.*

13 “(C) *DETERMINATION NOT REQUIRED IF*
14 *RECEIVERSHIP ALREADY IN PLACE.—Subpara-*
15 *graph (B) does not apply with respect to a regu-*
16 *lated entity in any period during which the*
17 *Agency serves as receiver for the regulated entity.*

18 “(D) *RECEIVERSHIP TERMINATES CON-*
19 *SERVATORSHIP.—The appointment of the Agency*
20 *as receiver of a regulated entity under this sec-*
21 *tion shall immediately terminate any con-*
22 *servatorship established for the regulated entity*
23 *under this title.*

24 “(5) *JUDICIAL REVIEW.—*

1 “(A) *IN GENERAL.*—If the Agency is ap-
2 pointed conservator or receiver under this sec-
3 tion, the regulated entity may, within 30 days of
4 such appointment, bring an action in the United
5 States district court for the judicial district in
6 which the home office of such regulated entity is
7 located, or in the United States District Court
8 for the District of Columbia, for an order requir-
9 ing the Agency to remove itself as conservator or
10 receiver.

11 “(B) *REVIEW.*—Upon the filing of an ac-
12 tion under subparagraph (A), the court shall,
13 upon the merits, dismiss such action or direct
14 the Agency to remove itself as such conservator
15 or receiver.

16 “(6) *DIRECTORS NOT LIABLE FOR ACQUIESCING*
17 *IN APPOINTMENT OF CONSERVATOR OR RECEIVER.*—
18 The members of the board of directors of a regulated
19 entity shall not be liable to the shareholders or credi-
20 tors of the regulated entity for acquiescing in or con-
21 senting in good faith to the appointment of the Agen-
22 cy as conservator or receiver for that regulated entity.

23 “(7) *AGENCY NOT SUBJECT TO ANY OTHER FED-*
24 *ERAL AGENCY.*—When acting as conservator or re-
25 ceiver, the Agency shall not be subject to the direction

1 *or supervision of any other agency of the United*
2 *States or any State in the exercise of the rights, pow-*
3 *ers, and privileges of the Agency.*

4 “(b) *POWERS AND DUTIES OF THE AGENCY AS CON-*
5 *SERVATOR OR RECEIVER.—*

6 “(1) *RULEMAKING AUTHORITY OF THE AGEN-*
7 *CY.—The Agency may prescribe such regulations as*
8 *the Agency determines to be appropriate regarding*
9 *the conduct of conservatorships or receiverships.*

10 “(2) *GENERAL POWERS.—*

11 “(A) *SUCCESSOR TO REGULATED ENTITY.—*
12 *The Agency shall, as conservator or receiver, and*
13 *by operation of law, immediately 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 as-*
21 *sets of any other legal custodian of such reg-*
22 *ulated entity.*

23 “(B) *OPERATE THE REGULATED ENTITY.—*
24 *The Agency may, as conservator or receiver—*

1 “(i) take over the assets of and operate
2 the regulated entity with all the powers of
3 the shareholders, the directors, and the offi-
4 cers of the regulated entity and conduct all
5 business of the regulated entity;

6 “(ii) collect all obligations and money
7 due the regulated entity;

8 “(iii) perform all functions of the regu-
9 lated entity in the name of the regulated en-
10 tity which are consistent with the appoint-
11 ment 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, DIRECTORS,*
19 *AND SHAREHOLDERS OF A REGULATED ENTI-*
20 *TY.—The Agency may, by regulation or order,*
21 *provide for the exercise of any function by any*
22 *stockholder, director, or officer of any regulated*
23 *entity for which the Agency has been named con-*
24 *servator or receiver.*

1 “(D) *POWERS AS CONSERVATOR.*—*The*
2 *Agency may, as conservator, take such action as*
3 *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 the*
9 *regulated entity.*

10 “(E) *ADDITIONAL POWERS AS RECEIVER.*—
11 *In any case in which the Agency is acting as re-*
12 *ceiver, the Agency shall place the regulated entity*
13 *in liquidation and proceed to realize upon the*
14 *assets of the regulated entity in such manner as*
15 *the Agency deems appropriate, including through*
16 *the sale of assets, the transfer of assets to a lim-*
17 *ited-life regulated entity established under sub-*
18 *section (i), or the exercise of any other rights or*
19 *privileges granted to the Agency under this para-*
20 *graph.*

21 “(F) *ORGANIZATION OF NEW ENTER-*
22 *PRISE.*—*The Agency shall, as receiver for an en-*
23 *terprise, organize a successor enterprise that will*
24 *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 so*
5 *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 perform-*
10 *ance of contracts or sale of the assets of a regu-*
11 *lated entity, pay all valid obligations of the reg-*
12 *ulated entity that are due and payable at the*
13 *time of the appointment of the Agency as conser-*
14 *vator 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 receiver,*
20 *and for purposes of carrying out any*
21 *power, authority, or duty with respect*
22 *to a regulated entity (including deter-*
23 *mining any claim against the regu-*
24 *lated entity and determining and real-*
25 *izing upon any asset of any person in*

1 *the course of collecting money due the*
2 *regulated entity), exercise any power*
3 *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 provisions*
9 *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 the*
14 *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 authorities*
23 *specifically granted to conservators or re-*
24 *ceivers, respectively, under this section, and*

1 *such incidental powers as shall be necessary*
2 *to carry out such powers; and*

3 “(ii) *take any action authorized by*
4 *this section, which the Agency determines is*
5 *in the best interests of the regulated entity*
6 *or the Agency.*

7 “(K) *OTHER PROVISIONS.—*

8 “(i) *SHAREHOLDERS AND CREDITORS*
9 *OF FAILED REGULATED ENTITY.—Notwith-*
10 *standing any other provision of law, the ap-*
11 *pointment of the Agency as receiver for a*
12 *regulated entity pursuant to paragraph (2)*
13 *or (4) of subsection (a) and its succession,*
14 *by operation of law, to the rights, titles,*
15 *powers, and privileges described in sub-*
16 *section (b)(2)(A) shall terminate all rights*
17 *and claims that the stockholders and credi-*
18 *tors of the regulated entity may have*
19 *against the assets or charter of the regulated*
20 *entity or the Agency arising as a result of*
21 *their status as stockholders or creditors, ex-*
22 *cept for their right to payment, resolution,*
23 *or other satisfaction of their claims, as per-*
24 *mitted under subsections (b)(9), (c), and (e).*

1 “(i) *ASSETS OF REGULATED ENTI-*
2 *TY.—Notwithstanding any other provision*
3 *of law, for purposes of this section, the char-*
4 *ter of a regulated entity shall not be consid-*
5 *ered an asset of the regulated entity.*

6 “(3) *AUTHORITY OF RECEIVER TO DETERMINE*
7 *CLAIMS.—*

8 “(A) *IN GENERAL.—The Agency may, as re-*
9 *ceiver, determine claims in accordance with the*
10 *requirements of this subsection and any regula-*
11 *tions 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, respectively,*
24 *after the date of publication under clause*
25 *(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 days*
11 *after the discovery of such name and ad-*
12 *dress.*

13 “(4) *RULEMAKING AUTHORITY RELATING TO DE-*
14 *TERMINATION OF CLAIMS.*—*Subject to subsection (c),*
15 *the Director may prescribe regulations regarding the*
16 *allowance or disallowance of claims by the receiver*
17 *and providing for administrative determination of*
18 *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 on*
24 *which any claim against a regulated entity*
25 *is filed with the Agency as receiver, the*

1 *Agency shall determine whether to allow or*
2 *disallow the claim and shall notify the*
3 *claimant of any determination with respect*
4 *to such claim.*

5 “(i) *EXTENSION OF TIME.—The pe-*
6 *riod described in clause (i) may be extended*
7 *by a written agreement between the claim-*
8 *ant and the Agency.*

9 “(iii) *MAILING OF NOTICE SUFFI-*
10 *CIENT.—The requirements of clause (i) shall*
11 *be deemed to be satisfied if the notice of any*
12 *determination with respect to any claim is*
13 *mailed to the last address of the claimant*
14 *which appears—*

15 “(I) *on the books of the regulated*
16 *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 for
2 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.—The
8 receiver shall allow any claim received on or be-
9 fore the date specified in the notice published
10 under paragraph (3)(B)(i) by the receiver from
11 any claimant which is proved to the satisfaction
12 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 FULLY*
2 *SECURED CREDITORS.*—*In the case of a*
3 *claim of a creditor against a regulated enti-*
4 *ty 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 such*
8 *claim which exceeds an amount equal*
9 *to the fair market value of such prop-*
10 *erty or other asset as an unsecured*
11 *claim against the regulated entity; and*

12 “(II) *may not make any payment*
13 *with respect to such unsecured portion*
14 *of the claim, other than in connection*
15 *with the disposition of all claims of*
16 *unsecured creditors of the regulated en-*
17 *tity.*

18 “(iii) *EXCEPTIONS.*—*No provision of*
19 *this paragraph shall apply with respect*
20 *to—*

21 “(I) *any extension of credit from*
22 *any Federal Reserve Bank, Federal*
23 *Home Loan Bank, or the United States*
24 *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 DETERMINA-*
5 *TION PURSUANT TO SUBPARAGRAPH (D).—No*
6 *court may review the determination of the Agen-*
7 *cy under subparagraph (D) to disallow a claim.*

8 “(F) *LEGAL EFFECT OF FILING.—*

9 “(i) *STATUTE OF LIMITATION*
10 *TOLLED.—For purposes of any applicable*
11 *statute of limitations, the filing of a claim*
12 *with the receiver shall constitute a com-*
13 *mencement of an action.*

14 “(ii) *NO PREJUDICE TO OTHER AC-*
15 *TIONS.—Subject to paragraph (10), the fil-*
16 *ing of a claim with the receiver shall not*
17 *prejudice any right of the claimant to con-*
18 *tinue any action which was filed before the*
19 *date of the appointment of the receiver, sub-*
20 *ject to the determination of claims by the*
21 *receiver.*

22 “(6) *PROVISION FOR JUDICIAL DETERMINATION*
23 *OF CLAIMS.—*

24 “(A) *IN GENERAL.—The claimant may file*
25 *suit on a claim (or continue an action com-*

1 menced before the appointment of the receiver) in
2 the district or territorial court of the United
3 States for the district within which the principal
4 place of business of the regulated entity is located
5 or the United States District Court for the Dis-
6 trict of Columbia (and such court shall have ju-
7 risdiction to hear such claim), before the end of
8 the 60-day period beginning on the earlier of—

9 “(i) the end of the period described in
10 paragraph (5)(A)(i) with respect to any
11 claim against a regulated entity for which
12 the Agency is receiver; or

13 “(ii) the date of any notice of disallow-
14 ance of such claim pursuant to paragraph
15 (5)(A)(i).

16 “(B) *STATUTE OF LIMITATIONS.*—A claim
17 shall be deemed to be disallowed (other than any
18 portion of such claim which was allowed by the
19 receiver), and such disallowance shall be final,
20 and the claimant shall have no further rights or
21 remedies with respect to such claim, if the claim-
22 ant fails, before the end of the 60-day period de-
23 scribed under subparagraph (A), to file suit on
24 such claim (or continue an action commenced be-
25 fore the appointment of the receiver).

1 “(7) *REVIEW OF CLAIMS.*—

2 “(A) *OTHER REVIEW PROCEDURES.*—

3 “(i) *IN GENERAL.*—*The Agency shall*
4 *establish such alternative dispute resolution*
5 *processes as may be appropriate for the res-*
6 *olution of claims filed under paragraph*
7 *(5)(A)(i).*

8 “(ii) *CRITERIA.*—*In establishing alter-*
9 *native dispute resolution processes, the*
10 *Agency shall strive for procedures which are*
11 *expeditious, fair, independent, and low cost.*

12 “(iii) *VOLUNTARY BINDING OR NON-*
13 *BINDING PROCEDURES.*—*The Agency may*
14 *establish both binding and nonbinding proc-*
15 *esses under this subparagraph, which may*
16 *be conducted by any government or private*
17 *party. All parties, including the claimant*
18 *and the Agency, must agree to the use of the*
19 *process in a particular case.*

20 “(B) *CONSIDERATION OF INCENTIVES.*—*The*
21 *Agency shall seek to develop incentives for claim-*
22 *ants to participate in the alternative dispute res-*
23 *olution process.*

24 “(8) *EXPEDITED DETERMINATION OF CLAIMS.*—

1 “(A) *ESTABLISHMENT REQUIRED.*—*The*
2 *Agency shall establish a procedure for expedited*
3 *relief outside of the routine claims process estab-*
4 *lished under paragraph (5) for claimants who—*

5 “(i) *allege the existence of legally valid*
6 *and enforceable or perfected security inter-*
7 *ests in assets of any regulated entity for*
8 *which the Agency has been appointed re-*
9 *ceiver; and*

10 “(ii) *allege that irreparable injury will*
11 *occur if the routine claims procedure is fol-*
12 *lowed.*

13 “(B) *DETERMINATION PERIOD.*—*Before the*
14 *end of the 90-day period beginning on the date*
15 *on which any claim is filed in accordance with*
16 *the procedures established under subparagraph*
17 *(A), the Director shall—*

18 “(i) *determine—*

19 “(I) *whether to allow or disallow*
20 *such claim; or*

21 “(II) *whether such claim should*
22 *be determined pursuant to the proce-*
23 *dures established under paragraph (5);*
24 *and*

1 “(i) notify the claimant of the deter-
2 mination, and if the claim is disallowed,
3 provide a statement of each reason for the
4 disallowance and the procedure for obtain-
5 ing agency review or judicial determina-
6 tion.

7 “(C) *PERIOD FOR FILING OR RENEWING*
8 *SUIT.*—Any claimant who files a request for ex-
9 pedited relief shall be permitted to file a suit, or
10 to continue a suit filed before the date of ap-
11 pointment of the receiver, seeking a determina-
12 tion of the rights of the claimant with respect to
13 such security interest after the earlier of—

14 “(i) the end of the 90-day period begin-
15 ning on the date of the filing of a request
16 for expedited relief; or

17 “(ii) the date on which the Agency de-
18 nies the claim.

19 “(D) *STATUTE OF LIMITATIONS.*—If an ac-
20 tion described under subparagraph (C) is not
21 filed, or the motion to renew a previously filed
22 suit is not made, before the end of the 30-day pe-
23 riod beginning on the date on which such action
24 or motion may be filed under subparagraph (B),
25 the claim shall be deemed to be disallowed as of

1 *the end of such period (other than any portion*
2 *of such claim which was allowed by the receiver),*
3 *such disallowance shall be final, and the claim-*
4 *ant shall have no further rights or remedies with*
5 *respect to such claim.*

6 “(E) *LEGAL EFFECT OF FILING.—*

7 “(i) *STATUTE OF LIMITATION*
8 *TOLLED.—For purposes of any applicable*
9 *statute of limitations, the filing of a claim*
10 *with the receiver shall constitute a com-*
11 *mencement of an action.*

12 “(ii) *NO PREJUDICE TO OTHER AC-*
13 *TIONS.—Subject to paragraph (10), the fil-*
14 *ing of a claim with the receiver shall not*
15 *prejudice any right of the claimant to con-*
16 *tinue any action that was filed before the*
17 *appointment of the receiver, subject to the*
18 *determination of claims by the receiver.*

19 “(9) *PAYMENT OF CLAIMS.—*

20 “(A) *IN GENERAL.—The receiver may, in*
21 *the discretion of the receiver, and to the extent*
22 *that funds are available from the assets of the*
23 *regulated entity, pay creditor claims, in such*
24 *manner and amounts as are authorized under*
25 *this section, which are—*

1 “(i) allowed by the receiver;

2 “(ii) approved by the Agency pursuant
3 to a final determination pursuant to para-
4 graph (7) or (8); or

5 “(iii) determined by the final judgment
6 of any court of competent jurisdiction.

7 “(B) AGREEMENTS AGAINST THE INTEREST
8 OF THE AGENCY.—No agreement that tends to
9 diminish or defeat the interest of the Agency in
10 any asset acquired by the Agency as receiver
11 under this section shall be valid against the
12 Agency unless such agreement is in writing and
13 executed by an authorized officer or representa-
14 tive of the regulated entity.

15 “(C) PAYMENT OF DIVIDENDS ON CLAIMS.—
16 The receiver may, in the sole discretion of the re-
17 ceiver, pay from the assets of the regulated entity
18 dividends on proved claims at any time, and no
19 liability shall attach to the Agency by reason of
20 any such payment, for failure to pay dividends
21 to a claimant whose claim is not proved at the
22 time of any such payment.

23 “(D) RULEMAKING AUTHORITY OF THE DI-
24 RECTOR.—The Director may prescribe such
25 rules, including definitions of terms, as the Di-

1 *rector deems appropriate to establish a single*
2 *uniform interest rate for, or to make payments*
3 *of post-insolvency interest to creditors holding*
4 *proven claims against the receivership estates of*
5 *the regulated entity, following satisfaction by the*
6 *receiver of the principal amount of all creditor*
7 *claims.*

8 *“(10) SUSPENSION OF LEGAL ACTIONS.—*

9 *“(A) IN GENERAL.—After the appointment*
10 *of a conservator or receiver for a regulated enti-*
11 *ty, the conservator or receiver may, in any judi-*
12 *cial action or proceeding to which such regulated*
13 *entity is or becomes a party, request a stay for*
14 *a period not to exceed—*

15 *“(i) 45 days, in the case of any conser-*
16 *vator; and*

17 *“(ii) 90 days, in the case of any re-*
18 *ceiver.*

19 *“(B) GRANT OF STAY BY ALL COURTS RE-*
20 *QUIRED.—Upon receipt of a request by the con-*
21 *servator or receiver under subparagraph (A) for*
22 *a stay of any judicial action or proceeding in*
23 *any court with jurisdiction of such action or*
24 *proceeding, the court shall grant such stay as to*
25 *all parties.*

1 “(11) *ADDITIONAL RIGHTS AND DUTIES.*—

2 “(A) *PRIOR FINAL ADJUDICATION.*—*The*
3 *Agency shall abide by any final unappealable*
4 *judgment of any court of competent jurisdiction*
5 *which was rendered before the appointment of*
6 *the Agency as conservator or receiver.*

7 “(B) *RIGHTS AND REMEDIES OF CONSER-*
8 *VATOR OR RECEIVER.*—*In the event of any ap-*
9 *pealable judgment, the Agency as conservator or*
10 *receiver—*

11 “(i) *shall have all of the rights and*
12 *remedies available to the regulated entity*
13 *(before the appointment of such conservator*
14 *or receiver) and the Agency, including re-*
15 *moval to Federal court and all appellate*
16 *rights; and*

17 “(ii) *shall not be required to post any*
18 *bond in order to pursue such remedies.*

19 “(C) *NO ATTACHMENT OR EXECUTION.*—*No*
20 *attachment or execution may issue by any court*
21 *upon assets in the possession of the receiver, or*
22 *upon the charter, of a regulated entity for which*
23 *the Agency has been appointed receiver.*

1 “(D) *LIMITATION ON JUDICIAL REVIEW.*—
2 *Except as otherwise provided in this subsection,*
3 *no court shall have jurisdiction over—*

4 “(i) *any claim or action for payment*
5 *from, or any action seeking a determination*
6 *of rights with respect to, the assets or char-*
7 *ter of any regulated entity for which the*
8 *Agency has been appointed receiver; or*

9 “(ii) *any claim relating to any act or*
10 *omission of such regulated entity or the*
11 *Agency as receiver.*

12 “(E) *DISPOSITION OF ASSETS.*—*In exer-*
13 *cising any right, power, privilege, or authority*
14 *as conservator or receiver in connection with any*
15 *sale or disposition of assets of a regulated entity*
16 *for which the Agency has been appointed conser-*
17 *vator or receiver, the Agency shall conduct its*
18 *operations in a manner which—*

19 “(i) *maximizes the net present value*
20 *return from the sale or disposition of such*
21 *assets;*

22 “(ii) *minimizes the amount of any loss*
23 *realized in the resolution of cases; and*

1 “(iii) ensures adequate competition
2 and fair and consistent treatment of
3 offerors.

4 “(12) STATUTE OF LIMITATIONS FOR ACTIONS
5 BROUGHT BY CONSERVATOR OR RECEIVER.—

6 “(A) IN GENERAL.—Notwithstanding any
7 provision of any contract, the applicable statute
8 of limitations with regard to any action brought
9 by the Agency as conservator or receiver shall
10 be—

11 “(i) in the case of any contract claim,
12 the longer of—

13 “(I) the 6-year period beginning
14 on the date on which the claim accrues;
15 or

16 “(II) the period applicable under
17 State law; and

18 “(ii) in the case of any tort claim, the
19 longer of—

20 “(I) the 3-year period beginning
21 on the date on which the claim accrues;
22 or

23 “(II) the period applicable under
24 State law.

1 “(B) *DETERMINATION OF THE DATE ON*
2 *WHICH A CLAIM ACCRUES.—For purposes of sub-*
3 *paragraph (A), the date on which the statute of*
4 *limitations begins to run on any claim described*
5 *in such subparagraph shall be the later of—*

6 “(i) *the date of the appointment of the*
7 *Agency as conservator or receiver; or*

8 “(ii) *the date on which the cause of ac-*
9 *tion accrues.*

10 “(13) *REVIVAL OF EXPIRED STATE CAUSES OF*
11 *ACTION.—*

12 “(A) *IN GENERAL.—In the case of any tort*
13 *claim described under clause (ii) for which the*
14 *statute of limitations applicable under State law*
15 *with respect to such claim has expired not more*
16 *than 5 years before the appointment of the Agen-*
17 *cy as conservator or receiver, the Agency may*
18 *bring an action as conservator or receiver on*
19 *such claim without regard to the expiration of*
20 *the statute of limitations applicable under State*
21 *law.*

22 “(B) *CLAIMS DESCRIBED.—A tort claim re-*
23 *ferred to under clause (i) is a claim arising from*
24 *fraud, intentional misconduct resulting in unjust*

1 *enrichment, or intentional misconduct resulting*
2 *in substantial loss to the regulated entity.*

3 “(14) *ACCOUNTING AND RECORDKEEPING RE-*
4 *QUIREMENTS.—*

5 “(A) *IN GENERAL.—The Agency as conser-*
6 *vator or receiver shall, consistent with the ac-*
7 *counting and reporting practices and procedures*
8 *established by the Agency, maintain a full ac-*
9 *counting of each conservatorship and receiver-*
10 *ship or other disposition of a regulated entity in*
11 *default.*

12 “(B) *ANNUAL ACCOUNTING OR REPORT.—*
13 *With respect to each conservatorship or receiver-*
14 *ship, the Agency shall make an annual account-*
15 *ing or report available to the Board, the Comp-*
16 *troller General of the United States, the Com-*
17 *mittee on Banking, Housing, and Urban Affairs*
18 *of the Senate, and the Committee on Financial*
19 *Services of the House of Representatives.*

20 “(C) *AVAILABILITY OF REPORTS.—Any re-*
21 *port prepared under subparagraph (B) shall be*
22 *made available by the Agency upon request to*
23 *any shareholder of a regulated entity or any*
24 *member of the public.*

1 “(D) *RECORDKEEPING REQUIREMENT.*—
2 *After the end of the 6-year period beginning on*
3 *the date on which the conservatorship or receiv-*
4 *ership is terminated by the Director, the Agency*
5 *may destroy any records of such regulated entity*
6 *which the Agency, in the discretion of the Agen-*
7 *cy, determines to be unnecessary, unless directed*
8 *not to do so by a court of competent jurisdiction*
9 *or governmental agency, or prohibited by law.*

10 “(15) *FRAUDULENT TRANSFERS.*—

11 “(A) *IN GENERAL.*—*The Agency, as conser-*
12 *vator or receiver, may avoid a transfer of any*
13 *interest of an entity-affiliated party, or any per-*
14 *son determined by the conservator or receiver to*
15 *be a debtor of the regulated entity, in property,*
16 *or any obligation incurred by such party or per-*
17 *son, that was made within 5 years of the date*
18 *on which the Agency was appointed conservator*
19 *or receiver, if such party or person voluntarily*
20 *or involuntarily made such transfer or incurred*
21 *such liability with the intent to hinder, delay, or*
22 *defraud the regulated entity, the Agency, the con-*
23 *servator, or receiver.*

24 “(B) *RIGHT OF RECOVERY.*—*To the extent a*
25 *transfer is avoided under subparagraph (A), the*

1 conservator or receiver may recover, for the ben-
2 efit of the regulated entity, the property trans-
3 ferred, or, if a court so orders, the value of such
4 property (at the time of such transfer) from—

5 “(i) the initial transferee of such trans-
6 fer or the entity-affiliated party or person
7 for whose benefit such transfer was made; or

8 “(ii) any immediate or mediate trans-
9 feree of any such initial transferee.

10 “(C) *RIGHTS OF TRANSFEREE OR OBLI-*
11 *GEE.*—The conservator or receiver may not re-
12 cover under subparagraph (B) from—

13 “(i) any transferee that takes for value,
14 including satisfaction or securing of a
15 present or antecedent debt, in good faith; or

16 “(ii) any immediate or mediate good
17 faith transferee of such transferee.

18 “(D) *RIGHTS UNDER THIS PARAGRAPH.*—
19 The rights under this paragraph of the conser-
20 vator or receiver described under subparagraph
21 (A) shall be superior to any rights of a trustee
22 or any other party (other than any party which
23 is a Federal agency) under title 11, United
24 States Code.

1 “(16) *ATTACHMENT OF ASSETS AND OTHER IN-*
2 *JUNCTIVE RELIEF.*—Subject to paragraph (17), any
3 court of competent jurisdiction may, at the request of
4 the conservator or receiver, issue an order in accord-
5 ance with rule 65 of the Federal Rules of Civil Proce-
6 dure, including an order placing the assets of any
7 person designated by the conservator or receiver under
8 the control of the court, and appointing a trustee to
9 hold such assets.

10 “(17) *STANDARDS OF PROOF.*—Rule 65 of the
11 Federal Rules of Civil Procedure shall apply with re-
12 spect to any proceeding under paragraph (16) with-
13 out regard to the requirement of such rule that the ap-
14 plicant show that the injury, loss, or damage is irrep-
15 arable and immediate.

16 “(18) *TREATMENT OF CLAIMS ARISING FROM*
17 *BREACH OF CONTRACTS EXECUTED BY THE CONSER-*
18 *VATOR OR RECEIVER.*—

19 “(A) *IN GENERAL.*—Notwithstanding any
20 other provision of this subsection, any final and
21 unappealable judgment for monetary damages
22 entered against the conservator or receiver for the
23 breach of an agreement executed or approved in
24 writing by the conservator or receiver after the
25 date of its appointment, shall be paid as an ad-

1 *ministrative expense of the conservator or re-*
2 *ceiver.*

3 “(B) *NO LIMITATION OF POWER.*—*Nothing*
4 *in this paragraph shall be construed to limit the*
5 *power of the conservator or receiver to exercise*
6 *any rights under contract or law, including to*
7 *terminate, breach, cancel, or otherwise dis-*
8 *continue such agreement.*

9 “(19) *GENERAL EXCEPTIONS.*—

10 “(A) *LIMITATIONS.*—*The rights of the con-*
11 *servator or receiver appointed under this section*
12 *shall be subject to the limitations on the powers*
13 *of a receiver under sections 402 through 407 of*
14 *the Federal Deposit Insurance Corporation Im-*
15 *provement Act of 1991 (12 U.S.C. 4402 through*
16 *4407).*

17 “(B) *MORTGAGES HELD IN TRUST.*—

18 “(i) *IN GENERAL.*—*Any mortgage, pool*
19 *of mortgages, or interest in a pool of mort-*
20 *gages held in trust, custodial, or agency ca-*
21 *capacity by a regulated entity for the benefit*
22 *of any person other than the regulated enti-*
23 *ty shall not be available to satisfy the*
24 *claims of creditors generally, except that*
25 *nothing in this clause shall be construed to*

1 *expand or otherwise affect the authority of*
2 *any regulated entity.*

3 “(ii) *HOLDING OF MORTGAGES.—Any*
4 *mortgage, pool of mortgages, or interest in*
5 *a pool of mortgages described in clause (i)*
6 *shall be held by the conservator or receiver*
7 *appointed under this section for the bene-*
8 *ficial owners of such mortgage, pool of*
9 *mortgages, or interest in accordance with*
10 *the terms of the agreement creating such*
11 *trust, custodial, or other agency arrange-*
12 *ment.*

13 “(iii) *LIABILITY OF CONSERVATOR OR*
14 *RECEIVER.—The liability of the conservator*
15 *or receiver appointed under this section for*
16 *damages shall, in the case of any contingent*
17 *or unliquidated claim relating to the mort-*
18 *gages held in trust, be estimated in accord-*
19 *ance with the regulations of the Director.*

20 “(c) *PRIORITY OF EXPENSES AND UNSECURED*
21 *CLAIMS.—*

22 “(1) *IN GENERAL.—Unsecured claims against a*
23 *regulated entity, or the receiver therefor, that are*
24 *proven to the satisfaction of the receiver shall have*
25 *priority in the following order:*

1 “(A) *Administrative expenses of the re-*
2 *ceiver.*

3 “(B) *Any other general or senior liability of*
4 *the regulated entity (which is not a liability de-*
5 *scribed under subparagraph (C) or (D).*

6 “(C) *Any obligation subordinated to general*
7 *creditors (which is not an obligation described*
8 *under subparagraph (D)).*

9 “(D) *Any obligation to shareholders or*
10 *members arising as a result of their status as*
11 *shareholder or members.*

12 “(2) *CREDITORS SIMILARLY SITUATED.—All*
13 *creditors that are similarly situated under paragraph*
14 *(1) shall be treated in a similar manner, except that*
15 *the receiver may take any action (including making*
16 *payments) that does not comply with this subsection,*
17 *if—*

18 “(A) *the Director determines that such ac-*
19 *tion is necessary to maximize the value of the as-*
20 *sets of the regulated entity, to maximize the*
21 *present value return from the sale or other dis-*
22 *position of the assets of the regulated entity, or*
23 *to minimize the amount of any loss realized*
24 *upon the sale or other disposition of the assets of*
25 *the regulated entity; and*

1 “(B) all creditors that are similarly situ-
2 ated under paragraph (1) receive not less than
3 the amount provided in subsection (e)(2).

4 “(3) DEFINITION.—As used in this subsection,
5 the term ‘administrative expenses of the receiver’ in-
6 cludes—

7 “(A) the actual, necessary costs and ex-
8 penses incurred by the receiver in preserving the
9 assets of a failed regulated entity or liquidating
10 or otherwise resolving the affairs of a failed regu-
11 lated entity; and

12 “(B) any obligations that the receiver deter-
13 mines are necessary and appropriate to facilitate
14 the smooth and orderly liquidation or other reso-
15 lution of the regulated entity.

16 “(d) PROVISIONS RELATING TO CONTRACTS ENTERED
17 INTO BEFORE APPOINTMENT OF CONSERVATOR OR RE-
18 CEIVER.—

19 “(1) AUTHORITY TO REPUDIATE CONTRACTS.—
20 In addition to any other rights a conservator or re-
21 ceiver may have, the conservator or receiver for any
22 regulated entity may disaffirm or repudiate any con-
23 tract or lease—

24 “(A) to which such regulated entity is a
25 party;

1 “(B) the performance of which the conser-
2 vator or receiver, in its sole discretion, deter-
3 mines to be burdensome; and

4 “(C) the disaffirmance or repudiation of
5 which the conservator or receiver determines, in
6 its sole discretion, will promote the orderly ad-
7 ministration of the affairs of the regulated enti-
8 ty.

9 “(2) *TIMING OF REPUDIATION.*—The conservator
10 or receiver shall determine whether or not to exercise
11 the rights of repudiation under this subsection within
12 a reasonable period following such appointment.

13 “(3) *CLAIMS FOR DAMAGES FOR REPUDIATION.*—

14 “(A) *IN GENERAL.*—Except as otherwise
15 provided under subparagraph (C) and para-
16 graphs (4), (5), and (6), the liability of the con-
17 servator or receiver for the disaffirmance or re-
18 pudiation of any contract pursuant to para-
19 graph (1) shall be—

20 “(i) limited to actual direct compen-
21 satory damages; and

22 “(ii) determined as of—

23 “(I) the date of the appointment
24 of the conservator or receiver; or

1 “(II) in the case of any contract
2 or agreement referred to in paragraph
3 (8), the date of the disaffirmance or re-
4 pudiation of such contract or agree-
5 ment.

6 “(B) NO LIABILITY FOR OTHER DAMAGES.—
7 For purposes of subparagraph (A), the term ‘ac-
8 tual direct compensatory damages’ shall not in-
9 clude—

10 “(i) punitive or exemplary damages;

11 “(ii) damages for lost profits or oppor-
12 tunity; or

13 “(iii) damages for pain and suffering.

14 “(C) MEASURE OF DAMAGES FOR REPUDI-
15 ATION OF FINANCIAL CONTRACTS.—In the case of
16 any qualified financial contract or agreement to
17 which paragraph (8) applies, compensatory
18 damages shall be—

19 “(i) deemed to include normal and rea-
20 sonable costs of cover or other reasonable
21 measures of damages utilized in the indus-
22 tries for such contract and agreement
23 claims; and

1 “(ii) paid in accordance with this sub-
2 section and subsection (e), except as other-
3 wise specifically provided in this section.

4 “(4) LEASES UNDER WHICH THE REGULATED
5 ENTITY IS THE LESSEE.—

6 “(A) IN GENERAL.—If the conservator or re-
7 ceiver disaffirms or repudiates a lease under
8 which the regulated entity was the lessee, the con-
9 servator or receiver shall not be liable for any
10 damages (other than damages determined under
11 subparagraph (B)) for the disaffirmance or repu-
12 diation of such lease.

13 “(B) PAYMENTS OF RENT.—Notwith-
14 standing subparagraph (A), the lessor under a
15 lease to which that subparagraph applies shall—

16 “(i) be entitled to the contractual rent
17 accruing before the later of the date on
18 which—

19 “(I) the notice of disaffirmance or
20 repudiation is mailed; or

21 “(II) the disaffirmance or repudi-
22 ation becomes effective, unless the lessor
23 is in default or breach of the terms of
24 the lease;

1 “(ii) have no claim for damages under
2 any acceleration clause or other penalty
3 provision in the lease; and

4 “(iii) have a claim for any unpaid
5 rent, subject to all appropriate offsets and
6 defenses, due as of the date of the appoint-
7 ment, which shall be paid in accordance
8 with this subsection and subsection (e).

9 “(5) LEASES UNDER WHICH THE REGULATED
10 ENTITY IS THE LESSOR.—

11 “(A) IN GENERAL.—If the conservator or re-
12 ceiver repudiates an unexpired written lease of
13 real property of the regulated entity under which
14 the regulated entity is the lessor and the lessee is
15 not, as of the date of such repudiation, in de-
16 fault, the lessee under such lease may either—

17 “(i) treat the lease as terminated by
18 such repudiation; or

19 “(ii) remain in possession of the lease-
20 hold interest for the balance of the term of
21 the lease, unless the lessee defaults under the
22 terms of the lease after the date of such re-
23 pudiation.

24 “(B) PROVISIONS APPLICABLE TO LESSEE
25 REMAINING IN POSSESSION.—If any lessee under

1 a lease described under subparagraph (A) re-
2 mains in possession of a leasehold interest under
3 clause (ii) of subparagraph (A)—

4 “(i) the lessee—

5 “(I) shall continue to pay the con-
6 tractual rent pursuant to the terms of
7 the lease after the date of the repudi-
8 ation of such lease; and

9 “(II) may offset against any rent
10 payment which accrues after the date
11 of the repudiation of the lease, and any
12 damages which accrue after such date
13 due to the nonperformance of any obli-
14 gation of the regulated entity under the
15 lease after such date; and

16 “(ii) the conservator or receiver shall
17 not be liable to the lessee for any damages
18 arising after such date as a result of the re-
19 pudiation, other than the amount of any
20 offset allowed under clause (i)(II).

21 “(6) *CONTRACTS FOR THE SALE OF REAL PROP-*
22 *ERTY.—*

23 “(A) *IN GENERAL.—*If the conservator or re-
24 ceiver repudiates any contract for the sale of real
25 property and the purchaser of such real property

1 *under such contract is in possession, and is not,*
2 *as of the date of such repudiation, in default,*
3 *such purchaser may either—*

4 *“(i) treat the contract as terminated by*
5 *such repudiation; or*

6 *“(ii) remain in possession of such real*
7 *property.*

8 *“(B) PROVISIONS APPLICABLE TO PUR-*
9 *CHASER REMAINING IN POSSESSION.—If any*
10 *purchaser of real property under any contract*
11 *described under subparagraph (A) remains in*
12 *possession of such property under clause (ii) of*
13 *subparagraph (A)—*

14 *“(i) the purchaser—*

15 *“(I) shall continue to make all*
16 *payments due under the contract after*
17 *the date of the repudiation of the con-*
18 *tract; and*

19 *“(II) may offset against any such*
20 *payments any damages which accrue*
21 *after such date due to the nonperform-*
22 *ance (after such date) of any obligation*
23 *of the regulated entity under the con-*
24 *tract; and*

25 *“(ii) the conservator or receiver shall—*

1 “(I) not be liable to the purchaser
2 for any damages arising after such
3 date as a result of the repudiation,
4 other than the amount of any offset al-
5 lowed under clause (i)(II);

6 “(II) deliver title to the purchaser
7 in accordance with the provisions of
8 the contract; and

9 “(III) have no obligation under
10 the contract other than the performance
11 required under subclause (II).

12 “(C) ASSIGNMENT AND SALE ALLOWED.—

13 “(i) IN GENERAL.—No provision of
14 this paragraph shall be construed as lim-
15 iting the right of the conservator or receiver
16 to assign the contract described under sub-
17 paragraph (A), and sell the property subject
18 to the contract and the provisions of this
19 paragraph.

20 “(ii) NO LIABILITY AFTER ASSIGNMENT
21 AND SALE.—If an assignment and sale de-
22 scribed under clause (i) is consummated, the
23 conservator or receiver shall have no further
24 liability under the contract described under
25 subparagraph (A), or with respect to the

1 *real property which was the subject of such*
2 *contract.*

3 “(7) *SERVICE CONTRACTS.*—

4 “(A) *SERVICES PERFORMED BEFORE AP-*
5 *POINTMENT.*—*In the case of any contract for*
6 *services between any person and any regulated*
7 *entity for which the Agency has been appointed*
8 *conservator or receiver, any claim of such person*
9 *for services performed before the appointment of*
10 *the conservator or receiver shall be—*

11 “(i) *a claim to be paid in accordance*
12 *with subsections (b) and (e); and*

13 “(ii) *deemed to have arisen as of the*
14 *date on which the conservator or receiver*
15 *was appointed.*

16 “(B) *SERVICES PERFORMED AFTER AP-*
17 *POINTMENT AND PRIOR TO REPUDIATION.*—*If, in*
18 *the case of any contract for services described*
19 *under subparagraph (A), the conservator or re-*
20 *ceiver accepts performance by the other person*
21 *before the conservator or receiver makes any de-*
22 *termination to exercise the right of repudiation*
23 *of such contract under this section—*

1 “(i) the other party shall be paid
2 under the terms of the contract for the serv-
3 ices performed; and

4 “(ii) the amount of such payment shall
5 be treated as an administrative expense of
6 the conservatorship or receivership.

7 “(C) ACCEPTANCE OF PERFORMANCE NO
8 BAR TO SUBSEQUENT REPUDIATION.—The ac-
9 ceptance by the conservator or receiver of services
10 referred to under subparagraph (B) in connec-
11 tion with a contract described in such subpara-
12 graph shall not affect the right of the conservator
13 or receiver to repudiate such contract under this
14 section at any time after such performance.

15 “(8) CERTAIN QUALIFIED FINANCIAL CON-
16 TRACTS.—

17 “(A) RIGHTS OF PARTIES TO CONTRACTS.—
18 Subject to paragraphs (9) and (10), and not-
19 withstanding any other provision of this title
20 (other than subsection (b)(9)(B) of this section),
21 any other Federal law, or the law of any State,
22 no person shall be stayed or prohibited from ex-
23 ercising—

24 “(i) any right of that person to cause
25 the termination, liquidation, or acceleration

1 of any qualified financial contract with a
2 regulated entity that arises upon the ap-
3 pointment of the Agency as receiver for such
4 regulated entity at any time after such ap-
5 pointment;

6 “(ii) any right under any security
7 agreement or arrangement or other credit
8 enhancement relating to one or more quali-
9 fied financial contracts; or

10 “(iii) any right to offset or net out any
11 termination value, payment amount, or
12 other transfer obligation arising under or in
13 connection with 1 or more contracts and
14 agreements described in clause (i), includ-
15 ing any master agreement for such con-
16 tracts or agreements.

17 “(B) *APPLICABILITY OF OTHER PROVI-*
18 *SIONS.—*Subsection (b)(10) shall apply in the
19 case of any judicial action or proceeding brought
20 against any receiver referred to under subpara-
21 graph (A), or the regulated entity for which such
22 receiver was appointed, by any party to a con-
23 tract or agreement described under subparagraph
24 (A)(i) with such regulated entity.

1 “(C) *CERTAIN TRANSFERS NOT AVOID-*
2 *ABLE.—*

3 “(i) *IN GENERAL.—Notwithstanding*
4 *paragraph (11), or any other provision of*
5 *Federal or State law relating to the avoid-*
6 *ance of preferential or fraudulent transfers,*
7 *the Agency, whether acting as such or as*
8 *conservator or receiver of a regulated entity,*
9 *may not avoid any transfer of money or*
10 *other property in connection with any*
11 *qualified financial contract with a regu-*
12 *lated entity.*

13 “(ii) *EXCEPTION FOR CERTAIN TRANS-*
14 *FERS.—Clause (i) shall not apply to any*
15 *transfer of money or other property in con-*
16 *nection with any qualified financial con-*
17 *tract with a regulated entity if the Agency*
18 *determines that the transferee had actual*
19 *intent to hinder, delay, or defraud such regu-*
20 *lated entity, the creditors of such regulated*
21 *entity, or any conservator or receiver ap-*
22 *pointed for such regulated entity.*

23 “(D) *CERTAIN CONTRACTS AND AGREE-*
24 *MENTS DEFINED.—In this subsection the fol-*
25 *lowing definitions shall apply:*

1 “(i) *QUALIFIED FINANCIAL CON-*
2 *TRACT.—The term ‘qualified financial con-*
3 *tract’ means any securities contract, com-*
4 *modity contract, forward contract, repur-*
5 *chase agreement, swap agreement, and any*
6 *similar agreement that the Agency deter-*
7 *mines by regulation, resolution, or order to*
8 *be a qualified financial contract for pur-*
9 *poses of this paragraph.*

10 “(ii) *SECURITIES CONTRACT.—The*
11 *term ‘securities contract’—*

12 “(I) *means a contract for the pur-*
13 *chase, sale, or loan of a security, a cer-*
14 *tificate of deposit, a mortgage loan, or*
15 *any interest in a mortgage loan, a*
16 *group or index of securities, certificates*
17 *of deposit, or mortgage loans or inter-*
18 *ests therein (including any interest*
19 *therein or based on the value thereof)*
20 *or any option on any of the foregoing,*
21 *including any option to purchase or*
22 *sell any such security, certificate of de-*
23 *posit, mortgage loan, interest, group or*
24 *index, or option, and including any re-*
25 *purchase or reverse repurchase trans-*

1 *action on any such security, certificate*
2 *of deposit, mortgage loan, interest,*
3 *group or index, or option;*

4 “(II) *does not include any pur-*
5 *chase, sale, or repurchase obligation*
6 *under a participation in a commercial*
7 *mortgage loan, unless the Agency deter-*
8 *mines by regulation, resolution, or*
9 *order to include any such agreement*
10 *within the meaning of such term;*

11 “(III) *means any option entered*
12 *into on a national securities exchange*
13 *relating to foreign currencies;*

14 “(IV) *means the guarantee by or*
15 *to any securities clearing agency of*
16 *any settlement of cash, securities, cer-*
17 *tificates of deposit, mortgage loans or*
18 *interests therein, group or index of se-*
19 *curities, certificates of deposit, or mort-*
20 *gage loans or interests therein (includ-*
21 *ing any interest therein or based on*
22 *the value thereof) or option on any of*
23 *the foregoing, including any option to*
24 *purchase or sell any such security, cer-*

1 *tificate of deposit, mortgage loan, in-*
2 *terest, group or index, or option;*

3 *“(V) means any margin loan;*

4 *“(VI) means any other agreement*
5 *or transaction that is similar to any*
6 *agreement or transaction referred to in*
7 *this clause;*

8 *“(VII) means any combination of*
9 *the agreements or transactions referred*
10 *to in this clause;*

11 *“(VIII) means any option to enter*
12 *into any agreement or transaction re-*
13 *ferred to in this clause;*

14 *“(IX) means a master agreement*
15 *that provides for an agreement or*
16 *transaction referred to in subclause (I),*
17 *(III), (IV), (V), (VI), (VII), or (VIII),*
18 *together with all supplements to any*
19 *such master agreement, without regard*
20 *to whether the master agreement pro-*
21 *vides for an agreement or transaction*
22 *that is not a securities contract under*
23 *this clause, except that the master*
24 *agreement shall be considered to be a*
25 *securities contract under this clause*

1 *only with respect to each agreement or*
2 *transaction under the master agree-*
3 *ment that is referred to in subclause*
4 *(I), (III), (IV), (V), (VI), (VII), or*
5 *(VIII); and*

6 “(X) means any security agree-
7 ment or arrangement or other credit
8 enhancement related to any agreement
9 or transaction referred to in this
10 clause, including any guarantee or re-
11 imbursement obligation in connection
12 with any agreement or transaction re-
13 ferred to in this clause.

14 “(iii) *COMMODITY CONTRACT*.—*The*
15 *term ‘commodity contract’ means—*

16 “(I) *with respect to a futures com-*
17 *mission merchant, a contract for the*
18 *purchase or sale of a commodity for fu-*
19 *ture delivery on, or subject to the rules*
20 *of, a contract market or board of trade;*

21 “(II) *with respect to a foreign fu-*
22 *tures commission merchant, a foreign*
23 *future;*

1 “(III) with respect to a leverage
2 transaction merchant, a leverage trans-
3 action;

4 “(IV) with respect to a clearing
5 organization, a contract for the pur-
6 chase or sale of a commodity for future
7 delivery on, or subject to the rules of,
8 a contract market or board of trade
9 that is cleared by such clearing organi-
10 zation, or commodity option traded on,
11 or subject to the rules of, a contract
12 market or board of trade that is
13 cleared by such clearing organization;

14 “(V) with respect to a commodity
15 options dealer, a commodity option;

16 “(VI) any other agreement or
17 transaction that is similar to any
18 agreement or transaction referred to in
19 this clause;

20 “(VII) any combination of the
21 agreements or transactions referred to
22 in this clause;

23 “(VIII) any option to enter into
24 any agreement or transaction referred
25 to in this clause;

1 “(IX) a master agreement that
2 provides for an agreement or trans-
3 action referred to in subclause (I), (II),
4 (III), (IV), (V), (VI), (VII), or (VIII),
5 together with all supplements to any
6 such master agreement, without regard
7 to whether the master agreement pro-
8 vides for an agreement or transaction
9 that is not a commodity contract
10 under this clause, except that the mas-
11 ter agreement shall be considered to be
12 a commodity contract under this clause
13 only with respect to each agreement or
14 transaction under the master agree-
15 ment that is referred to in subclause
16 (I), (II), (III), (IV), (V), (VI), (VII), or
17 (VIII); or

18 “(X) any security agreement or
19 arrangement or other credit enhance-
20 ment related to any agreement or
21 transaction referred to in this clause,
22 including any guarantee or reimburse-
23 ment obligation in connection with
24 any agreement or transaction referred
25 to in this clause.

1 “(iv) *FORWARD CONTRACT*.—*The term*
2 *‘forward contract’ means—*

3 “(I) *a contract (other than a com-*
4 *modity contract) for the purchase, sale,*
5 *or transfer of a commodity or any*
6 *similar good, article, service, right, or*
7 *interest which is presently or in the fu-*
8 *ture becomes the subject of dealing in*
9 *the forward contract trade, or product*
10 *or byproduct thereof, with a maturity*
11 *date more than 2 days after the date*
12 *on which the contract is entered into,*
13 *including a repurchase transaction, re-*
14 *verse repurchase transaction, consign-*
15 *ment, lease, swap, hedge transaction,*
16 *deposit, loan, option, allocated trans-*
17 *action, unallocated transaction, or any*
18 *other similar agreement;*

19 “(II) *any combination of agree-*
20 *ments or transactions referred to in*
21 *subclauses (I) and (III);*

22 “(III) *any option to enter into*
23 *any agreement or transaction referred*
24 *to in subclause (I) or (II);*

1 “(IV) a master agreement that
2 provides for an agreement or trans-
3 action referred to in subclauses (I),
4 (II), or (III), together with all supple-
5 ments to any such master agreement,
6 without regard to whether the master
7 agreement provides for an agreement
8 or transaction that is not a forward
9 contract under this clause, except that
10 the master agreement shall be consid-
11 ered to be a forward contract under
12 this clause only with respect to each
13 agreement or transaction under the
14 master agreement that is referred to in
15 subclause (I), (II), or (III); or

16 “(V) any security agreement or
17 arrangement or other credit enhance-
18 ment related to any agreement or
19 transaction referred to in subclause (I),
20 (II), (III), or (IV), including any
21 guarantee or reimbursement obligation
22 in connection with any agreement or
23 transaction referred to in any such
24 subclause.

1 “(v) *REPURCHASE AGREEMENT.*—*The*
2 *term ‘repurchase agreement’ (including a*
3 *reverse repurchase agreement)—*

4 “(I) *means an agreement, includ-*
5 *ing related terms, which provides for*
6 *the transfer of one or more certificates*
7 *of deposit, mortgage-related securities*
8 *(as such term is defined in section 3 of*
9 *the Securities Exchange Act of 1934),*
10 *mortgage loans, interests in mortgage-*
11 *related securities or mortgage loans, el-*
12 *igible bankers’ acceptances, qualified*
13 *foreign government securities (defined*
14 *for purposes of this clause as a security*
15 *that is a direct obligation of, or that is*
16 *fully guaranteed by, the central govern-*
17 *ment of a member of the Organization*
18 *for Economic Cooperation and Devel-*
19 *opment, as determined by regulation or*
20 *order adopted by the appropriate Fed-*
21 *eral banking authority), or securities*
22 *that are direct obligations of, or that*
23 *are fully guaranteed by, the United*
24 *States or any agency of the United*
25 *States against the transfer of funds by*

1 *the transferee of such certificates of de-*
2 *posit, eligible bankers' acceptances, se-*
3 *curities, mortgage loans, or interests*
4 *with a simultaneous agreement by such*
5 *transferee to transfer to the transferor*
6 *thereof certificates of deposit, eligible*
7 *bankers' acceptances, securities, mort-*
8 *gage loans, or interests as described*
9 *above, at a date certain not later than*
10 *1 year after such transfers or on de-*
11 *mand, against the transfer of funds, or*
12 *any other similar agreement;*

13 *“(II) does not include any repur-*
14 *chase obligation under a participation*
15 *in a commercial mortgage loan, unless*
16 *the Agency determines by regulation,*
17 *resolution, or order to include any such*
18 *participation within the meaning of*
19 *such term;*

20 *“(III) means any combination of*
21 *agreements or transactions referred to*
22 *in subclauses (I) and (IV);*

23 *“(IV) means any option to enter*
24 *into any agreement or transaction re-*
25 *ferred to in subclause (I) or (III);*

1 “(V) means a master agreement
2 that provides for an agreement or
3 transaction referred to in subclause (I),
4 (III), or (IV), together with all supple-
5 ments to any such master agreement,
6 without regard to whether the master
7 agreement provides for an agreement
8 or transaction that is not a repurchase
9 agreement under this clause, except
10 that the master agreement shall be con-
11 sidered to be a repurchase agreement
12 under this subclause only with respect
13 to each agreement or transaction under
14 the master agreement that is referred to
15 in subclause (I), (III), or (IV); and

16 “(VI) means any security agree-
17 ment or arrangement or other credit
18 enhancement related to any agreement
19 or transaction referred to in subclause
20 (I), (III), (IV), or (V), including any
21 guarantee or reimbursement obligation
22 in connection with any agreement or
23 transaction referred to in any such
24 subclause.

1 “(vi) *SWAP AGREEMENT.*—*The term*
2 *‘swap agreement’ means—*

3 “(I) *any agreement, including the*
4 *terms and conditions incorporated by*
5 *reference in any such agreement, which*
6 *is an interest rate swap, option, future,*
7 *or forward agreement, including a rate*
8 *floor, rate cap, rate collar, cross-cur-*
9 *rency rate swap, and basis swap; a*
10 *spot, same day-tomorrow, tomorrow-*
11 *next, forward, or other foreign ex-*
12 *change or precious metals agreement; a*
13 *currency swap, option, future, or for-*
14 *ward agreement; an equity index or eq-*
15 *uity swap, option, future, or forward*
16 *agreement; a debt index or debt swap,*
17 *option, future, or forward agreement; a*
18 *total return, credit spread or credit*
19 *swap, option, future, or forward agree-*
20 *ment; a commodity index or com-*
21 *modity swap, option, future, or for-*
22 *ward agreement; or a weather swap,*
23 *weather derivative, or weather option;*

24 “(II) *any agreement or trans-*
25 *action that is similar to any other*

1 *agreement or transaction referred to in*
2 *this clause and that is of a type that*
3 *has been, is presently, or in the future*
4 *becomes, the subject of recurrent deal-*
5 *ings in the swap markets (including*
6 *terms and conditions incorporated by*
7 *reference in such agreement) and that*
8 *is a forward, swap, future, or option*
9 *on one or more rates, currencies, com-*
10 *modities, equity securities or other eq-*
11 *uity instruments, debt securities or*
12 *other debt instruments, quantitative*
13 *measures associated with an occur-*
14 *rence, extent of an occurrence, or con-*
15 *tingency associated with a financial,*
16 *commercial, or economic consequence,*
17 *or economic or financial indices or*
18 *measures of economic or financial risk*
19 *or value;*

20 *“(III) any combination of agree-*
21 *ments or transactions referred to in*
22 *this clause;*

23 *“(IV) any option to enter into*
24 *any agreement or transaction referred*
25 *to in this clause;*

1 “(V) a master agreement that pro-
2 vides for an agreement or transaction
3 referred to in subclause (I), (II), (III),
4 or (IV), together with all supplements
5 to any such master agreement, without
6 regard to whether the master agreement
7 contains an agreement or transaction
8 that is not a swap agreement under
9 this clause, except that the master
10 agreement shall be considered to be a
11 swap agreement under this clause only
12 with respect to each agreement or
13 transaction under the master agree-
14 ment that is referred to in subclause
15 (I), (II), (III), or (IV); and

16 “(VI) any security agreement or
17 arrangement or other credit enhance-
18 ment related to any agreements or
19 transactions referred to in subclause
20 (I), (II), (III), (IV), or (V), including
21 any guarantee or reimbursement obli-
22 gation in connection with any agree-
23 ment or transaction referred to in any
24 such subclause.

1 “(vii) *TREATMENT OF MASTER AGREE-*
2 *MENT AS ONE AGREEMENT.*—Any master
3 agreement for any contract or agreement de-
4 scribed in any preceding clause of this sub-
5 paragraph (or any master agreement for
6 such master agreement or agreements), to-
7 gether with all supplements to such master
8 agreement, shall be treated as a single
9 agreement and a single qualified financial
10 contract. If a master agreement contains
11 provisions relating to agreements or trans-
12 actions that are not themselves qualified fi-
13 nancial contracts, the master agreement
14 shall be deemed to be a qualified financial
15 contract only with respect to those trans-
16 actions that are themselves qualified finan-
17 cial 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 (other*
5 *than paragraph (10) of this subsection and sub-*
6 *section (b)(9)(B)), no person shall be stayed or*
7 *prohibited from exercising—*

8 “(i) *any right such person has to cause*
9 *the termination, liquidation, or acceleration*
10 *of any qualified financial contract with a*
11 *regulated entity in a conservatorship based*
12 *upon a default under such financial con-*
13 *tract which is enforceable under applicable*
14 *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 any*
20 *termination values, payment amounts, or*
21 *other transfer obligations arising under or*
22 *in connection with such qualified financial*
23 *contracts.*

24 “(F) *CLARIFICATION.*—*No provision of law*
25 *shall be construed as limiting the right or power*

1 *of the Agency, or authorizing any court or agen-*
2 *cy to limit or delay in any manner, the right or*
3 *power of the Agency to transfer any qualified fi-*
4 *nancial contract in accordance with paragraphs*
5 *(9) and (10), or to disaffirm or repudiate any*
6 *such contract in accordance with subsection*
7 *(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 clause*
15 *shall be enforceable in a qualified financial*
16 *contract of a regulated entity in default.*

17 “(ii) *WALKAWAY CLAUSE DEFINED.—*
18 *For purposes of this subparagraph, the term*
19 *‘walkaway clause’ means a provision in a*
20 *qualified financial contract that, after cal-*
21 *culatation of a value of a party’s position or*
22 *an amount due to or from 1 of the parties*
23 *in accordance with its terms upon termi-*
24 *nation, liquidation, or acceleration of the*
25 *qualified financial contract, either does not*

1 create a payment obligation of a party or
2 extinguishes a payment obligation of a
3 party in whole or in part solely because of
4 the status of such party as a nondefaulting
5 party.

6 “(9) *TRANSFER OF QUALIFIED FINANCIAL CON-*
7 *TRACTS.—In making any transfer of assets or liabil-*
8 *ities of a regulated entity in default which includes*
9 *any qualified financial contract, the conservator or*
10 *receiver for such regulated entity shall either—*

11 “(A) *transfer to 1 person—*

12 “(i) *all qualified financial contracts*
13 *between any person (or any affiliate of such*
14 *person) and the regulated entity in default;*

15 “(ii) *all claims of such person (or any*
16 *affiliate of such person) against such regu-*
17 *lated entity under any such contract (other*
18 *than any claim which, under the terms of*
19 *any such contract, is subordinated to the*
20 *claims of general unsecured creditors of such*
21 *regulated entity);*

22 “(iii) *all claims of such regulated enti-*
23 *ty against such person (or any affiliate of*
24 *such person) under any such contract; and*

1 “(iv) all property securing, or any
2 other credit enhancement for any contract
3 described in clause (i), or any claim de-
4 scribed in clause (ii) or (iii) under any
5 such contract; or

6 “(B) transfer none of the financial con-
7 tracts, claims, or property referred to under sub-
8 paragraph (A) (with respect to such person and
9 any affiliate of such person).

10 “(10) NOTIFICATION OF TRANSFER.—

11 “(A) IN GENERAL.—The conservator or re-
12 ceiver shall notify any person that is a party to
13 a contract or transfer by 5:00 p.m. (Eastern
14 Standard Time) on the business day following
15 the date of the appointment of the receiver in the
16 case of a receivership, or the business day fol-
17 lowing such transfer in the case of a conservator-
18 ship, if—

19 “(i) the conservator or receiver for a
20 regulated entity in default makes any trans-
21 fer of the assets and liabilities of such regu-
22 lated entity; and

23 “(ii) such transfer includes any quali-
24 fied financial contract.

1 “(B) *CERTAIN RIGHTS NOT ENFORCE-*
2 *ABLE.—*

3 “(i) *RECEIVERSHIP.—A person who is*
4 *a party to a qualified financial contract*
5 *with a regulated entity may not exercise*
6 *any right that such person has to terminate,*
7 *liquidate, or net such contract under para-*
8 *graph (8)(A) of this subsection or under sec-*
9 *tion 403 or 404 of the Federal Deposit In-*
10 *surance Corporation Improvement Act of*
11 *1991, solely by reason of or incidental to the*
12 *appointment of a receiver for the regulated*
13 *entity (or the insolvency or financial condi-*
14 *tion of the regulated entity for which the re-*
15 *ceiver has been appointed)—*

16 “(I) *until 5:00 p.m. (Eastern*
17 *Standard Time) on the business day*
18 *following the date of the appointment*
19 *of the receiver; or*

20 “(II) *after the person has received*
21 *notice that the contract has been trans-*
22 *ferred pursuant to paragraph (9)(A).*

23 “(ii) *CONSERVATORSHIP.—A person*
24 *who is a party to a qualified financial con-*
25 *tract with a regulated entity may not exer-*

1 *cise any right that such person has to ter-*
2 *minate, liquidate, or net such contract*
3 *under paragraph (8)(E) of this subsection*
4 *or under section 403 or 404 of the Federal*
5 *Deposit Insurance Corporation Improve-*
6 *ment Act of 1991, solely by reason of or in-*
7 *cidental to the appointment of a conservator*
8 *for the regulated entity (or the insolvency or*
9 *financial condition of the regulated entity*
10 *for which the conservator has been ap-*
11 *pointed).*

12 *“(iii) NOTICE.—For purposes of this*
13 *paragraph, the conservator or receiver of a*
14 *regulated entity shall be deemed to have no-*
15 *tified a person who is a party to a qualified*
16 *financial contract with such regulated enti-*
17 *ty, if the conservator or receiver has taken*
18 *steps reasonably calculated to provide notice*
19 *to such person by the time specified in sub-*
20 *paragraph (A).*

21 *“(C) BUSINESS DAY DEFINED.—For pur-*
22 *poses of this paragraph, the term ‘business day’*
23 *means any day other than any Saturday, Sun-*
24 *day, or any day on which either the New York*

1 *Stock Exchange or the Federal Reserve Bank of*
2 *New York is closed.*

3 “(11) *DISAFFIRMANCE OR REPUDIATION OF*
4 *QUALIFIED FINANCIAL CONTRACTS.—In exercising the*
5 *rights of disaffirmance or repudiation of a conser-*
6 *vator or receiver with respect to any qualified finan-*
7 *cial contract to which a regulated entity is a party,*
8 *the conservator or receiver for such institution shall*
9 *either—*

10 “(A) *disaffirm or repudiate all qualified fi-*
11 *nancial contracts between—*

12 “(i) *any person or any affiliate of such*
13 *person; and*

14 “(ii) *the regulated entity in default; or*

15 “(B) *disaffirm or repudiate none of the*
16 *qualified financial contracts referred to in sub-*
17 *paragraph (A) (with respect to such person or*
18 *any affiliate of such person).*

19 “(12) *CERTAIN SECURITY INTERESTS NOT AVOID-*
20 *ABLE.—No provision of this subsection shall be con-*
21 *strued as permitting the avoidance of any legally en-*
22 *forceable or perfected security interest in any of the*
23 *assets of any regulated entity, except where such an*
24 *interest is taken in contemplation of the insolvency of*
25 *the regulated entity, or with the intent to hinder,*

1 *delay, or defraud the regulated entity or the creditors*
2 *of such regulated entity.*

3 “(13) *AUTHORITY TO ENFORCE CONTRACTS.—*

4 “(A) *IN GENERAL.—Notwithstanding any*
5 *provision of a contract providing for termi-*
6 *nation, default, acceleration, or exercise of rights*
7 *upon, or solely by reason of, insolvency or the*
8 *appointment of, or the exercise of rights or pow-*
9 *ers by, a conservator or receiver, the conservator*
10 *or receiver may enforce any contract, other than*
11 *a contract for liability insurance for a director*
12 *or officer, or a contract or a regulated entity*
13 *bond, entered into by the regulated entity.*

14 “(B) *CERTAIN RIGHTS NOT AFFECTED.—No*
15 *provision of this paragraph may be construed as*
16 *impairing or affecting any right of the conser-*
17 *vator or receiver to enforce or recover under a li-*
18 *ability insurance contract for an officer or direc-*
19 *tor, or regulated entity bond under other appli-*
20 *cable law.*

21 “(C) *CONSENT REQUIREMENT.—*

22 “(i) *IN GENERAL.—Except as otherwise*
23 *provided under this section, no person may*
24 *exercise any right or power to terminate,*
25 *accelerate, or declare a default under any*

1 *contract to which a regulated entity is a*
2 *party, or to obtain possession of or exercise*
3 *control over any property of the regulated*
4 *entity, or affect any contractual rights of*
5 *the regulated entity, without the consent of*
6 *the conservator or receiver, as appropriate,*
7 *for a period of—*

8 “(I) 45 days after the date of ap-
9 pointment of a conservator; or

10 “(II) 90 days after the date of ap-
11 pointment of a receiver.

12 “(ii) *EXCEPTIONS.—This subpara-*
13 *graph shall not—*

14 “(I) *apply to a contract for liabil-*
15 *ity insurance for an officer or director;*

16 “(II) *apply to the rights of parties*
17 *to certain qualified financial contracts*
18 *under subsection (d)(8); and*

19 “(III) *be construed as permitting*
20 *the conservator or receiver to fail to*
21 *comply with otherwise enforceable pro-*
22 *visions of such contracts.*

23 “(14) *SAVINGS CLAUSE.—The meanings of terms*
24 *used in this subsection are applicable for purposes of*
25 *this subsection only, and shall not be construed or ap-*

1 *plied so as to challenge or affect the characterization,*
2 *definition, or treatment of any similar terms under*
3 *any other statute, regulation, or rule, including the*
4 *Gramm-Leach-Bliley Act, the Legal Certainty for*
5 *Bank Products Act of 2000, the securities laws (as*
6 *that term is defined in section 3(a)(47) of the Securi-*
7 *ties Exchange Act of 1934), and the Commodity Ex-*
8 *change Act.*

9 “(15) *EXCEPTION FOR FEDERAL RESERVE AND*
10 *FEDERAL HOME LOAN BANKS.—No provision of this*
11 *subsection shall apply with respect to—*

12 “(A) *any extension of credit from any Fed-*
13 *eral Home Loan Bank or Federal Reserve Bank*
14 *to any regulated entity; or*

15 “(B) *any security interest in the assets of*
16 *the regulated entity securing any such extension*
17 *of credit.*

18 “(e) *VALUATION OF CLAIMS IN DEFAULT.—*

19 “(1) *IN GENERAL.—Notwithstanding any other*
20 *provision of Federal law or the law of any State, and*
21 *regardless of the method which the Agency determines*
22 *to utilize with respect to a regulated entity in default*
23 *or in danger of default, including transactions au-*
24 *thorized under subsection (i), this subsection shall*

1 *govern the rights of the creditors of such regulated en-*
2 *tity.*

3 “(2) *MAXIMUM LIABILITY.*—*The maximum li-*
4 *ability of the Agency, acting as receiver or in any*
5 *other capacity, to any person having a claim against*
6 *the receiver or the regulated entity for which such re-*
7 *ceiver is appointed shall be not more than the amount*
8 *that such claimant would have received if the Agency*
9 *had liquidated the assets and liabilities of the regu-*
10 *lated entity without exercising the authority of the*
11 *Agency under subsection (i).*

12 “(f) *LIMITATION ON COURT ACTION.*—*Except as pro-*
13 *vided in this section or at the request of the Director, no*
14 *court may take any action to restrain or affect the exercise*
15 *of powers or functions of the Agency as a conservator or*
16 *a receiver.*

17 “(g) *LIABILITY OF DIRECTORS AND OFFICERS.*—

18 “(1) *IN GENERAL.*—*A director or officer of a reg-*
19 *ulated entity may be held personally liable for mone-*
20 *tary damages in any civil action described in para-*
21 *graph (2) brought by, on behalf of, or at the request*
22 *or direction of the Agency, and prosecuted wholly or*
23 *partially for the benefit of the Agency—*

24 “(A) *acting as conservator or receiver of*
25 *such regulated entity; or*

1 “(B) acting based upon a suit, claim, or
2 cause of action purchased from, assigned by, or
3 otherwise conveyed by such receiver or conser-
4 vator.

5 “(2) ACTIONS ADDRESSED.—Paragraph (1) ap-
6 plies in any civil action for gross negligence, includ-
7 ing any similar conduct or conduct that demonstrates
8 a greater disregard of a duty of care than gross neg-
9 ligence, including intentional tortious conduct, as
10 such terms are defined and determined under applica-
11 ble State law.

12 “(3) NO LIMITATION.—Nothing in this subsection
13 shall impair or affect any right of the Agency under
14 other applicable law.

15 “(h) DAMAGES.—In any proceeding related to any
16 claim against a director, officer, employee, agent, attorney,
17 accountant, appraiser, or any other party employed by or
18 providing services to a regulated entity, recoverable dam-
19 ages determined to result from the improvident or otherwise
20 improper use or investment of any assets of the regulated
21 entity shall include principal losses and appropriate inter-
22 est.

23 “(i) LIMITED-LIFE REGULATED ENTITIES.—

24 “(1) ORGANIZATION.—

1 “(A) *PURPOSE.*—*The Agency, as receiver*
2 *appointed pursuant to subsection (a)—*

3 “(i) *may, in the case of a Federal*
4 *Home Loan Bank, organize a limited-life*
5 *regulated entity with those powers and at-*
6 *tributes of the Federal Home Loan Bank in*
7 *default or in danger of default as the Direc-*
8 *tor determines necessary, subject to the pro-*
9 *visions of this subsection, and the Director*
10 *shall grant a temporary charter to that lim-*
11 *ited-life regulated entity, and that limited-*
12 *life regulated entity shall operate subject to*
13 *that charter; and*

14 “(ii) *shall, in the case of an enterprise,*
15 *organize a limited-life regulated entity with*
16 *respect to that enterprise in accordance*
17 *with this subsection.*

18 “(B) *AUTHORITIES.*—*Upon the creation of*
19 *a limited-life regulated entity under subpara-*
20 *graph (A), the limited-life regulated entity*
21 *may—*

22 “(i) *assume such liabilities of the regu-*
23 *lated entity that is in default or in danger*
24 *of default as the Agency may, in its discre-*
25 *tion, determine to be appropriate, except*

1 *that the liabilities assumed shall not exceed*
2 *the amount of assets purchased or trans-*
3 *ferred from the regulated entity to the lim-*
4 *ited-life regulated entity;*

5 “(ii) *purchase such assets of the regu-*
6 *lated entity that is in default, or in danger*
7 *of default as the Agency may, in its discre-*
8 *tion, determine to be appropriate; and*

9 “(iii) *perform any other temporary*
10 *function which the Agency may, in its dis-*
11 *cretion, prescribe in accordance with this*
12 *section.*

13 “(2) *CHARTER AND ESTABLISHMENT.—*

14 “(A) *TRANSFER OF CHARTER.—*

15 “(i) *FANNIE MAE.—If the Agency is*
16 *appointed as receiver for the Federal Na-*
17 *tional Mortgage Association, the limited-life*
18 *regulated entity established under this sub-*
19 *section with respect to such enterprise shall,*
20 *by operation of law and immediately upon*
21 *its organization—*

22 “(I) *succeed to the charter of the*
23 *Federal National Mortgage Associa-*
24 *tion, as set forth in the Federal Na-*

1 *tional Mortgage Association Charter*
2 *Act; and*

3 “(II) thereafter operate in accord-
4 *ance with, and subject to, such charter,*
5 *this Act, and any other provision of*
6 *law to which the Federal National*
7 *Mortgage Association is subject, except*
8 *as otherwise provided in this sub-*
9 *section.*

10 “(ii) *FREDDIE MAC.*—*If the Agency is*
11 *appointed as receiver for the Federal Home*
12 *Loan Mortgage Corporation, the limited-life*
13 *regulated entity established under this sub-*
14 *section with respect to such enterprise shall,*
15 *by operation of law and immediately upon*
16 *its organization—*

17 “(I) *succeed to the charter of the*
18 *Federal Home Loan Mortgage Cor-*
19 *poration, as set forth in the Federal*
20 *Home Loan Mortgage Corporation*
21 *Charter Act; and*

22 “(II) thereafter operate in accord-
23 *ance with, and subject to, such charter,*
24 *this Act, and any other provision of*
25 *law to which the Federal Home Loan*

1 *Mortgage Corporation is subject, except*
2 *as otherwise provided in this sub-*
3 *section.*

4 *“(B) INTERESTS IN AND ASSETS AND OBLI-*
5 *GATIONS OF REGULATED ENTITY IN DEFAULT.—*
6 *Notwithstanding subparagraph (A) or any other*
7 *provision of law—*

8 *“(i) a limited-life regulated entity shall*
9 *assume, acquire, or succeed to the assets or*
10 *liabilities of a regulated entity only to the*
11 *extent that such assets or liabilities are*
12 *transferred by the Agency to the limited-life*
13 *regulated entity in accordance with, and*
14 *subject to the restrictions set forth in, para-*
15 *graph (1)(B);*

16 *“(ii) a limited-life regulated entity*
17 *shall not assume, acquire, or succeed to any*
18 *obligation that a regulated entity for which*
19 *a receiver has been appointed may have to*
20 *any shareholder of the regulated entity that*
21 *arises as a result of the status of that person*
22 *as a shareholder of the regulated entity; and*

23 *“(iii) no shareholder or creditor of a*
24 *regulated entity shall have any right or*
25 *claim against the charter of the regulated*

1 *entity once the Agency has been appointed*
2 *receiver for the regulated entity and a lim-*
3 *ited-life regulated entity succeeds to the*
4 *charter pursuant to subparagraph (A).*

5 “(C) *LIMITED-LIFE REGULATED ENTITY*
6 *TREATED AS BEING IN DEFAULT FOR CERTAIN*
7 *PURPOSES.—A limited-life regulated entity shall*
8 *be treated as a regulated entity in default at*
9 *such times and for such purposes as the Agency*
10 *may, in its discretion, determine.*

11 “(D) *MANAGEMENT.—Upon its establish-*
12 *ment, a limited-life regulated entity shall be*
13 *under the management of a board of directors*
14 *consisting of not fewer than 5 nor more than 10*
15 *members appointed by the Agency.*

16 “(E) *BYLAWS.—The board of directors of a*
17 *limited-life regulated entity shall adopt such by-*
18 *laws as may be approved by the Agency.*

19 “(3) *CAPITAL STOCK.—*

20 “(A) *NO AGENCY REQUIREMENT.—The*
21 *Agency is not required to pay capital stock*
22 *into a limited-life regulated entity or to*
23 *issue any capital stock on behalf of a lim-*
24 *ited-life regulated entity established under*
25 *this subsection.*

1 “(B) *AUTHORITY.*—*If the Director de-*
2 *termines that such action is advisable, the*
3 *Agency may cause capital stock or other se-*
4 *curities of a limited-life regulated entity es-*
5 *tablished with respect to an enterprise to be*
6 *issued and offered for sale, in such amounts*
7 *and on such terms and conditions as the*
8 *Director may determine, in the discretion of*
9 *the Director.*

10 “(4) *INVESTMENTS.*—*Funds of a limited-life reg-*
11 *ulated entity shall be kept on hand in cash, invested*
12 *in obligations of the United States or obligations*
13 *guaranteed as to principal and interest by the United*
14 *States, or deposited with the Agency, or any Federal*
15 *reserve bank.*

16 “(5) *EXEMPT TAX STATUS.*—*Notwithstanding*
17 *any other provision of Federal or State law, a lim-*
18 *ited-life regulated entity, its franchise, property, and*
19 *income shall be exempt from all taxation now or here-*
20 *after imposed by the United States, by any territory,*
21 *dependency, or possession thereof, or by any State,*
22 *county, municipality, or local taxing authority.*

23 “(6) *WINDING UP.*—

24 “(A) *IN GENERAL.*—*Subject to subpara-*
25 *graphs (B) and (C), not later than 2 years after*

1 *the date of its organization, the Agency shall*
2 *wind up the affairs of a limited-life regulated en-*
3 *tity.*

4 “(B) *EXTENSION.*—*The Director may, in*
5 *the discretion of the Director, extend the status*
6 *of a limited-life regulated entity for 3 additional*
7 *1-year periods.*

8 “(C) *TERMINATION OF STATUS AS LIMITED-*
9 *LIFE REGULATED ENTITY.*—

10 “(i) *IN GENERAL.*—*Upon the sale by*
11 *the Agency of 80 percent or more of the cap-*
12 *ital stock of a limited-life regulated entity,*
13 *as defined in clause (iv), to 1 or more per-*
14 *sons (other than the Agency)—*

15 “(I) *the status of the limited-life*
16 *regulated entity as such shall termi-*
17 *nate; and*

18 “(II) *the entity shall cease to be a*
19 *limited-life regulated entity for pur-*
20 *poses of this subsection.*

21 “(ii) *DIVESTITURE OF REMAINING*
22 *STOCK, IF ANY.*—

23 “(I) *IN GENERAL.*—*Not later than*
24 *1 year after the date on which the sta-*
25 *tus of a limited-life regulated entity is*

1 *terminated pursuant to clause (i), the*
2 *Agency shall sell to 1 or more persons*
3 *(other than the Agency) any remaining*
4 *capital stock of the former limited-life*
5 *regulated entity.*

6 “(II) *EXTENSION AUTHORIZED.*—

7 *The Director may extend the period re-*
8 *ferred to in subclause (I) for not longer*
9 *than an additional 2 years, if the Di-*
10 *rector determines that such action*
11 *would be in the public interest.*

12 “(iii) *SAVINGS CLAUSE.*—*Notwith-*
13 *standing any provision of law, other than*
14 *clause (ii), the Agency shall not be required*
15 *to sell the capital stock of an enterprise or*
16 *a limited-life regulated entity established*
17 *with respect to an enterprise.*

18 “(iv) *APPLICABILITY.*—*This subpara-*
19 *graph applies only with respect to a lim-*
20 *ited-life regulated entity that is established*
21 *with respect to an enterprise.*

22 “(7) *TRANSFER OF ASSETS AND LIABILITIES.*—

23 “(A) *IN GENERAL.*—

24 “(i) *TRANSFER OF ASSETS AND LIABIL-*
25 *ITIES.*—*The Agency, as receiver, may trans-*

1 *fer any assets and liabilities of a regulated*
2 *entity in default, or in danger of default, to*
3 *the limited-life regulated entity in accord-*
4 *ance with and subject to the restrictions of*
5 *paragraph (1).*

6 “(ii) *SUBSEQUENT TRANSFERS.—At*
7 *any time after the establishment of a lim-*
8 *ited-life regulated entity, the Agency, as re-*
9 *ceiver, may transfer any assets and liabil-*
10 *ities of the regulated entity in default, or in*
11 *danger of default, as the Agency may, in its*
12 *discretion, determine to be appropriate in*
13 *accordance with and subject to the restric-*
14 *tions of paragraph (1).*

15 “(iii) *EFFECTIVE WITHOUT AP-*
16 *PROVAL.—The transfer of any assets or li-*
17 *abilities of a regulated entity in default or*
18 *in danger of default to a limited-life regu-*
19 *lated entity shall be effective without any*
20 *further approval under Federal or State*
21 *law, assignment, or consent with respect*
22 *thereto.*

23 “(iv) *EQUITABLE TREATMENT OF SIMI-*
24 *LARLY SITUATED CREDITORS.—The Agency*
25 *shall treat all creditors of a regulated entity*

1 *in default or in danger of default that are*
2 *similarly situated under subsection (c)(1) in*
3 *a similar manner in exercising the author-*
4 *ity of the Agency under this subsection to*
5 *transfer any assets or liabilities of the regu-*
6 *lated entity to the limited-life regulated en-*
7 *tity established with respect to such regu-*
8 *lated entity, except that the Agency may*
9 *take actions (including making payments)*
10 *that do not comply with this clause, if—*

11 *“(I) the Director determines that*
12 *such actions are necessary to maximize*
13 *the value of the assets of the regulated*
14 *entity, to maximize the present value*
15 *return from the sale or other disposi-*
16 *tion of the assets of the regulated enti-*
17 *ty, or to minimize the amount of any*
18 *loss realized upon the sale or other dis-*
19 *position of the assets of the regulated*
20 *entity; and*

21 *“(II) all creditors that are simi-*
22 *larly situated under subsection (c)(1)*
23 *receive not less than the amount pro-*
24 *vided in subsection (e)(2).*

1 “(v) *LIMITATION ON TRANSFER OF LI-*
2 *ABILITIES.—Notwithstanding any other*
3 *provision of law, the aggregate amount of*
4 *liabilities of a regulated entity that are*
5 *transferred to, or assumed by, a limited-life*
6 *regulated entity may not exceed the aggre-*
7 *gate amount of assets of the regulated entity*
8 *that are transferred to, or purchased by, the*
9 *limited-life regulated entity.*

10 “(8) *REGULATIONS.—The Agency may promul-*
11 *gate such regulations as the Agency determines to be*
12 *necessary or appropriate to implement this sub-*
13 *section.*

14 “(9) *POWERS OF LIMITED-LIFE REGULATED EN-*
15 *TITIES.—*

16 “(A) *IN GENERAL.—Each limited-life regu-*
17 *lated entity created under this subsection shall*
18 *have all corporate powers of, and be subject to*
19 *the same provisions of law as, the regulated enti-*
20 *ty in default or in danger of default to which it*
21 *relates, except that—*

22 “(i) *the Agency may—*

23 “(I) *remove the directors of a lim-*
24 *ited-life regulated entity;*

1 “(II) fix the compensation of
2 members of the board of directors and
3 senior management, as determined by
4 the Agency in its discretion, of a lim-
5 ited-life regulated entity; and

6 “(III) indemnify the representa-
7 tives for purposes of paragraph (1)(B),
8 and the directors, officers, employees,
9 and agents of a limited-life regulated
10 entity on such terms as the Agency de-
11 termines to be appropriate; and

12 “(ii) the board of directors of a lim-
13 ited-life regulated entity—

14 “(I) shall elect a chairperson who
15 may also serve in the position of chief
16 executive officer, except that such per-
17 son shall not serve either as chair-
18 person or as chief executive officer
19 without the prior approval of the Agen-
20 cy; and

21 “(II) may appoint a chief execu-
22 tive officer who is not also the chair-
23 person, except that such person shall
24 not serve as chief executive officer with-
25 out the prior approval of the Agency.

1 “(B) *STAY OF JUDICIAL ACTION.*—Any judi-
2 cial action to which a limited-life regulated enti-
3 ty becomes a party by virtue of its acquisition
4 of any assets or assumption of any liabilities of
5 a regulated entity in default shall be stayed from
6 further proceedings for a period of not longer
7 than 45 days, at the request of the limited-life
8 regulated entity. Such period may be modified
9 upon the consent of all parties.

10 “(10) *NO FEDERAL STATUS.*—

11 “(A) *AGENCY STATUS.*—A limited-life regu-
12 lated entity is not an agency, establishment, or
13 instrumentality of the United States.

14 “(B) *EMPLOYEE STATUS.*—Representatives
15 for purposes of paragraph (1)(B), interim direc-
16 tors, directors, officers, employees, or agents of a
17 limited-life regulated entity are not, solely by
18 virtue of service in any such capacity, officers or
19 employees of the United States. Any employee of
20 the Agency or of any Federal instrumentality
21 who serves at the request of the Agency as a rep-
22 resentative for purposes of paragraph (1)(B), in-
23 terim director, director, officer, employee, or
24 agent of a limited-life regulated entity shall
25 not—

1 “(i) solely by virtue of service in any
2 such capacity lose any existing status as an
3 officer or employee of the United States for
4 purposes of title 5, United States Code, or
5 any other provision of law; or

6 “(ii) receive any salary or benefits for
7 service in any such capacity with respect to
8 a limited-life regulated entity in addition to
9 such salary or benefits as are obtained
10 through employment with the Agency or
11 such Federal instrumentality.

12 “(11) *AUTHORITY TO OBTAIN CREDIT.*—

13 “(A) *IN GENERAL.*—A limited-life regulated
14 entity may obtain unsecured credit and issue
15 unsecured debt.

16 “(B) *INABILITY TO OBTAIN CREDIT.*—If a
17 limited-life regulated entity is unable to obtain
18 unsecured credit or issue unsecured debt, the Di-
19 rector may authorize the obtaining of credit or
20 the issuance of debt by the limited-life regulated
21 entity—

22 “(i) with priority over any or all of
23 the obligations of the limited-life regulated
24 entity;

1 “(ii) secured by a lien on property of
2 the limited-life regulated entity that is not
3 otherwise subject to a lien; or

4 “(iii) secured by a junior lien on prop-
5 erty of the limited-life regulated entity that
6 is subject to a lien.

7 “(C) LIMITATIONS.—

8 “(i) IN GENERAL.—The Director, after
9 notice and a hearing, may authorize the ob-
10 taining of credit or the issuance of debt by
11 a limited-life regulated entity that is se-
12 cured by a senior or equal lien on property
13 of the limited-life regulated entity that is
14 subject to a lien (other than mortgages that
15 collateralize the mortgage-backed securities
16 issued or guaranteed by an enterprise) only
17 if—

18 “(I) the limited-life regulated en-
19 tity is unable to otherwise obtain such
20 credit or issue such debt; and

21 “(II) there is adequate protection
22 of the interest of the holder of the lien
23 on the property with respect to which
24 such senior or equal lien is proposed to
25 be granted.

1 “(D) *BURDEN OF PROOF.*—*In any hearing*
2 *under this subsection, the Director has the bur-*
3 *den of proof on the issue of adequate protection.*

4 “(12) *AFFECT ON DEBTS AND LIENS.*—*The rever-*
5 *sal or modification on appeal of an authorization*
6 *under this subsection to obtain credit or issue debt, or*
7 *of a grant under this section of a priority or a lien,*
8 *does not affect the validity of any debt so issued, or*
9 *any priority or lien so granted, to an entity that ex-*
10 *tended such credit in good faith, whether or not such*
11 *entity knew of the pendency of the appeal, unless such*
12 *authorization and the issuance of such debt, or the*
13 *granting of such priority or lien, were stayed pending*
14 *appeal.*

15 “(j) *OTHER AGENCY EXEMPTIONS.*—

16 “(1) *APPLICABILITY.*—*The provisions of this sub-*
17 *section shall apply with respect to the Agency in any*
18 *case in which the Agency is acting as a conservator*
19 *or a receiver.*

20 “(2) *TAXATION.*—*The Agency, including its fran-*
21 *chise, its capital, reserves, and surplus, and its in-*
22 *come, shall be exempt from all taxation imposed by*
23 *any State, county, municipality, or local taxing au-*
24 *thority, except that any real property of the Agency*
25 *shall be subject to State, territorial, county, munic-*

1 *ipal, or local taxation to the same extent according to*
2 *its value as other real property is taxed, except that,*
3 *notwithstanding the failure of any person to challenge*
4 *an assessment under State law of the value of such*
5 *property, and the tax thereon, shall be determined as*
6 *of the period for which such tax is imposed.*

7 “(3) *PROPERTY PROTECTION.*—No property of
8 *the Agency shall be subject to levy, attachment, gar-*
9 *nishment, foreclosure, or sale without the consent of*
10 *the Agency, nor shall any involuntary lien attach to*
11 *the property of the Agency.*

12 “(4) *PENALTIES AND FINES.*—The Agency shall
13 *not be liable for any amounts in the nature of pen-*
14 *alties or fines, including those arising from the fail-*
15 *ure of any person to pay any real property, personal*
16 *property, probate, or recording tax or any recording*
17 *or filing fees when due.*

18 “(k) *PROHIBITION OF CHARTER REVOCATION.*—In no
19 *case may the receiver appointed pursuant to this section*
20 *revoke, annul, or terminate the charter of an enterprise.”.*

21 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—
22 *The Federal Housing Enterprises Financial Safety and*
23 *Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amend-*
24 *ed—*

25 (1) *in section 1368 (12 U.S.C. 4618)—*

1 (A) by striking “an enterprise” each place
2 that term appears and inserting “a regulated en-
3 tity”; and

4 (B) by striking “the enterprise” each place
5 that term appears and inserting “the regulated
6 entity”;

7 (2) in section 1369C (12 U.S.C. 4622), by strik-
8 ing “enterprise” each place that term appears and in-
9 serting “regulated entity”;

10 (3) in section 1369D (12 U.S.C. 4623)—

11 (A) by striking “an enterprise” each place
12 that term appears and inserting “a regulated en-
13 tity”; and

14 (B) in subsection (a)(1), by striking “An
15 enterprise” and inserting “A regulated entity”;
16 and

17 (4) by striking sections 1369, 1369A, and 1369B
18 (12 U.S.C. 4619, 4620, and 4621).

19 **Subtitle D—Enforcement Actions**

20 **SEC. 1151. CEASE AND DESIST PROCEEDINGS.**

21 Section 1371 of the Federal Housing Enterprises Fi-
22 nancial Safety and Soundness Act of 1992 (12 U.S.C. 4631)
23 is amended—

24 (1) by striking subsections (a) and (b) and in-
25 serting the following:

1 “(a) *ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES*
2 *AND VIOLATIONS.*—

3 “(1) *AUTHORITY OF DIRECTOR.*—*If, in the opin-*
4 *ion of the Director, a regulated entity or any entity-*
5 *affiliated party is engaging or has engaged, or the Di-*
6 *rector has reasonable cause to believe that the regu-*
7 *lated entity or any entity-affiliated party is about to*
8 *engage, in an unsafe or unsound practice in con-*
9 *ducting the business of the regulated entity or the Of-*
10 *fice of Finance, or is violating or has violated, or the*
11 *Director has reasonable cause to believe is about to*
12 *violate, a law, rule, regulation, or order, or any con-*
13 *dition imposed in writing by the Director in connec-*
14 *tion with the granting of any application or other re-*
15 *quest by the regulated entity or the Office of Finance*
16 *or any written agreement entered into with the Direc-*
17 *tor, the Director may issue and serve upon the regu-*
18 *lated entity or entity-affiliated party a notice of*
19 *charges in respect thereof.*

20 “(2) *LIMITATION.*—*The Director may not, pur-*
21 *suant to this section, enforce compliance with any*
22 *housing goal established under subpart B of part 2 of*
23 *subtitle A of this title, with section 1336 or 1337 of*
24 *this title, with subsection (m) or (n) of section 309 of*
25 *the Federal National Mortgage Association Charter*

1 *Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or*
2 *(f) of section 307 of the Federal Home Loan Mortgage*
3 *Corporation Act (12 U.S.C. 1456(e), (f)), or with*
4 *paragraph (5) of section 10(j) of the Federal Home*
5 *Loan Bank Act (12 U.S.C. 1430(j)).*

6 “(b) *ISSUANCE FOR UNSATISFACTORY RATING.—If a*
7 *regulated entity receives, in its most recent report of exam-*
8 *ination, a less-than-satisfactory rating for asset quality,*
9 *management, earnings, or liquidity, the Director may (if*
10 *the deficiency is not corrected) deem the regulated entity*
11 *to be engaging in an unsafe or unsound practice for pur-*
12 *poses of subsection (a).”;*

13 *(2) in subsection (c)—*

14 *(A) in paragraph (1), by inserting before*
15 *the period at the end the following: “, unless the*
16 *party served with a notice of charges shall ap-*
17 *pear at the hearing personally or by a duly au-*
18 *thorized representative, the party shall be deemed*
19 *to have consented to the issuance of the cease and*
20 *desist order”;* and

21 *(B) in paragraph (2)—*

22 *(i) by striking “or director” and in-*
23 *serting “director, or entity-affiliated party”;*
24 and

1 (ii) by inserting “or entity-affiliated
2 party” before “consents”;

3 (3) in each of subsections (c), (d), and (e)—

4 (A) by striking “the enterprise” each place
5 that term appears and inserting “the regulated
6 entity”;

7 (B) by striking “an enterprise” each place
8 that term appears and inserting “a regulated en-
9 tity”; and

10 (C) by striking “conduct” each place that
11 term appears and inserting “practice”;

12 (4) in subsection (d)—

13 (A) in the matter preceding paragraph
14 (1)—

15 (i) by striking “or director” and in-
16 serting “director, or entity-affiliated party”;
17 and

18 (ii) by inserting “to require a regu-
19 lated entity or entity-affiliated party” after
20 “includes the authority”;

21 (B) in paragraph (1)—

22 (i) by striking “to require an executive
23 officer or a director to”; and

1 (ii) by striking “loss” and all that fol-
2 lows through “person” and inserting “loss,
3 if”;

4 (iii) in subparagraph (A), by inserting
5 “such entity or party or finance facility”
6 before “was”; and

7 (iv) by striking subparagraph (B) and
8 inserting the following:

9 “(B) the violation or practice involved a
10 reckless disregard for the law or any applicable
11 regulations or prior order of the Director;”;

12 (C) in paragraph (4), by inserting “loan
13 or” before “asset”;

14 (5) in subsection (e), by inserting “or entity-af-
15 filiated party”—

16 (A) before “or any executive”; and

17 (B) before the period at the end; and

18 (6) in subsection (f)—

19 (A) by striking “enterprise” and inserting
20 “regulated entity, finance facility,”; and

21 (B) by striking “or director” and inserting
22 “director, or entity-affiliated party”.

1 **SEC. 1152. TEMPORARY CEASE AND DESIST PROCEEDINGS.**

2 *Section 1372 of the Federal Housing Enterprises Fi-*
3 *nancial Safety and Soundness Act of 1992 (12 U.S.C. 4632)*
4 *is amended—*

5 *(1) by striking subsection (a) and inserting the*
6 *following:*

7 *“(a) GROUNDS FOR ISSUANCE.—*

8 *“(1) IN GENERAL.—If the Director determines*
9 *that the actions specified in the notice of charges*
10 *served upon a regulated entity or any entity-affiliated*
11 *party pursuant to section 1371(a), or the continu-*
12 *ation thereof, is likely to cause insolvency or signifi-*
13 *cant dissipation of assets or earnings of that entity,*
14 *or is likely to weaken the condition of that entity*
15 *prior to the completion of the proceedings conducted*
16 *pursuant to sections 1371 and 1373, the Director*
17 *may—*

18 *“(A) issue a temporary order requiring that*
19 *regulated entity or entity-affiliated party to*
20 *cease and desist from any such violation or prac-*
21 *tice; and*

22 *“(B) require that regulated entity or entity-*
23 *affiliated party to take affirmative action to pre-*
24 *vent or remedy such insolvency, dissipation, con-*
25 *dition, or prejudice pending completion of such*
26 *proceedings.*

1 “(2) *ADDITIONAL REQUIREMENTS.*—*An order*
2 *issued under paragraph (1) may include any require-*
3 *ment authorized under subsection 1371(d).”;*

4 (2) *in subsection (b)—*

5 (A) *by striking “or director” and inserting*
6 *“director, or entity-affiliated party”;* and

7 (B) *by striking “enterprise” each place that*
8 *term appears and inserting “regulated entity”;*

9 (3) *in subsection (c), by striking “enterprise”*
10 *each place that term appears and inserting “regulated*
11 *entity”;*

12 (4) *in subsection (d)—*

13 (A) *by striking “or director” each place that*
14 *term appears and inserting “director, or entity-*
15 *affiliated party”;* and

16 (B) *by striking “An enterprise” and insert-*
17 *ing “A regulated entity”;* and

18 (5) *in subsection (e)—*

19 (A) *by striking “request the Attorney Gen-*
20 *eral of the United States to”;* and

21 (B) *by striking “or may, under the direc-*
22 *tion and control of the Attorney General, bring*
23 *such action”.*

1 **SEC. 1153. REMOVAL AND PROHIBITION AUTHORITY.**

2 (a) *IN GENERAL.*—Part 1 of subtitle C of the Federal
3 Housing Enterprises Financial Safety and Soundness Act
4 of 1992 (12 U.S.C. 4631 et seq.) is amended—

5 (1) by redesignating sections 1377 through
6 1379B (12 U.S.C. 4637–4641) as sections 1379
7 through 1379D, respectively; and

8 (2) by inserting after section 1376 (12 U.S.C.
9 4636) the following:

10 **“SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.**

11 **“(a) AUTHORITY TO ISSUE ORDER.**—

12 “(1) *IN GENERAL.*—The Director may serve upon
13 a party described in paragraph (2), or any officer,
14 director, or management of the Office of Finance a
15 written notice of the intention of the Director to sus-
16 pend or remove such party from office, or prohibit
17 any further participation by such party, in any man-
18 ner, in the conduct of the affairs of the regulated enti-
19 ty.

20 “(2) *APPLICABILITY.*—A party described in this
21 paragraph is an entity-affiliated party or any officer,
22 director, or management of the Office of Finance, if
23 the Director determines that—

24 “(A) that party, officer, or director has, di-
25 rectly or indirectly—

26 “(i) violated—

1 “(I) any law or regulation;

2 “(II) any cease and desist order
3 which has become final;

4 “(III) any condition imposed in
5 writing by the Director in connection
6 with the grant of any application or
7 other request by such regulated entity;
8 or

9 “(IV) any written agreement be-
10 tween such regulated entity and the
11 Director;

12 “(ii) engaged or participated in any
13 unsafe or unsound practice in connection
14 with any regulated entity or business insti-
15 tution; or

16 “(iii) committed or engaged in any
17 act, omission, or practice which constitutes
18 a breach of such party’s fiduciary duty;

19 “(B) by reason of the violation, practice, or
20 breach described in subparagraph (A)—

21 “(i) such regulated entity or business
22 institution has suffered or will probably suf-
23 fer financial loss or other damage; or

24 “(ii) such party has received financial
25 gain or other benefit; and

1 “(C) *the violation, practice, or breach de-*
2 *scribed in subparagraph (A)—*

3 “(i) *involves personal dishonesty on the*
4 *part of such party; or*

5 “(ii) *demonstrates willful or con-*
6 *tinuing disregard by such party for the*
7 *safety or soundness of such regulated entity*
8 *or business institution.*

9 “(b) *SUSPENSION ORDER.—*

10 “(1) *SUSPENSION OR PROHIBITION AUTHOR-*
11 *ITY.—If the Director serves written notice under sub-*
12 *section (a) upon a party subject to that subsection*
13 *(a), the Director may, by order, suspend or remove*
14 *such party from office, or prohibit such party from*
15 *further participation in any manner in the conduct*
16 *of the affairs of the regulated entity, if the Director—*

17 “(A) *determines that such action is nec-*
18 *essary for the protection of the regulated entity;*
19 *and*

20 “(B) *serves such party with written notice*
21 *of the order.*

22 “(2) *EFFECTIVE PERIOD.—Any order issued*
23 *under this subsection—*

24 “(A) *shall become effective upon service; and*

1 “(B) unless a court issues a stay of such
2 order under subsection (g), shall remain in effect
3 and enforceable until—

4 “(i) the date on which the Director dis-
5 misses the charges contained in the notice
6 served under subsection (a) with respect to
7 such party; or

8 “(ii) the effective date of an order
9 issued under subsection (b).

10 “(3) COPY OF ORDER.—If the Director issues an
11 order under subsection (b) to any party, the Director
12 shall serve a copy of such order on any regulated enti-
13 ty with which such party is affiliated at the time
14 such order is issued.

15 “(c) NOTICE, HEARING, AND ORDER.—

16 “(1) NOTICE.—A notice under subsection (a) of
17 the intention of the Director to issue an order under
18 this section shall contain a statement of the facts con-
19 stituting grounds for such action, and shall fix a time
20 and place at which a hearing will be held on such ac-
21 tion.

22 “(2) TIMING OF HEARING.—A hearing shall be
23 fixed for a date not earlier than 30 days, nor later
24 than 60 days, after the date of service of notice under

1 subsection (a), unless an earlier or a later date is set
2 by the Director at the request of—

3 “(A) the party receiving such notice, and
4 good cause is shown; or

5 “(B) the Attorney General of the United
6 States.

7 “(3) CONSENT.—Unless the party that is the
8 subject of a notice delivered under subsection (a) ap-
9 pears at the hearing in person or by a duly author-
10 ized representative, such party shall be deemed to
11 have consented to the issuance of an order under this
12 section.

13 “(4) ISSUANCE OF ORDER OF SUSPENSION.—The
14 Director may issue an order under this section, as the
15 Director may deem appropriate, if—

16 “(A) a party is deemed to have consented to
17 the issuance of an order under paragraph (3); or

18 “(B) upon the record made at the hearing,
19 the Director finds that any of the grounds speci-
20 fied in the notice have been established.

21 “(5) EFFECTIVENESS OF ORDER.—Any order
22 issued under paragraph (4) shall become effective at
23 the expiration of 30 days after the date of service
24 upon the relevant regulated entity and party (except
25 in the case of an order issued upon consent under

1 paragraph (3), which shall become effective at the
2 time specified therein). Such order shall remain effec-
3 tive and enforceable except to such extent as it is
4 stayed, modified, terminated, or set aside by action of
5 the Director or a reviewing court.

6 “(d) *PROHIBITION OF CERTAIN SPECIFIC ACTIVI-*
7 *TIES.*—Any person subject to an order issued under this sec-
8 tion shall not—

9 “(1) participate in any manner in the conduct
10 of the affairs of any regulated entity or the Office of
11 Finance;

12 “(2) solicit, procure, transfer, attempt to trans-
13 fer, vote, or attempt to vote any proxy, consent, or au-
14 thorization with respect to any voting rights in any
15 regulated entity;

16 “(3) violate any voting agreement previously ap-
17 proved by the Director; or

18 “(4) vote for a director, or serve or act as an en-
19 tity-affiliated party of a regulated entity or as an of-
20 ficer or director of the Office of Finance.

21 “(e) *INDUSTRY-WIDE PROHIBITION.*—

22 “(1) *IN GENERAL.*—Except as provided in para-
23 graph (2), any person who, pursuant to an order
24 issued under this section, has been removed or sus-
25 pended from office in a regulated entity or the Office

1 *of Finance, or prohibited from participating in the*
2 *conduct of the affairs of a regulated entity or the Of-*
3 *fice of Finance, may not, while such order is in effect,*
4 *continue or commence to hold any office in, or par-*
5 *ticipate in any manner in the conduct of the affairs*
6 *of, any regulated entity or the Office of Finance.*

7 “(2) *EXCEPTION IF DIRECTOR PROVIDES WRIT-*
8 *TEN CONSENT.—If, on or after the date on which an*
9 *order is issued under this section which removes or*
10 *suspends from office any party, or prohibits such*
11 *party from participating in the conduct of the affairs*
12 *of a regulated entity or the Office of Finance, such*
13 *party receives the written consent of the Director, the*
14 *order shall, to the extent of such consent, cease to*
15 *apply to such party with respect to the regulated enti-*
16 *ty or such Office of Finance described in the written*
17 *consent. Any such consent shall be publicly disclosed.*

18 “(3) *VIOLATION OF PARAGRAPH (1) TREATED AS*
19 *VIOLATION OF ORDER.—Any violation of paragraph*
20 *(1) by any person who is subject to an order issued*
21 *under subsection (h) shall be treated as a violation of*
22 *the order.*

23 “(f) *APPLICABILITY.—This section shall only apply to*
24 *a person who is an individual, unless the Director specifi-*

1 cally finds that it should apply to a corporation, firm, or
2 other business entity.

3 “(g) *STAY OF SUSPENSION AND PROHIBITION OF EN-*
4 *TITY-AFFILIATED PARTY.*—Not later than 10 days after the
5 date on which any entity-affiliated party has been sus-
6 pended from office or prohibited from participation in the
7 conduct of the affairs of a regulated entity under this sec-
8 tion, such party may apply to the United States District
9 Court for the District of Columbia, or the United States
10 district court for the judicial district in which the head-
11 quarters of the regulated entity is located, for a stay of such
12 suspension or prohibition pending the completion of the ad-
13 ministrative proceedings pursuant to subsection (c). The
14 court shall have jurisdiction to stay such suspension or pro-
15 hibition.

16 “(h) *SUSPENSION OR REMOVAL OF ENTITY-AFFILI-*
17 *ATED PARTY CHARGED WITH FELONY.*—

18 “(1) *SUSPENSION OR PROHIBITION.*—

19 “(A) *IN GENERAL.*—Whenever any entity-
20 affiliated party is charged in any information,
21 indictment, or complaint, with the commission
22 of or participation in a crime involving dishon-
23 esty or breach of trust which is punishable by
24 imprisonment for a term exceeding 1 year under
25 Federal or State law, the Director may, if con-

1 *tinued service or participation by such party*
2 *may pose a threat to the regulated entity or im-*
3 *pair public confidence in the regulated entity, by*
4 *written notice served upon such party, suspend*
5 *such party from office or prohibit such party*
6 *from further participation in any manner in the*
7 *conduct of the affairs of any regulated entity.*

8 “(B) *PROVISIONS APPLICABLE TO NO-*
9 *TICE.—*

10 “(i) *COPY.—A copy of any notice*
11 *under subparagraph (A) shall be served*
12 *upon the relevant regulated entity.*

13 “(ii) *EFFECTIVE PERIOD.—A suspen-*
14 *sion or prohibition under subparagraph (A)*
15 *shall remain in effect until the information,*
16 *indictment, or complaint referred to in sub-*
17 *paragraph (A) is finally disposed of, or*
18 *until terminated by the Director.*

19 “(2) *REMOVAL OR PROHIBITION.—*

20 “(A) *IN GENERAL.—If a judgment of con-*
21 *viction or an agreement to enter a pretrial diver-*
22 *sion or other similar program is entered against*
23 *an entity-affiliated party in connection with a*
24 *crime described in paragraph (1)(A), at such*
25 *time as such judgment is not subject to further*

1 *appellate review, the Director may, if continued*
2 *service or participation by such party may pose*
3 *a threat to the regulated entity or impair public*
4 *confidence in the regulated entity, issue and*
5 *serve upon such party an order removing such*
6 *party from office or prohibiting such party from*
7 *further participation in any manner in the con-*
8 *duct of the affairs of the regulated entity without*
9 *the prior written consent of the Director.*

10 “(B) *PROVISIONS APPLICABLE TO ORDER.*—

11 “(i) *COPY.*—*A copy of any order under*
12 *subparagraph (A) shall be served upon the*
13 *relevant regulated entity, at which time the*
14 *entity-affiliated party who is subject to the*
15 *order (if a director or an officer) shall cease*
16 *to be a director or officer of such regulated*
17 *entity.*

18 “(ii) *EFFECT OF ACQUITTAL.*—*A find-*
19 *ing of not guilty or other disposition of the*
20 *charge shall not preclude the Director from*
21 *instituting proceedings after such finding or*
22 *disposition to remove a party from office or*
23 *to prohibit further participation in the af-*
24 *airs of a regulated entity pursuant to sub-*
25 *section (a) or (b).*

1 “(iii) *EFFECTIVE PERIOD.*—Unless ter-
2 minated by the Director, any notice of sus-
3 pension or order of removal issued under
4 this subsection shall remain effective and
5 outstanding until the completion of any
6 hearing or appeal authorized under para-
7 graph (4).

8 “(3) *AUTHORITY OF REMAINING BOARD MEM-*
9 *BERS.*—

10 “(A) *IN GENERAL.*—If at any time, because
11 of the suspension of 1 or more directors pursuant
12 to this section, there shall be on the board of di-
13 rectors of a regulated entity less than a quorum
14 of directors not so suspended, all powers and
15 functions vested in or exercisable by such board
16 shall vest in and be exercisable by the director or
17 directors on the board not so suspended, until
18 such time as there shall be a quorum of the board
19 of directors.

20 “(B) *APPOINTMENT OF TEMPORARY DIREC-*
21 *TORS.*—If all of the directors of a regulated enti-
22 ty are suspended pursuant to this section, the
23 Director shall appoint persons to serve tempo-
24 rarily as directors pending the termination of
25 such suspensions, or until such time as those who

1 *have been suspended cease to be directors of the*
2 *regulated entity and their respective successors*
3 *take office.*

4 “(4) *HEARING REGARDING CONTINUED PARTICI-*
5 *PATION.—*

6 “(A) *IN GENERAL.—Not later than 30 days*
7 *after the date of service of any notice of suspen-*
8 *sion or order of removal issued pursuant to*
9 *paragraph (1) or (2), the entity-affiliated party*
10 *may request in writing an opportunity to ap-*
11 *pear before the Director to show that the contin-*
12 *ued service or participation in the conduct of the*
13 *affairs of the regulated entity by such party does*
14 *not, or is not likely to, pose a threat to the inter-*
15 *ests of the regulated entity, or threaten to impair*
16 *public confidence in the regulated entity.*

17 “(B) *TIMING AND FORM OF HEARING.—*
18 *Upon receipt of a request for a hearing under*
19 *subparagraph (A), the Director shall fix a time*
20 *(not later than 30 days after the date of receipt*
21 *of such request, unless extended at the request of*
22 *such party) and place at which the entity-affili-*
23 *ated party may appear, personally or through*
24 *counsel, before the Director or 1 or more des-*
25 *ignated employees of the Director to submit writ-*

1 *ten materials (or, at the discretion of the Direc-*
2 *tor, oral testimony) and oral argument.*

3 “(C) *DETERMINATION.*—*Not later than 60*
4 *days after the date of a hearing under subpara-*
5 *graph (B), the Director shall notify the entity-af-*
6 *filiated party whether the suspension or prohibi-*
7 *tion from participation in any manner in the*
8 *conduct of the affairs of the regulated entity will*
9 *be continued, terminated, or otherwise modified,*
10 *or whether the order removing such party from*
11 *office or prohibiting such party from further*
12 *participation in any manner in the conduct of*
13 *the affairs of the regulated entity will be re-*
14 *scinded or otherwise modified. Such notification*
15 *shall contain a statement of the basis for any ad-*
16 *verse decision of the Director.*

17 “(5) *RULES.*—*The Director is authorized to pre-*
18 *scribe such rules as may be necessary to carry out*
19 *this subsection.”.*

20 (b) *CONFORMING AMENDMENTS.*—

21 (1) *SAFETY AND SOUNDNESS ACT.*—*Subtitle C of*
22 *the Federal Housing Enterprises Financial Safety*
23 *and Soundness Act of 1992 (12 U.S.C. 4501 et seq.)*
24 *is amended—*

1 (A) in section 1317(f), by striking “section
2 1379B” and inserting “section 1379D”;

3 (B) in section 1373(a)—

4 (i) in paragraph (1), by striking “or
5 1376(c)” and inserting “, 1376(c), or
6 1377”;

7 (ii) in paragraph (2), by inserting “or
8 1377” after” 1371”; and

9 (iii) in paragraph (4), by inserting
10 “or removal or prohibition” after “cease
11 and desist”; and

12 (C) in section 1374(a)—

13 (i) by striking “or 1376” and inserting
14 “1313B, 1376, or 1377”; and

15 (ii) by striking “such section” and in-
16 serting “this title”.

17 (2) *FANNIE MAE CHARTER ACT.*—Section 308(b)
18 of the *Federal National Mortgage Association Charter*
19 *Act* (12 U.S.C. 1723(b)) is amended in the second
20 sentence, by striking “The” and inserting “Except to
21 the extent that action under section 1377 of the *Fed-*
22 *eral Housing Enterprises Financial Safety and*
23 *Soundness Act of 1992 temporarily results in a lesser*
24 *number, the”.*

1 (3) *FREDDIE MAC CHARTER ACT.*—Section
2 303(a)(2)(A) of the *Federal Home Loan Mortgage*
3 *Corporation Act* (12 U.S.C. 1452(a)(2)(A)) is amend-
4 ed, in the second sentence, by striking “The” and in-
5 serting “Except to the extent action under section
6 1377 of the *Federal Housing Enterprises Financial*
7 *Safety and Soundness Act of 1992* temporarily results
8 in a lesser number, the”.

9 **SEC. 1154. ENFORCEMENT AND JURISDICTION.**

10 Section 1375 of the *Federal Housing Enterprises Fi-*
11 *ancial Safety and Soundness Act of 1992* (12 U.S.C. 4635)
12 is amended—

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

15 “(a) *ENFORCEMENT.*—The Director may, in the dis-
16 cretion of the Director, apply to the United States District
17 Court for the District of Columbia, or the United States
18 district court within the jurisdiction of which the head-
19 quarters of the regulated entity is located, for the enforce-
20 ment of any effective and outstanding notice or order issued
21 under this subtitle or subtitle B, or request that the Attorney
22 General of the United States bring such an action. Such
23 court shall have jurisdiction and power to order and require
24 compliance with such notice or order.”; and

1 (2) *in subsection (b), by striking “or 1376” and*
2 *inserting “1313B, 1376, or 1377”.*

3 **SEC. 1155. CIVIL MONEY PENALTIES.**

4 *Section 1376 of the Federal Housing Enterprises Fi-*
5 *nancial Safety and Soundness Act of 1992 (12 U.S.C. 4636)*
6 *is amended—*

7 (1) *by striking subsection (a) and inserting the*
8 *following:*

9 “(a) *IN GENERAL.—The Director may impose a civil*
10 *money penalty in accordance with this section on any regu-*
11 *lated entity or any entity-affiliated party. The Director*
12 *shall not impose a civil penalty in accordance with this*
13 *section on any regulated entity or any entity-affiliated*
14 *party for any violation that is addressed under section*
15 *1345(a).”;*

16 (2) *by striking subsection (b) and inserting the*
17 *following:*

18 “(b) *AMOUNT OF PENALTY.—*

19 “(1) *FIRST TIER.—A regulated entity or entity-*
20 *affiliated party shall forfeit and pay a civil penalty*
21 *of not more than \$10,000 for each day during which*
22 *a violation continues, if such regulated entity or*
23 *party—*

24 “(A) *violates any provision of this title, the*
25 *authorizing statutes, or any order, condition,*

1 *rule, or regulation under this title or any au-*
2 *thorizing statute;*

3 *“(B) violates any final or temporary order*
4 *or notice issued pursuant to this title;*

5 *“(C) violates any condition imposed in*
6 *writing by the Director in connection with the*
7 *grant of any application or other request by such*
8 *regulated entity; or*

9 *“(D) violates any written agreement be-*
10 *tween the regulated entity and the Director.*

11 *“(2) SECOND TIER.—Notwithstanding paragraph*
12 *(1), a regulated entity or entity-affiliated party shall*
13 *forfeit and pay a civil penalty of not more than*
14 *\$50,000 for each day during which a violation, prac-*
15 *tice, or breach continues, if—*

16 *“(A) the regulated entity or entity-affiliated*
17 *party, respectively—*

18 *“(i) commits any violation described*
19 *in any subparagraph of paragraph (1);*

20 *“(ii) recklessly engages in an unsafe or*
21 *unsound practice in conducting the affairs*
22 *of the regulated entity; or*

23 *“(iii) breaches any fiduciary duty; and*

24 *“(B) the violation, practice, or breach—*

25 *“(i) is part of a pattern of misconduct;*

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 paragraphs
7 (1) and (2), any regulated entity or entity-affiliated
8 party shall forfeit and pay a civil penalty in an
9 amount not to exceed the applicable maximum
10 amount determined under paragraph (4) for each day
11 during which such violation, practice, or breach con-
12 tinues, 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 unsound
18 practice in conducting the affairs of the reg-
19 ulated 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 substan-
23 tial 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 ANY*
2 *VIOLATION DESCRIBED IN PARAGRAPH (3).*—*The max-*
3 *imum daily amount of any civil penalty which may*
4 *be assessed pursuant to paragraph (3) for any viola-*
5 *tion, practice, or breach described in paragraph (3)*
6 *is—*

7 “(A) *in the case of any entity-affiliated*
8 *party, an amount not to exceed \$2,000,000; and*

9 “(B) *in the case of any regulated entity,*
10 *\$2,000,000.”;*

11 (3) *in subsection (c)—*

12 (A) *by striking “enterprise” each place that*
13 *term appears and inserting “regulated entity”;*

14 (B) *by inserting “or entity-affiliated party”*
15 *before “in writing”; and*

16 (C) *by inserting “or entity-affiliated party”*
17 *before “has been given”;*

18 (4) *in subsection (d)—*

19 (A) *by striking “or director” each place*
20 *such term appears and inserting “director, or*
21 *entity-affiliated party”;*

22 (B) *by striking “an enterprise” and insert-*
23 *ing “a regulated entity”;*

24 (C) *by striking “the enterprise” and insert-*
25 *ing “the regulated entity”;*

1 (D) by striking “request the Attorney Gen-
2 eral of the United States to”;

3 (E) by inserting “, or the United States dis-
4 trict court within the jurisdiction of which the
5 headquarters of the regulated entity is located,”
6 after “District of Columbia”;

7 (F) by striking “, or may, under the direc-
8 tion and control of the Attorney General of the
9 United States, bring such an action”; and

10 (G) by striking “and section 1374”; and

11 (5) in subsection (g), by striking “An enterprise”
12 and inserting “A regulated entity”.

13 **SEC. 1156. CRIMINAL PENALTY.**

14 (a) *IN GENERAL.*—Subtitle C of the Federal Housing
15 Enterprises Financial Safety and Soundness Act of 1992
16 (12 U.S.C. 4631 et seq.) is amended by inserting after sec-
17 tion 1377, as added by this Act, the following:

18 **“SEC. 1378. CRIMINAL PENALTY.**

19 “Whoever, being subject to an order in effect under sec-
20 tion 1377, without the prior written approval of the Direc-
21 tor, knowingly participates, directly or indirectly, in any
22 manner (including by engaging in an activity specifically
23 prohibited in such an order) in the conduct of the affairs
24 of any regulated entity shall, notwithstanding section 3571

1 of title 18, be fined not more than \$1,000,000, imprisoned
2 for not more than 5 years, or both.”.

3 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—
4 *The Federal Housing Enterprises Financial Safety and*
5 *Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amend-*
6 *ed—*

7 (1) *in section 1379 (as so designated by this*
8 *Act)—*

9 (A) *by striking “an enterprise” and insert-*
10 *ing “a regulated entity”; and*

11 (B) *by striking “the enterprise” and insert-*
12 *ing “the regulated entity”;*

13 (2) *in section 1379A (as so designated by this*
14 *Act), by striking “an enterprise” and inserting “a*
15 *regulated entity”;*

16 (3) *in section 1379B(c) (as so designated by this*
17 *Act), by striking “enterprise” and inserting “regu-*
18 *lated entity”; and*

19 (4) *in section 1379D (as so designated by this*
20 *Act), by striking “enterprise” and inserting “regu-*
21 *lated entity”.*

22 **SEC. 1157. NOTICE AFTER SEPARATION FROM SERVICE.**

23 *Section 1379 of the Federal Housing Enterprises Fi-*
24 *ancial Safety and Soundness Act of 1992 (12 U.S.C.*
25 *4637), as so designated by this Act, is amended—*

1 (1) by striking “2-year” and inserting “6-year”;

2 (2) by striking “a director or executive officer of
3 an enterprise” and inserting “an entity-affiliated
4 party”;

5 (3) by striking “director or officer” each place
6 that term appears and inserting “entity-affiliated
7 party”; and

8 (4) by striking “enterprise.” and inserting “reg-
9 ulated entity.”.

10 **SEC. 1158. SUBPOENA AUTHORITY.**

11 (a) *IN GENERAL.*—Section 1379B of the Federal Hous-
12 ing Enterprises Financial Safety and Soundness Act of
13 1992 (12 U.S.C. 4641) is amended—

14 (1) in subsection (a)—

15 (A) in the matter preceding paragraph

16 (1)—

17 (i) by striking “administrative”;

18 (ii) by inserting “, examination, or in-
19 vestigation” after “proceeding”;

20 (iii) by striking “subtitle” and insert-
21 ing “title”; and

22 (iv) by inserting “or any designated
23 representative thereof, including any person
24 designated to conduct any hearing under
25 this subtitle” after “Director”; and

1 (B) in paragraph (4), by striking “issued
2 by the Director”;

3 (2) in subsection (b), by inserting “or in any
4 territory or other place subject to the jurisdiction of
5 the United States” after “State”;

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

8 “(c) *ENFORCEMENT.*—

9 “(1) *IN GENERAL.*—The Director, or any party
10 to proceedings under this subtitle, may apply to the
11 United States District Court for the District of Co-
12 lumbia, or the United States district court for the ju-
13 dicial district of the United States in any territory
14 in which such proceeding is being conducted, or where
15 the witness resides or carries on business, for enforce-
16 ment of any subpoena or subpoena duces tecum issued
17 pursuant to this section.

18 “(2) *POWER OF COURT.*—The courts described
19 under paragraph (1) shall have the jurisdiction and
20 power to order and require compliance with any sub-
21 poena issued under paragraph (1).”;

22 (4) in subsection (d), by inserting “enterprise-af-
23 filiated party” before “may allow”; and

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

1 “(e) *PENALTIES.*—A person shall be guilty of a mis-
 2 demeanor, and upon conviction, shall be subject to a fine
 3 of not more than \$1,000 or to imprisonment for a term
 4 of not more than 1 year, or both, if that person willfully
 5 fails or refuses, in disobedience of a subpoena issued under
 6 subsection (c), to—

7 “(1) attend court;

8 “(2) testify in court;

9 “(3) answer any lawful inquiry; or

10 “(4) produce books, papers, correspondence, con-
 11 tracts, agreements, or such other records as requested
 12 in the subpoena.”.

13 ***Subtitle E—General Provisions***

14 ***SEC. 1161. CONFORMING AND TECHNICAL AMENDMENTS.***

15 (a) *AMENDMENTS TO 1992 ACT.*—The Federal Hous-
 16 ing Enterprises Financial Safety and Soundness Act of
 17 1992 (12 U.S.C. 4501 et seq.), as amended by this Act, is
 18 amended—

19 (1) in section 1315 (12 U.S.C. 4515)—

20 (A) in subsection (a)—

21 (i) by striking “(a) *OFFICE PER-*
 22 *SONNEL.—The*” and inserting “(a) *IN GEN-*
 23 *ERAL.—Subject to title III of the Federal*
 24 *Housing Finance Regulatory Reform Act of*
 25 *2008, the*”; and

1 (ii) by striking “the Office” each place
2 that term appears and inserting “the Agen-
3 cy”;

4 (B) in subsection (c), by striking “the Of-
5 fice” and inserting “the Agency”;

6 (C) in subsection (e), by striking “the Of-
7 fice” and inserting “the Agency”;

8 (D) by striking subsection (d) and redesign-
9 ating subsection (e) as subsection (d); and

10 (E) by striking subsection (f);

11 (2) in section 1319A (12 U.S.C. 4520)—

12 (A) by striking “(a) IN GENERAL.—”; and

13 (B) by striking subsection (b);

14 (3) in section 1364(c) (12 U.S.C. 4614(c)), by
15 striking the last sentence;

16 (4) by striking section 1383 (12 U.S.C. 1451
17 note);

18 (5) in each of sections 1319D, 1319E, and 1319F
19 (12 U.S.C. 4523, 4524, 4525) by striking “the Office”
20 each place that term appears and inserting “the
21 Agency”; and

22 (6) in each of sections 1319B and 1369(a)(3) (12
23 U.S.C. 4521, 4619(a)(3)), by striking “Committee on
24 Banking, Finance and Urban Affairs” each place

1 *such term appears and inserting “Committee on Fi-*
2 *nancial Services”.*

3 (b) *AMENDMENTS TO FANNIE MAE CHARTER ACT.—*

4 *The Federal National Mortgage Association Charter Act (12*
5 *U.S.C. 1716 et seq.) is amended—*

6 (1) *in each of sections 303(c)(2) (12 U.S.C.*
7 *1718(c)(2)), 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)),*
8 *and 309(k)(1) (12 U.S.C. 1723a(k)(1)), by striking*
9 *“Director of the Office of Federal Housing Enterprise*
10 *Oversight of the Department of Housing and Urban*
11 *Development” each place that term appears, and in-*
12 *serting “Director of the Federal Housing Finance*
13 *Agency”; and*

14 (2) *in section 309—*

15 (A) *in subsection (m) (12 U.S.C.*
16 *1723a(m))—*

17 (i) *in paragraph (1), by striking “to*
18 *the Secretary, in a form determined by the*
19 *Secretary” and inserting “to the Director of*
20 *the Federal Housing Finance Agency, in a*
21 *form determined by the Director”; and*

22 (ii) *in paragraph (2), by striking “to*
23 *the Secretary, in a form determined by the*
24 *Secretary” and inserting “to the Director of*

1 *the Federal Housing Finance Agency, in a*
2 *form determined by the Director”;*

3 *(B) in subsection (n) (12 U.S.C.*
4 *1723a(n))—*

5 *(i) in paragraph (1), by striking “and*
6 *the Secretary” and inserting “and the Di-*
7 *rector of the Federal Housing Finance*
8 *Agency”; and*

9 *(ii) in paragraph (2), by striking*
10 *“Secretary” each place that term appears*
11 *and inserting “Director of the Federal*
12 *Housing Finance Agency”; and*

13 *(C) in paragraph (3)(B), by striking “Sec-*
14 *retary” and inserting “Director of the Federal*
15 *Housing Finance Agency”.*

16 *(c) AMENDMENTS TO FREDDIE MAC CHARTER ACT.—*
17 *The Federal Home Loan Mortgage Corporation Act (12*
18 *U.S.C. 1451 et seq.) is amended—*

19 *(1) in each of sections 303(b)(2) (12 U.S.C.*
20 *1452(b)(2)), 303(h)(2) (12 U.S.C. 1452(h)(2)), and*
21 *section 307(c)(1) (12 U.S.C. 1456(c)(1)), by striking*
22 *“Director of the Office of Federal Housing Enterprise*
23 *Oversight of the Department of Housing and Urban*
24 *Development” each place that term appears, and in-*

1 serting “Director of the Federal Housing Finance
2 Agency”;

3 (2) in section 306 (12 U.S.C. 1455)—

4 (A) in subsection (c)(2), by inserting “the”
5 after “Secretary of”;

6 (B) in subsection (i)—

7 (i) by striking “section 1316(c)” and
8 inserting “section 306(c)”; and

9 (ii) by striking “section 106” and in-
10 serting “section 1316”; and

11 (C) in subsection (j)(2), by striking “of sub-
12 stantially” and inserting “or substantially”; and

13 (3) in section 307 (12 U.S.C. 1456)—

14 (A) in subsection (e)—

15 (i) in paragraph (1), by striking “to
16 the Secretary, in a form determined by the
17 Secretary” and inserting “to the Director of
18 the Federal Housing Finance Agency, in a
19 form determined by the Director”; and

20 (ii) in paragraph (2), by striking “to
21 the Secretary, in a form determined by the
22 Secretary” and inserting “to the Director of
23 the Federal Housing Finance Agency, in a
24 form determined by the Director”; and

25 (B) in subsection (f)—

1 (i) in paragraph (1), by striking “and
2 the Secretary” and inserting “and the Di-
3 rector of the Federal Housing Finance
4 Agency”;

5 (ii) in paragraph (2), by striking “the
6 Secretary” each place that term appears
7 and inserting “the Director of the Federal
8 Housing Finance Agency”; and

9 (iii) in paragraph (3)(B), by striking
10 “Secretary” and inserting “Director of the
11 Federal Housing Finance Agency”.

12 (d) AMENDMENT TO TITLE 18, UNITED STATES
13 CODE.—Section 1905 of title 18, United States Code, is
14 amended by striking “Office of Federal Housing Enterprise
15 Oversight” and inserting “Federal Housing Finance Agen-
16 cy”.

17 (e) AMENDMENTS TO FLOOD DISASTER PROTECTION
18 ACT OF 1973.—Section 102(f)(3)(A) of the Flood Disaster
19 Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is
20 amended by striking “Director of the Office of Federal
21 Housing Enterprise Oversight of the Department of Hous-
22 ing and Urban Development” and inserting “Director of
23 the Federal Housing Finance Agency”.

24 (f) AMENDMENT TO DEPARTMENT OF HOUSING AND
25 URBAN DEVELOPMENT ACT.—Section 5 of the Department

1 *of Housing and Urban Development Act (42 U.S.C. 3534)*
2 *is amended by striking subsection (d).*

3 (g) *AMENDMENTS TO TITLE 5, UNITED STATES*
4 *CODE.—Title 5, United States Code, is amended—*

5 (1) *in section 5313, by striking the item relating*
6 *to the Director of the Office of Federal Housing En-*
7 *terprise Oversight, Department of Housing and*
8 *Urban Development and inserting the following new*
9 *item:*

10 “*Director of the Federal Housing Finance Agen-*
11 *cy.*”; *and*

12 (2) *in section 3132(a)(1)—*

13 (A) *in subparagraph (B), by striking “,*
14 *and” and inserting “, and”;*

15 (B) *in subparagraph (D)—*

16 (i) *by striking “the Federal Housing*
17 *Finance Board”;*

18 (ii) *by striking “the Office of Federal*
19 *Housing Enterprise Oversight of the De-*
20 *partment of Housing and Urban Develop-*
21 *ment” and inserting “the Federal Housing*
22 *Finance Agency”;* *and*

23 (iii) *by striking “or or” at the end;*

1 (C) in subparagraph (E), as added by sec-
2 tion 8(d)(1)(B)(iii) of Public Law 107–123, by
3 adding “or” at the end; and

4 (D) by redesignating subparagraph (E), as
5 added by section 10702(c)(1)(C) of Public Law
6 107–171, as subparagraph (F).

7 (h) AMENDMENT TO SARBANES-OXLEY ACT.—Section
8 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002 (15
9 U.S.C. 7215(b)(5)(B)(ii)(II)) is amended by inserting “and
10 the Director of the Federal Housing Finance Agency,” after
11 “Commission,”.

12 (i) AMENDMENT TO FEDERAL DEPOSIT INSURANCE
13 ACT.—Section 11(t)(2)(A) of the Federal Deposit Insurance
14 Act (12 U.S.C. 1821(t)(2)(A)) is amended by adding at the
15 end the following:

16 “(vii) Federal Housing Finance Agen-
17 cy.”.

18 **SEC. 1162. PRESIDENTIALLY-APPOINTED DIRECTORS OF**
19 **ENTERPRISES.**

20 (a) FANNIE MAE.—

21 (1) IN GENERAL.—Section 308(b) of the Federal
22 National Mortgage Association Charter Act (12
23 U.S.C. 1723(b)) is amended—

24 (A) in the first sentence, by striking “eight-
25 teen persons, five of whom shall be appointed an-

1 nually by the President of the United States, and
2 the remainder of whom” and inserting “13 per-
3 sons, or such other number that the Director de-
4 termines appropriate, who”;

5 (B) in the second sentence, by striking “ap-
6 pointed by the President”;

7 (C) in the third sentence—

8 (i) by striking “appointed or”; and

9 (ii) by striking “, except that any such
10 appointed member may be removed from of-
11 fice by the President for good cause”;

12 (D) in the fourth sentence, by striking “elec-
13 tive”; and

14 (E) by striking the fifth sentence.

15 (2) *TRANSITIONAL PROVISION.*—The amendments
16 made by paragraph (1) shall not apply to any ap-
17 pointed position of the board of directors of the Fed-
18 eral National Mortgage Association until the expira-
19 tion of the annual term for such position during
20 which the effective date under section 1163 occurs.

21 (b) *FREDDIE MAC.*—

22 (1) *IN GENERAL.*—Section 303(a)(2) of the Fed-
23 eral Home Loan Mortgage Corporation Act (12
24 U.S.C. 1452(a)(2)) is amended—

25 (A) in subparagraph (A)—

1 (i) *in the first sentence, by striking*
2 *“18 persons, 5 of whom shall be appointed*
3 *annually by the President of the United*
4 *States and the remainder of whom” and in-*
5 *serting “13 persons, or such other number*
6 *as the Director determines appropriate,*
7 *who”;* and

8 (ii) *in the second sentence, by striking*
9 *“appointed by the President of the United*
10 *States”;*

11 (B) *in subparagraph (B)—*

12 (i) *by striking “such or”;* and

13 (ii) *by striking “, except that any ap-*
14 *pointed member may be removed from office*
15 *by the President for good cause”;* and

16 (C) *in subparagraph (C)—*

17 (i) *by striking the first sentence;* and

18 (ii) *by striking “elective”.*

19 (2) *TRANSITIONAL PROVISION.—The amendments*
20 *made by paragraph (1) shall not apply to any ap-*
21 *pointed position of the board of directors of the Fed-*
22 *eral Home Loan Mortgage Corporation until the expi-*
23 *ration of the annual term for such position during*
24 *which the effective date under section 1163 occurs.*

1 **SEC. 1163. EFFECTIVE DATE.**

2 *Except as otherwise specifically provided in this title,*
 3 *this title and the amendments made by this title shall take*
 4 *effect on, and shall apply beginning on, the date of enact-*
 5 *ment of this Act.*

6 **TITLE II—FEDERAL HOME LOAN**
 7 **BANKS**

8 **SEC. 1201. RECOGNITION OF DISTINCTIONS BETWEEN THE**
 9 **ENTERPRISES AND THE FEDERAL HOME**
 10 **LOAN BANKS.**

11 *Section 1313 of the Federal Housing Enterprises Fi-*
 12 *nancial Safety and Soundness Act of 1992 (12 U.S.C. 4513)*
 13 *is amended by adding at the end the following:*

14 *“(f) RECOGNITION OF DISTINCTIONS BETWEEN THE*
 15 *ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.—*
 16 *Prior to promulgating any regulation or taking any other*
 17 *formal or informal agency action of general applicability*
 18 *relating to the Federal Home Loan Banks, including the*
 19 *issuance of an advisory document or examination guidance,*
 20 *the Director shall consider the differences between the Fed-*
 21 *eral Home Loan Banks and the enterprises with respect*
 22 *to—*

23 *“(1) the Banks’—*

24 *“(A) cooperative ownership structure;*

25 *“(B) the mission of providing liquidity to*
 26 *members;*

1 “(C) *affordable housing and community de-*
2 *velopment mission;*

3 “(D) *capital structure; and*

4 “(E) *joint and several liability; and*

5 “(2) *any other differences that the Director con-*
6 *siders appropriate.”.*

7 **SEC. 1202. DIRECTORS.**

8 *Section 7 of the Federal Home Loan Bank Act (12*
9 *U.S.C. 1427) is amended—*

10 (1) *by striking subsection (a) and inserting the*
11 *following:*

12 “(a) *NUMBER; ELECTION; QUALIFICATIONS; CON-*
13 *FLICTS OF INTEREST.—*

14 “(1) *IN GENERAL.—Subject to paragraphs (2)*
15 *through (4), the management of each Federal Home*
16 *Loan Bank shall be vested in a board of 13 directors,*
17 *or such other number as the Director determines ap-*
18 *propriate.*

19 “(2) *BOARD MAKEUP.—The board of directors of*
20 *each Bank shall be comprised of—*

21 “(A) *member directors, who shall comprise*
22 *at least the majority of the members of the board*
23 *of directors; and*

1 “(B) independent directors, who shall com-
2 prise not fewer than $\frac{2}{5}$ of the members of the
3 board of directors.

4 “(3) SELECTION CRITERIA.—

5 “(A) IN GENERAL.—Each member of the
6 board of directors shall be—

7 “(i) elected by plurality vote of the
8 members, in accordance with procedures es-
9 tablished under this section; and

10 “(ii) a citizen of the United States.

11 “(B) INDEPENDENT DIRECTOR CRITERIA.—

12 “(i) IN GENERAL.—Each independent
13 director that is not a public interest direc-
14 tor under clause (ii) shall have dem-
15 onstrated knowledge of, or experience in, fi-
16 nancial management, auditing and ac-
17 counting, risk management practices, de-
18 rivatives, project development, or organiza-
19 tional management, or such other knowledge
20 or expertise as the Director may provide by
21 regulation.

22 “(ii) PUBLIC INTEREST.—Not fewer
23 than 2 of the independent directors shall
24 have more than 4 years of experience in
25 representing consumer or community inter-

1 *ests on banking services, credit needs, hous-*
2 *ing, or financial consumer protections.*

3 “(iii) *CONFLICTS OF INTEREST.*—*No*
4 *independent director may, during the term*
5 *of service on the board of directors, serve as*
6 *an officer of any Federal Home Loan Bank*
7 *or as a director, officer, or employee of any*
8 *member of a Bank, or of any person that re-*
9 *ceives advances from a Bank.*

10 “(4) *DEFINITIONS.*—*For purposes of this section,*
11 *the following definitions shall apply:*

12 “(A) *INDEPENDENT DIRECTOR.*—*The terms*
13 *‘independent director’ and ‘independent director-*
14 *ship’ mean a member of the board of directors of*
15 *a Federal Home Loan Bank who is a bona fide*
16 *resident of the district in which the Federal*
17 *Home Loan Bank is located, or the directorship*
18 *held by such a person, respectively.*

19 “(B) *MEMBER DIRECTOR.*—*The terms*
20 *‘member director’ and ‘member directorship’*
21 *mean a member of the board of directors of a*
22 *Federal Home Loan Bank who is an officer or*
23 *director of a member institution that is located*
24 *in the district in which the Federal Home Loan*

1 *Bank is located, or the directorship held by such*
2 *a person, respectively.”;*

3 (2) *by striking “elective” each place that term*
4 *appears, other than in subsections (d), (e), and (f),*
5 *and inserting “member”;*

6 (3) *in subsection (b)—*

7 (A) *by striking the subsection heading and*
8 *all that follows through “Each elective director-*
9 *ship” and inserting the following:*

10 “(b) *DIRECTORSHIPS.—*

11 (1) *MEMBER DIRECTORSHIPS.—Each member*
12 *directorship”; and*

13 (B) *by adding at the end the following:*

14 “(2) *INDEPENDENT DIRECTORSHIPS.—*

15 (A) *ELECTIONS.—Each independent direc-*
16 *tor—*

17 “(i) *shall be elected by the members en-*
18 *titled to vote, from among eligible persons*
19 *nominated, after consultation with the Ad-*
20 *visory Council of the Bank, by the board of*
21 *directors of the Bank; and*

22 “(ii) *shall be elected by a plurality of*
23 *the votes of the members of the Bank at*
24 *large, with each member having the number*
25 *of votes for each such directorship as it has*

1 under paragraph (1) in an election to fill
2 member directorships.

3 “(B) *CRITERIA.*—Nominees shall meet all
4 applicable requirements prescribed in this sec-
5 tion.

6 “(C) *NOMINATION AND ELECTION PROCE-*
7 *DURES.*—Procedures for nomination and election
8 of independent directors shall be prescribed by
9 the bylaws of each Federal Home Loan Bank, in
10 a manner consistent with the rules and regula-
11 tions of the Agency.”;

12 (4) in subsection (c)—

13 (A) by striking “elective” each place that
14 term appears and inserting “member”, except—

15 (i) in the second sentence, the second
16 place that term appears; and

17 (ii) each place that term appears in
18 the fifth sentence; and

19 (B) in the second sentence—

20 (i) by inserting “(A) except as pro-
21 vided in clause (B) of this sentence,” before
22 “if at any time”; and

23 (ii) by inserting before the period at
24 the end the following: “, and (B) clause (A)
25 of this sentence shall not apply to the direc-

1 *torships of any Federal Home Loan Bank*
2 *resulting from the merger of any 2 or more*
3 *such Banks”;*

4 (5) *in subsection (d)—*

5 (A) *in the first sentence—*

6 (i) *by striking “, whether elected or ap-*
7 *pointed,”; and*

8 (ii) *by striking “3 years” and insert-*
9 *ing “4 years”;*

10 (B) *in the second sentence—*

11 (i) *by striking “Federal Home Loan*
12 *Bank System Modernization Act of 1999”*
13 *and inserting “Federal Housing Finance*
14 *Regulatory Reform Act of 2008”;*

15 (ii) *by striking “ $\frac{1}{3}$ ” and inserting*
16 *“ $\frac{1}{4}$ ”; and*

17 (iii) *by striking “or appointed”; and*

18 (C) *in the third sentence—*

19 (i) *by striking “an elective” each place*
20 *that term appears and inserting “a”; and*

21 (ii) *by striking “in any elective direc-*
22 *torship or elective directorships”;*

23 (6) *in subsection (f)—*

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

1 (B) by striking “appointed or” each place
2 that term appears; and

3 (C) in paragraph (3)—

4 (i) by striking “(3) ELECTED BANK DI-
5 RECTORS.—” and inserting “(2) ELECTION
6 PROCESS.—”; and

7 (ii) by striking “elective” each place
8 that term appears;

9 (7) in subsection (i)—

10 (A) in paragraph (1), by striking “Subject
11 to paragraph (2), each” and inserting “Each”;
12 and

13 (B) by striking paragraph (2) and inserting
14 the following:

15 “(2) ANNUAL REPORT.—The Director shall in-
16 clude, in the annual report submitted to the Congress
17 pursuant to section 1319B of the Federal Housing
18 Enterprises Financial Safety and Soundness Act of
19 1992, information regarding the compensation and
20 expenses paid by the Federal Home Loan Banks to
21 the directors on the boards of directors of the Banks.”;
22 and

23 (8) by adding at the end the following:

24 “(l) TRANSITION RULE.—Any member of the board of
25 directors of a Bank elected or appointed in accordance with

1 *this section prior to the date of enactment of this subsection*
2 *may continue to serve as a member of that board of direc-*
3 *tors for the remainder of the existing term of service.”.*

4 **SEC. 1203. DEFINITIONS.**

5 *Section 2 of the Federal Home Loan Bank Act (12*
6 *U.S.C. 1422) is amended—*

7 *(1) by striking paragraphs (1), (10), and (11);*

8 *(2) by redesignating paragraphs (2) through (9)*
9 *as paragraphs (1) through (8), respectively;*

10 *(3) by redesignating paragraphs (12) and (13)*
11 *as paragraphs (9) and (10), respectively; and*

12 *(4) by adding at the end the following:*

13 *“(11) DIRECTOR.—The term ‘Director’ means*
14 *the Director of the Federal Housing Finance Agency.*

15 *“(12) AGENCY.—The term ‘Agency’ means the*
16 *Federal Housing Finance Agency, established under*
17 *section 1311 of the Federal Housing Enterprises Fi-*
18 *nancial Safety and Soundness Act of 1992.”.*

19 **SEC. 1204. AGENCY OVERSIGHT OF FEDERAL HOME LOAN**
20 **BANKS.**

21 *The Federal Home Loan Bank Act (12 U.S.C. 1421*
22 *et seq.), other than in provisions of that Act added or*
23 *amended otherwise by this Act, is amended—*

24 *(1) by striking sections 2A and 2B (12 U.S.C.*
25 *1422a, 1422b);*

1 (2) by striking section 18 (12 U.S.C. 1438) and
2 inserting the following:

3 **“SEC. 18. ADMINISTRATIVE PROVISIONS.**

4 “(a) ACQUISITION AUTHORITY.—The Director of the
5 Office of Thrift Supervision, utilizing the services of the Ad-
6 ministrators of General Services (hereinafter referred to as
7 the ‘Administrator’), and subject to any limitation hereon
8 which may hereafter be imposed in appropriation Acts, is
9 hereby authorized—

10 “(1) to acquire, in the name of the United
11 States, real property in the District of Columbia, for
12 the purposes set forth in this section;

13 “(2) to construct, develop, furnish, and equip
14 such buildings thereon and such facilities as in its
15 judgment may be appropriate to provide, to such ex-
16 tent as the Director of the Office of Thrift Supervision
17 may deem advisable, suitable and adequate quarters
18 and facilities for the Director of the Office of Thrift
19 Supervision and the agencies under its administra-
20 tion or supervision;

21 “(3) to enlarge, remodel, or reconstruct any of
22 the same; and

23 “(4) to make or enter into contracts for any of
24 the foregoing.

1 “(b) *ADVANCES.*—*The Director of the Office of Thrift*
2 *Supervision may require of the respective banks, and they*
3 *shall make to the Director of the Office of Thrift Super-*
4 *vision, such advances of funds for the purposes set out in*
5 *subsection (a) as in the sole judgment of the Director of*
6 *the Office of Thrift Supervision may from time to time be*
7 *advisable. Such advances shall be apportioned by the Direc-*
8 *tor of the Office of Thrift Supervision among the banks in*
9 *proportion to the total assets of the respective banks, deter-*
10 *mined in such manner and as of such times as the Director*
11 *of the Office of Thrift Supervision may prescribe. Each such*
12 *advance shall bear interest at the rate of 4½ per centum*
13 *per annum from the date of the advance and shall be repaid*
14 *by the Director of the Office of Thrift Supervision in such*
15 *installments and over such period, not longer than twenty-*
16 *five years from the making of the advance, as the Director*
17 *of the Office of Thrift Supervision may determine. Pay-*
18 *ments of interest and principal upon such advances shall*
19 *be made from receipts of the Director of the Office of Thrift*
20 *Supervision or from other sources which may from time to*
21 *time be available to the Director of the Office of Thrift Su-*
22 *per vision. The obligation of the Director of the Office of*
23 *Thrift Supervision to make any such payment shall not be*
24 *regarded as an obligation of the United States. To such ex-*
25 *tent as the Director of the Office of Thrift Supervision may*

1 *prescribe any such obligation shall be regarded as a legal*
2 *investment for the purposes of subsections (g) and (h) of*
3 *section 11 and for the purposes of section 16.*

4 “(c) *PLANS AND DESIGNS.*—*The plans and designs for*
5 *such buildings and facilities and for any such enlargement,*
6 *remodeling, or reconstruction shall, to such extent as the*
7 *chairperson of the Director of the Office of Thrift Super-*
8 *vision may request, be subject to the approval of the Direc-*
9 *tor.*

10 “(d) *CUSTODY, MANAGEMENT AND CONTROL.*—*Upon*
11 *the making of arrangements mutually agreeable to the Di-*
12 *rector of the Office of Thrift Supervision and the Adminis-*
13 *trator, which arrangements may be modified from time to*
14 *time by mutual agreement between them and may include*
15 *but shall not be limited to the making of payments by the*
16 *Director of the Office of Thrift Supervision and such agen-*
17 *cies to the Administrator and by the Administrator to the*
18 *Director of the Office of Thrift Supervision, the custody,*
19 *management, and control of such buildings and facilities*
20 *and of such real property shall be vested in the Adminis-*
21 *trator in accordance therewith. Until the making of such*
22 *arrangements, such custody, management, and control, in-*
23 *cluding the assignment and allotment and the reassignment*
24 *and reallocation of building and other space, shall be vested*
25 *in the Director of the Office of Thrift Supervision.*

1 “(e) *PROCEEDS.*—Any proceeds (including advances)
2 received by the Director of the Office of Thrift Supervision
3 in connection with this subsection, and any proceeds from
4 the sale or other disposition of real or other property ac-
5 quired by the Director of the Office of Thrift Supervision
6 under this section, shall be considered as receipts of the Di-
7 rector of the Office of Thrift Supervision, and obligations
8 and expenditures of the Director of the Office of Thrift Su-
9 pervision and such agencies in connection with this section
10 shall not be considered as administrative expenses. As used
11 in this section, the term ‘property’ shall include interests
12 in property.

13 “(f) *BUDGET PROGRAM.*—

14 “(1) *IN GENERAL.*—With respect to its functions
15 under this section, the Director of the Office of Thrift
16 Supervision shall—

17 “(A) annually prepare and submit a budget
18 program as provided in title I of the Government
19 Corporation Control Act with regard to wholly
20 owned Government corporations, and for pur-
21 poses of this paragraph, the terms ‘wholly owned
22 Government corporations’ and ‘Government cor-
23 porations’, wherever used in such title, shall in-
24 clude the Director of the Office of Thrift Super-
25 vision; and

1 “(B) maintain an integral set of accounts
2 which shall be audited by the General Account-
3 ing Office in accordance with the principles and
4 procedures applicable to commercial corporate
5 transactions, as provided in such title, and no
6 other settlement or adjustment shall be required
7 with respect to transactions under this section or
8 with respect to claims, demands, or accounts by
9 or against any person arising thereunder.

10 “(2) MISCELLANEOUS PROVISIONS.—The first
11 budget program shall be for the first full fiscal year
12 beginning on or after the date of enactment of this
13 subsection. Except as otherwise provided in this sec-
14 tion or by the Director of the Office of Thrift Super-
15 vision, the provisions of this section and the functions
16 thereby or thereunder subsisting shall be applicable
17 and exercisable notwithstanding and without regard
18 to the Act of June 20, 1938 (D.C. Code, secs. 5-413—
19 5-428), except that the proviso of section 16 thereof
20 shall apply to any building constructed under this
21 section, and section 306 of the Act of July 30, 1947
22 (61 Stat. 584), or any other provision of law relating
23 to the construction, alteration, repair, or furnishing
24 of public or other buildings or structures or the ob-
25 taining of sites therefor, but any person or body in

1 whom any such function is vested may provide for
 2 delegation or redelegation of the exercise of such func-
 3 tion.

4 “(g) *LIMITATION.*—No obligation shall be incurred and
 5 no expenditure, except in liquidation of obligation, shall be
 6 made pursuant to paragraphs (1) and (2) of subsection (a),
 7 if the total amount of all obligations incurred pursuant
 8 thereto would thereupon exceed \$13,200,000, or such greater
 9 amount as may be provided in an appropriations Act or
 10 other law.”.

11 (3) *in section 11 (12 U.S.C. 1431)*—

12 (A) *in subsection (b)*—

13 (i) *in the first sentence*—

14 (I) *by striking “The Board” and*
 15 *inserting “The Office of Finance, as*
 16 *agent for the Banks,”; and*

17 (II) *by striking “the Board” and*
 18 *inserting “such Office”; and*

19 (ii) *in the second and fourth sentences,*
 20 *by striking “the Board” each place such*
 21 *term appears and inserting “the Office of*
 22 *Finance”;*

23 (B) *in subsection (c)*—

24 (i) *by striking “the Board” the first*
 25 *place such term appears and inserting “the*

1 *Office of Finance, as agent for the Banks,”;*
2 *and*

3 *(ii) by striking “the Board” the second*
4 *place such term appears and inserting*
5 *“such Office”; and*

6 *(C) in subsection (f)—*

7 *(i) by striking the 2 commas after*
8 *“permit” and inserting “or”; and*

9 *(ii) by striking the comma after “re-*
10 *quire”;*

11 *(4) in section 6 (12 U.S.C. 1426)—*

12 *(A) in subsection (b)(1), in the matter pre-*
13 *ceding subparagraph (A), by striking “Finance*
14 *Board approval” and inserting “approval by the*
15 *Director”;* *and*

16 *(B) in each of subsections (c)(4)(B) and*
17 *(d)(2), by striking “Finance Board regulations”*
18 *each place that term appears and inserting “reg-*
19 *ulations of the Director”;*

20 *(5) in section 10(b) (12 U.S.C. 1430(b))—*

21 *(A) in the subsection heading, by striking*
22 *“FORMAL BOARD RESOLUTION” and inserting*
23 *“APPROVAL OF DIRECTOR”;* *and*

24 *(B) by striking “by formal resolution”;*

1 (6) in section 21(b)(5) (12 U.S.C. 1441(b)(5)),
2 by striking “Chairperson of the Federal Housing Fi-
3 nance Board” and inserting “Director”;

4 (7) in section 15 (12 U.S.C. 1435), by inserting
5 “or the Director” after “the Board”;

6 (8) by striking “the Board” each place that term
7 appears and inserting “the Director”;

8 (9) by striking “The Board” each place that
9 term appears and inserting “The Director”;

10 (10) by striking “the Finance Board” each place
11 that term appears and inserting “the Director”;

12 (11) by striking “The Finance Board” each place
13 that term appears and inserting “The Director”; and

14 (12) by striking “Federal Housing Finance
15 Board” each place that term appears and inserting
16 “Director”.

17 **SEC. 1205. HOUSING GOALS.**

18 *The Federal Home Loan Bank Act (12 U.S.C. 1421*
19 *et seq.) is amended by inserting after section 10b the fol-*
20 *lowing new section:*

21 **“SEC. 10C. HOUSING GOALS.**

22 “(a) *IN GENERAL.—The Director shall establish hous-*
23 *ing goals with respect to the purchase of mortgages, if any,*
24 *by the Federal Home Loan Banks. Such goals shall be con-*
25 *sistent with the goals established under sections 1331*

1 *through 1334 of the Federal Housing Enterprises Financial*
2 *Safety and Soundness Act of 1992.*

3 “(b) *CONSIDERATIONS.*—*In establishing the goals re-*
4 *quired by subsection (a), the Director shall consider the*
5 *unique mission and ownership structure of the Federal*
6 *Home Loan Banks.*

7 “(c) *TRANSITION PERIOD.*—*To facilitate an orderly*
8 *transition, the Director shall establish interim target goals*
9 *for purposes of this section for each of the 2 calendar years*
10 *following the date of enactment of this section.*

11 “(d) *MONITORING AND ENFORCEMENT OF GOALS.*—
12 *The requirements of section 1336 of the Federal Housing*
13 *Enterprises Safety and Soundness Act of 1992, shall apply*
14 *to this section, in the same manner and to the same extent*
15 *as that section applies to the Federal housing enterprises.*

16 “(e) *ANNUAL REPORT.*—*The Director shall annually*
17 *report to Congress on the performance of the Banks in meet-*
18 *ing the goals established under this section.”.*

19 **SEC. 1206. COMMUNITY DEVELOPMENT FINANCIAL INSTI-**
20 **TUTIONS.**

21 *Section 4(a)(1) of the Federal Home Loan Bank Act*
22 *(12 U.S.C. 1424(a)(1)) is amended—*

23 *(1) by inserting after “savings bank,” the fol-*
24 *lowing: “community development financial institu-*
25 *tion,”; and*

1 (2) *in subparagraph (B), by inserting after*
2 *“United States,” the following: “or, in the case of a*
3 *community development financial institution, is cer-*
4 *tified as a community development financial institu-*
5 *tion under the Community Development Banking and*
6 *Financial Institutions Act of 1994.”.*

7 **SEC. 1207. SHARING OF INFORMATION AMONG FEDERAL**
8 **HOME LOAN BANKS.**

9 *The Federal Home Loan Bank Act is amended by in-*
10 *serting after section 20 (12 U.S.C. 1440) the following new*
11 *section:*

12 **“SEC. 20A. SHARING OF INFORMATION AMONG FEDERAL**
13 **HOME LOAN BANKS.**

14 *“(a) INFORMATION ON FINANCIAL CONDITION.—In*
15 *order to enable each Federal Home Loan Bank to evaluate*
16 *the financial condition of one or more of the other Federal*
17 *Home Loan Banks individually and the Federal Home*
18 *Loan Bank System (including any risks associated with the*
19 *issuance or repayment of consolidated Federal Home Loan*
20 *Bank bonds and debentures or other borrowings and the*
21 *joint and several liabilities of the Banks incurred due to*
22 *such borrowings), as well as to comply with any of its obli-*
23 *gations under the Securities Exchange Act of 1934 (15*
24 *U.S.C. 78a et seq.), the Director shall make available to*
25 *the Banks such reports, records, or other information as*

1 *may be available, relating to the condition of any Federal*
2 *Home Loan Bank.*

3 “(b) *SHARING OF INFORMATION.*—

4 “(1) *IN GENERAL.*—*The Director shall promul-*
5 *gate regulations to facilitate the sharing of informa-*
6 *tion made available under subsection (a) directly*
7 *among the Federal Home Loan Banks.*

8 “(2) *LIMITATION.*—*Notwithstanding paragraph*
9 *(1), a Federal Home Loan Bank responding to a re-*
10 *quest from another Bank or from the Director for in-*
11 *formation pursuant to this section may request that*
12 *the Director determine that such information is pro-*
13 *prietary and that the public interest requires that*
14 *such information not be shared.*

15 “(c) *LIMITATION.*—*Nothing in this section shall affect*
16 *the obligations of any Federal Home Loan Bank under the*
17 *Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.)*
18 *or the regulations issued by the Securities and Exchange*
19 *Commission thereunder.”.*

20 **SEC. 1208. EXCLUSION FROM CERTAIN REQUIREMENTS.**

21 (a) *IN GENERAL.*—*The Federal Home Loan Banks*
22 *shall be exempt from compliance with—*

23 (1) *sections 13(e), 14(a), and 14(c) of the Securi-*
24 *ties Exchange Act of 1934, and related Commission*
25 *regulations;*

1 (2) *section 15 of the Securities Exchange Act of*
2 *1934, and related Commission regulations, with re-*
3 *spect to transactions in the capital stock of a Federal*
4 *Home Loan Bank;*

5 (3) *section 17A of the Securities Exchange Act of*
6 *1934, and related Commission regulations, with re-*
7 *spect 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 Fed-*
11 *eral Home Loan Bank System shall be exempt from compli-*
12 *ance with sections 13(d), 13(f), 13(g), 14(d), and 16 of the*
13 *Securities Exchange Act of 1934, and related Commission*
14 *regulations, with respect to ownership of or transactions in*
15 *the capital stock of the Federal Home Loan Banks by such*
16 *members.*

17 (c) *EXEMPTED AND GOVERNMENT SECURITIES.—*

18 (1) *CAPITAL STOCK.—The capital stock issued by*
19 *each of the Federal Home Loan Banks under section*
20 *6 of the Federal Home Loan Bank Act are—*

21 (A) *exempted securities, within the meaning*
22 *of section 3(a)(2) of the Securities Act of 1933;*
23 *and*

24 (B) *exempted securities, within the meaning*
25 *of section 3(a)(12)(A) of the Securities Exchange*

1 *Act of 1934, except to the extent provided in sec-*
2 *tion 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. 1431)*
6 *are—*

7 (A) *exempted securities, within the meaning*
8 *of section 3(a)(2) of the Securities Act of 1933;*

9 (B) *government securities, within the mean-*
10 *ing of section 3(a)(42) of the Securities Exchange*
11 *Act of 1934; and*

12 (C) *government securities, within the mean-*
13 *ing of section 2(a)(16) of the Investment Com-*
14 *pany Act of 1940.*

15 (3) *BROKERS AND DEALERS.—A person (other*
16 *than a Federal Home Loan Bank effecting trans-*
17 *actions for members of the Federal Home Loan Bank*
18 *System) that effects transactions in the capital stock*
19 *or other obligations of a Federal Home Loan Bank,*
20 *for the account of others or for that person's own ac-*
21 *count, as applicable, is a broker or dealer, as those*
22 *terms are defined in paragraphs (4) and (5), respec-*
23 *tively, of section 3(a) of the Securities Exchange Act*
24 *of 1934, but is excluded from the definition of—*

1 (A) the term “government securities broker”
2 under section 3(a)(43) of the Securities Exchange
3 Act of 1934; and

4 (B) the term “government securities dealer”
5 under section 3(a)(44) of the Securities Exchange
6 Act of 1934.

7 (d) *EXEMPTION FROM REPORTING REQUIREMENTS.*—
8 The Federal Home Loan Banks shall be exempt from peri-
9 odic reporting requirements under the securities laws per-
10 taining to the disclosure of—

11 (1) related party transactions that occur in the
12 ordinary course of the business of the Banks with
13 members; and

14 (2) the unregistered sales of equity securities.

15 (e) *TENDER OFFERS.*—Commission rules relating to
16 tender offers shall not apply in connection with trans-
17 actions in the capital stock of the Federal Home Loan
18 Banks.

19 (f) *REGULATIONS.*—

20 (1) *IN GENERAL.*—The Commission shall pro-
21 mulgate such rules and regulations as may be nec-
22 essary or appropriate in the public interest or in fur-
23 therance of this section and the exemptions provided
24 in this section.

1 (2) *CONSIDERATIONS.—In issuing regulations*
2 *under this section, the Commission shall consider the*
3 *distinctive characteristics of the Federal Home Loan*
4 *Banks when evaluating—*

5 (A) *the accounting treatment with respect to*
6 *the payment to the Resolution Funding Corpora-*
7 *tion;*

8 (B) *the role of the combined financial state-*
9 *ments of the Federal Home Loan Banks;*

10 (C) *the accounting classification of redeem-*
11 *able capital stock; and*

12 (D) *the accounting treatment related to the*
13 *joint and several nature of the obligations of the*
14 *Banks.*

15 (g) *DEFINITIONS.—As used in this section—*

16 (1) *the terms “Bank”, “Federal Home Loan*
17 *Bank”, “member”, and “Federal Home Loan Bank*
18 *System” have the same meanings as in section 2 of*
19 *the Federal Home Loan Bank Act (12 U.S.C. 1422);*

20 (2) *the term “Commission” means the Securities*
21 *and Exchange Commission; and*

22 (3) *the term “securities laws” has the same*
23 *meaning as in section 3(a)(47) of the Securities Ex-*
24 *change Act of 1934 (15 U.S.C. 78c(a)(47)).*

1 **SEC. 1209. VOLUNTARY MERGERS.**

2 *Section 26 of the Federal Home Loan Bank Act (12*
 3 *U.S.C. 1446) is amended—*

4 *(1) by striking “Whenever” and inserting “(a)*
 5 *IN GENERAL.—Whenever”;* and

6 *(2) by adding at the end the following:*

7 *“(b) VOLUNTARY MERGERS AUTHORIZED.—*

8 *“(1) IN GENERAL.—Any Federal Home Loan*
 9 *Bank may, with the approval of the Director and of*
 10 *the boards of directors of the Banks involved, merge*
 11 *with another Bank.*

12 *“(2) REGULATIONS REQUIRED.—The Director*
 13 *shall promulgate regulations establishing the condi-*
 14 *tions and procedures for the consideration and ap-*
 15 *proval of any voluntary merger described in para-*
 16 *graph (1), including the procedures for Bank member*
 17 *approval.”.*

18 **SEC. 1210. AUTHORITY TO REDUCE DISTRICTS.**

19 *Section 3 of the Federal Home Loan Bank Act (12*
 20 *U.S.C. 1423) is amended—*

21 *(1) by striking “As soon” and inserting “(a) IN*
 22 *GENERAL.—As soon”;* and

23 *(2) by adding at the end the following:*

24 *“(b) AUTHORITY TO REDUCE DISTRICTS.—Notwith-*
 25 *standing subsection (a), the number of districts may be re-*
 26 *duced to a number less than 8—*

1 “(1) pursuant to a voluntary merger between
2 Banks, as approved pursuant to section 26(b); or

3 “(2) pursuant to a decision by the Director to
4 liquidate a Bank pursuant to section 1367 of the Fed-
5 eral Housing Enterprises Financial Safety and
6 Soundness Act of 1992.”.

7 **SEC. 1211. COMMUNITY FINANCIAL INSTITUTION MEMBERS.**

8 (a) *TOTAL ASSET REQUIREMENT.*—Paragraph (10) of
9 section 2 of the Federal Home Loan Bank Act (12 U.S.C.
10 1422(10)), as so redesignated by section 201(3) of this Act,
11 is amended by striking “\$500,000,000” each place such
12 term appears and inserting “\$1,000,000,000”.

13 (b) *USE OF ADVANCES FOR COMMUNITY DEVELOP-*
14 *MENT ACTIVITIES.*—Section 10(a) of the Federal Home
15 Loan Bank Act (12 U.S.C. 1430(a)) is amended—

16 (1) in paragraph (2)(B)—

17 (A) by striking “and”; and

18 (B) by inserting “, and community develop-
19 ment activities” before the period at the end;

20 (2) in paragraph (3)(E), by inserting “or com-
21 munity development activities” after “agriculture,”;
22 and

23 (3) in paragraph (6)—

24 (A) by striking “and”; and

1 (B) by inserting “, and ‘community devel-
2 opment activities’” before “shall”.

3 **SEC. 1212. PUBLIC USE DATABASE; REPORTS TO CONGRESS.**

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

6 (1) in subsection (j)(12)—

7 (A) by striking subparagraph (C) and in-
8 serting the following:

9 “(C) *REPORTS.*—The Director shall annu-
10 ally report to the Committee on Banking, Hous-
11 ing, and Urban Affairs of the Senate and the
12 Committee on Financial Services of the House of
13 Representatives on the collateral pledged to the
14 Banks, including an analysis of collateral by
15 type and by Bank district.”; and

16 (B) by adding at the end the following:

17 “(D) *SUBMISSION TO CONGRESS.*—The Di-
18 rector shall submit the reports under subpara-
19 graphs (A) and (C) to the Committee on Bank-
20 ing, Housing, and Urban Affairs of the Senate
21 and the Committee on Financial Services of the
22 House of Representatives, not later than 180
23 days after the date of enactment of the Federal
24 Housing Finance Regulatory Reform Act of
25 2008.”; and

1 (2) *by adding at the end the following:*

2 “(k) *PUBLIC USE DATABASE.—*

3 “(1) *DATA.—Each Federal Home Loan Bank*
4 *shall provide to the Director, in a form determined by*
5 *the Director, census tract level data relating to mort-*
6 *gages purchased, if any, including—*

7 “(A) *data consistent with that reported*
8 *under section 1323 of the Federal Housing En-*
9 *terprises Financial Safety and Soundness Act of*
10 *1992;*

11 “(B) *data elements required to be reported*
12 *under the Home Mortgage Disclosure Act of*
13 *1975; and*

14 “(C) *any other data elements that the Di-*
15 *rector considers appropriate.*

16 “(2) *PUBLIC USE DATABASE.—*

17 “(A) *IN GENERAL.—The Director shall*
18 *make available to the public, in a form that is*
19 *useful to the public (including forms accessible*
20 *electronically), and to the extent practicable, the*
21 *data provided to the Director under paragraph*
22 *(1).*

23 “(B) *PROPRIETARY INFORMATION.—Not*
24 *withstanding subparagraph (A), the Director*
25 *may not provide public access to, or disclose to*

1 *the public, any information required to be sub-*
2 *mitted under this subsection that the Director de-*
3 *termines is proprietary or that would provide*
4 *personally identifiable information and that is*
5 *not otherwise publicly accessible through other*
6 *forms, unless the Director determines that it is*
7 *in the public interest to provide such informa-*
8 *tion.”.*

9 **SEC. 1213. SEMIANNUAL REPORTS.**

10 *Section 21B of the Federal Home Loan Bank Act is*
11 *amended in subsection (f)(2)(C), by adding at the end the*
12 *following:*

13 “(v) *SEMIANNUAL REPORTS.—The Di-*
14 *rector shall report semiannually to the*
15 *Committee on Banking, Housing, and*
16 *Urban Affairs of the Senate and the Com-*
17 *mittee on Financial Services of the House of*
18 *Representatives on the projected date for the*
19 *completion of contributions required by this*
20 *section.”.*

21 **SEC. 1214. LIQUIDATION OR REORGANIZATION OF A FED-**
22 **ERAL HOME LOAN BANK.**

23 *Section 26 of the Federal Home Loan Bank Act (12*
24 *U.S.C. 1446) is amended by adding at the end the following:*
25 *“At least 30 days prior to liquidating or reorganizing any*

1 *Bank under this section, the Director shall notify the Bank*
2 *of its determination and the facts and circumstances upon*
3 *which such determination is based. The Bank may contest*
4 *that determination in a hearing before the Director, in*
5 *which all issues shall be determined on the record pursuant*
6 *to section 554 of title 5, United States Code.”.*

7 **SEC. 1215. STUDY AND REPORT TO CONGRESS ON**
8 **SECURITIZATION OF ACQUIRED MEMBER AS-**
9 **SETS.**

10 (a) *STUDY.*—*The Director shall conduct a study on*
11 *securitization of home mortgage loans purchased or to be*
12 *purchased from member financial institutions under the*
13 *Acquired Member Assets programs. In conducting the study,*
14 *the Director shall establish a process for the formal submis-*
15 *sion of comments.*

16 (b) *ELEMENTS.*—*The study shall encompass—*

17 (1) *the benefits and risks associated with*
18 *securitization of Acquired Member Assets;*

19 (2) *the potential impact of securitization upon*
20 *liquidity in the mortgage and broader credit markets;*

21 (3) *the ability of the Federal Home Loan Bank*
22 *or Banks in question to manage the risks associated*
23 *with such a program;*

1 (4) *the impact of such a program on the existing*
2 *activities of the Banks, including their mortgage port-*
3 *folios and advances; and*

4 (5) *the joint and several liability of the Banks*
5 *and the cooperative structure of the Federal Home*
6 *Loan Bank System.*

7 (c) *CONSULTATIONS.—In conducting the study under*
8 *this section, the Director shall consult with the Federal*
9 *Home Loan Banks, the Banks' fiscal agent, representatives*
10 *of the mortgage lending industry, practitioners in the struc-*
11 *tured finance field, and other experts as needed.*

12 (d) *REPORT.—Not later than 1 year after the date of*
13 *enactment of this Act, the Director shall submit a report*
14 *to Congress on the results of the study conducted under sub-*
15 *section (a), including policy recommendations based on the*
16 *analysis of the Director of the feasibility of mortgage-backed*
17 *securities issuance by a Federal Home Loan Bank or Banks*
18 *and the risks and benefits associated with such program or*
19 *programs.*

20 (e) *DEFINITIONS.—As used in this section, the terms*
21 *“member”, “Bank”, and “Federal Home Loan Bank” have*
22 *the same meanings as in section 2 of the Federal Home*
23 *Loan Bank Act (12 U.S.C. 1422).*

1 **SEC. 1216. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) *RIGHT TO FINANCIAL PRIVACY ACT OF 1978.*—Section
3 *1113(o) of the Right to Financial Privacy Act of 1978*
4 *(12 U.S.C. 3413(o)) is amended—*

5 (1) *by striking “Federal Housing Finance*
6 *Board” and inserting “Federal Housing Finance*
7 *Agency”;* and

8 (2) *by striking “Federal Housing Finance*
9 *Board’s” and inserting “Federal Housing Finance*
10 *Agency’s”.*

11 (b) *RIEGLE COMMUNITY DEVELOPMENT AND REGU-*
12 *LATORY IMPROVEMENT ACT OF 1994.*—Section *117(e) of the*
13 *Riegle Community Development and Regulatory Improve-*
14 *ment Act of 1994 (12 U.S.C. 4716(e)) is amended by strik-*
15 *ing “Federal Housing Finance Board” and inserting “Fed-*
16 *eral Housing Finance Agency”.*

17 (c) *TITLE 18, UNITED STATES CODE.*—Title 18,
18 *United States Code, is amended by striking “Federal Hous-*
19 *ing Finance Board” each place such term appears in each*
20 *of sections 212, 657, 1006, and 1014, and inserting “Fed-*
21 *eral Housing Finance Agency”.*

22 (d) *MAHRA ACT OF 1997.*—Section *517(b)(4) of the*
23 *Multifamily Assisted Housing Reform and Affordability*
24 *Act of 1997 (42 U.S.C. 1437f note) is amended by striking*
25 *“Federal Housing Finance Board” and inserting “Federal*
26 *Housing Finance Agency”.*

1 (e) *TITLE 44, UNITED STATES CODE.*—Section
2 3502(5) of title 44, United States Code, is amended by strik-
3 ing “Federal Housing Finance Board” and inserting “Fed-
4 eral Housing Finance Agency”.

5 (f) *ACCESS TO LOCAL TV ACT OF 2000.*—Section
6 1004(d)(2)(D)(iii) of the Launching Our Communities’ Ac-
7 cess to Local Television Act of 2000 (47 U.S.C.
8 1103(d)(2)(D)(iii)) is amended by striking “Office of Fed-
9 eral Housing Enterprise Oversight, the Federal Housing Fi-
10 nance Board” and inserting “Federal Housing Finance
11 Agency”.

12 (g) *FIRREA.*—Section 1216 of the Financial Institu-
13 tions Reform, Recovery, and Enhancement Act of 1989 (12
14 U.S.C. 1833e) is amended—

15 (1) in subsection (a), by striking paragraph (3)
16 and inserting the following:

17 “(3) the Federal Housing Finance Agency;”;

18 (2) in subsection (b), by striking “Federal Na-
19 tional Mortgage Association” and inserting “Federal
20 Home Loan Banks, the Federal National Mortgage
21 Association,”; and

22 (3) in subsection (c), by striking “Finance
23 Board” and inserting “Finance Agency”.

1 **SEC. 1217. STUDY ON FEDERAL HOME LOAN BANK AD-**
2 **VANCES.**

3 (a) *IN GENERAL.*—Not later than 1 year after the date
4 of enactment of this Act, the Director shall conduct a study
5 and submit a report to the Committee on Banking, Hous-
6 ing, and Urban Affairs of the Senate and the Committee
7 on Financial Services of the House or Representatives on
8 the extent to which loans and securities used as collateral
9 to support Federal Home Loan Bank advances are con-
10 sistent with the interagency guidance on nontraditional
11 mortgage products.

12 (b) *REQUIRED CONTENT.*—The study required under
13 subsection (a) shall—

14 (1) *consider and recommend any additional reg-*
15 *ulations, guidance, advisory bulletins, or other ad-*
16 *ministrative actions necessary to ensure that the Fed-*
17 *eral Home Loan Banks are not supporting loans with*
18 *predatory characteristics; and*

19 (2) *include an opportunity for the public to com-*
20 *ment on any recommendations made under para-*
21 *graph (1).*

22 **SEC. 1218. FEDERAL HOME LOAN BANK REFINANCING AU-**
23 **THORITY FOR CERTAIN RESIDENTIAL MORT-**
24 **GAGE LOANS.**

25 *Section 10(j)(2) of the Federal Home Loan Bank Act*
26 *(12 U.S.C. 1430(j)(2)) is amended—*

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

3 (2) *in subparagraph (B), by striking the period*
4 *at the end and inserting “; or”; and*

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

6 “(C) *during the 2-year period beginning on*
7 *the date of enactment of this subparagraph, refi-*
8 *nance loans that are secured by a first mortgage*
9 *on a primary residence of any family having an*
10 *income at or below 80 percent of the median in-*
11 *come for the area.”.*

12 **TITLE III—TRANSFER OF FUNC-**
13 **TIONS, PERSONNEL, AND**
14 **PROPERTY OF OFHEO AND**
15 **THE FEDERAL HOUSING FI-**
16 **NANCE BOARD**

17 **Subtitle A—OFHEO**

18 **SEC. 1301. ABOLISHMENT OF OFHEO.**

19 (a) *IN GENERAL.—Effective at the end of the 1-year*
20 *period beginning on the date of enactment of this Act, the*
21 *Office of Federal Housing Enterprise Oversight of the De-*
22 *partment of Housing and Urban Development and the posi-*
23 *tions of the Director and Deputy Director of such Office*
24 *are abolished.*

1 (b) *DISPOSITION OF AFFAIRS.*—During the 1-year pe-
2 riod beginning on the date of enactment of this Act, the
3 Director of the Office of Federal Housing Enterprise Over-
4 sight, solely for the purpose of winding up the affairs of
5 the Office of Federal Housing Enterprise Oversight—

6 (1) shall manage the employees of such Office
7 and provide for the payment of the compensation and
8 benefits of any such employee which accrue before the
9 effective date of the transfer of such employee under
10 section 1303; and

11 (2) may take any other action necessary for the
12 purpose of winding up the affairs of the Office.

13 (c) *STATUS OF EMPLOYEES BEFORE TRANSFER.*—The
14 amendments made by title I and the abolishment of the Of-
15 fice of Federal Housing Enterprise Oversight under sub-
16 section (a) of this section may not be construed to affect
17 the status of any employee of such Office as an employee
18 of an agency of the United States for purposes of any other
19 provision of law before the effective date of the transfer of
20 any such employee under section 1303.

21 (d) *USE OF PROPERTY AND SERVICES.*—

22 (1) *PROPERTY.*—The Director may use the prop-
23 erty of the Office of Federal Housing Enterprise Over-
24 sight to perform functions which have been trans-
25 ferred to the Director for such time as is reasonable

1 *to facilitate the orderly transfer of functions trans-*
2 *ferred under any other provision of this Act or any*
3 *amendment made by this Act to any other provision*
4 *of law.*

5 (2) *AGENCY SERVICES.—Any agency, depart-*
6 *ment, or other instrumentality of the United States,*
7 *and any successor to any such agency, department, or*
8 *instrumentality, which was providing supporting*
9 *services to the Office of Federal Housing Enterprise*
10 *Oversight before the expiration of the period under*
11 *subsection (a) in connection with functions that are*
12 *transferred to the Director shall—*

13 (A) *continue to provide such services, on a*
14 *reimbursable basis, until the transfer of such*
15 *functions is complete; and*

16 (B) *consult with any such agency to coordi-*
17 *nate and facilitate a prompt and reasonable*
18 *transition.*

19 (e) *CONTINUATION OF SERVICES.—The Director may*
20 *use the services of employees and other personnel of the Of-*
21 *fice of Federal Housing Enterprise Oversight, on a reim-*
22 *bursable basis, to perform functions which have been trans-*
23 *ferred to the Director for such time as is reasonable to facili-*
24 *tate the orderly transfer of functions pursuant to any other*

1 *provision of this Act or any amendment made by this Act*
2 *to any other provision of law.*

3 (f) *SAVINGS PROVISIONS.*—

4 (1) *EXISTING RIGHTS, DUTIES, AND OBLIGA-*
5 *TIONS NOT AFFECTED.*—*Subsection (a) shall not affect*
6 *the validity of any right, duty, or obligation of the*
7 *United States, the Director of the Office of Federal*
8 *Housing Enterprise Oversight, or any other person,*
9 *which—*

10 (A) *arises under—*

11 (i) *the Federal Housing Enterprises*
12 *Financial Safety and Soundness Act of*
13 *1992;*

14 (ii) *the Federal National Mortgage As-*
15 *sociation Charter Act;*

16 (iii) *the Federal Home Loan Mortgage*
17 *Corporation Act; or*

18 (iv) *any other provision of law appli-*
19 *cable with respect to such Office; and*

20 (B) *existed on the day before the date of*
21 *abolishment under subsection (a).*

22 (2) *CONTINUATION OF SUITS.*—*No action or*
23 *other proceeding commenced by or against the Direc-*
24 *tor of the Office of Federal Housing Enterprise Over-*
25 *sight in connection with functions that are trans-*

1 (B) *the Secretary of Housing and Urban*
2 *Development, and relates to the authority of the*
3 *Secretary under—*

4 (i) *the Federal Housing Enterprises*
5 *Financial Safety and Soundness Act of*
6 *1992;*

7 (ii) *the Federal National Mortgage As-*
8 *sociation Charter Act, with respect to the*
9 *Federal National Mortgage Association; or*

10 (iii) *the Federal Home Loan Mortgage*
11 *Corporation Act, with respect to the Federal*
12 *Home Loan Mortgage Corporation; or*

13 (C) *a court of competent jurisdiction, and*
14 *relates to functions transferred by this Act; and*

15 (2) *is in effect on the effective date of the abolish-*
16 *ment under section 1301(a).*

17 **SEC. 1303. TRANSFER AND RIGHTS OF EMPLOYEES OF**
18 **OFHEO.**

19 (a) *TRANSFER.—Each employee of the Office of Fed-*
20 *eral Housing Enterprise Oversight shall be transferred to*
21 *the Agency for employment, not later than the effective date*
22 *of the abolishment under section 1301(a), and such transfer*
23 *shall be deemed a transfer of function for purposes of section*
24 *3503 of title 5, United States Code.*

25 (b) *GUARANTEED POSITIONS.—*

1 (1) *IN GENERAL.*—*Each employee transferred*
2 *under subsection (a) shall be guaranteed a position*
3 *with the same status, tenure, grade, and pay as that*
4 *held on the day immediately preceding the transfer.*

5 (2) *NO INVOLUNTARY SEPARATION OR REDUC-*
6 *TION.*—*An employee transferred under subsection (a)*
7 *holding a permanent position on the day immediately*
8 *preceding the transfer may not be involuntarily sepa-*
9 *rated or reduced in grade or compensation during the*
10 *12-month period beginning on the date of transfer, ex-*
11 *cept for cause, or, in the case of a temporary em-*
12 *ployee, separated in accordance with the terms of the*
13 *appointment of the employee.*

14 (c) *APPOINTMENT AUTHORITY FOR EXCEPTED AND*
15 *SENIOR EXECUTIVE SERVICE EMPLOYEES.*—

16 (1) *IN GENERAL.*—*In the case of an employee oc-*
17 *cupying a position in the excepted service or the Sen-*
18 *ior Executive Service, any appointment authority es-*
19 *tablished under law or by regulations of the Office of*
20 *Personnel Management for filling such position shall*
21 *be transferred, subject to paragraph (2).*

22 (2) *DECLINE OF TRANSFER.*—*The Director may*
23 *decline a transfer of authority under paragraph (1)*
24 *to the extent that such authority relates to—*

1 (A) a position excepted from the competitive
2 service because of its confidential, policymaking,
3 policy-determining, or policy-advocating char-
4 acter; or

5 (B) a noncareer position in the Senior Ex-
6 ecutive Service (within the meaning of section
7 3132(a)(7) of title 5, United States Code).

8 (d) *REORGANIZATION.*—If the Director determines,
9 after the end of the 1-year period beginning on the effective
10 date of the abolishment under section 1301(a), that a reor-
11 ganization of the combined workforce is required, that reor-
12 ganization shall be deemed a major reorganization for pur-
13 poses of affording affected employee retirement under sec-
14 tion 8336(d)(2) or 8414(b)(1)(B) of title 5, United States
15 Code.

16 (e) *EMPLOYEE BENEFIT PROGRAMS.*—

17 (1) *IN GENERAL.*—Any employee of the Office of
18 Federal Housing Enterprise Oversight accepting em-
19 ployment with the Agency as a result of a transfer
20 under subsection (a) may retain, for 12 months after
21 the date on which such transfer occurs, membership
22 in any employee benefit program of the Agency or the
23 Office of Federal Housing Enterprise Oversight of the
24 Department of Housing and Urban Development, as
25 applicable, including insurance, to which such em-

1 *ployee belongs on the date of the abolishment under*
2 *section 1301(a), if—*

3 *(A) the employee does not elect to give up*
4 *the benefit or membership in the program; and*

5 *(B) the benefit or program is continued by*
6 *the Director of the Federal Housing Finance*
7 *Agency.*

8 *(2) COST DIFFERENTIAL.—*

9 *(A) IN GENERAL.—The difference in the*
10 *costs between the benefits which would have been*
11 *provided by the Office of Federal Housing Enter-*
12 *prise Oversight and those provided by this sec-*
13 *tion shall be paid by the Director.*

14 *(B) HEALTH INSURANCE.—If any employee*
15 *elects to give up membership in a health insur-*
16 *ance program or the health insurance program is*
17 *not continued by the Director, the employee shall*
18 *be permitted to select an alternate Federal health*
19 *insurance program not later than 30 days after*
20 *the date of such election or notice, without regard*
21 *to any other regularly scheduled open season.*

22 **SEC. 1304. TRANSFER OF PROPERTY AND FACILITIES.**

23 *Upon the effective date of its abolishment under section*
24 *1301(a), all property of the Office of Federal Housing En-*
25 *terprise Oversight shall transfer to the Agency.*

1 ***Subtitle B—Federal Housing***
2 ***Finance Board***

3 ***SEC. 1311. ABOLISHMENT OF THE FEDERAL HOUSING FI-***
4 ***NANCE BOARD.***

5 (a) *IN GENERAL.*—Effective at the end of the 1-year
6 period beginning on the date of enactment of this Act, the
7 Federal Housing Finance Board (in this subtitle referred
8 to as the “Board”) is abolished.

9 (b) *DISPOSITION OF AFFAIRS.*—During the 1-year pe-
10 riod beginning on the date of enactment of this Act, the
11 Board, solely for the purpose of winding up the affairs of
12 the Board—

13 (1) shall manage the employees of the Board and
14 provide for the payment of the compensation and ben-
15 efits of any such employee which accrue before the ef-
16 fective date of the transfer of such employee under sec-
17 tion 1313; and

18 (2) may take any other action necessary for the
19 purpose of winding up the affairs of the Board.

20 (c) *STATUS OF EMPLOYEES BEFORE TRANSFER.*—The
21 amendments made by titles I and II and the abolishment
22 of the Board under subsection (a) may not be construed to
23 affect the status of any employee of the Board as an em-
24 ployee of an agency of the United States for purposes of

1 *any other provision of law before the effective date of the*
2 *transfer of any such employee under section 1313.*

3 *(d) USE OF PROPERTY AND SERVICES.—*

4 *(1) PROPERTY.—The Director may use the prop-*
5 *erty of the Board to perform functions which have*
6 *been transferred to the Director, for such time as is*
7 *reasonable to facilitate the orderly transfer of func-*
8 *tions transferred under any other provision of this*
9 *Act or any amendment made by this Act to any other*
10 *provision of law.*

11 *(2) AGENCY SERVICES.—Any agency, depart-*
12 *ment, or other instrumentality of the United States,*
13 *and any successor to any such agency, department, or*
14 *instrumentality, which was providing supporting*
15 *services to the Board before the expiration of the 1-*
16 *year period under subsection (a) in connection with*
17 *functions that are transferred to the Director shall—*

18 *(A) continue to provide such services, on a*
19 *reimbursable basis, until the transfer of such*
20 *functions is complete; and*

21 *(B) consult with any such agency to coordi-*
22 *nate and facilitate a prompt and reasonable*
23 *transition.*

24 *(e) CONTINUATION OF SERVICES.—The Director may*
25 *use the services of employees and other personnel of the*

1 *Board, on a reimbursable basis, to perform functions which*
2 *have been transferred to the Director for such time as is*
3 *reasonable to facilitate the orderly transfer of functions pur-*
4 *suant to any other provision of this Act or any amendment*
5 *made by this Act to any other provision of law.*

6 (f) *SAVINGS PROVISIONS.—*

7 (1) *EXISTING RIGHTS, DUTIES, AND OBLIGA-*
8 *TIONS NOT AFFECTED.—Subsection (a) shall not affect*
9 *the validity of any right, duty, or obligation of the*
10 *United States, a member of the Board, or any other*
11 *person, which—*

12 (A) *arises under the Federal Home Loan*
13 *Bank Act, or any other provision of law applica-*
14 *ble with respect to the Board; and*

15 (B) *existed on the day before the effective*
16 *date of the abolishment under subsection (a).*

17 (2) *CONTINUATION OF SUITS.—No action or*
18 *other proceeding commenced by or against the Board*
19 *in connection with functions that are transferred*
20 *under this Act to the Director shall abate by reason*
21 *of the enactment of this Act, except that the Director*
22 *shall be substituted for the Board or any member*
23 *thereof as a party to any such action or proceeding.*

1 **SEC. 1312. CONTINUATION AND COORDINATION OF CER-**
2 **TAIN ACTIONS.**

3 (a) *IN GENERAL.*—All regulations, orders, determina-
4 tions, and resolutions described under subsection (b) shall
5 remain in effect according to the terms of such regulations,
6 orders, determinations, and resolutions, and shall be en-
7 forceable by or against the Director until modified, termi-
8 nated, set aside, or superseded in accordance with applica-
9 ble law by the Director, any court of competent jurisdiction,
10 or operation of law.

11 (b) *APPLICABILITY.*—A regulation, order, determina-
12 tion, or resolution is described under this subsection if it—

13 (1) was issued, made, prescribed, or allowed to
14 become effective by—

15 (A) the Board; or

16 (B) a court of competent jurisdiction, and
17 relates to functions transferred by this Act; and

18 (2) is in effect on the effective date of the abolish-
19 ment under section 1311(a).

20 **SEC. 1313. TRANSFER AND RIGHTS OF EMPLOYEES OF THE**
21 **FEDERAL HOUSING FINANCE BOARD.**

22 (a) *TRANSFER.*—Each employee of the Board shall be
23 transferred to the Agency for employment, not later than
24 the effective date of the abolishment under section 1311(a),
25 and such transfer shall be deemed a transfer of function
26 for purposes of section 3503 of title 5, United States Code.

1 **(b) GUARANTEED POSITIONS.—**

2 **(1) IN GENERAL.—***Each employee transferred*
3 *under subsection (a) shall be guaranteed a position*
4 *with the same status, tenure, grade, and pay as that*
5 *held on the day immediately preceding the transfer.*

6 **(2) NO INVOLUNTARY SEPARATION OR REDUC-**
7 *TION.—An employee holding a permanent position on*
8 *the day immediately preceding the transfer may not*
9 *be involuntarily separated or reduced in grade or*
10 *compensation during the 12-month period beginning*
11 *on the date of transfer, except for cause, or, if the em-*
12 *ployee is a temporary employee, separated in accord-*
13 *ance with the terms of the appointment of the em-*
14 *ployee.*

15 **(c) APPOINTMENT AUTHORITY FOR EXCEPTED EM-**
16 **PLOYEES.—**

17 **(1) IN GENERAL.—***In the case of an employee oc-*
18 *cupying a position in the excepted service, any ap-*
19 *pointment authority established under law or by reg-*
20 *ulations of the Office of Personnel Management for*
21 *filling such position shall be transferred, subject to*
22 *paragraph (2).*

23 **(2) DECLINE OF TRANSFER.—***The Director may*
24 *decline a transfer of authority under paragraph (1),*
25 *to the extent that such authority relates to a position*

1 *excepted from the competitive service because of its*
2 *confidential, policymaking, policy-determining, or*
3 *policy-advocating character.*

4 *(d) REORGANIZATION.—If the Director determines,*
5 *after the end of the 1-year period beginning on the effective*
6 *date of the abolishment under section 1311(a), that a reor-*
7 *ganization of the combined workforce is required, that reor-*
8 *ganization shall be deemed a major reorganization for pur-*
9 *poses of affording affected employee retirement under sec-*
10 *tion 8336(d)(2) or 8414(b)(1)(B) of title 5, United States*
11 *Code.*

12 *(e) EMPLOYEE BENEFIT PROGRAMS.—*

13 *(1) IN GENERAL.—Any employee of the Board*
14 *accepting employment with the Agency as a result of*
15 *a transfer under subsection (a) may retain, for 12*
16 *months after the date on which such transfer occurs,*
17 *membership in any employee benefit program of the*
18 *Agency or the Board, as applicable, including insur-*
19 *ance, to which such employee belongs on the effective*
20 *date of the abolishment under section 1311(a) if—*

21 *(A) the employee does not elect to give up*
22 *the benefit or membership in the program; and*

23 *(B) the benefit or program is continued by*
24 *the Director.*

25 *(2) COST DIFFERENTIAL.—*

1 (A) *IN GENERAL.*—*The difference in the*
2 *costs between the benefits which would have been*
3 *provided by the Board and those provided by*
4 *this section shall be paid by the Director.*

5 (B) *HEALTH INSURANCE.*—*If any employee*
6 *elects to give up membership in a health insur-*
7 *ance program or the health insurance program is*
8 *not continued by the Director, the employee shall*
9 *be permitted to select an alternate Federal health*
10 *insurance program not later than 30 days after*
11 *the date of such election or notice, without regard*
12 *to any other regularly scheduled open season.*

13 **SEC. 1314. TRANSFER OF PROPERTY AND FACILITIES.**

14 *Upon the effective date of the abolishment under sec-*
15 *tion 1311(a), all property of the Board shall transfer to the*
16 *Agency.*

17 **TITLE IV—HOPE FOR**
18 **HOMEOWNERS**

19 **SEC. 1401. SHORT TITLE.**

20 *This title may be cited as the “HOPE for Homeowners*
21 *Act of 2008”.*

1 **SEC. 1402. ESTABLISHMENT OF HOPE FOR HOMEOWNERS**
2 **PROGRAM.**

3 (a) *ESTABLISHMENT.*—*Title II of the National Hous-*
4 *ing Act (12 U.S.C. 1707 et seq.) is amended by adding at*
5 *the end the following:*

6 **“SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.**

7 *“(a) ESTABLISHMENT.*—*There is established in the*
8 *Federal Housing Administration a HOPE for Homeowners*
9 *Program.*

10 *“(b) PURPOSE.*—*The purpose of the HOPE for Home-*
11 *owners Program is—*

12 *“(1) to create an FHA program, participation*
13 *in which is voluntary on the part of homeowners and*
14 *existing loan holders to insure refinanced loans for*
15 *distressed borrowers to support long-term, sustainable*
16 *homeownership;*

17 *“(2) to allow homeowners to avoid foreclosure by*
18 *reducing the principle balance outstanding, and in-*
19 *terest rate charged, on their mortgages;*

20 *“(3) to help stabilize and provide confidence in*
21 *mortgage markets by bringing transparency to the*
22 *value of assets based on mortgage assets;*

23 *“(4) to target mortgage assistance under this sec-*
24 *tion to homeowners for their principal residence;*

1 “(5) to enhance the administrative capacity of
2 the *FHA* to carry out its expanded role under the
3 *HOPE for Homeowners Program*;

4 “(6) to ensure the *HOPE for Homeowners Pro-*
5 *gram* remains in effect only for as long as is nec-
6 essary to provide stability to the housing market; and

7 “(7) to provide servicers of delinquent mortgages
8 with additional methods and approaches to avoid
9 foreclosure.

10 “(c) *ESTABLISHMENT AND IMPLEMENTATION OF PRO-*
11 *GRAM REQUIREMENTS.*—

12 “(1) *DUTIES OF THE BOARD.*—In order to carry
13 out the purposes of the *HOPE for Homeowners Pro-*
14 *gram*, the Board shall—

15 “(A) establish requirements and standards
16 for the program; and

17 “(B) prescribe such regulations and provide
18 such guidance as may be necessary or appro-
19 priate to implement such requirements and
20 standards.

21 “(2) *DUTIES OF THE SECRETARY.*—In carrying
22 out any of the program requirements or standards es-
23 tablished under paragraph (1), the Secretary may
24 issue such interim guidance and mortgagee letters as
25 the Secretary determines necessary or appropriate.

1 “(d) *INSURANCE OF MORTGAGES.*—*The Secretary is*
2 *authorized upon application of a mortgagee to make com-*
3 *mitments to insure or to insure any eligible mortgage that*
4 *has been refinanced in a manner meeting the requirements*
5 *under subsection (e).*

6 “(e) *REQUIREMENTS OF INSURED MORTGAGES.*—*To*
7 *be eligible for insurance under this section, a refinanced eli-*
8 *gible mortgage shall comply with all of the following re-*
9 *quirements:*

10 “(1) *LACK OF CAPACITY TO PAY EXISTING MORT-*
11 *GAGE.*—

12 “(A) *BORROWER CERTIFICATION.*—

13 “(i) *IN GENERAL.*—*The mortgagor*
14 *shall provide certification to the Secretary*
15 *that the mortgagor has not intentionally de-*
16 *faulted on the mortgage or any other debt,*
17 *and has not knowingly, or willfully and*
18 *with actual knowledge, furnished material*
19 *information known to be false for the pur-*
20 *pose of obtaining any eligible mortgage.*

21 “(ii) *PENALTIES.*—

22 “(I) *FALSE STATEMENT.*—*Any*
23 *certification filed pursuant to clause*
24 *(i) shall contain an acknowledgment*
25 *that any willful false statement made*

1 *in such certification is punishable*
2 *under section 1001, of title 18, United*
3 *States Code, by fine or imprisonment*
4 *of not more than 5 years, or both.*

5 “(II) *LIABILITY FOR REPAY-*
6 *MENT.—The mortgagor shall agree in*
7 *writing that the mortgagor shall be lia-*
8 *ble to repay to the Federal Housing*
9 *Administration any direct financial*
10 *benefit achieved from the reduction of*
11 *indebtedness on the existing mortgage*
12 *or mortgages on the residence refi-*
13 *nanced under this section derived from*
14 *misrepresentations made in the certifi-*
15 *cations and documentation required*
16 *under this subparagraph, subject to the*
17 *discretion of the Secretary.*

18 “(B) *CURRENT BORROWER DEBT-TO-INCOME*
19 *RATIO.—As of March 1, 2008, the mortgagor*
20 *shall have had a ratio of mortgage debt to in-*
21 *come, taking into consideration all existing*
22 *mortgages of that mortgagor at such time, great-*
23 *er than 31 percent (or such higher amount as the*
24 *Board determines appropriate).*

1 “(2) *DETERMINATION OF PRINCIPAL OBLIGATION*
2 *AMOUNT.—The principal obligation amount of the re-*
3 *financed eligible mortgage to be insured shall—*

4 “(A) *be determined by the reasonable ability*
5 *of the mortgagor to make his or her mortgage*
6 *payments, as such ability is determined by the*
7 *Secretary pursuant to section 203(b)(4) or by*
8 *any other underwriting standards established by*
9 *the Board; and*

10 “(B) *not exceed 90 percent of the appraised*
11 *value of the property to which such mortgage re-*
12 *lates.*

13 “(3) *REQUIRED WAIVER OF PREPAYMENT PEN-*
14 *ALTIES AND FEES.—All penalties for prepayment or*
15 *refinancing of the eligible mortgage, and all fees and*
16 *penalties related to default or delinquency on the eli-*
17 *gible mortgage, shall be waived or forgiven.*

18 “(4) *EXTINGUISHMENT OF SUBORDINATE*
19 *LIENS.—*

20 “(A) *REQUIRED AGREEMENT.—All holders*
21 *of outstanding mortgage liens on the property to*
22 *which the eligible mortgage relates shall agree to*
23 *accept the proceeds of the insured loan as pay-*
24 *ment in full of all indebtedness under the eligible*
25 *mortgage, and all encumbrances related to such*

1 *eligible mortgage shall be removed. The Secretary*
2 *may take such actions, subject to standards es-*
3 *tablished by the Board under subparagraph (B),*
4 *as may be necessary and appropriate to facili-*
5 *tate coordination and agreement between the*
6 *holders of the existing senior mortgage and any*
7 *existing subordinate mortgages, taking into con-*
8 *sideration the subordinate lien status of such*
9 *subordinate mortgages.*

10 “(B) *SHARED APPRECIATION.*—

11 “(i) *IN GENERAL.*—*The Board shall es-*
12 *tablish standards and policies that will*
13 *allow for the payment to the holder of any*
14 *existing subordinate mortgage of a portion*
15 *of any future appreciation in the property*
16 *secured by such eligible mortgage that is*
17 *owed to the Secretary pursuant to sub-*
18 *section (k).*

19 “(ii) *FACTORS.*—*In establishing the*
20 *standards and policies required under*
21 *clause (i), the Board shall take into consid-*
22 *eration—*

23 “(I) *the status of any subordinate*
24 *mortgage;*

1 “(II) *the outstanding principal*
2 *balance of and accrued interest on the*
3 *existing senior mortgage and any out-*
4 *standing subordinate mortgages;*

5 “(III) *the extent to which the cur-*
6 *rent appraised value of the property*
7 *securing a subordinate mortgage is less*
8 *than the outstanding principal balance*
9 *and accrued interest on any other liens*
10 *that are senior to such subordinate*
11 *mortgage; and*

12 “(IV) *such other factors as the*
13 *Board determines to be appropriate.*

14 “(C) *VOLUNTARY PROGRAM.—This para-*
15 *graph may not be construed to require any hold-*
16 *er of any existing mortgage to participate in the*
17 *program under this section generally, or with re-*
18 *spect to any particular loan.*

19 “(5) *TERM OF MORTGAGE.—The refinanced eligi-*
20 *ble mortgage to be insured shall—*

21 “(A) *bear interest at a single rate that is*
22 *fixed for the entire term of the mortgage; and*

23 “(B) *have a maturity of not less than 30*
24 *years from the date of the beginning of amortiza-*
25 *tion of such refinanced eligible mortgage.*

1 “(6) *MAXIMUM LOAN AMOUNT.*—*The principal*
2 *obligation amount of the eligible mortgage to be in-*
3 *sured shall not exceed 132 percent of the dollar*
4 *amount limitation in effect for 2007 under section*
5 *305(a)(2) of the Federal Home Loan Mortgage Cor-*
6 *poration Act (12 U.S.C. 1454(a)(2)) for a property of*
7 *the applicable size.*

8 “(7) *PROHIBITION ON SECOND LIENS.*—*A mort-*
9 *gagor may not grant a new second lien on the mort-*
10 *gaged property during the first 5 years of the term of*
11 *the mortgage insured under this section.*

12 “(8) *APPRAISALS.*—*Any appraisal conducted in*
13 *connection with a mortgage insured under this section*
14 *shall—*

15 “(A) *be based on the current value of the*
16 *property;*

17 “(B) *be conducted in accordance with title*
18 *XI of the Financial Institutions Reform, Recov-*
19 *ery, and Enforcement Act of 1989 (12 U.S.C.*
20 *3331 et seq.);*

21 “(C) *be completed by an appraiser who*
22 *meets the competency requirements of the Uni-*
23 *form Standards of Professional Appraisal Prac-*
24 *tice;*

1 “(D) be wholly consistent with the ap-
2 praisal standards, practices, and procedures
3 under section 202(e) of this Act that apply to all
4 loans insured under this Act; and

5 “(E) comply with the requirements of sub-
6 section (g) of this section (relating to appraisal
7 independence).

8 “(9) *DOCUMENTATION AND VERIFICATION OF IN-*
9 *COME.—In complying with the FHA underwriting re-*
10 *quirements under the HOPE for Homeowners Pro-*
11 *gram under this section, the mortgagee under the*
12 *mortgage shall document and verify the income of the*
13 *mortgagor by procuring an Internal Revenue Service*
14 *transcript of the income tax returns of the mortgagor*
15 *for the 2 most recent years for which the filing dead-*
16 *line for such years has passed and by any other meth-*
17 *od, in accordance with procedures and standards that*
18 *the Board or the Secretary shall establish.*

19 “(10) *MORTGAGE FRAUD.—The mortgagor shall*
20 *not have been convicted under any provision of Fed-*
21 *eral or State law for fraud, including mortgage fraud.*

22 “(11) *PRIMARY RESIDENCE.—The mortgagor*
23 *shall provide documentation satisfactory in the deter-*
24 *mination of the Secretary to prove that the residence*
25 *covered by the mortgage to be insured under this sec-*

1 *tion is occupied by the mortgagor as the primary res-*
2 *idence of the mortgagor, and that such residence is the*
3 *only residence in which the mortgagor has any*
4 *present ownership interest.*

5 *“(f) STUDY OF AUCTION OR BULK REFINANCE PRO-*
6 *GRAM.—*

7 *“(1) STUDY.—The Board shall conduct a study*
8 *of the need for and efficacy of an auction or bulk refi-*
9 *nancing mechanism to facilitate refinancing of exist-*
10 *ing residential mortgages that are at risk for fore-*
11 *closure into mortgages insured under this section. The*
12 *study shall identify and examine various options for*
13 *mechanisms under which lenders and servicers of such*
14 *mortgages may make bids for forward commitments*
15 *for such insurance in an expedited manner.*

16 *“(2) CONTENT.—*

17 *“(A) ANALYSIS.—The study required under*
18 *paragraph (1) shall analyze—*

19 *“(i) the feasibility of establishing a*
20 *mechanism that would facilitate the more*
21 *rapid refinancing of borrowers at risk of*
22 *foreclosure into performing mortgages in-*
23 *sured under this section;*

24 *“(ii) whether such a mechanism would*
25 *provide an effective and efficient mechanism*

1 to reduce foreclosures on qualified existing
2 mortgages;

3 “(iii) whether the use of an auction or
4 bulk refinance program is necessary to sta-
5 bilize the housing market and reduce the
6 impact of turmoil in that market on the
7 economy of the United States;

8 “(iv) whether there are other mecha-
9 nisms or authority that would be useful to
10 reduce foreclosure; and

11 “(v) and any other factors that the
12 Board considers relevant.

13 “(B) DETERMINATIONS.—To the extent that
14 the Board finds that a facility of the type de-
15 scribed in subparagraph (A) is feasible and use-
16 ful, the study shall—

17 “(i) determine and identify any addi-
18 tional authority or resources needed to es-
19 tablish and operate such a mechanism;

20 “(ii) determine whether there is a need
21 for additional authority with respect to the
22 loan underwriting criteria established in
23 this section or with respect to eligibility of
24 participating borrowers, lenders, or holders
25 of liens;

1 “(iii) determine whether such under-
2 writing criteria should be established on the
3 basis of individual loans, in the aggregate,
4 or otherwise to facilitate the goal of refi-
5 nancing borrowers at risk of foreclosure into
6 viable loans insured under this section.

7 “(3) REPORT.—Not later than the expiration of
8 the 60-day period beginning on the date of the enact-
9 ment of this section, the Board shall submit a report
10 regarding the results of the study conducted under
11 this subsection to the Committee on Financial Serv-
12 ices of the House of Representatives and the Com-
13 mittee on Banking, Housing, and Urban Affairs of
14 the Senate. The report shall include a detailed de-
15 scription of the analysis required under paragraph
16 (2)(A) and of the determinations made pursuant to
17 paragraph (2)(B), and shall include any other find-
18 ings and recommendations of the Board pursuant to
19 the study, including identifying various options for
20 mechanisms described in paragraph (1).

21 “(g) APPRAISAL INDEPENDENCE.—

22 “(1) PROHIBITIONS ON INTERESTED PARTIES IN
23 A REAL ESTATE TRANSACTION.—No mortgage lender,
24 mortgage broker, mortgage banker, real estate broker,
25 appraisal management company, employee of an ap-

1 *praisal management company, nor any other person*
2 *with an interest in a real estate transaction involving*
3 *an appraisal in connection with a mortgage insured*
4 *under this section shall improperly influence, or at-*
5 *tempt to improperly influence, through coercion, ex-*
6 *tortion, collusion, compensation, instruction, induce-*
7 *ment, intimidation, nonpayment for services ren-*
8 *dered, or bribery, the development, reporting, result,*
9 *or review of a real estate appraisal sought in connec-*
10 *tion with the mortgage.*

11 *“(2) CIVIL MONETARY PENALTIES.—The Sec-*
12 *retary may impose a civil money penalty for any*
13 *knowing and material violation of paragraph (1)*
14 *under the same terms and conditions as are author-*
15 *ized in section 536(a) of this Act.*

16 *“(h) STANDARDS TO PROTECT AGAINST ADVERSE SE-*
17 *LECTION.—*

18 *“(1) IN GENERAL.—The Board shall, by rule or*
19 *order, establish standards and policies to require the*
20 *underwriter of the insured loan to provide such rep-*
21 *resentations and warranties as the Board considers*
22 *necessary or appropriate to enforce compliance with*
23 *all underwriting and appraisal standards of the*
24 *HOPE for Homeowners Program.*

1 “(2) *EXCLUSION FOR VIOLATIONS.*—*The Board*
2 *shall prohibit the Secretary from paying insurance*
3 *benefits to a mortgagee who violates the representa-*
4 *tions and warranties, as established under paragraph*
5 *(1), or in any case in which a mortgagor fails to*
6 *make the first payment on a refinanced eligible mort-*
7 *gage.*

8 “(3) *OTHER AUTHORITY.*—*The Board may estab-*
9 *lish such other standards or policies as necessary to*
10 *protect against adverse selection, including requiring*
11 *loans identified by the Secretary as higher risk loans*
12 *to demonstrate payment performance for a reasonable*
13 *period of time prior to being insured under the pro-*
14 *gram.*

15 “(i) *PREMIUMS.*—*For each refinanced eligible mort-*
16 *gage insured under this section, the Secretary shall establish*
17 *and collect—*

18 “(1) *at the time of insurance, a single premium*
19 *payment in an amount equal to 3 percent of the*
20 *amount of the original insured principal obligation of*
21 *the refinanced eligible mortgage, which shall be paid*
22 *from the proceeds of the mortgage being insured under*
23 *this section, through the reduction of the amount of*
24 *indebtedness that existed on the eligible mortgage*
25 *prior to refinancing; and*

1 “(2) *in addition to the premium required under*
2 *paragraph (1), an annual premium in an amount*
3 *equal to 1.5 percent of the amount of the remaining*
4 *insured principal balance of the mortgage.*

5 “(j) *ORIGINATION FEES AND INTEREST RATE.—The*
6 *Board shall establish—*

7 “(1) *a reasonable limitation on origination fees*
8 *for refinanced eligible mortgages insured under this*
9 *section; and*

10 “(2) *procedures to ensure that interest rates on*
11 *such mortgages shall be commensurate with market*
12 *rate interest rates on such types of loans.*

13 “(k) *EQUITY AND APPRECIATION.—*

14 “(1) *FIVE-YEAR PHASE-IN FOR EQUITY AS A RE-*
15 *SULT OF SALE OR REFINANCING.—For each eligible*
16 *mortgage insured under this section, the Secretary*
17 *and the mortgagor of such mortgage shall, upon any*
18 *sale or disposition of the property to which such*
19 *mortgage relates, or upon the subsequent refinancing*
20 *of such mortgage, be entitled to the following with re-*
21 *spect to any equity created as a direct result of such*
22 *sale or refinancing:*

23 “(A) *If such sale or refinancing occurs dur-*
24 *ing the period that begins on the date that such*
25 *mortgage is insured and ends 1 year after such*

1 *date of insurance, the Secretary shall be entitled*
2 *to 100 percent of such equity.*

3 “(B) *If such sale or refinancing occurs dur-*
4 *ing the period that begins 1 year after such date*
5 *of insurance and ends 2 years after such date of*
6 *insurance, the Secretary shall be entitled to 90*
7 *percent of such equity and the mortgagor shall be*
8 *entitled to 10 percent of such equity.*

9 “(C) *If such sale or refinancing occurs dur-*
10 *ing the period that begins 2 years after such date*
11 *of insurance and ends 3 years after such date of*
12 *insurance, the Secretary shall be entitled to 80*
13 *percent of such equity and the mortgagor shall be*
14 *entitled to 20 percent of such equity.*

15 “(D) *If such sale or refinancing occurs dur-*
16 *ing the period that begins 3 years after such date*
17 *of insurance and ends 4 years after such date of*
18 *insurance, the Secretary shall be entitled to 70*
19 *percent of such equity and the mortgagor shall be*
20 *entitled to 30 percent of such equity.*

21 “(E) *If such sale or refinancing occurs dur-*
22 *ing the period that begins 4 years after such date*
23 *of insurance and ends 5 years after such date of*
24 *insurance, the Secretary shall be entitled to 60*

1 *percent of such equity and the mortgagor shall be*
2 *entitled to 40 percent of such equity.*

3 *“(F) If such sale or refinancing occurs dur-*
4 *ing any period that begins 5 years after such*
5 *date of insurance, the Secretary shall be entitled*
6 *to 50 percent of such equity and the mortgagor*
7 *shall be entitled to 50 percent of such equity.*

8 *“(2) APPRECIATION IN VALUE.—For each eligible*
9 *mortgage insured under this section, the Secretary*
10 *and the mortgagor of such mortgage shall, upon any*
11 *sale or disposition of the property to which such*
12 *mortgage relates, each be entitled to 50 percent of any*
13 *appreciation in value of the appraised value of such*
14 *property that has occurred since the date that such*
15 *mortgage was insured under this section.*

16 *“(l) ESTABLISHMENT OF HOPE FUND.—*

17 *“(1) IN GENERAL.—There is established in the*
18 *Federal Housing Administration a revolving fund to*
19 *be known as the Home Ownership Preservation Enti-*
20 *ty Fund, which shall be used by the Board for car-*
21 *rying out the mortgage insurance obligations under*
22 *this section.*

23 *“(2) MANAGEMENT OF FUND.—The HOPE Fund*
24 *shall be administered and managed by the Secretary,*
25 *who shall establish reasonable and prudent criteria*

1 for the management and operation of any amounts in
2 the HOPE Fund.

3 “(m) *LIMITATION ON AGGREGATE INSURANCE AU-*
4 *THORITY.*—The aggregate original principal obligation of
5 all mortgages insured under this section may not exceed
6 \$300,000,000,000.

7 “(n) *REPORTS BY THE BOARD.*—The Board shall sub-
8 mit monthly reports to the Congress identifying the progress
9 of the HOPE for Homeowners Program, which shall con-
10 tain the following information for each month:

11 “(1) *The number of new mortgages insured*
12 *under this section, including the location of the prop-*
13 *erties subject to such mortgages by census tract.*

14 “(2) *The aggregate principal obligation of new*
15 *mortgages insured under this section.*

16 “(3) *The average amount by which the principle*
17 *balance outstanding on mortgages insured this section*
18 *was reduced.*

19 “(4) *The amount of premiums collected for in-*
20 *surance of mortgages under this section.*

21 “(5) *The claim and loss rates for mortgages in-*
22 *sured under this section.*

23 “(6) *Any other information that the Board con-*
24 *siders appropriate.*

1 “(o) *REQUIRED OUTREACH EFFORTS.*—*The Secretary*
2 *shall carry out outreach efforts to ensure that homeowners,*
3 *lenders, and the general public are aware of the opportuni-*
4 *ties for assistance available under this section.*

5 “(p) *ENHANCEMENT OF FHA CAPACITY.*—*Under the*
6 *direction of the Board, the Secretary shall take such actions*
7 *as may be necessary to—*

8 “(1) *contract for the establishment of under-*
9 *writing criteria, automated underwriting systems,*
10 *pricing standards, and other factors relating to eligi-*
11 *bility for mortgages insured under this section;*

12 “(2) *contract for independent quality reviews of*
13 *underwriting, including appraisal reviews and fraud*
14 *detection, of mortgages insured under this section or*
15 *pools of such mortgages; and*

16 “(3) *increase personnel of the Department as*
17 *necessary to process or monitor the processing of*
18 *mortgages insured under this section.*

19 “(q) *GNMA COMMITMENT AUTHORITY.*—

20 “(1) *GUARANTEES.*—*The Secretary shall take*
21 *such actions as may be necessary to ensure that secu-*
22 *rities based on and backed by a trust or pool com-*
23 *posed of mortgages insured under this section are*
24 *available to be guaranteed by the Government Na-*

1 *tional Mortgage Association as to the timely payment*
2 *of principal and interest.*

3 “(2) *GUARANTEE AUTHORITY.*—*To carry out the*
4 *purposes of section 306 of the National Housing Act*
5 *(12 U.S.C. 1721), the Government National Mortgage*
6 *Association may enter into new commitments to issue*
7 *guarantees of securities based on or backed by mort-*
8 *gages insured under this section, not exceeding*
9 *\$300,000,000,000. The amount of authority provided*
10 *under the preceding sentence to enter into new com-*
11 *mitments to issue guarantees is in addition to any*
12 *amount of authority to make new commitments to*
13 *issue guarantees that is provided to the Association*
14 *under any other provision of law.*

15 “(r) *SUNSET.*—*The Secretary may not enter into any*
16 *new commitment to insure any refinanced eligible mort-*
17 *gage, or newly insure any refinanced eligible mortgage pur-*
18 *suant to this section before October 1, 2008 or after Sep-*
19 *tember 30, 2011.*

20 “(s) *DEFINITIONS.*—*For purposes of this section, the*
21 *following definitions shall apply:*

22 “(1) *APPROVED FINANCIAL INSTITUTION OR*
23 *MORTGAGEE.*—*The term ‘approved financial institu-*
24 *tion or mortgagee’ means a financial institution or*
25 *mortgagee approved by the Secretary under section*

1 203 as responsible and able to service mortgages re-
2 sponsibly.

3 “(2) *BOARD.*—The term ‘Board’ means the
4 Board of Directors of the HOPE for Homeowners
5 Program. The Board shall be composed of the Sec-
6 retary, the Secretary of the Treasury, the Chairperson
7 of the Board of Governors of the Federal Reserve Sys-
8 tem, and the Chairperson of the Board of Directors of
9 the Federal Deposit Insurance Corporation.

10 “(3) *ELIGIBLE MORTGAGE.*—The term ‘eligible
11 mortgage’ means a mortgage—

12 “(A) the mortgagor of which—

13 “(i) occupies such property as his or
14 her principal residence; and

15 “(ii) cannot, subject to subsection
16 (e)(1)(B) and such other standards estab-
17 lished by the Board, afford his or her mort-
18 gage payments; and

19 “(B) originated on or before January 1,
20 2008.

21 “(4) *EXISTING SENIOR MORTGAGE.*—The term
22 ‘existing senior mortgage’ means, with respect to a
23 mortgage insured under this section, the existing
24 mortgage that has superior priority.

1 “(5) *EXISTING SUBORDINATE MORTGAGE.*—The
2 term ‘existing subordinate mortgage’ means, with re-
3 spect to a mortgage insured under this section, an ex-
4 isting mortgage that has subordinate priority to the
5 existing senior mortgage.

6 “(6) *HOPE FOR HOMEOWNERS PROGRAM.*—The
7 term ‘HOPE for Homeowners Program’ means the
8 program established under this section.

9 “(7) *SECRETARY.*—The term ‘Secretary’ means
10 the Secretary of Housing and Urban Development, ex-
11 cept where specifically provided otherwise.

12 “(t) *REQUIREMENTS RELATED TO THE BOARD.*—

13 “(1) *COMPENSATION, ACTUAL, NECESSARY, AND*
14 *TRANSPORTATION EXPENSES.*—

15 “(A) *FEDERAL EMPLOYEES.*—A member of
16 the Board who is an officer or employee of the
17 Federal Government shall serve without addi-
18 tional pay (or benefits in the nature of com-
19 pensation) for service as a member of the Board.

20 “(B) *TRAVEL EXPENSES.*—Members of the
21 Board shall be entitled to receive travel expenses,
22 including per diem in lieu of subsistence, equiva-
23 lent to those set forth in subchapter I of chapter
24 57 of title 5, United States Code.

1 “(2) *BYLAWS.—The Board may prescribe,*
2 *amend, and repeal such bylaws as may be necessary*
3 *for carrying out the functions of the Board.*

4 “(3) *QUORUM.—A majority of the Board shall*
5 *constitute a quorum.*

6 “(4) *STAFF; EXPERTS AND CONSULTANTS.—*

7 “(A) *DETAIL OF GOVERNMENT EMPLOY-*
8 *EES.—Upon request of the Board, any Federal*
9 *Government employee may be detailed to the*
10 *Board without reimbursement, and such detail*
11 *shall be without interruption or loss of civil serv-*
12 *ice status or privilege.*

13 “(B) *EXPERTS AND CONSULTANTS.—The*
14 *Board shall procure the services of experts and*
15 *consultants as the Board considers appropriate.*

16 “(u) *RULE OF CONSTRUCTION RELATED TO VOL-*
17 *UNTARY NATURE OF THE PROGRAM.—This section shall not*
18 *be construed to require that any approved financial institu-*
19 *tion or mortgagee participate in any activity authorized*
20 *under this section, including any activity related to the refi-*
21 *nancing of an eligible mortgage.*

22 “(v) *RULE OF CONSTRUCTION RELATED TO INSUR-*
23 *ANCE OF MORTGAGES.—Except as otherwise provided for*
24 *in this section or by action of the Board, the provisions*

1 *and requirements of section 203(b) shall apply with respect*
2 *to the insurance of any eligible mortgage under this section.*

3 *“(w) HOPE BONDS.—*

4 *“(1) ISSUANCE AND REPAYMENT OF BONDS.—*

5 *Notwithstanding section 504(b) of the Federal Credit*
6 *Reform Act of 1990 (2 U.S.C. 661d(b)), the Secretary*
7 *of the Treasury shall—*

8 *“(A) subject to such terms and conditions as*
9 *the Secretary of the Treasury deems necessary,*
10 *issue Federal credit instruments, to be known as*
11 *‘HOPE Bonds’, that are callable at the discre-*
12 *tion of the Secretary of the Treasury and do not,*
13 *in the aggregate, exceed the amount specified in*
14 *subsection (m);*

15 *“(B) provide the subsidy amounts necessary*
16 *for loan guarantees under the HOPE for Home-*
17 *owners Program, not to exceed the amount speci-*
18 *fied in subsection (m), in accordance with the*
19 *provisions of the Federal Credit Reform Act of*
20 *1990 (2 U.S.C. 661 et seq.), except as provided*
21 *in this paragraph; and*

22 *“(C) use the proceeds from HOPE Bonds*
23 *only to pay for the net costs to the Federal Gov-*
24 *ernment of the HOPE for Homeowners Program,*
25 *including administrative costs.*

1 “(2) *REIMBURSEMENTS TO TREASURY.*—*Funds*
2 *received pursuant to section 1338(b) of the Federal*
3 *Housing Enterprises Regulatory Reform Act of 1992*
4 *shall be used to reimburse the Secretary of the Treas-*
5 *ury for amounts borrowed under paragraph (1).*

6 “(3) *USE OF RESERVE FUND.*—*If the net cost to*
7 *the Federal Government for the HOPE for Home-*
8 *owners Program exceeds the amount of funds received*
9 *under paragraph (2), remaining debts of the HOPE*
10 *for Homeowners Program shall be paid from amounts*
11 *deposited into the fund established by the Secretary*
12 *under section 1337(e) of the Federal Housing Enter-*
13 *prises Financial Safety and Soundness Act of 1992,*
14 *remaining amounts in such fund to be used to reduce*
15 *the National debt.*

16 “(4) *REDUCTION OF NATIONAL DEBT.*—*Amounts*
17 *collected under the HOPE for Homeowners Program*
18 *in accordance with subsections (i) and (k) in excess*
19 *of the net cost to the Federal Government for such*
20 *Program shall be used to reduce the National debt.”.*

21 **SEC. 1403. FIDUCIARY DUTY OF SERVICERS OF POOLED**
22 **RESIDENTIAL MORTGAGE LOANS.**

23 *The Truth in Lending Act (15 U.S.C. 1601 et seq.)*
24 *is amended by inserting after section 129 the following new*
25 *section:*

1 **“SEC. 129A. FIDUCIARY DUTY OF SERVICERS OF POOLED**
2 **RESIDENTIAL MORTGAGES.**

3 *“(a) IN GENERAL.—Except as may be established in*
4 *any investment contract between a servicer of pooled resi-*
5 *dential mortgages and an investor, a servicer of pooled resi-*
6 *dential mortgages—*

7 *“(1) owes any duty to maximize the net present*
8 *value of the pooled mortgages in an investment to all*
9 *investors and parties having a direct or indirect in-*
10 *terest in such investment, not to any individual party*
11 *or group of parties; and*

12 *“(2) shall be deemed to act in the best interests*
13 *of all such investors and parties if the servicer agrees*
14 *to or implements a modification or workout plan, in-*
15 *cluding any modification or refinancing undertaken*
16 *pursuant to the HOPE for Homeowners Act of 2008,*
17 *for a residential mortgage or a class of residential*
18 *mortgages that constitute a part or all of the pooled*
19 *mortgages in such investment, provided that any*
20 *mortgage so modified meets the following criteria:*

21 *“(A) Default on the payment of such mort-*
22 *gage has occurred or is reasonably foreseeable.*

23 *“(B) The property securing such mortgage*
24 *is occupied by the mortgagor of such mortgage.*

25 *“(C) The anticipated recovery on the prin-*
26 *cipal outstanding obligation of the mortgage*

1 *under the modification or workout plan exceeds,*
2 *on a net present value basis, the anticipated re-*
3 *covery on the principal outstanding obligation of*
4 *the mortgage through foreclosure.*

5 “(b) *DEFINITION.*—*As used in this section, the term*
6 *‘servicer’ has the same meaning as in section 6(i)(2) of the*
7 *Real Estate Settlement Procedures Act of 1974 (12 U.S.C.*
8 *2605(i)(2)).’.*”

9 **SEC. 1404. REVISED STANDARDS FOR FHA APPRAISERS.**

10 *Section 202(e) of the National Housing Act (12 U.S.C.*
11 *1708(e)) is amended by adding at the end the following:*

12 “(5) *ADDITIONAL APPRAISER STANDARDS.*—*Be-*
13 *ginning on the date of enactment of the Federal Hous-*
14 *ing Finance Regulatory Reform Act of 2008, any ap-*
15 *praiser chosen or approved to conduct appraisals for*
16 *mortgages under this title shall—*

17 “(A) *be certified—*

18 “(i) *by the State in which the property*
19 *to be appraised is located; or*

20 “(ii) *by a nationally recognized profes-*
21 *sional appraisal organization; and*

22 “(B) *have demonstrated verifiable education*
23 *in the appraisal requirements established by the*
24 *Federal Housing Administration under this sub-*
25 *section.’.*”

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 “S.A.F.E.*
6 *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 bur-*
11 *den, enhance consumer protection, and reduce fraud, the*
12 *States, through the Conference of State Bank Supervisors*
13 *and the American Association of Residential Mortgage Reg-*
14 *ulators, are hereby encouraged to establish a Nationwide*
15 *Mortgage Licensing System and Registry for the residential*
16 *mortgage industry that accomplishes all of the following ob-*
17 *jectives:*

18 (1) *Provides uniform license applications and re-*
19 *porting requirements for State-licensed loan origina-*
20 *tors.*

21 (2) *Provides a comprehensive licensing and su-*
22 *pervisory database.*

23 (3) *Aggregates and improves the flow of informa-*
24 *tion to and between regulators.*

1 (4) *Provides increased accountability and track-*
2 *ing of loan originators.*

3 (5) *Streamlines the licensing process and reduces*
4 *the regulatory burden.*

5 (6) *Enhances consumer protections and supports*
6 *anti-fraud measures.*

7 (7) *Provides consumers with easily accessible in-*
8 *formation, 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 Gov-*
6 *ernors of the Federal Reserve System, the Comptroller*
7 *of the Currency, the Director of the Office of Thrift*
8 *Supervision, the National Credit Union Administra-*
9 *tion, and the Federal Deposit Insurance Corporation.*

10 (2) *DEPOSITORY INSTITUTION.*—*The term “de-*
11 *pository institution” has the same meaning as in sec-*
12 *tion 3 of the Federal Deposit Insurance Act, and in-*
13 *cludes any credit union.*

14 (3) *LOAN ORIGINATOR.*—

15 (A) *IN GENERAL.*—*The term “loan origi-*
16 *nator”*—

17 (i) *means an individual who—*

18 (I) *takes a residential mortgage*
19 *loan application; and*

20 (II) *offers or negotiates terms of a*
21 *residential mortgage loan for com-*
22 *ensation or gain;*

23 (ii) *does not include any individual*
24 *who is not otherwise described in clause (i)*
25 *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 ac-*
6 *cordance with applicable State law, unless*
7 *the person or entity is compensated by a*
8 *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 entity*
13 *solely involved in extensions of credit relat-*
14 *ing to timeshare plans, as that term is de-*
15 *finied in section 101(53D) of title 11, United*
16 *States Code.*

17 *(B) OTHER DEFINITIONS RELATING TO*
18 *LOAN ORIGINATOR.—For purposes of this sub-*
19 *section, an individual “assists a consumer in ob-*
20 *taining or applying to obtain a residential mort-*
21 *gage loan” by, among other things, advising on*
22 *loan terms (including rates, fees, other costs),*
23 *preparing loan packages, or collecting informa-*
24 *tion on behalf of the consumer with regard to a*
25 *residential mortgage loan.*

1 (C) ADMINISTRATIVE OR CLERICAL
2 TASKS.—The term “administrative or clerical
3 tasks” means the receipt, collection, and distribu-
4 tion of information common for the processing or
5 underwriting of a loan in the mortgage industry
6 and communication with a consumer to obtain
7 information necessary for the processing or un-
8 derwriting of a residential mortgage loan.

9 (D) REAL ESTATE BROKERAGE ACTIVITY
10 DEFINED.—The term “real estate brokerage ac-
11 tivity” means any activity that involves offering
12 or providing real estate brokerage services to the
13 public, including—

14 (i) acting as a real estate agent or real
15 estate broker for a buyer, seller, lessor, or
16 lessee of real property;

17 (ii) bringing together parties interested
18 in the sale, purchase, lease, rental, or ex-
19 change of real property;

20 (iii) negotiating, on behalf of any
21 party, any portion of a contract relating to
22 the sale, purchase, lease, rental, or exchange
23 of real property (other than in connection
24 with providing financing with respect to
25 any such transaction);

1 (iv) engaging in any activity for which
2 a person engaged in the activity is required
3 to be registered or licensed as a real estate
4 agent or real estate broker under any appli-
5 cable law; and

6 (v) offering to engage in any activity,
7 or act in any capacity, described in clause
8 (i), (ii), (iii), or (iv).

9 (4) *LOAN PROCESSOR OR UNDERWRITER.*—

10 (A) *IN GENERAL.*—The term “loan processor
11 or underwriter” means an individual who per-
12 forms clerical or support duties at the direction
13 of and subject to the supervision and instruction
14 of—

15 (i) a State-licensed loan originator; or

16 (ii) a registered loan originator.

17 (B) *CLERICAL OR SUPPORT DUTIES.*—For
18 purposes of subparagraph (A), the term “clerical
19 or support duties” may include—

20 (i) the receipt, collection, distribution,
21 and analysis of information common for the
22 processing or underwriting of a residential
23 mortgage loan; and

24 (ii) communicating with a consumer to
25 obtain the information necessary for the

1 *processing or underwriting of a loan, to the*
2 *extent that such communication does not in-*
3 *clude offering or negotiating loan rates or*
4 *terms, or counseling consumers about resi-*
5 *dential mortgage loan rates or terms.*

6 (5) *NATIONWIDE MORTGAGE LICENSING SYSTEM*
7 *AND REGISTRY.—The term “Nationwide Mortgage Li-*
8 *censing System and Registry” means a mortgage li-*
9 *censing system developed and maintained by the Con-*
10 *ference of State Bank Supervisors and the American*
11 *Association of Residential Mortgage Regulators for the*
12 *State licensing and registration of State-licensed loan*
13 *originators and the registration of registered loan*
14 *originators or any system established by the Secretary*
15 *under section 1509.*

16 (6) *NONTRADITIONAL MORTGAGE PRODUCT.—The*
17 *term “nontraditional mortgage product” means any*
18 *mortgage product other than a 30-year fixed rate*
19 *mortgage.*

20 (7) *REGISTERED LOAN ORIGINATOR.—The term*
21 *“registered loan originator” means any individual*
22 *who—*

23 (A) *meets the definition of loan originator*
24 *and is an employee of—*

25 (i) *a depository institution;*

- 1 (ii) a subsidiary that is—
- 2 (I) owned and controlled by a de-
- 3 pository institution; and
- 4 (II) regulated by a Federal bank-
- 5 ing agency; or
- 6 (iii) an institution regulated by the
- 7 Farm Credit Administration; and
- 8 (B) is registered with, and maintains a
- 9 unique identifier through, the Nationwide Mort-
- 10 gage Licensing System and Registry.

11 (8) *RESIDENTIAL MORTGAGE LOAN.*—The term

12 “residential mortgage loan” means any loan pri-

13 marily for personal, family, or household use that is

14 secured by a mortgage, deed of trust, or other equiva-

15 lent consensual security interest on a dwelling (as de-

16 fined in section 103(v) of the Truth in Lending Act)

17 or residential real estate upon which is constructed or

18 intended to be constructed a dwelling (as so defined).

19 (9) *SECRETARY.*—The term “Secretary” means

20 the Secretary of Housing and Urban Development.

21 (10) *STATE-LICENSED LOAN ORIGINATOR.*—The

22 term “State-licensed loan originator” means any in-

23 dividual who—

24 (A) is a loan originator;

25 (B) is not an employee of—

- 1 (i) a depository institution;
- 2 (ii) a subsidiary that is—
- 3 (I) owned and controlled by a de-
- 4 pository institution; and
- 5 (II) regulated by a Federal bank-
- 6 ing agency; or
- 7 (iii) an institution regulated by the
- 8 Farm Credit Administration; and
- 9 (C) is licensed by a State or by the Sec-
- 10 retary under section 1508 and registered as a
- 11 loan originator with, and maintains a unique
- 12 identifier through, the Nationwide Mortgage Li-
- 13 censing System and Registry.

14 (11) UNIQUE IDENTIFIER.—

15 (A) IN GENERAL.—The term “unique iden-

16 tifier” means a number or other identifier that—

17 (i) permanently identifies a loan origi-

18 nator;

19 (ii) is assigned by protocols established

20 by the Nationwide Mortgage Licensing Sys-

21 tem and Registry and the Federal banking

22 agencies to facilitate electronic tracking of

23 loan originators and uniform identification

24 of, and public access to, the employment

25 history of and the publicly adjudicated dis-

1 *ciplinary and enforcement actions against*
2 *loan originators; and*

3 *(iii) shall not be used for purposes*
4 *other than those set forth under this title.*

5 *(B) RESPONSIBILITY OF STATES.—To the*
6 *greatest extent possible and to accomplish the*
7 *purpose of this title, States shall use unique*
8 *identifiers in lieu of social security numbers.*

9 **SEC. 1504. LICENSE OR REGISTRATION REQUIRED.**

10 *(a) IN GENERAL.—An individual may not engage in*
11 *the business of a loan originator without first—*

12 *(1) obtaining, and maintaining annually—*

13 *(A) a registration as a registered loan origi-*
14 *nator; or*

15 *(B) a license and registration as a State-li-*
16 *censed loan originator; and*

17 *(2) obtaining a unique identifier.*

18 *(b) LOAN PROCESSORS AND UNDERWRITERS.—*

19 *(1) SUPERVISED LOAN PROCESSORS AND UNDER-*
20 *WRITERS.—A loan processor or underwriter who does*
21 *not represent to the public, through advertising or*
22 *other means of communicating or providing informa-*
23 *tion (including the use of business cards, stationery,*
24 *brochures, signs, rate lists, or other promotional*
25 *items), that such individual can or will perform any*

1 *of the activities of a loan originator shall not be re-*
2 *quired to be a State-licensed loan originator.*

3 (2) *INDEPENDENT CONTRACTORS.—An inde-*
4 *pendent contractor may not engage in residential*
5 *mortgage loan origination activities as a loan proc-*
6 *essor or underwriter unless such independent con-*
7 *tractor is a State-licensed loan originator.*

8 **SEC. 1505. STATE LICENSE AND REGISTRATION APPLICA-**
9 **TION AND ISSUANCE.**

10 (a) *BACKGROUND CHECKS.—In connection with an*
11 *application to any State for licensing and registration as*
12 *a State-licensed loan originator, the applicant shall, at a*
13 *minimum, furnish to the Nationwide Mortgage Licensing*
14 *System and Registry information concerning the appli-*
15 *cant's identity, including—*

16 (1) *fingerprints for submission to the Federal*
17 *Bureau of Investigation, and any governmental agen-*
18 *cy or entity authorized to receive such information for*
19 *a State and national criminal history background*
20 *check; and*

21 (2) *personal history and experience, including*
22 *authorization for the System to obtain—*

23 (A) *an independent credit report obtained*
24 *from a consumer reporting agency described in*

1 *section 603(p) of the Fair Credit Reporting Act;*
2 *and*

3 *(B) information related to any administra-*
4 *tive, civil or criminal findings by any govern-*
5 *mental jurisdiction.*

6 *(b) ISSUANCE OF LICENSE.—The minimum standards*
7 *for licensing and registration as a State-licensed loan origi-*
8 *nator shall include the following:*

9 *(1) The applicant has never had a loan origi-*
10 *nator license revoked in any governmental jurisdic-*
11 *tion.*

12 *(2) The applicant has not been convicted of, or*
13 *pled guilty or nolo contendere to, a felony in a domes-*
14 *tic, foreign, or military court—*

15 *(A) during the 7-year period preceding the*
16 *date of the application for licensing and reg-*
17 *istration; or*

18 *(B) at any time preceding such date of ap-*
19 *plication, if such felony involved an act of fraud,*
20 *dishonesty, or a breach of trust, or money laun-*
21 *dering.*

22 *(3) The applicant has demonstrated financial re-*
23 *sponsibility, character, and general fitness such as to*
24 *command the confidence of the community and to*
25 *warrant a determination that the loan originator will*

1 *operate honestly, fairly, and efficiently within the*
2 *purposes of this title.*

3 *(4) The applicant has completed the pre-licens-*
4 *ing education requirement described in subsection (c).*

5 *(5) The applicant has passed a written test that*
6 *meets the test requirement described in subsection (d).*

7 *(6) The applicant has met either a net worth or*
8 *surety bond requirement, as required by the State*
9 *pursuant to section 1508(d)(6).*

10 *(c) PRE-LICENSING EDUCATION OF LOAN ORIGINA-*
11 *TORS.—*

12 *(1) MINIMUM EDUCATIONAL REQUIREMENTS.—In*
13 *order to meet the pre-licensing education requirement*
14 *referred to in subsection (b)(4), a person shall com-*
15 *plete at least 20 hours of education approved in ac-*
16 *cordance with paragraph (2), which shall include at*
17 *least—*

18 *(A) 3 hours of Federal law and regulations;*

19 *(B) 3 hours of ethics, which shall include*
20 *instruction on fraud, consumer protection, and*
21 *fair lending issues; and*

22 *(C) 2 hours of training related to lending*
23 *standards for the nontraditional mortgage prod-*
24 *uct marketplace.*

1 (2) *APPROVED EDUCATIONAL COURSES.*—For
2 purposes of paragraph (1), pre-licensing education
3 courses shall be reviewed, and approved by the Na-
4 tionwide Mortgage Licensing System and Registry.

5 (3) *LIMITATION AND STANDARDS.*—

6 (A) *LIMITATION.*—To maintain the inde-
7 pendence of the approval process, the Nationwide
8 Mortgage Licensing System and Registry shall
9 not directly or indirectly offer pre-licensure edu-
10 cational courses for loan originators.

11 (B) *STANDARDS.*—In approving courses
12 under this section, the Nationwide Mortgage Li-
13 censing System and Registry shall apply reason-
14 able standards in the review and approval of
15 courses.

16 (d) *TESTING OF LOAN ORIGINATORS.*—

17 (1) *IN GENERAL.*—In order to meet the written
18 test requirement referred to in subsection (b)(5), an
19 individual shall pass, in accordance with the stand-
20 ards established under this subsection, a qualified
21 written test developed by the Nationwide Mortgage
22 Licensing System and Registry and administered by
23 an approved test provider.

24 (2) *QUALIFIED TEST.*—A written test shall not
25 be treated as a qualified written test for purposes of

1 paragraph (1) unless the test adequately measures the
2 applicant's knowledge and comprehension in appro-
3 priate subject areas, including—

4 (A) ethics;

5 (B) Federal law and regulation pertaining
6 to mortgage origination;

7 (C) State law and regulation pertaining to
8 mortgage origination;

9 (D) Federal and State law and regulation,
10 including instruction on fraud, consumer protec-
11 tion, the nontraditional mortgage marketplace,
12 and fair lending issues.

13 (3) *MINIMUM COMPETENCE.*—

14 (A) *PASSING SCORE.*—An individual shall
15 not be considered to have passed a qualified
16 written test unless the individual achieves a test
17 score of not less than 75 percent correct answers
18 to questions.

19 (B) *INITIAL RETESTS.*—An individual may
20 retake a test 3 consecutive times with each con-
21 secutive taking occurring at least 30 days after
22 the preceding test.

23 (C) *SUBSEQUENT RETESTS.*—After failing 3
24 consecutive tests, an individual shall wait at
25 least 6 months before taking the test again.

1 (D) *RETEST AFTER LAPSE OF LICENSE.*—A
 2 State-licensed loan originator who fails to main-
 3 tain a valid license for a period of 5 years or
 4 longer shall retake the test, not taking into ac-
 5 count any time during which such individual is
 6 a registered loan originator.

7 (e) *MORTGAGE CALL REPORTS.*—Each mortgage li-
 8 censee shall submit to the Nationwide Mortgage Licensing
 9 System and Registry reports of condition, which shall be
 10 in such form and shall contain such information as the Na-
 11 tionwide Mortgage Licensing System and Registry may re-
 12 quire.

13 **SEC. 1506. STANDARDS FOR STATE LICENSE RENEWAL.**

14 (a) *IN GENERAL.*—The minimum standards for license
 15 renewal for State-licensed loan originators shall include the
 16 following:

17 (1) *The loan originator continues to meet the*
 18 *minimum standards for license issuance.*

19 (2) *The loan originator has satisfied the annual*
 20 *continuing education requirements described in sub-*
 21 *section (b).*

22 (b) *CONTINUING EDUCATION FOR STATE-LICENSED*
 23 *LOAN ORIGINATORS.*—

24 (1) *IN GENERAL.*—In order to meet the annual
 25 continuing education requirements referred to in sub-

1 *section (a)(2), a State-licensed loan originator shall*
2 *complete at least 8 hours of education approved in ac-*
3 *cordance with paragraph (2), which shall include at*
4 *least—*

5 *(A) 3 hours of Federal law and regulations;*

6 *(B) 2 hours of ethics, which shall include*
7 *instruction on fraud, consumer protection, and*
8 *fair lending issues; and*

9 *(C) 2 hours of training related to lending*
10 *standards for the nontraditional mortgage prod-*
11 *uct marketplace.*

12 *(2) APPROVED EDUCATIONAL COURSES.—For*
13 *purposes of paragraph (1), continuing education*
14 *courses shall be reviewed, and approved by the Na-*
15 *tionwide Mortgage Licensing System and Registry.*

16 *(3) CALCULATION OF CONTINUING EDUCATION*
17 *CREDITS.—A State-licensed loan originator—*

18 *(A) may only receive credit for a continuing*
19 *education course in the year in which the course*
20 *is taken; and*

21 *(B) may not take the same approved course*
22 *in the same or successive years to meet the an-*
23 *annual requirements for continuing education.*

24 *(4) INSTRUCTOR CREDIT.—A State-licensed loan*
25 *originator who is approved as an instructor of an ap-*

1 *proved continuing education course may receive credit*
2 *for the originator's own annual continuing education*
3 *requirement at the rate of 2 hours credit for every 1*
4 *hour taught.*

5 (5) *LIMITATION AND STANDARDS.—*

6 (A) *LIMITATION.—To maintain the inde-*
7 *pendence of the approval process, the Nationwide*
8 *Mortgage Licensing System and Registry shall*
9 *not directly or indirectly offer any continuing*
10 *education courses for loan originators.*

11 (B) *STANDARDS.—In approving courses*
12 *under this section, the Nationwide Mortgage Li-*
13 *censing System and Registry shall apply reason-*
14 *able standards in the review and approval of*
15 *courses.*

16 **SEC. 1507. SYSTEM OF REGISTRATION ADMINISTRATION BY**
17 **FEDERAL AGENCIES.**

18 (a) *DEVELOPMENT.—*

19 (1) *IN GENERAL.—The Federal banking agencies*
20 *shall jointly, through the Federal Financial Institu-*
21 *tions Examination Council, and together with the*
22 *Farm Credit Administration, develop and maintain a*
23 *system for registering employees of a depository insti-*
24 *tution, employees of a subsidiary that is owned and*
25 *controlled by a depository institution and regulated*

1 *by a Federal banking agency, or employees of an in-*
2 *stitution regulated by the Farm Credit Administra-*
3 *tion, as registered loan originators with the Nation-*
4 *wide Mortgage Licensing System and Registry. The*
5 *system shall be implemented before the end of the 1-*
6 *year period beginning on the date of enactment of this*
7 *title.*

8 (2) *REGISTRATION REQUIREMENTS.—In connec-*
9 *tion with the registration of any loan originator*
10 *under this subsection, the appropriate Federal bank-*
11 *ing agency and the Farm Credit Administration*
12 *shall, at a minimum, furnish or cause to be furnished*
13 *to the Nationwide Mortgage Licensing System and*
14 *Registry information concerning the employees’s iden-*
15 *tity, including—*

16 (A) *fingerprints for submission to the Fed-*
17 *eral Bureau of Investigation, and any govern-*
18 *mental agency or entity authorized to receive*
19 *such information for a State and national crimi-*
20 *nal history background check; and*

21 (B) *personal history and experience, includ-*
22 *ing authorization for the Nationwide Mortgage*
23 *Licensing System and Registry to obtain infor-*
24 *mation related to any administrative, civil or*

1 *criminal findings by any governmental jurisdic-*
2 *tion.*

3 **(b) COORDINATION.—**

4 **(1) UNIQUE IDENTIFIER.—***The Federal banking*
5 *agencies, through the Financial Institutions Exam-*
6 *ination Council, and the Farm Credit Administration*
7 *shall coordinate with the Nationwide Mortgage Li-*
8 *censing System and Registry to establish protocols for*
9 *assigning a unique identifier to each registered loan*
10 *originator that will facilitate electronic tracking and*
11 *uniform identification of, and public access to, the*
12 *employment history of and publicly adjudicated dis-*
13 *ciplinary and enforcement actions against loan origi-*
14 *nators.*

15 **(2) NATIONWIDE MORTGAGE LICENSING SYSTEM**
16 **AND REGISTRY DEVELOPMENT.—***To facilitate the*
17 *transfer of information required by subsection (a)(2),*
18 *the Nationwide Mortgage Licensing System and Reg-*
19 *istry shall coordinate with the Federal banking agen-*
20 *cies, through the Financial Institutions Examination*
21 *Council, and the Farm Credit Administration con-*
22 *cerning the development and operation, by such Sys-*
23 *tem and Registry, of the registration functionality*
24 *and data requirements for loan originators.*

1 (c) *CONSIDERATION OF FACTORS AND PROCEDURES.*—
2 *In establishing the registration procedures under subsection*
3 *(a) and the protocols for assigning a unique identifier to*
4 *a registered loan originator, the Federal banking agencies*
5 *shall make such de minimis exceptions as may be appro-*
6 *priate to paragraphs (1)(A) and (2) of section 1504(a),*
7 *shall make reasonable efforts to utilize existing information*
8 *to minimize the burden of registering loan originators, and*
9 *shall consider methods for automating the process to the*
10 *greatest extent practicable consistent with the purposes of*
11 *this title.*

12 **SEC. 1508. SECRETARY OF HOUSING AND URBAN DEVELOP-**
13 **MENT BACKUP AUTHORITY TO ESTABLISH A**
14 **LOAN ORIGINATOR LICENSING SYSTEM.**

15 (a) *BACKUP LICENSING SYSTEM.*—*If, by the end of the*
16 *1-year period, or the 2-year period in the case of a State*
17 *whose legislature meets only biennially, beginning on the*
18 *date of the enactment of this title or at any time thereafter,*
19 *the Secretary determines that a State does not have in place*
20 *by law or regulation a system for licensing and registering*
21 *loan originators that meets the requirements of sections*
22 *1505 and 1506 and subsection (d) of this section, or does*
23 *not participate in the Nationwide Mortgage Licensing Sys-*
24 *tem and Registry, the Secretary shall provide for the estab-*
25 *lishment and maintenance of a system for the licensing and*

1 *registration by the Secretary of loan originators operating*
2 *in such State as State-licensed loan originators.*

3 *(b) LICENSING AND REGISTRATION REQUIREMENTS.—*

4 *The system established by the Secretary under subsection*
5 *(a) for any State shall meet the requirements of sections*
6 *1505 and 1506 for State-licensed loan originators.*

7 *(c) UNIQUE IDENTIFIER.—The Secretary shall coordi-*
8 *nate with the Nationwide Mortgage Licensing System and*
9 *Registry to establish protocols for assigning a unique iden-*
10 *tifier to each loan originator licensed by the Secretary as*
11 *a State-licensed loan originator that will facilitate elec-*
12 *tronic tracking and uniform identification of, and public*
13 *access to, the employment history of and the publicly adju-*
14 *dicated disciplinary and enforcement actions against loan*
15 *originators.*

16 *(d) STATE LICENSING LAW REQUIREMENTS.—For*
17 *purposes of this section, the law in effect in a State meets*
18 *the requirements of this subsection if the Secretary deter-*
19 *mines the law satisfies the following minimum require-*
20 *ments:*

21 *(1) A State loan originator supervisory author-*
22 *ity is maintained to provide effective supervision and*
23 *enforcement of such law, including the suspension,*
24 *termination, or nonrenewal of a license for a viola-*
25 *tion of State or Federal law.*

1 (2) *The State loan originator supervisory au-*
2 *thority ensures that all State-licensed loan originators*
3 *operating in the State are registered with Nationwide*
4 *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 Li-*
9 *censing 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 Licens-*
13 *ing 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 of*
22 *loans originated by a residential mortgage loan origi-*
23 *nator.*

24 (e) *TEMPORARY EXTENSION OF PERIOD.—The Sec-*
25 *retary may extend, by not more than 24 months, the 1-*

1 year or 2-year period, as the case may be, referred to in
2 subsection (a) for the licensing of loan originators in any
3 State under a State licensing law that meets the require-
4 ments of sections 1505 and 1506 and subsection (d) if the
5 Secretary determines that such State is making a good faith
6 effort to establish a State licensing law that meets such re-
7 quirements, license mortgage originators under such law,
8 and register such originators with the Nationwide Mortgage
9 Licensing System and Registry.

10 (f) *CONTRACTING AUTHORITY.*—The Secretary may
11 enter into contracts with qualified independent parties, as
12 necessary to efficiently fulfill the obligations of the Sec-
13 retary under this section.

14 **SEC. 1509. BACKUP AUTHORITY TO ESTABLISH A NATION-**
15 **WIDE MORTGAGE LICENSING AND REGISTRY**
16 **SYSTEM.**

17 If at any time the Secretary determines that the Na-
18 tionwide Mortgage Licensing System and Registry is fail-
19 ing to meet the requirements and purposes of this title for
20 a comprehensive licensing, supervisory, and tracking sys-
21 tem for loan originators, the Secretary shall establish and
22 maintain such a system to carry out the purposes of this
23 title and the effective registration and regulation of loan
24 originators.

1 **SEC. 1510. FEES.**

2 *The Federal banking agencies, the Farm Credit Ad-*
3 *ministration, the Secretary, and the Nationwide Mortgage*
4 *Licensing System and Registry may charge reasonable fees*
5 *to cover the costs of maintaining and providing access to*
6 *information from the Nationwide Mortgage Licensing Sys-*
7 *tem and Registry, to the extent that such fees are not*
8 *charged to consumers for access to such system and registry.*

9 **SEC. 1511. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

10 *(a) ACCESS TO RECORDS.—Notwithstanding any other*
11 *provision of law, in providing identification and processing*
12 *functions, the Attorney General shall provide access to all*
13 *criminal history information to the appropriate State offi-*
14 *cials responsible for regulating State-licensed loan origina-*
15 *tors to the extent criminal history background checks are*
16 *required under the laws of the State for the licensing of such*
17 *loan originators.*

18 *(b) AGENT.—For the purposes of this section and in*
19 *order to reduce the points of contact which the Federal Bu-*
20 *reau of Investigation may have to maintain for purposes*
21 *of subsection (a), the Conference of State Bank Supervisors*
22 *or a wholly owned subsidiary may be used as a channeling*
23 *agent of the States for requesting and distributing informa-*
24 *tion between the Department of Justice and the appropriate*
25 *State agencies.*

1 **SEC. 1512. CONFIDENTIALITY OF INFORMATION.**

2 (a) *SYSTEM CONFIDENTIALITY.*—*Except as otherwise*
3 *provided in this section, any requirement under Federal or*
4 *State law regarding the privacy or confidentiality of any*
5 *information or material provided to the Nationwide Mort-*
6 *gage Licensing System and Registry or a system established*
7 *by the Secretary under section 1509, and any privilege aris-*
8 *ing under Federal or State law (including the rules of any*
9 *Federal or State court) with respect to such information*
10 *or material, shall continue to apply to such information*
11 *or material after the information or material has been dis-*
12 *closed to the system. Such information and material may*
13 *be shared with all State and Federal regulatory officials*
14 *with mortgage industry oversight authority without the loss*
15 *of privilege or the loss of confidentiality protections pro-*
16 *vided by Federal and State laws.*

17 (b) *NONAPPLICABILITY OF CERTAIN REQUIRE-*
18 *MENTS.*—*Information or material that is subject to a privi-*
19 *lege or confidentiality under subsection (a) shall not be sub-*
20 *ject 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 Govern-*
24 *ment or the respective State; or*

25 (2) *subpoena or discovery, or admission into evi-*
26 *dence, in any private civil action or administrative*

1 *process, unless with respect to any privilege held by*
2 *the Nationwide Mortgage Licensing System and Reg-*
3 *istry or the Secretary with respect to such informa-*
4 *tion or material, the person to whom such informa-*
5 *tion or material pertains waives, in whole or in part,*
6 *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 is*
11 *inconsistent with subsection (a) shall be superseded by the*
12 *requirements of such provision to the extent State law pro-*
13 *vides 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 *ensing 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 ad-*
23 *ministrator of the Nationwide Mortgage Licensing System*
24 *and Registry or a system established by the Secretary under*
25 *section 1509, or any officer or employee of any such entity,*

1 *shall not be subject to any civil action or proceeding for*
2 *monetary damages by reason of the good faith action or*
3 *omission of any officer or employee of any such entity,*
4 *while acting within the scope of office or employment, relat-*
5 *ing to the collection, furnishing, or dissemination of infor-*
6 *mation concerning persons who are loan originators or are*
7 *applying for licensing or registration as loan originators.*

8 **SEC. 1514. ENFORCEMENT UNDER HUD BACKUP LICENSING**
9 **SYSTEM.**

10 (a) *SUMMONS AUTHORITY.*—*The Secretary may—*

11 (1) *examine any books, papers, records, or other*
12 *data of any loan originator operating in any State*
13 *which is subject to a licensing system established by*
14 *the Secretary under section 1508; and*

15 (2) *summon any loan originator referred to in*
16 *paragraph (1) or any person having possession, cus-*
17 *tody, or care of the reports and records relating to*
18 *such loan originator, to appear before the Secretary*
19 *or any delegate of the Secretary at a time and place*
20 *named in the summons and to produce such books,*
21 *papers, records, or other data, and to give testimony,*
22 *under oath, as may be relevant or material to an in-*
23 *vestigation of such loan originator for compliance*
24 *with the requirements of this title.*

25 (b) *EXAMINATION AUTHORITY.*—

1 (1) *IN GENERAL.*—*If the Secretary establishes a*
2 *licensing system under section 1508 for any State, the*
3 *Secretary shall appoint examiners for the purposes of*
4 *administering such section.*

5 (2) *POWER TO EXAMINE.*—*Any examiner ap-*
6 *pointed under paragraph (1) shall have power, on be-*
7 *half of the Secretary, to make any examination of*
8 *any loan originator operating in any State which is*
9 *subject to a licensing system established by the Sec-*
10 *retary under section 1508 whenever the Secretary de-*
11 *termines an examination of any loan originator is*
12 *necessary to determine the compliance by the origi-*
13 *nator with this title.*

14 (3) *REPORT OF EXAMINATION.*—*Each examiner*
15 *appointed under paragraph (1) shall make a full and*
16 *detailed report of examination of any loan originator*
17 *examined to the Secretary.*

18 (4) *ADMINISTRATION OF OATHS AND AFFIRMA-*
19 *TIONS; EVIDENCE.*—*In connection with examinations*
20 *of loan originators operating in any State which is*
21 *subject to a licensing system established by the Sec-*
22 *retary under section 1508, or with other types of in-*
23 *vestigations to determine compliance with applicable*
24 *law and regulations, the Secretary and examiners ap-*
25 *pointed by the Secretary may administer oaths and*

1 *affirmations and examine and take and preserve tes-*
2 *timony under oath as to any matter in respect to the*
3 *affairs of any such loan originator.*

4 (5) *ASSESSMENTS.*—*The cost of conducting any*
5 *examination of any loan originator operating in any*
6 *State which is subject to a licensing system estab-*
7 *lished by the Secretary under section 1508 shall be as-*
8 *essed by the Secretary against the loan originator to*
9 *meet the Secretary's expenses in carrying out such ex-*
10 *amination.*

11 (c) *CEASE AND DESIST PROCEEDING.*—

12 (1) *AUTHORITY OF SECRETARY.*—*If the Sec-*
13 *retary finds, after notice and opportunity for hearing,*
14 *that any person is violating, has violated, or is about*
15 *to violate any provision of this title, or any regula-*
16 *tion thereunder, with respect to a State which is sub-*
17 *ject to a licensing system established by the Secretary*
18 *under section 1508, the Secretary may publish such*
19 *findings and enter an order requiring such person,*
20 *and any other person that is, was, or would be a*
21 *cause of the violation, due to an act or omission the*
22 *person knew or should have known would contribute*
23 *to such violation, to cease and desist from committing*
24 *or causing such violation and any future violation of*
25 *the same provision, rule, or regulation. Such order*

1 *may, in addition to requiring a person to cease and*
2 *desist from committing or causing a violation, require*
3 *such person to comply, or to take steps to effect com-*
4 *pliance, with such provision or regulation, upon such*
5 *terms and conditions and within such time as the*
6 *Secretary may specify in such order. Any such order*
7 *may, as the Secretary deems appropriate, require fu-*
8 *ture compliance or steps to effect future compliance,*
9 *either permanently or for such period of time as the*
10 *Secretary may specify, with such provision or regula-*
11 *tion with respect to any loan originator.*

12 (2) *HEARING.*—*The notice instituting pro-*
13 *ceedings pursuant to paragraph (1) shall fix a hear-*
14 *ing date not earlier than 30 days nor later than 60*
15 *days after service of the notice unless an earlier or a*
16 *later date is set by the Secretary with the consent of*
17 *any respondent so served.*

18 (3) *TEMPORARY ORDER.*—*Whenever the Sec-*
19 *retary determines that the alleged violation or threat-*
20 *ened violation specified in the notice instituting pro-*
21 *ceedings pursuant to paragraph (1), or the continu-*
22 *ation thereof, is likely to result in significant dissipa-*
23 *tion or conversion of assets, significant harm to con-*
24 *sumers, or substantial harm to the public interest*
25 *prior to the completion of the proceedings, the Sec-*

1 *retary may enter a temporary order requiring the re-*
2 *spondent to cease and desist from the violation or*
3 *threatened violation and to take such action to pre-*
4 *vent the violation or threatened violation and to pre-*
5 *vent dissipation or conversion of assets, significant*
6 *harm to consumers, or substantial harm to the public*
7 *interest as the Secretary deems appropriate pending*
8 *completion of such proceedings. Such an order shall*
9 *be entered only after notice and opportunity for a*
10 *hearing, unless the Secretary determines that notice*
11 *and hearing prior to entry would be impracticable or*
12 *contrary to the public interest. A temporary order*
13 *shall become effective upon service upon the res pond-*
14 *ent and, unless set aside, limited, or suspended by the*
15 *Secretary or a court of competent jurisdiction, shall*
16 *remain effective and enforceable pending the comple-*
17 *tion of the proceedings.*

18 *(4) REVIEW OF TEMPORARY ORDERS.—*

19 *(A) REVIEW BY SECRETARY.—At any time*
20 *after the respondent has been served with a tem-*
21 *porary cease and desist order pursuant to para-*
22 *graph (3), the respondent may apply to the Sec-*
23 *retary to have the order set aside, limited, or sus-*
24 *pending. If the respondent has been served with a*
25 *temporary cease and desist order entered without*

1 *a prior hearing before the Secretary, the respond-*
2 *ent may, within 10 days after the date on which*
3 *the order was served, request a hearing on such*
4 *application and the Secretary shall hold a hear-*
5 *ing and render a decision on such application at*
6 *the earliest possible time.*

7 (B) *JUDICIAL REVIEW.*—*Within—*

8 (i) *10 days after the date the respond-*
9 *ent was served with a temporary cease and*
10 *desist order entered with a prior hearing be-*
11 *fore the Secretary; or*

12 (ii) *10 days after the Secretary renders*
13 *a decision on an application and hearing*
14 *under paragraph (1), with respect to any*
15 *temporary cease and desist order entered*
16 *without a prior hearing before the Sec-*
17 *retary,*

18 *the respondent may apply to the United States*
19 *district court for the district in which the re-*
20 *spondent resides or has its principal place of*
21 *business, or for the District of Columbia, for an*
22 *order setting aside, limiting, or suspending the*
23 *effectiveness or enforcement of the order, and the*
24 *court shall have jurisdiction to enter such an*
25 *order. A respondent served with a temporary*

1 *cease and desist order entered without a prior*
2 *hearing before the Secretary may not apply to*
3 *the court except after hearing and decision by the*
4 *Secretary on the respondent's application under*
5 *subparagraph (A).*

6 (C) *NO AUTOMATIC STAY OF TEMPORARY*
7 *ORDER.—The commencement of proceedings*
8 *under subparagraph (B) shall not, unless specifi-*
9 *cally ordered by the court, operate as a stay of*
10 *the Secretary's order.*

11 (5) *AUTHORITY OF THE SECRETARY TO PRO-*
12 *HIBIT PERSONS FROM SERVING AS LOAN ORIGINA-*
13 *TORS.—In any cease and desist proceeding under*
14 *paragraph (1), the Secretary may issue an order to*
15 *prohibit, conditionally or unconditionally, and per-*
16 *manently or for such period of time as the Secretary*
17 *shall determine, any person who has violated this title*
18 *or regulations thereunder, from acting as a loan*
19 *originator if the conduct of that person demonstrates*
20 *unfitness to serve as a loan originator.*

21 (d) *AUTHORITY OF THE SECRETARY TO ASSESS*
22 *MONEY PENALTIES.—*

23 (1) *IN GENERAL.—The Secretary may impose a*
24 *civil penalty on a loan originator operating in any*
25 *State which is subject to a licensing system estab-*

1 *lished by the Secretary under section 1508, if the Sec-*
2 *retary finds, on the record after notice and oppor-*
3 *tunity for hearing, that such loan originator has vio-*
4 *lated or failed to comply with any requirement of this*
5 *title or any regulation prescribed by the Secretary*
6 *under this title or order issued under subsection (c).*

7 (2) *MAXIMUM AMOUNT OF PENALTY.—The max-*
8 *imum amount of penalty for each act or omission de-*
9 *scribed in paragraph (1) shall be \$25,000.*

10 **SEC. 1515. STATE EXAMINATION AUTHORITY.**

11 *In addition to any authority allowed under State law*
12 *a State licensing agency shall have the authority to conduct*
13 *investigations and examinations as follows:*

14 (1) *For the purposes of investigating violations*
15 *or complaints arising under this title, or for the pur-*
16 *poses of examination, the State licensing agency may*
17 *review, investigate, or examine any loan originator*
18 *licensed or required to be licensed under this title, as*
19 *often as necessary in order to carry out the purposes*
20 *of this title.*

21 (2) *Each such loan originator shall make avail-*
22 *able upon request to the State licensing agency the*
23 *books and records relating to the operations of such*
24 *originator. The State licensing agency may have ac-*
25 *cess to such books and records and interview the offi-*

1 *cers, principals, loan originators, employees, inde-*
2 *pendent contractors, agents, and customers of the li-*
3 *cencee concerning their business.*

4 *(3) The authority of this section shall remain in*
5 *effect, whether such a loan originator acts or claims*
6 *to act under any licensing or registration law of such*
7 *State, or claims to act without such authority.*

8 *(4) No person subject to investigation or exam-*
9 *ination under this section may knowingly withhold,*
10 *abstract, remove, mutilate, destroy, or secrete any*
11 *books, records, computer records, or other information.*

12 **SEC. 1516. REPORTS AND RECOMMENDATIONS TO CON-**
13 **GRESS.**

14 *(a) ANNUAL REPORTS.—Not later than 1 year after*
15 *the date of enactment of this title, and annually thereafter,*
16 *the Secretary shall submit a report to Congress on the effec-*
17 *tiveness of the provisions of this title, including legislative*
18 *recommendations, if any, for strengthening consumer pro-*
19 *tections, enhancing examination standards, streamlining*
20 *communication between all stakeholders involved in resi-*
21 *dential mortgage loan origination and processing, and es-*
22 *tablishing performance based bonding requirements for*
23 *mortgage originators or institutions that employ such bro-*
24 *kers.*

1 (b) *LEGISLATIVE RECOMMENDATIONS.*—Not later than
2 6 months after the date of enactment of this title, the Sec-
3 retary shall make recommendations to Congress on legisla-
4 tive reforms to the Real Estate Settlement Procedures Act
5 of 1974, that the Secretary deems appropriate to promote
6 more transparent disclosures, allowing consumers to better
7 shop and compare mortgage loan terms and settlement
8 costs.

9 **SEC. 1517. STUDY AND REPORTS ON DEFAULTS AND FORE-**
10 **CLOSURES.**

11 (a) *STUDY REQUIRED.*—The Secretary shall conduct
12 an extensive study of the root causes of default and fore-
13 closure of home loans, using as much empirical data as is
14 available.

15 (b) *PRELIMINARY REPORT TO CONGRESS.*—Not later
16 than 6 months after the date of enactment of this title, the
17 Secretary shall submit to Congress a preliminary report re-
18 garding the study required by this section.

19 (c) *FINAL REPORT TO CONGRESS.*—Not later than 12
20 months after the date of enactment of this title, the Sec-
21 retary shall submit to Congress a final report regarding the
22 results of the study required by this section, which shall in-
23 clude any recommended legislation relating to the study,
24 and recommendations for best practices and for a process

1 *to provide targeted assistance to populations with the high-*
2 *est risk of potential default or foreclosure.*

3 ***TITLE VI—MISCELLANEOUS***

4 ***SEC. 1601. STUDY AND REPORTS ON GUARANTEE FEES.***

5 *(a) ONGOING STUDY OF FEES.—The Director shall*
6 *conduct an ongoing study of fees charged by enterprises for*
7 *guaranteeing a mortgage.*

8 *(b) COLLECTION OF DATA.—The Director shall, by reg-*
9 *ulation or order, establish procedures for the collection of*
10 *data from enterprises for purposes of this subsection, includ-*
11 *ing the format and the process for collection of such data.*

12 *(c) REPORTS TO CONGRESS.—The Director shall an-*
13 *nually submit a report to Congress on the results of the*
14 *study conducted under subsection (a), based on the aggre-*
15 *gated data collected under subsection (a) for the subject*
16 *year, regarding the amount of such fees and the criteria*
17 *used by the enterprises to determine such fees.*

18 *(d) CONTENTS OF REPORTS.—The reports required*
19 *under subsection (c) shall identify and analyze—*

20 *(1) the factors considered in determining the*
21 *amount of the guarantee fees charged;*

22 *(2) the total revenue earned by the enterprises*
23 *from guarantee fees;*

24 *(3) the total costs incurred by the enterprises for*
25 *providing guarantees;*

1 *the Committee on Financial Services of the House of Rep-*
2 *resentatives, not later than 1 year after the date of enact-*
3 *ment of this Act.*

4 **SEC. 1603. CONVERSION OF HUD CONTRACTS.**

5 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
6 *sion of law, the Secretary may, at the request of an owner*
7 *of a multifamily housing project that exceeds 5,000 units*
8 *to which a contract for project-based rental assistance under*
9 *section 8 of the United States Housing Act of 1937 (“Act”)*
10 *(42 U.S.C. 1437f) and a Rental Assistance Payment con-*
11 *tract is subject, convert such contracts to a contract for*
12 *project-based rental assistance under section 8 of the Act.*

13 (b) *INITIAL RENEWAL.*—

14 (1) *At the request of an owner under subsection*
15 *(a) made no later than 90 days prior to a conversion,*
16 *the Secretary may, to the extent sufficient amounts*
17 *are made available in appropriation Acts and not-*
18 *withstanding any other law, treat the contemplated*
19 *resulting contract as if such contract were eligible for*
20 *initial renewal under section 524(a) of the Multi-*
21 *Family Assisted Housing Reform and Affordability*
22 *Act of 1997 (42 U.S.C. 1437f note) (“MAHRA”) (42*
23 *U.S.C. 1437f note).*

1 (2) *A request by an owner pursuant to para-*
2 *graph (1) shall be upon such terms and conditions as*
3 *the Secretary may require.*

4 (c) *RESULTING CONTRACT.—The resulting contract*
5 *shall—*

6 (1) *be subject to section 524(a) of MAHRA (42*
7 *U.S.C. 1437f note);*

8 (2) *be considered for all purposes a contract that*
9 *has been renewed under section 524(a) of MAHRA*
10 *(42 U.S.C. 1437f note) for a term not to exceed 20*
11 *years;*

12 (3) *be subsequently renewable at the request of*
13 *an owner, under any renewal option for which the*
14 *project is eligible under MAHRA (42 U.S.C. 1437f*
15 *note);*

16 (4) *contain provisions limiting distributions, as*
17 *the Secretary determines appropriate, not to exceed*
18 *10 percent of the initial investment of the owner;*

19 (5) *be subject to the availability of sufficient*
20 *amounts in appropriation Acts; and*

21 (6) *be subject to such other terms and conditions*
22 *as the Secretary considers appropriate.*

23 (d) *INCOME TARGETING.—To the extent that assisted*
24 *dwelling units, subject to the resulting contract under sub-*
25 *section (a), serve low-income families, as defined in section*

1 *3(b)(2) of the Act (42 U.S.C. 1437a(b)(2)) the units shall*
2 *be considered to be in compliance with all income targeting*
3 *requirements under the Act (42 U.S.C. 1437 et seq).*

4 *(e) TENANT ELIGIBILITY.—Notwithstanding any other*
5 *provision of law, each family residing in an assisted dwell-*
6 *ing unit on the date of conversion of a contract under this*
7 *section, subject to the resulting contract under subsection*
8 *(a), shall be considered to meet the applicable requirements*
9 *for income eligibility and occupancy.*

10 *(f) DEFINITIONS.—As used in this section—*

11 *(1) the term “Secretary” means the Secretary of*
12 *Housing and Urban Development;*

13 *(2) the term “conversion” means the action*
14 *under which a contract for project-based rental assist-*
15 *ance under section 8 of the Act and a Rental Assist-*
16 *ance Payment contract become a contract for project-*
17 *based rental assistance under section 8 of the Act (42*
18 *U.S.C. 1437f) pursuant to subsection (a);*

19 *(3) the term “resulting contract” means the new*
20 *contract after a conversion pursuant to subsection (a);*
21 *and*

22 *(4) the term “assisted dwelling unit” means a*
23 *dwelling unit in a multifamily housing project that*
24 *exceeds 5,000 units that, on the date of conversion of*
25 *a contract under this section, is subject to a contract*

1 for project-based rental assistance under section 8 of
2 the Act (42 U.S.C. 1437f) or a Rental Assistance Pay-
3 ment contract.

4 **SEC. 1604. BRIDGE DEPOSITORY INSTITUTIONS.**

5 (a) *IN GENERAL.*—Section 11 of the Federal Deposit
6 Insurance Act (12 U.S.C. 1821) is amended—

7 (1) in subsection (d)(2)—

8 (A) in subsection (F), by striking “as re-
9 ceiver” and all that follows through clause (ii)
10 and inserting the following: “as receiver, with re-
11 spect to any insured depository institution, orga-
12 nize a new depository institution under sub-
13 section (m) or a bridge depository institution
14 under subsection (n).”;

15 (B) in subparagraph (G), by striking “new
16 bank or a bridge bank” and inserting “new de-
17 pository institution or a bridge depository insti-
18 tution”;

19 (2) in subsection (e)(10)(C), by striking “bridge
20 bank” each place that term appears and inserting
21 “bridge depository institution”;

22 (3) in subsection (m)—

23 (A) in the subsection heading, by striking
24 “BANKS” and inserting “DEPOSITORY INSTITU-
25 TIONS”;

1 (B) by striking “new bank” each place that
2 term appears and inserting “new depository in-
3 stitution”;

4 (C) by striking “such bank” each place that
5 term appears and inserting “such depository in-
6 stitution”;

7 (D) in paragraph (1), by inserting “or Fed-
8 eral savings association” after “national bank”;

9 (E) in paragraph (6), by striking “only
10 bank” and inserting “only depository institu-
11 tion”;

12 (F) in paragraph (9), by inserting “or the
13 Director of the Office of Thrift Supervision, as
14 appropriate” after “Comptroller of the Cur-
15 rency”;

16 (G) in paragraph (15), by striking “, but in
17 no event” and all that follows through “located”;

18 (H) in paragraph (16)—

19 (i) by inserting “or the Director of the
20 Office of Thrift Supervision, as appro-
21 priate,” after “Comptroller of the Currency”
22 each place that term appears;

23 (ii) by striking “the bank” each place
24 that term appears and inserting “the depos-
25 itory institution”;

1 (iii) by inserting “or Federal savings
2 association” after “national bank” each
3 place that term appears;

4 (iv) by inserting “or Federal savings
5 associations” after “national banks”; and

6 (v) by striking “Such bank” and in-
7 serting “Such depository institution”; and

8 (I) in paragraph (18), by inserting “or the
9 Director of the Office of Thrift Supervision, as
10 appropriate,” after “Comptroller of the Cur-
11 rency” each place that term appears;

12 (4) in subsection (n)—

13 (A) in the subsection heading, by striking
14 “BANKS” and inserting “DEPOSITORY INSTITU-
15 TIONS”;

16 (B) by striking “bridge bank” each place
17 that term appears and inserting “bridge depository
18 institution”;

19 (C) by striking “bridge banks” each place
20 that term appears (other than in paragraph
21 (1)(A) and inserting “bridge depository institu-
22 tions”;

23 (D) by striking “bridge bank’s” each place
24 that term appears and inserting “bridge depository
25 institutions”;

1 (E) by striking “insured bank” each place
2 that term appears and inserting “insured deposi-
3 tory institution”;

4 (F) by striking “insured banks” each place
5 that term appears and inserting “insured deposi-
6 tory institutions”;

7 (G) by striking “such bank” each place that
8 term appears (other than in paragraph (4)(J))
9 and inserting “such depository institution”;

10 (H) by striking “the bank” each place that
11 term appears and inserting “the depository in-
12 stitution”;

13 (I) in paragraph (1)(A)—

14 (i) by inserting “, with respect to 1 or
15 more insured banks, or the Director of the
16 Office of Thrift Supervision, with respect to
17 1 or more insured savings associations,”
18 after “Comptroller of the Currency”;

19 (ii) by inserting “or Federal savings
20 associations, as appropriate,” after “na-
21 tional banks”;

22 (iii) by inserting “or Federal savings
23 associations, as applicable,” after “banking
24 associations”; and

1 (iv) by striking “as bridge banks” and
2 inserting “as bridge depository institu-
3 tions’”;

4 (J) in paragraph (1)(B)—

5 (i) by striking “bank or banks” each
6 place that term appears and inserting “de-
7 pository institution or institutions”;

8 (ii) by striking “of a bank”; and

9 (iii) by striking “of that bank”;

10 (K) in paragraph (1)(E), by inserting be-
11 fore the period “, in the case of 1 or more in-
12 sured banks, and as a Federal savings associa-
13 tion, in the case of 1 or more insured savings as-
14 sociations”;

15 (L) in paragraph (2)—

16 (i) in subparagraph by inserting “or
17 Federal savings association” after “national
18 bank” each place that term appears; and

19 (ii) by inserting “or the Director of the
20 Office of Thrift Supervision” after “Comp-
21 troller of the Currency”;

22 (M) in paragraph (4)—

23 (i) in subparagraph (C), by striking
24 “under section 5138 of the Revised Statutes
25 or any other” and inserting “under any”;

1 (ii) by inserting “and the Director of
2 the Office of Thrift Supervision, as appro-
3 priate,” after “Comptroller of the Currency”
4 each place that term appears;

5 (iii) in subparagraph (D), by striking
6 “bank’s” and inserting “depository institu-
7 tion’s”; and

8 (iv) in subparagraph (F), by inserting
9 before the period “or Federal home loan
10 bank”;

11 (N) in paragraph (8)—

12 (i) in subparagraph (A), by striking
13 “the banks” and inserting “the depository
14 institutions”;

15 (ii) in subparagraph (B), by striking
16 “bank’s” and inserting “depository institu-
17 tion’s”;

18 (O) in paragraph (11), by inserting “or a
19 Federal savings association, as the case may be,”
20 after “national bank” each place that term ap-
21 pears;

22 (P) in paragraph (12)—

23 (i) by inserting “or the Director of the
24 Office of Thrift Supervision, as appro-

1 *priate,*” after “*Comptroller of the Currency*”
 2 *each place that term appears; and*

3 *(ii) by inserting “or Federal savings*
 4 *associations, as appropriate” after “na-*
 5 *tional banks”; and*

6 *(Q) in paragraph (13), by striking “single*
 7 *bank” and inserting “single depository institu-*
 8 *tion”.*

9 *(b) OTHER CONFORMING AMENDMENTS.—*

10 *(1) FEDERAL DEPOSIT INSURANCE ACT.—The*
 11 *Federal Deposit Insurance Act (12 U.S.C. 1811 et*
 12 *seq.) is amended—*

13 *(A) in section 3 (12 U.S.C. 1813), by strik-*
 14 *ing subsection (i) and inserting the following:*

15 *“(i) NEW DEPOSITORY INSTITUTION AND BRIDGE DE-*
 16 *POSITORY INSTITUTION DEFINED.—*

17 *“(1) NEW DEPOSITORY INSTITUTION.—The term*
 18 *‘new depository institution’ means a new national*
 19 *bank or Federal savings association, other than a*
 20 *bridge depository institution, organized by the Cor-*
 21 *poration in accordance with section 11(m).*

22 *“(2) BRIDGE DEPOSITORY INSTITUTION.—The*
 23 *term ‘bridge depository institution’ means a new na-*
 24 *tional bank or Federal savings association organized*

1 *by the Corporation in accordance with section*
2 *11(n).”;*

3 *(B) in section 10(d)(5)(B) (12 U.S.C.*
4 *1820(d)(5)(B)), by striking “bridge bank” and*
5 *inserting “bridge depository institution”;*

6 *(C) in section 12 (12 U.S.C. 1822), by*
7 *striking “new bank” each place that term ap-*
8 *pears and inserting “new depository institu-*
9 *tion”;and*

10 *(D) in section 38(j)(2) (12 U.S.C.*
11 *1831o(j)(2)), by striking “bridge bank” and in-*
12 *serting “bridge depository institution”.*

13 *(2) FEDERAL CREDIT UNION ACT.—Section*
14 *207(c)(10)(C)(i) of the Federal Credit Union Act (12*
15 *U.S.C. 1787(c)(10)(C)(i)) is amended by striking*
16 *“bridge bank” and inserting “bridge depository insti-*
17 *tution”.*

18 *(3) TITLE 11.—Section 783 of title 11, United*
19 *States Code, is amended by striking “bridge bank”*
20 *and inserting “bridge depository institution”.*

21 *(4) TITLE 26.—Section 414(l)(2)(G) of the Inter-*
22 *nal Revenue Code of 1986, is amended by striking*
23 *“bridge bank” and inserting “bridge depository insti-*
24 *tution”.*

1 **SEC. 1605. SENSE OF THE SENATE.**

2 *It is the sense of the Senate that in implementing or*
3 *carrying out any provision of this Act, or any amendment*
4 *made by this Act, the Senate supports a policy of noninter-*
5 *ference regarding local government requirements that the*
6 *holder of a foreclosed property maintain that property.*

7 ***DIVISION B—FORECLOSURE***
8 ***PREVENTION***

9 **SECTION 2001. SHORT TITLE.**

10 *This division may be cited as the “Foreclosure Preven-*
11 *tion Act of 2008”.*

12 **SEC. 2002. EMERGENCY DESIGNATION.**

13 *For purposes of Senate enforcement, all provisions of*
14 *this division are designated as emergency requirements and*
15 *necessary to meet emergency needs pursuant to section 204*
16 *of S. Con. Res. 21 (110th Congress), the concurrent resolu-*
17 *tion on the budget for fiscal year 2008.*

18 ***TITLE I—FHA MODERNIZATION***
19 ***ACT OF 2008***

20 **SEC. 2101. SHORT TITLE.**

21 *This title may be cited as the “FHA Modernization*
22 *Act of 2008”.*

1 ***Subtitle A—Building American***
2 ***Homeownership***

3 **SEC. 2111. SHORT TITLE.**

4 *This subtitle may be cited as the “Building American*
5 *Homeownership Act of 2008”.*

6 **SEC. 2112. MAXIMUM PRINCIPAL LOAN OBLIGATION.**

7 *(a) IN GENERAL.—Paragraph (2) of section 203(b)(2)*
8 *of the National Housing Act (12 U.S.C. 1709(b)(2)) is*
9 *amended—*

10 *(1) by amending subparagraphs (A) and (B) to*
11 *read as follows:*

12 *“(A) not to exceed the lesser of—*

13 *“(i) in the case of a 1-family residence,*
14 *110 percent of the median 1-family house*
15 *price in the area, as determined by the Sec-*
16 *retary; and in the case of a 2-,*
17 *3-, or 4-family residence, the percentage of*
18 *such median price that bears the same ratio*
19 *to such median price as the dollar amount*
20 *limitation determined under section*
21 *305(a)(2) of the Federal Home Loan Mort-*
22 *gage Corporation Act (12 U.S.C.*
23 *1454(a)(2)) for a 2-, 3-, or 4-family resi-*
24 *dence, respectively, bears to the dollar*

1 *amount limitation determined under such*
2 *section for a 1-family residence; or*

3 “(ii) 150 percent of the dollar amount
4 *limitation determined under section*
5 *305(a)(2) of the Federal Home Loan Mort-*
6 *gage Corporation Act for a residence of ap-*
7 *plicable size,*

8 *except that the dollar amount limitation in effect*
9 *under this subparagraph for any size residence*
10 *for any area may not be less than the greater of:*
11 *(I) the dollar amount limitation in effect under*
12 *this section for the area on October 21, 1998; or*
13 *(II) 65 percent of the dollar amount limitation*
14 *determined under such section 305(a)(2) for a*
15 *residence of the applicable size; and*

16 “(B) not to exceed 100 percent of the ap-
17 *praised value of the property.”; and*

18 (2) *in the matter following subparagraph (B), by*
19 *striking the second sentence (relating to a definition*
20 *of “average closing cost”) and all that follows through*
21 *“section 3103A(d) of title 38, United States Code.”.*

22 (b) *EFFECTIVE DATE.—The amendments made by sub-*
23 *section (a) shall take effect upon the expiration of the date*
24 *described in section 202(a) of the Economic Stimulus Act*
25 *of 2008 (Public Law 110–185).*

1 **SEC. 2113. CASH INVESTMENT REQUIREMENT AND PROHI-**
2 **BITION OF SELLER-FUNDED DOWN PAYMENT**
3 **ASSISTANCE.**

4 *Paragraph (9) of section 203(b) of the National Hous-*
5 *ing Act (12 U.S.C. 1709(b)(9)) is amended to read as fol-*
6 *lows:*

7 *“(9) CASH INVESTMENT REQUIREMENT.—*

8 *“(A) IN GENERAL.—A mortgage insured*
9 *under this section shall be executed by a mort-*
10 *gagor who shall have paid, in cash, on account*
11 *of the property an amount equal to not less than*
12 *3.5 percent of the appraised value of the property*
13 *or such larger amount as the Secretary may de-*
14 *termine.*

15 *“(B) FAMILY MEMBERS.—For purposes of*
16 *this paragraph, the Secretary shall consider as*
17 *cash or its equivalent any amounts borrowed*
18 *from a family member (as such term is defined*
19 *in section 201), subject only to the requirements*
20 *that, in any case in which the repayment of such*
21 *borrowed amounts is secured by a lien against*
22 *the property, that—*

23 *“(i) such lien shall be subordinate to*
24 *the mortgage; and*

25 *“(ii) the sum of the principal obliga-*
26 *tion of the mortgage and the obligation se-*

1 cured by such lien may not exceed 100 per-
2 cent of the appraised value of the property.

3 “(C) *PROHIBITED SOURCES.*—*In no case*
4 *shall the funds required by subparagraph (A)*
5 *consist, in whole or in part, of funds provided by*
6 *any of the following parties before, during, or*
7 *after closing of the property sale:*

8 “(i) *The seller or any other person or*
9 *entity that financially benefits from the*
10 *transaction.*

11 “(ii) *Any third party or entity that is*
12 *reimbursed, directly or indirectly, by any of*
13 *the parties described in clause (i).”.*

14 **SEC. 2114. MORTGAGE INSURANCE PREMIUMS.**

15 Section 203(c)(2) of the National Housing Act (12
16 *U.S.C. 1709(c)(2)) is amended—*

17 (1) *in the matter preceding subparagraph (A),*
18 *by striking “or of the General Insurance Fund” and*
19 *all that follows through “section 234(c),”; and*

20 (2) *in subparagraph (A)—*

21 (A) *by striking “2.25 percent” and insert-*
22 *ing “3 percent”; and*

23 (B) *by striking “2.0 percent” and inserting*
24 *“2.75 percent”.*

1 **SEC. 2115. REHABILITATION LOANS.**

2 *Subsection (k) of section 203 of the National Housing*
3 *Act (12 U.S.C. 1709(k)) is amended—*

4 *(1) in paragraph (1), by striking “on” and all*
5 *that follows through “1978”; and*

6 *(2) in paragraph (5)—*

7 *(A) by striking “General Insurance Fund”*
8 *the first place it appears and inserting “Mutual*
9 *Mortgage Insurance Fund”; and*

10 *(B) in the second sentence, by striking the*
11 *comma and all that follows through “General In-*
12 *surance Fund”.*

13 **SEC. 2116. DISCRETIONARY ACTION.**

14 *The National Housing Act is amended—*

15 *(1) in subsection (e) of section 202 (12 U.S.C.*
16 *1708(e))—*

17 *(A) in paragraph (3)(B), by striking “sec-*
18 *tion 202(e) of the National Housing Act” and*
19 *inserting “this subsection”; and*

20 *(B) by redesignating such subsection as sub-*
21 *section (f);*

22 *(2) by striking paragraph (4) of section 203(s)*
23 *(12 U.S.C. 1709(s)(4)) and inserting the following*
24 *new paragraph:*

25 *“(4) the Secretary of Agriculture;” and*

1 (3) by transferring subsection (s) of section 203
2 (as amended by paragraph (2) of this section) to sec-
3 tion 202, inserting such subsection after subsection
4 (d) of section 202, and redesignating such subsection
5 as subsection (e).

6 **SEC. 2117. INSURANCE OF CONDOMINIUMS.**

7 (a) *IN GENERAL.*—Section 234 of the National Hous-
8 ing Act (12 U.S.C. 1715y) is amended—

9 (1) in subsection (c), in the first sentence—

10 (A) by striking “and” before “(2)”; and

11 (B) by inserting before the period at the end
12 the following: “, and (3) the project has a blanket
13 mortgage insured by the Secretary under sub-
14 section (d)”; and

15 (2) in subsection (g), by striking “, except that”
16 and all that follows and inserting a period.

17 (b) *DEFINITION OF MORTGAGE.*—Section 201(a) of the
18 National Housing Act (12 U.S.C. 1707(a)) is amended—

19 (1) before “a first mortgage” insert “(A)”;

20 (2) by striking “or on a leasehold (1)” and in-
21 serting “(B) a first mortgage on a leasehold on real
22 estate (i)”;

23 (3) by striking “or (2)” and inserting “, or (ii)”;
24 and

1 (4) by inserting before the semicolon the fol-
2 lowing: “, or (C) a first mortgage given to secure the
3 unpaid purchase price of a fee interest in, or long-
4 term leasehold interest in, real estate consisting of a
5 one-family unit in a multifamily project, including a
6 project in which the dwelling units are attached, or
7 are manufactured housing units, semi-detached, or de-
8 tached, and an undivided interest in the common
9 areas and facilities which serve the project”.

10 (c) *DEFINITION OF REAL ESTATE.*—Section 201 of the
11 National Housing Act (12 U.S.C. 1707) is amended by add-
12 ing at the end the following new subsection:

13 “(g) The term ‘real estate’ means land and all natural
14 resources and structures permanently affixed to the land,
15 including residential buildings and stationary manufac-
16 tured housing. The Secretary may not require, for treatment
17 of any land or other property as real estate for purposes
18 of this title, that such land or property be treated as real
19 estate for purposes of State taxation.”.

20 **SEC. 2118. MUTUAL MORTGAGE INSURANCE FUND.**

21 (a) *IN GENERAL.*—Subsection (a) of section 202 of the
22 National Housing Act (12 U.S.C. 1708(a)) is amended to
23 read as follows:

24 “(a) *MUTUAL MORTGAGE INSURANCE FUND.*—

1 “(1) *ESTABLISHMENT.*—Subject to the provisions
2 of the *Federal Credit Reform Act of 1990*, there is
3 hereby created a *Mutual Mortgage Insurance Fund*
4 (in this title referred to as the ‘*Fund*’), which shall be
5 used by the Secretary to carry out the provisions of
6 this title with respect to mortgages insured under sec-
7 tion 203. The Secretary may enter into commitments
8 to guarantee, and may guarantee, such insured mort-
9 gages.

10 “(2) *LIMIT ON LOAN GUARANTEES.*—The author-
11 ity of the Secretary to enter into commitments to
12 guarantee such insured mortgages shall be effective for
13 any fiscal year only to the extent that the aggregate
14 original principal loan amount under such mort-
15 gages, any part of which is guaranteed, does not ex-
16 ceed the amount specified in appropriations Acts for
17 such fiscal year.

18 “(3) *FIDUCIARY RESPONSIBILITY.*—The Sec-
19 retary has a responsibility to ensure that the *Mutual*
20 *Mortgage Insurance Fund* remains financially sound.

21 “(4) *ANNUAL INDEPENDENT ACTUARIAL*
22 *STUDY.*—The Secretary shall provide for an inde-
23 pendent actuarial study of the *Fund* to be conducted
24 annually, which shall analyze the financial position
25 of the *Fund*. The Secretary shall submit a report an-

1 *nually to the Congress describing the results of such*
2 *study and assessing the financial status of the Fund.*
3 *The report shall recommend adjustments to under-*
4 *writing standards, program participation, or pre-*
5 *miums, if necessary, to ensure that the Fund remains*
6 *financially sound. The report shall also include an*
7 *evaluation of the quality control procedures and accu-*
8 *racy of information utilized in the process of under-*
9 *writing loans guaranteed by the Fund. Such evalua-*
10 *tion shall include a review of the risk characteristics*
11 *of loans based not only on borrower information and*
12 *performance, but on risks associated with loans origi-*
13 *nated or funded by various entities or financial insti-*
14 *tutions.*

15 *“(5) QUARTERLY REPORTS.—During each fiscal*
16 *year, the Secretary shall submit a report to the Con-*
17 *gress for each calendar quarter, which shall specify*
18 *for mortgages that are obligations of the Fund—*

19 *“(A) the cumulative volume of loan guar-*
20 *antee commitments that have been made during*
21 *such fiscal year through the end of the quarter*
22 *for which the report is submitted;*

23 *“(B) the types of loans insured, categorized*
24 *by risk;*

1 “(C) any significant changes between actual
2 and projected claim and prepayment activity;

3 “(D) projected versus actual loss rates; and

4 “(E) updated projections of the annual sub-
5 sidy rates to ensure that increases in risk to the
6 Fund are identified and mitigated by adjust-
7 ments to underwriting standards, program par-
8 ticipation, or premiums, and the financial
9 soundness of the Fund is maintained.

10 *The first quarterly report under this paragraph shall*
11 *be submitted on the last day of the first quarter of fis-*
12 *cal year 2008, or on the last day of the first full cal-*
13 *endar quarter following the enactment of the Building*
14 *American Homeownership Act of 2008, whichever is*
15 *later.*

16 “(6) *ADJUSTMENT OF PREMIUMS.—If, pursuant*
17 *to the independent actuarial study of the Fund re-*
18 *quired under paragraph (4), the Secretary determines*
19 *that the Fund is not meeting the operational goals es-*
20 *tablished under paragraph (7) or there is a substan-*
21 *tial probability that the Fund will not maintain its*
22 *established target subsidy rate, the Secretary may ei-*
23 *ther make programmatic adjustments under this title*
24 *as necessary to reduce the risk to the Fund, or make*
25 *appropriate premium adjustments.*

1 “(7) *OPERATIONAL GOALS.*—*The operational*
2 *goals for the Fund are—*

3 “(A) *to minimize the default risk to the*
4 *Fund and to homeowners by among other actions*
5 *instituting fraud prevention quality control*
6 *screening not later than 18 months after the date*
7 *of enactment of the Building American Home-*
8 *ownership Act of 2008; and*

9 “(B) *to meet the housing needs of the bor-*
10 *rowers that the single family mortgage insurance*
11 *program under this title is designed to serve.”.*

12 (b) *OBLIGATIONS OF FUND.*—*The National Housing*
13 *Act is amended as follows:*

14 (1) *HOMEOWNERSHIP VOUCHER PROGRAM MORT-*
15 *GAGES.*—*In section 203(v) (12 U.S.C. 1709(v))—*

16 (A) *by striking “Notwithstanding section*
17 *202 of this title, the” and inserting “The”; and*

18 (B) *by striking “General Insurance Fund”*
19 *the first place such term appears and all that*
20 *follows through the end of the subsection and in-*
21 *serting “Mutual Mortgage Insurance Fund.”.*

22 (2) *HOME EQUITY CONVERSION MORTGAGES.*—
23 *Section 255(i)(2)(A) of the National Housing Act (12*
24 *U.S.C. 1715z-20(i)(2)(A)) is amended by striking*

1 (2) *in the second sentence, by striking “(1) all*
2 *references” and all that follows through “and (2)”.*

3 **SEC. 2120. CONFORMING AND TECHNICAL AMENDMENTS.**

4 (a) *REPEALS.—The following provisions of the Na-*
5 *tional Housing Act are repealed:*

6 (1) *Subsection (i) of section 203 (12 U.S.C.*
7 *1709(i)).*

8 (2) *Subsection (o) of section 203 (12 U.S.C.*
9 *1709(o)).*

10 (3) *Subsection (p) of section 203 (12 U.S.C.*
11 *1709(p)).*

12 (4) *Subsection (q) of section 203 (12 U.S.C.*
13 *1709(q)).*

14 (5) *Section 222 (12 U.S.C. 1715m).*

15 (6) *Section 237 (12 U.S.C. 1715z-2).*

16 (7) *Section 245 (12 U.S.C. 1715z-10).*

17 (b) *DEFINITION OF AREA.—Section 203(u)(2)(A) of*
18 *the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is*
19 *amended by striking “shall” and all that follows and insert-*
20 *ing “means a metropolitan statistical area as established*
21 *by the Office of Management and Budget;”.*

22 (c) *DEFINITION OF STATE.—Section 201(d) of the Na-*
23 *tional Housing Act (12 U.S.C. 1707(d)) is amended by*
24 *striking “the Trust Territory of the Pacific Islands” and*

1 *inserting “the Commonwealth of the Northern Mariana Is-*
2 *lands”.*

3 **SEC. 2121. INSURANCE OF MORTGAGES.**

4 *Subsection (n)(2) of section 203 of the National Hous-*
5 *ing Act (12 U.S.C. 1709(n)(2)) is amended—*

6 *(1) in subparagraph (A), by inserting “or subor-*
7 *dinate mortgage or” before “lien given”; and*

8 *(2) in subparagraph (C), by inserting “or subor-*
9 *dinate mortgage or” before “lien”.*

10 **SEC. 2122. HOME EQUITY CONVERSION MORTGAGES.**

11 *(a) IN GENERAL.—Section 255 of the National Hous-*
12 *ing Act (12 U.S.C. 1715z–20) is amended—*

13 *(1) in subsection (b)(2), insert “‘real estate,’”*
14 *after “‘mortgagor,’”;*

15 *(2) by amending subsection (d)(1) to read as fol-*
16 *lows:*

17 *“(1) have been originated by a mortgagee ap-*
18 *proved by the Secretary;”;*

19 *(3) by amending subsection (d)(2)(B) to read as*
20 *follows:*

21 *“(B) has received adequate counseling, as*
22 *provided in subsection (f), by an independent*
23 *third party that is not, either directly or indi-*
24 *rectly, associated with or compensated by a*
25 *party involved in—*

1 “(i) originating or servicing the mort-
2 gage;

3 “(ii) funding the loan underlying the
4 mortgage; or

5 “(iii) the sale of annuities, invest-
6 ments, long-term care insurance, or any
7 other type of financial or insurance prod-
8 uct;”;

9 (4) in subsection (f)—

10 (A) by striking “(f) INFORMATION SERVICES
11 FOR MORTGAGORS.—” and inserting “(f) COUN-
12 SELING SERVICES AND INFORMATION FOR MORT-
13 GAGORS.—”; and

14 (B) by amending the matter preceding
15 paragraph (1) to read as follows: “The Secretary
16 shall provide or cause to be provided adequate
17 counseling for the mortgagor, as described in
18 subsection (d)(2)(B). Such counseling shall be
19 provided by counselors that meet qualification
20 standards and follow uniform counseling proto-
21 cols. The qualification standards and counseling
22 protocols shall be established by the Secretary
23 within 12 months of the date of enactment of the
24 Building American Homeownership Act of 2008.
25 The protocols shall require a qualified counselor

1 to discuss with each mortgagor information
2 which shall include—”

3 (5) in subsection (g), by striking “established
4 under section 203(b)(2)” and all that follows through
5 “located” and inserting “limitation established under
6 section 305(a)(2) of the Federal Home Loan Mortgage
7 Corporation Act for a 1-family residence”;

8 (6) by striking subsection (l);

9 (7) by redesignating subsection (m) as subsection
10 (l);

11 (8) by amending subsection (l), as so redesign-
12 ated, to read as follows:

13 “(l) *FUNDING FOR COUNSELING.*—The Secretary may
14 use a portion of the mortgage insurance premiums collected
15 under the program under this section to adequately fund
16 the counseling and disclosure activities required under sub-
17 section (f), including counseling for those homeowners who
18 elect not to take out a home equity conversion mortgage,
19 provided that the use of such funds is based upon accepted
20 actuarial principles.”; and

21 (9) by adding at the end the following new sub-
22 section:

23 “(m) *AUTHORITY TO INSURE HOME PURCHASE*
24 *MORTGAGE.*—

1 “(1) *IN GENERAL.*—Notwithstanding any other
2 *provision of this section, the Secretary may insure,*
3 *upon application by a mortgagee, a home equity con-*
4 *version mortgage upon such terms and conditions as*
5 *the Secretary may prescribe, when the home equity*
6 *conversion mortgage will be used to purchase a 1- to*
7 *4-family dwelling unit, one unit of which the mort-*
8 *gagor will occupy as a primary residence, and to pro-*
9 *vide for any future payments to the mortgagor, based*
10 *on available equity, as authorized under subsection*
11 *(d)(9).*

12 “(2) *LIMITATION ON PRINCIPAL OBLIGATION.*—A
13 *home equity conversion mortgage insured pursuant to*
14 *paragraph (1) shall involve a principal obligation*
15 *that does not exceed the dollar amount limitation de-*
16 *termined under section 305(a)(2) of the Federal Home*
17 *Loan Mortgage Corporation Act for a 1-family resi-*
18 *dence.*

19 “(n) *REQUIREMENTS ON MORTGAGE ORIGINATORS.*—

20 “(1) *IN GENERAL.*—The mortgagee and any
21 *other party that participates in the origination of a*
22 *mortgage to be insured under this section shall—*

23 “(A) *not participate in, be associated with,*
24 *or employ any party that participates in or is*

1 *associated with any other financial or insurance*
2 *activity; or*

3 “(B) *demonstrate to the Secretary that the*
4 *mortgagee or other party maintains, or will*
5 *maintain, firewalls and other safeguards de-*
6 *signed to ensure that—*

7 “(i) *individuals participating in the*
8 *origination of the mortgage shall have no*
9 *involvement with, or incentive to provide*
10 *the mortgagor with, any other financial or*
11 *insurance product; and*

12 “(ii) *the mortgagor shall not be re-*
13 *quired, directly or indirectly, as a condition*
14 *of obtaining a mortgage under this section,*
15 *to purchase any other financial or insur-*
16 *ance product.*

17 “(2) *APPROVAL OF OTHER PARTIES.—All parties*
18 *that participate in the origination of a mortgage to*
19 *be insured under this section shall be approved by the*
20 *Secretary.*

21 “(o) *PROHIBITION AGAINST REQUIREMENTS TO PUR-*
22 *CHASE ADDITIONAL PRODUCTS.—The mortgagee or any*
23 *other party shall not be required by the mortgagor or any*
24 *other party to purchase an insurance, annuity, or other ad-*

1 *ditional product as a requirement or condition of eligibility*
 2 *for insurance under subsection (c).*

3 “(p) *STUDY TO DETERMINE CONSUMER PROTECTIONS*
 4 *AND UNDERWRITING STANDARDS.—The Secretary shall*
 5 *conduct a study to examine and determine appropriate con-*
 6 *sumer protections and underwriting standards to ensure*
 7 *that the purchase of products referred to in subsection (o)*
 8 *is appropriate for the consumer. In conducting such study,*
 9 *the Secretary shall consult with consumer advocates (in-*
 10 *cluding recognized experts in consumer protection), indus-*
 11 *try representatives, representatives of counseling organiza-*
 12 *tions, and other interested parties.”.*

13 (b) *MORTGAGES FOR COOPERATIVES.—Subsection (b)*
 14 *of section 255 of the National Housing Act (12 U.S.C.*
 15 *1715z–20(b)) is amended—*

16 (1) *in paragraph (4)—*

17 (A) *by inserting “a first or subordinate*
 18 *mortgage or lien” before “on all stock”;*

19 (B) *by inserting “unit” after “dwelling”;*
 20 *and*

21 (C) *by inserting “a first mortgage or first*
 22 *lien” before “on a leasehold”; and*

23 (2) *in paragraph (5), by inserting “a first or*
 24 *subordinate lien on” before “all stock”.*

1 (c) *LIMITATION ON ORIGINATION FEES.*—Section 255
2 of the National Housing Act (12 U.S.C. 1715z–20), as
3 amended by the preceding provisions of this section, is fur-
4 ther amended by adding at the end the following new sub-
5 section:

6 “(r) *LIMITATION ON ORIGINATION FEES.*—The Sec-
7 retary shall establish limits on the origination fee that may
8 be charged to a mortgagor under a mortgage insured under
9 this section, which limitations shall—

10 “(1) equal 1.5 percent of the maximum claim
11 amount of the mortgage unless adjusted thereafter on
12 the basis of—

13 “(A) the costs to the mortgagor; and

14 “(B) the impact of such fees on the reverse
15 mortgage market;

16 “(2) be subject to a minimum allowable amount;

17 “(3) provide that the origination fee may be
18 fully financed with the mortgage;

19 “(4) include any fees paid to correspondent
20 mortgagees approved by the Secretary; and

21 “(5) have the same effective date as subsection
22 (m)(2) regarding the limitation on principal obliga-
23 tion.”.

24 (d) *STUDY REGARDING PROGRAM COSTS AND CREDIT*
25 *AVAILABILITY.*—

1 (1) *IN GENERAL.*—*The Comptroller General of*
2 *the United States shall conduct a study regarding the*
3 *costs and availability of credit under the home equity*
4 *conversion mortgages for elderly homeowners program*
5 *under section 255 of the National Housing Act (12*
6 *U.S.C. 1715z–20) (in this subsection referred to as the*
7 *“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 amounts*
11 *of the costs or fees under the program from the*
12 *amounts charged under the program as of the date of*
13 *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 program;*

19 (C) *the availability of credit under the pro-*
20 *gram; and*

21 (D) *the costs to elderly homeowners partici-*
22 *pating in the program, including—*

23 (i) *mortgage insurance premiums*
24 *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 the
11 results and conclusions of the study required under
12 paragraph (1).

13 **SEC. 2123. ENERGY EFFICIENT MORTGAGES PROGRAM.**

14 Section 106(a)(2) of the Energy Policy Act of 1992 (42
15 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 pursuant
7 to this section may not exceed 5 percent of the
8 aggregate number of mortgages for 1- to 4-family
9 residences insured by the Secretary of Housing
10 and Urban Development under title II of the Na-
11 tional Housing Act (12 U.S.C. 1707 et seq.) dur-
12 ing the preceding fiscal year.”.

13 **SEC. 2124. PILOT PROGRAM FOR AUTOMATED PROCESS FOR**
14 **BORROWERS WITHOUT SUFFICIENT CREDIT**
15 **HISTORY.**

16 (a) *ESTABLISHMENT.*—Title II of the National Hous-
17 ing Act (12 U.S.C. 1707 et seq.) is amended by adding at
18 the end the following new section:

19 **“SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS FOR**
20 **BORROWERS WITHOUT SUFFICIENT CREDIT**
21 **HISTORY.**

22 “(a) *ESTABLISHMENT.*—The Secretary shall carry out
23 a pilot program to establish, and make available to mortga-
24 gees, an automated process for providing alternative credit
25 rating information for mortgagors and prospective mortga-

1 gors under mortgages on 1- to 4-family residences to be in-
2 sured under this title who have insufficient credit histories
3 for determining their creditworthiness. Such alternative
4 credit rating information may include rent, utilities, and
5 insurance payment histories, and such other information
6 as the Secretary considers appropriate.

7 “(b) *SCOPE.*—The Secretary may carry out the pilot
8 program under this section on a limited basis or scope, and
9 may consider limiting the program to first-time home-
10 buyers.

11 “(c) *LIMITATION.*—In any fiscal year, the aggregate
12 number of mortgages insured pursuant to the automated
13 process established under this section may not exceed 5 per-
14 cent of the aggregate number of mortgages for 1- to 4-family
15 residences insured by the Secretary under this title during
16 the preceding fiscal year.

17 “(d) *SUNSET.*—After the expiration of the 5-year pe-
18 riod beginning on the date of the enactment of the Building
19 American Homeownership Act of 2008, the Secretary may
20 not enter into any new commitment to insure any mort-
21 gage, or newly insure any mortgage, pursuant to the auto-
22 mated process established under this section.”.

23 (b) *GAO REPORT.*—Not later than the expiration of
24 the two-year period beginning on the date of the enactment
25 of this subtitle, the Comptroller General of the United States

1 *shall submit to the Congress a report identifying the num-*
2 *ber of additional mortgagors served using the automated*
3 *process established pursuant to section 257 of the National*
4 *Housing Act (as added by the amendment made by sub-*
5 *section (a) of this section) and the impact of such process*
6 *and the insurance of mortgages pursuant to such process*
7 *on the safety and soundness of the insurance funds under*
8 *the National Housing Act of which such mortgages are obli-*
9 *gations.*

10 **SEC. 2125. HOMEOWNERSHIP PRESERVATION.**

11 *The Secretary of Housing and Urban Development*
12 *and the Commissioner of the Federal Housing Administra-*
13 *tion, in consultation with industry, the Neighborhood Rein-*
14 *vestment Corporation, and other entities involved in fore-*
15 *closure prevention activities, shall—*

16 *(1) develop and implement a plan to improve the*
17 *Federal Housing Administration's loss mitigation*
18 *process; and*

19 *(2) report such plan to the Committee on Bank-*
20 *ing, Housing, and Urban Affairs of the Senate and*
21 *the Committee on Financial Services of the House of*
22 *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 for*
8 *the mortgage insurance programs under title II of the Na-*
9 *tional Housing Act, to the Secretary of Housing and Urban*
10 *Development for increasing funding for the purpose of im-*
11 *proving technology, processes, program performance, elimi-*
12 *nating fraud, and for providing appropriate staffing in*
13 *connection with the mortgage insurance programs under*
14 *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 the*
17 *Secretary of Housing and Urban Development has, by rule-*
18 *making in accordance with section 553 of title 5, United*
19 *States Code (notwithstanding subsections (a)(2), (b)(B),*
20 *and (d)(3) of such section), made a determination that—*

21 (1) *premiums being, or to be, charged during*
22 *such fiscal year for mortgage insurance under title II*
23 *of the National Housing Act are established at the*
24 *minimum amount sufficient to—*

25 (A) *comply with the requirements of section*
26 *205(f) of such Act (relating to required capital*

1 *ratio for the Mutual Mortgage Insurance Fund);*
2 *and*

3 *(B) ensure the safety and soundness of the*
4 *other mortgage insurance funds under such Act;*
5 *and*

6 *(2) any negative credit subsidy for such fiscal*
7 *year resulting from such mortgage insurance pro-*
8 *grams adequately ensures the efficient delivery and*
9 *availability of such programs.*

10 *(c) STUDY AND REPORT.—The Secretary of Housing*
11 *and Urban Development shall conduct a study to obtain*
12 *recommendations from participants in the private residen-*
13 *tial (both single family and multifamily) mortgage lending*
14 *business and the secondary market for such mortgages on*
15 *how best to update and upgrade processes and technologies*
16 *for the mortgage insurance programs under title II of the*
17 *National Housing Act so that the procedures for origi-*
18 *nating, insuring, and servicing of such mortgages conform*
19 *with those customarily used by secondary market pur-*
20 *chasers of residential mortgage loans. Not later than the ex-*
21 *piration of the 12-month period beginning on the date of*
22 *the enactment of this title, the Secretary shall submit a re-*
23 *port to the Congress describing the progress made and to*
24 *be made toward updating and upgrading such processes*

1 *and technology, and providing appropriate staffing for such*
2 *mortgage insurance programs.*

3 **SEC. 2127. POST-PURCHASE HOUSING COUNSELING ELIGI-**
4 **BILITY IMPROVEMENTS.**

5 *Section 106(c)(4) of the Housing and Urban Develop-*
6 *ment Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:*

7 *(1) in subparagraph (C)—*

8 *(A) in clause (i), by striking “; or” and in-*
9 *serting a semicolon;*

10 *(B) in clause (ii), by striking the period at*
11 *the end and inserting a semicolon; and*

12 *(C) by adding at the end the following:*

13 *“(iii) a significant reduction in the in-*
14 *come of the household due to divorce or*
15 *death; or*

16 *“(iv) a significant increase in basic ex-*
17 *penses of the homeowner or an immediate*
18 *family member of the homeowner (including*
19 *the spouse, child, or parent for whom the*
20 *homeowner provides substantial care or fi-*
21 *nancial assistance) due to—*

22 *“(I) an unexpected or significant*
23 *increase in medical expenses;*

24 *“(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 income
12 of the homeowner is no greater than the annual
13 income established by the Secretary as being of
14 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 es-
21 tablish 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 Hous-
25 ing and Urban Development shall provide to eligible home-

1 buyers pre-purchase homeownership counseling under this
2 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 the
8 Secretary may, in his discretion, determine appro-
9 priate.

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 Housing
25 and Urban Development shall report to the Committee on

1 *Banking, Housing, and Urban Affairs of the Senate and*
2 *the Committee on Financial Services of the House of Rep-*
3 *resentative—*

4 (1) *on an annual basis, on the progress and re-*
5 *sults of the demonstration program established under*
6 *subsection (a); and*

7 (2) *for the period beginning on the date of enact-*
8 *ment of this title and ending on the date that is 5*
9 *years after such date of enactment, on the payment*
10 *history and delinquency rates of eligible homebuyers*
11 *who participated in the demonstration program.*

12 **SEC. 2129. FRAUD PREVENTION.**

13 *Section 1014 of title 18, United States Code, is amend-*
14 *ed in the first sentence—*

15 (1) *by inserting “the Federal Housing Adminis-*
16 *tration,” before “the Farm Credit Administration”;*
17 *and*

18 (2) *by striking “commitment, or loan” and in-*
19 *serting “commitment, loan, or insurance agreement or*
20 *application for insurance or a guarantee”.*

21 **SEC. 2130. LIMITATION ON MORTGAGE INSURANCE PRE-**
22 **MIUM INCREASES.**

23 (a) *IN GENERAL.—Notwithstanding any other provi-*
24 *sion of law, including any provision of this title and any*
25 *amendment made by this title—*

1 (1) for the period beginning on the date of the
2 enactment of this title and ending on October 1, 2009,
3 the premiums charged for mortgage insurance under
4 multifamily housing programs under the National
5 Housing Act may not be increased above the premium
6 amounts in effect under such program on October 1,
7 2006, unless the Secretary of Housing and Urban De-
8 velopment determines that, absent such increase, in-
9 surance of additional mortgages under such program
10 would, under the Federal Credit Reform Act of 1990,
11 require the appropriation of new budget authority to
12 cover the costs (as such term is defined in section 502
13 of the Federal Credit Reform Act of 1990 (2 U.S.C.
14 661a) of such insurance; and

15 (2) a premium increase pursuant to paragraph
16 (1) may be made only if not less than 30 days prior
17 to such increase taking effect, the Secretary of Hous-
18 ing and Urban Development—

19 (A) notifies the Committee on Banking,
20 Housing, and Urban Affairs of the Senate and
21 the Committee on Financial Services of the
22 House of Representatives of such increase; and

23 (B) publishes notice of such increase in the
24 Federal Register.

1 (b) *WAIVER.*—*The Secretary of Housing and Urban*
2 *Development may waive the 30-day notice requirement*
3 *under subsection (a)(2), if the Secretary determines that*
4 *waiting 30-days before increasing premiums would cause*
5 *substantial damage to the solvency of multifamily housing*
6 *programs under the National Housing Act.*

7 **SEC. 2131. SAVINGS PROVISION.**

8 *Any mortgage insured under title II of the National*
9 *Housing Act before the date of enactment of this subtitle*
10 *shall continue to be governed by the laws, regulations, or-*
11 *ders, and terms and conditions to which it was subject on*
12 *the day before the date of the enactment of this subtitle.*

13 **SEC. 2132. IMPLEMENTATION.**

14 *The Secretary of Housing and Urban Development*
15 *shall by notice establish any additional requirements that*
16 *may be necessary to immediately carry out the provisions*
17 *of this subtitle. The notice shall take effect upon issuance.*

18 **SEC. 2133. MORATORIUM ON IMPLEMENTATION OF RISK-**

19 **BASED PREMIUMS.**

20 (a) *IN GENERAL.*—*During the 12-month period begin-*
21 *ning on the date of enactment of this Act, the Secretary*
22 *of Housing and Urban Development shall not enact, exe-*
23 *cute, or take any action to make effective the planned imple-*
24 *mentation of risk-based premiums, which are designed for*
25 *mortgage lenders to offer borrowers an FHA-insured prod-*

1 *uct that provides a range of mortgage insurance premium*
 2 *pricing, based on the risk that the insurance contract rep-*
 3 *resents, as such planned implementation was set forth in*
 4 *the Notice published in the Federal Register on May 13,*
 5 *2008 (Vol. 73, No. 93, Pages 27703 through 27711)(effective*
 6 *July 14, 2008).*

7 (b) *INSURANCE OF MORTGAGES UNDER THE NA-*
 8 *TIONAL HOUSING ACT.—During the 12-month period be-*
 9 *ginning on the date of enactment of this Act, the Secretary*
 10 *of Housing and Urban Development shall not enact, exe-*
 11 *cute, or take any action to make effective the implementa-*
 12 *tion of any other new risk-based premium product related*
 13 *to the insurance of any mortgage on a single family resi-*
 14 *dence under title II of the National Housing Act, where the*
 15 *premium price for such new product is based in whole or*
 16 *in part on a borrower’s Decision Credit Score, as that term*
 17 *is defined in the Notice described under subsection (a), or*
 18 *any successor thereto.*

19 ***Subtitle B—Manufactured Housing***
 20 ***Loan Modernization***

21 ***SEC. 2141. SHORT TITLE.***

22 *This subtitle may be cited as the “FHA Manufactured*
 23 *Housing Loan Modernization Act of 2008”.*

24 ***SEC. 2142. PURPOSES.***

25 *The purposes of this subtitle are—*

1 (1) to provide adequate funding for FHA-insured
2 manufactured housing loans for low- and moderate-
3 income homebuyers during all economic cycles in the
4 manufactured housing industry;

5 (2) to modernize the FHA title I insurance pro-
6 gram for manufactured housing loans to enhance par-
7 ticipation by Ginnie Mae and the private lending
8 markets; and

9 (3) to adjust the low loan limits for title I man-
10 ufactured home loan insurance to reflect the increase
11 in costs since such limits were last increased in 1992
12 and to index the limits to inflation.

13 **SEC. 2143. EXCEPTION TO LIMITATION ON FINANCIAL IN-**
14 **STITUTION PORTFOLIO.**

15 The second sentence of section 2(a) of the National
16 *Housing Act* (12 U.S.C. 1703(a)) is amended—

17 (1) by striking “In no case” and inserting
18 “Other than in connection with a manufactured home
19 or a lot on which to place such a home (or both), in
20 no case”; and

21 (2) by striking “: Provided, That with” and in-
22 serting “. With”.

1 **SEC. 2144. INSURANCE BENEFITS.**

2 (a) *IN GENERAL.*—Subsection (b) of section 2 of the
3 *National Housing Act (12 U.S.C. 1703(b))*, is amended by
4 *adding at the end the following new paragraph:*

5 “(8) *INSURANCE BENEFITS FOR MANUFACTURED*
6 *HOUSING LOANS.*—Any contract of insurance with re-
7 *spect to loans, advances of credit, or purchases in con-*
8 *nection with a manufactured home or a lot on which*
9 *to place a manufactured home (or both) for a finan-*
10 *cial institution that is executed under this title after*
11 *the date of the enactment of the FHA Manufactured*
12 *Housing Loan Modernization Act of 2008 by the Sec-*
13 *retary shall be conclusive evidence of the eligibility of*
14 *such financial institution for insurance, and the va-*
15 *lidity of any contract of insurance so executed shall*
16 *be incontestable in the hands of the bearer from the*
17 *date of the execution of such contract, except for fraud*
18 *or misrepresentation on the part of such institution.”.*

19 (b) *APPLICABILITY.*—The amendment made by sub-
20 *section (a) shall only apply to loans that are registered or*
21 *endorsed for insurance after the date of the enactment of*
22 *this title.*

23 **SEC. 2145. MAXIMUM LOAN LIMITS.**

24 (a) *DOLLAR AMOUNTS.*—Paragraph (1) of section 2(b)
25 *of the National Housing Act (12 U.S.C. 1703(b)(1)) is*
26 *amended—*

1 (1) in clause (ii) of subparagraph (A), by strik-
2 ing “\$17,500” and inserting “\$25,090”;

3 (2) in subparagraph (C) by striking “\$48,600”
4 and inserting “\$69,678”;

5 (3) in subparagraph (D) by striking “\$64,800”
6 and inserting “\$92,904”;

7 (4) in subparagraph (E) by striking “\$16,200”
8 and inserting “\$23,226”; and

9 (5) by realigning subparagraphs (C), (D), and
10 (E) 2 ems to the left so that the left margins of such
11 subparagraphs are aligned with the margins of sub-
12 paragraphs (A) and (B).

13 (b) ANNUAL INDEXING.—Subsection (b) of section 2 of
14 the National Housing Act (12 U.S.C. 1703(b)), as amended
15 by the preceding provisions of this title, is further amended
16 by adding at the end the following new paragraph:

17 “(9) ANNUAL INDEXING OF MANUFACTURED
18 HOUSING LOANS.—The Secretary shall develop a
19 method of indexing in order to annually adjust the
20 loan limits established in subparagraphs (A)(ii), (C),
21 (D), and (E) of this subsection. Such index shall be
22 based on the manufactured housing price data col-
23 lected by the United States Census Bureau. The Sec-
24 retary shall establish such index no later than 1 year

1 *after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008.*”

3 (c) *TECHNICAL AND CONFORMING CHANGES.—*Para-
4 *graph (1) of section 2(b) of the National Housing Act (12*
5 *U.S.C. 1703(b)(1)) is amended—*

6 (1) *by striking “No” and inserting “Except as*
7 *provided in the last sentence of this paragraph, no”;*
8 *and*

9 (2) *by adding after and below subparagraph (G)*
10 *the following:*

11 *“The Secretary shall, by regulation, annually increase*
12 *the dollar amount limitations in subparagraphs (A)(ii),*
13 *(C), (D), and (E) (as such limitations may have been pre-*
14 *viously adjusted under this sentence) in accordance with the*
15 *index established pursuant to paragraph (9).”.*

16 **SEC. 2146. INSURANCE PREMIUMS.**

17 *Subsection (f) of section 2 of the National Housing Act*
18 *(12 U.S.C. 1703(f)) is amended—*

19 (1) *by inserting “(1) PREMIUM CHARGES.—”*
20 *after “(f)”;* *and*

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

23 “(2) *MANUFACTURED HOME LOANS.—Notwith-*
24 *standing paragraph (1), in the case of a loan, advance of*
25 *credit, or purchase in connection with a manufactured*

1 *home or a lot on which to place such a home (or both),*
2 *the premium charge for the insurance granted under this*
3 *section shall be paid by the borrower under the loan or ad-*
4 *vance of credit, as follows:*

5 “(A) *At the time of the making of the loan, ad-*
6 *vance of credit, or purchase, a single premium pay-*
7 *ment in an amount not to exceed 2.25 percent of the*
8 *amount of the original insured principal obligation.*

9 “(B) *In addition to the premium under subpara-*
10 *graph (A), annual premium payments during the*
11 *term of the loan, advance, or obligation purchased in*
12 *an amount not exceeding 1.0 percent of the remaining*
13 *insured principal balance (excluding the portion of*
14 *the remaining balance attributable to the premium*
15 *collected under subparagraph (A) and without taking*
16 *into account delinquent payments or prepayments).*

17 “(C) *Premium charges under this paragraph*
18 *shall be established in amounts that are sufficient, but*
19 *do not exceed the minimum amounts necessary, to*
20 *maintain a negative credit subsidy for the program*
21 *under this section for insurance of loans, advances of*
22 *credit, or purchases in connection with a manufac-*
23 *tured home or a lot on which to place such a home*
24 *(or both), as determined based upon risk to the Fed-*

1 *eral Government under existing underwriting require-*
 2 *ments.*

3 *“(D) The Secretary may increase the limitations*
 4 *on premium payments to percentages above those set*
 5 *forth in subparagraphs (A) and (B), but only if nec-*
 6 *essary, and not in excess of the minimum increase*
 7 *necessary, to maintain a negative credit subsidy as*
 8 *described in subparagraph (C).”.*

9 **SEC. 2147. TECHNICAL CORRECTIONS.**

10 *(a) DATES.—Subsection (a) of section 2 of the Na-*
 11 *tional Housing Act (12 U.S.C. 1703(a)) is amended—*

12 *(1) by striking “on and after July 1, 1939,” each*
 13 *place such term appears; and*

14 *(2) by striking “made after the effective date of*
 15 *the Housing Act of 1954”.*

16 *(b) AUTHORITY OF SECRETARY.—Subsection (c) of sec-*
 17 *tion 2 of the National Housing Act (12 U.S.C. 1703(c)) is*
 18 *amended to read as follows:*

19 *“(c) HANDLING AND DISPOSAL OF PROPERTY.—*

20 *“(1) AUTHORITY OF SECRETARY.—Notwith-*
 21 *standing any other provision of law, the Secretary*
 22 *may—*

23 *“(A) deal with, complete, rent, renovate,*
 24 *modernize, insure, or assign or sell at public or*
 25 *private sale, or otherwise dispose of, for cash or*

1 *credit in the Secretary's discretion, and upon*
2 *such terms and conditions and for such consider-*
3 *ation as the Secretary shall determine to be rea-*
4 *sonable, any real or personal property conveyed*
5 *to or otherwise acquired by the Secretary, in*
6 *connection with the payment of insurance here-*
7 *tofore or hereafter granted under this title, in-*
8 *cluding any evidence of debt, contract, claim,*
9 *personal property, or security assigned to or held*
10 *by him in connection with the payment of insur-*
11 *ance heretofore or hereafter granted under this*
12 *section; and*

13 *“(B) pursue to final collection, by way of*
14 *compromise or otherwise, all claims assigned to*
15 *or held by the Secretary and all legal or equi-*
16 *table rights accruing to the Secretary in connec-*
17 *tion with the payment of such insurance, includ-*
18 *ing unpaid insurance premiums owed in connec-*
19 *tion with insurance made available by this title.*

20 *“(2) ADVERTISEMENTS FOR PROPOSALS.—Sec-*
21 *tion 3709 of the Revised Statutes shall not be con-*
22 *strued to apply to any contract of hazard insurance*
23 *or to any purchase or contract for services or supplies*
24 *on account of such property if the amount thereof does*
25 *not exceed \$25,000.*

1 “(3) *DELEGATION OF AUTHORITY.*—*The power to*
2 *convey and to execute in the name of the Secretary,*
3 *deeds of conveyance, deeds of release, assignments and*
4 *satisfactions of mortgages, and any other written in-*
5 *strument relating to real or personal property or any*
6 *interest therein heretofore or hereafter acquired by the*
7 *Secretary pursuant to the provisions of this title may*
8 *be exercised by an officer appointed by the Secretary*
9 *without the execution of any express delegation of*
10 *power or power of attorney. Nothing in this sub-*
11 *section shall be construed to prevent the Secretary*
12 *from delegating such power by order or by power of*
13 *attorney, in the Secretary’s discretion, to any officer*
14 *or agent the Secretary may appoint.”.*

15 **SEC. 2148. REVISION OF UNDERWRITING CRITERIA.**

16 *(a) IN GENERAL.*—*Subsection (b) of section 2 of the*
17 *National Housing Act (12 U.S.C. 1703(b)), as amended by*
18 *the preceding provisions of this title, is further amended*
19 *by adding at the end the following new paragraph:*

20 “(10) *FINANCIAL SOUNDNESS OF MANUFACTURED*
21 *HOUSING PROGRAM.*—*The Secretary shall establish*
22 *such underwriting criteria for loans and advances of*
23 *credit in connection with a manufactured home or a*
24 *lot on which to place a manufactured home (or both),*
25 *including such loans and advances represented by ob-*

1 *sion of credit, as well as to services rendered in connection*
2 *with such transactions.*

3 “(b) *AUTHORITY OF THE SECRETARY.*—*The Secretary*
4 *is authorized to determine the manner and extent to which*
5 *the provisions of sections 3, 8, 16, 17, 18, and 19 of the*
6 *Real Estate Settlement Procedures Act of 1974 (12 U.S.C.*
7 *2601 et seq.) may reasonably be applied to the transactions*
8 *described in subsection (a), and to grant such exemptions*
9 *as may be necessary to achieve the purposes of this section.*

10 “(c) *DEFINITIONS.*—*For purposes of this section—*

11 “(1) *the term ‘federally related mortgage loan’ as*
12 *used in sections 3, 8, 16, 17, 18, and 19 of the Real*
13 *Estate Settlement Procedures Act of 1974 (12 U.S.C.*
14 *2601 et seq.) shall include an FHA-insured loan or*
15 *extension of credit made to a borrower for the purpose*
16 *of purchasing a manufactured home that the borrower*
17 *intends to occupy as a personal residence; and*

18 “(2) *the term ‘real estate settlement service’ as*
19 *used in sections 3, 8, 16, 17, 18, and 19 of the Real*
20 *Estate Settlement Procedures Act of 1974 (12 U.S.C.*
21 *2601 et seq.) shall include any service rendered in*
22 *connection with a loan or extension of credit insured*
23 *by the Federal Housing Administration for the pur-*
24 *chase of a manufactured home.*

1 “(d) *UNFAIR AND DECEPTIVE PRACTICES.*—*In connec-*
 2 *tion with the purchase of a manufactured home financed*
 3 *with a loan or extension of credit insured by the Federal*
 4 *Housing Administration under this title, the Secretary*
 5 *shall prohibit acts or practices in connection with loans or*
 6 *extensions of credit that the Secretary finds to be unfair,*
 7 *deceptive, or otherwise not in the interests of the borrower.”.*

8 **SEC. 2150. LEASEHOLD REQUIREMENTS.**

9 *Subsection (b) of section 2 of the National Housing*
 10 *Act (12 U.S.C. 1703(b)), as amended by the preceding pro-*
 11 *visions of this title, is further amended by adding at the*
 12 *end the following new paragraph:*

13 “(11) *LEASEHOLD REQUIREMENTS.*—*No insur-*
 14 *ance shall be granted under this section to any such*
 15 *financial institution with respect to any obligation*
 16 *representing any such loan, advance of credit, or pur-*
 17 *chase by it, made for the purposes of financing a*
 18 *manufactured home which is intended to be situated*
 19 *in a manufactured home community pursuant to a*
 20 *lease, unless such lease—*

21 “(A) *expires not less than 3 years after the*
 22 *origination date of the obligation;*

23 “(B) *is renewable upon the expiration of the*
 24 *original 3 year term by successive 1 year terms;*
 25 *and*

1 “(C) requires the lessor to provide the lessee
2 written notice of termination of the lease not less
3 than 180 days prior to the expiration of the cur-
4 rent lease term in the event the lessee is required
5 to move due to the closing of the manufactured
6 home community, and further provides that fail-
7 ure to provide such notice to the mortgagor in a
8 timely manner will cause the lease term, at its
9 expiration, to automatically renew for an addi-
10 tional 1 year term.”.

11 **TITLE II—MORTGAGE FORE-**
12 **CLOSURE PROTECTIONS FOR**
13 **SERVICEMEMBERS**

14 **SEC. 2201. TEMPORARY INCREASE IN MAXIMUM LOAN**
15 **GUARANTY AMOUNT FOR CERTAIN HOUSING**
16 **LOANS GUARANTEED BY THE SECRETARY OF**
17 **VETERANS AFFAIRS.**

18 Notwithstanding subparagraph (C) of section
19 3703(a)(1) of title 38, United States Code, for purposes of
20 any loan described in subparagraph (A)(i)(IV) of such sec-
21 tion that is originated during the period beginning on the
22 date of the enactment of this Act and ending on December
23 31, 2008, the term “maximum guaranty amount” shall
24 mean an amount equal to 25 percent of the higher of—

1 (1) *the limitation determined under section*
2 *305(a)(2) of the Federal Home Loan Mortgage Cor-*
3 *poration Act (12 U.S.C. 1454(a)(2)) for the calendar*
4 *year in which the loan is originated for a single-fam-*
5 *ily residence; or*

6 (2) *125 percent of the area median price for a*
7 *single-family residence, but in no case to exceed 175*
8 *percent of the limitation determined under such sec-*
9 *tion 305(a)(2) for the calendar year in which the loan*
10 *is originated for a single-family residence.*

11 **SEC. 2202. COUNSELING ON MORTGAGE FORECLOSURES**
12 **FOR MEMBERS OF THE ARMED FORCES RE-**
13 **TURNING FROM SERVICE ABROAD.**

14 (a) *IN GENERAL.*—*The Secretary of Defense shall de-*
15 *velop and implement a program to advise members of the*
16 *Armed Forces (including members of the National Guard*
17 *and Reserve) who are returning from service on active duty*
18 *abroad (including service in Operation Iraqi Freedom and*
19 *Operation Enduring Freedom) on actions to be taken by*
20 *such members to prevent or forestall mortgage foreclosures.*

21 (b) *ELEMENTS.*—*The program required by subsection*
22 *(a) shall include the following:*

23 (1) *Credit counseling.*

24 (2) *Home mortgage counseling.*

1 (3) *Such other counseling and information as the*
2 *Secretary considers appropriate for purposes of the*
3 *program.*

4 (c) *TIMING OF PROVISION OF COUNSELING.—Coun-*
5 *seling and other information under the program required*
6 *by subsection (a) shall be provided to a member of the*
7 *Armed Forces covered by the program as soon as practicable*
8 *after the return of the member from service as described in*
9 *subsection (a).*

10 **SEC. 2203. ENHANCEMENT OF PROTECTIONS FOR**
11 **SERVICEMEMBERS RELATING TO MORTGAGES**
12 **AND MORTGAGE FORECLOSURES.**

13 (a) *EXTENSION OF PERIOD OF PROTECTIONS AGAINST*
14 *MORTGAGE FORECLOSURES.—*

15 (1) *EXTENSION OF PROTECTION PERIOD.—Sub-*
16 *section (c) of section 303 of the Servicemembers Civil*
17 *Relief Act (50 U.S.C. App. 533) is amended by strik-*
18 *ing “90 days” and inserting “9 months”.*

19 (2) *EXTENSION OF STAY OF PROCEEDINGS PE-*
20 *RIOD.—Subsection (b) of such section is amended by*
21 *striking “90 days” and inserting “9 months”.*

22 (b) *TREATMENT OF MORTGAGES AS OBLIGATIONS*
23 *SUBJECT TO INTEREST RATE LIMITATION.—Section 207 of*
24 *the Servicemembers Civil Relief Act (50 U.S.C. App. 527)*
25 *is amended—*

1 (1) *in subsection (a)(1), by striking “in excess of*
2 *6 percent” the second place it appears and all that*
3 *follows and inserting “in excess of 6 percent—*

4 *“(A) during the period of military service*
5 *and one year thereafter, in the case of an obliga-*
6 *tion or liability consisting of a mortgage, trust*
7 *deed, or other security in the nature of a mort-*
8 *gage; or*

9 *“(B) during the period of military service,*
10 *in the case of any other obligation or liability.”;*
11 *and*

12 (2) *by striking subsection (d) and inserting the*
13 *following new subsection:*

14 *“(d) DEFINITIONS.—In this section:*

15 *“(1) INTEREST.—The term ‘interest’ includes*
16 *service charges, renewal charges, fees, or any other*
17 *charges (except bona fide insurance) with respect to*
18 *an obligation or liability.*

19 *“(2) OBLIGATION OR LIABILITY.—The term ‘obli-*
20 *gation or liability’ includes an obligation or liability*
21 *consisting of a mortgage, trust deed, or other security*
22 *in the nature of a mortgage.”.*

23 (i) *EFFECTIVE DATE; SUNSET.—*

1 (1) *EFFECTIVE DATE.*—*The amendment made by*
2 *subsection (a) shall take effect on the date of enact-*
3 *ment of this Act.*

4 (2) *SUNSET.*—*The amendments made by sub-*
5 *section (a) shall expire on December 31, 2010. Effec-*
6 *tive January 1, 2011, the provisions of subsections (b)*
7 *and (c) of section 303 of the Servicemembers Civil Re-*
8 *lief Act, as in effect on the day before the date of the*
9 *enactment of this Act, are hereby revived.*

10 ***TITLE III—EMERGENCY ASSIST-***
11 ***ANCE FOR THE REDEVELOP-***
12 ***MENT OF ABANDONED AND***
13 ***FORECLOSED HOMES***

14 ***SEC. 2301. EMERGENCY ASSISTANCE FOR THE REDEVELOP-***
15 ***MENT OF ABANDONED AND FORECLOSED***
16 ***HOMES.***

17 (a) *DIRECT APPROPRIATIONS.*—*There are appro-*
18 *priated out of any money in the Treasury not otherwise*
19 *appropriated for the fiscal year 2008, \$4,000,000,000, to*
20 *remain available until expended, for assistance to States*
21 *and units of general local government (as such terms are*
22 *defined in section 102 of the Housing and Community De-*
23 *velopment Act of 1974 (42 U.S.C. 5302)) for the redevelop-*
24 *ment of abandoned and foreclosed upon homes and residen-*
25 *tial properties.*

1 **(b) ALLOCATION OF APPROPRIATED AMOUNTS.—**

2 **(1) IN GENERAL.—***The amounts appropriated or*
3 *otherwise made available to States and units of gen-*
4 *eral local government under this section shall be allo-*
5 *cated based on a funding formula established by the*
6 *Secretary of Housing and Urban Development (in*
7 *this title referred to as the “Secretary”).*

8 **(2) FORMULA TO BE DEVISED SWIFTLY.—***The*
9 *funding formula required under paragraph (1) shall*
10 *be established not later than 60 days after the date of*
11 *enactment of this section.*

12 **(3) CRITERIA.—***The funding formula required*
13 *under paragraph (1) shall ensure that any amounts*
14 *appropriated or otherwise made available under this*
15 *section are allocated to States and units of general*
16 *local government with the greatest need, as such need*
17 *is determined in the discretion of the Secretary based*
18 *on—*

19 **(A)** *the number and percentage of home*
20 *foreclosures in each State or unit of general local*
21 *government;*

22 **(B)** *the number and percentage of homes fi-*
23 *nanced by a subprime mortgage related loan in*
24 *each State or unit of general local government;*
25 *and*

1 (C) the number and percentage of homes in
2 default or delinquency in each State or unit of
3 general local government.

4 (4) *DISTRIBUTION.*—Amounts appropriated or
5 otherwise made available under this section shall be
6 distributed according to the funding formula estab-
7 lished by the Secretary under paragraph (1) not later
8 than 30 days after the establishment of such formula.

9 (c) *USE OF FUNDS.*—

10 (1) *IN GENERAL.*—Any State or unit of general
11 local government that receives amounts pursuant to
12 this section shall, not later than 18 months after the
13 receipt of such amounts, use such amounts to pur-
14 chase and redevelop abandoned and foreclosed homes
15 and residential properties.

16 (2) *PRIORITY.*—Any State or unit of general
17 local government that receives amounts pursuant to
18 this section shall in distributing such amounts give
19 priority emphasis and consideration to those metro-
20 politan areas, metropolitan cities, urban areas, rural
21 areas, low- and moderate-income areas, and other
22 areas with the greatest need, including those—

23 (A) with the greatest percentage of home
24 foreclosures;

1 (B) with the highest percentage of homes fi-
2 nanced by a subprime mortgage related loan;
3 and

4 (C) identified by the State or unit of gen-
5 eral local government as likely to face a signifi-
6 cant rise in the rate of home foreclosures.

7 (3) *ELIGIBLE USES.*—Amounts made available
8 under this section may be used to—

9 (A) establish financing mechanisms for pur-
10 chase and redevelopment of foreclosed upon
11 homes and residential properties, including such
12 mechanisms as soft-seconds, loan loss reserves,
13 and shared-equity loans for low- and moderate-
14 income homebuyers;

15 (B) purchase and rehabilitate homes and
16 residential properties that have been abandoned
17 or foreclosed upon, in order to sell, rent, or rede-
18 velop such homes and properties;

19 (C) establish land banks for homes that have
20 been foreclosed upon;

21 (D) demolish blighted structures; and

22 (E) redevelop demolished or vacant prop-
23 erties.

24 (d) *LIMITATIONS.*—

1 (1) *ON PURCHASES.*—Any purchase of a fore-
2 closed upon home or residential property under this
3 section shall be at a discount from the current market
4 appraised value of the home or property, taking into
5 account its current condition, and such discount shall
6 ensure that purchasers are paying below-market value
7 for the home or property.

8 (2) *SALE OF HOMES.*—If an abandoned or fore-
9 closed upon home or residential property is pur-
10 chased, redeveloped, or otherwise sold to an individual
11 as a primary residence, then such sale shall be in an
12 amount equal to or less than the cost to acquire and
13 redevelop or rehabilitate such home or property up to
14 a decent, safe, and habitable condition.

15 (3) *REINVESTMENT OF PROFITS.*—

16 (A) *PROFITS FROM SALES, RENTALS, AND*
17 *REDEVELOPMENT.*—

18 (i) *5-YEAR REINVESTMENT PERIOD.*—

19 During the 5-year period following the date
20 of enactment of this Act, any revenue gen-
21 erated from the sale, rental, redevelopment,
22 rehabilitation, or any other eligible use that
23 is in excess of the cost to acquire and rede-
24 velop (including reasonable development
25 fees) or rehabilitate an abandoned or fore-

1 *closed upon home or residential property*
2 *shall be provided to and used by the State*
3 *or unit of general local government in ac-*
4 *cordance with, and in furtherance of, the*
5 *intent and provisions of this section.*

6 *(ii) DEPOSITS IN THE TREASURY.—*

7 *(I) PROFITS.—Upon the expira-*
8 *tion of the 5-year period set forth*
9 *under clause (i), any revenue generated*
10 *from the sale, rental, redevelopment,*
11 *rehabilitation, or any other eligible use*
12 *that is in excess of the cost to acquire*
13 *and redevelop (including reasonable*
14 *development fees) or rehabilitate an*
15 *abandoned or foreclosed upon home or*
16 *residential property shall be deposited*
17 *in the Treasury of the United States as*
18 *miscellaneous receipts, unless the Sec-*
19 *retary approves a request to use the*
20 *funds for purposes under this Act.*

21 *(II) OTHER AMOUNTS.—Upon the*
22 *expiration of the 5-year period set*
23 *forth under clause (i), any other rev-*
24 *enue not described under subclause (I)*
25 *generated from the sale, rental, redevel-*

1 *opment, rehabilitation, or any other el-*
2 *igible use of an abandoned or foreclosed*
3 *upon home or residential property*
4 *shall be deposited in the Treasury of*
5 *the United States as miscellaneous re-*
6 *ceipts.*

7 *(B) OTHER REVENUES.—Any revenue gen-*
8 *erated under subparagraphs (A), (C) or (D) of*
9 *subsection (c)(3) shall be provided to and used by*
10 *the State or unit of general local government in*
11 *accordance with, and in furtherance of, the in-*
12 *tent and provisions of this section.*

13 *(e) RULES OF CONSTRUCTION.—*

14 *(1) IN GENERAL.—Except as otherwise provided*
15 *by this section, amounts appropriated, revenues gen-*
16 *erated, or amounts otherwise made available to States*
17 *and units of general local government under this sec-*
18 *tion shall be treated as though such funds were com-*
19 *munity development block grant funds under title I of*
20 *the Housing and Community Development Act of*
21 *1974 (42 U.S.C. 5301 et seq.).*

22 *(2) NO MATCH.—No matching funds shall be re-*
23 *quired in order for a State or unit of general local*
24 *government to receive any amounts under this section.*

1 (f) *AUTHORITY TO SPECIFY ALTERNATIVE REQUIRE-*
2 *MENTS.—*

3 (1) *IN GENERAL.—In administering any*
4 *amounts appropriated or otherwise made available*
5 *under this section, the Secretary may specify alter-*
6 *native requirements to any provision under title I of*
7 *the Housing and Community Development Act of*
8 *1974 (except for those related to fair housing, non-*
9 *discrimination, labor standards, and the environ-*
10 *ment) in accordance with the terms of this section*
11 *and for the sole purpose of expediting the use of such*
12 *funds.*

13 (2) *NOTICE.—The Secretary shall provide writ-*
14 *ten notice of its intent to exercise the authority to*
15 *specify alternative requirements under paragraph (1)*
16 *to the Committee on Banking, Housing and Urban*
17 *Affairs of the Senate and the Committee on Financial*
18 *Services of the House of Representatives not later*
19 *than 10 business days before such exercise of author-*
20 *ity is to occur.*

21 (3) *LOW AND MODERATE INCOME REQUIRE-*
22 *MENT.—*

23 (A) *IN GENERAL.—Notwithstanding the au-*
24 *thority of the Secretary under paragraph (1)—*

1 (i) all of the funds appropriated or
2 otherwise made available under this section
3 shall be used with respect to individuals
4 and families whose income does not exceed
5 120 percent of area median income; and

6 (ii) not less than 25 percent of the
7 funds appropriated or otherwise made
8 available under this section shall be used for
9 the purchase and redevelopment of aban-
10 doned or foreclosed upon homes or residen-
11 tial properties that will be used to house in-
12 dividuals or families whose incomes do not
13 exceed 50 percent of area median income.

14 (B) *RECURRENT REQUIREMENT.*—The Sec-
15 retary shall, by rule or order, ensure, to the max-
16 imum extent practicable and for the longest fea-
17 sible term, that the sale, rental, or redevelopment
18 of abandoned and foreclosed upon homes and res-
19 idential properties under this section remain af-
20 fordable to individuals or families described in
21 subparagraph (A).

22 (g) *PERIODIC AUDITS.*—In consultation with the Sec-
23 retary of Housing and Urban Development, the Comptroller
24 General of the United States shall conduct periodic audits
25 to ensure that funds appropriated, made available, or other-

1 *wise distributed under this section are being used in a man-*
2 *ner consistent with the criteria provided in this section.*

3 **SEC. 2302. NATIONWIDE DISTRIBUTION OF RESOURCES.**

4 *Notwithstanding any other provision of this Act or the*
5 *amendments made by this Act, each State shall receive not*
6 *less than 0.5 percent of funds made available under section*
7 *2301 (relating to emergency assistance for the redevelop-*
8 *ment of abandoned and foreclosed homes).*

9 **SEC. 2303. LIMITATION ON USE OF FUNDS WITH RESPECT**
10 **TO EMINENT DOMAIN.**

11 *No State or unit of general local government may use*
12 *any amounts received pursuant to section 2301 to fund any*
13 *project that seeks to use the power of eminent domain, un-*
14 *less eminent domain is employed only for a public use: Pro-*
15 *vided, That for purposes of this section, public use shall not*
16 *be construed to include economic development that pri-*
17 *marily benefits private entities.*

18 **SEC. 2304. LIMITATION ON DISTRIBUTION OF FUNDS.**

19 *(a) IN GENERAL.—None of the funds made available*
20 *under this title or title IV shall be distributed to—*

21 *(1) an organization which has been indicted for*
22 *a violation under Federal law relating to an election*
23 *for Federal office; or*

24 *(2) an organization which employs applicable*
25 *individuals.*

1 (b) *APPLICABLE INDIVIDUALS DEFINED.*—*In this sec-*
2 *tion, the term “applicable individual” means an individual*
3 *who—*

4 (1) *is—*

5 (A) *employed by the organization in a per-*
6 *manent or temporary capacity;*

7 (B) *contracted or retained by the organiza-*
8 *tion; or*

9 (C) *acting on behalf of, or with the express*
10 *or apparent authority of, the organization; and*

11 (2) *has been indicted for a violation under Fed-*
12 *eral law relating to an election for Federal office.*

13 **SEC. 2305. COUNSELING INTERMEDIARIES.**

14 *Notwithstanding any other provision of this Act, the*
15 *amount appropriated under section 2301(a) of this Act*
16 *shall be \$3,920,000,000 and the amount appropriated under*
17 *section 2401 of this Act shall be \$180,000,000: Provided,*
18 *That of amounts appropriated under such section 2401*
19 *\$30,000,000 shall be used by the Neighborhood Reinvestment*
20 *Corporation (referred to in this section as the “NRC”) to*
21 *make grants to counseling intermediaries approved by the*
22 *Department of Housing and Urban Development or the*
23 *NRC to hire attorneys to assist homeowners who have legal*
24 *issues directly related to the homeowner’s foreclosure, delin-*
25 *quency or short sale. Such attorneys shall be capable of as-*

1 *sisting homeowners of owner-occupied homes with mort-*
2 *gages in default, in danger of default, or subject to or at*
3 *risk of foreclosure and who have legal issues that cannot*
4 *be handled by counselors already employed by such inter-*
5 *mediaries: Provided, That of the amounts provided for in*
6 *the prior provisos the NRC shall give priority consideration*
7 *to counseling intermediaries and legal organizations that*
8 *(1) provide legal assistance in the 100 metropolitan statis-*
9 *tical areas (as defined by the Director of the Office of Man-*
10 *agement and Budget) with the highest home foreclosure*
11 *rates, and (2) have the capacity to begin using the financial*
12 *assistance within 90 days after receipt of the assistance:*
13 *Provided further, That no funds provided under this Act*
14 *shall be used to provide, obtain, or arrange on behalf of*
15 *a homeowner, legal representation involving or for the pur-*
16 *poses of civil litigation.*

17 **TITLE IV—HOUSING**
18 **COUNSELING RESOURCES**

19 **SEC. 2401. HOUSING COUNSELING RESOURCES.**

20 *There are appropriated out of any money in the Treas-*
21 *ury not otherwise appropriated for the fiscal year 2008, for*
22 *an additional amount for the “Neighborhood Reinvestment*
23 *Corporation—Payment to the Neighborhood Reinvestment*
24 *Corporation” \$100,000,000, to remain available until Sep-*
25 *tember 30, 2008, for foreclosure mitigation activities under*

1 *the terms and conditions contained in the second undesig-*
2 *nated paragraph (beginning with the phrase “For an addi-*
3 *tional amount”) under the heading “Neighborhood Rein-*
4 *vestment Corporation—Payment to the Neighborhood Rein-*
5 *vestment Corporation” of Public Law 110–161.*

6 **SEC. 2402. CREDIT COUNSELING.**

7 (a) *IN GENERAL.—Entities approved by the Neighbor-*
8 *hood Reinvestment Corporation or the Secretary and State*
9 *housing finance entities receiving funds under this title*
10 *shall work to identify and coordinate with non-profit orga-*
11 *nizations operating national or statewide toll-free fore-*
12 *closure prevention hotlines, including those that—*

13 (1) *serve as a consumer referral source and data*
14 *repository for borrowers experiencing some form of de-*
15 *linquency or foreclosure;*

16 (2) *connect callers with local housing counseling*
17 *agencies approved by the Neighborhood Reinvestment*
18 *Corporation or the Secretary to assist with working*
19 *out a positive resolution to their mortgage delin-*
20 *quency or foreclosure; or*

21 (3) *facilitate or offer free assistance to help*
22 *homeowners to understand their options, negotiate so-*
23 *lutions, and find the best resolution for their par-*
24 *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.—Section*
8 *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, or”;*

16 *(4) by inserting “, which shall be at least 7 busi-*
17 *ness days before consummation of the transaction”*
18 *after “written application”;*

19 *(5) by striking “, whichever is earlier”; and*

20 *(6) by striking “If the” and all that follows*
21 *through the end of the paragraph and inserting the*
22 *following:*

23 *“(B) In the case of an extension of credit that is*
24 *secured by the dwelling of a consumer, the disclosures*
25 *provided under subparagraph (A), shall be in addi-*

1 *tion to the other disclosures required by subsection*
2 *(a), and shall—*

3 *“(i) state in conspicuous type size and for-*
4 *mat, the following: ‘You are not required to com-*
5 *plete this agreement merely because you have re-*
6 *ceived these disclosures or signed a loan applica-*
7 *tion.’; and*

8 *“(ii) be provided in the form of final disclo-*
9 *tures at the time of consummation of the trans-*
10 *action, in the form and manner prescribed by*
11 *this section.*

12 *“(C) In the case of an extension of credit that is*
13 *secured by the dwelling of a consumer, under which*
14 *the annual rate of interest is variable, or with respect*
15 *to which the regular payments may otherwise be vari-*
16 *able, in addition to the other disclosures required by*
17 *subsection (a), the disclosures provided under this*
18 *subsection shall do the following:*

19 *“(i) Label the payment schedule as follows:*
20 *‘Payment Schedule: Payments Will Vary Based*
21 *on Interest Rate Changes’.*

22 *“(ii) State in conspicuous type size and for-*
23 *mat examples of adjustments to the regular re-*
24 *quired payment on the extension of credit based*
25 *on the change in the interest rates specified by*

1 *the contract for such extension of credit. Among*
2 *the examples required to be provided under this*
3 *clause is an example that reflects the maximum*
4 *payment amount of the regular required pay-*
5 *ments on the extension of credit, based on the*
6 *maximum interest rate allowed under the con-*
7 *tract, in accordance with the rules of the Board.*
8 *Prior to issuing any rules pursuant to this*
9 *clause, the Board shall conduct consumer testing*
10 *to determine the appropriate format for pro-*
11 *viding the disclosures required under this sub-*
12 *paragraph to consumers so that such disclosures*
13 *can be easily understood, including the fact that*
14 *the initial regular payments are for a specific*
15 *time period that will end on a certain date, that*
16 *payments will adjust afterwards potentially to a*
17 *higher amount, and that there is no guarantee*
18 *that the borrower will be able to refinance to a*
19 *lower amount.*

20 “(D) *In any case in which the disclosure state-*
21 *ment under subparagraph (A) contains an annual*
22 *percentage rate of interest that is no longer accurate,*
23 *as determined under section 107(c), the creditor shall*
24 *furnish an additional, corrected statement to the bor-*

1 rower, not later than 3 business days before the date
2 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 the
6 consumer’s application for an extension of credit that
7 is secured by the dwelling of a consumer. If the disclo-
8 sures are mailed to the consumer, the consumer is
9 considered to have received them 3 business days after
10 they are mailed. A creditor or other person may im-
11 pose a fee for obtaining the consumer’s credit report
12 before the consumer has received the disclosures under
13 this paragraph, provided the fee is bona fide and rea-
14 sonable in amount.

15 “(F) WAIVER OF TIMELINESS OF DISCLO-
16 SURES.—To expedite consummation of a transaction,
17 if the consumer determines that the extension of credit
18 is needed to meet a bona fide personal financial emer-
19 gency, the consumer may waive or modify the timing
20 requirements for disclosures under subparagraph (A),
21 provided that—

22 “(i) the term ‘bona fide personal emergency’
23 may be further defined in regulations issued by
24 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 shall
5 bear the signature of all consumers entitled to re-
6 ceive the disclosures required by this paragraph;
7 and

8 “(iii) the creditor provides to the consumers
9 at or before the time of such waiver or modifica-
10 tion, the final disclosures required by paragraph
11 (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 101(53D)
15 of title 11, United States Code.”.

16 (b) *CIVIL LIABILITY*.—Section 130(a) of the Truth in
17 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 inserting
20 “not less than \$400 or greater than \$4,000”; and

21 (2) in the penultimate sentence of the undesig-
22 nated matter following paragraph (4)—

23 (A) by inserting “or section
24 128(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.*—*Subparagraph*
9 *(C) of section 128(b)(2) of the Truth in Lending Act*
10 *(15 U.S.C. 1638(b)(2)(C)), as added by subsection (a)*
11 *of this section, shall become effective on the earlier*
12 *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 para-*
20 *graph designated as the “Eleventh” of section 5136 of the*
21 *Revised Statutes of the United States (12 U.S.C. 24) is*
22 *amended by striking “promotes the public welfare by bene-*
23 *fitting primarily” and inserting “is designed primarily to*
24 *promote the public welfare, including the welfare of”.*

1 (b) *STATE MEMBER BANKS.*—*The first sentence of the*
 2 *23rd paragraph of section 9 of the Federal Reserve Act (12*
 3 *U.S.C. 338a) is amended by striking “promotes the public*
 4 *welfare by benefitting primarily” and inserting “is de-*
 5 *signed primarily to promote the public welfare, including*
 6 *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 amend-*
 15 *ed by adding at the end the following new subsection:*

16 “(d)(1) *In the case of a member of the Armed Forces*
 17 *who, as determined by the Secretary, has a disability per-*
 18 *manent in nature incurred or aggravated in the line of duty*
 19 *in the active military, naval, or air service, the Secretary*
 20 *may furnish improvements and structural alterations for*
 21 *such member for such disability or as otherwise described*
 22 *in subsection (a)(2) while such member is hospitalized or*
 23 *receiving outpatient medical care, services, or treatment for*
 24 *such disability if the Secretary determines that such mem-*

1 *ber is likely to be discharged or released from the Armed*
 2 *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 specified*
 7 *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 the*
 15 *following new section:*

16 **“§2101A. Eligibility for benefits and assistance: mem-**
 17 **bers of the Armed Forces with service-con-**
 18 **necting disabilities; individuals residing**
 19 **outside the United States**

20 “(a) *MEMBERS WITH SERVICE-CONNECTED DISABIL-*
 21 *ITIES.*—(1) *The Secretary may provide assistance under*
 22 *this chapter to a member of the Armed Forces serving on*
 23 *active duty who is suffering from a disability that meets*
 24 *applicable criteria for benefits under this chapter if the dis-*
 25 *ability is incurred or aggravated in line of duty in the ac-*

1 *tive military, naval, or air service. Such assistance shall*
2 *be provided to the same extent as assistance is provided*
3 *under this chapter to veterans eligible for assistance under*
4 *this chapter and subject to the same requirements as vet-*
5 *erans under this chapter.*

6 “(2) *For purposes of this chapter, any reference to a*
7 *veteran or eligible individual shall be treated as a reference*
8 *to a member of the Armed Forces described in subsection*
9 *(a) who is similarly situated to the veteran or other eligible*
10 *individual so referred to.*

11 “(b) *BENEFITS AND ASSISTANCE FOR INDIVIDUALS*
12 *RESIDING OUTSIDE THE UNITED STATES.—(1) Subject to*
13 *paragraph (2), the Secretary may, at the Secretary’s discre-*
14 *tion, provide benefits and assistance under this chapter*
15 *(other than benefits under section 2106 of this title) to any*
16 *individual otherwise eligible for such benefits and assistance*
17 *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 Sec-*
24 *retary) 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 in*
6 *accordance with such regulations as the Secretary may pre-*
7 *scribe.”.*

8 (b) *CONFORMING AMENDMENTS.—*

9 (1) *REPEAL OF SUPERSEDED AUTHORITY.—Sec-*
10 *tion 2101 of title 38, United States Code, is amend-*
11 *ed—*

12 (A) *by striking subsection (c); and*

13 (B) *by redesignating subsection (d) as sub-*
14 *section (c).*

15 (2) *LIMITATIONS ON ASSISTANCE.—Section 2102*
16 *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 vet-*
23 *eran” 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 TEMPORARILY
10 RESIDING IN HOUSING OF FAMILY MEMBER.—Section
11 2102A of title 38, United States Code, is amended—

12 (A) by striking “veteran” each place it ap-
13 pears (other than in subsection (b)) and insert-
14 ing “individual”;

15 (B) in subsection (a), by striking “vet-
16 eran’s” each place it appears and inserting “in-
17 dividual’s”; and

18 (C) in subsection (b), by striking “a vet-
19 eran” each place it appears and inserting “an
20 individual”.

21 (4) FURNISHING OF PLANS AND SPECIFICA-
22 TIONS.—Section 2103 of title 38, United States Code,
23 is amended by striking “veterans” both places it ap-
24 pears and inserting “individuals”.

1 (5) *CONSTRUCTION OF BENEFITS.*—Section 2104
2 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 “A
8 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”;
21 and

22 (ii) by striking “the veterans’” and in-
23 serting “the individual’s”;

1 (B) in subsection (b), by striking “an eligi-
2 ble veteran” and inserting “an eligible indi-
3 vidual”;

4 (C) in subsection (e), by striking “an eligi-
5 ble veteran” and inserting “an individual”;

6 (D) in subsection (h), by striking “each vet-
7 eran” and inserting “each individual”;

8 (E) in subsection (i), by striking “the vet-
9 eran’s” each place it appears and inserting “the
10 individual’s”;

11 (F) by striking “the veteran” each place it
12 appears and inserting “the individual”; and

13 (G) by striking “a veteran” each place it
14 appears and inserting “an individual”.

15 (7) *HEADING AMENDMENTS.*—(A) *The heading of*
16 *section 2101 of title 38, United States Code, is*
17 *amended to read as follows:*

18 **“§2101. Acquisition and adaptation of housing: eligi-**
19 **ble veterans”.**

20 (B) *The heading of section 2102A of such title is*
21 *amended to read as follows:*

1 **“§2102A. Assistance for individuals residing tempo-**
 2 **rarily in housing owned by a family mem-**
 3 **ber”.**

4 (8) *CLERICAL AMENDMENTS.—The table of sec-*
 5 *tions at the beginning of chapter 21 of title 38,*
 6 *United States Code, is amended—*

7 (A) *by striking the item relating to section*
 8 *2101 and inserting the following new item:*

“2101. Acquisition and adaptation of housing: eligible veterans.”;

9 (B) *by inserting after the item relating to*
 10 *section 2101, as so amended, the following new*
 11 *item:*

“2101A. Eligibility for benefits and assistance: members of the Armed Forces with
service-connected disabilities; individuals residing outside the
United States.”;

12 *and*

13 (C) *by striking the item relating to section*
 14 *2102A and inserting the following new item:*

“2102A. Assistance for individuals residing temporarily in housing owned by a
family member.”.

15 **SEC. 2603. SPECIALLY ADAPTED HOUSING ASSISTANCE FOR**
 16 **INDIVIDUALS WITH SEVERE BURN INJURIES.**

17 *Section 2101 of title 38, United States Code, is amend-*
 18 *ed—*

19 (1) *in subsection (a)(2), by adding at the end the*
 20 *following new subparagraph:*

1 “(E) *The disability is due to a severe burn in-*
2 *jury (as determined pursuant to regulations pre-*
3 *scribed by the Secretary).’*”; and

4 (2) *in subsection (b)(2)—*

5 (A) *by striking “either” and inserting*
6 *“any”*; and

7 (B) *by adding at the end the following new*
8 *subparagraph:*

9 “(C) *The disability is due to a severe burn in-*
10 *jury (as so determined).’*”.

11 **SEC. 2604. EXTENSION OF ASSISTANCE FOR INDIVIDUALS**
12 **RESIDING TEMPORARILY IN HOUSING OWNED**
13 **BY A FAMILY MEMBER.**

14 Section 2102A(e) of title 38, United States Code, is
15 amended by striking “*after the end of the five-year period*
16 *that begins on the date of the enactment of the Veterans’*
17 *Housing Opportunity and Benefits Improvement Act of*
18 *2006*” and inserting “*after December 31, 2011*”.

19 **SEC. 2605. INCREASE IN SPECIALLY ADAPTED HOUSING**
20 **BENEFITS FOR DISABLED VETERANS.**

21 (a) *IN GENERAL.*—Section 2102 of title 38, United
22 States Code, is amended—

23 (1) *in subsection (b)(2), by striking “\$10,000”*
24 *and inserting “\$12,000”*;

25 (2) *in subsection (d)—*

1 (A) in paragraph (1), by striking “\$50,000”
2 and inserting “\$60,000”; and

3 (B) in paragraph (2), by striking
4 “\$10,000” and inserting “\$12,000”; and

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

7 “(e)(1) Effective on October 1 of each year (beginning
8 in 2009), the Secretary shall increase the amounts described
9 in subsection (b)(2) and paragraphs (1) and (2) of sub-
10 section (d) in accordance with this subsection.

11 “(2) The increase in amounts under paragraph (1) to
12 take effect on October 1 of a year shall be by an amount
13 of such amounts equal to the percentage by which—

14 “(A) the residential home cost-of-construction
15 index for the preceding calendar year, exceeds

16 “(B) the residential home cost-of-construction
17 index for the year preceding the year described in
18 subparagraph (A).

19 “(3) The Secretary shall establish a residential home
20 cost-of-construction index for the purposes of this subsection.

21 The index shall reflect a uniform, national average change
22 in the cost of residential home construction, determined on
23 a calendar year basis. The Secretary may use an index de-
24 veloped in the private sector that the Secretary determines
25 is appropriate for purposes of this subsection.”.

1 (b) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect on July 1, 2008, and shall apply*
3 *with respect to payments made in accordance with section*
4 *2102 of title 38, United States Code, on or after that date.*

5 **SEC. 2606. REPORT ON SPECIALLY ADAPTED HOUSING FOR**
6 **DISABLED INDIVIDUALS.**

7 (a) *IN GENERAL.*—*Not later than December 31, 2008,*
8 *the Secretary of Veterans Affairs shall submit to the Com-*
9 *mittee on Veterans' Affairs of the Senate and the Committee*
10 *on Veterans' Affairs of the House of Representatives a report*
11 *that contains an assessment of the adequacy of the authori-*
12 *ties available to the Secretary under law to assist eligible*
13 *disabled individuals in acquiring—*

14 (1) *suitable housing units with special fixtures*
15 *or movable facilities required for their disabilities,*
16 *and necessary land therefor;*

17 (2) *such adaptations to their residences as are*
18 *reasonably necessary because of their disabilities; and*

19 (3) *residences already adapted with special fea-*
20 *tures determined by the Secretary to be reasonably*
21 *necessary as a result of their disabilities.*

22 (b) *FOCUS ON PARTICULAR DISABILITIES.*—*The report*
23 *required by subsection (a) shall set forth a specific assess-*
24 *ment of the needs of—*

1 (1) *veterans who have disabilities that are not*
2 *described in subsections (a)(2) and (b)(2) of section*
3 *2101 of title 38, United States Code; and*

4 (2) *other disabled individuals eligible for spe-*
5 *cially adapted housing under chapter 21 of such title*
6 *by reason of section 2101A of such title (as added by*
7 *section 2602(a) of this Act) who have disabilities that*
8 *are not described in such subsections.*

9 **SEC. 2607. REPORT ON SPECIALLY ADAPTED HOUSING AS-**
10 **SISTANCE FOR INDIVIDUALS WHO RESIDE IN**
11 **HOUSING OWNED BY A FAMILY MEMBER ON**
12 **PERMANENT BASIS.**

13 *Not later than December 31, 2008, the Secretary of Vet-*
14 *erans Affairs shall submit to the Committee on Veterans'*
15 *Affairs of the Senate and the Committee on Veterans' Af-*
16 *fairs of the House of Representatives a report on the advis-*
17 *ability of providing assistance under section 2102A of title*
18 *38, United States Code, to veterans described in subsection*
19 *(a) of such section, and to members of the Armed Forces*
20 *covered by such section 2102A by reason of section 2101A*
21 *of title 38, United States Code (as added by section 2602(a)*
22 *of this Act), who reside with family members on a perma-*
23 *nent basis.*

1 **SEC. 2608. DEFINITION OF ANNUAL INCOME FOR PURPOSES**
2 **OF SECTION 8 AND OTHER PUBLIC HOUSING**
3 **PROGRAMS.**

4 *Section 3(b)(4) of the United States Housing Act of*
5 *1937 (42 U.S.C. 1437a(3)(b)(4)) is amended by inserting*
6 *“or any deferred Department of Veterans Affairs disability*
7 *benefits that are received in a lump sum amount or in pro-*
8 *spective monthly amounts” before “may not be considered”.*

9 **SEC. 2609. PAYMENT OF TRANSPORTATION OF BAGGAGE**
10 **AND HOUSEHOLD EFFECTS FOR MEMBERS OF**
11 **THE ARMED FORCES WHO RELOCATE DUE TO**
12 **FORECLOSURE OF LEASED HOUSING.**

13 *Section 406 of title 37, United States Code, is amend-*
14 *ed—*

15 *(1) by redesignating subsections (k) and (l) as*
16 *subsections (l) and (m), respectively; and*

17 *(2) by inserting after subsection (j) the following*
18 *new subsection (k):*

19 *“(k) A member of the armed forces who relocates from*
20 *leased or rental housing by reason of the foreclosure of such*
21 *housing is entitled to transportation of baggage and house-*
22 *hold effects under subsection (b)(1) in the same manner, and*
23 *subject to the same conditions and limitations, as similarly*
24 *circumstanced members entitled to transportation of bag-*
25 *gage and household effects under that subsection.”.*

1 **TITLE VII—SMALL PUBLIC HOUS-**
2 **ING AUTHORITIES PAPER-**
3 **WORK 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 States*
10 *Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended*
11 *by adding at the end the following:*

12 *“(3) EXEMPTION OF CERTAIN PHAS FROM FILING*
13 *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*

1 *the requirement to submit an annual public*
2 *housing agency plan under this subsection.*

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 *annual basis, make the certification described in*
10 *paragraph (16) of subsection (d), except that for*
11 *purposes of such qualified public housing agen-*
12 *cies, such paragraph shall be applied by sub-*
13 *stituting ‘the public housing program of the*
14 *agency’ for ‘the public housing agency plan’.*

15 “(C) *DEFINITION.*—*For purposes of this sec-*
16 *tion, the term ‘qualified public housing agency’*
17 *means a public housing agency that meets the*
18 *following requirements:*

19 “(i) *The sum of (I) the number of pub-*
20 *lic housing dwelling units administered by*
21 *the agency, and (II) the number of vouchers*
22 *under section 8(o) of the United States*
23 *Housing Act of 1937 (42 U.S.C. 1437f(o))*
24 *administered by the agency, is 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 failing*
4 *score under the section 8 Management As-*
5 *essment 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–1)*
9 *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 pub-*
19 *lic housing agencies are exempt under subsection*
20 *(b)(3)(A) from the requirement under this section*
21 *to prepare and submit an annual public housing*
22 *plan, each qualified public housing agency shall*
23 *consult with, and consider the recommendations*
24 *of the resident advisory boards for the agency, at*
25 *the annual public hearing required under sub-*

1 section (f)(5), regarding any changes to the
2 goals, objectives, and policies of that agency.

3 “(B) *APPLICABILITY OF WAIVER AUTHOR-*
4 *ITY.—Paragraph (3) shall apply to qualified*
5 *public housing agencies, except that for purposes*
6 *of such qualified public housing agencies, sub-*
7 *paragraph (B) of such paragraph shall be ap-*
8 *plied by substituting ‘the functions described in*
9 *the second sentence of paragraph (4)(A)’ for ‘the*
10 *functions described in paragraph (2)’.*

11 “(f) *PUBLIC HEARINGS.—*”; and

12 (2) in subsection (f) (as so designated by the
13 amendment made by paragraph (1)), by adding at
14 the end the following:

15 “(5) *QUALIFIED PUBLIC HOUSING AGENCIES.—*

16 “(A) *REQUIREMENT.—Notwithstanding that*
17 *qualified public housing agencies are exempt*
18 *under subsection (b)(3)(A) from the requirement*
19 *under this section to conduct a public hearing*
20 *regarding the annual public housing plan of the*
21 *agency, each qualified public housing agency*
22 *shall annually conduct a public hearing—*

23 “(i) *to discuss any changes to the*
24 *goals, objectives, and policies of the agency;*
25 and

1 “(i) to invite public comment regard-
2 ing such changes.

3 “(B) AVAILABILITY OF INFORMATION AND
4 NOTICE.—Not later than 45 days before the date
5 of any hearing described in subparagraph (A), a
6 qualified public housing agency shall—

7 “(i) make all information relevant to
8 the hearing and any determinations of the
9 agency regarding changes to the goals, objec-
10 tives, and policies of the agency to be con-
11 sidered at the hearing available for inspec-
12 tion by the public at the principal office of
13 the public housing agency during normal
14 business hours; and

15 “(ii) publish a notice informing the
16 public that—

17 “(I) the information is available
18 as required under clause (i); and

19 “(II) a public hearing under sub-
20 paragraph (A) will be conducted.”.

21 **TITLE VIII—FORECLOSURE**
22 **RESCUE FRAUD PROTECTION**

23 **SEC. 2801. SHORT TITLE.**

24 This title may be cited as the “Foreclosure Rescue
25 Fraud Act of 2008”.

1 **SEC. 2802. DEFINITIONS.**

2 *In this title:*

3 (1) *COMMISSION.*—*The term “Commission”*
4 *means the Federal Trade Commission.*

5 (2) *FORECLOSURE CONSULTANT.*—*The term*
6 *“foreclosure consultant”*—

7 (A) *means a person who makes any sollicita-*
8 *tion, representation, or offer to a homeowner fac-*
9 *ing foreclosure on residential real property to*
10 *perform, for gain, or who performs, for gain, any*
11 *service that such person represents will prevent,*
12 *postpone, or reverse the effect of such foreclosure;*
13 *and*

14 (B) *does not include—*

15 (i) *an attorney licensed to practice law*
16 *in the State in which the property is located*
17 *who has established an attorney-client rela-*
18 *tionship with the homeowner;*

19 (ii) *a person licensed as a real estate*
20 *broker or salesperson in the State where the*
21 *property is located, and such person engages*
22 *in acts permitted under the licensure laws*
23 *of such State;*

24 (iii) *a housing counseling agency ap-*
25 *proved by the Secretary;*

1 (iv) a depository institution (as de-
2 fined in section 3 of the Federal Deposit In-
3 surance Act (12 U.S.C. 1813));

4 (v) a Federal credit union or a State
5 credit union (as defined in section 101 of
6 the Federal Credit Union Act (12 U.S.C.
7 1752)); or

8 (vi) an insurance company organized
9 under the laws of any State.

10 (3) *HOMEOWNER*.—The term “homeowner”, with
11 respect to residential real property for which an ac-
12 tion to foreclose on the mortgage or deed of trust on
13 such real property is filed, means the person holding
14 record title to such property as of the date on which
15 such action is filed.

16 (4) *LOAN SERVICER*.—The term “loan servicer”
17 has the same meaning as the term “servicer” in sec-
18 tion 6(i)(2) of the Real Estate Settlement Procedures
19 Act of 1974 (12 U.S.C. 2605(i)(2)).

20 (5) *RESIDENTIAL MORTGAGE LOAN*.—The term
21 “residential mortgage loan” means any loan pri-
22 marily for personal, family, or household use that is
23 secured by a mortgage, deed of trust, or other equiva-
24 lent consensual security interest on a dwelling (as de-
25 fined in section 103(v) of the Truth in Lending Act

1 (15 U.S.C. 1602)(v)) or residential real estate upon
2 which is constructed or intended to be constructed a
3 dwelling (as so defined).

4 (6) *RESIDENTIAL REAL PROPERTY.*—The term
5 “residential real property” has the meaning given the
6 term “dwelling” in section 103 of the Consumer Cred-
7 it Protection Act (15 U.S.C. 1602).

8 (7) *SECRETARY.*—The term “Secretary” means
9 the Secretary of Housing and Urban Development.

10 **SEC. 2803. MORTGAGE RESCUE FRAUD PROTECTION.**

11 (a) *LIMITS ON FORECLOSURE CONSULTANTS.*—A fore-
12 closure consultant may not—

13 (1) claim, demand, charge, collect, or receive any
14 compensation from a homeowner for services per-
15 formed by such foreclosure consultant with respect to
16 residential real property until such foreclosure con-
17 sultant has fully performed each service that such
18 foreclosure consultant contracted to perform or rep-
19 resented would be performed with respect to such resi-
20 dential real property;

21 (2) hold any power of attorney from any home-
22 owner, except to inspect documents, as provided by
23 applicable law;

24 (3) receive any consideration from a third party
25 in connection with services rendered to a homeowner

1 *by such third party with respect to the foreclosure of*
2 *residential real property, unless such consideration is*
3 *fully disclosed, in a clear and conspicuous manner, to*
4 *such homeowner in writing before such services are*
5 *rendered;*

6 *(4) accept any wage assignment, any lien of any*
7 *type on real or personal property, or other security*
8 *to secure the payment of compensation with respect to*
9 *services provided by such foreclosure consultant in*
10 *connection with the foreclosure of residential real*
11 *property; or*

12 *(5) acquire any interest, directly or indirectly,*
13 *in the residence of a homeowner with whom the fore-*
14 *closure consultant has contracted.*

15 *(b) CONTRACT REQUIREMENTS.—*

16 *(1) WRITTEN CONTRACT REQUIRED.—Notwith-*
17 *standing any other provision of law, a foreclosure*
18 *consultant may not provide to a homeowner a service*
19 *related to the foreclosure of residential real prop-*
20 *erty—*

21 *(A) unless—*

22 *(i) a written contract for the purchase*
23 *of such service has been signed and dated by*
24 *the homeowner; and*

1 (ii) such contract complies with the re-
2 quirements described in paragraph (2); and
3 (B) before the end of the 3-business-day pe-
4 riod beginning on the date on which the contract
5 is signed.

6 (2) *TERMS AND CONDITIONS OF CONTRACT.*—The
7 requirements described in this paragraph, with re-
8 spect to a contract, are as follows:

9 (A) *The contract includes, in writing—*

10 (i) a full and detailed description of
11 the exact nature of the contract and the
12 total amount and terms of compensation;

13 (ii) the name, physical address, phone
14 number, email address, and facsimile num-
15 ber, if any, of the foreclosure consultant to
16 whom a notice of cancellation can be mailed
17 or sent under subsection (d); and

18 (iii) a conspicuous statement in at
19 least 12 point bold face type in immediate
20 proximity to the space reserved for the
21 homeowner's signature on the contract that
22 reads as follows: "You may cancel this con-
23 tract without penalty or obligation at any
24 time before midnight of the 3rd business
25 day after the date on which you sign the

1 *contract. See the attached notice of cancella-*
2 *tion form for an explanation of this right.”.*

3 *(B) The contract is written in the principal*
4 *language used to solicit or market the services to*
5 *the homeowner.*

6 *(C) The contract is accompanied by the*
7 *form required by subsection (c)(2).*

8 *(c) RIGHT TO CANCEL CONTRACT.—*

9 *(1) IN GENERAL.—With respect to a contract be-*
10 *tween a homeowner and a foreclosure consultant re-*
11 *garding the foreclosure on the residential real prop-*
12 *erty of such homeowner, such homeowner may cancel*
13 *such contract without penalty or obligation by mail-*
14 *ing a notice of cancellation not later than midnight*
15 *of the 3rd business day after the date on which such*
16 *contract is executed or would become enforceable*
17 *against the parties to such contract.*

18 *(2) CANCELLATION FORM AND OTHER INFORMA-*
19 *TION.—Each contract described in paragraph (1)*
20 *shall be accompanied by a form, in duplicate, that—*

21 *(A) has the heading “Notice of Cancell-*
22 *ation” in boldface type; and*

23 *(B) contains in boldface type the following*
24 *statement:*

1 *“You may cancel this contract, without any pen-*
2 *alty or obligation, at any time before midnight of the*
3 *3rd day after the date on which the contract is signed*
4 *by you.*

5 *“To cancel this contract, mail or deliver a signed*
6 *and dated copy of this cancellation notice or any*
7 *other equivalent written notice to [insert name of*
8 *foreclosure consultant] at [insert address of foreclosure*
9 *consultant] before midnight on [insert date].*

10 *“I hereby cancel this transaction on [insert date]*
11 *[insert homeowner signature].”.*

12 *(d) WAIVER OF RIGHTS AND PROTECTIONS PROHIB-*
13 *ITED.—*

14 *(1) IN GENERAL.—A waiver by a homeowner of*
15 *any protection provided by this section or any right*
16 *of a homeowner under this section—*

17 *(A) shall be treated as void; and*

18 *(B) may not be enforced by any Federal or*
19 *State court or by any person.*

20 *(2) ATTEMPT TO OBTAIN A WAIVER.—Any at-*
21 *tempt by any person to obtain a waiver from any*
22 *homeowner of any protection provided by this section*
23 *or any right of the homeowner under this section shall*
24 *be treated as a violation of this section.*

1 (3) *CONTRACTS NOT IN COMPLIANCE.*—Any con-
2 tract that does not comply with the applicable provi-
3 sions of this title shall be void and may not be en-
4 forceable by any party.

5 **SEC. 2804. WARNINGS TO HOMEOWNERS OF FORECLOSURE**
6 **RESCUE SCAMS.**

7 (a) *IN GENERAL.*—If a loan servicer finds that a
8 homeowner has failed to make 2 consecutive payments on
9 a residential mortgage loan and such loan is at risk of being
10 foreclosed upon, the loan servicer shall notify such home-
11 owner of the dangers of fraudulent activities associated with
12 foreclosure.

13 (b) *NOTICE REQUIREMENTS.*—Each notice provided
14 under subsection (a) shall—

15 (1) *be in writing;*

16 (2) *be included with a mailing of account infor-*
17 *mation;*

18 (3) *have the heading “Notice Required by Fed-*
19 *eral Law” in a 14-point boldface type in English and*
20 *Spanish at the top of such notice; and*

21 (4) *contain the following statement in English*
22 *and Spanish: “Mortgage foreclosure is a complex*
23 *process. Some people may approach you about saving*
24 *your home. You should be careful about any such*
25 *promises. There are government and nonprofit agen-*

1 cies you may contact for helpful information about
2 the foreclosure process. Contact your lender imme-
3 diately at [_____], call the Department of Hous-
4 ing and Urban Development Housing Counseling
5 Line at (800) 569-4287 to find a housing counseling
6 agency certified by the Department to assist you in
7 avoiding foreclosure, or visit the Department's Tips
8 for Avoiding Foreclosure website at [http://](http://www.hud.gov/foreclosure)
9 www.hud.gov/foreclosure for additional assistance.”
10 (the blank space to be filled in by the loan servicer
11 and successor telephone numbers and Uniform Re-
12 source Locators (URLs) for the Department of Hous-
13 ing and Urban Development Housing Counseling
14 Line and Tips for Avoiding Foreclosure website, re-
15 spectively).

16 **SEC. 2805. CIVIL LIABILITY.**

17 (a) *IN GENERAL.*—Any foreclosure consultant who
18 fails to comply with any provision of section 2803 or 2804
19 with respect to any other person shall be liable to such per-
20 son in an amount equal to the greater of—

21 (1) the amount of any actual damage sustained
22 by such person as a result of such failure; or

23 (2) any amount paid by the person to the fore-
24 closure consultant.

1 (b) *CLASS ACTIONS PROHIBITED.*—No Federal court
2 may certify a civil action under subsection (a) as a class
3 action under rule 23 of the Federal Rules of Civil Proce-
4 dure.

5 **SEC. 2806. ADMINISTRATIVE ENFORCEMENT.**

6 (a) *ENFORCEMENT BY FEDERAL TRADE COMMIS-*
7 *SION.*—

8 (1) *UNFAIR OR DECEPTIVE ACT OR PRACTICE.*—
9 A violation of a prohibition described in section 2803
10 or a failure to comply with any provision of section
11 2803 or 2804 shall be treated as a violation of a rule
12 defining an unfair or deceptive act or practice de-
13 scribed under section 18(a)(1)(B) of the Federal
14 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

15 (2) *ACTIONS BY THE FEDERAL TRADE COMMIS-*
16 *SION.*—The Federal Trade Commission shall enforce
17 the provisions of sections 2803 and 2804 in the same
18 manner, by the same means, and with the same juris-
19 diction, powers, and duties as though all applicable
20 terms and provisions of the Federal Trade Commis-
21 sion Act (15 U.S.C. 41 et seq.) were incorporated into
22 and made part of this title.

23 (b) *STATE ACTION FOR VIOLATIONS.*—

24 (1) *AUTHORITY OF STATES.*—In addition to such
25 other remedies as are provided under State law,

1 *whenever the chief law enforcement officer of a State,*
2 *or an official or agency designated by a State, has*
3 *reason to believe that any person has violated or is*
4 *violating the provisions of section 2803 or 2804, the*
5 *State—*

6 *(A) may bring an action to enjoin such vio-*
7 *lation;*

8 *(B) may bring an action on behalf of its*
9 *residents to recover damages for which the person*
10 *is liable to such residents under section 2805 as*
11 *a result of the violation; and*

12 *(C) in the case of any successful action*
13 *under subparagraph (A) or (B), shall be award-*
14 *ed the costs of the action.*

15 *(2) RIGHTS OF FEDERAL TRADE COMMISSION.—*

16 *(A) NOTICE TO COMMISSION.—The State*
17 *shall serve prior written notice of any civil ac-*
18 *tion under paragraph (1) upon the Commission*
19 *and provide the Commission with a copy of its*
20 *complaint, except in any case in which such*
21 *prior notice is not feasible, in which case the*
22 *State shall serve such notice immediately upon*
23 *instituting such action.*

24 *(B) INTERVENTION.—The Commission shall*
25 *have the right—*

- 1 (i) to intervene in any action referred
2 to in subparagraph (A);
3 (ii) upon so intervening, to be heard
4 on all matters arising in the action; and
5 (iii) to file petitions for appeal in such
6 actions.

7 (3) *INVESTIGATORY POWERS.*—For purposes of
8 bringing any action under this subsection, nothing in
9 this subsection shall prevent the chief law enforcement
10 officer, or an official or agency designated by a State,
11 from exercising the powers conferred on the chief law
12 enforcement officer or such official by the laws of such
13 State to conduct investigations or to administer oaths
14 or affirmations, or to compel the attendance of wit-
15 nesses or the production of documentary and other
16 evidence.

17 (4) *LIMITATION.*—Whenever the Federal Trade
18 Commission has instituted a civil action for a viola-
19 tion of section 2803 or 2804, no State may, during
20 the pendency of such action, bring an action under
21 this section against any defendant named in the com-
22 plaint of the Commission for any violation of section
23 2803 or 2804 that is alleged in that complaint.

1 **SEC. 2807. LIMITATION.**

2 *No violation of a prohibition described in section 2803*
3 *or a failure to comply with any provision of section 2803*
4 *or 2804 shall provide grounds for the halt, delay, or modi-*
5 *fication of a foreclosure process or proceeding.*

6 **SEC. 2808. PREEMPTION.**

7 *Nothing in this title affects any provision of State or*
8 *local law respecting any foreclosure consultant, residential*
9 *mortgage loan, or residential real property that provides*
10 *equal or greater protection to homeowners than what is pro-*
11 *vided under this title.*

12 ***DIVISION C—TAX-RELATED***
13 ***PROVISIONS***

14 **SECTION 3000. SHORT TITLE; ETC.**

15 (a) *SHORT TITLE.*—*This division may be cited as the*
16 *“Housing Assistance Tax Act of 2008”.*

17 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
18 *expressly provided, whenever in this division an amend-*
19 *ment or repeal is expressed in terms of an amendment to,*
20 *or repeal of, a section or other provision, the reference shall*
21 *be considered to be made to a section or other provision*
22 *of the Internal Revenue Code of 1986.*

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 cal-*
11 *endar years 2008 and 2009—*

12 “(i) *the dollar amount in effect under*
13 *subparagraph (C)(ii)(I) for such calendar*
14 *year (after any increase under subpara-*
15 *graph (H)) shall be increased by \$0.20, and*

16 “(ii) *the dollar amount in effect under*
17 *subparagraph (C)(ii)(II) for such calendar*
18 *year (after any increase under subpara-*
19 *graph (H)) shall be increased by an amount*
20 *equal to 10 percent of such dollar amount*
21 *(rounded to the next lowest multiple of*
22 *\$5,000).”.*

23 **SEC. 3002. DETERMINATION OF CREDIT RATE.**

24 (a) *TEMPORARY MINIMUM CREDIT RATE FOR NON-*
25 *FEDERALLY SUBSIDIZED NEW BUILDINGS.—Subsection (b)*

1 of section 42 is amended by redesignating paragraph (3)
2 as paragraph (4) and by inserting after paragraph (2) the
3 following new paragraph:

4 “(3) *TEMPORARY MINIMUM CREDIT RATE FOR*
5 *NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.—In*
6 *the case of any new building—*

7 “(A) *which is placed in service by the tax-*
8 *payer after the date of the enactment of this*
9 *paragraph and before December 31, 2013, and*

10 “(B) *which is not federally subsidized for*
11 *the taxable year,*
12 *the applicable percentage shall not be less than 9 per-*
13 *cent.”.*

14 (b) *MODIFICATIONS TO DEFINITION OF FEDERALLY*
15 *SUBSIDIZED BUILDING.—*

16 (1) *IN GENERAL.—Subparagraph (A) of section*
17 *42(i)(2) is amended by striking “, or any below mar-*
18 *ket Federal loan,”.*

19 (2) *CONFORMING AMENDMENTS.—*

20 (A) *Subparagraph (B) of section 42(i)(2) is*
21 *amended—*

22 (i) *by striking “BALANCE OF LOAN OR”*
23 *in the heading thereof,*

24 (ii) *by striking “loan or” in the matter*
25 *preceding clause (i), and*

1 (iii) by striking “subsection (d)—”
2 and all that follows and inserting “sub-
3 section (d) the proceeds of such obligation.”.

4 (B) Subparagraph (C) of section 42(i)(2) is
5 amended—

6 (i) by striking “or below market Fed-
7 eral loan” in the matter preceding clause
8 (i),

9 (ii) in clause (i)—

10 (I) by striking “or loan (when
11 issued or made)” and inserting “(when
12 issued)”, and

13 (II) by striking “the proceeds of
14 such obligation or loan” and inserting
15 “the proceeds of such obligation”, and
16 (iii) by striking “, and such loan is re-
17 paid,” in clause (ii).

18 (C) Paragraph (2) of section 42(i) is
19 amended by striking subparagraphs (D) and
20 (E).

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 subsection shall apply to buildings placed in service after
23 the date of the enactment of this Act.

1 **SEC. 3003. MODIFICATIONS TO DEFINITION OF ELIGIBLE**
2 **BASIS.**

3 (a) *INCREASE IN CREDIT FOR CERTAIN STATE DES-*
4 *IGNATED BUILDINGS.*—Subparagraph (C) of section
5 42(d)(5) (relating to increase in credit for buildings in high
6 cost areas), before redesignation under subsection (g), is
7 amended by adding at the end the following new clause:

8 “(v) *BUILDINGS DESIGNATED BY*
9 *STATE HOUSING CREDIT AGENCY.*—Any
10 building which is designated by the State
11 housing credit agency as requiring the in-
12 crease in credit under this subparagraph in
13 order for such building to be financially fea-
14 sible as part of a qualified low-income hous-
15 ing project shall be treated for purposes of
16 this subparagraph as located in a difficult
17 development area which is designated for
18 purposes of this subparagraph. The pre-
19 ceding sentence shall not apply to any
20 building if paragraph (1) of subsection (h)
21 does not apply to any portion of the eligible
22 basis of such building by reason of para-
23 graph (4) of such subsection.”.

24 (b) *MODIFICATION TO REHABILITATION REQUIRE-*
25 *MENTS.*—

1 (1) *IN GENERAL.*—Clause (ii) of section
2 42(e)(3)(A) is amended—

3 (A) by striking “10 percent” in subclause
4 (I) and inserting “20 percent”, and
5 (B) by striking “\$3,000” in subclause (II)
6 and inserting “\$6,000”.

7 (2) *INFLATION ADJUSTMENT.*—Paragraph (3) of
8 section 42(e) is amended by adding at the end the fol-
9 lowing new subparagraph:

10 “(D) *INFLATION ADJUSTMENT.*—In the case
11 of any expenditures which are treated under
12 paragraph (4) as placed in service during any
13 calendar year after 2009, the \$6,000 amount in
14 subparagraph (A)(ii)(II) shall be increased by
15 an amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-
18 termined under section 1(f)(3) for such cal-
19 endar year by substituting ‘calendar year
20 2008’ for ‘calendar year 1992’ in subpara-
21 graph (B) thereof.

22 Any increase under the preceding sentence which
23 is not a multiple of \$100 shall be rounded to the
24 nearest multiple of \$100.”.

1 “(A) *FEDERAL GRANTS NOT TAKEN INTO*
2 *ACCOUNT IN DETERMINING ELIGIBLE BASIS.—*
3 *The eligible basis of a building shall not include*
4 *any costs financed with the proceeds of a Feder-*
5 *ally funded grant.”*

6 (e) *SIMPLIFICATION OF RELATED PARTY RULES.—*
7 *Clause (iii) of section 42(d)(2)(D), before redesignation*
8 *under subsection (g)(2), is amended—*

9 (1) *by striking all that precedes subclause (II),*
10 (2) *by redesignating subclause (II) as clause (iii)*
11 *and moving such clause two ems to the left, and*
12 (3) *by striking the last sentence thereof.*

13 (f) *EXCEPTION TO 10-YEAR NONACQUISITION PERIOD*
14 *FOR EXISTING BUILDINGS APPLICABLE TO FEDERALLY- OR*
15 *STATE-ASSISTED BUILDINGS.—Paragraph (6) of section*
16 *42(d) is amended to read as follows:*

17 “(6) *CREDIT ALLOWABLE FOR CERTAIN BUILD-*
18 *INGS ACQUIRED DURING 10-YEAR PERIOD DESCRIBED*
19 *IN PARAGRAPH (2)(B)(ii).—*

20 “(A) *IN GENERAL.—Paragraph (2)(B)(ii)*
21 *shall not apply to any Federally- or State-as-*
22 *sisted building.*

23 “(B) *BUILDINGS ACQUIRED FROM INSURED*
24 *DEPOSITORY INSTITUTIONS IN DEFAULT.—On*
25 *application by the taxpayer, the Secretary may*

1 waive paragraph (2)(B)(ii) with respect to any
2 building acquired from an insured depository in-
3 stitution in default (as defined in section 3 of the
4 Federal Deposit Insurance Act) or from a re-
5 ceiver or conservator of such an institution.

6 “(C) *FEDERALLY- OR STATE-ASSISTED*
7 *BUILDING.*—For purposes of this paragraph—

8 “(i) *FEDERALLY-ASSISTED BUILD-*
9 *ING.*—The term ‘Federally-assisted building’
10 means any building which is substantially
11 assisted, financed, or operated under section
12 8 of the United States Housing Act of 1937,
13 section 221(d)(3), 221(d)(4), or 236 of the
14 National Housing Act, or section 515 of the
15 Housing Act of 1949 (as such Acts are in
16 effect on the date of the enactment of the
17 Tax Reform Act of 1986).

18 “(ii) *STATE-ASSISTED BUILDING.*—The
19 term ‘State-assisted building’ means any
20 building which is substantially assisted, fi-
21 nanced, or operated under any State law
22 similar in purposes to any of the laws re-
23 ferred to in clause (i).”.

24 (g) *REPEAL OF DEADWOOD.*—

1 (1) *Clause (ii) of section 42(d)(2)(B) is amended*
2 *by striking “the later of—” and all that follows and*
3 *inserting “the date the building was last placed in*
4 *service.”.*

5 (2) *Subparagraph (D) of section 42(d)(2) is*
6 *amended by striking clause (i) and by redesignating*
7 *clauses (ii) and (iii) as clauses (i) and (ii), respec-*
8 *tively.*

9 (3) *Paragraph (5) of section 42(d) is amended*
10 *by striking subparagraph (B) and by redesignating*
11 *subparagraph (C) as subparagraph (B).*

12 *(h) EFFECTIVE DATE.—*

13 (1) *IN GENERAL.—Except as otherwise provided*
14 *in paragraph (2), the amendments made by this sub-*
15 *section shall apply to buildings placed in service after*
16 *the date of the enactment of this Act.*

17 (2) *REHABILITATION REQUIREMENTS.—*

18 (A) *IN GENERAL.—The amendments made*
19 *by subsection (b) shall apply with respect to*
20 *housing credit dollar amounts allocated after the*
21 *date of the enactment of this Act.*

22 (B) *BUILDINGS NOT SUBJECT TO ALLOCA-*
23 *TION LIMITS.—To the extent paragraph (1) of*
24 *section 42(h) of the Internal Revenue Code of*
25 *1986 does not apply to any building by reason*

1 of paragraph (4) thereof, the amendments made
 2 by subsection (b) shall apply to buildings placed
 3 in service after the date of the enactment of this
 4 Act.

5 **SEC. 3004. OTHER SIMPLIFICATION AND REFORM OF LOW-**
 6 **INCOME HOUSING TAX INCENTIVES.**

7 (a) *REPEAL PROHIBITION ON MODERATE REHABILI-*
 8 *TATION ASSISTANCE.*—Paragraph (2) of section 42(c) (de-
 9 *fining qualified low-income building) is amended by strik-*
 10 *ing the flush sentence at the end.*

11 (b) *MODIFICATION OF TIME LIMIT FOR INCURRING 10*
 12 *PERCENT OF PROJECT’S COST.*—Clause (ii) of section
 13 *42(h)(1)(E) is amended by striking “(as of the later of the*
 14 *date which is 6 months after the date that the allocation*
 15 *was made or the close of the calendar year in which the*
 16 *allocation is made)” and inserting “(as of the date which*
 17 *is 1 year after the date that the allocation was made)”.*

18 (c) *REPEAL OF BONDING REQUIREMENT ON DISPOSI-*
 19 *TION OF BUILDING.*—Paragraph (6) of section 42(j) (relat-
 20 *ing to no recapture on disposition of building (or interest*
 21 *therein) where bond posted) is amended to read as follows:*

22 “(6) *NO RECAPTURE ON DISPOSITION OF BUILD-*
 23 *ING WHICH CONTINUES IN QUALIFIED USE.*—

24 “(A) *IN GENERAL.*—The increase in tax
 25 under this subsection shall not apply solely by

1 *reason of the disposition of a building (or an in-*
2 *terest therein) if it is reasonably expected that*
3 *such building will continue to be operated as a*
4 *qualified low-income building for the remaining*
5 *compliance period with respect to such building.*

6 “(B) *STATUTE OF LIMITATIONS.—If a*
7 *building (or an interest therein) is disposed of*
8 *during any taxable year and there is any reduc-*
9 *tion in the qualified basis of such building which*
10 *results in an increase in tax under this sub-*
11 *section for such taxable or any subsequent tax-*
12 *able year, then—*

13 “(i) *the statutory period for the assess-*
14 *ment of any deficiency with respect to such*
15 *increase in tax shall not expire before the*
16 *expiration of 3 years from the date the Sec-*
17 *retary is notified by the taxpayer (in such*
18 *manner as the Secretary may prescribe) of*
19 *such reduction in qualified basis, and*

20 “(ii) *such deficiency may be assessed*
21 *before the expiration of such 3-year period*
22 *notwithstanding the provisions of any other*
23 *law or rule of law which would otherwise*
24 *prevent such assessment.”.*

1 (d) *ENERGY EFFICIENCY AND HISTORIC NATURE*
 2 *TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.*—Sub-
 3 *paragraph (C) of section 42(m)(1) (relating to plans for*
 4 *allocation of credit among projects) is amended by striking*
 5 *“and” at the end of clause (vii), by striking the period at*
 6 *the end of clause (viii) and inserting a comma, and by add-*
 7 *ing at the end the following new clauses:*

8 *“(ix) the energy efficiency of the*
 9 *project, and*

10 *“(x) the historic nature of the project.”.*

11 (e) *CONTINUED ELIGIBILITY FOR STUDENTS WHO RE-*
 12 *CEIVED FOSTER CARE ASSISTANCE.*—Clause (i) of section
 13 *42(i)(3)(D) is amended by striking “or” at the end of sub-*
 14 *clause (I), by redesignating subclause (II) as subclause*
 15 *(III), and by inserting after subclause (I) the following new*
 16 *subclause:*

17 *“(II) a student who was pre-*
 18 *viously under the care and placement*
 19 *responsibility of the State agency re-*
 20 *sponsible for administering a plan*
 21 *under part B or part E of title IV of*
 22 *the Social Security Act, or”.*

23 (f) *TREATMENT OF RURAL PROJECTS.*—Section 42(i)
 24 *(relating to definitions and special rules) is amended by*
 25 *adding at the end the following new paragraph:*

1 “(8) *TREATMENT OF RURAL PROJECTS.*—For
2 purposes of this section, in the case of any project for
3 residential rental property located in a rural area (as
4 defined in section 520 of the Housing Act of 1949),
5 any income limitation measured by reference to area
6 median gross income shall be measured by reference
7 to the greater of area median gross income or na-
8 tional non-metropolitan median income. The pre-
9 ceding sentence shall not apply with respect to any
10 building if paragraph (1) of section 42(h) does not
11 apply by reason of paragraph (4) thereof to any por-
12 tion of the credit determined under this section with
13 respect to such building.”

14 (g) *CLARIFICATION OF GENERAL PUBLIC USE RE-*
15 *QUIREMENT.*—Subsection (c) of section 42 is amended by
16 adding at the end the following new paragraph:

17 “(3) *CLARIFICATION OF GENERAL PUBLIC USE*
18 *REQUIREMENT.*—

19 “(A) *IN GENERAL.*—A building which meets
20 the requirements of subparagraph (B) shall not
21 fail to be treated as a qualified low-income
22 building solely because occupancy in such build-
23 ing is restricted to individuals who have special
24 needs, share a common occupation or common
25 interests, or are members of a specified group

1 *based on Federal, State, or local programs or re-*
2 *quirements.*

3 “(B) *BASIC PUBLIC USE REQUIREMENTS.*—
4 *A building meets the requirements of this sub-*
5 *paragraph if—*

6 “(i) *such building is used consistent*
7 *with housing policy governing non-dis-*
8 *crimination as evidenced by rules and regu-*
9 *lations of the Department of Housing and*
10 *Urban Development,*

11 “(ii) *occupancy in such building is not*
12 *restricted on the basis of membership in a*
13 *social organization or on the basis of em-*
14 *ployment by specific employers, and*

15 “(iii) *such building is not part of a*
16 *hospital, nursing home, sanitarium, lifecare*
17 *facility, trailer park, or intermediate care*
18 *facility for the mentally or physically*
19 *handicapped.”.*

20 (h) *GAO STUDY REGARDING MODIFICATIONS TO LOW-*
21 *INCOME HOUSING TAX CREDIT.*—*Not later than December*
22 *31, 2012, the Comptroller General of the United States shall*
23 *submit to Congress a report which analyzes the implemen-*
24 *tation of the modifications made by this subtitle to the low-*
25 *income housing tax credit under section 42 of the Internal*

1 *Revenue Code of 1986. Such report shall include an anal-*
2 *ysis of the distribution of credit allocations before and after*
3 *the effective date of such modifications.*

4 (i) *EFFECTIVE DATE.—*

5 (1) *IN GENERAL.—Except as otherwise provided*
6 *in this subsection, the amendments made by this sec-*
7 *tion shall apply to buildings placed in service after*
8 *the date of the enactment of this Act.*

9 (2) *REPEAL OF BONDING REQUIREMENT ON DIS-*
10 *POSITION OF BUILDING.—The amendment made by*
11 *subsection (c) shall apply to—*

12 (A) *interests in buildings disposed after the*
13 *date of the enactment of this Act, and*

14 (B) *interests in buildings disposed of on or*
15 *before such date if—*

16 (i) *it is reasonably expected that such*
17 *building will continue to be operated as a*
18 *qualified low-income building (within the*
19 *meaning of section 42 of the Internal Rev-*
20 *enue Code of 1986) for the remaining com-*
21 *pliance period (within the meaning of such*
22 *section) with respect to such building, and*

23 (ii) *the taxpayer elects the application*
24 *of this subparagraph with respect to such*
25 *disposition.*

1 (3) *ENERGY EFFICIENCY AND HISTORIC NATURE*
2 *TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—The*
3 *amendments made by subsection (d) shall apply to al-*
4 *locations made after December 31, 2008.*

5 (4) *CONTINUED ELIGIBILITY FOR STUDENTS WHO*
6 *RECEIVED FOSTER CARE ASSISTANCE.—The amend-*
7 *ments made by subsection (e) shall apply to deter-*
8 *minations made after the date of the enactment of this*
9 *Act.*

10 (5) *TREATMENT OF RURAL PROJECTS.—The*
11 *amendment made by subsection (f) shall apply to de-*
12 *terminations made after the date of the enactment of*
13 *this Act.*

14 (6) *CLARIFICATION OF GENERAL PUBLIC USE RE-*
15 *QUIREMENT.—The amendment made by subsection (g)*
16 *shall apply to buildings placed in service before, on,*
17 *or after the date of the enactment of this Act.*

18 **SEC. 3005. TREATMENT OF MILITARY BASIC PAY.**

19 (a) *IN GENERAL.—Subparagraph (B) of section*
20 *142(d)(2) (relating to income of individuals; area median*
21 *gross income) is amended—*

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

24 “(i) *IN GENERAL.—The income”, and*

25 (2) *by adding at the end the following:*

1 “(ii) *SPECIAL RULE RELATING TO*
2 *BASIC HOUSING ALLOWANCES.*—For pur-
3 *poses of determining income under this sub-*
4 *paragraph, payments under section 403 of*
5 *title 37, United States Code, as a basic pay*
6 *allowance for housing shall be disregarded*
7 *with respect to any qualified building.*

8 “(iii) *QUALIFIED BUILDING.*—For pur-
9 *poses of clause (ii), the term ‘qualified*
10 *building’ means any building located—*

11 “(I) *in any county in which is lo-*
12 *cated a qualified military installation*
13 *to which the number of members of the*
14 *Armed Forces of the United States as-*
15 *signed to units based out of such quali-*
16 *fied military installation, as of June 1,*
17 *2008, has increased by not less than 20*
18 *percent, as compared to such number*
19 *on December 31, 2005, or*

20 “(II) *in any county adjacent to a*
21 *county described in subclause (I).*

22 “(iv) *QUALIFIED MILITARY INSTALLA-*
23 *TION.*—For purposes of clause (iii), the
24 *term ‘qualified military installation’ means*
25 *any military installation or facility the*

1 *number of members of the Armed Forces of*
2 *the United States assigned to which, as of*
3 *June 1, 2008, is not less than 1,000.”.*

4 *(b) EFFECTIVE DATE.—The amendments made by this*
5 *section shall apply to—*

6 *(1) determinations made after the date of the en-*
7 *actment of this Act and before January 1, 2012, in*
8 *the case of any qualified building (as defined in sec-*
9 *tion 142(d)(2)(B)(iii) of the Internal Revenue Code of*
10 *1986)—*

11 *(A) with respect to which housing credit*
12 *dollar amounts have been allocated before the*
13 *date of the enactment of this Act, or*

14 *(B) with respect to buildings placed in serv-*
15 *ice before such date of enactment, to the extent*
16 *paragraph (1) of section 42(h) of such Code does*
17 *not apply to such building by reason of para-*
18 *graph (4) thereof, but only with respect to bonds*
19 *issued before such date of enactment, and*

20 *(2) determinations made after the date of enact-*
21 *ment of this Act, in the case of qualified buildings (as*
22 *so defined)—*

23 *(A) with respect to which housing credit*
24 *dollar amounts are allocated after the date of the*

1 enactment of this Act and before January 1,
2 2012, or

3 (B) with respect to which buildings placed
4 in service after the date of enactment of this Act
5 and before January 1, 2012, to the extent para-
6 graph (1) of section 42(h) of such Code does not
7 apply to such building by reason of paragraph
8 (4) thereof, but only with respect to bonds issued
9 after such date of enactment and before January
10 1, 2012.

11 **PART II—MODIFICATIONS TO TAX-EXEMPT**

12 **HOUSING BOND RULES**

13 **SEC. 3007. RECYCLING OF TAX-EXEMPT DEBT FOR FINANC-**
14 **ING RESIDENTIAL RENTAL PROJECTS.**

15 (a) *IN GENERAL.*—Subsection (i) of section 146 (relat-
16 ing to treatment of refunding issues) is amended by adding
17 at the end the following new paragraph:

18 “(6) *TREATMENT OF CERTAIN RESIDENTIAL*
19 *RENTAL PROJECT BONDS AS REFUNDING BONDS IRRE-*
20 *SPECTIVE OF OBLIGOR.*—

21 “(A) *IN GENERAL.*—If, during the 6-month
22 period beginning on the date of a repayment of
23 a loan financed by an issue 95 percent or more
24 of the net proceeds of which are used to provide
25 projects described in section 142(d), such repay-

1 *ment is used to provide a new loan for any*
2 *project so described, any bond which is issued to*
3 *refinance such issue shall be treated as a refund-*
4 *ing issue to the extent the principal amount of*
5 *such refunding issue does not exceed the prin-*
6 *cipal amount of the bonds refunded.*

7 “(B) *LIMITATIONS.—Subparagraph (A)*
8 *shall apply to only one refunding of the original*
9 *issue and only if—*

10 “(i) *the refunding issue is issued not*
11 *later than 4 years after the date on which*
12 *the original issue was issued,*

13 “(ii) *the latest maturity date of any*
14 *bond of the refunding issue is not later than*
15 *34 years after the date on which the re-*
16 *funded bond was issued, and*

17 “(iii) *the refunding issue is approved*
18 *in accordance with section 147(f) before the*
19 *issuance of the refunding issue.”.*

20 (b) *LOW-INCOME HOUSING CREDIT.—Clause (ii) of*
21 *section 42(h)(4)(A) is amended by inserting “or such fi-*
22 *nancing is refunded as described in section 146(i)(6)” before*
23 *the period at the end.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to repayments of loans received after the*
 3 *date of the enactment of this Act.*

4 **SEC. 3008. COORDINATION OF CERTAIN RULES APPLICABLE**
 5 **TO LOW-INCOME HOUSING CREDIT AND**
 6 **QUALIFIED RESIDENTIAL RENTAL PROJECT**
 7 **EXEMPT FACILITY BONDS.**

8 (a) *DETERMINATION OF NEXT AVAILABLE UNIT.*—
 9 *Paragraph (3) of section 142(d) (relating to current income*
 10 *determinations) is amended by adding at the end the fol-*
 11 *lowing new subparagraph:*

12 “(C) *EXCEPTION FOR PROJECTS WITH RE-*
 13 *SPECT TO WHICH AFFORDABLE HOUSING CREDIT*
 14 *IS ALLOWED.*—*In the case of a project with re-*
 15 *spect to which credit is allowed under section 42,*
 16 *the second sentence of subparagraph (B) shall be*
 17 *applied by substituting ‘building (within the*
 18 *meaning of section 42)’ for ‘project.’”.*

19 (b) *STUDENTS.*—*Paragraph (2) of section 142(d) (re-*
 20 *lating to definitions and special rules) is amended by add-*
 21 *ing at the end the following new subparagraph:*

22 “(C) *STUDENTS.*—*Rules similar to the rules*
 23 *of 42(i)(3)(D) shall apply for purposes of this*
 24 *subsection.”.*

1 (c) *SINGLE-ROOM OCCUPANCY UNITS.*—Paragraph (2)
 2 of section 142(d) (relating to definitions and special rules),
 3 as amended by subsection (b), is amended by adding at the
 4 end the following new subparagraph:

5 “(D) *SINGLE-ROOM OCCUPANCY UNITS.*—A
 6 unit shall not fail to be treated as a residential
 7 unit merely because such unit is a single-room
 8 occupancy unit (within the meaning of section
 9 42).”.

10 (d) *EFFECTIVE DATE.*—The amendments made by this
 11 section shall apply to determinations of the status of quali-
 12 fied residential rental projects for periods beginning after
 13 the date of the enactment of this Act, with respect to bonds
 14 issued before, on, or after such date.

15 **PART III—REFORMS RELATED TO THE LOW-IN-**
 16 **COME HOUSING CREDIT AND TAX-EXEMPT**
 17 **HOUSING BONDS**

18 **SEC. 3009. HOLD HARMLESS FOR REDUCTIONS IN AREA ME-**
 19 **DIAN GROSS INCOME.**

20 (a) *IN GENERAL.*—Paragraph (2) of section 142(d), as
 21 amended by section 3008, is amended by adding at the end
 22 the following new subparagraph:

23 “(E) *HOLD HARMLESS FOR REDUCTIONS IN*
 24 *AREA MEDIAN GROSS INCOME.*—

1 “(i) *IN GENERAL.*—Any determination
2 of area median gross income under sub-
3 paragraph (B) with respect to any project
4 for any calendar year after 2008 shall not
5 be less than the area median gross income
6 determined under such subparagraph with
7 respect to such project for the calendar year
8 preceding the calendar year for which such
9 determination is made.

10 “(ii) *SPECIAL RULE FOR CERTAIN CEN-*
11 *SUS CHANGES.*—In the case of a HUD hold
12 harmless impacted project, the area median
13 gross income with respect to such project for
14 any calendar year after 2008 (hereafter in
15 this clause referred to as the current cal-
16 endar year) shall be the greater of the
17 amount determined without regard to this
18 clause or the sum of—

19 “(I) the area median gross income
20 determined under the HUD hold harm-
21 less policy with respect to such project
22 for calendar year 2008, plus

23 “(II) any increase in the area me-
24 dian gross income determined under
25 subparagraph (B) (determined without

1 *regard to the HUD hold harmless pol-*
2 *icy and this subparagraph) with re-*
3 *spect to such project for the current*
4 *calendar year over the area median*
5 *gross income (as so determined) with*
6 *respect to such project for calendar*
7 *year 2008.*

8 “(iii) *HUD HOLD HARMLESS POL-*
9 *ICY.—The term ‘HUD hold harmless policy’*
10 *means the regulations under which a policy*
11 *similar to the rules of clause (i) applied to*
12 *prevent a change in the method of deter-*
13 *mining area median gross income from re-*
14 *sulting in a reduction in the area median*
15 *gross income determined with respect to cer-*
16 *tain projects in calendar years 2007 and*
17 *2008.*

18 “(iv) *HUD HOLD HARMLESS IM-*
19 *PACTED PROJECT.—The term ‘HUD hold*
20 *harmless impacted project’ means any*
21 *project with respect to which area median*
22 *gross income was determined under sub-*
23 *paragraph (B) for calendar year 2007 or*
24 *2008 if such determination would have been*
25 *less but for the HUD hold harmless policy.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to determinations of area median gross*
 3 *income for calendar years after 2008.*

4 **SEC. 3010. EXCEPTION TO ANNUAL CURRENT INCOME DE-**
 5 **TERMINATION REQUIREMENT WHERE DETER-**
 6 **MINATION NOT RELEVANT.**

7 (a) *IN GENERAL.*—*Subparagraph (A) of section*
 8 *142(d)(3) is amended by adding at the end the following*
 9 *new sentence: “The preceding sentence shall not apply with*
 10 *respect to any project for any year if during such year no*
 11 *residential unit in the project is occupied by a new resident*
 12 *whose income exceeds the applicable income limit.”.*

13 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 14 *section shall apply to years ending after the date of the en-*
 15 *actment of this Act.*

16 **Subtitle B—Single Family Housing**

17 **SEC. 3011. FIRST-TIME HOMEBUYER CREDIT.**

18 (a) *IN GENERAL.*—*Subpart C of part IV of subchapter*
 19 *A of chapter 1 is amended by redesignating section 36 as*
 20 *section 37 and by inserting after section 35 the following*
 21 *new section:*

22 **“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

23 “(a) *ALLOWANCE OF CREDIT.*—*In the case of an indi-*
 24 *vidual who is a first-time homebuyer of a principal resi-*
 25 *dence in the United States during a taxable year, there shall*

1 *be allowed as a credit against the tax imposed by this sub-*
2 *title for such taxable year an amount equal to 10 percent*
3 *of the purchase price of the residence.*

4 “(b) *LIMITATIONS.—*

5 “(1) *DOLLAR LIMITATION.—*

6 “(A) *IN GENERAL.—Except as otherwise*
7 *provided in this paragraph, the credit allowed*
8 *under subsection (a) shall not exceed \$8,000.*

9 “(B) *MARRIED INDIVIDUALS FILING SEPA-*
10 *RATELY.—In the case of a married individual*
11 *filing a separate return, subparagraph (A) shall*
12 *be applied by substituting ‘\$4,000’ for ‘\$8,000’.*

13 “(C) *OTHER INDIVIDUALS.—If two or more*
14 *individuals who are not married purchase a*
15 *principal residence, the amount of the credit al-*
16 *lowed under subsection (a) shall be allocated*
17 *among such individuals in such manner as the*
18 *Secretary may prescribe, except that the total*
19 *amount of the credits allowed to all such individ-*
20 *uals shall not exceed \$8,000.*

21 “(2) *LIMITATION BASED ON MODIFIED ADJUSTED*
22 *GROSS INCOME.—*

23 “(A) *IN GENERAL.—The amount allowable*
24 *as a credit under subsection (a) (determined*
25 *without regard to this paragraph) for the taxable*

1 year shall be reduced (but not below zero) by the
2 amount which bears the same ratio to the
3 amount which is so allowable as—

4 “(i) the excess (if any) of—

5 “(I) the taxpayer’s modified ad-
6 justed gross income for such taxable
7 year, over

8 “(II) \$75,000 (\$150,000 in the
9 case of a joint return), bears to

10 “(ii) \$20,000.

11 “(B) *MODIFIED ADJUSTED GROSS IN-*
12 *COME.*—For purposes of subparagraph (A), the
13 term ‘modified adjusted gross income’ means the
14 adjusted gross income of the taxpayer for the tax-
15 able year increased by any amount excluded
16 from gross income under section 911, 931, or
17 933.

18 “(c) *DEFINITIONS.*—For purposes of this section—

19 “(1) *FIRST-TIME HOMEBUYER.*—The term ‘first-
20 time homebuyer’ means any individual if such indi-
21 vidual (and if married, such individual’s spouse) had
22 no present ownership interest in a principal residence
23 during the 3-year period ending on the date of the
24 purchase of the principal residence to which this sec-
25 tion applies.

1 “(2) *PRINCIPAL RESIDENCE.*—The term ‘prin-
2 *cipal residence*’ has the same meaning as when used
3 in section 121.

4 “(3) *PURCHASE.*—

5 “(A) *IN GENERAL.*—The term ‘purchase’
6 means any acquisition, but only if—

7 “(i) the property is not acquired from
8 a person related to the person acquiring it,
9 and

10 “(ii) the basis of the property in the
11 hands of the person acquiring it is not de-
12 termined—

13 “(I) in whole or in part by ref-
14 erence to the adjusted basis of such
15 property in the hands of the person
16 from whom acquired, or

17 “(II) under section 1014(a) (relat-
18 ing to property acquired from a dece-
19 dent).

20 “(B) *CONSTRUCTION.*—A residence which is
21 constructed by the taxpayer shall be treated as
22 purchased by the taxpayer on the date the tax-
23 payer first occupies such residence.

1 “(4) *PURCHASE PRICE.*—The term ‘purchase
2 *price*’ means the adjusted basis of the principal resi-
3 *dence on the date such residence is purchased.*

4 “(5) *RELATED PERSONS.*—A person shall be
5 *treated as related to another person if the relationship*
6 *between such persons would result in the disallowance*
7 *of losses under section 267 or 707(b) (but, in applying*
8 *section 267(b) and (c) for purposes of this section,*
9 *paragraph (4) of section 267(c) shall be treated as*
10 *providing that the family of an individual shall in-*
11 *clude only his spouse, ancestors, and lineal descend-*
12 *ants).*

13 “(d) *EXCEPTIONS.*—No credit under subsection (a)
14 *shall be allowed to any taxpayer for any taxable year with*
15 *respect to the purchase of a residence if—*

16 “(1) *a credit under section 1400C (relating to*
17 *first-time homebuyer in the District of Columbia) is*
18 *allowable to the taxpayer (or the taxpayer’s spouse)*
19 *for such taxable year or any prior taxable year,*

20 “(2) *the residence is financed by the proceeds of*
21 *a qualified mortgage issue the interest on which is ex-*
22 *empt from tax under section 103,*

23 “(3) *the taxpayer is a nonresident alien, or*

24 “(4) *the taxpayer disposes of such residence (or*
25 *such residence ceases to be the principal residence of*

1 *the taxpayer (and, if married, the taxpayer's spouse))*
2 *before the close of such taxable year.*

3 “(e) *REPORTING.—If the Secretary requires informa-*
4 *tion reporting under section 6045 by a person described in*
5 *subsection (e)(2) thereof to verify the eligibility of taxpayers*
6 *for the credit allowable by this section, the exception pro-*
7 *vided by section 6045(e) shall not apply.*

8 “(f) *RECAPTURE OF CREDIT.—*

9 “(1) *IN GENERAL.—Except as otherwise provided*
10 *in this subsection, if a credit under subsection (a) is*
11 *allowed to a taxpayer, the tax imposed by this chap-*
12 *ter shall be increased by 6²/₃ percent of the amount*
13 *of such credit for each taxable year in the recapture*
14 *period.*

15 “(2) *ACCELERATION OF RECAPTURE.—If a tax-*
16 *payer disposes of the principal residence with respect*
17 *to which a credit was allowed under subsection (a)*
18 *(or such residence ceases to be the principal residence*
19 *of the taxpayer (and, if married, the taxpayer's*
20 *spouse)) before the end of the recapture period—*

21 “(A) *the tax imposed by this chapter for the*
22 *taxable year of such disposition or cessation,*
23 *shall be increased by the excess of the amount of*
24 *the credit allowed over the amounts of tax im-*

1 posed by paragraph (1) for preceding taxable
2 years, and

3 “(B) paragraph (1) shall not apply with re-
4 spect to such credit for such taxable year or any
5 subsequent taxable year.

6 “(3) *LIMITATION BASED ON GAIN.*—In the case of
7 the sale of the principal residence to a person who is
8 not related to the taxpayer, the increase in tax deter-
9 mined under paragraph (2) shall not exceed the
10 amount of gain (if any) on such sale. Solely for pur-
11 poses of the preceding sentence, the adjusted basis of
12 such residence shall be reduced by the amount of the
13 credit allowed under subsection (a) to the extent not
14 previously recaptured under paragraph (1).

15 “(4) *EXCEPTIONS.*—

16 “(A) *DEATH OF TAXPAYER.*—Paragraphs
17 (1) and (2) shall not apply to any taxable year
18 ending after the date of the taxpayer’s death.

19 “(B) *INVOLUNTARY CONVERSION.*—Para-
20 graph (2) shall not apply in the case of a resi-
21 dence which is compulsorily or involuntarily
22 converted (within the meaning of section
23 1033(a)) if the taxpayer acquires a new prin-
24 cipal residence during the 2-year period begin-
25 ning on the date of the disposition or cessation

1 referred to in paragraph (2). Paragraph (2)
2 shall apply to such new principal residence dur-
3 ing the recapture period in the same manner as
4 if such new principal residence were the con-
5 verted residence.

6 “(C) *TRANSFERS BETWEEN SPOUSES OR IN-*
7 *CIDENT TO DIVORCE.*—In the case of a transfer
8 of a residence to which section 1041(a) applies—

9 “(i) paragraph (2) shall not apply to
10 such transfer, and

11 “(ii) in the case of taxable years end-
12 ing after such transfer, paragraphs (1) and
13 (2) shall apply to the transferee in the same
14 manner as if such transferee were the trans-
15 feror (and shall not apply to the transferor).

16 “(5) *JOINT RETURNS.*—In the case of a credit al-
17 lowed under subsection (a) with respect to a joint re-
18 turn, half of such credit shall be treated as having
19 been allowed to each individual filing such return for
20 purposes of this subsection.

21 “(6) *RECAPTURE PERIOD.*—For purposes of this
22 subsection, the term ‘recapture period’ means the 15
23 taxable years beginning with the second taxable year
24 following the taxable year in which the purchase of

1 *the principal residence for which a credit is allowed*
2 *under subsection (a) was made.*

3 “(g) *APPLICATION OF SECTION.—This section shall*
4 *only apply to a principal residence purchased by the tax-*
5 *payer on or after April 9, 2008, and before April 1, 2009.”.*

6 (b) *CONFORMING AMENDMENTS.—*

7 (1) *Section 26(b)(2) is amended by striking*
8 *“and” at the end of subparagraph (U), by striking the*
9 *period and inserting “, and” and the end of subpara-*
10 *graph (V), and by inserting after subparagraph (V)*
11 *the following new subparagraph:*

12 “(W) *section 36(f) (relating to recapture of*
13 *homebuyer credit).”.*

14 (2) *Section 6211(b)(4)(A) is amended by striking*
15 *“34,” and all that follows through “6428” and insert-*
16 *ing “34, 35, 36, 53(e), and 6428”.*

17 (3) *Section 1324(b)(2) of title 31, United States*
18 *Code, is amended by inserting “, 36,” after “section*
19 *35”.*

20 (4) *The table of sections for subpart C of part IV*
21 *of subchapter A of chapter 1 is amended by redesign-*
22 *ating the item relating to section 36 as an item re-*
23 *lating to section 37 and by inserting before such item*
24 *the following new item:*

“*Sec. 36. First-time homebuyer credit.*”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to residences purchased on or after April*
3 *9, 2008, in taxable years ending on or after such date.*

4 **SEC. 3012. ADDITIONAL STANDARD DEDUCTION FOR REAL**
5 **PROPERTY TAXES FOR NONITEMIZERS.**

6 (a) *IN GENERAL.*—*Section 63(c)(1) (defining standard*
7 *deduction) is amended by striking “and” at the end of sub-*
8 *paragraph (A), by striking the period at the end of subpara-*
9 *graph (B) and inserting “, and”, and by adding at the end*
10 *the following new subparagraph:*

11 *“(C) in the case of any taxable year begin-*
12 *ning in 2008, the real property tax deduction.”.*

13 (b) *DEFINITION.*—*Section 63(c) is amended by adding*
14 *at the end the following new paragraph:*

15 *“(8) REAL PROPERTY TAX DEDUCTION.—*

16 *“(A) IN GENERAL.—For purposes of para-*
17 *graph (1), the real property tax deduction is the*
18 *lesser of—*

19 *“(i) the amount allowable as a deduc-*
20 *tion under this chapter for State and local*
21 *taxes described in section 164(a)(1), or*

22 *“(ii) \$500 (\$1,000 in the case of a*
23 *joint return).*

1 *Any taxes taken into account under section 62(a)*
2 *shall not be taken into account under this para-*
3 *graph.*

4 “(B) *EXCEPTION.—The real property tax*
5 *deduction shall not be allowed in the case of a*
6 *taxpayer living in a jurisdiction in which the*
7 *rate of tax for all residential real property taxes*
8 *is increased, net of any tax rebates, through rate*
9 *increases or the repeal or reduction of otherwise*
10 *applicable deductions, credits, or offsets, at any*
11 *time after the date of the enactment of this para-*
12 *graph and before December 31, 2008. This sub-*
13 *paragraph shall not apply in the case of a juris-*
14 *isdiction in which the rate of tax for all residen-*
15 *tial real property taxes is increased pursuant to*
16 *an equalization policy in effect before the date of*
17 *the enactment of this paragraph or as a result*
18 *of any votes of the residents of such jurisdiction*
19 *to increase funding for pre-school, primary, sec-*
20 *ondary, or higher education.”.*

21 “(c) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to taxable years beginning after Decem-*
23 *ber 31, 2007.*

Subtitle C—General Provisions**SEC. 3021. TEMPORARY LIBERALIZATION OF TAX-EXEMPT
HOUSING BOND RULES.**

(a) TEMPORARY INCREASE IN VOLUME CAP.—

(1) IN GENERAL.—Subsection (d) of section 146 is amended by adding at the end the following new paragraph:

“(5) INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2008.—

“(A) INCREASE FOR 2008.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to \$11,000,000,000 multiplied by a fraction—

“(i) the numerator of which is the State ceiling applicable to the State for calendar year 2008, determined without regard to this paragraph, and

“(ii) the denominator of which is the sum of the State ceilings determined under clause (i) for all States.

“(B) SET ASIDE.—

“(i) IN GENERAL.—Any amount of the State ceiling for any State which is attributable to an increase under this paragraph

1 *shall be allocated solely for one or more*
2 *qualified housing issues.*

3 “(ii) *QUALIFIED HOUSING ISSUE.*—*For*
4 *purposes of this paragraph, the term ‘quali-*
5 *fied housing issue’ means—*

6 “(I) *an issue described in section*
7 *142(a)(7) (relating to qualified resi-*
8 *dential rental projects), or*

9 “(II) *a qualified mortgage issue*
10 *(determined by substituting ‘12-month*
11 *period’ for ‘42-month period’ each*
12 *place it appears in section*
13 *143(a)(2)(D)(i)).”.*

14 (2) *CARRYFORWARD OF UNUSED LIMITATIONS.*—
15 *Subsection (f) of section 146 is amended by adding at*
16 *the end the following new paragraph:*

17 “(6) *SPECIAL RULES FOR INCREASED VOLUME*
18 *CAP UNDER SUBSECTION (d)(5).*—*No amount which is*
19 *attributable to the increase under subsection (d)(5)*
20 *may be used—*

21 “(A) *for any issue other than a qualified*
22 *housing issue (as defined in subsection (d)(5)),*
23 *or*

24 “(B) *to issue any bond after calendar year*
25 *2010.”.*

1 **(b) TEMPORARY RULE FOR USE OF QUALIFIED MORT-**
2 **GAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING**
3 **LOANS.—**

4 **(1) IN GENERAL.—***Section 143(k) (relating to*
5 *other definitions and special rules) is amended by*
6 *adding at the end the following new paragraph:*

7 **“(12) SPECIAL RULES FOR SUBPRIME**
8 **REFINANCINGS.—**

9 **“(A) IN GENERAL.—***Notwithstanding the re-*
10 *quirements of subsection (i)(1), the proceeds of a*
11 *qualified mortgage issue may be used to refi-*
12 *nance a mortgage on a residence which was*
13 *originally financed by the mortgagor through a*
14 *qualified subprime loan.*

15 **“(B) SPECIAL RULES.—***In applying sub-*
16 *paragraph (A) to any refinancing—*

17 **“(i) subsection (a)(2)(D)(i) shall be ap-**
18 **plied by substituting ‘12-month period’ for**
19 **‘42-month period’ each place it appears,**

20 **“(ii) subsection (d) (relating to 3-year**
21 **requirement) shall not apply, and**

22 **“(iii) subsection (e) (relating to pur-**
23 **chase price requirement) shall be applied by**
24 **using the market value of the residence at**

1 *the time of refinancing in lieu of the acqui-*
2 *sition cost.*

3 “(C) *QUALIFIED SUBPRIME LOAN.*—*The*
4 *term ‘qualified subprime loan’ means an adjust-*
5 *able rate single-family residential mortgage loan*
6 *made after December 31, 2001, and before Janu-*
7 *ary 1, 2008, that the bond issuer determines*
8 *would be reasonably likely to cause financial*
9 *hardship to the borrower if not refinanced.*

10 “(D) *TERMINATION.*—*This paragraph shall*
11 *not apply to any bonds issued after December*
12 *31, 2010.”.*

13 (c) *EFFECTIVE DATE.*—*The amendments made by this*
14 *section shall apply to bonds issued after the date of the en-*
15 *actment of this Act.*

16 **SEC. 3022. REPEAL OF ALTERNATIVE MINIMUM TAX LIMITA-**
17 **TIONS ON TAX-EXEMPT HOUSING BONDS,**
18 **LOW-INCOME HOUSING TAX CREDIT, AND RE-**
19 **HABILITATION CREDIT.**

20 (a) *TAX-EXEMPT INTEREST ON CERTAIN HOUSING*
21 *BONDS EXEMPTED FROM ALTERNATIVE MINIMUM TAX.*—

22 (1) *IN GENERAL.*—*Subparagraph (C) of section*
23 *57(a)(5) (relating to specified private activity bonds)*
24 *is amended by redesignating clauses (iii) and (iv) as*

1 *clauses (iv) and (v), respectively, and by inserting*
2 *after clause (ii) the following new clause:*

3 “(iii) *EXCEPTION FOR CERTAIN HOUS-*
4 *ING BONDS.—For purposes of clause (i), the*
5 *term ‘private activity bond’ shall not in-*
6 *clude any bond issued after the date of the*
7 *enactment of this clause if such bond is—*

8 “(I) *an exempt facility bond*
9 *issued as part of an issue 95 percent or*
10 *more of the net proceeds of which are*
11 *to be used to provide qualified residen-*
12 *tial rental projects (as defined in sec-*
13 *tion 142(d)),*

14 “(II) *a qualified mortgage bond*
15 *(as defined in section 143(a)), or*

16 “(III) *a qualified veterans’ mort-*
17 *gage bond (as defined in section*
18 *143(b)).*

19 *The preceding sentence shall not apply to*
20 *any refunding bond unless such preceding*
21 *sentence applied to the refunded bond (or in*
22 *the case of a series of refundings, the origi-*
23 *nal bond).”.*

24 (2) *NO ADJUSTMENT TO ADJUSTED CURRENT*
25 *EARNINGS.—Subparagraph (B) of section 56(g)(4) is*

1 *amended by adding at the end the following new*
2 *clause:*

3 “(iii) *TAX EXEMPT INTEREST ON CER-*
4 *TAIN HOUSING BONDS.—Clause (i) shall not*
5 *apply in the case of any interest on a bond*
6 *to which section 57(a)(5)(C)(iii) applies.”.*

7 *(b) ALLOWANCE OF LOW-INCOME HOUSING CREDIT*
8 *AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B)*
9 *of section 38(c)(4) (relating to specified credits) is amended*
10 *by redesignating clauses (ii) through (iv) as clauses (iii)*
11 *through (v) and inserting after clause (i) the following new*
12 *clause:*

13 “(ii) *the credit determined under sec-*
14 *tion 42 to the extent attributable to build-*
15 *ings placed in service after December 31,*
16 *2007.”.*

17 *(c) ALLOWANCE OF REHABILITATION CREDIT AGAINST*
18 *ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of sec-*
19 *tion 38(c)(4), as amended by subsection (b), is amended by*
20 *striking “and” at the end of clause (iv), by redesignating*
21 *clause (v) as clause (vi), and by inserting after clause (iv)*
22 *the following new clause:*

23 “(v) *the credit determined under sec-*
24 *tion 47 to the extent attributable to quali-*
25 *fied rehabilitation expenditures properly*

1 *taken into account for periods after Decem-*
2 *ber 31, 2007, and”.*

3 (d) *EFFECTIVE DATE.*—

4 (1) *HOUSING BONDS.*—*The amendments made*
5 *by subsection (a) shall apply to bonds issued after the*
6 *date of the enactment of this Act.*

7 (2) *LOW INCOME HOUSING CREDIT.*—*The amend-*
8 *ments made by subsection (b) shall apply to credits*
9 *determined under section 42 of the Internal Revenue*
10 *Code of 1986 to the extent attributable to buildings*
11 *placed in service after December 31, 2007.*

12 (3) *REHABILITATION CREDIT.*—*The amendments*
13 *made by subsection (c) shall apply to credits deter-*
14 *mined under section 47 of the Internal Revenue Code*
15 *of 1986 to the extent attributable to qualified rehabili-*
16 *tation expenditures properly taken into account for*
17 *periods after December 31, 2007.*

18 **SEC. 3023. BONDS GUARANTEED BY FEDERAL HOME LOAN**
19 **BANKS ELIGIBLE FOR TREATMENT AS TAX-EX-**
20 **EMPT BONDS.**

21 (a) *IN GENERAL.*—*Subparagraph (A) of section*
22 *149(b)(3) (relating to exceptions for certain insurance pro-*
23 *grams) is amended by striking “or” at the end of clause*
24 *(ii), by striking the period at the end of clause (iii) and*

1 *inserting “, or” and by adding at the end the following new*
2 *clause:*

3 *“(iv) subject to subparagraph (E), any*
4 *guarantee by a Federal home loan bank*
5 *made in connection with the original*
6 *issuance of a bond during the period begin-*
7 *ning on the date of the enactment of this*
8 *clause and ending on December 31, 2010 (or*
9 *a renewal or extension of a guarantee so*
10 *made).”.*

11 *(b) SAFETY AND SOUNDNESS REQUIREMENTS.—Para-*
12 *graph (3) of section 149(b) is amended by adding at the*
13 *end the following new subparagraph:*

14 *“(E) SAFETY AND SOUNDNESS REQUIRE-*
15 *MENTS FOR FEDERAL HOME LOAN BANKS.—*
16 *Clause (iv) of subparagraph (A) shall not apply*
17 *to any guarantee by a Federal home loan bank*
18 *unless such bank meets safety and soundness col-*
19 *lateral requirements for such guarantees which*
20 *are at least as stringent as such requirements*
21 *which apply under regulations applicable to such*
22 *guarantees by Federal home loan banks as in ef-*
23 *fect on April 9, 2008.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to guarantees made after the date of the*
3 *enactment of this Act.*

4 **SEC. 3024. MODIFICATION OF RULES PERTAINING TO**
5 **FIRPTA NONFOREIGN AFFIDAVITS.**

6 (a) *IN GENERAL.*—*Subsection (b) of section 1445 (re-*
7 *lating to exemptions) is amended by adding at the end the*
8 *following:*

9 “(9) *ALTERNATIVE PROCEDURE FOR FURNISHING*
10 *NONFOREIGN AFFIDAVIT.*—*For purposes of para-*
11 *graphs (2) and (7)—*

12 “(A) *IN GENERAL.*—*Paragraph (2) shall be*
13 *treated as applying to a transaction if, in con-*
14 *nection with a disposition of a United States*
15 *real property interest—*

16 “(i) *the affidavit specified in para-*
17 *graph (2) is furnished to a qualified sub-*
18 *stitute, and*

19 “(ii) *the qualified substitute furnishes*
20 *a statement to the transferee stating, under*
21 *penalty of perjury, that the qualified sub-*
22 *stitute has such affidavit in his possession.*

23 “(B) *REGULATIONS.*—*The Secretary shall*
24 *prescribe such regulations as may be necessary*
25 *or appropriate to carry out this paragraph.”.*

1 **(b) QUALIFIED SUBSTITUTE.**—*Subsection (f) of section*
 2 *1445 (relating to definitions) is amended by adding at the*
 3 *end the following new paragraph:*

4 **“(6) QUALIFIED SUBSTITUTE.**—*The term ‘quali-*
 5 *fied substitute’ means, with respect to a disposition of*
 6 *a United States real property interest—*

7 **“(A) the person (including any attorney or**
 8 *title company) responsible for closing the trans-*
 9 *action, other than the transferor’s agent, and*

10 **“(B) the transferee’s agent.”.**

11 **(c) EXEMPTION NOT TO APPLY IF KNOWLEDGE OR**
 12 *NOTICE THAT AFFIDAVIT OR STATEMENT IS FALSE.—*

13 **(1) IN GENERAL.**—*Paragraph (7) of section*
 14 *1445(b) (relating to special rules for paragraphs (2)*
 15 *and (3)) is amended to read as follows:*

16 **“(7) SPECIAL RULES FOR PARAGRAPHS (2), (3),**
 17 *AND (9).*—*Paragraph (2), (3), or (9) (as the case may*
 18 *be) shall not apply to any disposition—*

19 **“(A) if—**

20 **“(i) the transferee or qualified sub-**
 21 *stitute has actual knowledge that the affi-*
 22 *davit referred to in such paragraph, or the*
 23 *statement referred to in paragraph*
 24 *(9)(A)(ii), is false, or*

1 “(i) the transferee or qualified sub-
2 stitute receives a notice (as described in sub-
3 section (d)) from a transferor’s agent, trans-
4 feree’s agent, or qualified substitute that
5 such affidavit or statement is false, or

6 “(B) if the Secretary by regulations requires
7 the transferee or qualified substitute to furnish a
8 copy of such affidavit or statement to the Sec-
9 retary and the transferee or qualified substitute
10 fails to furnish a copy of such affidavit or state-
11 ment to the Secretary at such time and in such
12 manner as required by such regulations.”.

13 (2) *LIABILITY.*—

14 (A) *NOTICE.*—Paragraph (1) of section
15 1445(d) (relating to notice of false affidavit; for-
16 eign corporations) is amended to read as follows:

17 “(1) *NOTICE OF FALSE AFFIDAVIT; FOREIGN*
18 *CORPORATIONS.*—If—

19 “(A) the transferor furnishes the transferee
20 or qualified substitute an affidavit described in
21 paragraph (2) of subsection (b) or a domestic
22 corporation furnishes the transferee an affidavit
23 described in paragraph (3) of subsection (b), and

24 “(B) in the case of—

25 “(i) any transferor’s agent—

1 “(I) such agent has actual knowl-
2 edge that such affidavit is false, or

3 “(II) in the case of an affidavit
4 described in subsection (b)(2) furnished
5 by a corporation, such corporation is a
6 foreign corporation, or

7 “(ii) any transferee’s agent or qualified
8 substitute, such agent or substitute has ac-
9 tual knowledge that such affidavit is false,
10 such agent or qualified substitute shall so notify
11 the transferee at such time and in such manner
12 as the Secretary shall require by regulations.”.

13 (B) FAILURE TO FURNISH NOTICE.—Para-
14 graph (2) of section 1445(d) (relating to failure
15 to furnish notice) is amended to read as follows:

16 “(2) FAILURE TO FURNISH NOTICE.—

17 “(A) IN GENERAL.—If any transferor’s
18 agent, transferee’s agent, or qualified substitute
19 is required by paragraph (1) to furnish notice,
20 but fails to furnish such notice at such time or
21 times and in such manner as may be required
22 by regulations, such agent or substitute shall
23 have the same duty to deduct and withhold that
24 the transferee would have had if such agent or
25 substitute had complied with paragraph (1).

1 “(B) *LIABILITY LIMITED TO AMOUNT OF*
2 *COMPENSATION.—An agent’s or substitute’s li-*
3 *ability under subparagraph (A) shall be limited*
4 *to the amount of compensation the agent or sub-*
5 *stitute derives from the transaction.”.*

6 (C) *CONFORMING AMENDMENT.—The head-*
7 *ing for section 1445(d) is amended by striking*
8 *“OR TRANSFEREE’S AGENTS” and inserting “,*
9 *TRANSFEREE’S AGENTS, OR QUALIFIED SUB-*
10 *STITUTES”.*

11 (d) *EFFECTIVE DATE.—The amendments made by this*
12 *section shall apply to dispositions of United States real*
13 *property interests after the date of the enactment of this*
14 *Act.*

15 **SEC. 3025. MODIFICATION OF DEFINITION OF TAX-EXEMPT**
16 **USE PROPERTY FOR PURPOSES OF THE RE-**
17 **HABILITATION CREDIT.**

18 (a) *IN GENERAL.—Subclause (I) of section*
19 *47(c)(2)(B)(v) is amended by striking “section 168(h)” and*
20 *inserting “section 168(h), except that ‘50 percent’ shall be*
21 *substituted for ‘35 percent’ in paragraph (1)(B)(iii) there-*
22 *of”.*

23 (b) *EFFECTIVE DATE.—The amendments made by this*
24 *section shall apply to expenditures properly taken into ac-*
25 *count for periods after December 31, 2007.*

1 **SEC. 3026. EXTENSION OF SPECIAL RULE FOR MORTGAGE**
 2 **REVENUE BONDS FOR RESIDENCES LOCATED**
 3 **IN DISASTER AREAS.**

4 (a) *IN GENERAL.*—Paragraph (11) of section 143(k)
 5 is amended—

6 (1) by striking “December 31, 1996” and insert-
 7 ing “May 1, 2008”, and

8 (2) by striking “January 1, 1999” and inserting
 9 “January 1, 2010”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this
 11 section shall apply to bonds issued after May 1, 2008.

12 **TITLE II—REFORMS RELATED TO**
 13 **REAL ESTATE INVESTMENT**
 14 **TRUSTS**

15 **Subtitle A—Foreign Currency and**
 16 **Other Qualified Activities**

17 **SEC. 3031. REVISIONS TO REIT INCOME TESTS.**

18 (a) *FOREIGN CURRENCY GAINS NOT GROSS INCOME*
 19 *IN APPLYING REIT INCOME TESTS.*—Section 856 (defining
 20 real estate investment trust) is amended by adding at the
 21 end the following new subsection:

22 “(n) *RULES REGARDING FOREIGN CURRENCY TRANS-*
 23 *ACTIONS.*—

24 “(1) *IN GENERAL.*—For purposes of this part—

1 “(A) passive foreign exchange gain for any
2 taxable year shall not constitute gross income for
3 purposes of subsection (c)(2), and

4 “(B) real estate foreign exchange gain for
5 any taxable year shall not constitute gross in-
6 come for purposes of subsection (c)(3).

7 “(2) REAL ESTATE FOREIGN EXCHANGE GAIN.—
8 For purposes of this subsection, the term ‘real estate
9 foreign exchange gain’ means—

10 “(A) foreign currency gain (as defined in
11 section 988(b)(1)) which is attributable to—

12 “(i) any item of income or gain de-
13 scribed in subsection (c)(3),

14 “(ii) the acquisition or ownership of
15 obligations secured by mortgages on real
16 property or on interests in real property
17 (other than foreign currency gain attrib-
18 utable to any item of income or gain de-
19 scribed in clause (i)), or

20 “(iii) becoming or being the obligor
21 under obligations secured by mortgages on
22 real property or on interests in real prop-
23 erty (other than foreign currency gain at-
24 tributable to any item of income or gain de-
25 scribed in clause (i)),

1 “(B) section 987 gain attributable to a
2 qualified business unit (as defined by section
3 989) of the real estate investment trust, but only
4 if such qualified business unit meets the require-
5 ments under—

6 “(i) subsection (c)(3) for the taxable
7 year, and

8 “(ii) subsection (c)(4)(A) at the close of
9 each quarter that the real estate investment
10 trust has directly or indirectly held the
11 qualified business unit, and

12 “(C) any other foreign currency gain as de-
13 termined by the Secretary.

14 “(3) *PASSIVE FOREIGN EXCHANGE GAIN*.—For
15 purposes of this subsection, the term ‘passive foreign
16 exchange gain’ means—

17 “(A) real estate foreign exchange gain,

18 “(B) foreign currency gain (as defined in
19 section 988(b)(1)) which is not described in sub-
20 paragraph (A) and which is attributable to—

21 “(i) any item of income or gain de-
22 scribed in subsection (c)(2),

23 “(ii) the acquisition or ownership of
24 obligations (other than foreign currency

1 *gain attributable to any item of income or*
2 *gain described in clause (i)), or*

3 “(iii) *becoming or being the obligor*
4 *under obligations (other than foreign cur-*
5 *rency gain attributable to any item of in-*
6 *come or gain described in clause (i)), and*
7 “(C) *any other foreign currency gain as de-*
8 *termined by the Secretary.*

9 “(4) *EXCEPTION FOR INCOME FROM SUBSTAN-*
10 *TIAL AND REGULAR TRADING.—Notwithstanding this*
11 *subsection or any other provision of this part, any*
12 *section 988 gain derived by a corporation, trust, or*
13 *association from engaging in substantial and regular*
14 *trading or dealing in securities (as defined in section*
15 *475(c)(2)) shall constitute gross income which does*
16 *not qualify under paragraph (2) or (3) of subsection*
17 *(c). This paragraph shall not apply to income which*
18 *does not constitute gross income by reason of sub-*
19 *section (c)(5)(G).”.*

20 “(b) *ADDITION TO REIT HEDGING RULE.—Subpara-*
21 *graph (G) of section 856(c)(5) is amended to read as fol-*
22 *lows:*

23 “(G) *TREATMENT OF CERTAIN HEDGING IN-*
24 *STRUMENTS.—Except to the extent as determined*
25 *by the Secretary—*

1 “(i) any income of a real estate invest-
2 ment trust from a hedging transaction (as
3 defined in clause (ii) or (iii) of section
4 1221(b)(2)(A)) which is clearly identified
5 pursuant to section 1221(a)(7), including
6 gain from the sale or disposition of such a
7 transaction, shall not constitute gross in-
8 come under paragraphs (2) and (3) to the
9 extent that the transaction hedges any in-
10 debtedness incurred or to be incurred by the
11 trust to acquire or carry real estate assets,
12 and

13 “(ii) any income of a real estate in-
14 vestment trust from a transaction entered
15 into by the trust primarily to manage risk
16 of currency fluctuations with respect to any
17 item of income or gain described in para-
18 graph (2) or (3) (or any property which
19 generates such income or gain), including
20 gain from the termination of such a trans-
21 action, shall not constitute gross income
22 under paragraphs (2) and (3), but only if
23 such transaction is clearly identified as
24 such before the close of the day on which it
25 was acquired, originated, or entered into (or

1 *such other time as the Secretary may pre-*
 2 *scribe).*”.

3 *(c) AUTHORITY TO EXCLUDE ITEMS OF INCOME FROM*
 4 *REIT INCOME TESTS.*—Section 856(c)(5), as amended by
 5 *the Heartland, Habitat, Harvest, and Horticulture Act of*
 6 *2008, is amended by adding at the end the following new*
 7 *subparagraph:*

8 *“(J) SECRETARIAL AUTHORITY TO EXCLUDE*
 9 *OTHER ITEMS OF INCOME.*—*To the extent nec-*
 10 *essary to carry out the purposes of this part, the*
 11 *Secretary is authorized to determine, solely for*
 12 *purposes of this part, whether any item of in-*
 13 *come or gain which—*

14 *“(i) does not otherwise qualify under*
 15 *paragraph (2) or (3) may be considered as*
 16 *not constituting gross income, or*

17 *“(ii) otherwise constitutes gross income*
 18 *not qualifying under paragraph (2) or (3)*
 19 *may be considered as gross income which*
 20 *qualifies under paragraph (2) or (3).”.*

21 **SEC. 3032. REVISIONS TO REIT ASSET TESTS.**

22 *(a) CLARIFICATION OF VALUATION TEST.*—*The first*
 23 *sentence in the matter following section*
 24 *856(c)(4)(B)(iii)(III) is amended by inserting “(including*
 25 *a discrepancy caused solely by the change in the foreign*

1 *currency exchange rate used to value a foreign asset)” after*
2 *“such requirements”.*

3 (b) *CLARIFICATION OF PERMISSIBLE ASSET CAT-*
4 *EGORY.—Section 856(c)(5), as amended by section 3031(c),*
5 *is amended by adding at the end the following new subpara-*
6 *graph:*

7 “(K) *CASH.—If the real estate investment*
8 *trust or its qualified business unit (as defined in*
9 *section 989) uses any foreign currency as its*
10 *functional currency (as defined in section*
11 *985(b)), the term ‘cash’ includes such foreign*
12 *currency but only to the extent such foreign cur-*
13 *rency—*

14 *“(i) is held for use in the normal*
15 *course of the activities of the trust or quali-*
16 *fied business unit which give rise to items*
17 *of income or gain described in paragraph*
18 *(2) or (3) of subsection (c) or are directly*
19 *related to acquiring or holding assets de-*
20 *scribed in subsection (c)(4), and*

21 *“(ii) is not held in connection with an*
22 *activity described in subsection (n)(4).”.*

1 **SEC. 3033. CONFORMING FOREIGN CURRENCY REVISIONS.**

2 (a) *NET INCOME FROM FORECLOSURE PROPERTY.*—

3 *Clause (i) of section 857(b)(4)(B) is amended to read as*
4 *follows:*

5 “(i) *gain (including any foreign cur-*
6 *rency gain, as defined in section 988(b)(1))*
7 *from the sale or other disposition of fore-*
8 *closure property described in section*
9 *1221(a)(1) and the gross income for the tax-*
10 *able year derived from foreclosure property*
11 *(as defined in section 856(e)), but only to*
12 *the extent such gross income is not described*
13 *in (or, in the case of foreign currency gain,*
14 *not attributable to gross income described*
15 *in) section 856(c)(3) other than subpara-*
16 *graph (F) thereof, over”.*

17 (b) *NET INCOME FROM PROHIBITED TRANS-*
18 *ACTIONS.*—*Clause (i) of section 857(b)(6)(B) is amended to*
19 *read as follows:*

20 “(i) *the term ‘net income derived from*
21 *prohibited transactions’ means the excess of*
22 *the gain (including any foreign currency*
23 *gain, as defined in section 988(b)(1)) from*
24 *prohibited transactions over the deductions*
25 *(including any foreign currency loss, as de-*
26 *defined in section 988(b)(2)) allowed by this*

1 chapter which are directly connected with
2 prohibited transactions;”.

3 **Subtitle B—Taxable REIT**
4 **Subsidiaries**

5 **SEC. 3041. CONFORMING TAXABLE REIT SUBSIDIARY ASSET**

6 **TEST.**

7 Section 856(c)(4)(B)(ii) is amended—

8 (1) by striking “20 percent” and inserting “25
9 percent”, and

10 (2) by striking “REIT subsidiaries” and all that
11 follows, and inserting “REIT subsidiaries,”.

12 **Subtitle C—Dealer Sales**

13 **SEC. 3051. HOLDING PERIOD UNDER SAFE HARBOR.**

14 Section 857(b)(6) (relating to income from prohibited
15 transactions) is amended—

16 (1) by striking “4 years” in subparagraphs
17 (C)(i), (C)(iv), and (D)(i) and inserting “2 years”,

18 (2) by striking “4-year period” in subpara-
19 graphs (C)(ii), (D)(ii), and (D)(iii) and inserting “2-
20 year period”, and

21 (3) by striking “real estate asset” and all that fol-
22 lows through “if” in the matter preceding clause (i)
23 of subparagraphs (C) and (D), respectively, and in-
24 serting “real estate asset (as defined in section

1 856(c)(5)(B)) and which is described in section
2 1221(a)(1) if”.

3 **SEC. 3052. DETERMINING VALUE OF SALES UNDER SAFE**
4 **HARBOR.**

5 Section 857(b)(6) is amended—

6 (1) by striking the semicolon at the end of sub-
7 paragraph (C)(iii) and inserting “, or (III) the fair
8 market value of property (other than sales of fore-
9 closure property or sales to which section 1033 ap-
10 plies) sold during the taxable year does not exceed 10
11 percent of the fair market value of all of the assets of
12 the trust as of the beginning of the taxable year;”, and

13 (2) by adding “or” at the end of subclause (II)
14 of subparagraph (D)(iv) and by adding at the end of
15 such subparagraph the following new subclause:

16 “(III) the fair market value of prop-
17 erty (other than sales of foreclosure property
18 or sales to which section 1033 applies) sold
19 during the taxable year does not exceed 10
20 percent of the fair market value of all of the
21 assets of the trust as of the beginning of the
22 taxable year;”.

Subtitle D—Health Care REITs**SEC. 3061. CONFORMITY FOR HEALTH CARE FACILITIES.**

(a) *RELATED PARTY RENTALS.*—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

“(B) *EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.*—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility (as defined in paragraph (9)(D)) or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor. For purposes of this section, a taxable REIT subsidiary is not considered to be operating or managing a qualified health care property or qualified lodging facility solely because it—

“(i) directly or indirectly possesses a license, permit, or similar instrument enabling it to do so, or

“(ii) employs individuals working at such facility or property located outside the

1 *United States, but only if an eligible inde-*
2 *pendent contractor is responsible for the*
3 *daily supervision and direction of such in-*
4 *dividuals on behalf of the taxable REIT*
5 *subsidiary pursuant to a management*
6 *agreement or similar service contract.”.*

7 *(b) ELIGIBLE INDEPENDENT CONTRACTOR.—Subpara-*
8 *graphs (A) and (B) of section 856(d)(9) (relating to eligible*
9 *independent contractor) are amended to read as follows:*

10 *“(A) IN GENERAL.—The term ‘eligible inde-*
11 *pendent contractor’ means, with respect to any*
12 *qualified lodging facility or qualified health care*
13 *property (as defined in subsection (e)(6)(D)(i)),*
14 *any independent contractor if, at the time such*
15 *contractor enters into a management agreement*
16 *or other similar service contract with the taxable*
17 *REIT subsidiary to operate such qualified lodg-*
18 *ing facility or qualified health care property,*
19 *such contractor (or any related person) is ac-*
20 *tively engaged in the trade or business of oper-*
21 *ating qualified lodging facilities or qualified*
22 *health care properties, respectively, for any per-*
23 *son who is not a related person with respect to*
24 *the real estate investment trust or the taxable*
25 *REIT subsidiary.*

1 “(B) *SPECIAL RULES.*—Solely for purposes
2 of this paragraph and paragraph (8)(B), a per-
3 son shall not fail to be treated as an independent
4 contractor with respect to any qualified lodging
5 facility or qualified health care property (as so
6 defined) by reason of the following:

7 “(i) The taxable REIT subsidiary
8 bears the expenses for the operation of such
9 qualified lodging facility or qualified health
10 care property pursuant to the management
11 agreement or other similar service contract.

12 “(ii) The taxable REIT subsidiary re-
13 ceives the revenues from the operation of
14 such qualified lodging facility or qualified
15 health care property, net of expenses for
16 such operation and fees payable to the oper-
17 ator pursuant to such agreement or con-
18 tract.

19 “(iii) The real estate investment trust
20 receives income from such person with re-
21 spect to another property that is attrib-
22 utable to a lease of such other property to
23 such person that was in effect as of the later
24 of—

25 “(I) January 1, 1999, or

1 “(II) the earliest date that any
2 taxable REIT subsidiary of such trust
3 entered into a management agreement
4 or other similar service contract with
5 such person with respect to such quali-
6 fied lodging facility or qualified health
7 care property.”.

8 (c) *TAXABLE REIT SUBSIDIARIES.*—The last sentence
9 of section 856(l)(3) is amended—

10 (1) by inserting “or a health care facility” after
11 “a lodging facility”, and

12 (2) by inserting “or health care facility” after
13 “such lodging facility”.

14 ***Subtitle E—Effective Dates***

15 ***SEC. 3071. EFFECTIVE DATES.***

16 (a) *IN GENERAL.*—Except as otherwise provided in
17 this section, the amendments made by this title shall apply
18 to taxable years beginning after the date of the enactment
19 of this Act.

20 (b) *REIT INCOME TESTS.*—

21 (1) The amendments made by section 3031(a)
22 and (c) shall apply to gains and items of income rec-
23 ognized after the date of the enactment of this Act.

1 (2) *The amendment made by section 3031(b)*
 2 *shall apply to transactions entered into after the date*
 3 *of the enactment of this Act.*

4 (c) *CONFORMING FOREIGN CURRENCY REVISIONS.—*

5 (1) *The amendment made by section 3033(a)*
 6 *shall apply to gains recognized after the date of the*
 7 *enactment of this Act.*

8 (2) *The amendment made by section 3033(b)*
 9 *shall apply to gains and deductions recognized after*
 10 *the date of the enactment of this Act.*

11 (d) *DEALER SALES.—The amendments made by sub-*
 12 *title C shall apply to sales made after the date of the enact-*
 13 *ment of this Act.*

14 **TITLE III—REVENUE**
 15 **PROVISIONS**

16 **Subtitle A—General Provisions**

17 **SEC. 3081. ELECTION TO ACCELERATE AMT AND R AND D**
 18 **CREDITS IN LIEU OF BONUS DEPRECIATION.**

19 (a) *IN GENERAL.—Section 168(k) is amended by add-*
 20 *ing at the end the following new paragraph:*

21 “(4) *ELECTION TO ACCELERATE AMT AND R AND*
 22 *D CREDITS IN LIEU OF BONUS DEPRECIATION.—*

23 “(A) *IN GENERAL.—If a corporation elects*
 24 *to have this paragraph apply—*

1 “(i) no additional depreciation shall be
2 allowed under paragraph (1) for any eligi-
3 ble qualified property placed in service dur-
4 ing any taxable year to which paragraph
5 (1) would otherwise apply,

6 “(ii) the applicable depreciation meth-
7 od used under this section with respect to
8 such eligible qualified property shall be the
9 straight line method rather than the method
10 that would otherwise be used, and

11 “(iii) the limitations described in sub-
12 paragraph (B) for such taxable year shall
13 be increased by an aggregate amount not in
14 excess of the bonus depreciation amount for
15 such taxable year.

16 “(B) LIMITATIONS TO BE INCREASED.—The
17 limitations described in this subparagraph are—

18 “(i) the limitation under section 38(c),
19 and

20 “(ii) the limitation under section
21 53(c).

22 “(C) BONUS DEPRECIATION AMOUNT.—For
23 purposes of this paragraph—

24 “(i) IN GENERAL.—The bonus depre-
25 ciation amount for any applicable taxable

1 year is an amount equal to the product of
2 20 percent and the excess (if any) of—

3 “(I) the aggregate amount of de-
4 preciation which would be determined
5 under this section for property placed
6 in service during the taxable year if no
7 election under this paragraph were
8 made, over

9 “(II) the aggregate amount of de-
10 preciation allowable under this section
11 for property placed in service during
12 the taxable year.

13 In the case of property which is a passenger
14 aircraft, the amount determined under sub-
15 clause (I) shall be calculated without regard
16 to the written binding contract limitation
17 under paragraph (2)(A)(iii)(I).

18 “(ii) *MAXIMUM AMOUNT.*—The bonus
19 depreciation amount for any applicable tax-
20 able year shall not exceed the applicable
21 limitation under clause (iii), reduced (but
22 not below zero) by the bonus depreciation
23 amount for any preceding taxable year.

24 “(iii) *APPLICABLE LIMITATION.*—For
25 purposes of clause (ii), the term ‘applicable

1 *limitation’ means, with respect to any eligi-*
2 *ble taxpayer, the lesser of—*

3 “(I) \$30,000,000, or

4 “(II) 6 percent of the sum of the
5 *amounts determined with respect to the*
6 *taxpayer under clauses (ii) and (iii) of*
7 *subparagraph (E).*

8 “(iv) *AGGREGATION RULE.—All cor-*
9 *porations which are treated as a single em-*
10 *ployer under section 52(a) shall be treated*
11 *as 1 taxpayer for purposes of applying the*
12 *limitation under this subparagraph and de-*
13 *termining the applicable limitation under*
14 *clause (iii).*

15 “(D) *ELIGIBLE QUALIFIED PROPERTY.—For*
16 *purposes of this paragraph, the term ‘eligible*
17 *qualified property’ means qualified property*
18 *under paragraph (2), except that in applying*
19 *paragraph (2) for purposes of this clause—*

20 “(i) *‘March 31, 2008’ shall be sub-*
21 *stituted for ‘December 31, 2007’ each place*
22 *it appears in subparagraph (A) and clauses*
23 *(i) and (ii) of subparagraph (E) thereof,*

24 “(ii) *only adjusted basis attributable to*
25 *manufacture, construction, or production*

1 *after March 31, 2008, and before January*
2 *1, 2009, shall be taken into account under*
3 *subparagraph (B)(ii) thereof, and*

4 *“(iii) in the case of property which is*
5 *a passenger aircraft, the written binding*
6 *contract limitation under subparagraph*
7 *(A)(iii)(I) thereof shall not apply.*

8 *“(E) ALLOCATION OF BONUS DEPRECIATION*
9 *AMOUNTS.—*

10 *“(i) IN GENERAL.—Subject to clauses*
11 *(ii) and (iii), the taxpayer shall, at such*
12 *time and in such manner as the Secretary*
13 *may prescribe, specify the portion (if any)*
14 *of the bonus depreciation amount which is*
15 *to be allocated to each of the limitations de-*
16 *scribed in subparagraph (B).*

17 *“(ii) BUSINESS CREDIT LIMITATION.—*
18 *The portion of the bonus depreciation*
19 *amount allocated to the limitation described*
20 *in subparagraph (B)(i) shall not exceed an*
21 *amount equal to the portion of the credit al-*
22 *lowable under section 38 for the taxable*
23 *year which is allocable to business credit*
24 *carryforwards to such taxable year which*
25 *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 38(d))
5 to the research credit determined under
6 section 41(a).

7 “(iii) *ALTERNATIVE MINIMUM TAX*
8 *CREDIT LIMITATION.*—The portion of the
9 bonus depreciation amount allocated to the
10 limitation described in subparagraph
11 (B)(ii) shall not exceed an amount equal to
12 the portion of the minimum tax credit al-
13 lowable under section 53 for the taxable
14 year which is allocable to the adjusted min-
15 imum tax imposed for taxable years begin-
16 ning before January 1, 2006. For purposes
17 of the preceding sentence, credits shall be
18 treated as allowed on a first-in, first-out
19 basis.

20 “(F) *CREDIT REFUNDABLE.*—Any aggregate
21 increases in the credits allowed under section 38
22 or 53 by reason of this paragraph shall, for pur-
23 poses of this title, be treated as a credit allowed
24 to the taxpayer under subpart C of part IV of
25 subchapter A.

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) *DEDUCTION ALLOWED IN COM-*
7 *PUTING MINIMUM TAX.*—*Notwithstanding*
8 *this paragraph, paragraph (2)(G) shall*
9 *apply with respect to the deduction com-*
10 *puted under this section (after application*
11 *of this paragraph) with respect to property*
12 *placed in service during any applicable tax-*
13 *able year.”.*

14 (b) *APPLICATION TO CERTAIN AUTOMOTIVE PARTNER-*
15 *SHIPS.*—

16 (1) *IN GENERAL.*—*If an applicable partnership*
17 *elects the application of this subsection—*

18 (A) *the partnership shall be treated as hav-*
19 *ing made a payment against the tax imposed by*
20 *chapter 1 of the Internal Revenue Code of 1986*
21 *for any applicable taxable year of the partner-*
22 *ship in the amount determined under paragraph*
23 (3),

1 (B) *in the case of any eligible qualified*
2 *property placed in service by the partnership*
3 *during any applicable taxable year—*

4 (i) *section 168(k) of such Code shall*
5 *not apply in determining the amount of the*
6 *deduction allowable to the partnership or*
7 *any partner with respect to such property*
8 *under section 168 of such Code,*

9 (ii) *the applicable depreciation method*
10 *used by the partnership or any partner*
11 *under such section with respect to such*
12 *property shall be the straight line method*
13 *rather than the method that would otherwise*
14 *be used,*

15 (C) *no election may be made under section*
16 *168(k)(4) of such Code with respect to the part-*
17 *nership, and*

18 (D) *the amount of the credit determined*
19 *under section 41 of such Code for any applicable*
20 *taxable year with respect to the partnership shall*
21 *be reduced by the amount of the deemed payment*
22 *under subparagraph (A) for the taxable year.*

23 (2) *TREATMENT OF DEEMED PAYMENT.—*

24 (A) *IN GENERAL.—Notwithstanding any*
25 *other provision of the Internal Revenue Code of*

1 1986, the Secretary of the Treasury or his dele-
2 gate shall not use the payment of tax described
3 in paragraph (1) as an offset or credit against
4 any tax liability of the applicable partnership or
5 any partner but shall refund such payment to
6 the applicable partnership.

7 (B) *NO INTEREST.*—The payment described
8 in paragraph (1) shall not be taken into account
9 in determining any amount of interest under
10 such Code.

11 (3) *AMOUNT OF DEEMED PAYMENT.*—The
12 amount determined under this paragraph for any ap-
13 plicable taxable year shall be the least of the fol-
14 lowing:

15 (A) *The amount which would be determined*
16 *for the taxable year under section 168(k)(4)(C)(i)*
17 *of the Internal Revenue Code of 1986 (as added*
18 *by the amendments made by this section) if an*
19 *election under such section were in effect with re-*
20 *spect to the partnership.*

21 (B) *The amount of the credit determined*
22 *under section 41 of such Code for the taxable*
23 *year with respect to the partnership.*

1 (C) \$30,000,000, reduced by the amount of
2 any payment under this subsection for any pre-
3 ceding taxable year.

4 (4) *DEFINITIONS.*—For purposes of this sub-
5 section—

6 (A) *APPLICABLE PARTNERSHIP.*—The term
7 “applicable partnership” means a domestic part-
8 nership that—

9 (i) was formed effective on August 3,
10 2007, and

11 (ii) will produce in excess of 675,000
12 automobiles during the period beginning on
13 January 1, 2008, and ending on June 30,
14 2008.

15 (B) *APPLICABLE TAXABLE YEAR.*—The term
16 “applicable taxable year” means any taxable
17 year during which eligible qualified property is
18 placed in service.

19 (C) *ELIGIBLE QUALIFIED PROPERTY.*—The
20 term “eligible qualified property” has the mean-
21 ing given such term by section 168(k)(4)(D) of
22 the Internal Revenue Code of 1986 (as added by
23 the amendments made by this section).

1 (c) *CONFORMING AMENDMENT.*—Section 1324(b)(2) of
2 title 31, United States Code, as amended by this Act, is
3 amended—

4 (1) by inserting “168(k)(4)(F),” after “36,” and
5 (2) by inserting “, or due under section
6 3081(b)(2) of the Housing Assistance Tax Act of
7 2008” before the period at the end.

8 (d) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to taxable years ending after March 31,
10 2008.

11 **SEC. 3082. CERTAIN GO ZONE INCENTIVES.**

12 (a) *USE OF AMENDED INCOME TAX RETURNS TO*
13 *TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-*
14 *RELATED CASUALTY LOSS GRANTS BY DISALLOWING PRE-*
15 *VIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.*—

16 (1) *IN GENERAL.*—Notwithstanding any other
17 provision of the Internal Revenue Code of 1986, if a
18 taxpayer claims a deduction for any taxable year
19 with respect to a casualty loss to a principal resi-
20 dence (within the meaning of section 121 of such
21 Code) resulting from Hurricane Katrina, Hurricane
22 Rita, or Hurricane Wilma and in a subsequent tax-
23 able year receives a grant under Public Law 109–148,
24 109–234, or 110–116 as reimbursement for such loss,
25 such taxpayer may elect to file an amended income

1 *tax return for the taxable year in which such deduc-*
2 *tion was allowed (and for any taxable year to which*
3 *such deduction is carried) and reduce (but not below*
4 *zero) the amount of such deduction by the amount of*
5 *such reimbursement.*

6 (2) *TIME OF FILING AMENDED RETURN.—Para-*
7 *graph (1) shall apply with respect to any grant only*
8 *if any amended income tax returns with respect to*
9 *such grant are filed not later than the later of—*

10 (A) *the due date for filing the tax return for*
11 *the taxable year in which the taxpayer receives*
12 *such grant, or*

13 (B) *the date which is 1 year after the date*
14 *of the enactment of this Act.*

15 (3) *WAIVER OF PENALTIES AND INTEREST.—Any*
16 *underpayment of tax resulting from the reduction*
17 *under paragraph (1) of the amount otherwise allow-*
18 *able as a deduction shall not be subject to any penalty*
19 *or interest under such Code if such tax is paid not*
20 *later than 1 year after the filing of the amended re-*
21 *turn to which such reduction relates.*

22 (b) *WAIVER OF DEADLINE ON CONSTRUCTION OF GO*
23 *ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.—*

24 (1) *IN GENERAL.—Subparagraph (B) of section*
25 *1400N(d)(3) is amended to read as follows:*

1 “(B) without regard to ‘and before January
2 1, 2009’ in clause (i) thereof, and”.

3 (2) *EFFECTIVE DATE.*—The amendment made by
4 this subsection shall apply to property placed in serv-
5 ice after December 31, 2007.

6 (c) *INCLUSION OF CERTAIN COUNTIES IN GULF OP-
7 PORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND
8 FINANCING.*—

9 (1) *IN GENERAL.*—Subsection (a) of section
10 1400N is amended by adding at the end the following
11 new paragraph:

12 “(8) *INCLUSION OF CERTAIN COUNTIES.*—For
13 purposes of this subsection, the Gulf Opportunity
14 Zone includes Colbert County, Alabama and Dallas
15 County, Alabama.”.

16 (2) *EFFECTIVE DATE.*—The amendment made by
17 this subsection shall take effect as if included in the
18 provisions of the Gulf Opportunity Zone Act of 2005
19 to which it relates.

1 ***Subtitle B—Revenue Offsets***

2 ***SEC. 3091. RETURNS RELATING TO PAYMENTS MADE IN***
 3 ***SETTLEMENT OF PAYMENT CARD AND THIRD***
 4 ***PARTY NETWORK TRANSACTIONS.***

5 (a) *IN GENERAL.*—Subpart B of part III of subchapter
 6 *A* of chapter 61 is amended by adding at the end the fol-
 7 *lowing new section:*

8 ***“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN***
 9 ***SETTLEMENT OF PAYMENT CARD AND THIRD***
 10 ***PARTY NETWORK TRANSACTIONS.***

11 “(a) *IN GENERAL.*—Each payment settlement entity
 12 *shall make a return for each calendar year setting forth—*

13 “(1) *the name, address, and TIN of each partici-*
 14 *parting payee to whom one or more payments in set-*
 15 *tlement of reportable transactions are made, and*

16 “(2) *the gross amount of the reportable trans-*
 17 *actions with respect to each such participating payee.*

18 *Such return shall be made at such time and in such form*
 19 *and manner as the Secretary may require by regulations.*

20 “(b) *PAYMENT SETTLEMENT ENTITY.*—For purposes of
 21 *this section—*

22 “(1) *IN GENERAL.*—The term ‘payment settle-
 23 *ment entity’ means—*

24 “(A) *in the case of a payment card trans-*
 25 *action, the merchant acquiring bank, and*

1 “(B) *in the case of a third party network*
2 *transaction, the third party settlement organiza-*
3 *tion.*

4 “(2) *MERCHANT ACQUIRING BANK.—The term*
5 *‘merchant acquiring bank’ means the bank or other*
6 *organization which has the contractual obligation to*
7 *make payment to participating payees in settlement*
8 *of payment card transactions.*

9 “(3) *THIRD PARTY SETTLEMENT ORGANIZA-*
10 *TION.—The term ‘third party settlement organization’*
11 *means the central organization which has the contrac-*
12 *tual obligation to make payment to participating*
13 *payees of third party network transactions.*

14 “(4) *SPECIAL RULES RELATED TO INTER-*
15 *MEDIARIES.—For purposes of this section—*

16 “(A) *AGGREGATED PAYEES.—In any case*
17 *where reportable transactions of more than one*
18 *participating payee are settled through an inter-*
19 *mediary—*

20 “(i) *such intermediary shall be treated*
21 *as the participating payee for purposes of*
22 *determining the reporting obligations of the*
23 *payment settlement entity with respect to*
24 *such transactions, and*

1 “(ii) *such intermediary shall be treated*
2 *as the payment settlement entity with re-*
3 *spect to the settlement of such transactions*
4 *with the participating payees.*

5 “(B) *ELECTRONIC PAYMENT*
6 *FACILITATORS.—In any case where an electronic*
7 *payment facilitator or other third party makes*
8 *payments in settlement of reportable transactions*
9 *on behalf of the payment settlement entity, the*
10 *return under subsection (a) shall be made by*
11 *such electronic payment facilitator or other third*
12 *party in lieu of the payment settlement entity.*

13 “(c) *REPORTABLE TRANSACTION.—For purposes of*
14 *this section—*

15 “(1) *IN GENERAL.—The term ‘reportable trans-*
16 *action’ means any payment card transaction and any*
17 *third party network transaction.*

18 “(2) *PAYMENT CARD TRANSACTION.—The term*
19 *‘payment card transaction’ means any transaction in*
20 *which a payment card is accepted as payment.*

21 “(3) *THIRD PARTY NETWORK TRANSACTION.—*
22 *The term ‘third party network transaction’ means*
23 *any transaction which is settled through a third*
24 *party payment network.*

1 “(d) *OTHER DEFINITIONS.*—*For purposes of this sec-*
2 *tion—*

3 “(1) *PARTICIPATING PAYEE.*—

4 “(A) *IN GENERAL.*—*The term ‘participating*
5 *payee’ means—*

6 “(i) *in the case of a payment card*
7 *transaction, any person who accepts a pay-*
8 *ment card as payment, and*

9 “(ii) *in the case of a third party net-*
10 *work transaction, any person who accepts*
11 *payment from a third party settlement or-*
12 *ganization in settlement of such trans-*
13 *action.*

14 “(B) *EXCLUSION OF FOREIGN PERSONS.*—
15 *To the extent provided by the Secretary in regu-*
16 *lations or other guidance, such term shall not in-*
17 *clude any foreign person.*

18 “(C) *INCLUSION OF GOVERNMENTAL*
19 *UNITS.*—*The term ‘person’ includes any govern-*
20 *mental unit (and any agency or instrumentality*
21 *thereof).*

22 “(2) *PAYMENT CARD.*—*The term ‘payment card’*
23 *means any card which is issued pursuant to an*
24 *agreement or arrangement which provides for—*

25 “(A) *one or more issuers of such cards,*

1 “(B) a network of persons unrelated to each
2 other, and to the issuer, who agree to accept such
3 cards as payment, and

4 “(C) standards and mechanisms for settling
5 the transactions between the merchant acquiring
6 banks and the persons who agree to accept such
7 cards as payment.

8 *The acceptance as payment of any account number or*
9 *other indicia associated with a payment card shall be*
10 *treated for purposes of this section in the same man-*
11 *ner as accepting such payment card as payment.*

12 “(3) *THIRD PARTY PAYMENT NETWORK.—The*
13 *term ‘third party payment network’ means any agree-*
14 *ment or arrangement—*

15 “(A) *which involves the establishment of ac-*
16 *counts with a central organization for the pur-*
17 *pose of settling transactions between persons who*
18 *establish such accounts,*

19 “(B) *which provides for standards and*
20 *mechanisms for settling such transactions,*

21 “(C) *which involves a substantial number of*
22 *persons unrelated to such central organization*
23 *who provide goods or services and who have*
24 *agreed to settle transactions for the provision of*

1 *such goods or services pursuant to such agree-*
2 *ment or arrangement, and*

3 “(D) *which guarantees persons providing*
4 *goods or services pursuant to such agreement or*
5 *arrangement that such persons will be paid for*
6 *providing such goods or services.*

7 *Such term shall not include any agreement or ar-*
8 *rangement which provides for the issuance of pay-*
9 *ment cards.*

10 “(e) *EXCEPTION FOR DE MINIMIS PAYMENTS BY*
11 *THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third*
12 *party settlement organization shall not be required to report*
13 *any information under subsection (a) with respect to third*
14 *party network transactions of any participating payee if*
15 *the amount which would otherwise be reported under sub-*
16 *section (a)(2) with respect to such transactions does not ex-*
17 *ceed \$10,000 and the aggregate number of such transactions*
18 *does not exceed 200.*

19 “(f) *STATEMENTS TO BE FURNISHED TO PERSONS*
20 *WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—*
21 *Every person required to make a return under subsection*
22 *(a) shall furnish to each person with respect to whom such*
23 *a return is required a written statement showing—*

1 “(1) the name, address, and phone number of the
2 information contact of the person required to make
3 such return, and

4 “(2) the gross amount of payments made to the
5 person required to be shown on the return.

6 The written statement required under the preceding sen-
7 tence shall be furnished to the person on or before January
8 31 of the year following the calendar year for which the
9 return under subsection (a) was required to be made.

10 “(g) REGULATIONS.—The Secretary may prescribe
11 such regulations or other guidance as may be necessary or
12 appropriate to carry out this section, including rules to pre-
13 vent the reporting of the same transaction more than once.”.

14 (b) PENALTY FOR FAILURE TO FILE.—

15 (1) RETURN.—Subparagraph (B) of section
16 6724(d)(1) is amended—

17 (A) by striking “or” at the end of clause
18 (xx),

19 (B) by redesignating the clause (xix) that
20 follows clause (xx) as clause (xxi),

21 (C) by striking “and” at the end of clause
22 (xxi), as redesignated by subparagraph (B) and
23 inserting “or”, and

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

1 “(xxii) section 6050W (relating to re-
2 turns to payments made in settlement of
3 payment card transactions), and”.

4 (2) *STATEMENT.*—Paragraph (2) of section
5 6724(d) is amended by striking “or” at the end of
6 subparagraph (BB), by striking the period at the end
7 of the subparagraph (CC) and inserting “, or”, and
8 by inserting after subparagraph (CC) the following:

9 “(DD) section 6050W(c) (relating to returns
10 relating to payments made in settlement of pay-
11 ment card transactions).”.

12 (c) *APPLICATION OF BACKUP WITHHOLDING.*—Para-
13 graph (3) of section 3406(b) is amended by striking “or”
14 at the end of subparagraph (D), by striking the period at
15 the end of subparagraph (E) and inserting “, or”, and by
16 adding at the end the following new subparagraph:

17 “(F) section 6050W (relating to returns re-
18 lating to payments made in settlement of pay-
19 ment card transactions).”.

20 (d) *CLERICAL AMENDMENT.*—The table of sections for
21 subpart B of part III of subchapter A of chapter 61 is
22 amended by inserting after the item relating to section
23 6050V the following:

 “Sec. 6050W. Returns relating to payments made in settlement of payment card
 transactions.”.

24 (e) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*Except as otherwise provided*
 2 *in this subsection, the amendments made by this sec-*
 3 *tion shall apply to returns for calendar years begin-*
 4 *ning after December 31, 2010.*

5 (2) *APPLICATION OF BACKUP WITHHOLDING.*—
 6 *The amendment made by subsection (c) shall apply to*
 7 *amounts paid after December 31, 2011.*

8 **SEC. 3092. GAIN FROM SALE OF PRINCIPAL RESIDENCE AL-**
 9 **LOCATED TO NONQUALIFIED USE NOT EX-**
 10 **CLUDED FROM INCOME.**

11 (a) *IN GENERAL.*—*Subsection (b) of section 121 of the*
 12 *Internal Revenue Code of 1986 (relating to limitations) is*
 13 *amended by adding at the end the following new paragraph:*

14 “(4) *EXCLUSION OF GAIN ALLOCATED TO NON-*
 15 *QUALIFIED USE.*—

16 “(A) *IN GENERAL.*—*Subsection (a) shall not*
 17 *apply to so much of the gain from the sale or ex-*
 18 *change of property as is allocated to periods of*
 19 *nonqualified use.*

20 “(B) *GAIN ALLOCATED TO PERIODS OF NON-*
 21 *QUALIFIED USE.*—*For purposes of subparagraph*
 22 *(A), gain shall be allocated to periods of non-*
 23 *qualified use based on the ratio which—*

1 “(i) the aggregate periods of non-
2 qualified use during the period such prop-
3 erty was owned by the taxpayer, bears to

4 “(ii) the period such property was
5 owned by the taxpayer.

6 “(C) *PERIOD OF NONQUALIFIED USE.*—For
7 purposes of this paragraph—

8 “(i) *IN GENERAL.*—The term ‘period of
9 nonqualified use’ means any period (other
10 than the portion of any period preceding
11 January 1, 2009) during which the prop-
12 erty is not used as the principal residence
13 of the taxpayer or the taxpayer’s spouse or
14 former spouse.

15 “(ii) *EXCEPTIONS.*—The term ‘period
16 of nonqualified use’ does not include—

17 “(I) any portion of the 5-year pe-
18 riod described in subsection (a) which
19 is after the last date that such property
20 is used as the principal residence of the
21 taxpayer or the taxpayer’s spouse,

22 “(II) any period (not to exceed an
23 aggregate period of 10 years) during
24 which the taxpayer or the taxpayer’s
25 spouse is serving on qualified official

1 *extended duty (as defined in subsection*
2 *(d)(9)(C)) described in clause (i), (ii),*
3 *or (iii) of subsection (d)(9)(A), and*

4 *“(III) any other period of tem-*
5 *porary absence (not to exceed an aggre-*
6 *gate period of 2 years) due to change*
7 *of employment, health conditions, or*
8 *such other unforeseen circumstances as*
9 *may be specified by the Secretary.*

10 *“(D) COORDINATION WITH RECOGNITION OF*
11 *GAIN ATTRIBUTABLE TO DEPRECIATION.—For*
12 *purposes of this paragraph—*

13 *“(i) subparagraph (A) shall be applied*
14 *after the application of subsection (d)(6),*
15 *and*

16 *“(ii) subparagraph (B) shall be ap-*
17 *plied without regard to any gain to which*
18 *subsection (d)(6) applies.”.*

19 *(b) EFFECTIVE DATE.—The amendment made by this*
20 *section shall apply to sales and exchanges after December*
21 *31, 2008.*

22 **SEC. 3093. INCREASE IN INFORMATION RETURN PEN-**
23 **ALTIES.**

24 *(a) FAILURE TO FILE CORRECT INFORMATION RE-*
25 *TURNS.—*

1 (1) *IN GENERAL.*—Subsections (a)(1), (b)(1)(A),
2 and (b)(2)(A) of section 6721 are each amended by
3 striking “\$50” and inserting “\$100”.

4 (2) *AGGREGATE ANNUAL LIMITATION.*—Sub-
5 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section
6 6721 are each amended by striking “\$250,000” and
7 inserting “\$1,500,000”.

8 (b) *REDUCTION WHERE CORRECTION WITHIN 30*
9 *DAYS.*—

10 (1) *IN GENERAL.*—Subparagraph (A) of section
11 6721(b)(1) is amended by striking “\$15” and insert-
12 ing “\$50”.

13 (2) *AGGREGATE ANNUAL LIMITATION.*—Sub-
14 sections (b)(1)(B) and (d)(1)(B) of section 6721 are
15 each amended by striking “\$75,000” and inserting
16 “\$500,000”.

17 (c) *REDUCTION WHERE CORRECTION ON OR BEFORE*
18 *AUGUST 1.*—

19 (1) *IN GENERAL.*—Subparagraph (A) of section
20 6721(b)(2) is amended by striking “\$30” and insert-
21 ing “\$75”.

22 (2) *AGGREGATE ANNUAL LIMITATION.*—Sub-
23 sections (b)(2)(B) and (d)(1)(C) of section 6721 are
24 each amended by striking “\$150,000” and inserting
25 “\$1,000,000”.

1 (d) *AGGREGATE ANNUAL LIMITATIONS FOR PERSONS*
2 *WITH GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—*

3 *Paragraph (1) of section 6721(d) is amended—*

4 (1) *by striking “\$100,000” in subparagraph (A)*
5 *and inserting “\$500,000”,*

6 (2) *by striking “\$25,000” in subparagraph (B)*
7 *and inserting “\$100,000”, and*

8 (3) *by striking “\$50,000” in subparagraph (C)*
9 *and inserting “\$250,000”.*

10 (e) *PENALTY IN CASE OF INTENTIONAL DISREGARD.—*

11 *Paragraph (2) of section 6721(e) is amended by striking*
12 *“\$100” and inserting “\$250”.*

13 (f) *FAILURE TO FURNISH CORRECT PAYEE STATE-*
14 *MENTS.—*

15 (1) *IN GENERAL.—Subsection (a) of section 6722*
16 *is amended by striking “\$50” and inserting “\$100”.*

17 (2) *AGGREGATE ANNUAL LIMITATION.—Sub-*
18 *sections (a) and (c)(2)(A) of section 6722 are each*
19 *amended by striking “\$100,000” and inserting*
20 *“\$500,000”.*

21 (3) *PENALTY IN CASE OF INTENTIONAL DIS-*
22 *REGARD.—Paragraph (1) of section 6722(c) is*
23 *amended by striking “\$100” and inserting “\$250”.*

24 (g) *FAILURE TO COMPLY WITH OTHER INFORMATION*
25 *REPORTING REQUIREMENTS.—Section 6723 is amended—*

1 (1) by striking “\$50” and inserting “\$100”, and
2 (2) by striking “\$100,000” and inserting
3 “\$500,000”.

4 (h) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply with respect to information returns re-
6 quired to be filed on or after January 1, 2009.

7 **SEC. 3094. INCREASE IN PENALTY FOR FAILURE TO FILE S**
8 **CORPORATION RETURNS.**

9 (a) *IN GENERAL.*—Paragraph (1) of section 6699(b)
10 (relating to amount per month) is amended by striking
11 “\$85” and inserting “\$100”.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
13 section shall apply to returns the due date for the filing
14 of which (including extensions) is after the date of the enact-
15 ment of this Act.

16 **SEC. 3095. INCREASE IN PENALTY FOR FAILURE TO FILE**
17 **PARTNERSHIP RETURNS.**

18 (a) *INCREASE IN PENALTY AMOUNT.*—Paragraph (1)
19 of section 6698(b) (relating to amount per month) is
20 amended by striking “\$85” and inserting “\$100”.

21 (b) *EFFECTIVE DATE.*—The amendment made by this
22 section shall apply to returns the due date for the filing
23 of which (including extensions) is after the date of the enact-
24 ment of this Act.

1 **SEC. 3096. INCREASE IN MINIMUM PENALTY ON FAILURE TO**
2 **FILE A RETURN OF TAX.**

3 (a) *IN GENERAL.*—Subsection (a) of section 6651, as
4 amended by section 303(a) of the Heroes Earnings Assist-
5 ance and Relief Tax Act of 2008, is amended by striking
6 “\$135” in the last sentence and inserting “\$225”.

7 (b) *EFFECTIVE DATE.*—The amendment made by this
8 section shall apply to returns the due date for the filing
9 of which (including extensions) is after the date of the enact-
10 ment of this Act.

Resolved further, That on July 8, 2008, the Senate con-
curs in the House amendments, striking titles VI through XI,
to the Senate amendment to the aforesaid bill;

Resolved further, That on July 11, 2008, the Senate dis-
agrees to the amendments of the House, adding a new title
and inserting a new section to the amendment of the Senate
to the aforesaid bill.

Attest:

Secretary.

110TH CONGRESS
2^D SESSION

H.R. 3221

**SENATE AMENDMENT
TO HOUSE
AMENDMENTS TO
SENATE AMENDMENT**