

104TH CONGRESS
2D SESSION

S. 2095

To promote the capacity and accountability of Government corporations and Government sponsored enterprises.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 1996

Mr. SIMON (for himself and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To promote the capacity and accountability of Government corporations and Government sponsored enterprises.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Government Corpora-
5 tion and Government Sponsored Enterprise Standards
6 Act”.

7 **SEC. 2. PURPOSES.**

8 The purposes of this Act are to—

9 (1) ensure that Government corporations and
10 Government sponsored enterprises—

1 (A) are established and conduct their oper-
2 ations in conformance with consistent standards
3 as to the applicability of Federal laws; and

4 (B) are fully accountable for their financial
5 soundness and programmatic activities; and

6 (2) provide an orderly process for privatizing
7 selected Government corporations.

8 **SEC. 3. DEFINITIONS.**

9 For the purposes of this Act the term—

10 (1) “Government corporation” means an agency
11 of the United States within the executive branch
12 that—

13 (A) is designated by law to have corporate
14 form;

15 (B) carries out business type operations to
16 provide goods or services in response to eco-
17 nomic demand; and

18 (C) produces revenues, potentially on a
19 self-sustaining basis;

20 (2) “Government sponsored enterprise” or
21 “GSE” means an instrumentality that—

22 (A) is chartered under the laws of the
23 United States to provide specialized financial
24 services in furtherance of public purposes;

1 (B) is owned wholly or in part by private
2 equity owners; and

3 (C) has a relationship to the Federal Gov-
4 ernment, such as authority to borrow directly or
5 indirectly from the Treasury of the United
6 States, that creates a public perception of im-
7 plicit Federal backing of its obligations or guar-
8 anteed securities;

9 (3) “newly established wholly owned Govern-
10 ment corporation” means a wholly owned Govern-
11 ment corporation which is established under a stat-
12 ute enacted after December 31, 1996;

13 (4) “newly established transitional Government
14 corporation” means a transitional Government cor-
15 poration which is established under a statute en-
16 acted after December 31, 1996;

17 (5) “newly established Government sponsored
18 enterprise” means a Government sponsored enter-
19 prise which is established under a statute enacted
20 after December 31, 1996;

21 (6) “transitional Government corporation”
22 means a Government corporation that is intended
23 to—

24 (A) operate on a profitmaking basis; and

1 (B) be converted to private ownership
2 when feasible; and

3 (7) “wholly owned Government corporation”—

4 (A) means a Government corporation that
5 is wholly owned or controlled by the Federal
6 Government; and

7 (B) includes a transitional Government
8 corporation except as otherwise provided by law.

9 **TITLE I—CLASSIFICATIONS OF**
10 **GOVERNMENT CORPORA-**
11 **TIONS AND GSES**

12 **SEC. 101. CLASSIFICATION.**

13 (a) IN GENERAL.—The Director of the Office of
14 Management and Budget shall—

15 (1) maintain a list of all Government corpora-
16 tions and Government sponsored enterprises classi-
17 fied according to the definitions of this Act; and

18 (2) publish such list as a part of the annual
19 budget of the United States Government.

20 (b) RECOMMENDATIONS.—The Director of the Office
21 of Management and Budget shall make legislative rec-
22 ommendations to the Congress to ensure that this Act ap-
23 plies to entities established under statutes that are en-
24 acted or amended after December 31, 1996.

1 **TITLE II—GENERAL PROVISIONS**

2 **SEC. 201. RESERVATION.**

3 The Congress expressly reserves the right to alter,
4 amend or repeal any law establishing or governing the ac-
5 tivities of a Government corporation or Government spon-
6 sored enterprise.

7 **SEC. 202. AFFILIATES.**

8 Each newly established Government corporation or
9 newly established Government sponsored enterprise may
10 establish, acquire or control the activities of a subsidiary
11 or other affiliate only by or under a law of the United
12 States expressly authorizing the action.

13 **SEC. 203. APPLICATION OF THIS ACT.**

14 On and after the effective date of this Act no entity
15 established under Federal law shall be a Government cor-
16 poration or Government sponsored enterprise without con-
17 forming to the requirements and definitions of this Act.

18 **TITLE III—WHOLLY OWNED** 19 **GOVERNMENT CORPORATIONS**

20 **SEC. 301. APPLICABILITY.**

21 This title applies only to newly established wholly
22 owned Government corporations.

23 **SEC. 302. GOVERNMENT CORPORATION CONTROL ACT.**

24 Each wholly owned Government corporation shall be
25 subject to the provisions of chapter 91 of title 31, United

1 States Code, that are applicable to wholly owned Govern-
2 ment corporations under that Act.

3 **SEC. 303. SUNSET.**

4 Except as specifically provided by law, each newly es-
5 tablished wholly owned Government corporation—

6 (1) shall terminate 10 years after the date on
7 which such corporation is established; and

8 (2) may be extended for additional 10-year peri-
9 ods by the Congress.

10 **SEC. 304. GENERAL POWERS.**

11 (a) IN GENERAL.—In order to accomplish its statu-
12 tory purposes and in addition to any other powers that
13 may be authorized by law, each wholly owned Government
14 corporation—

15 (1) may adopt, alter, and use a corporate seal,
16 which shall be judicially noticed;

17 (2) may sue and be sued in its corporate name
18 and be represented by its own attorneys in all ad-
19 ministrative and judicial proceedings, including, with
20 the prior approval of the Attorney General, appeals
21 from decisions of Federal courts;

22 (3) may indemnify directors, officers, attorneys,
23 agents, and employees of the corporation for liabil-
24 ities and expenses relating to corporate activities;

1 (4) may adopt, amend, and repeal bylaws, rules,
2 and regulations governing the manner in which its
3 business may be conducted and the powers granted
4 to it by law may be exercised and enjoyed;

5 (5) may determine the rates or prices of goods
6 or services that it provides, subject to applicable pro-
7 visions of law;

8 (6)(A) may acquire, purchase, lease, and hold
9 real and personal property including patents and
10 proprietary data, as it determines necessary in the
11 transaction of its business, and sell, lease, grant,
12 and dispose of such real and personal property, as
13 it determines necessary to effectuate the purposes of
14 this Act; and

15 (B) shall make purchases, contracts for the
16 construction, maintenance, or management and op-
17 eration of facilities and contracts for supplies or
18 services, except personal services, after advertising,
19 in such manner and at such times sufficiently in ad-
20 vance of opening bids, as the corporation shall deter-
21 mine to be adequate to ensure notice and an oppor-
22 tunity for competition, except that advertising shall
23 not be required when the corporation determines
24 that—

1 (i) the making of any such purchase or
2 contract without advertising is necessary in the
3 interest of furthering the purposes of this Act;

4 or

5 (ii) advertising is not reasonably prac-
6 ticable;

7 (7) with the consent of the agency or Govern-
8 ment concerned, may utilize or employ the services,
9 records, facilities or personnel of any State or local
10 Government agency or instrumentality, or voluntary
11 or uncompensated personnel to perform such func-
12 tions on its behalf as may appear desirable;

13 (8) may enter into and perform such contracts,
14 leases, cooperative agreements, or other transactions
15 as may be necessary in the conduct of its business
16 on a reimbursable basis, with any agency or instru-
17 mentality of the United States, or with any State,
18 territory, or possession, or with any political subdivi-
19 sion thereof, or with any person, firm, association,
20 or corporation;

21 (9) may determine the character of and the ne-
22 cessity for its obligations and expenditures and the
23 manner in which they shall be incurred, allowed, and
24 paid, subject to this Act and other provisions of law

1 specifically applicable to wholly owned Government
2 corporations;

3 (10) may retain and utilize its revenues for any
4 of the purposes of the corporation, including re-
5 search and development and capital investment, and
6 such revenues and funds of the corporation shall not
7 be subject to apportionment under the provisions of
8 subchapter II of chapter 15 of title 31, United
9 States Code;

10 (11) may settle and adjust claims held by the
11 corporation against other persons or parties and
12 claims by other persons or parties against the cor-
13 poration, except that for purposes of the Contract
14 Disputes Act of 1978, the corporation shall be
15 deemed to be the agency head with respect to con-
16 tract claims arising with respect to the corporation;

17 (12) may exercise, in the name of the United
18 States, the power of eminent domain for the further-
19 ance of the official purposes of the corporation;

20 (13) shall have the priority of the United States
21 with respect to the payment of debts out of bank-
22 rupt, insolvent, and decedents' estates;

23 (14) may define appropriate information as
24 Government commercial information and exempt
25 such information from mandatory release under sec-

1 tion 552(b)(3) of title 5, United States Code, when
2 the corporation determines that such information, if
3 publicly released, would harm the corporation's le-
4 gitimate commercial interests or those of a third
5 party;

6 (15) may obtain from the Administrator of
7 General Services such services as the Administrator
8 is authorized to provide to agencies of the United
9 States, on the same basis as those services are pro-
10 vided to other agencies of the United States;

11 (16) may accept gifts or donations of services,
12 or of property, real, personal, mixed, tangible or in-
13 tangible, in aid of any purposes of this Act;

14 (17) may execute, in accordance with its by-
15 laws, rules and regulations, all instruments nec-
16 essary and appropriate in the exercise of any of its
17 powers;

18 (18) may provide for liability insurance either
19 by contract or by self-insurance; and

20 (19) shall pay any settlement or judgment en-
21 tered against the corporation from the funds of the
22 corporation and not from funds made available pur-
23 suant to section 1304 of title 31, United States
24 Code.

1 (b) FEDERAL TORT CLAIMS.—Chapter 171 and sec-
2 tion 1346(b) of title 28, United States Code, shall not
3 apply to any claims arising from the activities of a wholly
4 owned Government corporation.

5 **SEC. 305. OFFICERS AND EMPLOYEES.**

6 Officers and employees of a wholly owned Govern-
7 ment corporation shall be officers and employees of the
8 United States. The corporation shall appoint and fix the
9 compensation of such officers and employees (including at-
10 torneys) and agents of the corporation as are determined
11 necessary to effect this Act, define their authority and du-
12 ties, and delegate to officers, employees, and agents such
13 of the powers vested in the corporation as the corporation
14 may decide, without regard to any administratively im-
15 posed limits on the number or grade of personnel, and any
16 such officer, employee, or agent shall be subject to the su-
17 pervision only of the corporation.

18 **SEC. 306. OBLIGATIONS AND GUARANTEES.**

19 The full faith and credit of the United States is
20 pledged to the payment of all obligations issued or guaran-
21 teed by each wholly owned Government corporation.

1 **SEC. 307. CONTRIBUTIONS TO RETIREMENT AND**
2 **DISABILITY AND EMPLOYEES' COMPENSA-**
3 **TION FUNDS.**

4 (a) **RETIREMENT CONTRIBUTIONS.**—Each wholly
5 owned corporation shall contribute to the Civil Service Re-
6 tirement and Disability Fund established under section
7 8348 of title 5, United States Code, or other applicable
8 Federal retirement fund, on the basis of annual billings
9 as determined by the Office of Personnel Management, for
10 the Government contribution to the Federal retirement
11 system applicable to the corporation's employees and their
12 beneficiaries.

13 (b) **COMPENSATION CONTRIBUTIONS.**—Each wholly
14 owned corporation shall contribute to the Employees'
15 Compensation Fund established under section 8147 of
16 title 5, United States Code, on the basis of annual billings
17 as determined by the Secretary of Labor, for the benefit
18 payments made from such Fund on account of the cor-
19 poration's employees.

20 (c) **ADMINISTRATIVE COSTS.**—The annual billings
21 under subsections (a) and (b) shall include a statement
22 of the fair portion of the cost of administration of the re-
23 spective funds, which shall be paid into the Treasury as
24 miscellaneous receipts.

1 **SEC. 308. FINANCIAL STATEMENTS.**

2 Except as otherwise provided by law, each wholly
3 owned Government corporation shall—

4 (1) maintain a system of accounts and publish
5 its financial statements annually on the basis of gen-
6 erally accepted accounting principles; and

7 (2) be subject to audit on the basis of auditing
8 standards that are consistent with the private sec-
9 tor's generally accepted commercial auditing stand-
10 ards.

11 **SEC. 309. NEW ACTIVITIES.**

12 No wholly owned Government corporation shall en-
13 gage in new types of business activities before such activi-
14 ties are included in the annual budget program that is
15 approved by the Congress.

16 **SEC. 310. REVENUES FOREGONE.**

17 There are authorized to be appropriated to each whol-
18 ly owned Government corporation each year such sums as
19 are determined by the corporation to be equal to revenues
20 foregone by the corporation as a result of the operation
21 of laws that direct the corporation, for reasons of national
22 policy to provide goods or services at prices or rates below
23 a reasonable estimate of the cost of production.

24 **SEC. 311. BUDGET LIMITATIONS.**

25 The funds, accounts, receipts and outlays of wholly
26 owned Government corporations are exempt from any gen-

1 eral budget limitation imposed by statute upon expendi-
 2 tures and net lending (budget outlays) of the United
 3 States, sequestration order or discretionary spending
 4 limit, including application of the Balanced Budget and
 5 Emergency Deficit Control Act of 1985 or similar laws.

6 **SEC. 312. PAYMENTS IN LIEU OF TAXES.**

7 (a) EXEMPTION.—Wholly owned Government cor-
 8 porations, including their franchises, property and income,
 9 shall be exempt from all taxation imposed in any manner
 10 or form by any State, county, municipality or local taxing
 11 authority, or any subdivision thereof, except—

12 (1) as otherwise provided by law; and

13 (2) each such corporation shall make payments
 14 to State and local governments in lieu of property
 15 taxes upon real property of the corporation.

16 (b) PAYMENTS.—The corporation shall make pay-
 17 ments described under subsection (a)(2) in the amounts,
 18 at the times and upon the terms that the corporation de-
 19 termines appropriate, and the corporation's determination
 20 in these matters shall be final.

21 **TITLE IV—TRANSITIONAL**
 22 **GOVERNMENT CORPORATIONS**

23 **SEC. 401. APPLICABILITY.**

24 This title applies only to newly established transi-
 25 tional Government corporations.

1 **SEC. 402. SUNSET.**

2 Each transitional Government corporation shall have
3 succession for a period of 5 years from the date of enact-
4 ment of the statute establishing such corporation, unless
5 otherwise provided by law.

6 **SEC. 403. PRIVATIZATION PLANNING.**

7 (a) STRATEGIC PLAN.—No later than 4 years after
8 the date of enactment of the statute establishing such cor-
9 poration, and no later than 4 years after the date of any
10 extension of the statute establishing such corporation,
11 each transitional Government corporation shall prepare a
12 strategic plan for privatizing the corporation and submit
13 such plan to the President and Congress. The plan shall
14 provide that proceeds from the return of capital to the
15 United States shall be deposited in the general fund of
16 the Treasury.

17 (b) CONSIDERATION OF ALTERNATIVE MEANS OF
18 TRANSFERRING OWNERSHIP.—The plan shall include con-
19 sideration of alternative forms of privatization, including
20 consideration of the relative benefits and costs of complete
21 or partial sale of corporate assets or of the going concern
22 in 1 or more units to 1 or more privately owned entities
23 established under the laws of a State or of the District
24 of Columbia.

1 (c) CONSIDERATION OF FACTORS.—The plan shall
2 include consideration of relevant factors including assess-
3 ment whether privatization will—

4 (1) result in a return to the United States at
5 least equal to the net present value of the corpora-
6 tion;

7 (2) not result in ownership, control or domina-
8 tion of the assets or of the acquiring entity or enti-
9 ties, as the case may be, by an alien, a foreign cor-
10 poration, or a foreign government;

11 (3) not be inimical to the health and safety of
12 the public or the common defense and security; and

13 (4) contribute to the competitive structure of
14 the relevant market.

15 (d) EVALUATION AND RECOMMENDATION.—The plan
16 shall evaluate the relative merits of the alternatives consid-
17 ered and the estimated return on the Government’s invest-
18 ment in the corporation achievable through each alter-
19 native. The plan shall include the corporation’s rec-
20 ommendation on the preferred means of privatization.

21 (e) GAO EVALUATION.—No later than 60 days after
22 the submission of the plan to the Congress, the Comptrol-
23 ler General shall submit a report to Congress evaluating
24 the extent to which—

1 (1) the privatization plan would result in any
2 ongoing obligation or undue cost to the Federal Gov-
3 ernment; and

4 (2) the revenues gained by the Federal Govern-
5 ment under the privatization plan would represent at
6 least the net present value of the corporation.

7 **TITLE V—GOVERNMENT** 8 **SPONSORED ENTERPRISES**

9 **SEC. 501. APPLICABILITY.**

10 This title applies only to newly established Govern-
11 ment sponsored enterprises.

12 **SEC. 502. SUNSET.**

13 Each Government sponsored enterprise shall have
14 succession for a period of 10 years, subject to review by
15 the Congress and extension for additional periods of 10
16 years, unless otherwise provided by law. The Secretary of
17 the Treasury shall consider the applicable sunset period
18 in determining the maturities of obligations that each Gov-
19 ernment sponsored enterprise may issue. The Secretary of
20 the Treasury shall issue any regulations that the Secretary
21 determines to be appropriate for the implementation of
22 this title.

23 **SEC. 503. FINANCIAL SAFETY AND SOUNDNESS.**

24 (a) **REQUIRED PROVISIONS.**—The statute establish-
25 ing any Government sponsored enterprise shall address is-

1 sues of financial safety and soundness by including re-
2 quirements that provide for—

3 (1) effective Federal supervision of financial
4 safety and soundness;

5 (2) adequate capital for the GSE; and

6 (3) the GSE to achieve and maintain a high in-
7 vestment grade rating, as prescribed in subsection
8 (b), throughout the existence of the GSE.

9 (b) RATING.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the effective date of the statute establishing each
12 new GSE subject to this Act, the Secretary of the
13 Treasury shall, for each such GSE, contract with 2
14 nationally recognized statistical rating organizations
15 to—

16 (A) assess the likelihood that the GSE will
17 not be able to meet its obligations from its own
18 resources with an assumption that there is no
19 recourse to any implicit Government guarantee
20 and to express that likelihood as a traditional
21 credit rating; and

22 (B) review the rating of the GSE as fre-
23 quently as the Secretary determines is appro-
24 priate, but not less than annually.

1 (2) REIMBURSEMENT.—A Government spon-
2 sored enterprise shall reimburse the Secretary of the
3 Treasury for the full cost of activities under this
4 title, as determined by the Secretary of the
5 Treasury. Such reimbursement shall be credited to
6 the account of the Secretary of the Treasury.

7 (3) COMMENTS.—The Secretary of the Treas-
8 ury shall—

9 (A) submit comments to the Congress on
10 any difference between the evaluation of the
11 rating organizations and that of the Secretary,
12 with special attention to capital adequacy; and

13 (B) report on any actions the Secretary de-
14 termines appropriate to ensure that each GSE
15 continuously maintains a high investment grade
16 rating.

17 (4) REQUIREMENT.—Each such GSE shall
18 achieve and maintain throughout the existence of the
19 GSE 1 of the 2 highest investment grade ratings
20 awarded by each statistical rating organization de-
21 scribed in paragraph (5). The Secretary of the
22 Treasury may waive the requirements of this para-
23 graph by published order on such terms and condi-
24 tions and for such periods of times as the Secretary
25 determines appropriate.

1 (5) DEFINITION.—For the purposes of this sec-
2 tion, the term “nationally recognized statistical rat-
3 ing organization” means—

4 (A) any entity effectively recognized by the
5 Division of Market Regulation of the Securities
6 and Exchange Commission as a nationally rec-
7 ognized statistical rating organization for the
8 purposes of the capital rules for broker-dealers;
9 or

10 (B) an entity similar to an entity described
11 under subparagraph (A), which is designated by
12 the Secretary of the Treasury.

13 (c) REPORTS.—The Comptroller General of the Unit-
14 ed States and the Office of Management and Budget each
15 shall report to the Congress upon the adequacy of provi-
16 sions for effective Federal supervision of safety and sound-
17 ness, including the adequacy of capital standards, con-
18 tained in any bill to create a Government sponsored enter-
19 prise. Each report shall also recommend provisions to be
20 included in such bill to assure compliance with subsection
21 (b).

22 **SEC. 504. PUBLIC PURPOSES.**

23 (a) REQUIRED PROVISIONS.—The statute establish-
24 ing any Government sponsored enterprise shall prescribe
25 the public purposes of the Government sponsored enter-

1 prise in sufficiently specific terms to enable the Congress
2 to make an oversight determination of the accomplishment
3 of such purposes.

4 (b) PLAN FOR REMOVAL OF GOVERNMENT SPONSOR-
5 SHIP.—

6 (1) IN GENERAL.—No later than 1 year after
7 the enactment of the statute establishing a Govern-
8 ment sponsored enterprise, and no later than 1 year
9 after the date of any extension of the statute estab-
10 lishing such Government sponsored enterprise, the
11 Federal agency responsible for supervision of the
12 Government sponsored enterprise, or the Secretary
13 of the Treasury with respect to Government spon-
14 sored enterprises that are not subject to supervision
15 by such a Federal agency, shall—

16 (A) prepare a strategic plan for the re-
17 moval of Government sponsorship from the
18 Government sponsored enterprise; and

19 (B) submit such plan to the President and
20 the Congress.

21 (2) CONTENT OF PLAN.—The strategic plan
22 shall set standards and propose milestones for the
23 Government sponsored enterprise to accomplish its
24 statutory mission and for the removal of Govern-
25 ment sponsorship.

1 (3) REVISION OF PLAN.—The Federal agency
2 or the Secretary of the Treasury, as the case may
3 be, shall update and revise a strategic plan at least
4 every 3 years.

5 (4) GSE VIEWS.—To the extent that the Gov-
6 ernment sponsored enterprise holds views different
7 from those of the Federal agency or the Secretary,
8 the Government sponsored enterprise shall—

9 (A) prepare a strategic plan for the re-
10 moval of Government sponsorship from the
11 Government sponsored enterprise; and

12 (B) submit such plan to the President and
13 the Congress.

14 (c) ULTRA VIRES ACTS OF A GOVERNMENT SPON-
15 SORED ENTERPRISE.—The programs, activities, and
16 transactions of each Government sponsored enterprise
17 shall be subject to review by the Federal agency respon-
18 sible for supervision of the financial safety and soundness
19 of the Government sponsored enterprise, or by the Sec-
20 retary of the Treasury with respect to Government spon-
21 sored enterprises that are not subject to financial super-
22 vision by such a Federal agency. The Federal agency or
23 the Secretary of the Treasury, as the case may be, shall
24 report at least annually to the President and the Congress
25 on any transactions or undertakings which the agency or

1 Secretary determines were carried out or made without
2 authority of law. Such acts shall be null and void except
3 to the extent that the Congress enacts legislation to au-
4 thorize any such act.

5 **SEC. 505. ANNUAL REPORT ON IMPACT OF BORROWING BY**
6 **GOVERNMENT SPONSORED ENTERPRISES ON**
7 **PUBLIC DEBT.**

8 (a) GENERAL REQUIREMENT.—The Secretary of the
9 Treasury shall annually prepare and submit to the Con-
10 gress a report assessing the financial safety and soundness
11 of the activities of all Government sponsored enterprises
12 and the impact of the operations of such corporations on
13 Federal borrowing.

14 (b) ACCESS TO RELEVANT INFORMATION.—

15 (1) INFORMATION FROM GSES.—Each Govern-
16 ment sponsored enterprise shall—

17 (A) provide full and prompt access to the
18 Secretary to its books and records; and

19 (B) promptly provide any other informa-
20 tion requested by the Secretary.

21 (2) INFORMATION FROM SUPERVISORY AGEN-
22 CIES.—In conducting the studies under this section,
23 the Secretary of the Treasury may request informa-
24 tion from, or the assistance of, any Federal depart-

1 ment or agency authorized by law to supervise the
2 activities of any Government sponsored enterprise.

3 (3) CONFIDENTIALITY OF INFORMATION.—

4 (A) IN GENERAL.—The Secretary of the
5 Treasury shall determine and maintain the con-
6 fidentiality of any book, record, or information
7 made available under this subsection in a man-
8 ner that the Secretary determines appropriate
9 for the material submitted by the Government
10 sponsored enterprise involved.

11 (B) EXEMPTION FROM PUBLIC DISCLO-
12 SURE REQUIREMENTS.—The Department of the
13 Treasury shall be exempt from section 552 of
14 title 5, United States Code, with respect to any
15 book, record, or information made available
16 under this subsection and determined by the
17 Secretary to be confidential under subpara-
18 graph (A).

19 (C) PENALTY FOR UNAUTHORIZED DIS-
20 CLOSURE.—Any officer or employee of the De-
21 partment of the Treasury shall be subject to the
22 penalties set forth in section 1906 of title 18,
23 United States Code, if—

24 (i) within the scope of employment,
25 such officer or employee has possession of

1 or access to any book, record, or informa-
2 tion made available under this subsection
3 and determined by the Secretary to be con-
4 fidential under subparagraph (A); and

5 (ii) such officer or employee discloses
6 the material in any manner other than—

7 (I) to an officer or employee of
8 the Department of the Treasury; or

9 (II) pursuant to the exception
10 under section 1906 of title 18, United
11 States Code.

12 (c) ASSESSMENT OF RISK.—

13 (1) IN GENERAL.—In assessing the financial
14 safety and soundness of the activities of Government
15 sponsored enterprises, and the impact of the activi-
16 ties of such enterprises on Federal borrowing, the
17 Secretary of the Treasury shall quantify the risks
18 associated with each Government sponsored enter-
19 prise. In quantifying such risks, the Secretary shall
20 determine—

21 (A) the volume and type of securities out-
22 standing which are issued or guaranteed by
23 each Government sponsored enterprise;

24 (B) the capitalization of each Government
25 sponsored enterprise; and

1 (C) the degree of risk involved in the oper-
2 ations of each Government sponsored enterprise
3 due to factors such as credit risk, interest rate
4 risk, management and operations risk, and
5 business risk.

6 (2) PUBLICLY AVAILABLE INFORMATION.—The
7 Secretary shall also report on the quality and timeli-
8 ness of information available to the public and the
9 Federal Government concerning the extent and na-
10 ture of the activities of Government sponsored enter-
11 prises and the financial risk associated with such
12 activities.

13 (d) ASSESSMENT OF IMPACT.—In assessing the im-
14 pact on Federal borrowing, the Secretary shall report
15 upon the impact of the issuance or guarantee of securities
16 by Government sponsored enterprises on—

17 (1) the rate of interest and amount of discount
18 offered on obligations issued by the Secretary each
19 year; and

20 (2) the marketability of such obligations.

21 (e) DATE FOR SUBMISSION OF REPORT.—The report
22 required by subsection (a) shall be submitted to the Con-
23 gress no later than January 1 of the first calendar year
24 beginning after the date of the enactment of this section,
25 and no later than each January 1 thereafter.

1 **SEC. 506. AUDITS.**

2 (a) IN GENERAL.—Each Government sponsored en-
3 terprise shall have an annual independent audit made of
4 its financial statements by an independent public account-
5 ant in accordance with generally accepted auditing stand-
6 ards. In conducting an audit under this subsection, the
7 independent public accountant shall determine and report
8 on—

9 (1) whether the financial statements of the Gov-
10 ernment sponsored enterprise are presented fairly in
11 accordance with generally accepted accounting prin-
12 ciples; and

13 (2) each transaction or undertaking which the
14 auditor believes was carried out or made without au-
15 thority of law.

16 (b) AUDIT BY COMPTROLLER GENERAL.—

17 (1) IN GENERAL.—The programs, activities, re-
18 ceipts, expenditures, and financial transactions of
19 each Government sponsored enterprise shall be sub-
20 ject to audit by the Comptroller General of the Unit-
21 ed States under such rules and regulations as may
22 be prescribed by the Comptroller General. The rep-
23 resentatives of the General Accounting Office shall—

24 (A) have access to such books, accounts, fi-
25 nancial records, reports, files, and such other
26 papers, things, or property belonging to or in

1 use by the GSE and necessary to facilitate the
2 audit; and

3 (B) be afforded full facilities for verifying
4 transactions with the balances or securities held
5 by depositories, fiscal agents, and custodians.

6 (2) REPORT TO CONGRESS.—A report on each
7 such audit shall be submitted by the Comptroller
8 General to the Congress. The GSE shall reimburse
9 the General Accounting Office for the full cost of
10 any such audit as billed therefor by the Comptroller
11 General.

12 (3) ACCESS TO INFORMATION.—To carry out
13 this subsection, the representatives of the General
14 Accounting Office shall have access, upon request to
15 the GSE or any auditor for an audit of the GSE
16 under subsection (a), to any books, accounts, finan-
17 cial records, reports, files, or other papers, things, or
18 property belonging to or in use by the GSE and
19 used in any such audit and to any papers, records,
20 files, and reports of the auditor used in such an
21 audit.

22 (4) PROGRAM AUDITS.—At least every 3 years
23 the Comptroller General shall conduct program au-
24 dits of each Government sponsored enterprise under
25 this section. Each audit and report by the Comptrol-

1 ler General shall include specifically each transaction
2 or undertaking which the Comptroller General be-
3 lieves was carried out or made without authority of
4 law.

5 **SEC. 507. SHAREHOLDER RIGHTS.**

6 To the extent consistent with Federal law, sharehold-
7 ers in an investor-owned Government sponsored enterprise
8 shall have the rights relative to the GSE and its manage-
9 ment that are accorded to shareholders under the Busi-
10 ness Corporation Act of the District of Columbia.

11 **SEC. 508. JURISDICTION.**

12 All securities issued or guaranteed by a Government
13 sponsored enterprise shall be subject to the laws adminis-
14 tered by the Securities and Exchange Commission.

15 **SEC. 509. EQUITY SECURITIES.**

16 No equity securities issued by a Government spon-
17 sored enterprise shall be lawful investments for—

18 (1) any institution with deposits or other liabil-
19 ities insured or otherwise guaranteed by an agency
20 of the Federal Government; or

21 (2) any Government Sponsored Enterprise
22 other than the Government sponsored enterprise
23 that issues the equity securities.

1 **SEC. 510. FEDERAL INVESTMENTS.**

2 No securities issued or guaranteed by a Government
3 sponsored enterprise shall be lawful investments or accept-
4 ed as security for any fiduciary, trust, and public funds,
5 the investment or deposit of which shall be under the au-
6 thority and control of the United States or any officer or
7 officer thereof.

8 **SEC. 511. TAXATION.**

9 Each Government sponsored enterprise, including its
10 activities, holdings and income, and income from securities
11 issued or guaranteed by a Government sponsored enter-
12 prise, shall be subject to all taxation imposed by Federal,
13 State, and local governments and taxing authorities to the
14 same extent as other business organizations, and income
15 from their securities, are taxed.

16 **SEC. 512. REPORT TO THE CONGRESS.**

17 A Government sponsored enterprise shall submit an
18 annual report to the Congress including—

19 (1) a list including the name and address of
20 each contractor, consultant, agent, or employee paid
21 by the Government sponsored enterprise to engage
22 in—

23 (A) grassroots organizing or campaigning;

24 (B) public relations, media consulting, or
25 image advertising; or

1 (C) lobbying, including the direct and indi-
2 rect lobbying of the Congress;

3 (2) an itemization of all costs associated with
4 activities described in paragraph (1) whether in-
5 curred by the Government sponsored enterprise or
6 by any of its contractors, consultants, agents, or em-
7 ployee listed under such paragraph, including enter-
8 tainment expenses, travel expenses, advertising
9 costs, salaries, billing rates and the total amount
10 billed for services;

11 (3) a description of any lobbying of the Con-
12 gress or the executive branch by employees, board
13 members, or officers of the Government sponsored
14 enterprise;

15 (4) a description of any effort by the Govern-
16 ment sponsored enterprise or its agents to encourage
17 others to lobby the Congress or the executive
18 branch;

19 (5) a list of all charitable donations paid by the
20 Government sponsored enterprise on behalf of Mem-
21 bers of Congress or members of the executive
22 branch;

23 (6) a list of the salaries and other compensation
24 (including the present value of stock options) and

1 benefits paid to the officers and board members of
2 the Government sponsored enterprise; and

3 (7) a list of all Government sponsored enter-
4 prise employees who have been employed by either
5 the Congress or the Federal Government in the 5
6 years preceding the report, and such employees' sal-
7 ary prior to being employed by the Government
8 sponsored enterprise and the salary of each such
9 employee.

10 **TITLE VI—GOVERNMENT**
11 **CORPORATION CONTROL ACT**

12 **SEC. 601. DEFINITIONS.**

13 (a) GOVERNMENT CORPORATION.—Section 9101(1)
14 of title 31, United States Code, is amended to read as
15 follows:

16 “(1) ‘Government corporation’ means a wholly
17 owned Government corporation and a Government
18 sponsored enterprise.”.

19 (b) GOVERNMENT SPONSORED ENTERPRISE.—Sec-
20 tion 9101(2) of title 31, United States Code, is amended
21 to read as follows:

22 “(2) ‘Government sponsored enterprise’ means
23 the Federal Home Loan Banks, the Farm Credit
24 Banks, the Banks for Cooperatives of the Farm
25 Credit System, and such other Government spon-

1 sored enterprises as the Secretary of the Treasury
2 may designate from time to time.”.

3 (c) WHOLLY OWNED GOVERNMENT CORPORA-
4 TION.—Section 9101(3) of title 31, United States Code,
5 is amended by adding at the end:

6 “(O) The National Railroad Passenger
7 Corporation.

8 “(P) The Federal Deposit Insurance
9 Corporation.

10 “(Q) The National Credit Union Adminis-
11 tration Central Liquidity Facility.

12 “(R) The Rural Telephone Bank.

13 “(S) The Resolution Trust Corporation.”.

14 **SEC. 602. AUDITS.**

15 Section 9105 of title 31, United States Code, is
16 amended to read as follows:

17 **“§ 9105. Audits**

18 “(a) The programs, activities, receipts, expenditures
19 and financial transactions of each wholly owned Govern-
20 ment corporation shall be audited annually by the Comp-
21 troller General of the United States under such rules and
22 regulations as may be prescribed by the Comptroller Gen-
23 eral. The representatives of the General Accounting Office
24 shall have access to such books, accounts, financial
25 records, reports, files and such other papers, things, or

1 property belonging to or in use by the corporation and
2 necessary to facilitate the audit, and they shall be afforded
3 full facilities for verifying transactions with the balances
4 or securities held by depositories, fiscal agents, and
5 custodians. The representatives of the General Accounting
6 Office shall have access, upon request to the corporation
7 or any auditor for an audit of the corporation under this
8 section, to any books, financial records, reports, files or
9 other papers, things, or property belonging to or in use
10 by the corporation and used in any such audit and to pa-
11 pers, records, files, and reports of the auditor used in such
12 an audit. In conducting such audit, the Comptroller Gen-
13 eral may make a contract, without regard to section 3709
14 of the Revised Statutes (41 U.S.C. 5), for professional
15 services with a firm or organization for a temporary period
16 or special purpose.

17 “(b) The Comptroller General of the United States
18 shall make a report to the Congress on each audit con-
19 ducted under this section. The report to the Congress shall
20 contain such comments and information as the Comptrol-
21 ler General determines necessary to inform the Congress
22 of the financial operations and condition of the corpora-
23 tion, together with such recommendations as the Comp-
24 troller General determines advisable. The report shall also
25 show specifically any program, expenditure, or other fi-

1 nancial transaction or undertaking, observed, or reviewed
2 in the course of the audit which, in the opinion of the
3 Comptroller General, has been carried out or made with-
4 out authority of law. A copy of each such report shall be
5 furnished to the President, the Secretary of the Treasury,
6 and to the corporation at the time submitted to the Con-
7 gress.

8 “(c) A Government corporation shall reimburse the
9 Comptroller General of the United States for the cost of
10 the audit as determined by the Comptroller General. Such
11 reimbursement shall be credited to the account of the
12 Comptroller General. An audit under this section is in
13 place of an audit of the financial transactions of a Govern-
14 ment corporation the Comptroller General is required to
15 make in reporting to the Congress or the President under
16 another law.”.

17 **SEC. 603. FORMER MIXED-OWNERSHIP GOVERNMENT COR-**
18 **PORATIONS.**

19 Sections 9103–9105 of title 31, United States Code,
20 shall not apply to wholly owned government corporations
21 that formerly were designated mixed-ownership corpora-
22 tions under the Government Corporation Control Act, ex-
23 cept as otherwise provided by law.

1 **SEC. 604. ACCOUNTS AND OBLIGATIONS.**

2 (a) ACCOUNTS.—Section 9107(c) of title 31, United
3 States Code, is amended—

4 (1) in paragraph (2) by striking “mixed-owner-
5 ship Government corporation” and inserting “Gov-
6 ernment sponsored enterprise”; and

7 (2) in paragraph (3) by striking “Federal Inter-
8 mediate Credit Banks, the Central Banks for Co-
9 operatives, the Regional Banks for Cooperatives, or
10 the Federal Land Banks” and inserting “Govern-
11 ment sponsored enterprises”.

12 (b) OBLIGATIONS.—Section 9108(d)(1) of title 31,
13 United States Code, is amended by striking “mixed-owner-
14 ship Government corporation” and inserting “Government
15 sponsored enterprise”.

16 **TITLE VII—SEPARABILITY**

17 **SEC. 701. SEPARABILITY.**

18 If any provision of this Act or the application thereof
19 to any person or circumstances is held invalid, the remain-
20 der of this Act, and the application of such provision to
21 other persons or circumstances shall not be affected
22 thereby.

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