

In the House of Representatives, U. S.,

May 8, 2008.

Resolved, That the House agree to the amendment of the Senate to the title of 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” and be it further

Resolved, That the House agree to the amendment of the Senate to the text of the aforesaid bill, with the following

HOUSE AMENDMENTS TO SENATE AMENDMENTS:

(1) In the matter proposed to be inserted by the amendment of the Senate to the text of the bill, strike section 1 and all that follows through the end of title V and insert the following:

1 ***SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
3 *“American Housing Rescue and Foreclosure Prevention Act*
4 *of 2008”.*

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

Sec. 1. Short title and table of contents.

**TITLE I—FHA HOUSING STABILIZATION AND HOMEOWNERSHIP
RETENTION**

Sec. 101. Short title.

Subtitle A—Homeownership Retention

Sec. 111. Purposes.

Sec. 112. Insurance of homeownership retention mortgages.

Sec. 113. Study of Auction or Bulk Refinance Program.

Sec. 114. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by Secretary of Veterans Affairs.

Sec. 115. Study of possible accounting revisions relating to property at risk of foreclosure and the availability of credit for refinancing home mortgages at risk of foreclosure.

Sec. 116. GAO study of the effect of tightening credit markets in communities affected by the subprime mortgage foreclosure crises and predatory lending on prospective first-time homebuyers seeking mortgages.

Subtitle B—Office of Housing Counseling

Sec. 131. Short title.

Sec. 132. Establishment of Office of Housing Counseling.

Sec. 133. Counseling procedures.

Sec. 134. Grants for housing counseling assistance.

Sec. 135. Requirements to use HUD-certified counselors under HUD programs.

Sec. 136. Study of defaults and foreclosures.

Sec. 137. Definitions for counseling-related programs.

Sec. 138. Updating and simplification of mortgage information booklet.

Subtitle C—Combating Mortgage Fraud

Sec. 151. Authorization of appropriations to combat mortgage fraud.

**TITLE II—FHA REFORM AND MANUFACTURED HOUSING LOAN
INSURANCE MODERNIZATION**

Subtitle A—FHA Reform

Sec. 201. Short title.

Sec. 202. Findings and purposes.

Sec. 203. Maximum principal loan obligation.

Sec. 204. Extension of mortgage term.

Sec. 205. Downpayment simplification.

Sec. 206. Mortgage insurance premiums for qualified homeownership assistance entities and higher-risk borrowers.

Sec. 207. Risk-based mortgage insurance premiums.

Sec. 208. Payment incentives for higher-risk borrowers.

Sec. 209. Protections for higher-risk borrowers.

Sec. 210. Refinancing mortgages.

Sec. 211. Annual reports on new programs and loss mitigation.

Sec. 212. Insurance for single family homes with licensed child care facilities.

Sec. 213. Rehabilitation loans.

Sec. 214. Discretionary action.

Sec. 215. Insurance of condominiums and manufactured housing.

Sec. 216. Mutual Mortgage Insurance Fund.

- Sec. 217. Hawaiian home lands and Indian reservations.*
Sec. 218. Conforming and technical amendments.
Sec. 219. Home equity conversion mortgages.
Sec. 220. Study on participation of mortgage brokers and correspondent lenders.
Sec. 221. Conforming loan limit in disaster areas.
Sec. 222. Failure to pay amounts from escrow accounts for single family mortgages.
Sec. 223. Acceptable identification for FHA mortgagors.
Sec. 224. Pilot program for automated process for borrowers without sufficient credit history.
Sec. 225. Sense of Congress regarding technology for financial systems.
Sec. 226. Clarification of disposition of certain properties.
Sec. 227. Valuation of multifamily properties in noncompetitive sales by HUD to states and localities.
Sec. 228. Limitation on mortgage insurance premium increases.
Sec. 229. Civil money penalties for improperly influencing appraisals.
Sec. 230. Mortgage insurance premium refunds.
Sec. 231. Savings provision.
Sec. 232. Implementation.

Subtitle B—FHA Manufactured Housing Loan Insurance Modernization

- Sec. 251. Short title.*
Sec. 252. Findings and purposes.
Sec. 253. Exception to limitation on financial institution portfolio.
Sec. 254. Insurance benefits.
Sec. 255. Maximum loan limits.
Sec. 256. Insurance premiums.
Sec. 257. Technical corrections.
Sec. 258. Revision of underwriting criteria.
Sec. 259. Requirement of social security account number for assistance.
Sec. 260. GAO study of mitigation of tornado risks to manufactured homes.

TITLE III—REFORM OF GOVERNMENT-SPONSORED ENTITIES FOR HOUSING FINANCE

- Sec. 301. Short title.*
Sec. 302. Definitions.

Subtitle A—Reform of Regulation of Enterprises and Federal Home Loan Banks

CHAPTER 1—IMPROVEMENT OF SAFETY AND SOUNDNESS

- Sec. 311. Establishment of the Federal Housing Finance Agency.*
Sec. 312. Duties and authorities of Director.
Sec. 313. Federal Housing Enterprise Board.
Sec. 314. Authority to require reports by regulated entities.
Sec. 315. Disclosure of income and charitable contributions by enterprises.
Sec. 316. Assessments.
Sec. 317. Examiners and accountants.
Sec. 318. Prohibition and withholding of executive compensation.
Sec. 319. Reviews of regulated entities.
Sec. 320. Inclusion of minorities and women; diversity in Agency workforce.
Sec. 321. Regulations and orders.
Sec. 322. Non-waiver of privileges.
Sec. 323. Risk-based capital requirements.

- Sec. 324. Minimum and critical capital levels.*
- Sec. 325. Review of and authority over enterprise assets and liabilities.*
- Sec. 326. Corporate governance of enterprises.*
- Sec. 327. Required registration under Securities Exchange Act of 1934.*
- Sec. 328. Liaison with Financial Institutions Examination Council.*
- Sec. 329. Guarantee fee study.*
- Sec. 330. Conforming amendments.*

CHAPTER 2—IMPROVEMENT OF MISSION SUPERVISION

- Sec. 331. Transfer of product approval and housing goal oversight.*
- Sec. 332. Review of enterprise products.*
- Sec. 333. Conforming loan limits.*
- Sec. 334. Annual housing report regarding regulated entities.*
- Sec. 335. Annual reports by regulated entities on affordable housing stock.*
- Sec. 336. Mortgagor identification requirements for mortgages of regulated entities.*
- Sec. 337. Revision of housing goals.*
- Sec. 338. Duty to serve underserved markets.*
- Sec. 339. Monitoring and enforcing compliance with housing goals.*
- Sec. 340. Affordable Housing Fund.*
- Sec. 341. Consistency with mission.*
- Sec. 342. Enforcement.*
- Sec. 343. Conforming amendments.*

CHAPTER 3—PROMPT CORRECTIVE ACTION

- Sec. 345. Capital classifications.*
- Sec. 346. Supervisory actions applicable to undercapitalized regulated entities.*
- Sec. 347. Supervisory actions applicable to significantly undercapitalized regulated entities.*
- Sec. 348. Authority over critically undercapitalized regulated entities.*
- Sec. 349. Conforming amendments.*

CHAPTER 4—ENFORCEMENT ACTIONS

- Sec. 351. Cease-and-desist proceedings.*
- Sec. 352. Temporary cease-and-desist proceedings.*
- Sec. 353. Prejudgment attachment.*
- Sec. 354. Enforcement and jurisdiction.*
- Sec. 355. Civil money penalties.*
- Sec. 356. Removal and prohibition authority.*
- Sec. 357. Criminal penalty.*
- Sec. 358. Subpoena authority.*
- Sec. 359. Conforming amendments.*

CHAPTER 5—GENERAL PROVISIONS

- Sec. 361. Boards of enterprises.*
- Sec. 362. Report on portfolio operations, safety and soundness, and mission of enterprises.*
- Sec. 363. Conforming and technical amendments.*
- Sec. 364. Study of alternative secondary market systems.*
- Sec. 365. Effective date.*

Subtitle B—Federal Home Loan Banks

- Sec. 371. Definitions.*
Sec. 372. Directors.
Sec. 373. Federal Housing Finance Agency oversight of Federal Home Loan Banks.
Sec. 374. Joint activities of Banks.
Sec. 375. Sharing of information between Federal Home Loan Banks.
Sec. 376. Reorganization of Banks and voluntary merger.
Sec. 377. Securities and Exchange Commission disclosure.
Sec. 378. Community financial institution members.
Sec. 379. Technical and conforming amendments.
Sec. 380. Study of affordable housing program use for long-term care facilities.
Sec. 381. Effective date.

*Subtitle C—Transfer of Functions, Personnel, and Property of Office of Federal Housing Enterprise Oversight, Federal Housing Finance Board, and Department of Housing and Urban Development**CHAPTER 1—OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT*

- Sec. 385. Abolishment of OFHEO.*
Sec. 386. Continuation and coordination of certain regulations.
Sec. 387. Transfer and rights of employees of OFHEO.
Sec. 388. Transfer of property and facilities.

CHAPTER 2—FEDERAL HOUSING FINANCE BOARD

- Sec. 391. Abolishment of the Federal Housing Finance Board.*
Sec. 392. Continuation and coordination of certain regulations.
Sec. 393. Transfer and rights of employees of the Federal Housing Finance Board.
Sec. 394. Transfer of property and facilities.

CHAPTER 3—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- Sec. 395. Termination of enterprise-related functions.*
Sec. 396. Continuation and coordination of certain regulations.
Sec. 397. Transfer and rights of employees of Department of Housing and Urban Development.
Sec. 398. Transfer of appropriations, property, and facilities.

TITLE IV—EMERGENCY MORTGAGE LOAN MODIFICATION

- Sec. 401. Short title.*
Sec. 402. Safe harbor for qualified loan modifications or workout plans for certain residential mortgage loans.

TITLE V—OTHER HOUSING PROVISIONS

- Sec. 501. Depository Institution Community Development Investments Enhancement.*
Sec. 502. Preservation of certain affordable housing dwelling units.
Sec. 503. Eligibility of certain projects for enhanced voucher assistance.
Sec. 504. Transfer of certain rental assistance contracts.
Sec. 505. Protection against discriminatory treatment.

1 **TITLE I—FHA HOUSING STA-**
2 **BILIZATION AND HOME-**
3 **OWNERSHIP RETENTION**

4 **SEC. 101. SHORT TITLE.**

5 *This title may be cited as the “FHA Housing Sta-*
6 *bilization and Homeownership Retention Act of 2008”.*

7 **Subtitle A—Homeownership**
8 **Retention**

9 **SEC. 111. PURPOSES.**

10 *The purposes of this subtitle are—*

11 *(1) to create an FHA program, which is vol-*
12 *untary on the part of borrowers and existing mort-*
13 *gage loan holders, including both existing senior*
14 *mortgage loan holders and existing subordinate mort-*
15 *gage loan holders, to insure refinance loans for sub-*
16 *stantial numbers of borrowers at risk of foreclosure, at*
17 *levels which are reasonably likely to be sustainable*
18 *through enhanced affordability of debt service;*

19 *(2) to provide flexible underwriting for FHA-in-*
20 *sured loans under such a program to provide refi-*
21 *nancing opportunities under fiscally responsible*
22 *terms, including higher fees commensurate with high-*
23 *er risk levels, a seasoning requirement for higher debt*
24 *to income loans, and additional program controls to*
25 *limit and control risk;*

1 (3) to bar speculators and second home owners
2 from participation in such program;

3 (4) to require existing mortgage loan holders to
4 take substantial loan writedowns in exchange for hav-
5 ing the Federal Government and the borrower assume
6 the ongoing risk of the refinanced loan;

7 (5) to set a loan-to-value limit on such loans
8 that provides the FHA with an equity buffer against
9 potential loan losses, provides protections against the
10 risk of future home price declines, and creates incen-
11 tives for borrowers to maintain payments on the loan;

12 (6) to protect the FHA against losses which may
13 exceed normal FHA loss levels by establishing higher
14 fee levels, including an exit fee and profit sharing
15 during the first five years of the loan, with such high-
16 er fee levels effectively being funded through the re-
17 quired lender writedown;

18 (7) to provide a fair level of incentives for junior
19 lien holders to provide the necessary releases of their
20 lien interests, in order to meet program requirements
21 that all outstanding liens must be extinguished, and
22 thereby permit the refinancing to be completed;

23 (8) to enhance the administrative capacity of the
24 FHA to carry out its expanded role under the pro-
25 gram through establishment of an Oversight Board

1 *which adds expertise from the Federal Reserve and the*
 2 *Department of the Treasury, through additional fund-*
 3 *ing to contract out for the provision of any needed ex-*
 4 *pertise in designing program requirements and over-*
 5 *sight, and through additional funding to increase*
 6 *FHA personnel resources as needed to handle the in-*
 7 *creased loan volume resulting from the program;*

8 *(9) to sunset the program when it is no longer*
 9 *needed; and*

10 *(10) to study the need for and efficacy of an auc-*
 11 *tion or bulk refinancing mechanism to facilitate more*
 12 *expeditious refinancing of larger volumes of existing*
 13 *mortgages that are at risk for foreclosure into FHA-*
 14 *insured mortgages.*

15 **SEC. 112. INSURANCE OF HOMEOWNERSHIP RETENTION**
 16 **MORTGAGES.**

17 *(a) MORTGAGE INSURANCE PROGRAM.—Title II of the*
 18 *National Housing Act (12 U.S.C. 1707 et seq.) is amended*
 19 *by adding at the end the following new section:*

20 **“SEC. 257. INSURANCE OF HOMEOWNERSHIP RETENTION**
 21 **MORTGAGES.**

22 **“(a) OVERSIGHT BOARD.—**

23 **“(1) ESTABLISHMENT.—***There is hereby estab-*
 24 *lished the Refinance Program Oversight Board (in*
 25 *this section referred to as the ‘Oversight Board’).*

1 “(2) *MEMBERSHIP.*—*The Oversight Board shall*
2 *consist of the following members or their designees:*

3 “(A) *The Secretary of the Treasury.*

4 “(B) *The Secretary of Housing and Urban*
5 *Development.*

6 “(C) *The Chairman of the Board of Gov-*
7 *ernors of the Federal Reserve System.*

8 “(3) *NO ADDITIONAL COMPENSATION.*—*Members*
9 *of the Oversight Board shall receive no additional pay*
10 *by reason of service on the Oversight Board.*

11 “(4) *RESPONSIBILITIES.*—*The Oversight Board*
12 *shall be responsible for establishing program and*
13 *oversight requirements for the program under this sec-*
14 *tion, which shall include—*

15 “(A) *detailed program requirements under*
16 *subsection (c);*

17 “(B) *flexible underwriting criteria under*
18 *subsection (d);*

19 “(C) *a mortgage premium structure under*
20 *subsection (e);*

21 “(D) *a reasonable fee and rate limitation*
22 *under subsection (f);*

23 “(E) *enhancement of FHA capacity under*
24 *subsection (i), including oversight of such activi-*

1 *ties and personnel as may be contracted for as*
2 *provided therein;*

3 *“(F) monitoring of underwriting risk under*
4 *subsection (j); and*

5 *“(G) such additional requirements as may*
6 *be necessary and appropriate to oversee and im-*
7 *plement the program.*

8 *“(5) USE OF RESOURCES.—In carrying out its*
9 *functions under this section, the Oversight Board may*
10 *utilize, with their consent and to the extent practical,*
11 *the personnel, services, and facilities of the Depart-*
12 *ment of the Treasury, the Department of Housing and*
13 *Urban Development, the Board of Governors of the*
14 *Federal Reserve System, the Federal Reserve Banks,*
15 *and other Federal agencies, with or without reim-*
16 *bursement therefore.*

17 *“(b) AUTHORITY.—*

18 *“(1) IN GENERAL.—The Secretary shall, subject*
19 *only to the absence of qualified requests for insurance*
20 *under this section and to the limitations under sub-*
21 *section (h) of this section and section 531(a), make*
22 *commitments to insure and insure any mortgage cov-*
23 *ering a 1- to 4-family residence that is made for the*
24 *purpose of paying or prepaying outstanding obliga-*
25 *tions under an existing mortgage or mortgages on the*

1 *residence if the mortgage being insured under this sec-*
2 *tion meets the requirements of this section, as estab-*
3 *lished by the Oversight Board, and of section 203, ex-*
4 *cept as modified by this section.*

5 *“(2) ESTABLISHMENT AND IMPLEMENTATION OF*
6 *PROGRAM REQUIREMENTS.—The Oversight Board*
7 *shall establish program requirements and standards*
8 *under this section and the Secretary shall implement*
9 *such requirements and standards. The Oversight*
10 *Board and the Secretary may establish and imple-*
11 *ment any requirements or standards through interim*
12 *guidance and mortgagee letters.*

13 *“(c) REQUIREMENTS.—To be eligible for insurance*
14 *under this section, a mortgage shall comply with all of the*
15 *following requirements:*

16 *“(1) OWNER-OCCUPIED PRINCIPAL RESIDENCE*
17 *REQUIREMENT.—The residence securing the mortgage*
18 *insured under this section shall be occupied by the*
19 *mortgagor as the principal residence of the mortgagor*
20 *and the mortgagor shall provide a certification to the*
21 *originator of the mortgage that such residence secur-*
22 *ing the mortgage insured under this section is the*
23 *only residence in which the mortgagor has any*
24 *present ownership interest. With regard to such cer-*
25 *tification, the Oversight Board may create exceptions*

1 *for mortgagors who have only a partial ownership in-*
2 *terest in a residence other than the residence securing*
3 *the mortgage insured under this section.*

4 “(2) *LACK OF CAPACITY TO PAY EXISTING MORT-*
5 *GAGE OR MORTGAGES.—*

6 “(A) *BORROWER CERTIFICATION.—*

7 “(i) *The mortgagor shall provide a cer-*
8 *tification to the originator of the mortgage*
9 *that the mortgagor—*

10 “(I) *has not intentionally de-*
11 *faulted on the existing mortgage or*
12 *mortgages; and*

13 “(II) *has not knowingly, or will-*
14 *fully and with actual knowledge fur-*
15 *nished material information known to*
16 *be false for the purpose of obtaining the*
17 *existing mortgage or mortgages.*

18 “(ii) *The mortgagor shall agree in*
19 *writing that the mortgagor shall be liable to*
20 *repay the FHA any direct financial benefit*
21 *achieved from the reduction of indebtedness*
22 *on the existing mortgage or mortgages on*
23 *the residence refinanced under this section*
24 *derived from misrepresentations made in*
25 *the certifications and documentation re-*

1 *quired under this subparagraph, subject to*
2 *the discretion of the Oversight Board.*

3 “(B) *CURRENT BORROWER DEBT-TO-INCOME*
4 *RATIO.—As of March 1, 2008, the mortgagor*
5 *shall have had a ratio of mortgage debt to in-*
6 *come, taking into consideration all existing*
7 *mortgages at such time, greater than 35 percent.*

8 “(C) *LOSS MITIGATION RESPONSIBIL-*
9 *ITIES.—This section may not be construed to*
10 *alter or in any way affect the responsibilities of*
11 *any party (including the mortgage servicer) to*
12 *engage in any or all loan modification or other*
13 *loss mitigation strategies to maximize value to*
14 *investors as established by any applicable con-*
15 *tract.*

16 “(3) *ELIGIBILITY OF MORTGAGES BY DATE OF*
17 *ORIGINATION.—The existing senior mortgage shall*
18 *have been originated on or before December 31, 2007.*

19 “(4) *MAXIMUM LOAN-TO-VALUE RATIO FOR NEW*
20 *LOANS.—The mortgage being insured under this sec-*
21 *tion shall involve a principal obligation (including*
22 *such initial service charges, appraisal, inspection,*
23 *and other fees as the Secretary shall approve and in-*
24 *cluding the mortgage insurance premium paid pursu-*
25 *ant to subsection (e)(1)) in an amount not to exceed*

1 90 percent of the current appraised value of the prop-
2 erty. Section 203(d) shall not apply to mortgages in-
3 sured under this section.

4 “(5) *REQUIRED WAIVER OF PREPAYMENT PEN-*
5 *ALTIES AND FEES.*—All penalties for prepayment of
6 the existing mortgage or mortgages, and all fees and
7 penalties related to default or delinquency on all ex-
8 isting mortgages or mortgages, shall be waived or for-
9 given.

10 “(6) *REQUIRED LOAN REDUCTION.*—

11 “(A) *REDUCTION OF INDEBTEDNESS UNDER*
12 *EXISTING SENIOR MORTGAGE.*—The amount of
13 indebtedness on the existing mortgage or mort-
14 gages on the residence shall have been substan-
15 tially reduced by such percentage as the Over-
16 sight Board may require, and such reduction
17 shall be at least sufficient to—

18 “(i) provide for the refinancing of such
19 existing mortgage or mortgages in an
20 amount not greater than 90 percent of the
21 current appraised value of the property in-
22 volved;

23 “(ii) pay the full amount of the single
24 premium to be collected pursuant to sub-
25 section (e)(1) (which shall be an amount

1 *equal to 3.0 percent of the amount of the*
2 *original insured principal obligation of the*
3 *mortgage insured under this section and*
4 *which shall serve as an additional reserve to*
5 *cover possible loan losses); and*

6 *“(iii) pay the full amount of the loan*
7 *origination fee and any other closing costs,*
8 *not to exceed 2.0 percent of the amount of*
9 *the original insured principal obligation of*
10 *the mortgage insured under this section.*

11 *“(B) EXTINGUISHMENT OF DEBT BY REFI-*
12 *NANCING.—*

13 *“(i) REQUIRED AGREEMENT.—All ex-*
14 *isting holders of mortgage liens on the prop-*
15 *erty securing the mortgage to be insured*
16 *under this section shall agree to accept the*
17 *proceeds of the insured loan as payment in*
18 *full of all indebtedness under all existing*
19 *mortgages, and all encumbrances related to*
20 *such mortgages shall be removed. The Over-*
21 *sight Board may take such actions as the*
22 *Oversight Board considers necessary or ap-*
23 *propriate to facilitate coordination and*
24 *agreement between the holders of the exist-*
25 *ing senior mortgage and any existing subor-*

1 *dinate mortgages, taking into consideration*
2 *the subordinate lien status of such subordi-*
3 *nate mortgages, to comply with the require-*
4 *ment under this subparagraph.*

5 *“(ii) TREATMENT OF MULTIPLE MORT-*
6 *GAGE LIENS.—In addition to clause (i), the*
7 *Oversight Board shall adopt one of the fol-*
8 *lowing approaches for all mortgages or such*
9 *classes of mortgages as the Oversight Board*
10 *may determine and may, from time to time,*
11 *reconsider:*

12 *“(I) FIXED PRICE.—As a require-*
13 *ment for participating in this pro-*
14 *gram, all existing lien holders will*
15 *agree to not provide any payment to*
16 *subordinate lien holders other than*
17 *such payment in accordance with a*
18 *formula established by the Oversight*
19 *Board as set forth in clause (iii); ex-*
20 *cept that the Oversight Board may es-*
21 *tablish a short period within which*
22 *first and subordinate lien holders may*
23 *negotiate to extinguish all subordinate*
24 *liens for compensation that may be dif-*
25 *ferent from the amount determined*

1 *under such formula set forth in clause*
2 *(iii).*

3 “(II) *SHARED EQUITY.—The*
4 *Oversight Board may require the mort-*
5 *gagor under a mortgage insured under*
6 *this section to agree to share a portion*
7 *of any future equity in the mortgaged*
8 *property with holders of existing subor-*
9 *dinate mortgages, in accordance with a*
10 *formula for such shared equity estab-*
11 *lished by the Oversight Board as set*
12 *forth in clause (iii), except that pay-*
13 *ments of such shared equity may be*
14 *made only after the Secretary recovers*
15 *all amounts owed to the Secretary with*
16 *respect to such mortgage pursuant to*
17 *the program under this section (includ-*
18 *ing amounts owed pursuant to para-*
19 *graph (8)).*

20 “(iii) *FORMULA.—In determining a*
21 *formula for determining any payments to*
22 *subordinate lien holders pursuant to sub-*
23 *clauses (I) and (II) of clause (ii), and in*
24 *any reconsideration of such formula as the*
25 *Oversight Board may from time to time un-*

1 *dertake, the Oversight Board shall take into*
2 *consideration the current market value of*
3 *such liens. In no case may a formula pro-*
4 *vide for the payment of more than 1 percent*
5 *of the current appraised value of the mort-*
6 *gaged property to a subordinate lien holder*
7 *if the outstanding balance owed to more*
8 *senior lien holders is equal to or exceeds*
9 *such current appraised value.*

10 *“(iv) VOLUNTARY PROGRAM.—This sec-*
11 *tion may not be construed to require any*
12 *holder of any existing mortgage to partici-*
13 *pate in the program under this section gen-*
14 *erally, or with respect to any particular*
15 *loan.*

16 *“(v) SOURCE OF PAYMENTS FOR SUB-*
17 *ORDINATE LOANS.—Any amounts paid to*
18 *holders of any existing subordinate mort-*
19 *gages in connection with the origination*
20 *and insurance of a mortgage under this sec-*
21 *tion shall derive only from—*

22 *“(I) the holder of the existing sen-*
23 *ior mortgage; or*

24 *“(II) in the case only of the*
25 *shared equity approach under clause*

1 (ii)(II), the mortgagor under the mort-
2 gage insured under this section

3 “(7) *REQUIRED REDUCTION OF DEBT SERV-*
4 *ICE.—The debt service payments due under the mort-*
5 *gage insured under this section shall be in an amount*
6 *that is substantially reduced from the debt service*
7 *payments due under the existing mortgage or mort-*
8 *gages, which reduction may be achieved through a re-*
9 *duction of indebtedness, a reduction in the interest*
10 *rate being paid, or an extension of the term of the*
11 *mortgage, or any combination thereof.*

12 “(8) *FINANCIAL RECOVERY TO FEDERAL GOVERN-*
13 *MENT THROUGH EXIT PREMIUM.—*

14 “(A) *SUBORDINATE LIEN.—The mortgage*
15 *shall provide that the Secretary shall retain a*
16 *lien on the residence involved, which shall be*
17 *subordinate to the mortgage insured under this*
18 *section but senior to all other mortgages on the*
19 *residence that may exist at any time, and which*
20 *shall secure the repayment of the amount due*
21 *under subparagraph (D).*

22 “(B) *NO INTEREST OR PAYMENT DURING*
23 *MORTGAGE.—The amount secured by the lien re-*
24 *tained by the Secretary pursuant to subpara-*
25 *graph (A) shall not bear interest and shall not*

1 *be repayable to the Secretary except as provided*
2 *in subparagraph (D) of this paragraph.*

3 “(C) *NET PROCEEDS AVAILABLE FOR EXIT*
4 *PREMIUM.—Upon the sale, refinancing, or other*
5 *disposition of the residence securing a mortgage*
6 *insured under this section, any proceeds result-*
7 *ing from such disposition that remain after de-*
8 *ducting the remaining insured principal balance*
9 *of the mortgage insured under this section shall*
10 *be available to meet the obligation under sub-*
11 *paragraph (D). In the case of a refinance, non-*
12 *arms length transaction, or such other trans-*
13 *action as the Oversight Board shall determine,*
14 *the proceeds shall be based on the current ap-*
15 *praised value at the time of the refinance or*
16 *transaction.*

17 “(D) *EXIT PREMIUM.—Upon any refi-*
18 *nancing of the mortgage insured under this sec-*
19 *tion or any sale or disposition of the residence*
20 *securing the mortgage, the Secretary shall, sub-*
21 *ject to the availability of sufficient net proceeds*
22 *described in subparagraph (C), receive the great-*
23 *er of—*

24 “(i) *3 percent of the amount of the*
25 *original insured principal obligation of the*

1 mortgage (or the entire amount of the net
2 proceeds described in subparagraph (C) if
3 such net proceeds are less than 3 percent of
4 the amount of the original insured prin-
5 cipal obligation of the mortgage); or

6 “(ii) a percentage of the portion of the
7 net proceeds available for profit-sharing, as
8 described in subparagraph (E), which shall
9 be—

10 “(I) in the case of any refi-
11 nancing, sale, or disposition occurring
12 during the first year of the term of the
13 mortgage, 100 percent of such net pro-
14 ceeds;

15 “(II) in the case of any refi-
16 nancing, sale, or disposition occurring
17 during the second year of the term of
18 the mortgage, 80 percent;

19 “(III) in the case of any refi-
20 nancing, sale, or disposition occurring
21 during the third year of the term of the
22 mortgage, 60 percent; and

23 “(IV) in the case of any refi-
24 nancing, sale, or disposition occurring
25 during the fourth year of the term of

1 *the mortgage or at any time thereafter,*
2 *50 percent;*
3 *except that such percentage of proceeds shall be*
4 *reduced by all fees the Secretary has collected for*
5 *the mortgage prior to such refinancing, sale, or*
6 *disposition.*

7 *“(E) NET PROCEEDS AVAILABLE FOR PROF-*
8 *IT-SHARING.—With respect to any mortgage in-*
9 *sured under this section, the net proceeds avail-*
10 *able for purposes of subparagraph (D)(ii) shall*
11 *be any proceeds resulting from the sale, refi-*
12 *nancing, or other disposition of the residence se-*
13 *curing the mortgage that remain after deducting*
14 *the original insured principal obligation of the*
15 *mortgage. In the case of a refinance, non-arms*
16 *length transaction, or such other transaction as*
17 *the Oversight Board shall determine, the proceeds*
18 *shall be based on the current appraised value at*
19 *the time of the refinance or transaction.*

20 *“(F) AUTHORITY TO PROHIBIT NEW SECOND*
21 *LIENS.—The Oversight Board shall prohibit bor-*
22 *rowers from granting a new second lien on the*
23 *mortgaged property during the first five years of*
24 *the term of the mortgage insured under this sec-*
25 *tion, except as the Oversight Board determines to*

1 *be necessary to ensure the appropriate mainte-*
2 *nance of the mortgaged property.*

3 “(9) *DOCUMENTATION AND VERIFICATION OF IN-*
4 *COME.—In complying with the FHA underwriting re-*
5 *quirements under the program under this section, the*
6 *mortgagee shall document and verify the income of*
7 *the mortgagor or non-filing status by procuring (A)*
8 *an income tax return transcript of the income tax re-*
9 *turns of the mortgagor, or (B) a copy of the income*
10 *tax returns for the Internal Revenue Service, for the*
11 *two most recent years for which the filing deadline for*
12 *such years has passed and by any other method, in*
13 *accordance with procedures and standards that the*
14 *Oversight Board shall establish.*

15 “(10) *FIXED RATE MORTGAGE.—The mortgage*
16 *insured under this section shall bear interest at a sin-*
17 *gle rate that is fixed for the entire term of the mort-*
18 *gage.*

19 “(11) *MAXIMUM LOAN AMOUNT.—Notwith-*
20 *standing section 203(b)(2), the mortgage being in-*
21 *sured under this section shall involve a principal obli-*
22 *gation in an amount that does not exceed the limita-*
23 *tion (for a property of the applicable size) on the*
24 *amount of the principal obligation that would be al-*
25 *lowable under the terms of section 202(a) of the Eco-*

1 *conomic Stimulus Act of 2008 if the mortgage were in-*
2 *sured pursuant to such section. The limitation on the*
3 *amount of the principal obligation allowable under*
4 *such Act shall apply for the purposes of this section*
5 *until the termination under subsection (n) of the pro-*
6 *gram under this section.*

7 *“(12) INELIGIBILITY FOR FRAUD CONVICTION.—*
8 *The mortgagor shall not have been convicted under*
9 *Federal or State law for mortgage fraud during the*
10 *7-year period ending upon the insurance of the mort-*
11 *gage under this section.*

12 *“(13) LENDER REVIEW.—The mortgagee under*
13 *the mortgage shall conduct an electronic database*
14 *search of the mortgagor’s criminal history to deter-*
15 *mine if the mortgagor has had a conviction described*
16 *in paragraph (12). The mortgagee may charge the*
17 *mortgagor a reasonable fee for the actual cost of the*
18 *search not to exceed a maximum rate established by*
19 *the Oversight Board. The Oversight Board may pro-*
20 *vide clarification, if needed, to help mortgagees iden-*
21 *tify any differences among the States in how they re-*
22 *port mortgage fraud convictions. The Oversight Board*
23 *shall establish procedures sufficient to allow the mort-*
24 *gagor to challenge a mortgagee’s determination with*
25 *respect to paragraph (12) (including to correct inac-*

1 *curacies resulting from theft of the mortgagor's iden-*
2 *tity or personally identifiable information).*

3 “(14) *APPRAISALS.—Any appraisal conducted in*
4 *connection with a mortgage insured under this section*
5 *shall—*

6 “(A) *be based on the current value of the*
7 *property;*

8 “(B) *be conducted in accordance with title*
9 *XI of the Financial Institutions Reform, Recov-*
10 *ery, and Enforcement Act of 1989 (12 U.S.C.*
11 *3331 et seq.);*

12 “(C) *be completed by an appraiser who*
13 *meets the competency requirements of the Uni-*
14 *form Standards of Professional Appraisal Prac-*
15 *tice;*

16 “(D) *be wholly consistent with the ap-*
17 *praisal standards, practices, and procedures*
18 *under section 202(e) of this Act that apply to all*
19 *loans insured under this Act; and*

20 “(E) *comply with the requirements of sub-*
21 *section (g) of this section (relating to appraisal*
22 *independence).*

23 “(15) *STATEMENT OF LOAN TERMS.—*

24 “(A) *REQUIREMENT.—The mortgagor shall*
25 *have been provided by the mortgagee, not later*

1 *than three days before closing for the mortgage,*
2 *a form described in subparagraph (B) appro-*
3 *priately and accurately completed by the mort-*
4 *gagee.*

5 “(B) *FORM.*—*The form described in this*
6 *subparagraph shall be a single page, written dis-*
7 *closure regarding the mortgage loan to be in-*
8 *sured under this section that, when completed by*
9 *the mortgagee, sets forth, in accordance with*
10 *such requirements as the Secretary shall by regu-*
11 *lation establish a best possible estimate of—*

12 “(i) *the total loan amount under the*
13 *mortgage;*

14 “(ii) *the loan-to-value ratio for the*
15 *mortgage;*

16 “(iii) *the final maturity date for the*
17 *mortgage;*

18 “(iv) *the amount of any prepayment*
19 *fee to be charged if the mortgage is paid in*
20 *full before the final maturity date for the*
21 *mortgage, including the percentages of any*
22 *net proceeds to be received by the Secretary*
23 *pursuant to paragraph (8)(D)(ii);*

1 “(v) the amount of the exit premium
2 under the mortgage pursuant to subsection
3 (e)(3);

4 “(vi) the interest rate under the mort-
5 gage expressed as an annual percentage
6 rate, and the amount of the monthly pay-
7 ment due under such rate;

8 “(vii) the fully indexed rate of interest
9 under the mortgage expressed as an annual
10 percentage rate and the amount of the
11 monthly payment due under such rate;

12 “(viii) the monthly household income
13 of the borrower upon which the mortgage is
14 based;

15 “(ix) the amount of the monthly pay-
16 ment due under the mortgage, and the
17 amount of such initial monthly payment
18 plus monthly amounts due for taxes and in-
19 surance on the property for which the mort-
20 gage is made, both expressed as a percentage
21 of the monthly household income of the bor-
22 rower; and

23 “(x) the aggregate amount of settlement
24 charges for all settlement services provided
25 in connection with the mortgage, the

1 *amount of such charges that are included in*
2 *the principal amount and the amount of*
3 *such charges the borrower must pay at clos-*
4 *ing, the aggregate amount of mortgagee’s*
5 *fees connection with the mortgage, and the*
6 *aggregate amount of other fees or required*
7 *payments in connection with the mortgage.*

8 “(d) *FLEXIBLE UNDERWRITING CRITERIA.*—

9 “(1) *IN GENERAL.*—*The Oversight Board shall*
10 *establish, and the Secretary acting on behalf of the*
11 *Oversight Board shall implement, underwriting*
12 *standards for mortgages insured under this section*
13 *that—*

14 “(A) *ensure that each mortgagor under a*
15 *mortgage insured under this section has a rea-*
16 *sonable expectation of repaying the mortgage,*
17 *taking into consideration the mortgagor’s in-*
18 *come, assets, liabilities, payment history, and*
19 *other applicable criteria, but which shall not re-*
20 *sult in a denial of insurance solely on the basis*
21 *of the mortgagor’s current FICO or other credit*
22 *scores, or any delinquency or default by the*
23 *mortgagor under the existing mortgage or mort-*
24 *gages, or any case filed under title 11, United*
25 *States Code, by the mortgagor; and*

1 “(B) subject to the provisions of subpara-
2 graph (A), permit a total debt-to-income ratio of
3 up to 43 percent.

4 “(2) EXCEPTION.—

5 “(A) IN GENERAL.—Subject to the under-
6 writing standards established under paragraph
7 (1)(A) and any additional requirements that the
8 Oversight Board considers appropriate, the Over-
9 sight Board shall permit a total debt-to-income
10 ratio of more than 43 percent, but not more than
11 50 percent, if the mortgagor has made, on a
12 timely basis before the endorsement of the mort-
13 gage insured under this section, not less than six
14 months of payments in an amount not less than
15 the amount of the monthly payment due under
16 the mortgage to be insured under this section.
17 The holder of the existing senior mortgage shall
18 exercise forbearance with respect to such mort-
19 gage during the period in which such payments
20 are made.

21 “(B) COMPUTATION OF DEBT-TO-INCOME
22 RATIO.— In computing the mortgagor’s total
23 debt-to-income ratio for purposes of mortgage
24 qualification under the underwriting standards
25 established pursuant to this section—

1 “(i) if the mortgagor is a debtor in a
2 case under chapter 13 of title 11, United
3 States Code, payments on recurring debts
4 other than housing expenses shall be based
5 on the amounts being paid on such debts
6 under the mortgagor’s confirmed plan under
7 such chapter; and

8 “(ii) if the mortgagor is a debtor in a
9 case under chapter 7 of title 11, United
10 States Code, recurring debts that are to be
11 discharged in that case shall not be consid-
12 ered.

13 “(3) *AUTHORITY.*—The Oversight Board may
14 alter the ratios under this subsection for a particular
15 class of borrowers subject to such requirements as the
16 Board determines is necessary and appropriate to ful-
17 fill the purposes of this Act.

18 “(4) *REPRESENTATIONS AND WARRANTIES.*—The
19 Oversight Board shall require the underwriter of the
20 insured loan to provide such representations and war-
21 ranties as the Oversight Board considers necessary or
22 appropriate for the Secretary to enforce compliance
23 with all underwriting and appraisal standards of the
24 program.

1 “(e) *PREMIUMS.*—For each mortgage insured under
2 this section, the Oversight Board shall establish and the Sec-
3 retary shall collect—

4 “(1) at the time of insurance, a single premium
5 payment in an amount equal to 3.0 percent of the
6 amount of the original insured principal obligation of
7 the mortgage, which shall be paid from the proceeds
8 of the mortgage being insured under this section,
9 through the reduction of the amount of indebtedness
10 on the existing senior mortgage required under sub-
11 section (c)(6)(A);

12 “(2) in addition to the premium under para-
13 graph (1), annual premium payments in an amount
14 equal to 1.50 percent of the remaining insured prin-
15 cipal balance of the mortgage; and

16 “(3) an exit premium in the amount determined
17 under subsection (c)(8), but which shall not be less
18 than 3.0 percent of the original insured principal ob-
19 ligation of the mortgage, subject only to the avail-
20 ability of sufficient net proceeds from sale, refi-
21 nancing, or other disposition of the property, as de-
22 termined in subsection (c)(8).

23 “(f) *ORIGINATION FEES AND MORTGAGE RATE.*—The
24 Oversight Board shall establish and the Secretary shall im-
25 plement a reasonable limitation on origination fees for

1 mortgages insured under this section and shall establish
2 procedures to ensure that interest rates on such mortgages
3 shall be commensurate with market rate interest rates on
4 such types of loans.

5 “(g) APPRAISAL INDEPENDENCE.—

6 “(1) PROHIBITIONS ON INTERESTED PARTIES IN
7 A REAL ESTATE TRANSACTION.—No mortgage lender,
8 mortgage broker, mortgage banker, real estate broker,
9 appraisal management company, employee of an ap-
10 praisal management company, nor any other person
11 with an interest in a real estate transaction involving
12 an appraisal in connection with a mortgage insured
13 under this section shall improperly influence, or at-
14 tempt to improperly influence, through coercion, ex-
15 tortion, collusion, compensation, instruction, induce-
16 ment, intimidation, non-payment for services ren-
17 dered, or bribery, the development, reporting, result,
18 or review of a real estate appraisal sought in connec-
19 tion with the mortgage.

20 “(2) EXCEPTIONS.—The requirements of para-
21 graph (1) shall not be construed as prohibiting a
22 mortgage lender, mortgage broker, mortgage banker,
23 real estate broker, appraisal management company,
24 employee of an appraisal management company, or
25 any other person with an interest in a real estate

1 *transaction from asking an appraiser to provide 1 or*
2 *more of the following services:*

3 *“(A) Consider additional, appropriate*
4 *property information, including the consider-*
5 *ation of additional comparable properties to*
6 *make or support an appraisal.*

7 *“(B) Provide further detail, substantiation,*
8 *or explanation for the appraiser’s value conclu-*
9 *sion.*

10 *“(C) Correct errors in the appraisal report.*

11 *“(3) 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) LIMITATION ON AGGREGATE INSURANCE AU-*
17 *THORITY.—The aggregate original principal obligation of*
18 *all mortgages insured under this section may not exceed*
19 *\$300,000,000,000.*

20 *“(i) ENHANCEMENT OF FHA CAPACITY.—Under the*
21 *direction of the Oversight Board, the Secretary shall take*
22 *such actions as may be necessary to—*

23 *“(1) contract for the establishment of under-*
24 *writing criteria, automated underwriting systems,*

1 pricing standards, and other factors relating to eligi-
2 bility for mortgages insured under this section;

3 “(2) contract for independent quality reviews of
4 underwriting, including appraisal reviews and fraud
5 detection, of mortgages insured under this section or
6 pools of such mortgages; and

7 “(3) increase personnel of the Department as
8 necessary to process or monitor the processing of
9 mortgages insured under this section.

10 “(j) *MONITORING OF UNDERWRITING RISK.*—

11 “(1) *MONITORING OF DESIGNATED UNDER-*
12 *WRITERS.*—*The Oversight Board and the Secretary*
13 *shall monitor independent quality reviews as estab-*
14 *lished pursuant to subsection (i)(2) to—*

15 “(A) determine compliance of designated
16 underwriters with underwriting standards;

17 “(B) determine rates of delinquency, claims
18 rates, and loss rates of designated underwriters;
19 and

20 “(C) terminate eligibility of designated un-
21 derwriters that do not meet minimum perform-
22 ance standards as the Oversight Board may es-
23 tablish and the Secretary implements.

24 “(2) *REPORTS BY OVERSIGHT BOARD.*—*The*
25 *Oversight Board shall submit monthly reports to the*

1 Congress identifying the progress of the program for
2 mortgage insurance under this section, which shall
3 contain the following information for each month:

4 “(A) The number of new mortgages insured
5 under this section, including the location of the
6 properties subject to such mortgages by census
7 tract.

8 “(B) The aggregate principal obligation of
9 new mortgages insured under this section.

10 “(C) The average amount by which the in-
11 debtedness on existing mortgages is reduced in
12 accordance with subsection (c)(6).

13 “(D) The average amount by which the debt
14 service payments on existing mortgages is re-
15 duced in accordance with subsection (c)(7).

16 “(E) The amount of premiums collected for
17 insurance of mortgages under this section.

18 “(F) The claim and loss rates for mortgages
19 insured under this section.

20 “(G) The race, ethnicity, gender, and in-
21 come of the mortgagors, aggregated by geo-
22 graphical areas at least as specific as census
23 tracts, except where necessary to protect privacy
24 of the borrower.

1 “(H) Any other information that the Over-
2 sight Board considers appropriate.

3 “(3) REPORT BY INSPECTOR GENERAL.—The In-
4 spector General of the Department of Housing and
5 Urban Development shall conduct an annual audit of
6 the program for mortgage insurance under this sec-
7 tion to determine compliance with this section and
8 program rules.

9 “(k) GNMA COMMITMENT AUTHORITY.—

10 “(1) GUARANTEES.—The Secretary shall take
11 such actions as may be necessary to ensure that secu-
12 rities based on and backed by a trust or pool com-
13 posed of mortgages insured under this section are
14 available to be guaranteed by the Government Na-
15 tional Mortgage Association as to the timely payment
16 of principal and interest.

17 “(2) GUARANTEE AUTHORITY.—To carry out the
18 purposes of section 306 of the National Housing Act
19 (12 U.S.C. 1721), the Government National Mortgage
20 Association may enter into new commitments to issue
21 guarantees of securities based on or backed by mort-
22 gages insured under this section, not exceeding
23 \$300,000,000,000. The amount of authority provided
24 under the preceding sentence to enter into new com-
25 mitments to issue guarantees is in addition to any

1 *amount of authority to make new commitments to*
2 *issue guarantees that is provided to the Association*
3 *under any other provision of law.*

4 “(l) *SPECIAL RISK INSURANCE FUND.*—*The insurance*
5 *of each mortgage under this section shall be the obligation*
6 *of the Special Risk Insurance Fund established by section*
7 *238.*

8 “(m) *DEFINITIONS.*—*For purposes of this section, the*
9 *following definitions shall apply:*

10 “(1) *EXISTING MORTGAGE.*—*The term ‘existing*
11 *mortgage’ means, with respect to a mortgage insured*
12 *under this section, a mortgage that is to be extin-*
13 *guished, and paid or prepaid, from the proceeds of the*
14 *mortgage insured under this section.*

15 “(2) *EXISTING SENIOR MORTGAGE.*—*The term*
16 *‘existing senior mortgage’ means, with respect to a*
17 *mortgage insured under this section, the existing*
18 *mortgage that has superior priority.*

19 “(3) *EXISTING SUBORDINATE MORTGAGE.*—*The*
20 *term ‘existing subordinate mortgage’ means, with re-*
21 *spect to a mortgage insured under this section, an ex-*
22 *isting mortgage that has subordinate priority to the*
23 *existing senior mortgage.*

24 “(n) *SUNSET.*—

1 “(1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (2), the authority of the Secretary to make any*
3 *new commitment to insure any mortgage under this*
4 *section shall terminate upon the expiration of the 2-*
5 *year period beginning on the date of the enactment of*
6 *the FHA Housing Stabilization and Homeownership*
7 *Retention Act of 2008.*

8 “(2) *EXTENSIONS.*—*The Oversight Board may,*
9 *not more than four times, extend the authority to*
10 *enter into new commitments to insure mortgages*
11 *under this section beyond the date specified in para-*
12 *graph (1), except that each such extension shall—*

13 “(A) *be effective only if, before the program*
14 *terminates pursuant to paragraph (1) or any*
15 *previous extension pursuant to this paragraph,*
16 *the Oversight Board—*

17 “(i) *certifies the need for such exten-*
18 *sion in writing to the Congress; and*

19 “(ii) *causes notice of such extension to*
20 *be published in the Federal Register no later*
21 *than the beginning of the 3-month period*
22 *that ends upon the scheduled termination*
23 *date of the program; and*

24 “(B) *be for a period of not more than 6*
25 *months.*

1 “(o) *AUTHORIZATIONS OF APPROPRIATIONS.—There is*
2 *authorized to be appropriated for each of fiscal years 2008*
3 *and 2009—*

4 “(1) *\$230,000,000 for providing counseling re-*
5 *garding loss mitigation for mortgagors with 1- to 4-*
6 *family residences, including determining eligibility*
7 *for the program under this section, with grants to be*
8 *administered through the Neighborhood Reinvestment*
9 *Corporation, except that—*

10 “(A) *funds shall be targeted to States and*
11 *communities based on their levels of foreclosures*
12 *and delinquencies in 2007 and 2008;*

13 “(B) *not less than 15 percent of the funds*
14 *made available pursuant to this paragraph shall*
15 *be provided to counseling organizations that tar-*
16 *get counseling services regarding loss mitigation*
17 *to minority and low-income homeowners or pro-*
18 *vide such services in neighborhoods with high*
19 *concentrations of minority and low-income*
20 *homeowners;*

21 “(C) *\$35,000,000 of the funds made avail-*
22 *able pursuant to this paragraph shall be used by*
23 *the Neighborhood Reinvestment Corporation (re-*
24 *ferred to in this subparagraph as the ‘NRC’) to*
25 *make grants to State and local legal organiza-*

1 *tions or attorneys that have demonstrated legal*
2 *experience in home foreclosure or eviction law to*
3 *provide legal assistance related to home owner-*
4 *ship preservation, home foreclosure prevention,*
5 *and tenancy associated with home foreclosure or*
6 *to counseling intermediaries that have been ap-*
7 *proved by the Department of Housing and*
8 *Urban Development for the purpose of making*
9 *such grants or contracting for such legal assist-*
10 *ance; of the amount provided under this sub-*
11 *paragraph, at least 60 percent shall be allocated*
12 *for legal assistance to low-income homeowners or*
13 *tenants; such attorneys shall be capable of assist-*
14 *ing homeowners in owner-occupied homes or ten-*
15 *ants who live in homes with mortgages in de-*
16 *fault, in danger of default, or subject to or at*
17 *risk of foreclosure or eviction and who have legal*
18 *issues that cannot be handled by counselors em-*
19 *ployed by NRC intermediaries; in using the*
20 *amount made available under this subpara-*
21 *graph, the NRC shall give priority consideration*
22 *to State and local legal organizations and attor-*
23 *neys that (i) provide legal assistance in the 100*
24 *metropolitan statistical areas (as defined by the*
25 *Director of the Office of Management and Budg-*

1 *et) with the highest home foreclosure rates, and*
2 *(ii) have the capacity to begin using the finan-*
3 *cial assistance within 90 days after receipt of the*
4 *assistance; as a condition of the receipt of a*
5 *grant under this subparagraph, the grantee shall*
6 *submit to NRC information relating to the demo-*
7 *graphic characteristics of the assisted home-*
8 *owners or tenants, the dollar amount and terms*
9 *of the relevant mortgages and the outcome of*
10 *legal proceedings related to the foreclosure or*
11 *eviction proceedings, including the resolutions*
12 *thereof; except that no funds under this subpara-*
13 *graph shall be used for class action litigation;*

14 *“(D) \$20,000,000 of the funds made avail-*
15 *able pursuant to this paragraph shall be used for*
16 *such counseling for veterans recently returning*
17 *from active duty in the Armed Forces;*

18 *“(E) the NRC shall give priority consider-*
19 *ation for funding with amounts made available*
20 *pursuant to this paragraph, except for funds*
21 *made available under subparagraphs (B), (C),*
22 *and (D), to entities that have an effective plan*
23 *in place for making contact, including personal*
24 *contact, with defaulted mortgagors, and such a*
25 *plan may include use of third parties (including*

1 *both for-profit and not-for-profit entities) to*
2 *make personal contact with defaulted mortga-*
3 *gors, or visits to such mortgagors, or both;*

4 “(F) *except with respect to funds reserved*
5 *under subparagraphs (B), (C), and (D), the NRC*
6 *shall give priority consideration for funding*
7 *with amounts made available pursuant to this*
8 *paragraph to entities that have a written plan*
9 *that has been implemented for providing in-per-*
10 *son counseling and for making contact, includ-*
11 *ing personal contact, with defaulted mortgagors,*
12 *for the purpose of providing counseling or pro-*
13 *viding information about available counseling,*
14 *both (i) prior to commencement of any fore-*
15 *closure proceedings, and (ii) in the event effective*
16 *in person or phone contact has not been made*
17 *with such defaulted mortgagors prior thereto,*
18 *then prior to the conclusion of the foreclosure*
19 *process; and*

20 “(G) *not less than 2 percent of the funds*
21 *made available pursuant to this paragraph shall*
22 *be used only for identifying and notifying bor-*
23 *rowers under existing mortgages who are eligible*
24 *under this section for insurance of refinancing*
25 *mortgages, and in making funds reserved under*

1 *this subparagraph available for such purpose, the*
2 *Secretary shall give preference to assistance for*
3 *programs that have a proven history of outreach*
4 *within minority communities; and*

5 “(2) \$150,000,000 for costs of activities under
6 *subsection (i).*

7 “(p) *AUDIT AND REPORT BY INSPECTOR GENERAL.—*

8 “(1) *AUDIT.—The Inspector General of the De-*
9 *partment of Housing and Urban Development shall*
10 *conduct an audit of the program for loss mitigation*
11 *counseling funded with amounts made available*
12 *under subsection (o)(1) to determine compliance with*
13 *such subsection.*

14 “(2) *REPORTS TO CONGRESS.—Not later than*
15 *March 30, 2009, and every calendar quarter there-*
16 *after, the Inspector General shall submit to the appro-*
17 *priate committees of the Congress a report summa-*
18 *rizing the activities of the Inspector General and the*
19 *Neighborhood Reinvestment Corporation during the*
20 *120-day period ending on the date of such report.*
21 *Each report shall include, for the period covered by*
22 *such report, a detailed statement of all obligations, ex-*
23 *penditures, and revenues associated with paragraphs*
24 *(1) and (2) of subsection (o), including—*

1 “(A) obligations and expenditures of appro-
2 priated funds;

3 “(B) the number of homeowners eligible in
4 such program;

5 “(C) the number of homeowners partici-
6 pating in such program;

7 “(D) the status of homeowners within such
8 program;

9 “(E) the number of homeowners who have
10 rejected assistance from the Neighborhood Rein-
11 vestment Corporation; and

12 “(F) information on participating coun-
13 seling services.”.

14 (b) *SPECIAL RISK INSURANCE FUND*.—Section 238 of
15 the National Housing Act (12 U.S.C. 1715z–3) is amend-
16 ed—

17 (1) in subsection (a)(1), by striking “or 243”
18 each place such term appears and inserting “243, or
19 257”; and

20 (2) in subsection (b), by striking “and 243” each
21 place such term appears and inserting “243, and
22 257”.

23 (c) *FHA REVERSE MORTGAGE PROGRAM*.—Section
24 255(g) of the National Housing Act (12 U.S.C. 1715z–
25 20(g)) is amended by striking the first sentence.

1 **SEC. 113. STUDY OF AUCTION OR BULK REFINANCE PRO-**
2 **GRAM.**

3 (a) *STUDY.*—*The Board of Governors of the Federal*
4 *Reserve System (in this section referred to as the “Board*
5 *of Governors”), in consultation with other members of the*
6 *Oversight Board established by section 257(a) of the Na-*
7 *tional Housing Act (as added by the amendment made by*
8 *section 112(a) of this title), shall conduct a study of the*
9 *need for and efficacy of an auction or bulk refinancing*
10 *mechanism to facilitate refinancing of existing residential*
11 *mortgages that are at risk for foreclosure into mortgages*
12 *insured under the mortgage insurance program under title*
13 *II of the National Housing Act. The study shall identify*
14 *and examine various options for mechanisms under which*
15 *lenders and servicers of such mortgages may make bids for*
16 *forward commitments for such insurance in an expedited*
17 *manner.*

18 (b) *CONTENT.*—

19 (1) *ANALYSIS.*—*The study required under sub-*
20 *section (a) shall analyze—*

21 (A) *the feasibility of establishing a mecha-*
22 *nism that would facilitate the more rapid refi-*
23 *nancing of borrowers at risk of foreclosure into*
24 *performing mortgages insured under title II of*
25 *the National Housing Act;*

1 (B) whether such a mechanism would pro-
2 vide an effective and efficient mechanism to re-
3 duce foreclosures on qualified existing mortgages;

4 (C) whether the use of an auction or bulk
5 refinance program is necessary to stabilize the
6 housing market and reduce the impact of turmoil
7 in that market on the economy of the United
8 States;

9 (D) whether there are other mechanisms or
10 authority that would be useful to reduce fore-
11 closure; and

12 (E) and any other factors that the Board of
13 Governors considers relevant.

14 (2) *DETERMINATIONS.*—To the extent that the
15 Board of Governors finds that a facility of the type
16 described in paragraph (1) is feasible and useful, the
17 study shall—

18 (A) determine and identify any additional
19 authority or resources needed to establish and
20 operate such a mechanism;

21 (B) determine whether there is a need for
22 additional authority with respect to the loan un-
23 derwriting criteria included in the amendment
24 made by section 112(a) of this title or with re-

1 *spect to eligibility of participating borrowers,*
2 *lenders, or holders of liens;*

3 (C) *determine whether such underwriting*
4 *criteria should be established on the basis of in-*
5 *dividual loans, in the aggregate, or otherwise to*
6 *facilitate the goal of refinancing borrowers at*
7 *risk of foreclosure into viable loans insured*
8 *under the National Housing Act.*

9 (c) *REPORT.—Not later than the expiration of the 60-*
10 *day period beginning on the date of the enactment of this*
11 *Act, the Board of Governors shall submit a report regarding*
12 *the results of the study conducted under this section to the*
13 *Committee on Financial Services of the House of Represent-*
14 *atives and the Committee on Banking, Housing, and Urban*
15 *Affairs of the Senate. The report shall include a detailed*
16 *description of the analysis required under subsection (b)(1)*
17 *and of the determinations made pursuant to subsection*
18 *(b)(2), and shall include any other findings and rec-*
19 *ommendations of the Board of Governors pursuant to the*
20 *study, including identifying various options for mecha-*
21 *nisms described in subsection (a).*

1 **SEC. 114. TEMPORARY INCREASE IN MAXIMUM LOAN GUAR-**
2 **ANTY AMOUNT FOR CERTAIN HOUSING**
3 **LOANS GUARANTEED BY SECRETARY OF VET-**
4 **ERANS AFFAIRS.**

5 *Notwithstanding subparagraph (C) of section*
6 *3703(a)(1) of title 38, United States Code, for purposes of*
7 *any loan described in subparagraph (A)(i)(IV) of such sec-*
8 *tion that is originated during the period beginning on the*
9 *date of the enactment of this Act and ending on December*
10 *31, 2008, the term “maximum guaranty amount” shall*
11 *mean an amount equal to 25 percent of the higher of—*

12 *(1) the limitation determined under section*
13 *305(a)(2) of the Federal Home Loan Mortgage Cor-*
14 *poration Act (12 U.S.C. 1454(a)(2)) for the calendar*
15 *year in which the loan is originated for a single-fam-*
16 *ily residence; or*

17 *(2) 125 percent of the area median price for a*
18 *single-family residence, but in no case to exceed 175*
19 *percent of the limitation determined under such sec-*
20 *tion 305(a)(2) for the calendar year in which the loan*
21 *is originated for a single-family residence.*

1 **SEC. 115. STUDY OF POSSIBLE ACCOUNTING REVISIONS RE-**
2 **LATING TO PROPERTY AT RISK OF FORE-**
3 **CLOSURE AND THE AVAILABILITY OF CREDIT**
4 **FOR REFINANCING HOME MORTGAGES AT**
5 **RISK OF FORECLOSURE.**

6 (a) *STUDY REQUIRED.*—*The Securities and Exchange*
7 *Commission, in consultation with the Board of Governors*
8 *of the Federal Reserve System, shall conduct a study on*
9 *fair value accounting standards applicable to financial in-*
10 *stitutions, including depository institutions, with respect to*
11 *their residential mortgages that are at risk of foreclosure*
12 *and mortgage-backed securities involving such mortgages,*
13 *the effects of such accounting standards on a financial insti-*
14 *tution's balance sheet and capacity to provide refinancing*
15 *to residential mortgagors that are at risk of foreclosure and*
16 *to residential mortgagors during periods of market value*
17 *declines and increased foreclosures, and the advisability*
18 *and feasibility of modifications of such standards during*
19 *periods of market fluctuation in order to maintain the abil-*
20 *ity of the institution to continue to carry mortgages on resi-*
21 *dential property at risk of foreclosure and assure the avail-*
22 *ability of credit to refinance at-risk residential mortgages.*

23 (b) *REPORT REQUIRED.*—*The Securities and Ex-*
24 *change Commission shall submit a report to the Congress*
25 *before the end of the 90-day period beginning on the date*
26 *of the enactment of this Act containing the findings and*

1 *determinations of the Commission with respect to the study*
2 *conducted under subsection (a) and such administrative*
3 *and legislative recommendations as the Commission may*
4 *determine to be appropriate.*

5 **SEC. 116. GAO STUDY OF THE EFFECT OF TIGHTENING**
6 **CREDIT MARKETS IN COMMUNITIES AF-**
7 **FECTED BY THE SUBPRIME MORTGAGE FORE-**
8 **CLOSURE CRISES AND PREDATORY LENDING**
9 **ON PROSPECTIVE FIRST-TIME HOMEBUYERS**
10 **SEEKING MORTGAGES.**

11 *The Comptroller General of the United States shall*
12 *conduct a study to analyze the effects of tightening credit*
13 *markets on prospective first-time home buyers who reside*
14 *in selected communities that have been most detrimentally*
15 *affected by both the current subprime mortgage foreclosure*
16 *crisis and predatory mortgage lending. Such study shall*
17 *also analyze the adequacy of financial literacy outreach ef-*
18 *forts by agencies of the Federal Government tasked with im-*
19 *plementing financial literacy education in such commu-*
20 *nities and shall assess whether the current funding levels*
21 *for such efforts are at sufficient levels to reduce the levels*
22 *of subprime mortgage delinquencies and foreclosures and to*
23 *increase the level of financial literacy in the selected com-*
24 *munities so as to minimize the incidences of predatory*
25 *mortgage lending. Not later than the expiration of the 6-*

1 month period beginning on the date of the enactment of this
 2 Act, the Comptroller General shall submit a report to the
 3 Congress setting forth the results of the study and including
 4 recommendations regarding such funding levels.

5 ***Subtitle B—Office of Housing***
 6 ***Counseling***

7 ***SEC. 131. SHORT TITLE.***

8 *This subtitle may be cited as the “Expand and Pre-*
 9 *serve Home Ownership Through Counseling Act”.*

10 ***SEC. 132. ESTABLISHMENT OF OFFICE OF HOUSING COUN-***
 11 ***SELING.***

12 *Section 4 of the Department of Housing and Urban*
 13 *Development Act (42 U.S.C. 3533) is amended by adding*
 14 *at the end the following new subsection:*

15 *“(g) OFFICE OF HOUSING COUNSELING.—*

16 *“(1) ESTABLISHMENT.—There is established, in*
 17 *the Office of the Secretary, the Office of Housing*
 18 *Counseling.*

19 *“(2) DIRECTOR.—There is established the posi-*
 20 *tion of Director of Housing Counseling. The Director*
 21 *shall be the head of the Office of Housing Counseling*
 22 *and shall be appointed by the Secretary. Such posi-*
 23 *tion shall be a career-reserved position in the Senior*
 24 *Executive Service.*

25 *“(3) FUNCTIONS.—*

1 “(A) *IN GENERAL.*—*The Director shall have*
2 *ultimate responsibility within the Department,*
3 *except for the Secretary, for all activities and*
4 *matters relating to homeownership counseling*
5 *and rental housing counseling, including—*

6 “(i) *research, grant administration,*
7 *public outreach, and policy development re-*
8 *lating to such counseling; and*

9 “(ii) *establishment, coordination, and*
10 *administration of all regulations, require-*
11 *ments, standards, and performance meas-*
12 *ures under programs and laws administered*
13 *by the Department that relate to housing*
14 *counseling, homeownership counseling (in-*
15 *cluding maintenance of homes), mortgage-*
16 *related counseling (including home equity*
17 *conversion mortgages and credit protection*
18 *options to avoid foreclosure), and rental*
19 *housing counseling, including the require-*
20 *ments, standards, and performance meas-*
21 *ures relating to housing counseling.*

22 “(B) *SPECIFIC FUNCTIONS.*—*The Director*
23 *shall carry out the functions assigned to the Di-*
24 *rector and the Office under this section and any*

1 *other provisions of law. Such functions shall in-*
2 *clude establishing rules necessary for—*

3 *“(i) the counseling procedures under*
4 *section 106(g)(1) of the Housing and Urban*
5 *Development Act of 1968 (12 U.S.C.*
6 *1701x(h)(1));*

7 *“(ii) carrying out all other functions of*
8 *the Secretary under section 106(g) of the*
9 *Housing and Urban Development Act of*
10 *1968, including the establishment, oper-*
11 *ation, and publication of the availability of*
12 *the toll-free telephone number under para-*
13 *graph (2) of such section;*

14 *“(iii) carrying out section 5 of the*
15 *Real Estate Settlement Procedures Act of*
16 *1974 (12 U.S.C. 2604) for home buying in-*
17 *formation booklets prepared pursuant to*
18 *such section;*

19 *“(iv) carrying out the certification*
20 *program under section 106(e) of the Hous-*
21 *ing and Urban Development Act of 1968*
22 *(12 U.S.C. 1701x(e));*

23 *“(v) carrying out the assistance pro-*
24 *gram under section 106(a)(4) of the Hous-*
25 *ing and Urban Development Act of 1968,*

1 including criteria for selection of applica-
2 tions to receive assistance;

3 “(vi) carrying out any functions re-
4 garding abusive, deceptive, or unscrupulous
5 lending practices relating to residential
6 mortgage loans that the Secretary considers
7 appropriate, which shall include conducting
8 the study under section 136 of the *Expand
9 and Preserve Home Ownership Through
10 Counseling Act*;

11 “(vii) providing for operation of the
12 advisory committee established under para-
13 graph (4) of this subsection;

14 “(viii) collaborating with community-
15 based organizations with expertise in the
16 field of housing counseling; and

17 “(ix) providing for the building of ca-
18 pacity to provide housing counseling serv-
19 ices in areas that lack sufficient services.

20 “(4) *ADVISORY COMMITTEE.*—

21 “(A) *IN GENERAL.*—The Secretary shall ap-
22 point an advisory committee to provide advice
23 regarding the carrying out of the functions of the
24 Director.

1 “(B) *MEMBERS.*—Such advisory committee
2 shall consist of not more than 12 individuals,
3 and the membership of the committee shall equal-
4 ly represent all aspects of the mortgage and real
5 estate industry, including consumers.

6 “(C) *TERMS.*—Except as provided in sub-
7 paragraph (D), each member of the advisory
8 committee shall be appointed for a term of 3
9 years. Members may be reappointed at the dis-
10 cretion of the Secretary.

11 “(D) *TERMS OF INITIAL APPOINTEES.*—As
12 designated by the Secretary at the time of ap-
13 pointment, of the members first appointed to the
14 advisory committee, 4 shall be appointed for a
15 term of 1 year and 4 shall be appointed for a
16 term of 2 years.

17 “(E) *PROHIBITION OF PAY; TRAVEL EX-*
18 *PENSES.*—Members of the advisory committee
19 shall serve without pay, but shall receive travel
20 expenses, including per diem in lieu of subsist-
21 ence, in accordance with applicable provisions
22 under subchapter I of chapter 57 of title 5,
23 United States Code.

1 “(F) *ADVISORY ROLE ONLY.*—*The advisory*
 2 *committee shall have no role in reviewing or*
 3 *awarding housing counseling grants.*

4 “(5) *SCOPE OF HOMEOWNERSHIP COUN-*
 5 *SELING.*—*In carrying out the responsibilities of the*
 6 *Director, the Director shall ensure that homeowner-*
 7 *ship counseling provided by, in connection with, or*
 8 *pursuant to any function, activity, or program of the*
 9 *Department addresses the entire process of home-*
 10 *ownership, including the decision to purchase a home,*
 11 *the selection and purchase of a home, issues arising*
 12 *during or affecting the period of ownership of a home*
 13 *(including refinancing, default and foreclosure, and*
 14 *other financial decisions), and the sale or other dis-*
 15 *position of a home.”.*

16 **SEC. 133. COUNSELING PROCEDURES.**

17 “(a) *IN GENERAL.*—*Section 106 of the Housing and*
 18 *Urban Development Act of 1968 (12 U.S.C. 1701x) is*
 19 *amended by adding at the end the following new subsection:*

20 “(g) *PROCEDURES AND ACTIVITIES.*—

21 “(1) *COUNSELING PROCEDURES.*—

22 “(A) *IN GENERAL.*—*The Secretary shall es-*
 23 *tablish, coordinate, and monitor the administra-*
 24 *tion by the Department of Housing and Urban*
 25 *Development of the counseling procedures for*

1 *homeownership counseling and rental housing*
2 *counseling provided in connection with any pro-*
3 *gram of the Department, including all require-*
4 *ments, standards, and performance measures*
5 *that relate to homeownership and rental housing*
6 *counseling.*

7 “(B) *HOMEOWNERSHIP COUNSELING.*—*For*
8 *purposes of this subsection and as used in the*
9 *provisions referred to in this subparagraph, the*
10 *term ‘homeownership counseling’ means coun-*
11 *seling related to homeownership and residential*
12 *mortgage loans. Such term includes counseling*
13 *related to homeownership and residential mort-*
14 *gage loans that is provided pursuant to—*

15 “(i) *section 105(a)(20) of the Housing*
16 *and Community Development Act of 1974*
17 *(42 U.S.C. 5305(a)(20));*

18 “(ii) *in the United States Housing Act*
19 *of 1937—*

20 “(I) *section 9(e) (42 U.S.C.*
21 *1437g(e));*

22 “(II) *section 8(y)(1)(D) (42*
23 *U.S.C. 1437f(y)(1)(D));*

24 “(III) *section 18(a)(4)(D) (42*
25 *U.S.C. 1437p(a)(4)(D));*

1 “(IV) section 23(c)(4) (42 U.S.C.
2 1437u(c)(4));

3 “(V) section 32(e)(4) (42 U.S.C.
4 1437z-4(e)(4));

5 “(VI) section 33(d)(2)(B) (42
6 U.S.C. 1437z-5(d)(2)(B));

7 “(VII) sections 302(b)(6) and
8 303(b)(7) (42 U.S.C. 1437aaa-1(b)(6),
9 1437aaa-2(b)(7)); and

10 “(VIII) section 304(c)(4) (42
11 U.S.C. 1437aaa-3(c)(4));

12 “(iii) section 302(a)(4) of the Amer-
13 ican Homeownership and Economic Oppor-
14 tunity Act of 2000 (42 U.S.C. 1437f note);

15 “(iv) sections 233(b)(2) and 258(b) of
16 the Cranston-Gonzalez National Affordable
17 Housing Act (42 U.S.C. 12773(b)(2),
18 12808(b));

19 “(v) this section and section 101(e) of
20 the Housing and Urban Development Act of
21 1968 (12 U.S.C. 1701x, 1701w(e));

22 “(vi) section 220(d)(2)(G) of the Low-
23 Income Housing Preservation and Resident
24 Homeownership Act of 1990 (12 U.S.C.
25 4110(d)(2)(G));

1 “(vii) sections 422(b)(6), 423(b)(7),
2 424(c)(4), 442(b)(6), and 443(b)(6) of the
3 *Cranston-Gonzalez National Affordable*
4 *Housing Act* (42 U.S.C. 12872(b)(6),
5 12873(b)(7), 12874(c)(4), 12892(b)(6), and
6 12893(b)(6));

7 “(viii) section 491(b)(1)(F)(iii) of the
8 *McKinney-Vento Homeless Assistance Act*
9 (42 U.S.C. 11408(b)(1)(F)(iii));

10 “(ix) sections 202(3) and 810(b)(2)(A)
11 of the *Native American Housing and Self-*
12 *Determination Act of 1996* (25 U.S.C.
13 4132(3), 4229(b)(2)(A));

14 “(x) in the *National Housing Act*—

15 “(I) in section 203 (12 U.S.C.
16 1709), the penultimate undesignated
17 paragraph of paragraph (2) of sub-
18 section (b), subsection (c)(2)(A), and
19 subsection (r)(4);

20 “(II) subsections (a) and (c)(3) of
21 section 237 (12 U.S.C. 1715z–2); and

22 “(III) subsections (d)(2)(B) and
23 (m)(1) of section 255 (12 U.S.C.
24 1715z–20);

1 “(xi) section 502(h)(4)(B) of the Hous-
2 ing Act of 1949 (42 U.S.C. 1472(h)(4)(B));
3 and

4 “(xii) section 508 of the Housing and
5 Urban Development Act of 1970 (12 U.S.C.
6 1701z-7).

7 “(C) RENTAL HOUSING COUNSELING.—For
8 purposes of this subsection, the term ‘rental hous-
9 ing counseling’ means counseling related to rent-
10 al of residential property, which may include
11 counseling regarding future homeownership op-
12 portunities and providing referrals for renters
13 and prospective renters to entities providing
14 counseling and shall include counseling related
15 to such topics that is provided pursuant to—

16 “(i) section 105(a)(20) of the Housing
17 and Community Development Act of 1974
18 (42 U.S.C. 5305(a)(20));

19 “(ii) in the United States Housing Act
20 of 1937—

21 “(I) section 9(e) (42 U.S.C.
22 1437g(e));

23 “(II) section 18(a)(4)(D) (42
24 U.S.C. 1437p(a)(4)(D));

1 “(III) section 23(c)(4) (42 U.S.C.
2 1437u(c)(4));

3 “(IV) section 32(e)(4) (42 U.S.C.
4 1437z-4(e)(4));

5 “(V) section 33(d)(2)(B) (42
6 U.S.C. 1437z-5(d)(2)(B)); and

7 “(VI) section 302(b)(6) (42 U.S.C.
8 1437aaa-1(b)(6));

9 “(iii) section 233(b)(2) of the Cran-
10 ston-Gonzalez National Affordable Housing
11 Act (42 U.S.C. 12773(b)(2));

12 “(iv) section 106 of the Housing and
13 Urban Development Act of 1968 (12 U.S.C.
14 1701x);

15 “(v) section 422(b)(6) of the Cranston-
16 Gonzalez National Affordable Housing Act
17 (42 U.S.C. 12872(b)(6));

18 “(vi) section 491(b)(1)(F)(iii) of the
19 McKinney-Vento Homeless Assistance Act
20 (42 U.S.C. 11408(b)(1)(F)(iii));

21 “(vii) sections 202(3) and 810(b)(2)(A)
22 of the Native American Housing and Self-
23 Determination Act of 1996 (25 U.S.C.
24 4132(3), 4229(b)(2)(A)); and

1 “(viii) the rental assistance program
2 under section 8 of the United States Hous-
3 ing Act of 1937 (42 U.S.C. 1437f).

4 “(2) STANDARDS FOR MATERIALS.—The Sec-
5 retary, in conjunction with the advisory committee es-
6 tablished under subsection (g)(4) of the Department of
7 Housing and Urban Development Act, shall establish
8 standards for materials and forms to be used, as ap-
9 propriate, by organizations providing homeownership
10 counseling services, including any recipients of assist-
11 ance pursuant to subsection (a)(4).

12 “(3) MORTGAGE SOFTWARE SYSTEMS.—

13 “(A) CERTIFICATION.—The Secretary shall
14 provide for the certification of various computer
15 software programs for consumers to use in evalu-
16 ating different residential mortgage loan pro-
17 posals. The Secretary shall require, for such cer-
18 tification, that the mortgage software systems
19 take into account—

20 “(i) the consumer’s financial situation
21 and the cost of maintaining a home, includ-
22 ing insurance, taxes, and utilities;

23 “(ii) the amount of time the consumer
24 expects to remain in the home or expected
25 time to maturity of the loan;

1 “(iii) such other factors as the Sec-
2 retary considers appropriate to assist the
3 consumer in evaluating whether to pay
4 points, to lock in an interest rate, to select
5 an adjustable or fixed rate loan, to select a
6 conventional or government-insured or
7 guaranteed loan and to make other choices
8 during the loan application process.

9 If the Secretary determines that available exist-
10 ing software is inadequate to assist consumers
11 during the residential mortgage loan application
12 process, the Secretary shall arrange for the devel-
13 opment by private sector software companies of
14 new mortgage software systems that meet the
15 Secretary’s specifications.

16 “(B) USE AND INITIAL AVAILABILITY.—
17 Such certified computer software programs shall
18 be used to supplement, not replace, housing coun-
19 seling. The Secretary shall provide that such pro-
20 grams are initially used only in connection with
21 the assistance of housing counselors certified pur-
22 suant to subsection (e).

23 “(C) AVAILABILITY.—After a period of ini-
24 tial availability under subparagraph (B) as the
25 Secretary considers appropriate, the Secretary

1 *shall take reasonable steps to make mortgage*
2 *software systems certified pursuant to this para-*
3 *graph widely available through the Internet and*
4 *at public locations, including public libraries,*
5 *senior-citizen centers, public housing sites, offices*
6 *of public housing agencies that administer rental*
7 *housing assistance vouchers, and housing coun-*
8 *seling centers.*

9 “(4) NATIONAL PUBLIC SERVICE MULTIMEDIA
10 CAMPAIGNS TO PROMOTE HOUSING COUNSELING.—

11 “(A) IN GENERAL.—*The Director of Hous-*
12 *ing Counseling shall develop, implement, and*
13 *conduct national public service multimedia cam-*
14 *paings designed to make persons facing mortgage*
15 *foreclosure, persons considering a subprime*
16 *mortgage loan to purchase a home, elderly per-*
17 *sons, persons who face language barriers, low-in-*
18 *come persons, and other potentially vulnerable*
19 *consumers aware that it is advisable, before seek-*
20 *ing or maintaining a residential mortgage loan,*
21 *to obtain homeownership counseling from an un-*
22 *biased and reliable sources and that such home-*
23 *ownership counseling is available, including*
24 *through programs sponsored by the Secretary of*
25 *Housing and Urban Development.*

1 “(B) *CONTACT INFORMATION.*—*Each seg-*
2 *ment of the multimedia campaign under sub-*
3 *paragraph (A) shall publicize the toll-free tele-*
4 *phone number and web site of the Department of*
5 *Housing and Urban Development through which*
6 *persons seeking housing counseling can locate a*
7 *housing counseling agency in their State that is*
8 *certified by the Secretary of Housing and Urban*
9 *Development and can provide advice on buying*
10 *a home, renting, defaults, foreclosures, credit*
11 *issues, and reverse mortgages.*

12 “(C) *AUTHORIZATION OF APPROPRIA-*
13 *TIONS.*—*There are authorized to be appropriated*
14 *to the Secretary, not to exceed \$3,000,000 for fis-*
15 *cal years 2008, 2009, and 2010, for the develop,*
16 *implement, and conduct of national public serv-*
17 *ice multimedia campaigns under this paragraph.*

18 “(5) *EDUCATION PROGRAMS.*—*The Secretary*
19 *shall provide advice and technical assistance to*
20 *States, units of general local government, and non-*
21 *profit organizations regarding the establishment and*
22 *operation of, including assistance with the develop-*
23 *ment of content and materials for, educational pro-*
24 *grams to inform and educate consumers, particularly*
25 *those most vulnerable with respect to residential mort-*

1 *gage loans (such as elderly persons, persons facing*
 2 *language barriers, low-income persons, and other po-*
 3 *tentially vulnerable consumers), regarding home*
 4 *mortgages, mortgage refinancing, home equity loans,*
 5 *and home repair loans.”.*

6 *(b) CONFORMING AMENDMENTS TO GRANT PROGRAM*
 7 *FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—*
 8 *Section 106(c)(5)(A)(ii) of the Housing and Urban Devel-*
 9 *opment Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is*
 10 *amended—*

11 *(1) in subclause (III), by striking “and” at the*
 12 *end;*

13 *(2) in subclause (IV) by striking the period at*
 14 *the end and inserting “; and”; and*

15 *(3) by inserting after subclause (IV) the fol-*
 16 *lowing new subclause:*

17 *“(V) notify the housing or mort-*
 18 *gage applicant of the availability of*
 19 *mortgage software systems provided*
 20 *pursuant to subsection (g)(3).”.*

21 **SEC. 134. GRANTS FOR HOUSING COUNSELING ASSISTANCE.**

22 *Section 106(a) of the Housing and Urban Development*
 23 *Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by adding*
 24 *at the end the following new paragraph:*

1 “(4) *HOMEOWNERSHIP AND RENTAL COUNSELING AS-*
2 *SISTANCE.*—

3 “(A) *IN GENERAL.*—*The Secretary shall make fi-*
4 *nancial assistance available under this paragraph to*
5 *States, units of general local governments, and non-*
6 *profit organizations providing homeownership or*
7 *rental counseling (as such terms are defined in sub-*
8 *section (g)(1)).*

9 “(B) *QUALIFIED ENTITIES.*—*The Secretary shall*
10 *establish standards and guidelines for eligibility of or-*
11 *ganizations (including governmental and nonprofit*
12 *organizations) to receive assistance under this para-*
13 *graph.*

14 “(C) *DISTRIBUTION.*—*Assistance made available*
15 *under this paragraph shall be distributed in a man-*
16 *ner that encourages efficient and successful counseling*
17 *programs.*

18 “(D) *AUTHORIZATION OF APPROPRIATIONS.*—
19 *There are authorized to be appropriated \$45,000,000*
20 *for each of fiscal years 2008 through 2011 for—*

21 “(i) *the operations of the Office of Housing*
22 *Counseling of the Department of Housing and*
23 *Urban Development;*

1 “(ii) the responsibilities of the Secretary
2 under paragraphs (2) through (5) of subsection
3 (g); and

4 “(iii) assistance pursuant to this paragraph
5 for entities providing homeownership and rental
6 counseling.”.

7 **SEC. 135. REQUIREMENTS TO USE HUD-CERTIFIED COUN-**
8 **SELORS UNDER HUD PROGRAMS.**

9 Section 106(e) of the Housing and Urban Development
10 Act of 1968 (12 U.S.C. 1701x(e)) is amended—

11 (1) by striking paragraph (1) and inserting the
12 following new paragraph:

13 “(1) *REQUIREMENT FOR ASSISTANCE.*—An orga-
14 nization may not receive assistance for counseling ac-
15 tivities under subsection (a)(1)(iii), (a)(2), (a)(4), (c),
16 or (d) of this section, or under section 101(e), unless
17 the organization, or the individuals through which the
18 organization provides such counseling, has been cer-
19 tified by the Secretary under this subsection as com-
20 petent to provide such counseling.”;

21 (2) in paragraph (2)—

22 (A) by inserting “and for certifying organi-
23 zations” before the period at the end of the first
24 sentence; and

1 (B) *in the second sentence by striking “for*
2 *certification” and inserting “, for certification of*
3 *an organization, that each individual through*
4 *which the organization provides counseling shall*
5 *demonstrate, and, for certification of an indi-*
6 *vidual,”;*

7 (3) *in paragraph (3), by inserting “organiza-*
8 *tions and” before “individuals”;*

9 (4) *by redesignating paragraph (3) as para-*
10 *graph (5); and*

11 (5) *by inserting after paragraph (2) the fol-*
12 *lowing new paragraphs:*

13 “(3) *REQUIREMENT UNDER HUD PROGRAMS.—*
14 *Any homeownership counseling or rental housing*
15 *counseling (as such terms are defined in subsection*
16 *(g)(1)) required under, or provided in connection*
17 *with, any program administered by the Department*
18 *of Housing and Urban Development shall be provided*
19 *only by organizations or counselors certified by the*
20 *Secretary under this subsection as competent to pro-*
21 *vide such counseling.*

22 “(4) *OUTREACH.—The Secretary shall take such*
23 *actions as the Secretary considers appropriate to en-*
24 *sure that individuals and organizations providing*
25 *homeownership or rental housing counseling are*

1 *aware of the certification requirements and standards*
2 *of this subsection and of the training and certification*
3 *programs under subsection (f).”.*

4 **SEC. 136. STUDY OF DEFAULTS AND FORECLOSURES.**

5 *The Secretary of Housing and Urban Development*
6 *shall conduct an extensive study of the root causes of default*
7 *and foreclosure of home loans, using as much empirical*
8 *data as are available. The study shall also examine the role*
9 *of escrow accounts in helping prime and nonprime bor-*
10 *rowers to avoid defaults and foreclosures. Not later than 12*
11 *months after the date of the enactment of this Act, the Sec-*
12 *retary shall submit to the Congress a preliminary report*
13 *regarding the study. Not later than 24 months after such*
14 *date of enactment, the Secretary shall submit a final report*
15 *regarding the results of the study, which shall include any*
16 *recommended legislation relating to the study, and rec-*
17 *ommendations for best practices and for a process to iden-*
18 *tify populations that need counseling the most.*

19 **SEC. 137. DEFINITIONS FOR COUNSELING-RELATED PRO-**
20 **GRAMS.**

21 *Section 106 of the Housing and Urban Development*
22 *Act of 1968 (12 U.S.C. 1701x), as amended by the preceding*
23 *provisions of this subtitle, is further amended by adding*
24 *at the end the following new subsection:*

25 “(h) *DEFINITIONS.—For purposes of this section:*

1 “(1) *NONPROFIT ORGANIZATION.*—*The term*
 2 *‘nonprofit organization’ has the meaning given such*
 3 *term in section 104(5) of the Cranston-Gonzalez Na-*
 4 *tional Affordable Housing Act (42 U.S.C. 12704(5)),*
 5 *except that subparagraph (D) of such section shall not*
 6 *apply for purposes of this section.*

7 “(2) *STATE.*—*The term ‘State’ means each of the*
 8 *several States, the Commonwealth of Puerto Rico, the*
 9 *District of Columbia, the Commonwealth of the North-*
 10 *ern Mariana Islands, Guam, the Virgin Islands,*
 11 *American Samoa, the Trust Territories of the Pacific,*
 12 *or any other possession of the United States.*

13 “(3) *UNIT OF GENERAL LOCAL GOVERNMENT.*—
 14 *The term ‘unit of general local government’ means*
 15 *any city, county, parish, town, township, borough,*
 16 *village, or other general purpose political subdivision*
 17 *of a State.’”.*

18 **SEC. 138. UPDATING AND SIMPLIFICATION OF MORTGAGE**

19 **INFORMATION BOOKLET.**

20 *Section 5 of the Real Estate Settlement Procedures Act*
 21 *of 1974 (12 U.S.C. 2604) is amended—*

22 (1) *in the section heading, by striking “SPECIAL”*
 23 *and inserting “HOME BUYING”;*

24 (2) *by striking subsections (a) and (b) and in-*
 25 *serting the following new subsections:*

1 “(a) *PREPARATION AND DISTRIBUTION.*—*The Sec-*
2 *retary shall prepare, at least once every 5 years, a booklet*
3 *to help consumers applying for federally related mortgage*
4 *loans to understand the nature and costs of real estate settle-*
5 *ment services. The Secretary shall prepare the booklet in*
6 *various languages and cultural styles, as the Secretary de-*
7 *termines to be appropriate, so that the booklet is under-*
8 *standable and accessible to homebuyers of different ethnic*
9 *and cultural backgrounds. The Secretary shall distribute*
10 *such booklets to all lenders that make federally related mort-*
11 *gage loans. The Secretary shall also distribute to such lend-*
12 *ers lists, organized by location, of homeownership counselors*
13 *certified under section 106(e) of the Housing and Urban*
14 *Development Act of 1968 (12 U.S.C. 1701x(e)) for use in*
15 *complying with the requirement under subsection (c) of this*
16 *section.*

17 “(b) *CONTENTS.*—*Each booklet shall be in such form*
18 *and detail as the Secretary shall prescribe and, in addition*
19 *to such other information as the Secretary may provide,*
20 *shall include in plain and understandable language the fol-*
21 *lowing information:*

22 “(1) *A description and explanation of the nature*
23 *and purpose of the costs incident to a real estate set-*
24 *tlement or a federally related mortgage loan. The de-*
25 *scription and explanation shall provide general infor-*

1 *mation about the mortgage process as well as specific*
2 *information concerning, at a minimum—*

3 *“(A) balloon payments;*

4 *“(B) prepayment penalties; and*

5 *“(C) the trade-off between closing costs and*
6 *the interest rate over the life of the loan.*

7 *“(2) An explanation and sample of the uniform*
8 *settlement statement required by section 4.*

9 *“(3) A list and explanation of lending practices,*
10 *including those prohibited by the Truth in Lending*
11 *Act or other applicable Federal law, and of other un-*
12 *fair practices and unreasonable or unnecessary*
13 *charges to be avoided by the prospective buyer with*
14 *respect to a real estate settlement.*

15 *“(4) A list and explanation of questions a con-*
16 *sumer obtaining a federally related mortgage loan*
17 *should ask regarding the loan, including whether the*
18 *consumer will have the ability to repay the loan,*
19 *whether the consumer sufficiently shopped for the*
20 *loan, whether the loan terms include prepayment pen-*
21 *alties or balloon payments, and whether the loan will*
22 *benefit the borrower.*

23 *“(5) An explanation of the right of rescission as*
24 *to certain transactions provided by sections 125 and*
25 *129 of the Truth in Lending Act.*

1 “(6) A brief explanation of the nature of a vari-
2 able rate mortgage and a reference to the booklet enti-
3 tled ‘Consumer Handbook on Adjustable Rate Mort-
4 gages’, published by the Board of Governors of the
5 Federal Reserve System pursuant to section
6 226.19(b)(1) of title 12, Code of Federal Regulations,
7 or to any suitable substitute of such booklet that such
8 Board of Governors may subsequently adopt pursuant
9 to such section.

10 “(7) A brief explanation of the nature of a home
11 equity line of credit and a reference to the pamphlet
12 required to be provided under section 127A of the
13 Truth in Lending Act.

14 “(8) Information about homeownership coun-
15 seling services made available pursuant to section
16 106(a)(4) of the Housing and Urban Development Act
17 of 1968 (12 U.S.C. 1701x(a)(4)), a recommendation
18 that the consumer use such services, and notification
19 that a list of certified providers of homeownership
20 counseling in the area, and their contact information,
21 is available.

22 “(9) An explanation of the nature and purpose
23 of escrow accounts when used in connection with
24 loans secured by residential real estate and the re-

1 *quirements under section 10 of this Act regarding*
2 *such accounts.*

3 *“(10) An explanation of the choices available to*
4 *buyers of residential real estate in selecting persons to*
5 *provide necessary services incidental to a real estate*
6 *settlement.*

7 *“(11) An explanation of a consumer’s respon-*
8 *sibilities, liabilities, and obligations in a mortgage*
9 *transaction.*

10 *“(12) An explanation of the nature and purpose*
11 *of real estate appraisals, including the difference be-*
12 *tween an appraisal and a home inspection.*

13 *“(13) Notice that the Office of Housing of the*
14 *Department of Housing and Urban Development has*
15 *made publicly available a brochure regarding loan*
16 *fraud and a World Wide Web address and toll-free*
17 *telephone number for obtaining the brochure.*

18 *The booklet prepared pursuant to this section shall take into*
19 *consideration differences in real estate settlement procedures*
20 *that may exist among the several States and territories of*
21 *the United States and among separate political subdivi-*
22 *sions within the same State and territory.”;*

23 *(3) in subsection (c), by inserting at the end the*
24 *following new sentence: “Each lender shall also in-*
25 *clude with the booklet a reasonably complete or up-*

1 *dated list of homeownership counselors who are cer-*
 2 *tified pursuant to section 106(e) of the Housing and*
 3 *Urban Development Act of 1968 (12 U.S.C. 1701x(e))*
 4 *and located in the area of the lender.”; and*

5 *(4) in subsection (d), by inserting after the pe-*
 6 *riod at the end of the first sentence the following:*
 7 *“The lender shall provide the HUD-issued booklet in*
 8 *the version that is most appropriate for the person re-*
 9 *ceiving it.”.*

10 ***Subtitle C—Combating Mortgage*** 11 ***Fraud***

12 ***SEC. 151. AUTHORIZATION OF APPROPRIATIONS TO COM-*** 13 ***BAT MORTGAGE FRAUD.***

14 *For fiscal years 2008, 2009, 2010, 2011, and 2012,*
 15 *there are authorized to be appropriated to the Attorney Gen-*
 16 *eral a total of—*

17 *(1) \$31,250,000 to support the employment of 30*
 18 *additional agents of the Federal Bureau of Investiga-*
 19 *tion and 2 additional dedicated prosecutors at the De-*
 20 *partment of Justice to coordinate prosecution of mort-*
 21 *gage fraud efforts with the offices of the United States*
 22 *Attorneys; and*

23 *(2) \$750,000 to support the operations of inter-*
 24 *agency task forces of the Federal Bureau of Investiga-*

1 *tion in the areas with the 15 highest concentrations*
2 *of mortgage fraud.*

3 **TITLE II—FHA REFORM AND**
4 **MANUFACTURED HOUSING**
5 **LOAN INSURANCE MOD-**
6 **ERNIZATION**

7 ***Subtitle A—FHA Reform***

8 **SEC. 201. SHORT TITLE.**

9 *This subtitle may be cited as the “Expanding Amer-*
10 *ican Homeownership Act of 2008”.*

11 **SEC. 202. FINDINGS AND PURPOSES.**

12 *(a) FINDINGS.—The Congress finds that—*

13 *(1) one of the primary missions of the Federal*
14 *Housing Administration (FHA) single family mort-*
15 *gage insurance program is to reach borrowers who are*
16 *underserved, or not served, by the existing conven-*
17 *tional mortgage marketplace;*

18 *(2) the FHA program has a long history of inno-*
19 *vation, which includes pioneering the 30-year self-am-*
20 *ortizing mortgage and a safe-to-seniors reverse mort-*
21 *gage product, both of which were once thought too*
22 *risky to private lenders;*

23 *(3) the FHA single family mortgage insurance*
24 *program traditionally has been a major provider of*
25 *mortgage insurance for home purchases;*

1 (4) *the FHA mortgage insurance premium struc-*
2 *ture, as well as FHA's product offerings, should be re-*
3 *vised to reflect FHA's enhanced ability to determine*
4 *risk at the loan level and to allow FHA to better re-*
5 *spond to changes in the mortgage market;*

6 (5) *during past recessions, including the oil-*
7 *patch downturns in the mid-1980s, FHA remained a*
8 *viable credit enhancer and was therefore instrumental*
9 *in preventing a more catastrophic collapse in housing*
10 *markets and a greater loss of homeowner equity; and*

11 (6) *as housing price appreciation slows and in-*
12 *terest rates rise, many homeowners and prospective*
13 *homebuyers will need the less-expensive, safer financ-*
14 *ing alternative that FHA mortgage insurance pro-*
15 *vides.*

16 **(b) PURPOSES.**—*The purposes of this subtitle are—*

17 (1) *to provide flexibility to FHA to allow for the*
18 *insurance of housing loans for low- and moderate-in-*
19 *come homebuyers during all economic cycles in the*
20 *mortgage market;*

21 (2) *to modernize the FHA single family mort-*
22 *gage insurance program by making it more reflective*
23 *of enhancements to loan-level risk assessments and*
24 *changes to the mortgage market; and*

1 (3) to adjust the loan limits for the single family
2 mortgage insurance program to reflect rising house
3 prices and the increased costs associated with new
4 construction.

5 **SEC. 203. MAXIMUM PRINCIPAL LOAN OBLIGATION.**

6 (a) *IN GENERAL.*—Section 203(b)(2) of the National
7 Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by
8 striking subparagraph (A) and inserting the following new
9 subparagraph:

10 “(A) not to exceed the lesser of—

11 “(i) in the case of a 1-family residence,
12 125 percent of the median 1-family house
13 price in the area, as determined by the Sec-
14 retary; and in the case of a 2-, 3-, or 4-fam-
15 ily residence, the percentage of such median
16 price that bears the same ratio to such me-
17 dian price as the dollar amount limitation
18 determined under section 305(a)(2) of the
19 Federal Home Loan Mortgage Corporation
20 Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or
21 4-family residence, respectively, bears to the
22 dollar amount limitation determined under
23 such section for a 1-family residence; or

24 “(ii) 175 percent of the dollar amount
25 limitation determined under such section

1 305(a)(2)(A) for a residence of the applica-
2 ble size (without regard to any authority to
3 increase such limitations with respect to
4 properties located in Alaska, Guam, Ha-
5 wahi, or the Virgin Islands and without re-
6 gard to the high-cost area limitation under
7 such section 305(a)(2)(B));
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 except that,
16 if the Secretary determines that market condi-
17 tions warrant such an increase, the Secretary
18 may, for such period as the Secretary considers
19 appropriate, increase the maximum dollar
20 amount limitation determined pursuant to the
21 preceding provisions of this subparagraph with
22 respect to any particular size or sizes of resi-
23 dences, or with respect to residences located in
24 any particular area or areas, to an amount that
25 does not exceed the maximum dollar amount

1 *then otherwise in effect pursuant to the preceding*
2 *provisions of this subparagraph for such size res-*
3 *idence, or for such area (if applicable), by not*
4 *more than \$100,000; and”.*

5 ***(b) TREATMENT OF TEMPORARY LOAN LIMIT IN-***
6 ***CREASE.—Subsection (a) and the amendment made by such***
7 ***subsection may not be construed to in any way affect the***
8 ***effectiveness of section 202 of the Economic Stimulus Act***
9 ***of 2008 (Public Law 110–185; 122 Stat. 620).***

10 ***SEC. 204. EXTENSION OF MORTGAGE TERM.***

11 *Paragraph (3) of section 203(b) of the National Hous-*
12 *ing Act (12 U.S.C. 1709(b)(3)) is amended—*

13 *(1) by striking “thirty-five years” and inserting*
14 *“forty years”; and*

15 *(2) by striking “(or thirty years if such mortgage*
16 *is not approved for insurance prior to construction)”.*

17 ***SEC. 205. DOWNPAYMENT SIMPLIFICATION.***

18 *Section 203(b) of the National Housing Act (12 U.S.C.*
19 *1709(b)) is amended—*

20 *(1) in paragraph (2)—*

21 *(A) by striking subparagraph (B) and in-*
22 *serting the following new subparagraph:*

23 *“(B) not to exceed an amount equal to the*
24 *sum of—*

1 “(i) the amount of the mortgage pre-
2 mium paid at the time the mortgage is in-
3 sured; and

4 “(ii) 97.75 percent of the appraised
5 value of the property.”;

6 (B) in the matter after and below subpara-
7 graph (B), by striking the second sentence (relat-
8 ing to a definition of “average closing cost”) and
9 all that follows through “title 38, United States
10 Code.”; and

11 (C) by striking the last undesignated para-
12 graph (relating to counseling with respect to the
13 responsibilities and financial management in-
14 volved in homeownership); and

15 (2) in paragraph (9)—

16 (A) by striking the paragraph designation
17 and all that follows through “Provided further,
18 That for” and inserting the following:

19 “(9) Be executed by a mortgagor who shall have
20 paid on account of the property, in cash or its equiv-
21 alent, at least 3 percent of the Secretary’s estimate of
22 the cost of acquisition (excluding the mortgage insur-
23 ance premium paid at the time the mortgage is in-
24 sured). For”; and

1 (B) by inserting after the period at the end
2 the following: “For purposes of this paragraph,
3 the Secretary shall consider as cash or its equiv-
4 alent any amounts gifted by a family member
5 (as such term is defined in section 201), the
6 mortgagor’s employer or labor union, or a quali-
7 fied homeownership assistance entity, but only if
8 there is no obligation on the part of the mort-
9 gagor to repay the gift: For purposes of the pre-
10 ceding sentence, the term ‘qualified homeowner-
11 ship assistance entity’ means any governmental
12 agency or charity that has a program to provide
13 homeownership assistance to low- and moderate-
14 income families or first-time home buyers, or
15 any private nonprofit organization that has such
16 a program and evidences sufficient fiscal sound-
17 ness to protect the fiscal integrity of the Mutual
18 Mortgage Insurance Fund by maintaining a
19 minimum net worth of \$4,000,000 of acceptable
20 assets.”.

21 **SEC. 206. MORTGAGE INSURANCE PREMIUMS FOR QUALI-**
22 **FIED HOMEOWNERSHIP ASSISTANCE ENTI-**
23 **TIES AND HIGHER-RISK BORROWERS.**

24 Paragraph (2) of section 203(c) of the National Hous-
25 ing Act (12 U.S.C. 1709(c)(2)) is amended—

1 (1) in subparagraph (A), in the matter preceding
2 subparagraph (A), by striking the first comma after
3 “section 234(c)”;

4 (2) in subparagraph (A), by inserting after the
5 period at the end of the second sentence the following:
6 “*In the case of a mortgage for which any amounts*
7 *gifted by a qualified homeownership assistance entity*
8 *(as such term is defined in paragraph (9) of sub-*
9 *section (b)) that is a private nonprofit organization*
10 *are treated as cash or its equivalent for purposes of*
11 *meeting the 3 percent requirement under such para-*
12 *graph, the premium payment under this subpara-*
13 *graph shall not exceed 3.0 percent of the amount of*
14 *the original insured principal obligation of the mort-*
15 *gage.”; and*

16 (3) by adding at the end the following new sub-
17 paragraph:

18 “(C) *HIGHER-RISK BORROWERS.—The Secretary*
19 *shall establish underwriting standards that provide*
20 *for insurance under this section of mortgages de-*
21 *scribed in the matter in this paragraph preceding*
22 *subparagraph (A) for which the mortgagor has a cred-*
23 *it score equivalent to a FICO score of less than 560,*
24 *and may insure, and make commitments to insure,*
25 *such mortgages. Such underwriting standards shall*

1 *include establishing and collecting premium pay-*
2 *ments that comply with the requirements of this para-*
3 *graph, except that notwithstanding subparagraph (A),*
4 *the single premium payment collected at the time of*
5 *insurance may be established in an amount that does*
6 *not exceed 3.0 percent of the amount of the original*
7 *insured principal obligation of the mortgage.”.*

8 **SEC. 207. RISK-BASED MORTGAGE INSURANCE PREMIUMS.**

9 *Section 203(c) of the National Housing Act (12 U.S.C.*
10 *1709(c)), as amended by the preceding provisions of this*
11 *subtitle, is further amended by adding at the end the fol-*
12 *lowing new paragraphs:*

13 *“(4) FLEXIBLE RISK-BASED PREMIUMS.—In the case*
14 *of a mortgage referred to in paragraph (2)(C) or a mortgage*
15 *described in the third sentence of subparagraph (A) of para-*
16 *graph (2) (relating to mortgages for which amounts are gift-*
17 *ed by a nonprofit qualified homeownership assistance enti-*
18 *ty), for which the loan application is received by the mort-*
19 *gagee on or after the date of the enactment of the Expanding*
20 *American Homeownership Act of 2008:*

21 *“(A) IN GENERAL.—The Secretary may establish*
22 *a mortgage insurance premium structure involving a*
23 *single premium payment collected prior to the insur-*
24 *ance of the mortgage or annual payments (which may*
25 *be collected on a periodic basis), or both, subject to the*

1 *requirements of subparagraph (B) and paragraph (5).*
2 *Under such structure, the rate of premiums for such*
3 *a mortgage may vary according to the credit risk as-*
4 *sociated with the mortgage and the rate of any an-*
5 *nual premium for such a mortgage may vary during*
6 *the mortgage term as long as the basis for deter-*
7 *mining the variable rate is established before the exe-*
8 *cution of the mortgage. The Secretary may change a*
9 *premium structure established under this subclause*
10 *but only to the extent that such change is not applied*
11 *to any mortgage already executed.*

12 *“(B) ESTABLISHMENT AND ALTERATION OF PRE-*
13 *MIUM STRUCTURE.—A premium structure shall be es-*
14 *tablished or changed under subparagraph (A) only by*
15 *providing notice to mortgagees and to the Congress, at*
16 *least 30 days before the premium structure is estab-*
17 *lished or changed.*

18 *“(C) ANNUAL REPORT REGARDING PREMIUMS.—*
19 *The Secretary shall submit a report to the Congress*
20 *annually setting forth the rate structures and rates es-*
21 *tablished and altered pursuant to this paragraph dur-*
22 *ing the preceding 12-month period and describing*
23 *how such rates were determined.*

24 *“(5) CONSIDERATIONS FOR PREMIUM STRUCTURE.—*
25 *When establishing premiums for mortgages referred to in*

1 paragraph (2)(C), establishing premiums pursuant to para-
2 graph (3), establishing a premium structure under para-
3 graph (4), and when changing such a premium structure,
4 the Secretary shall consider the following:

5 “(A) The effect of the proposed premiums or
6 structure on the Secretary’s ability to meet the oper-
7 ational goals of the Mutual Mortgage Insurance Fund
8 as provided in section 202(a).

9 “(B) Underwriting variables.

10 “(C) The extent to which new pricing under the
11 proposed premiums or structure has potential for ac-
12 ceptance in the private market.

13 “(D) The administrative capability of the Sec-
14 retary to administer the proposed premiums or struc-
15 ture.

16 “(E) The effect of the proposed premiums or
17 structure on the Secretary’s ability to maintain the
18 availability of mortgage credit and provide stability
19 to mortgage markets.

20 “(6) *AUTHORITY TO BASE PREMIUM PRICES ON*
21 *PRODUCT RISK.*—

22 “(A) *AUTHORITY.*—*In establishing premium*
23 *rates under paragraphs (2), (3), and (4), the Sec-*
24 *retary may provide for variations in such rates ac-*
25 *cording to the credit risk associated with the type of*

1 mortgage product that is being insured under this
2 title, which may include providing that premium
3 rates differ between fixed-rate mortgages and adjust-
4 able-rate mortgages insured pursuant to section 251,
5 between mortgages insured pursuant to section 203(b)
6 and mortgages for condominiums insured pursuant to
7 section 234, and between such other products as the
8 Secretary considers appropriate.

9 “(B) *LIMITATION.*—Subparagraph (A) may not
10 be construed to authorize the Secretary to establish,
11 for any mortgage product, any mortgage insurance
12 premium rate that does not comply with the require-
13 ments and limitations under paragraphs (2) through
14 (5).”.

15 **SEC. 208. PAYMENT INCENTIVES FOR HIGHER-RISK BOR-**
16 **ROWERS.**

17 Section 203(c) of the National Housing Act (12 U.S.C.
18 1709(c)), as amended by the preceding provisions of this
19 subtitle, is further amended by adding at the end the fol-
20 lowing new paragraph:

21 “(7) *PAYMENT INCENTIVES.*—

22 “(A) *AUTHORITY.*—With respect to mortgages re-
23 ferred to in paragraph (2)(C):

24 “(i) *DISCRETIONARY 3-YEAR PAYMENT IN-*
25 *CENTIVE.*—The Secretary may provide, in the

1 *discretion of the Secretary, that the payment in-*
2 *centive under subparagraph (B) shall apply*
3 *upon the expiration of the 3-year period begin-*
4 *ning upon the time of insurance of such a mort-*
5 *gage.*

6 “(i) *MANDATORY 5-YEAR PAYMENT INCEN-*
7 *TIVE.—The Secretary shall provide that the pay-*
8 *ment incentive under subparagraph (B) applies*
9 *upon the expiration of the 5-year period begin-*
10 *ning upon the time of insurance of such a mort-*
11 *gage.*

12 “(B) *PAYMENT INCENTIVE.—In the case of any*
13 *mortgage to which the payment incentive under this*
14 *subparagraph applies, if, during the period referred*
15 *to in clause (i) or (ii) of subparagraph (A), as appli-*
16 *cable, all mortgage insurance premiums for such*
17 *mortgage have been paid on a timely basis, upon the*
18 *expiration of such period the Secretary shall—*

19 “(i) *reduce the amount of the annual pre-*
20 *mium payments otherwise due thereafter under*
21 *such mortgage to an amount that does not exceed*
22 *the amount of the annual premium payable at*
23 *the time of insurance of the mortgage on a mort-*
24 *gage of the same product type having the same*
25 *terms, but for which the mortgagor has a credit*

1 score equivalent to a FICO score of 560 or more;
2 and

3 “(ii) refund to the mortgagor, upon pay-
4 ment in full of the obligation of the mortgage,
5 any amount by which the single premium pay-
6 ment for such mortgage collected at the time of
7 insurance exceeded the amount of the single pre-
8 mium payment chargeable under paragraph
9 (2)(A) at the time of insurance for a mortgage
10 of the same product type having the same terms,
11 but for which the mortgagor has a credit score
12 equivalent to a FICO score of 560 or more.”.

13 **SEC. 209. PROTECTIONS FOR HIGHER-RISK BORROWERS.**

14 Section 203(b) of the National Housing Act (12 U.S.C.
15 1709(b)) is amended by adding at the end the following new
16 paragraph:

17 “(10) PROTECTIONS FOR HIGHER-RISK BOR-
18 ROWERS.—Except as otherwise specifically provided
19 in this paragraph, in the case of any mortgage re-
20 ferred to in paragraph (2)(C) of subsection (c), the
21 following requirements shall apply:

22 “(A) DISCLOSURES.—

23 “(i) REQUIRED DISCLOSURES.—In ad-
24 dition to any disclosures that are otherwise
25 required by law or by the Secretary for sin-

1 *gle family mortgages, the mortgagee shall*
2 *disclose to the mortgagor the following in-*
3 *formation:*

4 “(I) *AT APPLICATION.*—*At the*
5 *time of application for the loan in-*
6 *volved in the mortgage, a list of coun-*
7 *seling agencies, approved by the Sec-*
8 *retary, in the area of the applicant.*

9 “(II) *AT EXECUTION.*—*At the*
10 *time of entering into the mortgage—*

11 “(aa) *the terms of the man-*
12 *datory 5-year payment incentive*
13 *required under subsection*
14 *(c)(7)(A)(ii); and*

15 “(bb) *a statement that the*
16 *mortgagor has a right under con-*
17 *tract to loss mitigation.*

18 “(III) *OTHER INFORMATION.*—
19 *Any other additional information that*
20 *the Secretary determines is appro-*
21 *priate to ensure that the mortgagor has*
22 *received timely and accurate informa-*
23 *tion about the program under para-*
24 *graph (2)(C) of subsection (c).*

1 “(i) *PENALTIES FOR FAILURE TO PRO-*
2 *VIDE REQUIRED DISCLOSURES.—The Sec-*
3 *retary may establish and impose appro-*
4 *priate penalties for failure of a mortgagee to*
5 *provide any disclosure required under*
6 *clause (i).*

7 “(iii) *NO PRIVATE RIGHT OF AC-*
8 *TION.—This subparagraph shall not create*
9 *any private right of action on behalf of the*
10 *mortgagor.*

11 “(B) *COUNSELING.—*

12 “(i) *REQUIREMENT.—The Secretary*
13 *shall require that the mortgagor shall have*
14 *received counseling that complies with the*
15 *requirements of this subparagraph.*

16 “(ii) *TERMS OF COUNSELING.—Coun-*
17 *seling under this subparagraph shall be pro-*
18 *vided—*

19 “(I) *prior to closing for the loan*
20 *involved in the mortgage;*

21 “(II) *by a third party (other than*
22 *the mortgagee) who is approved by the*
23 *Secretary, with respect to the respon-*
24 *sibilities and financial management*
25 *involved in homeownership;*

1 “(III) on an individual basis to
2 the mortgagor by a representative of
3 the approved third-party counseling
4 entity; and

5 “(IV) in person, to the maximum
6 extent possible.

7 “(iii) 2- AND 3-FAMILY RESIDENCES.—
8 In the case of a mortgage involving a 2- or
9 3-family residence, counseling under this
10 subparagraph shall include (in addition to
11 the information required under clause (iii))
12 information regarding real estate property
13 management.

14 “(C) NOTICE OF FORECLOSURE PREVENTION
15 COUNSELING AVAILABILITY.—

16 “(i) WRITTEN AGREEMENT.—To be eli-
17 gible for insurance under this subsection,
18 the mortgagee shall provide the mortgagor,
19 at the time of the execution of the mortgage,
20 a written agreement which shall be signed
21 by the mortgagor and under which the
22 mortgagee shall provide notice described in
23 clause (ii) to a housing counseling entity
24 that has agreed to provide the notice and

1 *counseling required under clause (iii) and*
2 *is approved by the Secretary.*

3 “(ii) *NOTICE TO COUNSELING AGEN-*
4 *CY.—The notice described in this clause,*
5 *with respect to a mortgage, is notice, pro-*
6 *vided at the earliest time practicable after*
7 *the mortgagor becomes 60 days delinquent*
8 *with respect to any payment due under the*
9 *mortgage, that the mortgagor is so delin-*
10 *quent and of how to contact the mortgagor.*
11 *Such notice may only be provided once with*
12 *respect to each delinquency period for a*
13 *mortgage.*

14 “(iii) *NOTICE TO MORTGAGOR.—Upon*
15 *notice from a mortgagee that a mortgagor is*
16 *60 days delinquent with respect to pay-*
17 *ments due under the mortgage, the housing*
18 *counseling entity shall at the earliest time*
19 *practicable notify the mortgagor of such de-*
20 *linquency, that the entity makes available*
21 *foreclosure prevention counseling that may*
22 *assist the mortgagor in resolving the delin-*
23 *quency, and of how to contact the entity to*
24 *arrange for such counseling.*

1 “(iv) *ABILITY TO CURE.*—*Failure to*
2 *provide the written agreement required*
3 *under clause (i) may be corrected by send-*
4 *ing such agreement to the mortgagor not*
5 *later than the earliest time practicable after*
6 *the mortgagor first becomes 60 days delin-*
7 *quent with respect to payments due under*
8 *the mortgage. Insurance provided under this*
9 *subsection may not be terminated and pen-*
10 *alties for such failure may not be prospec-*
11 *tively or retroactively imposed if such fail-*
12 *ure is corrected in accordance with this*
13 *clause.*

14 “(v) *PENALTIES FOR FAILURE TO PRO-*
15 *VIDE AGREEMENT.*—*The Secretary may es-*
16 *tablish and impose appropriate penalties*
17 *for failure of a mortgagee to provide the*
18 *written agreement required under clause (i).*

19 “(vi) *LIMITATION ON LIABILITY OF*
20 *MORTGAGEE.*—*A mortgagee shall not incur*
21 *any liability or penalties for any failure of*
22 *a housing counseling entity to provide no-*
23 *tice under clause (iii).*

24 “(vii) *NO PRIVATE RIGHT OF AC-*
25 *TION.*—*This subparagraph shall not create*

1 any private right of action on behalf of the
2 mortgagor.

3 “(viii) *DELINQUENCY PERIOD.*—For
4 purposes of this subparagraph, the term ‘de-
5 linquency period’ means, with respect to a
6 mortgage, a period that begins upon the
7 mortgagor becoming delinquent with respect
8 to payments due under the mortgage and
9 ends upon the first subsequent occurrence of
10 such payments under the mortgage becom-
11 ing current or the property subject to the
12 mortgage being foreclosed or otherwise dis-
13 posed of.”.

14 **SEC. 210. REFINANCING MORTGAGES.**

15 Section 203 of the National Housing Act (12 U.S.C.
16 1709) is amended by inserting after subsection (k) the fol-
17 lowing new subsection:

18 “(l) *REFINANCING MORTGAGES.*—

19 “(1) *ESTABLISHMENT OF UNDERWRITING STAND-*
20 *ARDS.*—The Secretary shall establish underwriting
21 standards that provide for insurance under this title
22 of mortgage loans, and take actions to facilitate the
23 availability of mortgage loans insured under this
24 title, for qualified borrowers that are made for the

1 *purpose of paying or prepaying outstanding obliga-*
2 *tions under existing mortgages for borrowers that—*

3 *“(A) have existing mortgages with adverse*
4 *terms or rates, or*

5 *“(B) do not have access to mortgages at rea-*
6 *sonable rates and terms for such refinancings*
7 *due to adverse market conditions.*

8 *“(2) INSURANCE OF MORTGAGES TO BORROWERS*
9 *IN DEFAULT OR AT RISK OF DEFAULT.—In facili-*
10 *tating insurance for such mortgages, the Secretary*
11 *may insure mortgages to borrowers who are, currently*
12 *in default or at imminent risk of being in default, but*
13 *only if such loans meet reasonable underwriting*
14 *standards established by the Secretary.”.*

15 **SEC. 211. ANNUAL REPORTS ON NEW PROGRAMS AND LOSS**

16 **MITIGATION.**

17 *Section 540(b)(2) of the National Housing Act (12*
18 *U.S.C. 1735f–18(b)(2)) is amended, by adding at the end*
19 *the following new subparagraphs:*

20 *“(C) The rates of default and foreclosure for*
21 *the applicable collection period for mortgages in-*
22 *sured pursuant to the program for mortgage in-*
23 *surance under paragraph (2)(C) of section*
24 *203(c).*

1 “(D) Actions taken by the Secretary during
2 the applicable collection period with respect to
3 loss mitigation on mortgages insured pursuant
4 to section 203.”.

5 **SEC. 212. INSURANCE FOR SINGLE FAMILY HOMES WITH LI-**
6 **CENSED CHILD CARE FACILITIES.**

7 (a) *DEFINITION OF CHILD CARE FACILITY.*—Section
8 201 of the National Housing Act (12 U.S.C. 1707) is
9 amended by adding at the end the following new subsection:

10 “(g) The term ‘child care facility’ means a facility
11 that—

12 “(A) has as its purpose the care of children who
13 are less than 12 years of age; and

14 “(B) is licensed or regulated by the State in
15 which it is located (or, if there is no State law pro-
16 viding for such licensing and regulation by the State,
17 by the municipality or other political subdivision in
18 which the facility is located).

19 Such term does not include facilities for school-age children
20 primarily for use during normal school hours.”.

21 (b) *INCREASE IN MAXIMUM MORTGAGE AMOUNT LIM-*
22 *TATION.*—Paragraph (2) of section 203(b) of the National
23 Housing Act (12 U.S.C. 1709(b)(2)), as amended by the
24 preceding provisions of this subtitle, is further amended by
25 adding at end the following new undesignated paragraph:

1 *“Notwithstanding any other provision of this*
2 *paragraph, the amount that may be insured under*
3 *this section may be increased by up to 25 percent if*
4 *such increase is necessary to account for the increased*
5 *cost of the residence due to an increased need of space*
6 *in the residence for locating and operating a child*
7 *care facility (as such term is defined in section 201)*
8 *within the residence, but only if a valid license or cer-*
9 *tificate of compliance with regulations described in*
10 *section 201(g)(2) has been issued for such facility as*
11 *of the date of the execution of the mortgage, and only*
12 *if such increase in the amount insured is propor-*
13 *tional to the amount of space of such residence that*
14 *will be used for such facility.”.*

15 **SEC. 213. REHABILITATION LOANS.**

16 *Subsection (k) of section 203 of the National Housing*
17 *Act (12 U.S.C. 1709(k)) is amended—*

18 (1) *in paragraph (1), by striking “on” and all*
19 *that follows through “1978”; and*

20 (2) *in paragraph (5)—*

21 (A) *by striking “General Insurance Fund”*
22 *the first place it appears and inserting “Mutual*
23 *Mortgage Insurance Fund”; and*

1 (B) in the second sentence, by striking the
2 comma and all that follows through “General In-
3 surance Fund”.

4 **SEC. 214. DISCRETIONARY ACTION.**

5 *The National Housing Act is amended—*

6 (1) in subsection (e) of section 202 (12 U.S.C.
7 1708(e))—

8 (A) in paragraph (3)(B), by striking “sec-
9 tion 202(e) of the National Housing Act” and
10 inserting “this subsection”; and

11 (B) by redesignating such subsection as sub-
12 section (f);

13 (2) by striking paragraph (4) of section 203(s)
14 (12 U.S.C. 1709(s)(4)) and inserting the following
15 new paragraph:

16 “(4) the Secretary of Agriculture;” and

17 (3) by transferring subsection (s) of section 203
18 (as amended by paragraph (2) of this section) to sec-
19 tion 202, inserting such subsection after subsection
20 (d) of section 202, and redesignating such subsection
21 as subsection (e).

22 **SEC. 215. INSURANCE OF CONDOMINIUMS AND MANUFAC-**
23 **TURED HOUSING.**

24 (a) *IN GENERAL.*—Section 234 of the National Hous-
25 ing Act (12 U.S.C. 1715y) is amended—

1 (1) *in subsection (c)—*

2 (A) *in the first sentence—*

3 (i) *by striking “and” before “(2)”*; and

4 (ii) *by inserting before the period at*

5 *the end the following: “, and (3) the project*

6 *has a blanket mortgage insured by the Sec-*

7 *retary under subsection (d)”*; and

8 (B) *in clause (B) of the third sentence, by*

9 *striking “thirty-five years” and inserting “forty*

10 *years”*; and

11 (2) *in subsection (g), by striking “, except that”*

12 *and all that follows and inserting a period.*

13 (b) *DEFINITION OF MORTGAGE.—Section 201(a) of the*

14 *National Housing Act (12 U.S.C. 1707(a)) is amended—*

15 (1) *before “ a first mortgage” insert “(A)”*;

16 (2) *by striking “or on a leasehold (1)” and in-*

17 *serting “(B) a first mortgage on a leasehold on real*

18 *estate (i)”*;

19 (3) *by striking “or (2)” and inserting “, or (ii)”*;

20 *and*

21 (4) *by inserting before the semicolon the fol-*

22 *lowing: “, or (C) a first mortgage given to secure the*

23 *unpaid purchase price of a fee interest in, or long-*

24 *term leasehold interest in, real estate consisting of a*

25 *one-family unit in a multifamily project, including a*

1 *project in which the dwelling units are attached, or*
2 *are manufactured housing units, semi-detached, or de-*
3 *tached, and an undivided interest in the common*
4 *areas and facilities which serve the project”.*

5 *(c) DEFINITION OF REAL ESTATE.—Section 201 of the*
6 *National Housing Act (12 U.S.C. 1707), as amended by the*
7 *preceding provisions of this subtitle, is further amended by*
8 *adding at the end the following new subsection:*

9 *“(h) The term ‘real estate’ means land and all natural*
10 *resources and structures permanently affixed to the land,*
11 *including residential buildings and stationary manufac-*
12 *tured housing. The Secretary may not require, for treatment*
13 *of any land or other property as real estate for purposes*
14 *of this title, that such land or property be treated as real*
15 *estate for purposes of State taxation.”.*

16 **SEC. 216. MUTUAL MORTGAGE INSURANCE FUND.**

17 *(a) IN GENERAL.—Subsection (a) of section 202 of the*
18 *National Housing Act (12 U.S.C. 1708(a)) is amended to*
19 *read as follows:*

20 *“(a) MUTUAL MORTGAGE INSURANCE FUND.—*

21 *“(1) ESTABLISHMENT.—Subject to the provisions*
22 *of the Federal Credit Reform Act of 1990, there is*
23 *hereby created a Mutual Mortgage Insurance Fund*
24 *(in this title referred to as the ‘Fund’), which shall be*
25 *used by the Secretary to carry out the provisions of*

1 *this title with respect to mortgages insured under sec-*
2 *tion 203. The Secretary may enter into commitments*
3 *to guarantee, and may guarantee, such insured mort-*
4 *gages.*

5 “(2) *LIMIT ON LOAN GUARANTEES.*—*The author-*
6 *ity of the Secretary to enter into commitments to*
7 *guarantee such insured mortgages shall be effective for*
8 *any fiscal year only to the extent that the aggregate*
9 *original principal loan amount under such mort-*
10 *gages, any part of which is guaranteed, does not ex-*
11 *ceed the amount specified in appropriations Acts for*
12 *such fiscal year.*

13 “(3) *FIDUCIARY RESPONSIBILITY.*—*The Sec-*
14 *retary has a responsibility to ensure that the Mutual*
15 *Mortgage Insurance Fund remains financially sound.*

16 “(4) *ANNUAL INDEPENDENT ACTUARIAL*
17 *STUDY.*—*The Secretary shall provide for an inde-*
18 *pendent actuarial study of the Fund to be conducted*
19 *annually, which shall analyze the financial position*
20 *of the Fund. The Secretary shall submit a report an-*
21 *nually to the Congress describing the results of such*
22 *study and assessing the financial status of the Fund.*
23 *The report shall recommend adjustments to under-*
24 *writing standards, program participation, or pre-*

1 *miums, if necessary, to ensure that the Fund remains*
2 *financially sound.*

3 “(5) *QUARTERLY REPORTS.*—*During each fiscal*
4 *year, the Secretary shall submit a report to the Con-*
5 *gress for each quarter, which shall specify for mort-*
6 *gages that are obligations of the Fund—*

7 “(A) *the cumulative volume of loan guar-*
8 *antee commitments that have been made during*
9 *such fiscal year through the end of the quarter*
10 *for which the report is submitted;*

11 “(B) *the types of loans insured, categorized*
12 *by risk;*

13 “(C) *any significant changes between actual*
14 *and projected claim and prepayment activity;*

15 “(D) *projected versus actual loss rates; and*

16 “(E) *updated projections of the annual sub-*
17 *sidy rates to ensure that increases in risk to the*
18 *Fund are identified and mitigated by adjust-*
19 *ments to underwriting standards, program par-*
20 *ticipation, or premiums, and the financial*
21 *soundness of the Fund is maintained.*

22 *The first quarterly report under this paragraph shall*
23 *be submitted on the last day of the first quarter of fis-*
24 *cal year 2008, or upon the expiration of the 90-day*
25 *period beginning on the date of the enactment of the*

1 *Expanding American Homeownership Act of 2008,*
2 *whichever is later.*

3 “(6) *ADJUSTMENT OF PREMIUMS.*—*If, pursuant*
4 *to the independent actuarial study of the Fund re-*
5 *quired under paragraph (5), the Secretary determines*
6 *that the Fund is not meeting the operational goals es-*
7 *tablished under paragraph (8) or there is a substan-*
8 *tial probability that the Fund will not maintain its*
9 *established target subsidy rate, the Secretary may ei-*
10 *ther make programmatic adjustments under section*
11 *203 as necessary to reduce the risk to the Fund, or*
12 *make appropriate premium adjustments.*

13 “(7) *OPERATIONAL GOALS.*—*The operational*
14 *goals for the Fund are—*

15 “(A) *to charge borrowers under loans that*
16 *are obligations of the Fund an appropriate pre-*
17 *mium for the risk that such loans pose to the*
18 *Fund;*

19 “(B) *to minimize the default risk to the*
20 *Fund and to homeowners;*

21 “(C) *to curtail the impact of adverse selec-*
22 *tion on the Fund; and*

23 “(D) *to meet the housing needs of the bor-*
24 *rowers that the single family mortgage insurance*
25 *program under this title is designed to serve.”.*

1 (b) *OBLIGATIONS OF FUND.*—*The National Housing*
2 *Act is amended as follows:*

3 (1) *HOMEOWNERSHIP VOUCHER PROGRAM MORT-*
4 *GAGES.*—*In section 203(v) (12 U.S.C. 1709(v))—*

5 (A) *by striking “Notwithstanding section*
6 *202 of this title, the” and inserting “The”; and*

7 (B) *by striking “General Insurance Fund”*
8 *the first place such term appears and all that*
9 *follows and inserting “Mutual Mortgage Insur-*
10 *ance Fund.”.*

11 (2) *HOME EQUITY CONVERSION MORTGAGES.*—
12 *Section 255(i)(2)(A) of the National Housing Act (12*
13 *U.S.C. 1715z–20(i)(2)(A)) is amended by striking*
14 *“General Insurance Fund” and inserting “Mutual*
15 *Mortgage Insurance Fund”.*

16 (c) *CONFORMING AMENDMENTS.*—*The National Hous-*
17 *ing Act is amended—*

18 (1) *in section 205 (12 U.S.C. 1711), by striking*
19 *subsections (g) and (h); and*

20 (2) *in section 519(e) (12 U.S.C. 1735c(e)), by*
21 *striking “203(b)” and all that follows through*
22 *“203(i)” and inserting “203, except as determined by*
23 *the Secretary”.*

1 **SEC. 217. HAWAIIAN HOME LANDS AND INDIAN RESERVA-**
2 **TIONS.**

3 (a) *HAWAIIAN HOME LANDS.*—Section 247(c) of the
4 *National Housing Act (12 U.S.C. 1715z–12)* is amended—

5 (1) by striking “General Insurance Fund estab-

6 lished in section 519” and inserting “Mutual Mort-

7 gage Insurance Fund”; and

8 (2) in the second sentence, by striking “(1) all

9 references” and all that follows through “and (2)”.

10 (b) *INDIAN RESERVATIONS.*—Section 248(f) of the Na-

11 *tional Housing Act (12 U.S.C. 1715z–13)* is amended—

12 (1) by striking “General Insurance Fund” the

13 first place it appears and all that follows through

14 “519” and inserting “Mutual Mortgage Insurance

15 Fund”; and

16 (2) in the second sentence, by striking “(1) all

17 references” and all that follows through “and (2)”.

18 **SEC. 218. CONFORMING AND TECHNICAL AMENDMENTS.**

19 (a) *REPEALS.*—The following provisions of the Na-

20 *tional Housing Act* are repealed:

21 (1) Subsection (i) of section 203 (12 U.S.C.

22 1709(i)).

23 (2) Subsection (o) of section 203 (12 U.S.C.

24 1709(o)).

25 (3) Subsection (p) of section 203 (12 U.S.C.

26 1709(p)).

1 (4) *Subsection (q) of section 203 (12 U.S.C.*
2 *1709(q)).*

3 (5) *Section 222 (12 U.S.C. 1715m).*

4 (6) *Section 237 (12 U.S.C. 1715z-2).*

5 (7) *Section 245 (12 U.S.C. 1715z-10).*

6 (b) *DEFINITION OF AREA.—Section 203(u)(2)(A) of*
7 *the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is*
8 *amended by striking “shall” and all that follows and insert-*
9 *ing “means a metropolitan statistical area as established*
10 *by the Office of Management and Budget;”.*

11 (c) *DEFINITION OF STATE.—Section 201(d) of the Na-*
12 *tional Housing Act (12 U.S.C. 1707(d)) is amended by*
13 *striking “the Trust Territory of the Pacific Islands” and*
14 *inserting “the Commonwealth of the Northern Mariana Is-*
15 *lands”.*

16 **SEC. 219. HOME EQUITY CONVERSION MORTGAGES.**

17 (a) *IN GENERAL.—Section 255 of the National Hous-*
18 *ing Act (12 U.S.C. 1715z-20) is amended—*

19 (1) *in subsection (b)(2), insert “‘real estate,’”*
20 *after “‘mortgagor,’”;*

21 (2) *in subsection (b)(4), by striking subpara-*
22 *graph (B) and inserting the following new subpara-*
23 *graph:*

24 *“(B) under a lease that has a term that*
25 *ends no earlier than the minimum number of*

1 years, as specified by the Secretary, beyond the
2 actuarial life expectancy of the mortgagor or co-
3 mortgagor, whichever is the later date.”.

4 (3) in the second sentence of subsection (g), by
5 striking “the maximum dollar amount established
6 under section 203(b)(2)” and all that follows through
7 “located” and inserting “132 percent of the dollar
8 amount limitation determined under section
9 305(a)(2)(A) of the Federal Home Loan Mortgage
10 Corporation Act for a 1-family residence (without re-
11 gard to any authority to increase such limitations
12 with respect to properties located in Alaska, Guam,
13 Hawaii, or the Virgin Islands and without regard to
14 the high-cost area limitation under such section
15 305(a)(2)(B))”;

16 (4) in subsection (i)(1)(C), by striking “limita-
17 tions” and inserting “limitation”; and

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

20 “(o) *AUTHORITY TO INSURE HOME PURCHASE MORT-*
21 *GAGES.—*

22 “(1) *IN GENERAL.—*Notwithstanding any other
23 provision in this section, the Secretary may insure,
24 upon application by a mortgagee, a home equity con-
25 version mortgage upon such terms and conditions as

1 *the Secretary may prescribe, when the primary pur-*
2 *pose of the home equity conversion mortgage is to en-*
3 *able an elderly mortgagor to purchase a 1- to 4-fam-*
4 *ily dwelling in which the mortgagor will occupy or*
5 *occupies one of the units.*

6 *“(2) LIMITATION ON PRINCIPAL OBLIGATION.—A*
7 *home equity conversion mortgage insured pursuant to*
8 *paragraph (1) shall involve a principal obligation*
9 *that does not exceed the limitation under subsection*
10 *(g) of this section on the maximum amount of the*
11 *benefits of insurance under this section.”.*

12 *(b) MORTGAGES FOR COOPERATIVES.—Subsection (b)*
13 *of section 255 of the National Housing Act (12 U.S.C.*
14 *1715z–20(b)) is amended—*

15 *(1) in paragraph (4)—*

16 *(A) by inserting “a first or subordinate*
17 *mortgage or lien” before “on all stock”;*

18 *(B) by inserting “unit” after “dwelling”;*

19 *and*

20 *(C) by inserting “a first mortgage or first*
21 *lien” before “on a leasehold”; and*

22 *(2) in paragraph (5), by inserting “a first or*
23 *subordinate lien on” before “all stock”.*

1 (c) *PROHIBITION ON REQUIRED PURCHASE OF AN AN-*
2 *NUITY.—Section 255 of the National Housing Act of 1937*
3 *(12 U.S.C. 1715z–20) is amended—*

4 (1) *by striking subparagraph (B) of subsection*
5 *(d)(2) and inserting the following new subparagraph:*

6 “(B) *has received adequate counseling by a*
7 *third party (other than a reverse mortgage lend-*
8 *er, servicer or investor, or an entity engaged in*
9 *the sale of annuities, investments, long-term care*
10 *insurance, or any other type of financial or in-*
11 *urance product) as provided in subsection (f);”;*

12 (2) *by striking the first sentence of subsection (f)*
13 *and inserting the following new sentence: “The Sec-*
14 *retary shall provide or cause to be provided and paid*
15 *for by entities other than a reverse mortgage lender,*
16 *servicer or investor, or an entity engaged in the sale*
17 *of annuities, investments, long-term care insurance,*
18 *or any other type of financial or insurance product*
19 *the information required in subsection (d)(2)(B).”;*
20 *and*

21 (3) *by striking subsections (l) and (m) and in-*
22 *serting the following new subsection:*

23 “(l) *REGULATIONS TO PROTECT ELDERLY HOME-*
24 *OWNERS.—*

1 “(1) *IN GENERAL.*—Not later than 6 months
2 after the date of the enactment of the *Expanding*
3 *American Homeownership Act of 2008*, the Secretary
4 shall, in consultation with other relevant Federal de-
5 partments and agencies, prescribe regulations to help
6 protect elderly homeowners from the marketing of fi-
7 nancial and insurance products not in the interest of
8 such homeowners, including the marketing or sale of
9 an annuity as a condition of obtaining any home eq-
10 uity conversion mortgage.

11 “(2) *CONSULTATION.*—In developing the regula-
12 tions required under paragraph (1), the Secretary
13 shall consult with consumer advocates (including rec-
14 ognized experts in consumer protection), industry rep-
15 resentatives, representatives of counseling organiza-
16 tions, and other interested parties.”.

17 (d) *LIMITATION ON ORIGINATION FEES.*—Section 255
18 of the *National Housing Act* (12 U.S.C. 1715z–20), as
19 amended by the preceding provisions of this section, is fur-
20 ther amended—

21 (1) by redesignating subsections (k), (l), and (m)
22 as subsections (l), (m), and (n), respectively; and

23 (2) by inserting after subsection (j) the following
24 new subsection:

1 “(k) *LIMITATION ON ORIGINATION FEES.*—*The Sec-*
2 *retary shall establish limits on the origination fee that may*
3 *be charged to a mortgagor under a mortgage insured under*
4 *this section, which limitations shall—*

5 “(1) *be equal to 2.0 percent of the maximum*
6 *claim amount of the mortgage up to a maximum*
7 *claim amount of \$200,000 plus 1 percent of any por-*
8 *tion of the maximum claim amount that is greater*
9 *than \$200,000, unless adjusted thereafter on the basis*
10 *of an analysis of (A) costs to mortgagors, and (B) the*
11 *impact on the reverse mortgage market;*

12 “(2) *be subject to a minimum allowable amount;*

13 “(3) *provide that the origination fee may be*
14 *fully financed with the mortgage;*

15 “(4) *include any fees paid to correspondent*
16 *mortgagees approved by the Secretary or to mortgage*
17 *brokers;*

18 “(5) *apply beginning upon the date that the*
19 *maximum dollar amount limitation on the benefits of*
20 *insurance under this section is first increased pursu-*
21 *ant to the amendments made by section 219(a)(3) of*
22 *the Expanding American Homeownership Act of*
23 *2008; and*

24 “(6) *be subject to a maximum origination fee of*
25 *\$6,000, except that such maximum limit shall be ad-*

1 *justed in accordance with the annual percentage in-*
2 *crease in the Consumer Price Index of the Bureau of*
3 *Labor Statistics of the Department of Labor in incre-*
4 *ments of \$500 only when the percentage increase in*
5 *such index, when applied to the maximum origina-*
6 *tion fee, produce dollar increases that exceed \$500.”.*

7 *(e) STUDY REGARDING MORTGAGE INSURANCE PRE-*
8 *MIUMS.—The Secretary of Housing and Urban Develop-*
9 *ment shall conduct a study regarding mortgage insurance*
10 *premiums charged under the program under section 255 of*
11 *the National Housing Act (12 U.S.C. 1715z–20) for insur-*
12 *ance of home equity conversion mortgages to analyze and*
13 *determine the effects of reducing the amounts of such pre-*
14 *miums from the amounts charged as of the date of the enact-*
15 *ment of this Act on: (1) costs to mortgagors; and (2) the*
16 *financial soundness of the program. Not later than the expi-*
17 *ration of the 12-month period beginning on the date of the*
18 *enactment of this Act, the Secretary shall submit a report*
19 *to the Congress setting forth the results and conclusions of*
20 *the study.*

21 *(f) PURCHASE AUTHORITY OF FANNIE MAE AND*
22 *FREDDIE MAC.—*

23 *(1) FANNIE MAE.—Section 302(b) of the Federal*
24 *National Mortgage Association Charter Act (12*

1 *U.S.C. 1717(b)) is amended by adding at the end the*
2 *following:*

3 “(7) *The corporation is authorized to purchase, service,*
4 *sell, lend on the security of, and otherwise deal in any mort-*
5 *gage insured under section 255 of the National Housing Act*
6 *(12 U.S.C. 1715z–20), notwithstanding the limitations*
7 *under paragraph (2) on the maximum original principal*
8 *obligations of mortgages.”.*

9 (2) *FREDDIE MAC.—Section 305(a) of the Fed-*
10 *eral Home Loan Mortgage Corporation Act (12*
11 *U.S.C. 1454(a)) is amended by adding at the end the*
12 *following:*

13 “(6) *The Corporation is authorized to purchase, serv-*
14 *ice, sell, lend on the security of, and otherwise deal in any*
15 *mortgage insured under section 255 of the National Hous-*
16 *ing Act (12 U.S.C. 1715z–20), notwithstanding the limita-*
17 *tions under paragraph (2) on the maximum original prin-*
18 *cipal obligations of mortgages.”.*

19 **SEC. 220. STUDY ON PARTICIPATION OF MORTGAGE BRO-**
20 **KERS AND CORRESPONDENT LENDERS.**

21 (a) *STUDY.—The Comptroller General of the United*
22 *States shall conduct a study, which shall be completed not*
23 *later than the expiration of the 12-month period beginning*
24 *on the date of the enactment of this Act, which shall analyze*
25 *and determine—*

1 (1) *the extent to which the financial audit and*
2 *net worth requirements impede participation by*
3 *mortgage brokers and correspondent lenders in the*
4 *mortgage insurance programs under the National*
5 *Housing Act, as measured by the number and value*
6 *of such insured mortgages, disaggregated by the States*
7 *in which the properties subject to such mortgages are*
8 *located;*

9 (2) *the extent and effectiveness of the financial*
10 *audit and net worth requirements in protecting the*
11 *Mutual Mortgage Insurance Fund;*

12 (3) *the extent and effectiveness of the supervision*
13 *and quality control enforcement, by the Secretary, of*
14 *mortgagees in the FHA program, separate from the*
15 *financial audit and net worth requirements for par-*
16 *ticipation, in protecting the Mutual Mortgage Insur-*
17 *ance Fund;*

18 (4) *the extent to which allowing a mortgage*
19 *broker to secure a surety bond in lieu of the financial*
20 *audit and net worth requirements would increase*
21 *participation by mortgage brokers and correspondent*
22 *lenders in the mortgage insurance programs under the*
23 *National Housing Act;*

24 (5) *the extent to which allowing a mortgage*
25 *broker to secure a surety bond in lieu of the financial*

1 *audit and net worth requirements would protect the*
2 *Mutual Mortgage Insurance Fund; and*

3 *(6) the potential impact of such changes on the*
4 *costs incurred by the Secretary of Housing and*
5 *Urban Development in administering the mortgage*
6 *insurance programs under such Act.*

7 *(b) GAO REPORT.—Not later than the expiration of*
8 *the 12-month period beginning on the date of the enactment*
9 *of this Act, the Comptroller General shall submit a report*
10 *to the Congress and the Secretary of Housing and Urban*
11 *Development setting forth the results and conclusions of the*
12 *study conducted pursuant to subsection (a).*

13 *(c) HUD REPORT.—Not later than the expiration of*
14 *the 18-month period beginning upon the date of the enact-*
15 *ment of this Act, the Secretary of Housing and Urban De-*
16 *velopment may submit a report to the Congress making rec-*
17 *ommendations regarding any changes in requirements for*
18 *participation of mortgage brokers and correspondent lend-*
19 *ers in the mortgage insurance programs under the National*
20 *Housing Act arising from a review of the study conducted*
21 *pursuant to subsection (a).*

22 **SEC. 221. CONFORMING LOAN LIMIT IN DISASTER AREAS.**

23 *Section 203(h) of the National Housing Act (12 U.S.C.*
24 *1709) is amended—*

1 (1) *by inserting after “property” the following:*
2 *“plus any initial service charges, appraisal, inspec-*
3 *tion and other fees in connection with the mortgage*
4 *as approved by the Secretary,”;*

5 (2) *by striking the second sentence (as added by*
6 *chapter 7 of the Emergency Supplemental Appropria-*
7 *tions Act of 1994 (Public Law 103–211; 108 Stat.*
8 *12)); and*

9 (3) *by adding at the end the following new sen-*
10 *tence: “In any case in which the single family resi-*
11 *dence to be insured under this subsection is within a*
12 *jurisdiction in which the President has declared a*
13 *major disaster to have occurred, the Secretary is au-*
14 *thorized, for a temporary period not to exceed 36*
15 *months from the date of such Presidential declaration,*
16 *to enter into agreements to insure a mortgage which*
17 *involves a principal obligation of up to 100 percent*
18 *of the dollar limitation determined under section*
19 *305(a)(2) of the Federal Home Loan Mortgage Cor-*
20 *poration Act for a single family residence, and not in*
21 *excess of 100 percent of the appraised value of the*
22 *property plus any initial service charges, appraisal,*
23 *inspection and other fees in connection with the mort-*
24 *gage as approved by the Secretary.”.*

1 **SEC. 222. FAILURE TO PAY AMOUNTS FROM ESCROW AC-**
2 **COUNTS FOR SINGLE FAMILY MORTGAGES.**

3 (a) *PENALTIES.*—Section 536 of the National Housing
4 Act (12 U.S.C. 1735f–14) is amended—

5 (1) in subsection (a)(1), by inserting “servicers
6 (including escrow account servicers),” after “apprais-
7 ers,”;

8 (2) in subsection (b)(1)—

9 (A) in the matter preceding subparagraph
10 (A), by inserting “or other participant referred
11 to in subsection (a),” after “lender,”; and

12 (B) by inserting at the end the following
13 new subparagraphs:

14 “(K) In the case of a mortgage for a 1- to
15 4-family residence insured under title II that re-
16 quires the mortgagor to make payments to the
17 mortgagee or other servicer of the mortgage for
18 deposit into an escrow account for the purpose of
19 assuring payment of taxes, insurance premiums,
20 and other charges with respect to the property,
21 failure on the part of the servicer to make any
22 such payment from the escrow account by the
23 deadline to avoid a penalty with respect to such
24 payment provided for in the mortgage, unless the
25 servicer was not provided notice of such deadline.

1 “(L) *In the case of any failure to make any*
2 *payment as described in subparagraph (K), sub-*
3 *mitting any information to a consumer report-*
4 *ing agency (as such term is defined in section*
5 *603(f) of the Fair Credit Reporting Act (15*
6 *U.S.C. 1681a(f)) regarding such failure that is*
7 *adverse to the credit rating or interest of the*
8 *mortgagor.”; and*

9 (3) *in subsection (c)(3), by adding at the end the*
10 *following: “In the case of any failure to make a pay-*
11 *ment described in subsection (b)(1)(K) for which the*
12 *servicer fails to reimburse the mortgagor (A) before*
13 *the expiration of the 60-day period beginning on the*
14 *deadline to avoid a penalty with respect to such pay-*
15 *ment, in the sum of the amount not paid from the es-*
16 *crow account by such deadline and the amount of any*
17 *penalties accruing to the mortgagor that are attrib-*
18 *utable to such failure, or (B) in the amount of any*
19 *attorneys fees incurred by the mortgagor and attrib-*
20 *utable to such failure, the Secretary shall increase the*
21 *amount of the penalty under subsection (a) for any*
22 *such failure to reimburse, unless the Secretary deter-*
23 *mines there are mitigating circumstances.”.*

24 (b) *PROHIBITION ON SUBMISSION OF INFORMATION BY*
25 *HUD.—Title II of the National Housing Act (12 U.S.C.*

1 1707 et seq.) is amended by adding at the end the following
2 new section:

3 **“SEC. 257. PROHIBITION REGARDING FAILURE ON PART OF**
4 **SERVICER TO MAKE ESCROW PAYMENTS.**

5 *“In the case of any failure to make any payment as*
6 *described in section 536(b)(1)(K), the Secretary may not*
7 *submit any information to a consumer reporting agency (as*
8 *such term is defined in section 603(f) of the Fair Credit*
9 *Reporting Act (15 U.S.C. 1681a(f)) regarding such failure*
10 *that is adverse to the credit rating or interest of the mort-*
11 *gagor.”.*

12 **SEC. 223. ACCEPTABLE IDENTIFICATION FOR FHA MORTGA-**
13 **GORS.**

14 *(a) IN GENERAL.—Title II of the National Housing*
15 *Act is amended by inserting after section 209 (12 U.S.C.*
16 *1715) the following new section:*

17 **“SEC. 210. FORMS OF ACCEPTABLE IDENTIFICATION.**

18 *“The Secretary may not insure a mortgage under any*
19 *provision of this title unless the mortgagor under the mort-*
20 *gage provides personal identification in one of the following*
21 *forms:*

22 *“(1) A valid social security number verified in*
23 *accordance with paragraph 3–1 C of chapter 3 of*
24 *HUD Handbook 4155.1 REV–5.*

1 “(2) A driver’s license or identification card
2 issued by a State in the case of a State that is in
3 compliance with title II of the REAL ID Act of 2005
4 (title II of division B of Public Law 109–13; 49
5 U.S.C. 30301 note).

6 “(3) A passport issued by the United States or
7 a foreign government.

8 “(4) A photo identification card issued by the
9 Secretary of Homeland Security (acting through the
10 Director of the United States Citizenship and Immi-
11 gration Services).”.

12 (b) *EFFECTIVE DATE.*—The requirements of section
13 210 of the National Housing Act (as added by subsection
14 (a) of this section) shall take effect 6 months after the date
15 of the enactment of this Act.

16 **SEC. 224. PILOT PROGRAM FOR AUTOMATED PROCESS FOR**
17 **BORROWERS WITHOUT SUFFICIENT CREDIT**
18 **HISTORY.**

19 (a) *ESTABLISHMENT.*—Title II of the National Hous-
20 ing Act (12 U.S.C. 1707 et seq.), as amended by the pre-
21 ceding provisions of this subtitle, is further amended by
22 adding at the end the following new section:

1 **“SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR**
2 **BORROWERS WITHOUT SUFFICIENT CREDIT**
3 **HISTORY.**

4 “(a) *ESTABLISHMENT.*—*The Secretary shall carry out*
5 *a pilot program to establish, and make available to mortga-*
6 *gees, an automated process for providing alternative credit*
7 *rating information for mortgagors and prospective mortga-*
8 *gors under mortgages on 1- to 4-family residences to be in-*
9 *sured under this title who have insufficient credit histories*
10 *for determining their creditworthiness. Such alternative*
11 *credit rating information may include rent, utilities, and*
12 *insurance payment histories, and such other information*
13 *as the Secretary considers appropriate.*

14 “(b) *SCOPE.*—*The Secretary may carry out the pilot*
15 *program under this section on a limited basis or scope, and*
16 *may consider limiting the program—*

17 “(1) *to first-time homebuyers; or*

18 “(2) *metropolitan statistical areas significantly*
19 *impacted by subprime lending.*

20 “(c) *LIMITATION.*—*In any fiscal year, the aggregate*
21 *number of mortgages insured pursuant to the automated*
22 *process established under this section may not exceed 5 per-*
23 *cent of the aggregate number of mortgages for 1- to 4-family*
24 *residences insured by the Secretary under this title during*
25 *the preceding fiscal year.*

1 “(d) *SUNSET.*—After the expiration of the 5-year pe-
2 riod beginning on the date of the enactment of the *Expand-*
3 *ing American Homeownership Act of 2008*, the Secretary
4 may not enter into any new commitment to insure any
5 mortgage, or newly insure any mortgage, pursuant to the
6 automated process established under this section.”.

7 (b) *GAO REPORT.*—Not later than the expiration of
8 the 4-year period beginning on the date that the Secretary
9 of Housing and Urban Development first insures any mort-
10 gage pursuant to the automated process established under
11 pilot program under section 258 of the *National Housing*
12 *Act (as added by the amendment made by subsection (a)*
13 *of this section)*, the Comptroller General of the United
14 States shall submit to the Congress a report identifying the
15 number of additional mortgagors served using such auto-
16 mated process and the impact of such process and the insur-
17 ance of mortgages pursuant to such process on the safety
18 and soundness of the insurance funds under the *National*
19 *Housing Act of which such mortgages are obligations.*

20 **SEC. 225. SENSE OF CONGRESS REGARDING TECHNOLOGY**
21 **FOR FINANCIAL SYSTEMS.**

22 (a) *CONGRESSIONAL FINDINGS.*—The Congress finds
23 the following:

24 (1) *The Government Accountability Office has*
25 *cited the FHA single family housing mortgage insur-*

1 *ance program as a “high-risk” program, with a pri-*
2 *mary reason being non-integrated and out-dated fi-*
3 *ancial management systems.*

4 (2) *The “Audit of the Federal Housing Adminis-*
5 *tration’s Financial Statements for Fiscal Years 2004*
6 *and 2003”, conducted by the Inspector General of the*
7 *Department of Housing and Urban Development re-*
8 *ported as a material weakness that “HUD/FHA’s*
9 *automated data processing [ADP] system environ-*
10 *ment must be enhanced to more effectively support*
11 *FHA’s business and budget processes”.*

12 (3) *Existing technology systems for the FHA*
13 *program have not been updated to meet the latest*
14 *standards of the Mortgage Industry Standards Main-*
15 *tenance Organization and have numerous deficiencies*
16 *that lenders have outlined.*

17 (4) *Improvements to technology used in the FHA*
18 *program will—*

19 (A) *allow the FHA program to improve the*
20 *management of the FHA portfolio, garner great-*
21 *er efficiencies in its operations, and lower costs*
22 *across the program;*

23 (B) *result in efficiencies and lower costs for*
24 *lenders participating in the program, allowing*
25 *them to better use the FHA products in extend-*

1 *ing homeownership opportunities to higher credit*
2 *risk or lower-income families, in a sound man-*
3 *ner.*

4 (5) *The Mutual Mortgage Insurance Fund oper-*
5 *ates without cost to the taxpayers and generates reve-*
6 *nuues for the Federal Government.*

7 (b) *SENSE OF CONGRESS.—It is the sense of the Con-*
8 *gress that—*

9 (1) *the Secretary of Housing and Urban Devel-*
10 *opment should use a portion of the funds received*
11 *from premiums paid for FHA single family housing*
12 *mortgage insurance that are in excess of the amounts*
13 *paid out in claims to substantially increase the fund-*
14 *ing for technology used in such FHA program;*

15 (2) *the goal of this investment should be to bring*
16 *the technology used in such FHA program to the level*
17 *and sophistication of the technology used in the con-*
18 *ventional mortgage lending market, or to exceed such*
19 *level; and*

20 (3) *the Secretary of Housing and Urban Devel-*
21 *opment should report to the Congress not later than*
22 *180 days after the date of the enactment of this Act*
23 *regarding the progress the Department is making to-*
24 *ward such goal and if progress is not sufficient, the*
25 *resources needed to make greater progress.*

1 **SEC. 226. CLARIFICATION OF DISPOSITION OF CERTAIN**
2 **PROPERTIES.**

3 *Notwithstanding any other provision of law, subtitle*
4 *A of title II of the Deficit Reduction Act of 2005 (12 U.S.C.*
5 *1701z–11 note) and the amendments made by such title*
6 *shall not apply to any transaction regarding a multifamily*
7 *real property for which—*

8 *(1) the Secretary of Housing and Urban Devel-*
9 *opment has received, before the date of the enactment*
10 *of such Act, written expressions of interest in pur-*
11 *chasing the property from both a city government and*
12 *the housing commission of such city;*

13 *(2) after such receipt, the Secretary acquires title*
14 *to the property at a foreclosure sale; and*

15 *(3) such city government and housing commis-*
16 *sion have resolved a previous disagreement with re-*
17 *spect to the disposition of the property.*

18 **SEC. 227. VALUATION OF MULTIFAMILY PROPERTIES IN**
19 **NONCOMPETITIVE SALES BY HUD TO STATES**
20 **AND LOCALITIES.**

21 *Subtitle A of title II of the Deficit Reduction Act of*
22 *2005 (Public Law 109–171; 120 Stat. 7) is amended by*
23 *adding at the end the following new section:*

1 **“SEC. 2004. VALUATION OF MULTIFAMILY PROPERTIES IN**
2 **NONCOMPETITIVE SALES BY HUD TO STATES**
3 **AND LOCALITIES.**

4 *“Notwithstanding any other provision of law, in de-*
5 *termining the market value of any multifamily real prop-*
6 *erty or multifamily loan for any noncompetitive sale to a*
7 *State or local government entity occurring during fiscal*
8 *year 2008, the Secretary shall consider, but not be limited*
9 *to, industry standard appraisal practices, including the*
10 *cost of repairs needed to bring the property at least to min-*
11 *imum State and local code standards and of maintaining*
12 *the existing affordability restrictions imposed by the Sec-*
13 *retary on the multifamily real property or multifamily*
14 *loan.’”.*

15 **SEC. 228. LIMITATION ON MORTGAGE INSURANCE PREMIUM**
16 **INCREASES.**

17 *Notwithstanding any other provision of law, including*
18 *any provision of this subtitle and any amendment made*
19 *by this subtitle—*

20 *(1) the premiums charged for mortgage insur-*
21 *ance under any program under the National Housing*
22 *Act may not be increased above the premium amounts*
23 *in effect under such program on October 1, 2006, un-*
24 *less the Secretary of Housing and Urban Development*
25 *determines that, absent such increase, insurance of*
26 *additional mortgages under such program would,*

1 *under the Federal Credit Reform Act of 1990, require*
2 *the appropriation of new budget authority to cover*
3 *the costs (as such term is defined in section 502 of the*
4 *Federal Credit Reform Act of 1990 (2 U.S.C. 661a)*
5 *of such insurance; and*

6 *(2) a premium increase pursuant to paragraph*
7 *(1) may be made only by rule making in accordance*
8 *with the procedures under section 553 of title 5,*
9 *United States Code (notwithstanding subsections*
10 *(a)(2), (b)(B), and (d)(3) of such section).*

11 **SEC. 229. CIVIL MONEY PENALTIES FOR IMPROPERLY IN-**
12 **FLUENCING APPRAISALS.**

13 *Paragraph (2) of section 536(b) of the National Hous-*
14 *ing Act (12 U.S.C. 1735f-14(b)(2)) is amended—*

15 *(1) in subparagraph (B), by striking “or” at the*
16 *end;*

17 *(2) in subparagraph (C), by striking the period*
18 *at the end and inserting “; or”; and*

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

21 *“(D) in the case of an insured mortgage*
22 *under title II for a 1- to 4-family residence, com-*
23 *pensating, instructing, inducing, coercing, or in-*
24 *timidating any person who conducts an ap-*
25 *praisal of the property in connection with such*

1 mortgage, or attempting to compensate, instruct,
2 induce, coerce, or intimidate such a person, for
3 the purpose of causing the appraised value as-
4 signed to the property under the appraisal to be
5 based on any other factor other than the inde-
6 pendent judgment of such person exercised in ac-
7 cordance with applicable professional stand-
8 ards.”.

9 **SEC. 230. MORTGAGE INSURANCE PREMIUM REFUNDS.**

10 (a) *AUTHORITY.*—The Secretary of Housing and
11 Urban Development shall, to the extent that amounts are
12 made available pursuant to subsection (c), provide refunds
13 of unearned premium charges paid, at the time of insur-
14 ance, for mortgage insurance under title II of the National
15 Housing Act (12 U.S.C. 1707 et seq.) to or on behalf of
16 mortgagors under mortgages described in subsection (b).

17 (b) *ELIGIBLE MORTGAGES.*—A mortgage described in
18 this section is a mortgage on a one- to four-family dwelling
19 that—

20 (1) was insured under title II of the National
21 Housing Act (12 U.S.C. 1707 et seq.);

22 (2) is otherwise eligible, under the last sentence
23 of subparagraph (A) of section 203(c)(2) of such Act
24 (12 U.S.C. 1709(c)(2)(A)), for a refund of all un-

1 *earned premium charges paid on the mortgage pursu-*
2 *ant to such subparagraph, except that the mortgage—*

3 *(A) was closed before December 8, 2004; and*

4 *(B) was endorsed on or after such date.*

5 *(c) AUTHORIZATION OF APPROPRIATIONS.—There is*
6 *authorized to be appropriated for each fiscal year such sums*
7 *as may be necessary to provide refunds of unearned mort-*
8 *gage insurance premiums pursuant to this section.*

9 **SEC. 231. SAVINGS PROVISION.**

10 *Any mortgage insured under title II of the National*
11 *Housing Act before the date of enactment of this Act shall*
12 *continue to be governed by the laws, regulations, orders, and*
13 *terms and conditions to which it was subject on the day*
14 *before the date of the enactment of this Act.*

15 **SEC. 232. IMPLEMENTATION.**

16 *Except as provided in section 223(b), the Secretary of*
17 *Housing and Urban Development shall by notice establish*
18 *any additional requirements that may be necessary to im-*
19 *mediately carry out the provisions of this subtitle. The no-*
20 *tice shall take effect upon issuance.*

1 **Subtitle B—FHA Manufactured**
2 **Housing Loan Insurance Mod-**
3 **ernization**

4 **SECTION 251. SHORT TITLE.**

5 *This subtitle may be cited as the “FHA Manufactured*
6 *Housing Loan Modernization Act of 2008”.*

7 **SEC. 252. FINDINGS AND PURPOSES.**

8 *(a) FINDINGS.—The Congress finds that—*

9 *(1) manufactured housing plays a vital role in*
10 *providing housing for low- and moderate-income fam-*
11 *ilies in the United States;*

12 *(2) the FHA title I insurance program for man-*
13 *ufactured home loans traditionally has been a major*
14 *provider of mortgage insurance for home-only trans-*
15 *actions;*

16 *(3) the manufactured housing market is in the*
17 *midst of a prolonged downturn which has resulted in*
18 *a severe contraction of traditional sources of private*
19 *lending for manufactured home purchases;*

20 *(4) during past downturns the FHA title I in-*
21 *surance program for manufactured homes has filled*
22 *the lending void by providing stability until the pri-*
23 *vate markets could recover;*

1 (5) *in 1992, during the manufactured housing*
2 *industry's last major recession, over 30,000 manufac-*
3 *tured home loans were insured under title I;*

4 (6) *in 2006, fewer than 1,500 manufactured*
5 *housing loans were insured under title I;*

6 (7) *the loan limits for title I manufactured hous-*
7 *ing loans have not been adjusted for inflation since*
8 *1992; and*

9 (8) *these problems with the title I program have*
10 *resulted in an atrophied market for manufactured*
11 *housing loans, leaving American families who have*
12 *the most difficulty achieving homeownership without*
13 *adequate financing options for home-only manufac-*
14 *tured home purchases.*

15 (b) *PURPOSES.—The purposes of this subtitle are—*

16 (1) *to provide adequate funding for FHA-insured*
17 *manufactured housing loans for low- and moderate-*
18 *income homebuyers during all economic cycles in the*
19 *manufactured housing industry;*

20 (2) *to modernize the FHA title I insurance pro-*
21 *gram for manufactured housing loans to enhance par-*
22 *ticipation by Ginnie Mae and the private lending*
23 *markets; and*

24 (3) *to adjust the low loan limits for title I man-*
25 *ufactured home loan insurance to reflect the increase*

1 *contract of insurance so executed shall be incontest-*
2 *able in the hands of the bearer from the date of the*
3 *execution of such contract, except for fraud or mis-*
4 *representation on the part of such institution.”.*

5 **(b) APPLICABILITY.**—*The amendment made by sub-*
6 *section (a) shall only apply to loans that are registered or*
7 *endorsed for insurance after the date of the enactment of*
8 *this Act.*

9 **SEC. 255. MAXIMUM LOAN LIMITS.**

10 **(a) DOLLAR AMOUNTS.**—*Paragraph (1) of section 2(b)*
11 *of the National Housing Act (12 U.S.C. 1703(b)(1)) is*
12 *amended—*

13 *(1) in clause (ii) of subparagraph (A), by strik-*
14 *ing “\$17,500” and inserting “\$25,090”;*

15 *(2) in subparagraph (C) by striking “\$48,600”*
16 *and inserting “\$69,678”;*

17 *(3) in subparagraph (D) by striking “\$64,800”*
18 *and inserting “\$92,904”;*

19 *(4) in subparagraph (E) by striking “\$16,200”*
20 *and inserting “\$23,226”; and*

21 *(5) by realigning subparagraphs (C), (D), and*
22 *(E) 2 ems to the left so that the left margins of such*
23 *subparagraphs are aligned with the margins of sub-*
24 *paragraphs (A) and (B).*

1 (b) *ANNUAL INDEXING.*—Subsection (b) of section 2 of
2 *the National Housing Act (12 U.S.C. 1703(b))*, as amended
3 *by the preceding provisions of this subtitle*, is further
4 *amended by adding at the end the following new paragraph:*

5 “(9) *ANNUAL INDEXING OF MANUFACTURED*
6 *HOUSING LOANS.*—The Secretary shall develop a
7 *method of indexing in order to annually adjust the*
8 *loan limits established in subparagraphs (A)(ii), (C),*
9 *(D), and (E) of this subsection. Such index shall be*
10 *based on the manufactured housing price data col-*
11 *lected by the United States Census Bureau. The Sec-*
12 *retary shall establish such index no later than one*
13 *year after the date of the enactment of the FHA Man-*
14 *ufactured Housing Loan Modernization Act of 2008.”.*

15 (c) *TECHNICAL AND CONFORMING CHANGES.*—Para-
16 *graph (1) of section 2(b) of the National Housing Act (12*
17 *U.S.C. 1703(b)(1)) is amended—*

18 (1) *by striking “No” and inserting “Except as*
19 *provided in the last sentence of this paragraph, no”;*
20 *and*

21 (2) *by adding after and below subparagraph (G)*
22 *the following:*

23 *“The Secretary shall, by regulation, annually increase the*
24 *dollar amount limitations in subparagraphs (A)(ii), (C),*
25 *(D), and (E) (as such limitations may have been previously*

1 *adjusted under this sentence) in accordance with the index*
2 *established pursuant to paragraph (9).”.*

3 **SEC. 256. INSURANCE PREMIUMS.**

4 *Subsection (f) of section 2 of the National Housing Act*
5 *(12 U.S.C. 1703(f)) is amended—*

6 *(1) by inserting “(1) PREMIUM CHARGES.—”*
7 *after “(f)”;* and

8 *(2) by adding at the end the following new para-*
9 *graph:*

10 *“(2) MANUFACTURED HOME LOANS.—Notwith-*
11 *standing paragraph (1), in the case of a loan, advance of*
12 *credit, or purchase in connection with a manufactured*
13 *home or a lot on which to place such a home (or both),*
14 *the premium charge for the insurance granted under this*
15 *section shall be paid by the borrower under the loan or ad-*
16 *vance of credit, as follows:*

17 *“(A) At the time of the making of the loan, advance*
18 *of credit, or purchase, a single premium payment in an*
19 *amount not to exceed 2.25 percent of the amount of the*
20 *original insured principal obligation.*

21 *“(B) In addition to the premium under subparagraph*
22 *(A), annual premium payments during the term of the*
23 *loan, advance, or obligation purchased in an amount not*
24 *exceeding 1.0 percent of the remaining insured principal*
25 *balance (excluding the portion of the remaining balance at-*

1 *tributable to the premium collected under subparagraph (A)*
2 *and without taking into account delinquent payments or*
3 *prepayments).*

4 “(C) *Premium charges under this paragraph shall be*
5 *established in amounts that are sufficient, but do not exceed*
6 *the minimum amounts necessary, to maintain a negative*
7 *credit subsidy for the program under this section for insur-*
8 *ance of loans, advances of credit, or purchases in connection*
9 *with a manufactured home or a lot on which to place such*
10 *a home (or both), as determined based upon risk to the Fed-*
11 *eral Government under existing underwriting requirements.*

12 “(D) *The Secretary may increase the limitations on*
13 *premium payments to percentages above those set forth in*
14 *subparagraphs (A) and (B), but only if necessary, and not*
15 *in excess of the minimum increase necessary, to maintain*
16 *a negative credit subsidy as described in subparagraph*
17 *(C).”.*

18 **SEC. 257. TECHNICAL CORRECTIONS.**

19 (a) *DATES.*—*Subsection (a) of section 2 of the Na-*
20 *tional Housing Act (12 U.S.C. 1703(a)) is amended—*

21 (1) *by striking “on and after July 1, 1939,” each*
22 *place such term appears; and*

23 (2) *by striking “made after the effective date of*
24 *the Housing Act of 1954”.*

1 (b) *AUTHORITY OF SECRETARY.*—Subsection (c) of sec-
2 tion 2 of the National Housing Act (12 U.S.C. 1703(c)) is
3 amended to read as follows:

4 “(c) *HANDLING AND DISPOSAL OF PROPERTY.*—

5 “(1) *AUTHORITY OF SECRETARY.*—Notwith-
6 standing any other provision of law, the Secretary
7 may—

8 “(A) deal with, complete, rent, renovate,
9 modernize, insure, or assign or sell at public or
10 private sale, or otherwise dispose of, for cash or
11 credit in the Secretary’s discretion, and upon
12 such terms and conditions and for such consider-
13 ation as the Secretary shall determine to be rea-
14 sonable, any real or personal property conveyed
15 to or otherwise acquired by the Secretary, in
16 connection with the payment of insurance here-
17 tofore or hereafter granted under this title, in-
18 cluding any evidence of debt, contract, claim,
19 personal property, or security assigned to or held
20 by him in connection with the payment of insur-
21 ance heretofore or hereafter granted under this
22 section; and

23 “(B) pursue to final collection, by way of
24 compromise or otherwise, all claims assigned to
25 or held by the Secretary and all legal or equi-

1 *table rights accruing to the Secretary in connec-*
2 *tion with the payment of such insurance, includ-*
3 *ing unpaid insurance premiums owed in connec-*
4 *tion with insurance made available by this title.*

5 “(2) *ADVERTISEMENTS FOR PROPOSALS.*—*Sec-*
6 *tion 3709 of the Revised Statutes shall not be con-*
7 *strued to apply to any contract of hazard insurance*
8 *or to any purchase or contract for services or supplies*
9 *on account of such property if the amount thereof does*
10 *not exceed \$25,000.*

11 “(3) *DELEGATION OF AUTHORITY.*—*The power to*
12 *convey and to execute in the name of the Secretary,*
13 *deeds of conveyance, deeds of release, assignments and*
14 *satisfactions of mortgages, and any other written in-*
15 *strument relating to real or personal property or any*
16 *interest therein heretofore or hereafter acquired by the*
17 *Secretary pursuant to the provisions of this title may*
18 *be exercised by an officer appointed by the Secretary*
19 *without the execution of any express delegation of*
20 *power or power of attorney. Nothing in this sub-*
21 *section shall be construed to prevent the Secretary*
22 *from delegating such power by order or by power of*
23 *attorney, in the Secretary’s discretion, to any officer*
24 *or agent the Secretary may appoint.”.*

1 **SEC. 258. REVISION OF UNDERWRITING CRITERIA.**

2 (a) *IN GENERAL.*—Subsection (b) of section 2 of the
3 *National Housing Act (12 U.S.C. 1703(b))*, as amended by
4 *the preceding provisions of this subtitle*, is further amended
5 *by adding at the end the following new paragraph:*

6 “(10) *FINANCIAL SOUNDNESS OF MANUFACTURED*
7 *HOUSING PROGRAM.*—*The Secretary shall establish*
8 *such underwriting criteria for loans and advances of*
9 *credit in connection with a manufactured home or a*
10 *lot on which to place a manufactured home (or both),*
11 *including such loans and advances represented by ob-*
12 *ligations purchased by financial institutions, as may*
13 *be necessary to ensure that the program under this*
14 *title for insurance for financial institutions against*
15 *losses from such loans, advances of credit, and pur-*
16 *chases is financially sound.”.*

17 (b) *TIMING.*—*Not later than the expiration of the 6-*
18 *month period beginning on the date of the enactment of this*
19 *Act, the Secretary of Housing and Urban Development shall*
20 *revise the existing underwriting criteria for the program*
21 *referred to in paragraph (10) of section 2(b) of the National*
22 *Housing Act (as added by subsection (a) of this section)*
23 *in accordance with the requirements of such paragraph.*

1 **SEC. 259. REQUIREMENT OF SOCIAL SECURITY ACCOUNT**
2 **NUMBER FOR ASSISTANCE.**

3 *Section 2 of the National Housing Act (12 U.S.C.*
4 *1703) is amended by adding at the end the following new*
5 *subsection:*

6 “(j) *REQUIREMENT OF SOCIAL SECURITY ACCOUNT*
7 *NUMBER FOR FINANCING.—No insurance shall be granted*
8 *under this section with respect to any obligation rep-*
9 *resenting any loan, advance of credit, or purchase by a fi-*
10 *nancial institution unless the borrower to which the loan*
11 *or advance of credit was made has a valid social security*
12 *number.”.*

13 **SEC. 260. GAO STUDY OF MITIGATION OF TORNADO RISKS**
14 **TO MANUFACTURED HOMES.**

15 *The Comptroller General of the United States shall as-*
16 *sess how the Secretary of Housing and Urban Development*
17 *utilizes the FHA manufactured housing loan insurance pro-*
18 *gram under title I of the National Housing Act, the commu-*
19 *nity development block grant program under title I of the*
20 *Housing and Community Development Act of 1974, and*
21 *other programs and resources available to the Secretary to*
22 *mitigate the risks to manufactured housing residents and*
23 *communities resulting from tornados. The Comptroller Gen-*
24 *eral shall submit to the Congress a report on the conclusions*
25 *and recommendations of the assessment conducted pursuant*

1 *to this section not later than the expiration of the 12-month*
2 *period beginning on the date of the enactment of this Act.*

3 **TITLE III—REFORM OF GOVERN-**
4 **MENT-SPONSORED ENTITIES**
5 **FOR HOUSING FINANCE**

6 **SEC. 301. SHORT TITLE.**

7 *This title may be cited as the “Federal Housing Fi-*
8 *nance Reform Act of 2008”.*

9 **SEC. 302. DEFINITIONS.**

10 *Section 1303 of the Housing and Community Develop-*
11 *ment Act of 1992 (12 U.S.C. 4502) is amended—*

12 *(1) in paragraph (7), by striking “an enter-*
13 *prise” and inserting “a regulated entity”;*

14 *(2) by striking “the enterprise” each place such*
15 *term appears (except in paragraphs (4) and (18))*
16 *and inserting “the regulated entity”;*

17 *(3) in paragraph (5), by striking “Office of Fed-*
18 *eral Housing Enterprise Oversight of the Department*
19 *of Housing and Urban Development” and inserting*
20 *“Federal Housing Finance Agency”;*

21 *(4) in each of paragraphs (8), (9), (10), and*
22 *(19), by striking “Secretary” each place that term ap-*
23 *pears and inserting “Director”;*

24 *(5) in paragraph (13), by inserting “, with re-*
25 *spect to an enterprise,” after “means”;*

1 (6) by redesignating paragraphs (16) through
2 (19) as paragraphs (20) through (23), respectively;

3 (7) by striking paragraphs (14) and (15) and
4 inserting the following new paragraphs:

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

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

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

11 “(C) each Federal home loan bank.

12 “(19) *REGULATED ENTITY-AFFILIATED PARTY*.—
13 The term ‘regulated entity-affiliated party’ means—

14 “(A) any director, officer, employee, or
15 agent for, a regulated entity, or controlling
16 shareholder of an enterprise;

17 “(B) any shareholder, affiliate, consultant,
18 or joint venture partner of a regulated entity,
19 and any other person, as determined by the Di-
20 rector (by regulation or on a case-by-case basis)
21 that participates in the conduct of the affairs of
22 a regulated entity, except that a shareholder of a
23 regulated entity shall not be considered to have
24 participated in the affairs of that regulated enti-

1 *ty solely by reason of being a member or cus-*
2 *tomers of the regulated entity;*

3 “(C) *any independent contractor for a regu-*
4 *lated entity (including any attorney, appraiser,*
5 *or accountant), if—*

6 “(i) *the independent contractor know-*
7 *ingly or recklessly participates in—*

8 “(I) *any violation of any law or*
9 *regulation;*

10 “(II) *any breach of fiduciary*
11 *duty; or*

12 “(III) *any unsafe or unsound*
13 *practice; and*

14 “(ii) *such violation, breach, or practice*
15 *caused, or is likely to cause, more than a*
16 *minimal financial loss to, or a significant*
17 *adverse effect on, the regulated entity; and*

18 “(D) *any not-for-profit corporation that re-*
19 *ceives its principal funding, on an ongoing*
20 *basis, from any regulated entity.”.*

21 (8) *by redesignating paragraphs (8) through (13)*
22 *as paragraphs (12) through (17), respectively; and*

23 (9) *by inserting after paragraph (7) the fol-*
24 *lowing new paragraph:*

1 “(11) *FEDERAL HOME LOAN BANK*.—*The term*
2 *‘Federal home loan bank’ means a bank established*
3 *under the authority of the Federal Home Loan Bank*
4 *Act.*”;

5 (10) *by redesignating paragraphs (2) through (7)*
6 *as paragraphs (5) through (10), respectively; and*

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

9 “(2) *AGENCY*.—*The term ‘Agency’ means the*
10 *Federal Housing Finance Agency.*

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

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

15 “(B) *the Federal Home Loan Mortgage Cor-*
16 *poration Act; and*

17 “(C) *the Federal Home Loan Bank Act.*

18 “(4) *BOARD*.—*The term ‘Board’ means the Fed-*
19 *eral Housing Enterprise Board established under sec-*
20 *tion 1313B.*”.

1 ***Subtitle A—Reform of Regulation of***
2 ***Enterprises and Federal Home***
3 ***Loan Banks***

4 ***CHAPTER 1—IMPROVEMENT OF SAFETY***
5 ***AND SOUNDNESS***

6 ***SEC. 311. ESTABLISHMENT OF THE FEDERAL HOUSING FI-***
7 ***NANCE AGENCY.***

8 *(a) IN GENERAL.—The Housing and Community De-*
9 *velopment Act of 1992 (12 U.S.C. 4501 et seq.) is amended*
10 *by striking sections 1311 and 1312 and inserting the fol-*
11 *lowing:*

12 ***“SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING FI-***
13 ***NANCE AGENCY.***

14 *“(a) ESTABLISHMENT.—There is established the Fed-*
15 *eral Housing Finance Agency, which shall be an inde-*
16 *pendent agency of the Federal Government.*

17 *“(b) GENERAL SUPERVISORY AND REGULATORY AU-*
18 *THORITY.—*

19 *“(1) IN GENERAL.—Each regulated entity shall,*
20 *to the extent provided in this title, be subject to the*
21 *supervision and regulation of the Agency.*

22 *“(2) AUTHORITY OVER FANNIE MAE, FREDDIE*
23 *MAC, AND FEDERAL HOME LOAN BANKS.—The Direc-*
24 *tor of the Federal Housing Finance Agency shall have*
25 *general supervisory and regulatory authority over*

1 *each regulated entity and shall exercise such general*
2 *regulatory and supervisory authority, including such*
3 *duties and authorities set forth under section 1313 of*
4 *this Act, to ensure that the purposes of this Act, the*
5 *authorizing statutes, and any other applicable law*
6 *are carried out. The Director shall have the same su-*
7 *pervisory and regulatory authority over any joint of-*
8 *fice of the Federal home loan banks, including the Of-*
9 *fice of Finance of the Federal Home Loan Banks, as*
10 *the Director has over the individual Federal home*
11 *loan banks.*

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

16 **“SEC. 1312. DIRECTOR.**

17 “(a) ESTABLISHMENT OF POSITION.—*There is estab-*
18 *lished the position of the Director of the Federal Housing*
19 *Finance Agency, who shall be the head of the Agency.*

20 “(b) APPOINTMENT; TERM.—

21 “(1) APPOINTMENT.—*The Director shall be ap-*
22 *pointed by the President, by and with the advice and*
23 *consent of the Senate, from among individuals who*
24 *are citizens of the United States, have a demonstrated*
25 *understanding of financial management or oversight,*

1 *and have a demonstrated understanding of capital*
2 *markets, including the mortgage securities markets*
3 *and housing finance.*

4 “(2) *TERM AND REMOVAL.*—*The Director shall*
5 *be appointed for a term of 5 years and may be re-*
6 *moved by the President only for cause.*

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

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

17 “(5) *TRANSITIONAL PROVISION.*—*Notwith-*
18 *standing paragraphs (1) and (2), the Director of the*
19 *Office of Federal Housing Enterprise Oversight of the*
20 *Department of Housing and Urban Development shall*
21 *serve as the Director until a successor has been ap-*
22 *pointed under paragraph (1).*

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

1 “(1) *IN GENERAL.*—*The Agency shall have a*
2 *Deputy Director of the Division of Enterprise Regula-*
3 *tion, who shall be appointed by the Director from*
4 *among individuals who are citizens of the United*
5 *States, and have a demonstrated understanding of fi-*
6 *nancial management or oversight and of mortgage se-*
7 *curities markets and housing finance.*

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

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

14 “(1) *IN GENERAL.*—*The Agency shall have a*
15 *Deputy Director of the Division of Federal Home*
16 *Loan Bank Regulation, who shall be appointed by the*
17 *Director from among individuals who are citizens of*
18 *the United States, have a demonstrated under-*
19 *standing of financial management or oversight and of*
20 *the Federal Home Loan Bank System and housing fi-*
21 *nance.*

22 “(2) *FUNCTIONS.*—*The Deputy Director of the*
23 *Division of Federal Home Loan Bank Regulation*
24 *shall have such functions, powers, and duties with re-*

1 *spect to the oversight of the Federal home loan banks*
2 *as the Director shall prescribe.*

3 “(e) *DEPUTY DIRECTOR FOR HOUSING.*—

4 “(1) *IN GENERAL.*—*The Agency shall have a*
5 *Deputy Director for Housing, who shall be appointed*
6 *by the Director from among individuals who are citi-*
7 *zens of the United States, and have a demonstrated*
8 *understanding of the housing markets and housing fi-*
9 *nance and of community and economic development.*

10 “(2) *FUNCTIONS.*—*The Deputy Director for*
11 *Housing shall have such functions, powers, and duties*
12 *with respect to the oversight of the housing mission*
13 *and goals of the enterprises, and with respect to over-*
14 *sight of the housing finance and community and eco-*
15 *nomic development mission of the Federal home loan*
16 *banks, as the Director shall prescribe.*

17 “(f) *LIMITATIONS.*—*The Director and each of the Dep-*
18 *uty Directors may not—*

19 “(1) *have any direct or indirect financial inter-*
20 *est in any regulated entity or regulated entity-affili-*
21 *ated party;*

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

1 “(3) have served as an executive officer or direc-
2 tor of any regulated entity, or regulated entity-affili-
3 ated party, at any time during the 3-year period end-
4 ing on the date of appointment of such individual as
5 Director or Deputy Director.

6 “(g) OMBUDSMAN.—The Director shall establish the
7 position of the Ombudsman in the Agency. The Director
8 shall provide that the Ombudsman will consider complaints
9 and appeals from any regulated entity and any person that
10 has a business relationship with a regulated entity and
11 shall specify the duties and authority of the Ombudsman.”.

12 (b) APPOINTMENT OF DIRECTOR.—Notwithstanding
13 any other provision of law or of this title, the President
14 may, any time after the date of the enactment of this Act,
15 appoint an individual to serve as the Director of the Fed-
16 eral Housing Finance Agency, as such office is established
17 by the amendment made by subsection (a). This subsection
18 shall take effect on the date of the enactment of this Act.

19 **SEC. 312. DUTIES AND AUTHORITIES OF DIRECTOR.**

20 (a) IN GENERAL.—The Housing and Community De-
21 velopment Act of 1992 (12 U.S.C. 4513) is amended by
22 striking section 1313 and inserting the following new sec-
23 tions:

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

25 “(a) DUTIES.—

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

3 “(A) *to oversee the operations of each regu-*
4 *lated entity and any joint office of the Federal*
5 *Home Loan Banks; and*

6 “(B) *to ensure that—*

7 “(i) *each regulated entity operates in a*
8 *safe and sound manner, including mainte-*
9 *nance of adequate capital and internal con-*
10 *trols;*

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

20 “(iii) *each regulated entity complies*
21 *with this title and the rules, regulations,*
22 *guidelines, and orders issued under this title*
23 *and the authorizing statutes; and*

24 “(iv) *each regulated entity carries out*
25 *its statutory mission only through activities*

1 that are consistent with this title and the
2 authorizing statutes.

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

5 “(A) *to review and, if warranted based on*
6 *the principal duties described in paragraph (1),*
7 *reject any acquisition or transfer of a controlling*
8 *interest in an enterprise; and*

9 “(B) *to exercise such incidental powers as*
10 *may be necessary or appropriate to fulfill the*
11 *duties and responsibilities of the Director in the*
12 *supervision and regulation of each regulated en-*
13 *tity.*

14 “(b) *DELEGATION OF AUTHORITY.*—*The Director may*
15 *delegate to officers or employees of the Agency, including*
16 *each of the Deputy Directors, any of the functions, powers,*
17 *or duties of the Director, as the Director considers appro-*
18 *priate.*

19 “(c) *LITIGATION AUTHORITY.*—

20 “(1) *IN GENERAL.*—*In enforcing any provision*
21 *of this title, any regulation or order prescribed under*
22 *this title, or any other provision of law, rule, regula-*
23 *tion, or order, or in any other action, suit, or pro-*
24 *ceeding to which the Director is a party or in which*
25 *the Director is interested, and in the administration*

1 of conservatorships and receiverships, the Director
2 may act in the Director's own name and through the
3 Director's own attorneys, or request that the Attorney
4 General of the United States act on behalf of the Di-
5 rector.

6 “(2) CONSULTATION WITH ATTORNEY GEN-
7 ERAL.—The Director shall provide notice to, and con-
8 sult with, the Attorney General of the United States
9 before taking an action under paragraph (1) of this
10 subsection or under section 1344(a), 1345(d), 1348(c),
11 1372(e), 1375(a), 1376(d), or 1379D(c), except that, if
12 the Director determines that any delay caused by such
13 prior notice and consultation may adversely affect the
14 safety and soundness responsibilities of the Director
15 under this title, the Director shall notify the Attorney
16 General as soon as reasonably possible after taking
17 such action.

18 “(3) SUBJECT TO SUIT.—Except as otherwise
19 provided by law, the Director shall be subject to suit
20 (other than suits on claims for money damages) by a
21 regulated entity or director or officer thereof with re-
22 spect to any matter under this title or any other ap-
23 plicable provision of law, rule, order, or regulation
24 under this title, in the United States district court for
25 the judicial district in which the regulated entity has

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

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

5 “(7) *management of any asset and investment*
6 *portfolio;*

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

10 “(9) *maintenance of adequate records, in accord-*
11 *ance with consistent accounting policies and practices*
12 *that enable the Director to evaluate the financial con-*
13 *dition of the regulated entity;*

14 “(10) *issuance of subordinated debt by that par-*
15 *ticular regulated entity, as the Director considers nec-*
16 *essary;*

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

1 “(12) *such other operational and management*
2 *standards as the Director determines to be appro-*
3 *priate.*

4 “(b) *FAILURE TO MEET STANDARDS.—*

5 “(1) *PLAN REQUIREMENT.—*

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

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

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

18 “(B) *CONTENTS.—Any plan required under*
19 *subparagraph (A) shall specify the actions that*
20 *the regulated entity will take to correct the defi-*
21 *ciency. If the regulated entity is undercapital-*
22 *ized, the plan may be a part of the capital res-*
23 *toration plan for the regulated entity under sec-*
24 *tion 1369C.*

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

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

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

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

21 “(A) *REQUIRED CORRECTION OF DEFI-*
22 *CIENCY.—The Director shall, by order, require*
23 *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 of*
18 *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 (b) *INDEPENDENCE IN CONGRESSIONAL TESTIMONY*
20 *AND RECOMMENDATIONS.*—Section 111 of Public Law 93–
21 495 (12 U.S.C. 250) is amended by striking “the Federal
22 Housing Finance Board” and inserting “the Director of the
23 Federal Housing Finance Agency”.

1 **SEC. 313. FEDERAL HOUSING ENTERPRISE BOARD.**

2 (a) *IN GENERAL.*—*Title XIII of the Housing and*
3 *Community Development Act of 1992 (12 U.S.C. 4501 et*
4 *seq.) is amended by inserting after section 1313A, as added*
5 *by the preceding provisions of this title, the following new*
6 *section:*

7 **“SEC. 1313B. FEDERAL HOUSING ENTERPRISE BOARD.**

8 “(a) *IN GENERAL.*—*There is established the Federal*
9 *Housing Enterprise Board, which shall advise the Director*
10 *with respect to overall strategies and policies in carrying*
11 *out the duties of the Director under this title.*

12 “(b) *LIMITATIONS.*—*The Board may not exercise any*
13 *executive authority, and the Director may not delegate to*
14 *the Board any of the functions, powers, or duties of the Di-*
15 *rector.*

16 “(c) *COMPOSITION.*—*The Board shall be comprised of*
17 *3 members, of whom—*

18 “(1) *one member shall be the Secretary of the*
19 *Treasury;*

20 “(2) *one member shall be the Secretary of Hous-*
21 *ing and Urban Development; and*

22 “(3) *one member shall be the Director, who shall*
23 *serve as the Chairperson of the Board.*

24 “(d) *MEETINGS.*—

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

4 “(2) *SPECIAL MEETINGS.*—*Either the Secretary*
5 *of the Treasury or the Secretary of Housing and*
6 *Urban Development may, upon giving written notice*
7 *to the Director, require a special meeting of the*
8 *Board.*

9 “(e) *TESTIMONY.*—*On an annual basis, the Board*
10 *shall testify before Congress regarding—*

11 “(1) *the safety and soundness of the regulated en-*
12 *tities;*

13 “(2) *any material deficiencies in the conduct of*
14 *the operations of the regulated entities;*

15 “(3) *the overall operational status of the regu-*
16 *lated entities;*

17 “(4) *an evaluation of the performance of the reg-*
18 *ulated entities in carrying out their respective mis-*
19 *sions;*

20 “(5) *operations, resources, and performance of*
21 *the Agency; and*

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

1 (b) *ANNUAL REPORT OF THE DIRECTOR.*—Section
2 *1319B(a) of the Housing and Community Development Act*
3 *of 1992 (12 U.S.C. 4521 (a)) is amended—*

4 (1) *in paragraph (3), by striking “and” at the*
5 *end; and*

6 (2) *by striking paragraph (4) and inserting the*
7 *following new paragraphs:*

8 “(4) *an assessment of the Board or any of its*
9 *members with respect to—*

10 “(A) *the safety and soundness of the regu-*
11 *lated entities;*

12 “(B) *any material deficiencies in the con-*
13 *duct of the operations of the regulated entities;*

14 “(C) *the overall operational status of the*
15 *regulated entities; and*

16 “(D) *an evaluation of the performance of*
17 *the regulated entities in carrying out their mis-*
18 *sions;*

19 “(5) *operations, resources, and performance of*
20 *the Agency;*

21 “(6) *a description of the demographic makeup of*
22 *the workforce of the Agency and the actions taken*
23 *pursuant to section 1319A(b) to provide for diversity*
24 *in the workforce; and*

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

3 **SEC. 314. AUTHORITY TO REQUIRE REPORTS BY REGU-**
4 **LATED ENTITIES.**

5 Section 1314 of the Housing and Community Develop-
6 ment Act of 1992 (12 U.S.C. 4514) is amended—

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

9 (2) in subsection (a)—

10 (A) in the subsection heading, by striking
11 “**SPECIAL REPORTS AND REPORTS OF FINAN-**
12 **CIAL CONDITION**” and inserting “**REGULAR AND**
13 **SPECIAL REPORTS**”;

14 (B) in paragraph (1)—

15 (i) in the paragraph heading, by strik-
16 ing “**FINANCIAL CONDITION**” and inserting
17 “**REGULAR REPORTS**”; and

18 (ii) by striking “reports of financial
19 condition and operations” and inserting
20 “regular reports on the condition (including
21 financial condition), management, activi-
22 ties, or operations of the regulated entity, as
23 the Director considers appropriate”; and

1 (C) in paragraph (2), after “submit special
2 reports” insert “on any of the topics specified in
3 paragraph (1) or such other topics”; and
4 (3) by adding at the end the following new sub-
5 section:

6 “(c) *REPORTS OF FRAUDULENT FINANCIAL TRANS-*
7 *ACTIONS.—*

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

17 “(2) *PROTECTION FROM LIABILITY FOR RE-*
18 *PORTS.—*

19 “(A) *IN GENERAL.—If a regulated entity*
20 *makes a report pursuant to paragraph (1), or a*
21 *regulated entity-affiliated party makes, or re-*
22 *quires another to make, such a report, and such*
23 *report is made in a good faith effort to comply*
24 *with the requirements of paragraph (1), such*
25 *regulated entity or regulated entity-affiliated*

1 party shall not be liable to any person under
2 any law or regulation of the United States, any
3 constitution, law, or regulation of any State or
4 political subdivision of any State, or under any
5 contract or other legally enforceable agreement
6 (including any arbitration agreement), for such
7 report or for any failure to provide notice of
8 such report to the person who is the subject of
9 such report or any other person identified in the
10 report.

11 “(B) *RULE OF CONSTRUCTION.*—Subpara-
12 graph (A) shall not be construed as creating—

13 “(i) any inference that the term ‘per-
14 son’, as used in such subparagraph, may be
15 construed more broadly than its ordinary
16 usage so as to include any government or
17 agency of government; or

18 “(ii) any immunity against, or other-
19 wise affecting, any civil or criminal action
20 brought by any government or agency of
21 government to enforce any constitution, law,
22 or regulation of such government or agen-
23 cy.”.

1 **SEC. 315. DISCLOSURE OF INCOME AND CHARITABLE CON-**
2 **TRIBUTIONS BY ENTERPRISES.**

3 *Section 1314 of the Housing and Community Develop-*
4 *ment Act of 1992 (12 U.S.C. 4514), as amended by the pre-*
5 *ceding provisions of this title, is further amended by adding*
6 *at the end the following new subsections:*

7 *“(d) DISCLOSURE OF CHARITABLE CONTRIBUTIONS BY*
8 *ENTERPRISES.—*

9 *“(1) REQUIRED DISCLOSURE.—The Director*
10 *shall, by regulation, require each enterprise to submit*
11 *a report annually, in a format designated by the Di-*
12 *rector, containing the following information:*

13 *“(A) TOTAL VALUE.—The total value of*
14 *contributions made by the enterprise to nonprofit*
15 *organizations during its previous fiscal year.*

16 *“(B) SUBSTANTIAL CONTRIBUTIONS.—If the*
17 *value of contributions made by the enterprise to*
18 *any nonprofit organization during its previous*
19 *fiscal year exceeds the designated amount, the*
20 *name of that organization and the value of con-*
21 *tributions.*

22 *“(C) SUBSTANTIAL CONTRIBUTIONS TO IN-*
23 *SIDER-AFFILIATED CHARITIES.—Identification of*
24 *each contribution whose value exceeds the des-*
25 *ignated amount that were made by the enterprise*
26 *during the enterprise’s previous fiscal year to*

1 *any nonprofit organization of which a director,*
2 *officer, or controlling person of the enterprise, or*
3 *a spouse thereof, was a director or trustee, the*
4 *name of such nonprofit organization, and the*
5 *value of the contribution.*

6 “(2) *DEFINITIONS.*—*For purposes of this sub-*
7 *section—*

8 “(A) *the term ‘designated amount’ means*
9 *such amount as may be designated by the Direc-*
10 *tor by regulation, consistent with the public in-*
11 *terest and the protection of investors for purposes*
12 *of this subsection; and*

13 “(B) *the Director may, by such regulations*
14 *as the Director deems necessary or appropriate*
15 *in the public interest, define the terms officer*
16 *and controlling person.*

17 “(3) *PUBLIC AVAILABILITY.*—*The Director shall*
18 *make the information submitted pursuant to this sub-*
19 *section publicly available.*

20 “(e) *DISCLOSURE OF INCOME.*—*Each enterprise shall*
21 *include, in each annual report filed under section 13 of the*
22 *Securities Exchange Act of 1934 (15 U.S.C. 78m), the in-*
23 *come reported by the issuer to the Internal Revenue Service*
24 *for the most recent taxable year. Such income shall—*

1 “(1) be presented in a prominent location in
2 each such report and in a manner that permits a
3 ready comparison of such income to income otherwise
4 required to be included in such reports under regula-
5 tions issued under such section; and

6 “(2) be submitted to the Securities and Exchange
7 Commission in a form and manner suitable for entry
8 into the EDGAR system of such Commission for pub-
9 lic availability under such system.”.

10 **SEC. 316. ASSESSMENTS.**

11 Section 1316 of the Housing and Community Develop-
12 ment Act of 1992 (12 U.S.C. 4516) is amended—

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

15 “(a) ANNUAL ASSESSMENTS.—The Director shall es-
16 tablish and collect from the regulated entities annual assess-
17 ments in an amount not exceeding the amount sufficient
18 to provide for reasonable costs and expenses of the Agency,
19 including—

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

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

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

5 “(4) the wind up of the affairs of the Office of
6 Federal Housing Enterprise Oversight and the Fed-
7 eral Housing Finance Board under subtitle C of the
8 Federal Housing Finance Reform Act of 2008.”;

9 (2) in subsection (b)—

10 (A) in the subsection heading, by striking
11 “ENTERPRISES” and inserting “REGULATED
12 ENTITIES”;

13 (B) by realigning paragraph (2) two ems
14 from the left margin, so as to align the left mar-
15 gin of such paragraph with the left margins of
16 paragraph (1);

17 (C) in paragraph (1)—

18 (i) by striking “Each enterprise” and
19 inserting “Each regulated entity”;

20 (ii) by striking “each enterprise” and
21 inserting “each regulated entity”; and

22 (iii) by striking “both enterprises” and
23 inserting “all of the regulated entities”; and

24 (D) in paragraph (3)—

1 (i) in subparagraph (B), by striking
2 “subparagraph (A)” and inserting “clause
3 (i)”;

4 (ii) by redesignating subparagraphs
5 (A), (B), and (C) as clauses (i), (ii) and
6 (ii), respectively, and realigning such
7 clauses, as so redesignated, so as to be in-
8 dented 6 ems from the left margin;

9 (iii) by striking the matter that pre-
10 cedes clause (i), as so redesignated, and in-
11 serting the following:

12 “(3) *DEFINITION OF TOTAL ASSETS.*—For pur-
13 poses of this section, the term ‘total assets’ means as
14 follows:

15 “(A) *ENTERPRISES.*—With respect to an en-
16 terprise, the sum of—”; and

17 (iv) by adding at the end the following
18 new subparagraph:

19 “(B) *FEDERAL HOME LOAN BANKS.*—With
20 respect to a Federal home loan bank, the total
21 assets of the Bank, as determined by the Director
22 in accordance with generally accepted accounting
23 principles.”;

24 (3) by striking subsection (c) and inserting the
25 following new subsection:

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

2 “(1) *INCREASE FOR INADEQUATE CAPITALIZA-*
3 *TION.*—*The semiannual payments made pursuant to*
4 *subsection (b) by any regulated entity that is not*
5 *classified (for purposes of subtitle B) as adequately*
6 *capitalized may be increased, as necessary, in the dis-*
7 *cretion of the Director to pay additional estimated*
8 *costs of regulation of the regulated entity.*

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

17 “(3) *ADDITIONAL ASSESSMENT FOR DEFI-*
18 *CIENCIES.*—*If at any time, as a result of increased*
19 *costs of regulation of a regulated entity that is not*
20 *classified (for purposes of subtitle B) as adequately*
21 *capitalized or as the result of supervisory or enforce-*
22 *ment activities under this Act for a regulated entity,*
23 *the amount available from any semiannual payment*
24 *made by such regulated entity pursuant to subsection*
25 *(b) is insufficient to cover the costs of the Agency with*

1 *respect to such entity, the Director may make and*
2 *collect from such regulated entity an immediate as-*
3 *essment to cover the amount of such deficiency for*
4 *the semiannual period. If, at the end of any semi-*
5 *annual period during which such an assessment is*
6 *made, any amount remains from such assessment,*
7 *such remaining amount shall be deducted from the as-*
8 *essment for such regulated entity for the following*
9 *semiannual period.”;*

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

13 *(5) by striking subsections (e) through (g) and*
14 *inserting the following new subsections:*

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

22 *“(f) TREATMENT OF ASSESSMENTS.—*

23 *“(1) DEPOSIT.—Amounts received by the Direc-*
24 *tor from assessments under this section may be depos-*
25 *ited by the Director in the manner provided in sec-*

1 *tion 5234 of the Revised Statutes (12 U.S.C. 192) for*
2 *monies deposited by the Comptroller of the Currency.*

3 “(2) *NOT GOVERNMENT FUNDS.—The amounts*
4 *received by the Director from any assessment under*
5 *this section shall not be construed to be Government*
6 *or public funds or appropriated money.*

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

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

18 “(5) *AVAILABILITY OF OVERSIGHT FUND*
19 *AMOUNTS.—Notwithstanding any other provision of*
20 *law, any amounts remaining in the Federal Housing*
21 *Enterprises Oversight Fund established under this*
22 *section (as in effect before the effective date under sec-*
23 *tion 365 of the Federal Housing Finance Reform Act*
24 *of 2008), and any amounts remaining from assess-*
25 *ments on the Federal Home Loan banks pursuant to*

1 *section 18(b) of the Federal Home Loan Bank Act (12*
2 *U.S.C. 1438(b)), shall, upon such effective date, be*
3 *treated for purposes of this subsection as amounts re-*
4 *ceived from assessments under this section.*

5 *“(6) TREASURY INVESTMENTS.—*

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

12 *“(B) GOVERNMENT OBLIGATIONS.—Pursu-*
13 *ant to a request under subparagraph (A), the*
14 *Secretary of the Treasury shall invest such*
15 *amounts in government obligations guaranteed*
16 *as to principal and interest by the United States*
17 *with maturities suitable to the needs of Agency*
18 *and bearing interest at a rate determined by the*
19 *Secretary of the Treasury taking into consider-*
20 *ation current market yields on outstanding mar-*
21 *ketable obligations of the United States of com-*
22 *parable maturity.*

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

24 *“(1) FINANCIAL OPERATING PLANS AND FORE-*
25 *CASTS.—The Director shall provide to the Director of*

1 *the Office of Management and Budget copies of the*
2 *Director’s financial operating plans and forecasts as*
3 *prepared by the Director in the ordinary course of the*
4 *Agency’s operations, and copies of the quarterly re-*
5 *ports of the Agency’s financial condition and results*
6 *of operations as prepared by the Director in the ordi-*
7 *nary course of the Agency’s operations.*

8 “(2) *FINANCIAL STATEMENTS.*—*The Agency shall*
9 *prepare annually a statement of assets and liabilities*
10 *and surplus or deficit; a statement of income and ex-*
11 *penses; and a statement of sources and application of*
12 *funds.*

13 “(3) *FINANCIAL MANAGEMENT SYSTEMS.*—*The*
14 *Agency shall implement and maintain financial*
15 *management systems that comply substantially with*
16 *Federal financial management systems requirements,*
17 *applicable Federal accounting standards, and that*
18 *uses a general ledger system that accounts for activity*
19 *at the transaction level.*

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

1 “(5) *RULE OF CONSTRUCTION.*—*This subsection*
2 *may not be construed as implying any obligation on*
3 *the part of the Director to consult with or obtain the*
4 *consent or approval of the Director of the Office of*
5 *Management and Budget with respect to any reports,*
6 *plans, forecasts, or other information referred to in*
7 *paragraph (1) or any jurisdiction or oversight over*
8 *the affairs or operations of the Agency.*

9 “(h) *AUDIT OF AGENCY.*—

10 “(1) *IN GENERAL.*—*The Comptroller General*
11 *shall annually audit the financial transactions of the*
12 *Agency in accordance with the U.S. generally accept-*
13 *ed government auditing standards as may be pre-*
14 *scribed by the Comptroller General of the United*
15 *States. The audit shall be conducted at the place or*
16 *places where accounts of the Agency are normally*
17 *kept. The representatives of the Government Account-*
18 *ability Office shall have access to the personnel and*
19 *to all books, accounts, documents, papers, records (in-*
20 *cluding electronic records), reports, files, and all other*
21 *papers, automated data, things, or property belonging*
22 *to or under the control of or used or employed by the*
23 *Agency pertaining to its financial transactions and*
24 *necessary to facilitate the audit, and such representa-*
25 *tives shall be afforded full facilities for verifying*

1 *transactions with the balances or securities held by*
2 *depositories, fiscal agents, and custodians. All such*
3 *books, accounts, documents, records, reports, files, pa-*
4 *pers, and property of the Agency shall remain in pos-*
5 *session and custody of the Agency. The Comptroller*
6 *General may obtain and duplicate any such books,*
7 *accounts, documents, records, working papers, auto-*
8 *mated data and files, or other information relevant to*
9 *such audit without cost to the Comptroller General*
10 *and the Comptroller General's right of access to such*
11 *information shall be enforceable pursuant to section*
12 *716(c) of title 31, United States Code.*

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

1 *each report shall be furnished to the President and to*
2 *the Agency at the time submitted to the Congress.*

3 “(3) *ASSISTANCE AND COSTS.—For the purpose*
4 *of conducting an audit under this subsection, the*
5 *Comptroller General may, in the discretion of the*
6 *Comptroller General, employ by contract, without re-*
7 *gard to section 5 of title 41, United States Code, pro-*
8 *fessional services of firms and organizations of cer-*
9 *tified public accountants for temporary periods or for*
10 *special purposes. Upon the request of the Comptroller*
11 *General, the Director of the Agency shall transfer to*
12 *the Government Accountability Office from funds*
13 *available, the amount requested by the Comptroller*
14 *General to cover the full costs of any audit and report*
15 *conducted by the Comptroller General. The Comp-*
16 *troller General shall credit funds transferred to the*
17 *account established for salaries and expenses of the*
18 *Government Accountability Office, and such amount*
19 *shall be available upon receipt and without fiscal*
20 *year limitation to cover the full costs of the audit and*
21 *report.”.*

22 **SEC. 317. EXAMINERS AND ACCOUNTANTS.**

23 (a) *EXAMINATIONS.—Section 1317 of the Housing and*
24 *Community Development Act of 1992 (12 U.S.C. 4517) is*
25 *amended—*

1 (1) *in subsection (a), by adding after the period*
2 *at the end the following: “Each examination under*
3 *this subsection of a regulated entity shall include a*
4 *review of the procedures required to be established and*
5 *maintained by the regulated entity pursuant to sec-*
6 *tion 1314(c) (relating to fraudulent financial trans-*
7 *actions) and the report regarding each such examina-*
8 *tion shall describe any problems with such procedures*
9 *maintained by the regulated entity.”;*

10 (2) *in subsection (b)—*

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

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

17 (3) *in subsection (c)—*

18 (A) *in the second sentence, by inserting “to*
19 *conduct examinations under this section” before*
20 *the period; and*

21 (B) *in the third sentence, by striking “from*
22 *amounts available in the Federal Housing En-*
23 *terprises Oversight Fund”.*

24 (b) *ENHANCED AUTHORITY TO HIRE EXAMINERS AND*
25 *ACCOUNTANTS.—Section 1317 of the Housing and Commu-*

1 *nity Development Act of 1992 (12 U.S.C. 4517) is amended*
2 *by adding at the end the following new subsection:*

3 “(g) *APPOINTMENT OF ACCOUNTANTS, ECONOMISTS,*
4 *SPECIALISTS, AND EXAMINERS.—*

5 “(1) *APPLICABILITY.—This section applies with*
6 *respect to any position of examiner, accountant, spe-*
7 *cialist in financial markets, specialist in information*
8 *technology, and economist at the Agency, with respect*
9 *to supervision and regulation of the regulated entities,*
10 *that is in the competitive service.*

11 “(2) *APPOINTMENT AUTHORITY.—The Director*
12 *may appoint candidates to any position described in*
13 *paragraph (1)—*

14 “(A) *in accordance with the statutes, rules,*
15 *and regulations governing appointments in the*
16 *excepted service; and*

17 “(B) *notwithstanding any statutes, rules,*
18 *and regulations governing appointments in the*
19 *competitive service.*

20 “(3) *RULE OF CONSTRUCTION.—The appoint-*
21 *ment of a candidate to a position under the authority*
22 *of this subsection shall not be considered to cause such*
23 *position to be converted from the competitive service*
24 *to the excepted service.”.*

1 (c) *REPEAL.*—Section 20 of the Federal Home Loan
2 *Bank Act* (12 U.S.C. 1440) is amended—

3 (1) by striking the section heading and inserting
4 the following: “*EXAMINATIONS AND GAO AUDITS*”;

5 (2) in the third sentence, by striking “the Board
6 and” each place such term appears; and

7 (3) by striking the first two sentences and insert-
8 ing the following: “The Federal home loan banks shall
9 be subject to examinations by the Director to the ex-
10 tent provided in section 1317 of the Federal Housing
11 Enterprises Financial Safety and Soundness Act of
12 1992 (12 U.S.C. 4517).”.

13 **SEC. 318. PROHIBITION AND WITHHOLDING OF EXECUTIVE**
14 **COMPENSATION.**

15 (a) *IN GENERAL.*—Section 1318 of the Housing and
16 Community Development Act of 1992 (12 U.S.C. 4518) is
17 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 following
24 new subsections:

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 home
25 loan bank shall not transfer, disburse, or pay compensation

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

6 **SEC. 319. REVIEWS OF REGULATED ENTITIES.**

7 *Section 1319 of the Housing and Community Develop-*
 8 *ment Act of 1992 (12 U.S.C. 4519) is amended—*

9 *(1) by striking the section designation and head-*
 10 *ing and inserting the following:*

11 **“SEC. 1319. REVIEWS OF REGULATED ENTITIES.”;**

12 *and*

13 *(2) by striking “is a nationally recognized” and*
 14 *all that follows through “1934” and inserting the fol-*
 15 *lowing: “the Director considers appropriate, includ-*
 16 *ing an entity that is registered under section 15 of the*
 17 *Securities Exchange Act of 1934 (15 U.S.C. 78a) as*
 18 *a nationally registered statistical rating organiza-*
 19 *tion”.*

20 **SEC. 320. INCLUSION OF MINORITIES AND WOMEN; DIVER-**
 21 **SITY IN AGENCY WORKFORCE.**

22 *Section 1319A of the Housing and Community Devel-*
 23 *opment Act of 1992 (12 U.S.C. 4520) is amended—*

24 *(1) in the section heading, by striking “EQUAL*
 25 **OPPORTUNITY IN SOLICITATION OF CON-**

1 **TRACTS”** and inserting “**MINORITY AND WOMEN**
2 **INCLUSION; DIVERSITY REQUIREMENTS**”;

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

6 (3) by striking subsection (b);

7 (4) by inserting before subsection (e), as so reded-
8 ignated by paragraph (2) of this section, the following
9 new subsections:

10 “(a) **OFFICE OF MINORITY AND WOMEN INCLUSION.**—
11 Each regulated entity shall establish an Office of Minority
12 and Women Inclusion, or designate an office of the entity,
13 that shall be responsible for carrying out this section and
14 all matters of the entity relating to diversity in manage-
15 ment, employment, and business activities in accordance
16 with such standards and requirements as the Director shall
17 establish.

18 “(b) **INCLUSION IN ALL LEVELS OF BUSINESS ACTIVI-**
19 **TIES.**—Each regulated entity shall develop and implement
20 standards and procedures to ensure, to the maximum extent
21 possible, the inclusion and utilization of minorities (as such
22 term is defined in section 1204(c) of the Financial Institu-
23 tions Reform, Recovery, and Enforcement Act of 1989 (12
24 U.S.C. 1811 note)) and women, and minority- and women-
25 owned businesses (as such terms are defined in section

1 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C.
2 1441a(r)(4)) (including financial institutions, investment
3 banking firms, mortgage banking firms, asset management
4 firms, broker-dealers, financial services firms, underwriters,
5 accountants, brokers, investment consultants, and providers
6 of legal services) in all business and activities of the regu-
7 lated entity at all levels, including in procurement, insur-
8 ance, and all types of contracts (including contracts for the
9 issuance or guarantee of any debt, equity, or mortgage-re-
10 lated securities, the management of its mortgage and securi-
11 ties portfolios, the making of its equity investments, the
12 purchase, sale and servicing of single- and multi-family
13 mortgage loans, and the implementation of its affordable
14 housing program and initiatives). The processes established
15 by each regulated entity for review and evaluation for con-
16 tract proposals and to hire service providers shall include
17 a component that gives consideration to the diversity of the
18 applicant.

19 “(c) *APPLICABILITY.*—This section shall apply to all
20 contracts of a regulated entity for services of any kind, in-
21 cluding services that require the services of investment bank-
22 ing, asset management entities, broker-dealers, financial
23 services entities, underwriters, accountants, investment con-
24 sultants, and providers of legal services.

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

14 (5) *by adding at the end the following new sub-*
15 *section:*

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

20 “(1) *heavily recruiting at historically Black col-*
21 *leges and universities, Hispanic-serving institutions,*
22 *women’s colleges, and colleges that typically serve ma-*
23 *jority minority populations;*

24 “(2) *sponsoring and recruiting at job fairs in*
25 *urban communities, and placing employment adver-*

1 *tisements in newspapers and magazines oriented to-*
2 *ward women and people of color;*

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

8 *“(4) where feasible, partnering with inner-city*
9 *high schools, girls’ high schools, and high schools with*
10 *majority minority populations to establish or enhance*
11 *financial literacy programs and provide mentoring.”.*

12 **SEC. 321. REGULATIONS AND ORDERS.**

13 *Section 1319G of the Housing and Community Devel-*
14 *opment Act of 1992 (12 U.S.C. 4526) is amended—*

15 *(1) by striking subsection (a) and inserting the*
16 *following new subsection:*

17 *“(a) AUTHORITY.—The Director shall issue any regu-*
18 *lations, guidelines, and orders necessary to carry out the*
19 *duties of the Director under this title and each of the au-*
20 *thorizing statutes to ensure that the purposes of this title*
21 *and such statutes are accomplished.”;*

22 *(2) in subsection (b), by inserting “, this title, or*
23 *any of the authorizing statutes” after “under this sec-*
24 *tion”; and*

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

1 **SEC. 322. NON-WAIVER OF PRIVILEGES.**

2 *Part 1 of subtitle A of title XIII of the Housing and*
3 *Community Development Act of 1992 (12 U.S.C. 4511) is*
4 *amended by adding at the end the following new section:*

5 **“SEC. 1319H. PRIVILEGES NOT AFFECTED BY DISCLOSURE.**

6 *“(a) IN GENERAL.—The submission by any person of*
7 *any information to the Agency for any purpose in the*
8 *course of any supervisory or regulatory process of the Agen-*
9 *cy shall not be construed as waiving, destroying, or other-*
10 *wise affecting any privilege such person may claim with*
11 *respect to such information under Federal or State law as*
12 *to any person or entity other than the Agency.*

13 *“(b) RULE OF CONSTRUCTION.—No provision of sub-*
14 *section (a) may be construed as implying or establishing*
15 *that—*

16 *“(1) any person waives any privilege applicable*
17 *to information that is submitted or transferred under*
18 *any circumstance to which subsection (a) does not*
19 *apply; or*

20 *“(2) any person would waive any privilege ap-*
21 *plicable to any information by submitting the infor-*
22 *mation to the Agency, but for this subsection.”.*

23 **SEC. 323. RISK-BASED CAPITAL REQUIREMENTS.**

24 *(a) IN GENERAL.—Section 1361 of the Housing and*
25 *Community Development Act of 1992 (12 U.S.C. 4611) is*
26 *amended to read as follows:*

1 **“SEC. 1361. RISK-BASED CAPITAL LEVELS FOR REGULATED**
2 **ENTITIES.**

3 “(a) *IN GENERAL.*—

4 “(1) *ENTERPRISES.*—*The Director shall, by reg-*
5 *ulation, establish risk-based capital requirements for*
6 *the enterprises to ensure that the enterprises operate*
7 *in a safe and sound manner, maintaining sufficient*
8 *capital and reserves to support the risks that arise in*
9 *the operations and management of the enterprises.*

10 “(2) *FEDERAL HOME LOAN BANKS.*—*The Direc-*
11 *tor shall establish risk-based capital standards under*
12 *section 6 of the Federal Home Loan Bank Act for the*
13 *Federal home loan banks.*

14 “(b) *CONFIDENTIALITY OF INFORMATION.*—*Any person*
15 *that receives any book, record, or information from the Di-*
16 *rector or a regulated entity to enable the risk-based capital*
17 *requirements established under this section to be applied*
18 *shall—*

19 “(1) *maintain the confidentiality of the book,*
20 *record, or information in a manner that is generally*
21 *consistent with the level of confidentiality established*
22 *for the material by the Director or the regulated enti-*
23 *ty; and*

24 “(2) *be exempt from section 552 of title 5,*
25 *United States Code, with respect to the book, record,*
26 *or information.*

1 “(c) *NO LIMITATION.*—Nothing in this section shall
2 *limit the authority of the Director to require other reports*
3 *or undertakings, or take other action, in furtherance of the*
4 *responsibilities of the Director under this Act.*”.

5 (b) *FEDERAL HOME LOAN BANKS RISK-BASED CAP-*
6 *ITAL.*—Section 6(a)(3) of the Federal Home Loan Bank Act
7 (12 U.S.C. 1426(a)(3)) is amended—

8 (1) by striking subparagraph (A) and inserting
9 the following new subparagraph:

10 “(A) *RISK-BASED CAPITAL STANDARDS.*—
11 *The Director shall, by regulation, establish risk-*
12 *based capital standards for the Federal home*
13 *loan banks to ensure that the Federal home loan*
14 *banks operate in a safe and sound manner, with*
15 *sufficient permanent capital and reserves to sup-*
16 *port the risks that arise in the operations and*
17 *management of the Federal home loans banks.*”;
18 and

19 (2) in subparagraph (B), by striking “(A)(ii)”
20 and inserting “(A)”.

21 **SEC. 324. MINIMUM AND CRITICAL CAPITAL LEVELS.**

22 (a) *MINIMUM CAPITAL LEVEL.*—Section 1362 of the
23 *Housing and Community Development Act of 1992* (12
24 *U.S.C. 4612)* is amended—

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

3 (2) *by striking subsection (b) and inserting the*
4 *following new subsections:*

5 “(b) *FEDERAL HOME LOAN BANKS.—For purposes of*
6 *this subtitle, the minimum capital level for each Federal*
7 *home loan bank shall be the minimum capital required to*
8 *be maintained to comply with the leverage requirement for*
9 *the bank established under section 6(a)(2) of the Federal*
10 *Home Loan Bank Act (12 U.S.C. 1426(a)(2)).*

11 “(c) *ESTABLISHMENT OF REVISED MINIMUM CAPITAL*
12 *LEVELS.—Notwithstanding subsections (a) and (b) and*
13 *notwithstanding the capital classifications of the regulated*
14 *entities, the Director may, by regulations issued under sec-*
15 *tion 1319G, establish a minimum capital level for the enter-*
16 *prises, for the Federal home loan banks, or for both the en-*
17 *terprises and the banks, that is higher than the level speci-*
18 *fied in subsection (a) for the enterprises or the level specified*
19 *in subsection (b) for the Federal home loan banks, to the*
20 *extent needed to ensure that the regulated entities operate*
21 *in a safe and sound manner.*

22 “(d) *AUTHORITY TO REQUIRE TEMPORARY IN-*
23 *CREASE.—Notwithstanding subsections (a) and (b) and any*
24 *minimum capital level established pursuant to subsection*
25 *(c), the Director may, by order, increase the minimum cap-*

1 *ital level for a regulated entity on a temporary basis for*
2 *such period as the Director may provide if the Director—*

3 “(1) *makes any determination specified in sub-*
4 *paragraphs (A) through (C) of section 1364(c)(1);*

5 “(2) *determines that the regulated entity has vio-*
6 *lated any of the prudential standards established pur-*
7 *suant to section 1313A and, as a result of such viola-*
8 *tion, determines that an unsafe and unsound condi-*
9 *tion exists; or*

10 “(3) *determines that an unsafe and unsound*
11 *condition exists, except that a temporary increase in*
12 *minimum capital imposed on a regulated entity pur-*
13 *suant to this paragraph shall not remain in place for*
14 *a period of more than 6 months unless the Director*
15 *makes a renewed determination of the existence of an*
16 *unsafe and unsound condition.*

17 “(e) *AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL*
18 *AND RESERVE REQUIREMENTS FOR PARTICULAR PRO-*
19 *GRAMS.—The Director may, at any time by order or regula-*
20 *tion, establish such capital or reserve requirements with re-*
21 *spect to any program or activity of a regulated entity as*
22 *the Director considers appropriate to ensure that the regu-*
23 *lated entity operates in a safe and sound manner, with suf-*
24 *ficient capital and reserves to support the risks that arise*
25 *in the operations and management of the regulated entity.*

1 “(f) *PERIODIC REVIEW.*—*The Director shall periodically*
2 *cally review the amount of core capital maintained by the*
3 *enterprises, the amount of capital retained by the Federal*
4 *home loan banks, and the minimum capital levels estab-*
5 *lished for such regulated entities pursuant to this section.*
6 *The Director shall rescind any temporary minimum capital*
7 *level increase if the Director determines that the cir-*
8 *cumstances or facts justifying the temporary increase are*
9 *no longer present.”.*

10 (b) *CRITICAL CAPITAL LEVELS.*—

11 (1) *IN GENERAL.*—*Section 1363 of the Housing*
12 *and Community Development Act of 1992 (12 U.S.C.*
13 *4613) is amended—*

14 (A) *by striking “For” and inserting “(a)*
15 *ENTERPRISES.—FOR”; and*

16 (B) *by adding at the end the following new*
17 *subsection:*

18 “(b) *FEDERAL HOME LOAN BANKS.*—

19 “(1) *IN GENERAL.*—*For purposes of this subtitle,*
20 *the critical capital level for each Federal home loan*
21 *bank shall be such amount of capital as the Director*
22 *shall, by regulation require.*

23 “(2) *CONSIDERATION OF OTHER CRITICAL CAP-*
24 *ITAL LEVELS.*—*In establishing the critical capital*
25 *level under paragraph (1) for the Federal home loan*

1 *banks, the Director shall take due consideration of the*
2 *critical capital level established under subsection (a)*
3 *for the enterprises, with such modifications as the Di-*
4 *rector determines to be appropriate to reflect the dif-*
5 *ference in operations between the banks and the enter-*
6 *prises.”.*

7 (2) *REGULATIONS.—Not later than the expira-*
8 *tion of the 180-day period beginning on the effective*
9 *date under section 365, the Director of the Federal*
10 *Housing Finance Agency shall issue regulations pur-*
11 *suant to section 1363(b) of the Housing and Commu-*
12 *nity Development Act of 1992 (as added by para-*
13 *graph (1) of this subsection) establishing the critical*
14 *capital level under such section.*

15 **SEC. 325. REVIEW OF AND AUTHORITY OVER ENTERPRISE**
16 **ASSETS AND LIABILITIES.**

17 (a) *IN GENERAL.—Subtitle B of title XIII of the Hous-*
18 *ing and Community Development Act of 1992 (12 U.S.C.*
19 *4611 et seq.) is amended—*

20 (1) *by striking the subtitle designation and head-*
21 *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 standards by which the portfolio holdings, or rate*
 13 *of growth of the portfolio holdings, of the enterprises will*
 14 *be deemed to be consistent with the mission and the safe*
 15 *and sound operations of the enterprises. In developing such*
 16 *standards, the Director shall consider—*

17 *“(1) the size or growth of the mortgage market;*

18 *“(2) the need for the portfolio in maintaining li-*
 19 *quidity or stability of the secondary mortgage market*
 20 *(including the market for the mortgage-backed securi-*
 21 *ties the enterprises issue);*

22 *“(3) the need for an inventory of mortgages in*
 23 *connection with securitizations;*

24 *“(4) the need for the portfolio to directly support*
 25 *the affordable housing mission of the enterprises;*

1 “(5) the liquidity needs of the enterprises;

2 “(6) any potential risks posed to the enterprises
3 by the nature of the portfolio holdings; and

4 “(7) any additional factors that the Director de-
5 termines to be necessary to carry out the purpose
6 under the first sentence of this subsection to establish
7 standards for assessing whether the portfolio holdings
8 are consistent with the mission and safe and sound
9 operations of the enterprises.

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

14 “(c) *AUTHORITY TO REQUIRE DISPOSITION OR ACQUI-*
15 *SITION.*—The Director shall monitor the portfolio of each
16 enterprise. Pursuant to subsection (a) and notwithstanding
17 the capital classifications of the enterprises, the Director
18 may, by order, require an enterprise, under such terms and
19 conditions as the Director determines to be appropriate, to
20 dispose of or acquire any asset, if the Director determines
21 that such action is consistent with the purposes of this Act
22 or any of the authorizing statutes.”.

23 (b) *REGULATIONS.*—Not later than the expiration of
24 the 180-day period beginning on the effective date under
25 section 365, the Director of the Federal Housing Finance

1 *Agency shall issue regulations pursuant to section 1369E(a)*
2 *of the Housing and Community Development Act of 1992*
3 *(as added by subsection (a) of this section) establishing the*
4 *portfolio holdings standards under such section.*

5 **SEC. 326. CORPORATE GOVERNANCE OF ENTERPRISES.**

6 *The Housing and Community Development Act of*
7 *1992 is amended by inserting before section 1323 (12 U.S.C.*
8 *4543) the following new section:*

9 **“SEC. 1322A. CORPORATE GOVERNANCE OF ENTERPRISES.**

10 *“(a) BOARD OF DIRECTORS.—*

11 *“(1) INDEPENDENCE.—A majority of seated*
12 *members of the board of directors of each enterprise*
13 *shall be independent board members, as defined under*
14 *rules set forth by the New York Stock Exchange, as*
15 *such rules may be amended from time to time.*

16 *“(2) FREQUENCY OF MEETINGS.—To carry out*
17 *its obligations and duties under applicable laws,*
18 *rules, regulations, and guidelines, the board of direc-*
19 *tors of an enterprise shall meet at least eight times a*
20 *year and not less than once a calendar quarter.*

21 *“(3) NON-MANAGEMENT BOARD MEMBER MEET-*
22 *INGS.—The non-management directors of an enter-*
23 *prise shall meet at regularly scheduled executive ses-*
24 *sions without management participation.*

1 “(4) *QUORUM; PROHIBITION ON PROXIES.*—*For*
2 *the transaction of business, a quorum of the board of*
3 *directors of an enterprise shall be at least a majority*
4 *of the seated board of directors and a board member*
5 *may not vote by proxy.*

6 “(5) *INFORMATION.*—*The management of an en-*
7 *terprise shall provide a board member of the enter-*
8 *prise with such adequate and appropriate informa-*
9 *tion that a reasonable board member would find im-*
10 *portant to the fulfillment of his or her fiduciary du-*
11 *ties and obligations.*

12 “(6) *ANNUAL REVIEW.*—*At least annually, the*
13 *board of directors of each enterprise shall review, with*
14 *appropriate professional assistance, the requirements*
15 *of laws, rules, regulations, and guidelines that are ap-*
16 *licable to its activities and duties.*

17 “(b) *COMMITTEES OF BOARDS OF DIRECTORS.*—

18 “(1) *FREQUENCY OF MEETINGS.*—*Any committee*
19 *of the board of directors of an enterprise shall meet*
20 *with sufficient frequency to carry out its obligations*
21 *and duties under applicable laws, rules, regulations,*
22 *and guidelines.*

23 “(2) *REQUIRED COMMITTEES.*—*Each enterprise*
24 *shall provide for the establishment, however styled, of*
25 *the following committees of the board of directors:*

1 “(A) *Audit committee.*

2 “(B) *Compensation committee.*

3 “(C) *Nominating/corporate governance com-*
4 *mittee.*

5 *Such committees shall be in compliance with the*
6 *charter, independence, composition, expertise, duties,*
7 *responsibilities, and other requirements set forth*
8 *under section 10A(m) of the Securities Exchange Act*
9 *of 1934 (15 U.S.C. 78j-1(m)), with respect to the*
10 *audit committee, and under rules issued by the New*
11 *York Stock Exchange, as such rules may be amended*
12 *from time to time.*

13 “(c) *COMPENSATION.—*

14 “(1) *IN GENERAL.—The compensation of board*
15 *members, executive officers, and employees of an en-*
16 *terprise—*

17 “(A) *shall not be in excess of that which is*
18 *reasonable and appropriate;*

19 “(B) *shall be commensurate with the duties*
20 *and responsibilities of such persons;*

21 “(C) *shall be consistent with the long-term*
22 *goals of the enterprise;*

23 “(D) *shall not focus solely on earnings per-*
24 *formance, but shall take into account risk man-*

1 *agement, operational stability and legal and reg-*
2 *ulatory compliance as well; and*

3 *“(E) shall be undertaken in a manner that*
4 *complies with applicable laws, rules, and regula-*
5 *tions.*

6 *“(2) REIMBURSEMENT.—If an enterprise is re-*
7 *quired to prepare an accounting restatement due to*
8 *the material noncompliance of the enterprise, as a re-*
9 *sult of misconduct, with any financial reporting re-*
10 *quirement under the securities laws, the chief execu-*
11 *tive officer and chief financial officer of the enterprise*
12 *shall reimburse the enterprise as provided under sec-*
13 *tion 304 of the Sarbanes-Oxley Act of 2002 (15*
14 *U.S.C. 7243). This provision does not otherwise limit*
15 *the authority of the Agency to employ remedies avail-*
16 *able to it under its enforcement authorities.*

17 *“(d) CODE OF CONDUCT AND ETHICS.—*

18 *“(1) IN GENERAL.—An enterprise shall establish*
19 *and administer a written code of conduct and ethics*
20 *that is reasonably designed to assure the ability of*
21 *board members, executive officers, and employees of*
22 *the enterprise to discharge their duties and respon-*
23 *sibilities, on behalf of the enterprise, in an objective*
24 *and impartial manner, and that includes standards*
25 *required under section 406 of the Sarbanes-Oxley Act*

1 of 2002 (15 U.S.C. 7264) and other applicable laws,
2 rules, and regulations.

3 “(2) *REVIEW.*—Not less than once every three
4 years, an enterprise shall review the adequacy of its
5 code of conduct and ethics for consistency with prac-
6 tices appropriate to the enterprise and make any ap-
7 propriate revisions to such code.

8 “(e) *CONDUCT AND RESPONSIBILITIES OF BOARD OF*
9 *DIRECTORS.*—The board of directors of an enterprise shall
10 be responsible for directing the conduct and affairs of the
11 enterprise in furtherance of the safe and sound operation
12 of the enterprise and shall remain reasonably informed of
13 the condition, activities, and operations of the enterprise.
14 The responsibilities of the board of directors shall include
15 having in place adequate policies and procedures to assure
16 its oversight of, among other matters, the following:

17 “(1) *Corporate strategy, major plans of action,*
18 *risk policy, programs for legal and regulatory compli-*
19 *ance and corporate performance, including prudent*
20 *plans for growth and allocation of adequate resources*
21 *to manage operations risk.*

22 “(2) *Hiring and retention of qualified executive*
23 *officers and succession planning for such executive of-*
24 *ficers.*

25 “(3) *Compensation programs of the enterprise.*

1 “(4) *Integrity of accounting and financial re-*
2 *porting systems of the enterprise, including inde-*
3 *pendent audits and systems of internal control.*

4 “(5) *Process and adequacy of reporting, disclo-*
5 *tures, and communications to shareholders, investors,*
6 *and potential investors.*

7 “(6) *Extensions of credit to board members and*
8 *executive officers.*

9 “(7) *Responsiveness of executive officers in pro-*
10 *viding accurate and timely reports to Federal regu-*
11 *lators and in addressing the supervisory concerns of*
12 *Federal regulators in a timely and appropriate man-*
13 *ner.*

14 “(f) *PROHIBITION OF EXTENSIONS OF CREDIT.—An*
15 *enterprise may not directly or indirectly, including through*
16 *any subsidiary, extend or maintain credit, arrange for the*
17 *extension of credit, or renew an extension of credit, in the*
18 *form of a personal loan to or for any board member or exec-*
19 *utive officer of the enterprise, as provided by section 13(k)*
20 *of the Securities Exchange Act of 1934 (15 U.S.C. 78m(k)).*

21 “(g) *CERTIFICATION OF DISCLOSURES.—The chief ex-*
22 *ecutive officer and the chief financial officer of an enterprise*
23 *shall review each quarterly report and annual report issued*
24 *by the enterprise and such reports shall include certifi-*

1 *cations by such officers as required by section 302 of the*
2 *Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241).*

3 “(h) *CHANGE OF AUDIT PARTNER.*—*An enterprise*
4 *may not accept audit services from an external auditing*
5 *firm if the lead or coordinating audit partner who has pri-*
6 *mary responsibility for the external audit of the enterprise,*
7 *or the external audit partner who has responsibility for re-*
8 *viewing the external audit has performed audit services for*
9 *the enterprise in each of the five previous fiscal years.*

10 “(i) *COMPLIANCE PROGRAM.*—

11 “(1) *REQUIREMENT.*—*Each enterprise shall es-*
12 *tablish and maintain a compliance program that is*
13 *reasonably designed to assure that the enterprise com-*
14 *plies with applicable laws, rules, regulations, and in-*
15 *ternal controls.*

16 “(2) *COMPLIANCE OFFICER.*—*The compliance*
17 *program of an enterprise shall be headed by a compli-*
18 *ance officer, however styled, who reports directly to*
19 *the chief executive officer of the enterprise. The com-*
20 *pliance officer shall report regularly to the board of*
21 *directors or an appropriate committee of the board of*
22 *directors on compliance with and the adequacy of*
23 *current compliance policies and procedures of the en-*
24 *terprise, and shall recommend any adjustments to*

1 *such policies and procedures that the compliance offi-*
2 *cer considers necessary and appropriate.*

3 “(j) *RISK MANAGEMENT PROGRAM.*—

4 “(1) *REQUIREMENT.*—*Each enterprise shall es-*
5 *tablish and maintain a risk management program*
6 *that is reasonably designed to manage the risks of the*
7 *operations of the enterprise.*

8 “(2) *RISK MANAGEMENT OFFICER.*—*The risk*
9 *management program of an enterprise shall be headed*
10 *by a risk management officer, however styled, who re-*
11 *ports directly to the chief executive officer of the enter-*
12 *prise. The risk management officer shall report regu-*
13 *larly to the board of directors or an appropriate com-*
14 *mittee of the board of directors on compliance with*
15 *and the adequacy of current risk management policies*
16 *and procedures of the enterprise, and shall rec-*
17 *ommend any adjustments to such policies and proce-*
18 *dures that the risk management officer considers nec-*
19 *essary and appropriate.*

20 “(k) *COMPLIANCE WITH OTHER LAWS.*—

21 “(1) *DEREGISTERED OR UNREGISTERED COM-*
22 *MON STOCK.*—*If an enterprise deregisters or has not*
23 *registered its common stock with the Securities and*
24 *Exchange Commission under the Securities Exchange*
25 *Act of 1934, the enterprise shall comply or continue*

1 to comply with sections 10A(m) and 13(k) of the Se-
2 curities Exchange Act of 1934 (15 U.S.C. 78j-1(m),
3 78m(k)) and sections 302, 304, and 406 of the Sar-
4 banes-Oxley Act of 2002 (15 U.S.C. 7241, 7243,
5 7264), subject to such requirements as provided by
6 subsection (l) of this section.

7 “(2) REGISTERED COMMON STOCK.—An enter-
8 prise that has its common stock registered with the
9 Securities and Exchange Commission shall maintain
10 such registered status, unless it provides 60 days
11 prior written notice to the Director stating its intent
12 to deregister and its understanding that it will re-
13 main subject to the requirements of the sections of the
14 Securities Exchange Act of 1934 and the Sarbanes-
15 Oxley Act of 2002, subject to such requirements as
16 provided by subsection (l) of this section.

17 “(l) OTHER MATTERS.—The Director may from time
18 to time establish standards, by regulation, order, or guide-
19 line, regarding such other corporate governance matters of
20 the enterprises as the Director considers appropriate.

21 “(m) MODIFICATION OF STANDARDS.—In connection
22 with standards of Federal or State law (including the Re-
23 vised Model Corporation Act) or New York Stock Exchange
24 rules that are made applicable to an enterprise by section
25 1710.10 of the Director’s rules (12 CFR 1710.10) and by

1 subsections (a), (b), (g), (i), (j), and (k) of this section, the
2 Director, in the Director's sole discretion, may modify the
3 standards contained in this section or in part 1710 of the
4 Director's rules (12 CFR Part 1710) in accordance with
5 section 553 of title 5, United States Code, and upon written
6 notice to the enterprise.”.

7 **SEC. 327. REQUIRED REGISTRATION UNDER SECURITIES**
8 **EXCHANGE ACT OF 1934.**

9 *The Housing and Community Development Act of*
10 *1992 is amended by adding after section 1322A, as added*
11 *by the preceding provisions of this title, the following new*
12 *section:*

13 **“SEC. 1322B. REQUIRED REGISTRATION UNDER SECURITIES**
14 **EXCHANGE ACT OF 1934.**

15 *“(a) IN GENERAL.—Each regulated entity shall reg-*
16 *ister at least one class of the capital stock of such regulated*
17 *entity, and maintain such registration with the Securities*
18 *and Exchange Commission, under the Securities Exchange*
19 *Act of 1934.*

20 *“(b) ENTERPRISES.—Each enterprise shall comply*
21 *with sections 14 and 16 of the Securities Exchange Act of*
22 *1934.”.*

1 **SEC. 328. LIAISON WITH FINANCIAL INSTITUTIONS EXAM-**
2 **INATION COUNCIL.**

3 *Section 1007 of the Federal Financial Institutions Ex-*
4 *amination Council Act of 1978 (12 U.S.C. 3306) is amend-*
5 *ed—*

6 (1) *in the section heading, by inserting after*
7 *“STATE” the following: “AND FEDERAL HOUSING FI-*
8 *NANCE AGENCY”;* and

9 (2) *by inserting after “financial institutions” the*
10 *following: “, and one representative of the Federal*
11 *Housing Finance Agency,”.*

12 **SEC. 329. GUARANTEE FEE STUDY.**

13 (a) *IN GENERAL.—The Director of the Federal Hous-*
14 *ing Finance Agency, in consultation with the heads of the*
15 *federal banking agencies, shall, not later than 18 months*
16 *after the date of the enactment of this Act, submit to the*
17 *Congress a study concerning the pricing, transparency and*
18 *reporting of the Federal National Mortgage Association, the*
19 *Federal Home Loan Mortgage Corporation, and the Federal*
20 *home loan banks with regard to guarantee fees and con-*
21 *cerning analogous practices, transparency and reporting*
22 *requirements (including advances pricing practices by the*
23 *Federal Home Loan Banks) of other participants in the*
24 *business of mortgage purchases and securitization.*

25 (b) *FACTORS.—The study required by this section shall*
26 *examine various factors such as credit risk, counterparty*

1 *risk considerations, economic value considerations, and vol-*
2 *ume considerations used by the regulated entities (as such*
3 *term is defined in section 1303 of the Housing and Commu-*
4 *nity Development Act of 1992) included in the study in*
5 *setting the amount of fees they charge.*

6 (c) *CONTENTS OF REPORT.—The report required*
7 *under subsection (a) shall identify and analyze—*

8 (1) *the factors used by each enterprise (as such*
9 *term is defined in section 1303 of the Housing and*
10 *Community Development Act of 1992) in determining*
11 *the amount of the guarantee fees it charges;*

12 (2) *the total revenue the enterprises earn from*
13 *guarantee fees;*

14 (3) *the total costs incurred by the enterprises for*
15 *providing guarantees;*

16 (4) *the average guarantee fee charged by the en-*
17 *terprises;*

18 (5) *an analysis of how and why the guarantee*
19 *fees charged differ from such fees charged during the*
20 *previous year;*

21 (6) *a breakdown of the revenue and costs associ-*
22 *ated with providing guarantees, based on product*
23 *type and risk classifications; and*

1 (7) *other relevant information on guarantee fees*
2 *with other participants in the mortgage and*
3 *securitization business.*

4 (d) *PROTECTION OF INFORMATION.*—*Nothing in this*
5 *section may be construed to require or authorize the Direc-*
6 *tor of the Federal Housing Finance Agency, in connection*
7 *with the study mandated by this section, to disclose infor-*
8 *mation of the enterprises or other organization that is con-*
9 *fidential or proprietary.*

10 (e) *EFFECTIVE DATE.*—*This section shall take effect on*
11 *the date of the enactment of this Act.*

12 **SEC. 330. CONFORMING AMENDMENTS.**

13 (a) *1992 ACT.*—*Part 1 of subtitle A of title XIII of*
14 *the Housing and Community Development Act of 1992 (12*
15 *U.S.C. 4511 et seq.), as amended by the preceding provi-*
16 *sions of this title, is further amended—*

17 (1) *by striking “an enterprise” each place such*
18 *term appears in such part (except in sections*
19 *1313(a)(2)(A), 1313A(b)(2)(B)(ii)(I), and 1316(b)(3))*
20 *and inserting “a regulated entity”;*

21 (2) *by striking “the enterprise” each place such*
22 *term appears in such part (except in section*
23 *1316(b)(3)) and inserting “the regulated entity”;*

24 (3) *by striking “the enterprises” each place such*
25 *term appears in such part (except in sections*

1 1312(c)(2), and 1312(e)(2)) and inserting “the regu-
2 lated entities”;

3 (4) by striking “each enterprise” each place such
4 term appears in such part and inserting “each regu-
5 lated entity”;

6 (5) by striking “Office” each place such term ap-
7 pears in such part (except in sections 1311(b)(2),
8 1312(b)(5), 1315(b), and 1316(a)(4), (g), and (h),
9 1317(c), and 1319A(a)) and inserting “Agency”;

10 (6) in section 1315 (12 U.S.C. 4515)—

11 (A) in subsection (a)—

12 (i) in the subsection heading, by strik-
13 ing “OFFICE PERSONNEL” and inserting
14 “IN GENERAL”; and

15 (ii) by striking “The” and inserting
16 “Subject to subtitle C of the Federal Hous-
17 ing Finance Reform Act of 2008, the”;

18 (B) by striking subsections (d) and (f); and

19 (C) by redesignating subsection (e) as sub-
20 section (d);

21 (7) in section 1319B (12 U.S.C. 4521), by strik-
22 ing “Committee on Banking, Finance and Urban Af-
23 fairs” each place such term appears and inserting
24 “Committee on Financial Services”; and

1 (8) in section 1319F (12 U.S.C. 4525), striking
2 all that follows “United States Code” and inserting “,
3 the Agency shall be considered an agency responsible
4 for the regulation or supervision of financial institu-
5 tions.”.

6 (b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—
7 The Federal National Mortgage Association Charter Act (12
8 U.S.C. 1716 et seq.) is amended—

9 (1) by striking “Director of the Office of Federal
10 Housing Enterprise Oversight of the Department of
11 Housing and Urban Development” each place such
12 term appears, and inserting “Director of the Federal
13 Housing Finance Agency”, in—

14 (A) section 303(c)(2) (12 U.S.C.
15 1718(c)(2));

16 (B) section 309(d)(3)(B) (12 U.S.C.
17 1723a(d)(3)(B)); and

18 (C) section 309(k)(1); and

19 (2) in section 309—

20 (A) in subsections (d)(3)(A) and (n)(1), by
21 striking “Banking, Finance and Urban Affairs”
22 each place such term appears and inserting “Fi-
23 nancial Services”; and

24 (B) in subsection (m)—

1 (i) in paragraph (1), by striking “Sec-
2 retary” the second place such term appears
3 and inserting “Director”;

4 (ii) in paragraph (2), by striking
5 “Secretary” the second place such term ap-
6 pears and inserting “Director”; and

7 (iii) by striking “Secretary” each other
8 place such term appears and inserting “Di-
9 rector of the Federal Housing Finance
10 Agency”; and

11 (C) in subsection (n), by striking “Sec-
12 retary” each place such term appears and insert-
13 ing “Director of the Federal Housing Finance
14 Agency”.

15 (c) AMENDMENTS TO FREDDIE MAC ACT.—The Fed-
16 eral Home Loan Mortgage Corporation Act is amended—

17 (1) by striking “Director of the Office of Federal
18 Housing Enterprise Oversight of the Department of
19 Housing and Urban Development” each place such
20 term appears, and inserting “Director of the Federal
21 Housing Finance Agency”, in—

22 (A) section 303(b)(2) (12 U.S.C.
23 1452(b)(2));

24 (B) section 303(h)(2) (12 U.S.C.
25 1452(h)(2)); and

1 (C) section 307(c)(1) (12 U.S.C.
2 1456(c)(1));

3 (2) in sections 303(h)(1) and 307(f)(1) (12
4 U.S.C. 1452(h)(1), 1456(f)(1)), by striking “Banking,
5 Finance and Urban Affairs” each place such term ap-
6 pears and inserting “Financial Services”;

7 (3) in section 306(i) (12 U.S.C. 1455(i))—

8 (A) by striking “1316(c)” and inserting
9 “306(c)”; and

10 (B) by striking “section 106” and inserting
11 “section 1316”; and

12 (4) in section 307 (12 U.S.C. 1456)—

13 (A) in subsection (e)—

14 (i) in paragraph (1), by striking “Sec-
15 retary” the second place such term appears
16 and inserting “Director”;

17 (ii) in paragraph (2), by striking
18 “Secretary” the second place such term ap-
19 pears and inserting “Director”; and

20 (iii) by striking “Secretary” each other
21 place such term appears and inserting “Di-
22 rector of the Federal Housing Finance
23 Agency”; and

24 (B) in subsection (f), by striking “Sec-
25 retary” each place such term appears and insert-

1 ing “Director of the Federal Housing Finance
2 Agency”.

3 **CHAPTER 2—IMPROVEMENT OF MISSION**
4 **SUPERVISION**

5 **SEC. 331. TRANSFER OF PRODUCT APPROVAL AND HOUS-**
6 **ING GOAL OVERSIGHT.**

7 Part 2 of subtitle A of title XIII of the Housing and
8 Community Development Act of 1992 (12 U.S.C. 4541 et
9 seq.) is amended—

10 (1) by striking the designation and heading for
11 the part and inserting the following:

12 **“PART 2—PRODUCT APPROVAL BY DIRECTOR,**
13 **CORPORATE GOVERNANCE, AND ESTABLISH-**
14 **MENT OF HOUSING GOALS”;**

15 and

16 (2) by striking sections 1321 and 1322.

17 **SEC. 332. REVIEW OF ENTERPRISE PRODUCTS.**

18 (a) *IN GENERAL.*—Part 2 of subtitle A of title XIII
19 of the Housing and Community Development Act of 1992
20 is amended by inserting before section 1323 (12 U.S.C.
21 4543) the following new section:

22 **“SEC. 1321. PRIOR APPROVAL AUTHORITY FOR PRODUCTS**
23 **OF ENTERPRISES.**

24 “(a) *IN GENERAL.*—The Director shall require each
25 enterprise to obtain the approval of the Director for any

1 *product of the enterprise before initially offering the prod-*
2 *uct.*

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

6 “(1) *in the case of a product of the Federal Na-*
7 *tional Mortgage Association, the Director determines*
8 *that the product is authorized under paragraph (2),*
9 *(3), (4), or (5) of section 302(b) or section 304 of the*
10 *Federal National Mortgage Association Charter Act,*
11 *(12 U.S.C. 1717(b), 1719);*

12 “(2) *in the case of a product of the Federal*
13 *Home Loan Mortgage Corporation, the Director deter-*
14 *mines that the product is authorized under paragraph*
15 *(1), (4), or (5) of section 305(a) of the Federal Home*
16 *Loan Mortgage Corporation Act (12 U.S.C. 1454(a));*

17 “(3) *the product is in the public interest;*

18 “(4) *the product is consistent with the safety and*
19 *soundness of the enterprise or the mortgage finance*
20 *system; and*

21 “(5) *the product does not materially impair the*
22 *efficiency of the mortgage finance system.*

23 “(c) *PROCEDURE FOR APPROVAL.—*

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

1 *proval of a product that describes the product in such*
2 *form as prescribed by order or regulation of the Di-*
3 *rector.*

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

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

18 “(4) *OFFERING OF PRODUCT.*—

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

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

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

3 “(d) *EXPEDITED REVIEW.*—

4 “(1) *DETERMINATION AND NOTICE.*—If an enter-
5 prise determines that any new activity, service, un-
6 dertaking, or offering is not a product, as defined in
7 subsection (f), the enterprise shall provide written no-
8 tice to the Director prior to the commencement of such
9 activity, service, undertaking, or offering.

10 “(2) *DIRECTOR DETERMINATION OF APPLICABLE*
11 *PROCEDURE.*—Immediately upon receipt of any no-
12 tice pursuant to paragraph (1), the Director shall
13 make a determination under paragraph (3).

14 “(3) *DETERMINATION AND TREATMENT AS PROD-*
15 *UCT.*—If the Director determines that any new activ-
16 ity, service, undertaking, or offering consists of, re-
17 lates to, or involves a product—

18 “(A) the Director shall notify the enterprise
19 of the determination;

20 “(B) the new activity, service, undertaking,
21 or offering described in the notice under para-
22 graph (1) shall be considered a product for pur-
23 poses of this section; and

1 “(C) the enterprise shall withdraw its re-
2 quest or submit a written request for approval of
3 the product pursuant to subsection (c).

4 “(e) *CONDITIONAL APPROVAL.*—The Director may con-
5 ditionally approve the offering of any product by an enter-
6 prise, and may establish terms, conditions, or limitations
7 with respect to such product with which the enterprise must
8 comply in order to offer such product.

9 “(f) *DEFINITION OF PRODUCT.*—For purposes of this
10 section, the term ‘product’ does not include—

11 “(1) the automated loan underwriting system of
12 an enterprise in existence as of the date of the enact-
13 ment of the Federal Housing Finance Reform Act of
14 2008, including any upgrade to the technology, oper-
15 ating system, or software to operate the underwriting
16 system; or

17 “(2) any modification to the mortgage terms and
18 conditions or mortgage underwriting criteria relating
19 to the mortgages that are purchased or guaranteed by
20 an enterprise: Provided, That such modifications do
21 not alter the underlying transaction so as to include
22 services or financing, other than residential mortgage
23 financing, or create significant new exposure to risk
24 for the enterprise or the holder of the mortgage.

1 “(g) *NO LIMITATION.*—*Nothing in this section shall be*
2 *deemed to restrict—*

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

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

10 (b) *CONFORMING AMENDMENTS.*—

11 (1) *FANNIE MAE.*—*Section 302(b)(6) of the Fed-*
12 *eral National Mortgage Association Charter Act (12*
13 *U.S.C. 1717(b)(6)) is amended—*

14 (A) *by striking “implement any new pro-*
15 *gram” and inserting “initially offer any prod-*
16 *uct”;*

17 (B) *by striking “section 1303” and insert-*
18 *ing “section 1321(f)”;* and

19 (C) *by striking “before obtaining the ap-*
20 *proval of the Secretary under section 1322” and*
21 *inserting “except in accordance with section*
22 *1321”.*

23 (2) *FREDDIE MAC.*—*Section 305(c) of the Fed-*
24 *eral Home Loan Mortgage Corporation Act (12*
25 *U.S.C. 1454(c)) is amended—*

1 (A) by striking “implement any new pro-
2 gram” and inserting “initially offer any prod-
3 uct”;

4 (B) by striking “section 1303” and insert-
5 ing “section 1321(f)”; and

6 (C) by striking “before obtaining the ap-
7 proval of the Secretary under section 1322” and
8 inserting “except in accordance with section
9 1321”.

10 (3) 1992 ACT.—Section 1303 of the *Housing and*
11 *Community Development Act of 1992 (12 U.S.C.*
12 *4502)*, as amended by the preceding provisions of this
13 title, is further amended—

14 (A) by striking paragraph (17) (relating to
15 the definition of “new program”); and

16 (B) by redesignating paragraphs (18)
17 through (23) as paragraphs (17) through (22),
18 respectively.

19 **SEC. 333. CONFORMING LOAN LIMITS.**

20 (a) *FANNIE MAE*.—Section 302(b)(2) of the *Federal*
21 *National Mortgage Association Charter Act (12 U.S.C.*
22 *1717(b)(2))* is amended—

23 (1) in the second sentence, by redesignating
24 clause (A) through (C) as clauses (i) through (iii), re-
25 spectively;

1 (2) *in the third sentence, by striking “clause*
2 *(A)” and inserting “clause (i)”*;

3 (3) *in the 4th sentence, by striking “the Resolu-*
4 *tion Trust Corporation,”*;

5 (4) *by striking the 7th and 8th sentences and in-*
6 *serting the following new sentences: “For 2008, such*
7 *limitations shall not exceed \$417,000 for a mortgage*
8 *secured by a single-family residence, \$533,850 for a*
9 *mortgage secured by a 2-family residence, \$645,300*
10 *for a mortgage secured by a 3-family residence, and*
11 *\$801,950 for a mortgage secured by a 4-family resi-*
12 *dence, except that such maximum limitations shall be*
13 *adjusted effective January 1 of each year beginning*
14 *with 2009, subject to the limitations in this para-*
15 *graph. Each adjustment shall be made by adding to*
16 *or subtracting from each such amount (as it may*
17 *have been previously adjusted) a percentage thereof*
18 *equal to the percentage increase or decrease, during*
19 *the most recent 12-month or four-quarter period end-*
20 *ing before the time of determining such annual ad-*
21 *justment, in the housing price index maintained by*
22 *the Director of the Federal Housing Finance Agency*
23 *(pursuant to section 1322 of the Housing and Com-*
24 *munity Development Act of 1992 (12 U.S.C. 4541)).”*.

25 (5) *by inserting “(A)” after “(2)”*; and

1 (6) by adding at the end the following new sub-
2 paragraph:

3 “(B)(i) Notwithstanding subparagraph (A), for mort-
4 gages originated on or after January 1, 2009, the limitation
5 on the maximum original principal obligation of a mort-
6 gage that may be purchased by the corporation shall be the
7 higher of—

8 “(I) the limitation determined under subpara-
9 graph (A) for a residence of the applicable size; or

10 “(II) 125 percent of the area median price for a
11 residence of the applicable size, but in no case to ex-
12 ceed 175 percent of the limitation determined under
13 subparagraph (A) for a residence of the applicable
14 size.

15 “(ii) The areas and area median prices used for pur-
16 poses of the determination under this subparagraph shall
17 be the areas and area median prices used by the Secretary
18 of Housing and Urban Development in determining the ap-
19 plicable limits under section 203(b)(2) of the National
20 Housing Act (12 U.S.C. 1709(b)(2)). A mortgage that is
21 eligible for purchase by the corporation at the time the
22 mortgage is originated under this subparagraph shall be eli-
23 gible for such purchase for the duration of the term of the
24 mortgage.”.

1 (b) *FREDDIE MAC.*—Section 305(a)(2) of the Federal
2 *Home Loan Mortgage Corporation Act* (12 U.S.C.
3 1454(a)(2)) is amended—

4 (1) in the first sentence, by redesignating clause
5 (A) through (C) as clauses (i) through (iii), respec-
6 tively;

7 (2) in the second sentence, by striking “clause
8 (A)” and inserting “clause (i)”;

9 (3) in the third sentence by striking “the Resolu-
10 tion Trust Corporation”;

11 (4) by striking the 6th and 7th sentence and in-
12 serting the following new sentences: “For 2008, such
13 limitations shall not exceed \$417,000 for a mortgage
14 secured by a single-family residence, \$533,850 for a
15 mortgage secured by a 2-family residence, \$645,300
16 for a mortgage secured by a 3-family residence, and
17 \$801,950 for a mortgage secured by a 4-family resi-
18 dence, except that such maximum limitations shall be
19 adjusted effective January 1 of each year beginning
20 with 2009, subject to the limitations in this para-
21 graph. Each adjustment shall be made by adding to
22 or subtracting from each such amount (as it may
23 have been previously adjusted) a percentage thereof
24 equal to the percentage increase or decrease, during
25 the most recent 12-month or four-quarter period end-

1 *ing before the time of determining such annual ad-*
2 *justment, in the housing price index maintained by*
3 *the Director of the Federal Housing Finance Agency*
4 *(pursuant to section 1322 of the Housing and Com-*
5 *munity Development Act of 1992 (12 U.S.C. 4541)).”;*

6 *(5) by inserting “(A)” after “(2)”;* and

7 *(6) by adding at the end the following new sub-*
8 *paragraph:*

9 *“(B)(i) Notwithstanding subparagraph (A), for mort-*
10 *gages originated on or after January 1, 2009, the limitation*
11 *on the maximum original principal obligation of a mort-*
12 *gage that may be purchased by the Corporation shall be*
13 *the higher of—*

14 *“(I) the limitation determined under subpara-*
15 *graph (A) for a residence of the applicable size; or*

16 *“(II) 125 percent of the area median price for a*
17 *residence of the applicable size, but in no case to ex-*
18 *ceed 175 percent of the limitation determined under*
19 *subparagraph (A) for a residence of the applicable*
20 *size.*

21 *“(ii) The areas and area median prices used for pur-*
22 *poses of the determination under this subparagraph shall*
23 *be the areas and area median prices used by the Secretary*
24 *of Housing and Urban Development in determining the ap-*
25 *plicable limits under section 203(b)(2) of the National*

1 *Housing Act (12 U.S.C. 1709(b)(2)). A mortgage that is*
2 *eligible for purchase by the Corporation at the time the*
3 *mortgage is originated under this subparagraph shall be eli-*
4 *gible for such purchase for the duration of the term of the*
5 *mortgage.”.*

6 (c) *HOUSING PRICE INDEX.—Subpart A of part 2 of*
7 *subtitle A of title XIII of the Housing and Community De-*
8 *velopment Act of 1992 (as amended by the preceding provi-*
9 *sions of this title) is amended by inserting after section*
10 *1321 (as added by the preceding provisions of this title)*
11 *the following new section:*

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

13 “(a) *IN GENERAL.—The Director shall establish and*
14 *maintain a method of assessing the national average 1-fam-*
15 *ily house price for use for adjusting the conforming loan*
16 *limitations of the enterprises. In establishing such method,*
17 *the Director shall take into consideration the monthly sur-*
18 *vey of all major lenders conducted by the Federal Housing*
19 *Finance Agency to determine the national average 1-family*
20 *house price, the House Price Index maintained by the Office*
21 *of Federal Housing Enterprise Oversight of the Department*
22 *of Housing and Urban Development before the effective date*
23 *under section 365 of the Federal Housing Finance Reform*
24 *Act of 2008, any appropriate house price indexes of the Bu-*
25 *reau of the Census of the Department of Commerce, and*

1 *any other indexes or measures that the Director considers*
2 *appropriate.*

3 “(b) *GAO AUDIT.*—

4 “(1) *IN GENERAL.*—*At such times as are re-*
5 *quired under paragraph (2), the Comptroller General*
6 *of the United States shall conduct an audit of the*
7 *methodology established by the Director under sub-*
8 *section (a) to determine whether the methodology es-*
9 *tablished is an accurate and appropriate means of*
10 *measuring changes to the national average 1-family*
11 *house price.*

12 “(2) *TIMING.*—*An audit referred to in para-*
13 *graph (1) shall be conducted and completed not later*
14 *than the expiration of the 180-day period that begins*
15 *upon each of the following dates:*

16 “(A) *ESTABLISHMENT.*—*The date upon*
17 *which such methodology is initially established*
18 *under subsection (a) in final form by the Direc-*
19 *tor.*

20 “(B) *MODIFICATION OR AMENDMENT.*—
21 *Each date upon which any modification or*
22 *amendment to such methodology is adopted in*
23 *final form by the Director.*

24 “(3) *REPORT.*—*Within 30 days of the comple-*
25 *tion of any audit conducted under this subsection, the*

1 *Comptroller General shall submit a report detailing*
2 *the results and conclusions of the audit to the Direc-*
3 *tor, the Committee on Financial Services of the House*
4 *of Representatives, and the Committee on Banking,*
5 *Housing, and Urban Affairs of the Senate.”.*

6 *(d) SENSE OF CONGRESS.—It is the sense of the Con-*
7 *gress that the securitization of mortgages by the Federal Na-*
8 *tional Mortgage Association and the Federal Home Loan*
9 *Mortgage Corporation plays an important role in providing*
10 *liquidity to the United States housing markets. Therefore,*
11 *the Congress encourages the Federal National Mortgage As-*
12 *sociation and the Federal Home Loan Mortgage Corpora-*
13 *tion to securitize mortgages acquired under the increased*
14 *conforming loan limits established by the amendments*
15 *made by this section, to the extent that such securitizations*
16 *can be effected in a timely and efficient manner that does*
17 *not impose additional costs for mortgages originated, pur-*
18 *chased, or securitized under the existing limits or interfere*
19 *with the goal of adding liquidity to the market.*

20 *(e) EFFECTIVE DATE.—The amendments made by this*
21 *section shall take effect on, and shall apply beginning on,*
22 *January 1, 2009.*

1 **SEC. 334. ANNUAL HOUSING REPORT REGARDING REGU-**
2 **LATED ENTITIES.**

3 (a) *IN GENERAL.*—*The Housing and Community De-*
4 *velopment Act of 1992 is amended by striking section 1324*
5 *(12 U.S.C. 4544) and inserting the following new section:*

6 **“SEC. 1324. ANNUAL HOUSING REPORT REGARDING REGU-**
7 **LATED ENTITIES.**

8 “(a) *IN GENERAL.*—*After reviewing and analyzing the*
9 *reports submitted under section 309(n) of the Federal Na-*
10 *tional Mortgage Association Charter Act, section 307(f) of*
11 *the Federal Home Loan Mortgage Corporation Act, and sec-*
12 *tion 10(j)(11) of the Federal Home Loan Bank Act (12*
13 *U.S.C. 1430(j)(11)), the Director shall submit a report, not*
14 *later than October 30 of each year, to the Committee on*
15 *Financial Services of the House of Representatives and the*
16 *Committee on Banking, Housing, and Urban Affairs of the*
17 *Senate, on the activities of each regulated entity.*

18 “(b) *CONTENTS.*—*The report shall—*

19 “(1) *discuss the extent to which—*

20 “(A) *each enterprise is achieving the annual*
21 *housing goals established under subpart B of this*
22 *part;*

23 “(B) *each enterprise is complying with sec-*
24 *tion 1337;*

1 “(C) each Federal home loan bank is com-
2 plying with section 10(j) of the Federal Home
3 Loan Bank Act; and

4 “(D) each regulated entity is achieving the
5 purposes of the regulated entity established by
6 law;

7 “(2) aggregate and analyze relevant data on in-
8 come to assess the compliance by 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) examine actions that—

15 “(A) each enterprise has undertaken or
16 could undertake to promote and expand the an-
17 nual goals established under subpart B and the
18 purposes of the enterprise established by law; and

19 “(B) each Federal home loan bank has
20 taken or could undertake to promote and expand
21 the community investment program and afford-
22 able housing program of the bank established
23 under subsections (i) and (j) of section 10 of the
24 Federal Home Loan Bank Act;

1 “(5) examine the primary and secondary multi-
2 family housing mortgage markets and describe—

3 “(A) the availability and liquidity of mort-
4 gage credit;

5 “(B) the status of efforts to provide stand-
6 ard credit terms and underwriting guidelines for
7 multifamily housing and to securitize such mort-
8 gage products; and

9 “(C) any factors inhibiting such standard-
10 ization and securitization;

11 “(6) examine actions each regulated entity has
12 undertaken and could undertake to promote and ex-
13 pand opportunities for first-time homebuyers, includ-
14 ing the use of alternative credit scoring;

15 “(7) describe any actions taken under section
16 1325(5) with respect to originators found to violate
17 fair lending procedures;

18 “(8) discuss and analyze existing conditions and
19 trends, including conditions and trends relating to
20 pricing, in the housing markets and mortgage mar-
21 kets; and

22 “(9) identify the extent to which each enterprise
23 is involved in mortgage purchases and secondary
24 market activities involving subprime loans (as identi-
25 fied in accordance with the regulations issued pursu-

1 *ant to section 334(b) of the Federal Housing Finance*
2 *Reform Act of 2008) and compare the characteristics*
3 *of subprime loans purchased and securitized by the*
4 *enterprises to other loans purchased and securitized*
5 *by the enterprises.*

6 *“(c) DATA COLLECTION AND REPORTING.—*

7 *“(1) IN GENERAL.—To assist the Director in*
8 *analyzing the matters described in subsection (b) and*
9 *establishing the methodology described in section*
10 *1322, the Director shall conduct, on a monthly basis,*
11 *a survey of mortgage markets in accordance with this*
12 *subsection.*

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

16 *“(A) the characteristics of individual mort-*
17 *gages that are eligible for purchase by the enter-*
18 *prises and the characteristics of individual mort-*
19 *gages that are not eligible for purchase by the en-*
20 *terprises including, in both cases, information*
21 *concerning—*

22 *“(i) the price of the house that secures*
23 *the mortgage;*

1 “(ii) the loan-to-value ratio of the
2 mortgage, which shall reflect any secondary
3 liens on the relevant property;

4 “(iii) the terms of the mortgage;

5 “(iv) the creditworthiness of the bor-
6 rower or borrowers; and

7 “(v) whether the mortgage, in the case
8 of a conforming mortgage, was purchased
9 by an enterprise; and

10 “(B) such other matters as the Director de-
11 termines to be appropriate.

12 “(3) PUBLIC AVAILABILITY.—The Director shall
13 make any data collected by the Director in connection
14 with the conduct of a monthly survey available to the
15 public in a timely manner, provided that the Director
16 may modify the data released to the public to ensure
17 that the data is not released in an identifiable form.

18 “(4) DEFINITION.—For purposes of this sub-
19 section, the term ‘identifiable form’ means any rep-
20 resentation of information that permits the identity of
21 a borrower to which the information relates to be rea-
22 sonably inferred by either direct or indirect means.”.

23 “(b) STANDARDS FOR SUBPRIME LOANS.—The Director
24 shall, not later than one year after the effective date under
25 section 365, by regulations issued under section 1316G of

1 *the Housing and Community Development Act of 1992, es-*
2 *tablish standards by which mortgages purchased and mort-*
3 *gages purchased and securitized shall be characterized as*
4 *subprime for the purpose of, and only for the purpose of,*
5 *complying with the reporting requirement under section*
6 *1324(b)(9) of such Act.*

7 **SEC. 335. ANNUAL REPORTS BY REGULATED ENTITIES ON**
8 **AFFORDABLE HOUSING STOCK.**

9 *The Housing and Community Development Act of*
10 *1992 is amended by inserting after section 1328 (12 U.S.C.*
11 *4548) the following new section:*

12 **“SEC. 1329. ANNUAL REPORTS ON AFFORDABLE HOUSING**
13 **STOCK.**

14 *“(a) IN GENERAL.—To obtain information helpful in*
15 *applying the formula under section 1337(c)(2) for the af-*
16 *fordable housing program under such section and for other*
17 *appropriate uses, the regulated entities shall conduct, or*
18 *provide for the conducting of, a study on an annual basis*
19 *to determine the levels of affordable housing inventory, and*
20 *the changes in such levels, in communities throughout the*
21 *United States.*

22 *“(b) CONTENTS.—The annual study under this section*
23 *shall determine, for the United States, each State, and each*
24 *community within each State—*

1 “(1) the level of affordable housing inventory, in-
2 cluding affordable rental dwelling units and afford-
3 able homeownership dwelling units;

4 “(2) any changes to the level of such inventory
5 during the 12-month period of the study under this
6 section, including—

7 “(A) any additions to such inventory,
8 disaggregated by the category of such additions
9 (including new construction or housing conver-
10 sion);

11 “(B) any subtractions from such inventory,
12 disaggregated by the category of such subtrac-
13 tions (including abandonment, demolition, or
14 upgrade to market-rate housing);

15 “(C) the number of new affordable dwelling
16 units placed in service; and

17 “(D) the number of affordable housing
18 dwelling units withdrawn from service;

19 “(3) the types of financing used to build any
20 dwelling units added to such inventory level and the
21 period during which such units are required to re-
22 main affordable;

23 “(4) any excess demand for affordable housing,
24 including the number of households on rental housing

1 *waiting lists and the tenure of the wait on such lists;*
2 *and*

3 *“(5) such other information as the Director may*
4 *require.*

5 *“(c) REPORT.—For each annual study conducted pur-*
6 *suant to this section, the regulated entities shall submit to*
7 *the Congress, and make publicly available, a report setting*
8 *forth the findings of the study.*

9 *“(d) REGULATIONS AND TIMING.—The Director shall,*
10 *by regulation, establish requirements for the studies and re-*
11 *ports under this section, including deadlines for the submis-*
12 *sion of such annual reports and standards for determining*
13 *affordable housing.”.*

14 **SEC. 336. MORTGAGOR IDENTIFICATION REQUIREMENTS**
15 **FOR MORTGAGES OF REGULATED ENTITIES.**

16 *(a) IN GENERAL.—Subpart A of part 2 of subtitle A*
17 *of title XIII of the Housing and Community Development*
18 *Act of 1992 (12 U.S.C. 4541 et seq.), as amended by the*
19 *preceding provisions of this title, is further amended by*
20 *adding at the end the following new section:*

21 **“SEC. 1330. MORTGAGOR IDENTIFICATION REQUIREMENTS**
22 **FOR MORTGAGES OF REGULATED ENTITIES.**

23 *“(a) LIMITATION.—The Director shall by regulation*
24 *establish standards, and shall enforce compliance with such*
25 *standards, that—*

1 “(1) prohibit the enterprises from the purchase,
2 service, holding, selling, lending on the security of, or
3 otherwise dealing with any mortgage on a one- to
4 four-family residence that will be used as the prin-
5 cipal residence of the mortgagor that does not meet
6 the requirements under subsection (b); and

7 “(2) prohibit the Federal home loan banks from
8 providing any advances to a member for use in fi-
9 nancing, and from accepting as collateral for any ad-
10 vance to a member, any mortgage on a one- to four-
11 family residence that will be used as the principal
12 residence of the mortgagor that does not meet the re-
13 quirements under subsection (b).

14 “(b) *IDENTIFICATION REQUIREMENTS.*—The require-
15 ments under this subsection with respect to a mortgage are
16 that the mortgagor have, at the time of settlement on the
17 mortgage, a Social Security account number.”.

18 (b) *FANNIE MAE.*—Section 304 of the Federal National
19 Mortgage Association Charter Act (12 U.S.C. 1719) is
20 amended by adding at the end the following new subsection:

21 “(g) *PROHIBITION REGARDING MORTGAGOR IDENTI-*
22 *FICATION REQUIREMENT.*—Nothing in this Act may be con-
23 strued to authorize the corporation to purchase, service,
24 hold, sell, lend on the security of, or otherwise deal with
25 any mortgage that the corporation is prohibited from so

1 *dealing with under the standards issued under section 1330*
2 *of the Housing and Community Development Act of 1992*
3 *by the Director of the Federal Housing Finance Agency.”.*

4 *(c) FREDDIE MAC.—Section 305 of the Federal Home*
5 *Loan Mortgage Corporation Act (12 U.S.C. 1454) is*
6 *amended by adding at the end the following new subsection:*

7 *“(d) PROHIBITION REGARDING MORTGAGOR IDENTI-*
8 *FICATION REQUIREMENTS.—Nothing in this Act may be*
9 *construed to authorize the Corporation to purchase, service,*
10 *hold, sell, lend on the security of, or otherwise deal with*
11 *any mortgage that the Corporation is prohibited from so*
12 *dealing with under the standards issued under section 1330*
13 *of the Housing and Community Development Act of 1992*
14 *by the Director of the Federal Housing Finance Agency.”.*

15 *(d) FEDERAL HOME LOAN BANKS.—Section 10(a) of*
16 *the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is*
17 *amended—*

18 *(1) by redesignating paragraph (6) as para-*
19 *graph (7); and*

20 *(2) by inserting after paragraph (5) the fol-*
21 *lowing new paragraph:*

22 *“(6) PROHIBITION REGARDING MORTGAGOR*
23 *IDENTIFICATION REQUIREMENTS.—Nothing in this*
24 *Act may be construed to authorize a Federal Home*
25 *Loan Bank to provide any advance to a member for*

1 *use in financing, or accept as collateral for an ad-*
2 *vance under this section, any mortgage that a Bank*
3 *is prohibited from so accepting under the standards*
4 *issued under section 1330 of the Housing and Com-*
5 *munity Development Act of 1992 by the Director of*
6 *the Federal Housing Finance Agency.”.*

7 **SEC. 337. REVISION OF HOUSING GOALS.**

8 *(a) HOUSING GOALS.—The Housing and Community*
9 *Development Act of 1992 is amended by striking sections*
10 *1331 through 1334 (12 U.S.C. 4561–4) and inserting the*
11 *following new sections:*

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

13 *“(a) IN GENERAL.—The Director shall establish, effec-*
14 *tive for the first year that begins after the effective date*
15 *under section 365 of the Federal Housing Finance Reform*
16 *Act of 2008 and each year thereafter, annual housing goals,*
17 *with respect to the mortgage purchases by the enterprises,*
18 *as follows:*

19 *“(1) SINGLE FAMILY HOUSING GOALS.—Three*
20 *single-family housing goals under section 1332.*

21 *“(2) MULTIFAMILY SPECIAL AFFORDABLE HOUS-*
22 *ING GOALS.—A multifamily special affordable hous-*
23 *ing goal under section 1333.*

24 *“(b) ELIMINATING INTEREST RATE DISPARITIES.—*

1 “(1) *IN GENERAL.*—Upon request by the Direc-
2 tor, an enterprise shall provide to the Director, in a
3 form determined by the Director, data the Director
4 may review to determine whether there exist dispari-
5 ties in interest rates charged on mortgages to bor-
6 rowers who are minorities as compared with com-
7 parable mortgages to borrowers of similar credit-
8 worthiness who are not minorities.

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

15 “(A) refer the preliminary finding to the
16 appropriate regulatory or enforcement agency for
17 further review;

18 “(B) require the enterprise to submit addi-
19 tional data with respect to any lender or lenders,
20 as appropriate and to the extent practicable, to
21 the Director who shall submit any such addi-
22 tional data to the regulatory or enforcement
23 agency for appropriate action; and

1 “(C) *require the enterprise to undertake re-*
2 *medial actions, as appropriate, pursuant to sec-*
3 *tion 1325(5) (12 U.S.C. 4545(5)).*

4 “(3) *ANNUAL REPORT TO CONGRESS.—The Di-*
5 *rector shall submit to the Committee on Financial*
6 *Services of the House of Representatives and the Com-*
7 *mittee on Banking, Housing, and Urban Affairs of*
8 *the Senate a report describing the actions taken, and*
9 *being taken, by the Director to carry out this sub-*
10 *section. No such report shall identify any lender or*
11 *lenders who have not been found to have engaged in*
12 *discriminatory lending practices pursuant to a final*
13 *adjudication on the record, and after opportunity for*
14 *an administrative hearing, in accordance with sub-*
15 *chapter II of chapter 5 of title 5, United States Code.*

16 “(4) *PROTECTION OF IDENTITY OF INDIVID-*
17 *UALS.—In carrying out this subsection, the Director*
18 *shall ensure that no property-related or financial in-*
19 *formation that would enable a borrower to be identi-*
20 *fied shall be made public.*

21 “(c) *TIMING.—The Director shall establish an annual*
22 *deadline by which the Director shall establish the annual*
23 *housing goals under this subpart for each year, taking into*
24 *consideration the need for the enterprises to reasonably and*
25 *sufficiently plan their operations and activities in advance,*

1 *including operations and activities necessary to meet such*
2 *annual goals.*

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

4 “(a) *IN GENERAL.*—*The Director shall establish an-*
5 *ual goals for the purchase by each enterprise of conven-*
6 *tional, conforming, single-family, purchase money mort-*
7 *gages financing owner-occupied and rental housing for each*
8 *of the following categories of families:*

9 “(1) *Low-income families.*

10 “(2) *Families that reside in low-income areas.*

11 “(3) *Very low-income families.*

12 “(b) *REFINANCE SUBGOAL.*—

13 “(1) *IN GENERAL.*—*The Director shall establish*
14 *a separate subgoal within each goal under subsection*
15 *(a)(1) for the purchase by each enterprise of mort-*
16 *gages for low-income families on single family hous-*
17 *ing given to pay off or prepay an existing loan se-*
18 *cured by the same property. The Director shall, for*
19 *each year, determine whether each enterprise has com-*
20 *plied with the subgoal under this subsection in the*
21 *same manner provided under this section for deter-*
22 *mining compliance with the housing goals.*

23 “(2) *ENFORCEMENT.*—*For purposes of section*
24 *1336, the subgoal established under paragraph (1) of*
25 *this subsection shall be considered to be a housing*

1 *goal established under this section. Such subgoal shall*
2 *not be enforceable under any other provision of this*
3 *title (including subpart C of this part) other than sec-*
4 *tion 1336 or under any provision of the Federal Na-*
5 *tional Mortgage Association Charter Act or the Fed-*
6 *eral Home Loan Mortgage Corporation Act.*

7 “(c) *DETERMINATION OF COMPLIANCE.—The Director*
8 *shall determine, for each year that the housing goals under*
9 *this section are in effect pursuant to section 1331(a), wheth-*
10 *er each enterprise has complied with the single-family hous-*
11 *ing goals established under this section for such year. An*
12 *enterprise shall be considered to be in compliance with such*
13 *a goal for a year only if, for each of the types of families*
14 *described in subsection (a), the percentage of the number*
15 *of conventional, conforming, single-family, owner-occupied*
16 *or rental, as applicable, purchase money mortgages pur-*
17 *chased by each enterprise in such year that serve such fami-*
18 *lies, meets or exceeds the target for the year for such type*
19 *of family that is established under subsection (d).*

20 “(d) *ANNUAL TARGETS.—*

21 “(1) *IN GENERAL.—Except as provided in para-*
22 *graph (2), for each of the types of families described*
23 *in subsection (a), the target under this subsection for*
24 *a year shall be the average percentage, for the three*
25 *years that most recently precede such year and for*

1 *which information under the Home Mortgage Disclo-*
2 *sure Act of 1975 is publicly available, of the number*
3 *of conventional, conforming, single-family, owner-oc-*
4 *cupied or rental, as applicable, purchase money mort-*
5 *gages originated in such year that serves such type of*
6 *family, as determined by the Director using the infor-*
7 *mation obtained and determined pursuant to para-*
8 *graphs (3) and (4).*

9 *“(2) AUTHORITY TO INCREASE TARGETS.—*

10 *“(A) IN GENERAL.—The Director may, for*
11 *any year, establish by regulation, for any or all*
12 *of the types of families described in subsection*
13 *(a), percentage targets that are higher than the*
14 *percentages for such year determined pursuant to*
15 *paragraph (1), to reflect expected changes in*
16 *market performance related to such information*
17 *under the Home Mortgage Disclosure Act of*
18 *1975.*

19 *“(B) FACTORS.—In establishing any targets*
20 *pursuant to subparagraph (A), the Director shall*
21 *consider the following factors:*

22 *“(i) National housing needs.*

23 *“(ii) Economic, housing, and demo-*
24 *graphic conditions.*

1 “(iii) *The performance and effort of the*
2 *enterprises toward achieving the housing*
3 *goals under this section in previous years.*

4 “(iv) *The size of the conventional mort-*
5 *gage market serving each of the types of*
6 *families described in subsection (a) relative*
7 *to the size of the overall conventional mort-*
8 *gage market.*

9 “(v) *The ability of the enterprise to*
10 *lead the industry in making mortgage cred-*
11 *it available.*

12 “(vi) *The need to maintain the sound*
13 *financial condition of the enterprises.*

14 “(3) *HMDA INFORMATION.—The Director shall*
15 *annually obtain information submitted in compliance*
16 *with the Home Mortgage Disclosure Act of 1975 re-*
17 *garding conventional, conforming, single-family,*
18 *owner-occupied or rental, as applicable, purchase*
19 *money mortgages originated and purchased for the*
20 *previous year.*

21 “(4) *CONFORMING MORTGAGES.—In determining*
22 *whether a mortgage is a conforming mortgage for*
23 *purposes of this paragraph, the Director shall con-*
24 *sider the original principal balance of the mortgage*
25 *loan to be the principal balance as reported in the in-*

1 *formation referred to in paragraph (3), as rounded to*
2 *the nearest thousand dollars.*

3 “(e) *NOTICE OF DETERMINATION AND ENTERPRISE*
4 *COMMENT.—*

5 “(1) *NOTICE.—Within 30 days of making a de-*
6 *termination under subsection (c) regarding a compli-*
7 *ance of an enterprise for a year with a housing goal*
8 *established under this section and before any public*
9 *disclosure thereof, the Director shall provide notice of*
10 *the determination to the enterprise, which shall in-*
11 *clude an analysis and comparison, by the Director, of*
12 *the performance of the enterprise for the year and the*
13 *targets for the year under subsection (d).*

14 “(2) *COMMENT PERIOD.—The Director shall pro-*
15 *vide each enterprise an opportunity to comment on*
16 *the determination during the 30-day period beginning*
17 *upon receipt by the enterprise of the notice.*

18 “(f) *USE OF BORROWER INCOME.—In monitoring the*
19 *performance of each enterprise pursuant to the housing*
20 *goals under this section and evaluating such performance*
21 *(for purposes of section 1336), the Director shall consider*
22 *a mortgagor’s income to be such income at the time of origi-*
23 *nation of the mortgage.*

24 “(g) *CONSIDERATION OF UNITS IN SINGLE-FAMILY*
25 *RENTAL HOUSING.—In establishing any goal under this*

1 *subpart, the Director may take into consideration the num-*
2 *ber of housing units financed by any mortgage on single-*
3 *family rental housing purchased by an enterprise.*

4 **“SEC. 1333. MULTIFAMILY SPECIAL AFFORDABLE HOUSING**
5 **GOAL.**

6 *“(a) ESTABLISHMENT.—*

7 *“(1) IN GENERAL.—The Director shall establish,*
8 *by regulation, an annual goal for the purchase by*
9 *each enterprise of each of the following types of mort-*
10 *gages on multifamily housing:*

11 *“(A) Mortgages that finance dwelling units*
12 *for low-income families.*

13 *“(B) Mortgages that finance dwelling units*
14 *for very low-income families.*

15 *“(C) Mortgages that finance dwelling units*
16 *assisted by the low-income housing tax credit*
17 *under section 42 of the Internal Revenue Code of*
18 *1986.*

19 *“(2) ADDITIONAL REQUIREMENTS FOR SMALLER*
20 *PROJECTS.—The Director shall establish, within the*
21 *goal under this section, additional requirements for*
22 *the purchase by each enterprise of mortgages described*
23 *in paragraph (1) for multifamily housing projects of*
24 *a smaller or limited size, which may be based on the*
25 *number of dwelling units in the project or the amount*

1 of the mortgage, or both, and shall include multi-
2 family housing projects of such smaller sizes as are
3 typical among such projects that serve rural areas.

4 “(3) *FACTORS.*—In establishing the goal under
5 this section relating to mortgages on multifamily
6 housing for an enterprise for a year, the Director
7 shall consider—

8 “(A) *national multifamily mortgage credit*
9 *needs;*

10 “(B) *the performance and effort of the en-*
11 *terprise in making mortgage credit available for*
12 *multifamily housing in previous years;*

13 “(C) *the size of the multifamily mortgage*
14 *market;*

15 “(D) *the ability of the enterprise to lead the*
16 *industry in making mortgage credit available,*
17 *especially for underserved markets, such as for*
18 *small multifamily projects of 5 to 50 units, mul-*
19 *tifamily properties in need of rehabilitation, and*
20 *multifamily properties located in rural areas;*
21 *and*

22 “(E) *the need to maintain the sound finan-*
23 *cial condition of the enterprise.*

24 “(b) *UNITS FINANCED BY HOUSING FINANCE AGENCY*
25 *BONDS.*—The Director shall give credit toward the achieve-

1 *ment of the multifamily special affordable housing goal*
2 *under this section (for purposes of section 1336) to dwelling*
3 *units in multifamily housing that otherwise qualifies under*
4 *such goal and that is financed by tax-exempt or taxable*
5 *bonds issued by a State or local housing finance agency,*
6 *but only if such bonds—*

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

8 *or*

9 “(2) *are not investment grade and are purchased*
10 *by the enterprise.*

11 “(c) *USE OF TENANT INCOME OR RENT.—The Director*
12 *shall monitor the performance of each enterprise in meeting*
13 *the goals established under this section and shall evaluate*
14 *such performance (for purposes of section 1336) based on—*

15 “(1) *the income of the prospective or actual ten-*
16 *ants of the property, where such data are available;*

17 *or*

18 “(2) *where the data referred to in paragraph (1)*
19 *are not available, rent levels affordable to low-income*
20 *and very low-income families.*

21 *A rent level shall be considered to be affordable for purposes*
22 *of this subsection for an income category referred to in this*
23 *subsection if it does not exceed 30 percent of the maximum*
24 *income level of such income category, with appropriate ad-*

1 *justments for unit size as measured by the number of bed-*
2 *rooms.*

3 “(d) *DETERMINATION OF COMPLIANCE.*—*The Director*
4 *shall, for each year that the housing goal under this section*
5 *is in effect pursuant to section 1331(a), determine whether*
6 *each enterprise has complied with such goal and the addi-*
7 *tional requirements under subsection (a)(2).*

8 “**SEC. 1334. DISCRETIONARY ADJUSTMENT OF HOUSING**
9 **GOALS.**

10 “(a) *AUTHORITY.*—*An enterprise may petition the Di-*
11 *rector in writing at any time during a year to reduce the*
12 *level of any goal for such year established pursuant to this*
13 *subpart.*

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

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

20 “(2) *efforts to meet the goal would result in the*
21 *constraint of liquidity, over-investment in certain*
22 *market segments, or other consequences contrary to*
23 *the intent of this subpart, or section 301(3) of the*
24 *Federal National Mortgage Association Charter Act*
25 *(12 U.S.C. 1716(3)) or section 301(3) of the Federal*

1 *Home Loan Mortgage Corporation Act (12 U.S.C.*
2 *1451 note), as applicable.*

3 “(c) *DETERMINATION.*—*The Director shall make a de-*
4 *termination regarding any proposed reduction within 30*
5 *days of receipt of the petition regarding the reduction. The*
6 *Director may extend such period for a single additional 15-*
7 *day period, but only if the Director requests additional in-*
8 *formation from the enterprise. A denial by the Director to*
9 *reduce the level of any goal under this section may be ap-*
10 *pealed to the United States District Court for the District*
11 *of Columbia or the United States district court in the juris-*
12 *isdiction in which the headquarters of an enterprise is lo-*
13 *cated.”.*

14 (b) *CONFORMING AMENDMENTS.*—*The Housing and*
15 *Community Development Act of 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”.*

24 (c) *DEFINITIONS.*—*Section 1303 of the Housing and*
25 *Community Development Act of 1992 (12 U.S.C. 4502), as*

1 *amended by the preceding provisions of this title, is further*
2 *amended—*

3 *(1) in paragraph (22) (relating to the definition*
4 *of “very low-income”), by striking “60 percent” each*
5 *place such term appears and inserting “50 percent”;*

6 *(2) by redesignating paragraphs (19) through*
7 *(22) as paragraphs (23) through (26), respectively;*

8 *(3) by inserting after paragraph (18) the fol-*
9 *lowing new paragraph:*

10 *“(22) RURAL AREA.—The term ‘rural area’ has*
11 *the meaning given such term in section 520 of the*
12 *Housing Act of 1949 (42 U.S.C. 1490), except that*
13 *such term includes micropolitan areas and tribal*
14 *trust lands.”.*

15 *(4) by redesignating paragraphs (13) through*
16 *(18) as paragraphs (16) through (21), respectively;*

17 *(5) by inserting after paragraph (12) the fol-*
18 *lowing new paragraph:*

19 *“(15) LOW-INCOME AREA.—The term ‘low in-*
20 *come area’ means a census tract or block numbering*
21 *area in which the median income does not exceed 80*
22 *percent of the median income for the area in which*
23 *such census tract or block numbering area is located,*
24 *and, for the purposes of section 1332(a)(2), shall in-*
25 *clude families having incomes not greater than 100*

1 *percent of the area median income who reside in mi-*
2 *nority census tracts.”;*

3 *(6) by redesignating paragraphs (11) and (12)*
4 *as paragraphs (13) and (14), respectively;*

5 *(7) by inserting after paragraph (10) the fol-*
6 *lowing new paragraph:*

7 *“(12) EXTREMELY LOW-INCOME.—The term ‘ex-*
8 *tremely low-income’ means—*

9 *“(A) in the case of owner-occupied units,*
10 *income not in excess of 30 percent of the area*
11 *median income; and*

12 *“(B) in the case of rental units, income not*
13 *in excess of 30 percent of the area median in-*
14 *come, with adjustments for smaller and larger*
15 *families, as determined by the Secretary.”;*

16 *(8) by redesignating paragraphs (7) through (10)*
17 *as paragraphs (8) through (11), respectively; and*

18 *(9) by inserting after paragraph (6) the fol-*
19 *lowing new paragraph:*

20 *“(7) CONFORMING MORTGAGE.—The term ‘con-*
21 *forming mortgage’ means, with respect to an enter-*
22 *prise, a conventional mortgage having an original*
23 *principal obligation that does not exceed the dollar*
24 *limitation, in effect at the time of such origination,*
25 *under, as applicable—*

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

3 “(B) section 305(a)(2) of the Federal Home
4 Loan Mortgage Corporation Act.”.

5 **SEC. 338. DUTY TO SERVE UNDERSERVED MARKETS.**

6 (a) *ESTABLISHMENT AND EVALUATION OF PERFORM-*
7 *ANCE.—Section 1335 of the Housing and Community De-*
8 *velopment Act of 1992 (12 U.S.C. 4565) is amended—*

9 (1) *in the section heading, by inserting “DUTY*
10 *TO SERVE UNDERSERVED MARKETS AND” before*
11 *“OTHER”;*

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

13 (3) *in subsection (a)—*

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

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

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

22 (D) *by striking paragraph (5); and*

23 (E) *by redesignating such subsection as sub-*
24 *section (b);*

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

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

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

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

22 “(A) *MANUFACTURED HOUSING.—The en-*
23 *terprise shall lead the industry in developing*
24 *loan products and flexible underwriting guide-*
25 *lines to facilitate a secondary market for mort-*

1 *gages on manufactured homes for very low-, low-*
2 *, and moderate-income families.*

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

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

13 *“(ii) the program under section 236 of*
14 *the National Housing Act;*

15 *“(iii) the below-market interest rate*
16 *mortgage program under section 221(d)(4)*
17 *of the National Housing Act;*

18 *“(iv) the supportive housing for the el-*
19 *derly program under section 202 of the*
20 *Housing Act of 1959;*

21 *“(v) the supportive housing program*
22 *for persons with disabilities under section*
23 *811 of the Cranston-Gonzalez National Af-*
24 *fordable Housing Act;*

1 “(vi) the programs under title IV of the
2 *McKinney-Vento Homeless Assistance Act*
3 (42 U.S.C. 11361 et seq.), but only perma-
4 nent supportive housing projects subsidized
5 under such programs; and

6 “(vii) the rural rental housing pro-
7 gram under section 515 of the *Housing Act*
8 of 1949.

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

22 (5) by adding at the end the following new sub-
23 section:

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

1 “(1) *IN GENERAL.*—Not later than 6 months
2 after the effective date under section 365 of the Fed-
3 eral Housing Finance Reform Act of 2008, the Direc-
4 tor shall establish a manner for evaluating whether,
5 and the extent to which, the enterprises have complied
6 with the duty under subsection (a) to serve under-
7 served markets and for rating the extent of such com-
8 pliance. Using such method, the Director shall, for
9 each year, evaluate such compliance and rate the per-
10 formance of each enterprise as to extent of compli-
11 ance. The Director shall include such evaluation and
12 rating for each enterprise for a year in the report for
13 that year submitted pursuant to section 1319B(a).

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

21 “(A) the development of loan products and
22 more flexible underwriting guidelines;

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

1 “(C) the volume of loans purchased in each
2 of such underserved markets.

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

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

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

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

18 “(4) *ENFORCEMENT OF DUTY TO PROVIDE MORT-*
19 *GAGE CREDIT TO UNDERSERVED MARKETS*.—The duty
20 under section 1335(a) of each enterprise to serve un-
21 derserved markets (as determined in accordance with
22 section 1335(c)) shall be enforceable under this section
23 to the same extent and under the same provisions that
24 the housing goals established under this subpart are
25 enforceable. Such duty shall not be enforceable under

1 where the housing is located or are otherwise
2 widely recognized; or

3 “(B) housing that includes a licensed
4 childcare center.

5 *The availability of additional credit under this para-*
6 *graph shall not be used to increase any housing goal,*
7 *subgoal, or target established under this subpart.”.*

8 (b) *MONITORING AND ENFORCEMENT.—Section 1336*
9 *of the Housing and Community Development Act of 1992*
10 *(12 U.S.C. 4566) is amended—*

11 (1) *in subsection (b)—*

12 (A) *in the subsection heading, by inserting*
13 *“PRELIMINARY” before “DETERMINATION”;*

14 (B) *by striking paragraph (1) and inserting*
15 *the following new paragraph:*

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 established under this*
20 *subpart, the Director shall provide written notice to*
21 *the enterprise of such a preliminary determination,*
22 *the reasons for such determination, and the informa-*
23 *tion on which the Director based the determination.”;*

24 (C) *in paragraph (2)—*

1 (i) in subparagraph (A), by inserting
2 “finally” before “determining”;

3 (ii) by striking subparagraphs (B) and
4 (C) and inserting the following new sub-
5 paragraph:

6 “(B) *EXTENSION OR SHORTENING OF PE-*
7 *RIOD.—The Director may—*

8 “*(i) extend the period under subpara-*
9 *graph (A) for good cause for not more than*
10 *30 additional days; and*

11 “*(ii) shorten the period under subpara-*
12 *graph (A) for good cause.*”; and

13 (iii) by redesignating subparagraph
14 (D) as subparagraph (C); and

15 (D) in paragraph (3)—

16 (i) in subparagraph (A), by striking
17 “determine” and inserting “issue a final de-
18 termination of”;

19 (ii) in subparagraph (B), by inserting
20 “final” before “determinations”; and

21 (iii) in subparagraph (C)—

22 (I) by striking “Committee on
23 Banking, Finance and Urban Affairs”
24 and inserting “Committee on Finan-
25 cial Services”; and

1 (II) by inserting “final” before
2 “determination” each place such term
3 appears; and

4 (2) in subsection (c)—

5 (A) by striking the subsection designation
6 and heading and all that follows through the end
7 of paragraph (1) and inserting the following:

8 “(c) CEASE AND DESIST ORDERS, CIVIL MONEY PEN-
9 ALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

10 “(1) REQUIREMENT.—If the Director finds, pur-
11 suant to subsection (b), that there is a substantial
12 probability that an enterprise will fail, or has actu-
13 ally failed, to meet any housing goal under this sub-
14 part and that the achievement of the housing goal was
15 or is feasible, the Director may require that the enter-
16 prise submit a housing plan under this subsection. If
17 the Director makes such a finding and the enterprise
18 refuses to submit such a plan, submits an unaccept-
19 able plan, fails to comply with the plan or the Direc-
20 tor finds that the enterprise has failed to meet any
21 housing goal under this subpart, in addition to re-
22 quiring an enterprise to submit a housing plan, the
23 Director may issue a cease and desist order in accord-
24 ance with section 1341, impose civil money penalties
25 in accordance with section 1345, or order other rem-

1 *edies as set forth in paragraph (7) of this sub-*
2 *section.”;*

3 *(B) in paragraph (2)—*

4 *(i) by striking “CONTENTS.—Each*
5 *housing plan” and inserting “HOUSING*
6 *PLAN.—If the Director requires a housing*
7 *plan under this section, such a plan”;* and

8 *(ii) in subparagraph (B), by inserting*
9 *“and changes in its operations” after “im-*
10 *provements”;*

11 *(C) in paragraph (3)—*

12 *(i) by inserting “comply with any re-*
13 *medial action or” before “submit a housing*
14 *plan”;* and

15 *(ii) by striking “under subsection*
16 *(b)(3) that a housing plan is required”;*

17 *(D) in paragraph (4), by striking the first*
18 *two sentences and inserting the following: “The*
19 *Director shall review each submission by an en-*
20 *terprise, including a housing plan submitted*
21 *under this subsection, and not later than 30 days*
22 *after submission, approve or disapprove the plan*
23 *or other action. The Director may extend the pe-*
24 *riod for approval or disapproval for a single ad-*

1 *ditional 30-day period if the Director determines*
2 *such extension necessary.”; and*

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

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 seek*
10 *other actions when an enterprise fails to meet a goal,*
11 *and exercise appropriate enforcement authority avail-*
12 *able to the Director under this Act to prohibit the en-*
13 *terprise from initially offering any product (as such*
14 *term is defined in section 1321(f)) or engaging in any*
15 *new activities, services, undertakings, and offerings*
16 *and to order the enterprise to suspend products and*
17 *activities, services, undertakings, and offerings pend-*
18 *ing its achievement of the goal.”.*

19 **SEC. 340. AFFORDABLE HOUSING FUND.**

20 *(a) IN GENERAL.—The Housing and Community De-*
21 *velopment Act of 1992 is amended by striking sections 1337*
22 *and 1338 (12 U.S.C. 4562 note) and inserting the following*
23 *new section:*

1 **“SEC. 1337. AFFORDABLE HOUSING FUND.**

2 “(a) *ESTABLISHMENT AND PURPOSE.*—*The Director,*
3 *in consultation with the Secretary of Housing and Urban*
4 *Development, shall establish and manage an affordable*
5 *housing fund in accordance with this section, which shall*
6 *be funded with amounts allocated by the enterprises under*
7 *subsection (b). The purpose of the affordable housing fund*
8 *shall be to provide formula grants to grantees for use—*

9 “(1) *to increase homeownership for extremely*
10 *low-and very low-income families;*

11 “(2) *to increase investment in housing in low-in-*
12 *come areas, and areas designated as qualified census*
13 *tracts or an area of chronic economic distress pursu-*
14 *ant to section 143(j) of the Internal Revenue Code of*
15 *1986 (26 U.S.C. 143(j));*

16 “(3) *to increase and preserve the supply of rental*
17 *and owner-occupied housing for extremely low- and*
18 *very low-income families;*

19 “(4) *to increase investment in public infrastruc-*
20 *ture development in connection with housing assisted*
21 *under this section; and*

22 “(5) *to leverage investments from other sources*
23 *in affordable housing and in public infrastructure de-*
24 *velopment in connection with housing assisted under*
25 *this section.*

26 “(b) *ALLOCATION OF AMOUNTS BY ENTERPRISES.*—

1 “(1) *IN GENERAL.*—*In accordance with regula-*
2 *tions issued by the Director under subsection (m) and*
3 *subject to paragraph (2) of this subsection and sub-*
4 *section (i)(5), each enterprise shall allocate to the af-*
5 *fordable housing fund established under subsection*
6 *(a), in each of the years 2008 through 2012, an*
7 *amount equal to 1.2 basis points for each dollar of the*
8 *average total mortgage portfolio of the enterprise dur-*
9 *ing the preceding year.*

10 “(2) *SUSPENSION OF CONTRIBUTIONS.*—*The Di-*
11 *rector shall temporarily suspend the allocation under*
12 *paragraph (1) by an enterprise to the affordable hous-*
13 *ing fund upon a finding by the Director that such al-*
14 *locations—*

15 “(A) *are contributing, or would contribute,*
16 *to the financial instability of the enterprise;*

17 “(B) *are causing, or would cause, the enter-*
18 *prise to be classified as undercapitalized; or*

19 “(C) *are preventing, or would prevent, the*
20 *enterprise from successfully completing a capital*
21 *restoration plan under section 1369C.*

22 “(3) *5-YEAR SUNSET AND REPORT.*—

23 “(A) *SUNSET.*—*The enterprises shall not be*
24 *required to make allocations to the affordable*
25 *housing fund in 2012 or in any year thereafter.*

1 “(B) *REPORT ON PROGRAM CONTINU-*
2 *ANCE.—Not later than June 30, 2011, the Direc-*
3 *tor shall submit to the Committee on Financial*
4 *Services of the House of Representatives and the*
5 *Committee on Banking, Housing, and Urban Af-*
6 *airs of the Senate a report making recommenda-*
7 *tions on whether the program under this section,*
8 *including the requirement for the enterprises to*
9 *make allocations to the affordable housing fund,*
10 *should be extended and on any modifications for*
11 *the program.*

12 “(4) *PROHIBITION OF PASS-THROUGH OF COST*
13 *OF ALLOCATIONS.—The Director shall, by regulation,*
14 *prohibit each enterprise from redirecting such costs,*
15 *through increased charges or fees, or decreased pre-*
16 *miums, or in any other manner, to the originators of*
17 *mortgages purchased or securitized by the enterprise.*

18 “(c) *AFFORDABLE HOUSING NEEDS FORMULAS.—*

19 “(1) *ALLOCATION FOR 2008.—*

20 “(A) *ALLOCATION PERCENTAGES FOR LOU-*
21 *ISIANA AND MISSISSIPPI.—For purposes of sub-*
22 *section (d)(1)(A), the allocation percentages for*
23 *2008 for the grantees under this section for such*
24 *year shall be as follows:*

1 “(i) *The allocation percentage for the*
2 *Louisiana Housing Finance Agency shall be*
3 *75 percent.*

4 “(ii) *The allocation percentage for the*
5 *Mississippi Development Authority shall be*
6 *25 percent.*

7 “(B) *USE IN DISASTER AREAS.—Affordable*
8 *housing grant amounts for 2008 shall be used*
9 *only as provided in subsection (g) only for such*
10 *eligible activities in areas that were subject to a*
11 *declaration by the President of a major disaster*
12 *or emergency under the Robert T. Stafford Dis-*
13 *aster Relief and Emergency Assistance Act (42*
14 *U.S.C. 5121 et seq.) in connection with Hurri-*
15 *cane Katrina or Rita of 2005.*

16 “(2) *ALLOCATION FORMULA FOR OTHER*
17 *YEARS.—The Secretary of Housing and Urban Devel-*
18 *opment shall, by regulation, establish a formula to al-*
19 *locate, among the States (as such term is defined in*
20 *section 1303) and federally recognized Indian tribes,*
21 *the amounts provided by the enterprises in each year*
22 *referred to subsection (b)(1), other than 2008, to the*
23 *affordable housing fund established under this section.*
24 *The formula shall be based on the following factors,*
25 *with respect to each State and tribe:*

1 “(A) *The ratio of the population of the*
2 *State or federally recognized Indian tribe to the*
3 *aggregate population of all the States and tribes.*

4 “(B) *The percentage of families in the State*
5 *or federally recognized Indian tribe that pay*
6 *more than 50 percent of their annual income for*
7 *housing costs.*

8 “(C) *The percentage of persons in the State*
9 *or federally recognized Indian tribe that are*
10 *members of extremely low- or very low-income*
11 *families.*

12 “(D) *The cost of developing or carrying out*
13 *rehabilitation of housing in the State or for the*
14 *federally recognized Indian tribe.*

15 “(E) *The percentage of families in the State*
16 *or federally recognized Indian tribe that live in*
17 *substandard housing.*

18 “(F) *The percentage of housing stock in the*
19 *State or for the federally recognized Indian tribe*
20 *that is extremely old housing.*

21 “(G) *Any other factors that the Secretary*
22 *determines to be appropriate.*

23 “(3) *FAILURE TO ESTABLISH.—If, in any year*
24 *referred to in subsection (b)(1), other than 2008, the*
25 *regulations establishing the formula required under*

1 paragraph (2) of this subsection have not been issued
2 by the date that the Director determines the amounts
3 described in subsection (d)(1) to be available for af-
4 fordable housing fund grants in such year, for pur-
5 poses of such year any amounts for a State (as such
6 term is defined in section 1303 of this Act) that
7 would otherwise be determined under subsection (d)
8 by applying the formula established pursuant to
9 paragraph (2) of this subsection shall be determined
10 instead by applying, for such State, the percentage
11 that is equal to the percentage of the total amounts
12 made available for such year for allocation under sub-
13 title A of title II of the Cranston-Gonzalez National
14 Affordable Housing Act (42 U.S.C. 12741 et seq.) that
15 are allocated in such year, pursuant to such subtitle,
16 to such State (including any insular area or unit of
17 general local government, as such terms are defined in
18 section 104 of such Act (42 U.S.C. 12704), that is
19 treated as a State under section 1303 of this Act) and
20 to participating jurisdictions and other eligible enti-
21 ties within such State.

22 “(d) ALLOCATION OF FORMULA AMOUNT; GRANTS.—

23 “(1) FORMULA AMOUNT.—For each year referred
24 to in subsection (b)(1), the Director shall determine
25 the formula amount under this section for each grant-

1 *ee, which shall be the amount determined for such*
2 *grantee—*

3 *“(A) for 2008, by applying the allocation*
4 *percentages under subparagraph (A) of sub-*
5 *section (c)(1) to the sum of the total amounts al-*
6 *located by the enterprises to the affordable hous-*
7 *ing fund for such year, less any amounts used*
8 *pursuant to subsection (i)(1); and*

9 *“(B) for any other year referred to in sub-*
10 *section (b)(1) (other than 2008), by applying the*
11 *formula established pursuant to paragraph (2) of*
12 *subsection (c) to the sum of the total amounts al-*
13 *located by the enterprises to the affordable hous-*
14 *ing fund for such year and any recaptured*
15 *amounts available pursuant to subsection (i)(4),*
16 *less any amounts used pursuant to subsection*
17 *(i)(1).*

18 *“(2) NOTICE.—In each year referred to in sub-*
19 *section (b)(1), not later than 60 days after the date*
20 *that the Director determines the amounts described in*
21 *paragraph (1) to be available for affordable housing*
22 *fund grants to grantees in such year, the Director*
23 *shall cause to be published in the Federal Register a*
24 *notice that such amounts shall be so available.*

25 *“(3) GRANT AMOUNT.—*

1 “(A) *IN GENERAL.*—*For each year referred*
2 *to in subsection (b)(1), the Director shall make*
3 *a grant from amounts in the affordable housing*
4 *fund to each grantee in an amount that is, ex-*
5 *cept as provided in subparagraph (B), equal to*
6 *the formula amount under this section for the*
7 *grantee. A grantee may designate a State hous-*
8 *ing finance agency, housing and community de-*
9 *velopment entity, tribally designated housing en-*
10 *tity (as such term is defined in section 4 of the*
11 *Native American Housing Assistance and Self-*
12 *Determination Act of 1997 (25 U.S.C. 4103)) or*
13 *other qualified instrumentality of the grantee to*
14 *receive such grant amounts.*

15 “(B) *REDUCTION FOR FAILURE TO OBTAIN*
16 *RETURN OF MISUSED FUNDS.*—*If in any year a*
17 *grantee fails to obtain reimbursement or return*
18 *of the full amount required under subsection*
19 *(j)(1)(B) to be reimbursed or returned to the*
20 *grantee during such year—*

21 “(i) *except as provided in clause (ii)—*

22 “(I) *the amount of the grant for*
23 *the grantee for the succeeding year, as*
24 *determined pursuant to subparagraph*
25 *(A), shall be reduced by the amount by*

1 *which such amounts required to be re-*
2 *imbursed or returned exceed the*
3 *amount actually reimbursed or re-*
4 *turned; and*

5 “(II) *the amount of the grant for*
6 *the succeeding year for each other*
7 *grantee whose grant is not reduced*
8 *pursuant to subclause (I) shall be in-*
9 *creased by the amount determined by*
10 *applying the formula established pur-*
11 *suant to subsection (c)(2) to the total*
12 *amount of all reductions for all grant-*
13 *ees for such year pursuant to subclause*
14 *(I); or*

15 “(ii) *in any case in which such failure*
16 *to obtain reimbursement or return occurs*
17 *during a year immediately preceding a*
18 *year in which grants under this subsection*
19 *will not be made, the grantee shall pay to*
20 *the Director for reallocation among the*
21 *other grantees an amount equal to the*
22 *amount of the reduction for the grantee that*
23 *would otherwise apply under clause (i)(I).*

24 “(e) *GRANTEE ALLOCATION PLANS.—*

1 “(1) *IN GENERAL.*—For each year that a grantee
2 receives affordable housing fund grant amounts, the
3 grantee shall establish an allocation plan in accord-
4 ance with this subsection, which shall be a plan for
5 the distribution of such grant amounts of the grantee
6 for such year that—

7 “(A) is based on priority housing needs, as
8 determined by the grantee in accordance with the
9 regulations established under subsection
10 (m)(2)(C);

11 “(B) complies with subsection (f); and

12 “(C) includes performance goals, bench-
13 marks, and timetables for the grantee for the pro-
14 duction, preservation, and rehabilitation of af-
15 fordable rental and homeownership housing with
16 such grant amounts that comply with the re-
17 quirements established by the Director pursuant
18 to subsection (m)(2)(F).

19 “(2) *ESTABLISHMENT.*—In establishing an allo-
20 cation plan, a grantee shall notify the public of the
21 establishment of the plan, provide an opportunity for
22 public comments regarding the plan, consider any
23 public comments received, and make the completed
24 plan available to the public.

1 “(3) *CONTENTS.*—*An allocation plan of a grant-*
2 *ee shall set forth the requirements for eligible recipi-*
3 *ents under subsection (h) to apply to the grantee to*
4 *receive assistance from affordable housing fund grant*
5 *amounts, including a requirement that each such ap-*
6 *plication include—*

7 “(A) *a description of the eligible activities*
8 *to be conducted using such assistance; and*

9 “(B) *a certification by the eligible recipient*
10 *applying for such assistance that any housing*
11 *units assisted with such assistance will comply*
12 *with the requirements under this section.*

13 “(f) *SELECTION OF ACTIVITIES FUNDED USING AF-*
14 *FORDABLE HOUSING FUND GRANT AMOUNTS.*—*Affordable*
15 *housing fund grant amounts of a grantee may be used, or*
16 *committed for use, only for activities that—*

17 “(1) *are eligible under subsection (g) for such*
18 *use;*

19 “(2) *comply with the applicable allocation plan*
20 *under subsection (e) of the grantee; and*

21 “(3) *are selected for funding by the grantee in*
22 *accordance with the process and criteria for such se-*
23 *lection established pursuant to subsection (m)(2)(C).*

1 “(g) *ELIGIBLE ACTIVITIES.*—Affordable housing fund
2 grant amounts of a grantee shall be eligible for use, or for
3 commitment for use, only for assistance for—

4 “(1) the production, preservation, and rehabili-
5 tation of rental housing, including housing under the
6 programs identified in section 1335(a)(2)(B), except
7 that such grant amounts may be used for the benefit
8 only of extremely low- and very low-income families;

9 “(2) the production, preservation, and rehabili-
10 tation of housing for homeownership, including such
11 forms as downpayment assistance, closing cost assist-
12 ance, and assistance for interest-rate buy-downs,
13 that—

14 “(A) is available for purchase only for use
15 as a principal residence by families that qualify
16 both as—

17 “(i) extremely low- and very-low in-
18 come families at the times described in sub-
19 paragraphs (A) through (C) of section
20 215(b)(2) of the Cranston-Gonzalez National
21 Affordable Housing Act (42 U.S.C.
22 12745(b)(2)); and

23 “(ii) first-time homebuyers, as such
24 term is defined in section 104 of the Cran-
25 ston-Gonzalez National Affordable Housing

1 *Act (42 U.S.C. 12704), except that any ref-*
2 *erence in such section to assistance under*
3 *title II of such Act shall for purposes of this*
4 *section be considered to refer to assistance*
5 *from affordable housing fund grant*
6 *amounts;*

7 *“(B) has an initial purchase price that*
8 *meets the requirements of section 215(b)(1) of the*
9 *Cranston-Gonzalez National Affordable Housing*
10 *Act;*

11 *“(C) is subject to the same resale restric-*
12 *tions established under section 215(b)(3) of the*
13 *Cranston-Gonzalez National Affordable Housing*
14 *Act and applicable to the participating jurisdic-*
15 *tion that is the State in which such housing is*
16 *located; and*

17 *“(D) is made available for purchase only*
18 *by, or in the case of assistance under this para-*
19 *graph, is made available only to, homebuyers*
20 *who have, before purchase—*

21 *“(i) completed a program of counseling*
22 *with respect to the responsibilities and fi-*
23 *nancial management involved in home-*
24 *ownership that is approved by the Director;*
25 *except that the Director may, at the request*

1 of a State, waive the requirements of this
2 subparagraph with respect to a geographic
3 area or areas within the State if: (I) the
4 travel time or distance involved in pro-
5 viding counseling with respect to such area
6 or areas, as otherwise required under this
7 subparagraph, on an in-person basis is ex-
8 cessive or the cost of such travel is prohibi-
9 tive; and (II) the State provides alternative
10 forms of counseling for such area or areas,
11 which may include interactive telephone
12 counseling, on-line counseling, interactive
13 video counseling, and interactive home
14 study counseling and a program of finan-
15 cial literacy and education to promote an
16 understanding of consumer, economic, and
17 personal finance issues and concepts, in-
18 cluding saving for retirement, managing
19 credit, long-term care, and estate planning
20 and education on predatory lending, iden-
21 tity theft, and financial abuse schemes re-
22 lating to homeownership that is approved
23 by the Director, except that entities pro-
24 viding such counseling shall not discrimi-

1 nate against any particular form of hous-
2 ing; and

3 “(ii) demonstrated, in accordance with
4 regulations as the Director shall issue set-
5 ting forth requirements for sufficient evi-
6 dence, that they are lawfully present in the
7 United States; and

8 “(3) public infrastructure development activities
9 in connection with housing activities funded under
10 paragraph (1) or (2).

11 “(h) *ELIGIBLE RECIPIENTS.*—Affordable housing fund
12 grant amounts of a grantee may be provided only to a re-
13 cipient that is an organization, agency, or other entity (in-
14 cluding a for-profit entity, a nonprofit entity, and a faith-
15 based organization) that—

16 “(1) has demonstrated experience and capacity
17 to conduct an eligible activity under (g), as evidenced
18 by its ability to—

19 “(A) own, construct or rehabilitate, manage,
20 and operate an affordable multifamily rental
21 housing development;

22 “(B) design, construct or rehabilitate, and
23 market affordable housing for homeownership;

1 “(C) provide forms of assistance, such as
2 downpayments, closing costs, or interest-rate
3 buy-downs, for purchasers; or

4 “(D) construct related public infrastructure
5 development activities in connection with such
6 housing activities;

7 “(2) demonstrates the ability and financial ca-
8 pacity to undertake, comply, and manage the eligible
9 activity;

10 “(3) demonstrates its familiarity with the re-
11 quirements of any other Federal, State or local hous-
12 ing program that will be used in conjunction with
13 such grant amounts to ensure compliance with all ap-
14 plicable requirements and regulations of such pro-
15 grams; and

16 “(4) makes such assurances to the grantee as the
17 Director shall, by regulation, require to ensure that
18 the recipient will comply with the requirements of
19 this section during the entire period that begins upon
20 selection of the recipient to receive such grant
21 amounts and ending upon the conclusion of all activi-
22 ties under subsection (g) that are engaged in by the
23 recipient and funded with such grant amounts.

24 “(i) LIMITATIONS ON USE.—

1 “(1) *REQUIRED AMOUNT FOR REFCORP.*—Of the
2 *aggregate amount allocated pursuant to subsection (b)*
3 *in each year to the affordable housing fund, 25 per-*
4 *cent shall be used as provided in section 21B(f)(2)(E)*
5 *of the Federal Home Loan Bank Act (12 U.S.C.*
6 *1441b(f)(2)(E)).*

7 “(2) *REQUIRED AMOUNT FOR HOMEOWNERSHIP*
8 *ACTIVITIES.*—Of the *aggregate amount of affordable*
9 *housing fund grant amounts provided in each year to*
10 *a grantee, not less than 10 percent shall be used for*
11 *activities under paragraph (2) of subsection (g).*

12 “(3) *MAXIMUM AMOUNT FOR PUBLIC INFRA-*
13 *STRUCTURE DEVELOPMENT ACTIVITIES IN CONNEC-*
14 *TION WITH AFFORDABLE HOUSING ACTIVITIES.*—Of
15 *the aggregate amount of affordable housing fund*
16 *grant amounts provided in each year to a grantee,*
17 *not more than 12.5 percent may be used for activities*
18 *under paragraph (3) of subsection (g).*

19 “(4) *DEADLINE FOR COMMITMENT OR USE.*—Any
20 *affordable housing fund grant amounts of a grantee*
21 *shall be used or committed for use within two years*
22 *of the date of that such grant amounts are made*
23 *available to the grantee. The Director shall recapture*
24 *into the affordable housing fund any such amounts*
25 *not so used or committed for use and allocate such*

1 *amounts under subsection (d)(1) in the first year*
2 *after such recapture.*

3 “(5) *USE OF RETURNS.—The Director shall, by*
4 *regulation provide that any return on a loan or other*
5 *investment of any affordable housing fund grant*
6 *amounts of a grantee shall be treated, for purposes of*
7 *availability to and use by the grantee, as affordable*
8 *housing fund grant amounts.*

9 “(6) *PROHIBITED USES.—The Director shall—*
10 “(A) *by regulation, set forth prohibited uses*
11 *of affordable housing fund grant amounts, which*
12 *shall include use for—*

13 “(i) *political activities;*

14 “(ii) *advocacy;*

15 “(iii) *lobbying, whether directly or*
16 *through other parties;*

17 “(iv) *counseling services;*

18 “(v) *travel expenses; and*

19 “(vi) *preparing or providing advice on*
20 *tax returns;*

21 “(B) *by regulation, provide that, except as*
22 *provided in subparagraph (C), affordable hous-*
23 *ing fund grant amounts of a grantee may not be*
24 *used for administrative, outreach, or other costs*
25 *of—*

1 “(i) the grantee; or

2 “(ii) any recipient of such grant
3 amounts; and

4 “(C) by regulation, limit the amount of any
5 affordable housing fund grant amounts of the
6 grantee for a year that may be used for adminis-
7 trative costs of the grantee of carrying out the
8 program required under this section to a per-
9 centage of such grant amounts of the grantee for
10 such year, which may not exceed 10 percent.

11 “(7) *PROHIBITION OF CONSIDERATION OF USE*
12 *FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—*
13 *In determining compliance with the housing goals*
14 *under this subpart and the duty to serve underserved*
15 *markets under section 1335, the Director may not*
16 *consider any affordable housing fund grant amounts*
17 *used under this section for eligible activities under*
18 *subsection (g). The Director shall give credit toward*
19 *the achievement of such housing goals and such duty*
20 *to serve underserved markets to purchases by the en-*
21 *terprises of mortgages for housing that receives fund-*
22 *ing from affordable housing fund grant amounts, but*
23 *only to the extent that such purchases by the enter-*
24 *prises are funded other than with such grant*
25 *amounts.*

1 “(8) *ACCEPTABLE IDENTIFICATION REQUIRE-*
2 *MENT FOR OCCUPANCY OR ASSISTANCE.*—

3 “(A) *IN GENERAL.*—*Any assistance pro-*
4 *vided with any affordable housing grant*
5 *amounts may not be made available to, or on be-*
6 *half of, any individual or household unless the*
7 *individual provides, or, in the case of a house-*
8 *hold, all adult members of the household provide,*
9 *personal identification in one of the following*
10 *forms:*

11 “(i) *SOCIAL SECURITY CARD WITH*
12 *PHOTO IDENTIFICATION CARD OR REAL ID*
13 *ACT IDENTIFICATION.*—

14 “(I) *A social security card accom-*
15 *panied by a photo identification card*
16 *issued by the Federal Government or a*
17 *State Government; or*

18 “(II) *A driver’s license or identi-*
19 *fication card issued by a State in the*
20 *case of a State that is in compliance*
21 *with title II of the REAL ID Act of*
22 *2005 (title II of division B of Public*
23 *Law 109–13; 49 U.S.C. 30301 note).*

24 “(ii) *PASSPORT.*—*A passport issued by*
25 *the United States or a foreign government.*

1 “(iii) *USCIS PHOTO IDENTIFICATION*
2 *CARD.—A photo identification card issued*
3 *by the Secretary of Homeland Security*
4 *(acting through the Director of the United*
5 *States Citizenship and Immigration Serv-*
6 *ices).*

7 “(B) *REGULATIONS.—The Director shall, by*
8 *regulation, require that each grantee and recipi-*
9 *ent take such actions as the Director considers*
10 *necessary to ensure compliance with the require-*
11 *ments of subparagraph (A).*

12 “(j) *ACCOUNTABILITY OF RECIPIENTS AND GRANT-*
13 *EES.—*

14 “(1) *RECIPIENTS.—*

15 “(A) *TRACKING OF FUNDS.—The Director*
16 *shall—*

17 “(i) *require each grantee to develop*
18 *and maintain a system to ensure that each*
19 *recipient of assistance from affordable hous-*
20 *ing fund grant amounts of the grantee uses*
21 *such amounts in accordance with this sec-*
22 *tion, the regulations issued under this sec-*
23 *tion, and any requirements or conditions*
24 *under which such amounts were provided;*
25 *and*

1 “(ii) *establish minimum requirements*
2 *for agreements, between the grantee and re-*
3 *ipients, regarding assistance from the af-*
4 *ordable housing fund grant amounts of the*
5 *grantee, which shall include—*

6 “(I) *appropriate continuing fi-*
7 *nancial and project reporting, record*
8 *retention, and audit requirements for*
9 *the duration of the grant to the recipi-*
10 *ent to ensure compliance with the limi-*
11 *tations and requirements of this section*
12 *and the regulations under this section;*
13 *and*

14 “(II) *any other requirements that*
15 *the Director determines are necessary*
16 *to ensure appropriate grant adminis-*
17 *tration and compliance.*

18 “(B) *MISUSE OF FUNDS.—*

19 “(i) *REIMBURSEMENT REQUIRE-*
20 *MENT.—If any recipient of assistance from*
21 *affordable housing fund grant amounts of a*
22 *grantee is determined, in accordance with*
23 *clause (ii), to have used any such amounts*
24 *in a manner that is materially in violation*
25 *of this section, the regulations issued under*

1 *this section, or any requirements or condi-*
2 *tions under which such amounts were pro-*
3 *vided, the grantee shall require that, within*
4 *12 months after the determination of such*
5 *misuse, the recipient shall reimburse the*
6 *grantee for such misused amounts and re-*
7 *turn to the grantee any amounts from the*
8 *affordable housing fund grant amounts of*
9 *the grantee that remain unused or uncom-*
10 *mitted for use. The remedies under this*
11 *clause are in addition to any other remedies*
12 *that may be available under law.*

13 *“(i) DETERMINATION.—A determina-*
14 *tion is made in accordance with this clause*
15 *if the determination is—*

16 *“(I) made by the Director; or*

17 *“(II)(aa) made by the grantee;*

18 *“(bb) the grantee provides notifi-*
19 *cation of the determination to the Di-*
20 *rector for review, in the discretion of*
21 *the Director, of the determination; and*

22 *“(cc) the Director does not subse-*
23 *quently reverse the determination.*

24 *“(2) GRANTEES.—*

25 *“(A) REPORT.—*

1 “(i) *IN GENERAL.*—*The Director shall*
2 *require each grantee receiving affordable*
3 *housing fund grant amounts for a year to*
4 *submit a report, for such year, to the Direc-*
5 *tor that—*

6 “(I) *describes the activities funded*
7 *under this section during such year*
8 *with the affordable housing fund grant*
9 *amounts of the grantee; and*

10 “(II) *the manner in which the*
11 *grantee complied during such year*
12 *with the allocation plan established*
13 *pursuant to subsection (e) for the*
14 *grantee.*

15 “(ii) *PUBLIC AVAILABILITY.*—*The Di-*
16 *rector shall make such reports pursuant to*
17 *this subparagraph publicly available.*

18 “(B) *MISUSE OF FUNDS.*—*If the Director*
19 *determines, after reasonable notice and oppor-*
20 *tunity for hearing, that a grantee has failed to*
21 *comply substantially with any provision of this*
22 *section and until the Director is satisfied that*
23 *there is no longer any such failure to comply, the*
24 *Director shall—*

1 “(i) reduce the amount of assistance
2 under this section to the grantee by an
3 amount equal to the amount affordable
4 housing fund grant amounts which were not
5 used in accordance with this section;

6 “(ii) require the grantee to repay the
7 Director an amount equal to the amount of
8 the amount affordable housing fund grant
9 amounts which were not used in accordance
10 with this section;

11 “(iii) limit the availability of assist-
12 ance under this section to the grantee to ac-
13 tivities or recipients not affected by such
14 failure to comply; or

15 “(iv) terminate any assistance under
16 this section to the grantee.

17 “(k) CAPITAL REQUIREMENTS.—The utilization or
18 commitment of amounts from the affordable housing fund
19 shall not be subject to the risk-based capital requirements
20 established pursuant to section 1361(a).

21 “(l) DEFINITIONS.—For purposes of this section, the
22 following definitions shall apply:

23 “(1) AFFORDABLE HOUSING FUND GRANT
24 AMOUNTS.—The term ‘affordable housing fund grant
25 amounts’ means amounts from the affordable housing

1 *fund established under subsection (a) that are pro-*
2 *vided to a grantee pursuant to subsection (d)(3).*

3 “(2) *GRANTEE.*—*The term ‘grantee’ means—*

4 “(A) *with respect to 2008, the Louisiana*
5 *Housing Finance Agency and the Mississippi*
6 *Development Authority; and*

7 “(B) *with respect to the years referred to in*
8 *subsection (b)(1), other than 2008, each State (as*
9 *such term is defined in section 1303) and each*
10 *federally recognized Indian tribe.*

11 “(3) *RECIPIENT.*—*The term ‘recipient’ means an*
12 *entity meeting the requirements under subsection (h)*
13 *that receives assistance from a grantee from affordable*
14 *housing fund grant amounts of the grantee.*

15 “(4) *TOTAL MORTGAGE PORTFOLIO.*—*The term*
16 *‘total mortgage portfolio’ means, with respect to a*
17 *year, the sum, for all mortgages outstanding during*
18 *that year in any form, including whole loans, mort-*
19 *gage-backed securities, participation certificates, or*
20 *other structured securities backed by mortgages, of the*
21 *dollar amount of the unpaid outstanding principal*
22 *balances under such mortgages. Such term includes*
23 *all such mortgages or securitized obligations, whether*
24 *retained in portfolio, or sold in any form. The Direc-*
25 *tor is authorized to promulgate rules further defining*

1 *such term as necessary to implement this section and*
2 *to address market developments.*

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 “(m) *REGULATIONS.*—

13 “(1) *IN GENERAL.*—*The Director, in consultation*
14 *with the Secretary of Housing and Urban Develop-*
15 *ment, shall issue regulations to carry out this section.*

16 “(2) *REQUIRED CONTENTS.*—*The regulations*
17 *issued under this subsection shall include—*

18 “(A) *a requirement that the Director ensure*
19 *that the program of each grantee for use of af-*
20 *fordable housing fund grant amounts of the*
21 *grantee is audited not less than annually to en-*
22 *sure compliance with this section;*

23 “(B) *authority for the Director to audit,*
24 *provide for an audit, or otherwise verify a grant-*

1 *ee’s activities, to ensure compliance with this sec-*
2 *tion;*

3 *“(C) requirements for a process for applica-*
4 *tion to, and selection by, each grantee for activi-*
5 *ties meeting the grantee’s priority housing needs*
6 *to be funded with affordable housing fund grant*
7 *amounts of the grantee, which shall provide for*
8 *priority in funding to be based upon—*

9 *“(i) greatest impact;*

10 *“(ii) geographic diversity;*

11 *“(iii) ability to obligate amounts and*
12 *undertake activities so funded in a timely*
13 *manner;*

14 *“(iv) in the case of rental housing*
15 *projects under subsection (g)(1), the extent*
16 *to which rents for units in the project fund-*
17 *ed are affordable, especially for extremely*
18 *low-income families;*

19 *“(v) in the case of rental housing*
20 *projects under subsection (g)(1), the extent*
21 *of the duration for which such rents will re-*
22 *main affordable;*

23 *“(vi) the extent to which the applica-*
24 *tion makes use of other funding sources; and*

1 “(vii) *the merits of an applicant’s pro-*
2 *posed eligible activity;*

3 “(D) *requirements to ensure that amounts*
4 *provided to a grantee from the affordable housing*
5 *fund that are used for rental housing under sub-*
6 *section (g)(1) are used only for the benefit of ex-*
7 *tremely low- and very-low income families;*

8 “(E) *limitations on public infrastructure*
9 *development activities that are eligible pursuant*
10 *to subsection (g)(3) for funding with affordable*
11 *housing fund grant amounts and requirements*
12 *for the connection between such activities and*
13 *housing activities funded under paragraph (1) or*
14 *(2) of subsection (g); and*

15 “(F) *requirements and standards for estab-*
16 *lishment, by grantees (including the grantees for*
17 *2008 pursuant to subsection (l)(2)(A)), of per-*
18 *formance goals, benchmarks, and timetables for*
19 *the production, preservation, and rehabilitation*
20 *of affordable rental and homeownership housing*
21 *with affordable housing fund grant amounts.*

22 “(n) *ENFORCEMENT OF REQUIREMENTS ON ENTER-*
23 *PRISE.—Compliance by the enterprises with the require-*
24 *ments under this section shall be enforceable under subpart*
25 *C. Any reference in such subpart to this part or to an order,*

1 rule, or regulation under this part specifically includes this
2 section and any order, rule, or regulation under this sec-
3 tion.

4 “(o) *AFFORDABLE HOUSING TRUST FUND.*—If, after
5 the enactment of the Federal Housing Finance Reform Act
6 of 2008, in any year, there is enacted any provision of Fed-
7 eral law establishing an affordable housing trust fund other
8 than under this title for use only for grants to provide af-
9 fordable rental housing and affordable homeownership op-
10 portunities, and the subsequent year is a year referred to
11 in subsection (b)(1), the Director shall in such subsequent
12 year and any remaining years referred to in subsection
13 (b)(1) transfer to such affordable housing trust fund the ag-
14 gregate amount allocated pursuant to subsection (b) in such
15 year to the affordable housing fund under this section, less
16 any amounts used pursuant to subsection (i)(1). For such
17 subsequent and remaining years, the provisions of sub-
18 sections (c) and (d) shall not apply. Notwithstanding any
19 other provision of law, assistance provided using amounts
20 transferred to such affordable housing trust fund pursuant
21 to this subsection may not be used for any of the activities
22 specified in clauses (i) through (vi) of subsection (i)(6).
23 Nothing in this subsection shall be construed to alter the
24 terms and conditions of the affordable housing fund under
25 this section or to extend the life of such fund.

1 “(p) *FUNDING ACCOUNTABILITY AND TRANS-*
2 *PARENCY.—Any grant under this section to a grantee from*
3 *the affordable housing fund established under subsection (a),*
4 *any assistance provided to a recipient by a grantee from*
5 *affordable housing fund grant amounts, and any grant,*
6 *award, or other assistance from an affordable housing trust*
7 *fund referred to in subsection (o) shall be considered a Fed-*
8 *eral award for purposes of the Federal Funding Account-*
9 *ability and Transparency Act of 2006 (31 U.S.C. 6101*
10 *note). Upon the request of the Director of the Office of Man-*
11 *agement and Budget, the Director of the Federal Housing*
12 *Finance Agency shall obtain and provide such information*
13 *regarding any such grants, assistance, and awards as the*
14 *Director of the Office of Management and Budget considers*
15 *necessary to comply with the requirements of such Act, as*
16 *applicable pursuant to the preceding sentence.”.*

17 (b) *TIMELY ESTABLISHMENT OF AFFORDABLE HOUS-*
18 *ING NEEDS FORMULA.—*

19 (1) *IN GENERAL.—The Secretary of Housing and*
20 *Urban Development shall, not later than the effective*
21 *date under section 365 of this title, issue the regula-*
22 *tions establishing the affordable housing needs for-*
23 *mulas in accordance with the provisions of section*
24 *1337(c)(2) of the Housing and Community Develop-*

1 *ment Act of 1992, as such section is amended by sub-*
2 *section (a) of this section.*

3 (2) *EFFECTIVE DATE.*—*This subsection shall take*
4 *effect on the date of the enactment of this Act.*

5 (c) *REFCORP PAYMENTS.*—*Section 21B(f)(2) of the*
6 *Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)) is*
7 *amended—*

8 (1) *in subparagraph (E), by striking “and (D)”*
9 *and inserting “(D), and (E)”;*

10 (2) *by redesignating subparagraph (E) as sub-*
11 *paragraph (F); and*

12 (3) *by inserting after subparagraph (D) the fol-*
13 *lowing new subparagraph:*

14 “(E) *PAYMENTS BY FANNIE MAE AND*
15 *FREDDIE MAC.*—*To the extent that the amounts*
16 *available pursuant to subparagraphs (A), (B),*
17 *(C), and (D) are insufficient to cover the amount*
18 *of interest payments, each enterprise (as such*
19 *term is defined in section 1303 of the Housing*
20 *and Community Development Act of 1992 (42*
21 *U.S.C. 4502)) shall transfer to the Funding Cor-*
22 *poration in each calendar year the amounts allo-*
23 *cated for use under this subparagraph pursuant*
24 *to section 1337(i)(1) of such Act.”.*

1 (d) *GAO REPORT.*—*The Comptroller General shall*
2 *conduct a study to determine the effects that the affordable*
3 *housing fund established under section 1337 of the Housing*
4 *and Community Development Act of 1992, as added by the*
5 *amendment made by subsection (a) of this section, will have*
6 *on the availability and affordability of credit for home-*
7 *buyers, including the effects on such credit of the require-*
8 *ment under such section 1337(b) that the Federal National*
9 *Mortgage Association and Federal Home Loan Mortgage*
10 *Corporation make allocations of amounts to such fund*
11 *based on the average total mortgage portfolios, and the ex-*
12 *tent to which the costs of such allocation requirement will*
13 *be borne by such entities or will be passed on to homebuyers.*
14 *Not later than the expiration of the 12-month period begin-*
15 *ning on the date of the enactment of this Act, the Comp-*
16 *troller General shall submit a report to the Congress setting*
17 *forth the results and conclusions of such study. This sub-*
18 *section shall take effect on the date of the enactment of this*
19 *Act.*

20 **SEC. 341. CONSISTENCY WITH MISSION.**

21 *Subpart B of part 2 of subtitle A of title XIII of the*
22 *Housing and Community Development Act of 1992 (12*
23 *U.S.C. 4561 et seq.) is amended by adding after section*
24 *1337, as added by the preceding provisions of this title, the*
25 *following new section:*

1 **“SEC. 1338. CONSISTENCY WITH MISSION.**

2 *“This subpart may not be construed to authorize an*
3 *enterprise to engage in any program or activity that con-*
4 *travenes or is inconsistent with the Federal National Mort-*
5 *gage Association Charter Act or the Federal Home Loan*
6 *Mortgage Corporation Act.”.*

7 **SEC. 342. ENFORCEMENT.**

8 *(a) CEASE-AND-DESIST PROCEEDINGS.—Section 1341*
9 *of the Housing and Community Development Act of 1992*
10 *(12 U.S.C. 4581) is amended—*

11 *(1) by striking subsection (a) and inserting the*
12 *following new subsection:*

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

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

20 *“(2) the enterprise has failed to submit a report*
21 *under section 1314, following a notice of such failure,*
22 *an opportunity for comment by the enterprise, and a*
23 *final determination by the Director;*

24 *“(3) the enterprise has failed to submit the infor-*
25 *mation required under subsection (m) or (n) of sec-*
26 *tion 309 of the Federal National Mortgage Association*

1 *Charter Act, or subsection (e) or (f) of section 307 of*
2 *the Federal Home Loan Mortgage Corporation Act;*

3 *“(4) the enterprise has violated any provision of*
4 *this part or any order, rule or regulation under this*
5 *part;*

6 *“(5) the enterprise has failed to submit a hous-*
7 *ing plan that complies with section 1336(c) within*
8 *the applicable period; or*

9 *“(6) the enterprise has failed to comply with a*
10 *housing plan under section 1336(c).”;*

11 *(2) in subsection (b)(2), by striking “requiring*
12 *the enterprise to” and all that follows through the end*
13 *of the paragraph and inserting the following: “requir-*
14 *ing the enterprise to—*

15 *“(A) comply with the goal or goals;*

16 *“(B) submit a report under section 1314;*

17 *“(C) comply with any provision this part*
18 *or any order, rule or regulation under such part;*

19 *“(D) submit a housing plan in compliance*
20 *with section 1336(c);*

21 *“(E) comply with a housing plan submitted*
22 *under section 1336(c); or*

23 *“(F) provide the information required*
24 *under subsection (m) or (n) of section 309 of the*
25 *Federal National Mortgage Association Charter*

1 *Act or subsection (e) or (f) of section 307 of the*
2 *Federal Home Loan Mortgage Corporation Act,*
3 *as applicable.”;*

4 *(3) in subsection (c), by inserting “date of the”*
5 *before “service of the order”; and*

6 *(4) by striking subsection (d).*

7 ***(b) AUTHORITY OF DIRECTOR TO ENFORCE NOTICES***
8 ***AND ORDERS.—Section 1344 of the Housing and Commu-***
9 ***nity Development Act of 1992 (12 U.S.C. 4584) is amended***
10 ***by striking subsection (a) and inserting the following new***
11 ***subsection:***

12 ***“(a) ENFORCEMENT.—The Director may, in the dis-***
13 ***cretion of the Director, apply to the United States District***
14 ***Court for the District of Columbia, or the United States***
15 ***district court within the jurisdiction of which the head-***
16 ***quarters of the enterprise is located, for the enforcement of***
17 ***any effective and outstanding notice or order issued under***
18 ***section 1341 or 1345, or request that the Attorney General***
19 ***of the United States bring such an action. Such court shall***
20 ***have jurisdiction and power to order and require compli-***
21 ***ance with such notice or order.”.***

22 ***(c) CIVIL MONEY PENALTIES.—Section 1345 of the***
23 ***Housing and Community Development Act of 1992 (12***
24 ***U.S.C. 4585) is amended—***

1 (1) *by striking subsections (a) and (b) and in-*
2 *serting the following new subsections:*

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

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

10 “(2) *submit a report under section 1314, fol-*
11 *lowing a notice of such failure, an opportunity for*
12 *comment by the enterprise, and a final determination*
13 *by the Director;*

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

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

21 “(5) *submit a housing plan pursuant to section*
22 *1336(c) within the required period; or*

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

1 “(b) *AMOUNT OF PENALTY.*—*The amount of the pen-*
2 *alty, as determined by the Director, may not exceed—*

3 “(1) *for any failure described in paragraph (1),*
4 *(5), or (6) of subsection (a), \$50,000 for each day that*
5 *the failure occurs; and*

6 “(2) *for any failure described in paragraph (2),*
7 *(3), or (4) of subsection (a), \$20,000 for each day that*
8 *the failure occurs.”;*

9 (2) *in subsection (c)—*

10 (A) *in paragraph (1)—*

11 (i) *in subparagraph (A), by inserting*
12 *“and” after the semicolon at the end;*

13 (ii) *in subparagraph (B), by striking*
14 *“; and” and inserting a period; and*

15 (iii) *by striking subparagraph (C);*
16 *and*

17 (B) *in paragraph (2), by inserting after the*
18 *period at the end the following: “In determining*
19 *the penalty under subsection (a)(1), the Director*
20 *shall give consideration to the length of time the*
21 *enterprise should reasonably take to achieve the*
22 *goal.”;*

23 (3) *in the first sentence of subsection (d)—*

1 (A) by striking “request the Attorney Gen-
2 eral of the United States to” and inserting “, in
3 the discretion of the Director,”; and

4 (B) by inserting “, or request that the At-
5 torney General of the United States bring such
6 an action” before the period at the end;

7 (4) by striking subsection (f); and

8 (5) by redesignating subsection (g) as subsection
9 (f).

10 (d) *ENFORCEMENT OF SUBPOENAS.*—Section 1348(c)
11 of the Housing and Community Development Act of 1992
12 (12 U.S.C. 4588(c)) is amended—

13 (1) by striking “request the Attorney General of
14 the United States to” and inserting “, in the discre-
15 tion of the Director,”; and

16 (2) by inserting “or request that the Attorney
17 General of the United States bring such an action,”
18 after “District of Columbia,”.

19 (e) *CONFORMING AMENDMENT.*—The heading for sub-
20 part C of part 2 of subtitle A of title XIII of the Housing
21 and Community Development Act of 1992 is amended to
22 read as follows:

1 **“Subpart C—Enforcement”.**

2 **SEC. 343. CONFORMING AMENDMENTS.**

3 *Part 2 of subtitle A of title XIII of the Housing and*
 4 *Community Development Act of 1992 (12 U.S.C. 4541 et*
 5 *seq.) is amended—*

6 (1) *by striking “Secretary” each place such term*
 7 *appears in such part and inserting “Director”;*

8 (2) *in the section heading for section 1323 (12*
 9 *U.S.C. 4543), by inserting “OF ENTERPRISES” be-*
 10 *fore the period at the end;*

11 (3) *by striking section 1327 (12 U.S.C. 4547);*

12 (4) *by striking section 1328 (12 U.S.C. 4548);*

13 (5) *by redesignating section 1329 (as amended*
 14 *by section 335) as section 1327;*

15 (6) *in sections 1345(c)(1)(A), 1346(a), and*
 16 *1346(b) (12 U.S.C. 4585(c)(1)(A), 4586(a), and*
 17 *4586(b)), by striking “Secretary’s” each place such*
 18 *term appears and inserting “Director’s”; and*

19 (7) *by striking section 1349 (12 U.S.C. 4589).*

20 **CHAPTER 3—PROMPT CORRECTIVE**

21 **ACTION**

22 **SEC. 345. CAPITAL CLASSIFICATIONS.**

23 (a) *IN GENERAL.*—*Section 1364 of the Housing and*
 24 *Community Development Act of 1992 (12 U.S.C. 4614) is*
 25 *amended—*

1 (1) *in the heading for subsection (a), by striking*
2 *“IN GENERAL” and inserting “ENTERPRISES”.*

3 (2) *in subsection (c)—*

4 (A) *by striking “subsection (b)” and insert-*
5 *ing “subsection (c)”;*

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

8 (C) *by striking the last sentence;*

9 (3) *by redesignating subsections (c) (as so*
10 *amended by paragraph (2) of this subsection) and (d)*
11 *as subsections (d) and (f), respectively;*

12 (4) *by striking subsection (b) and inserting the*
13 *following new subsections:*

14 *“(b) FEDERAL HOME LOAN BANKS.—*

15 *“(1) ESTABLISHMENT AND CRITERIA.—For pur-*
16 *poses of this subtitle, the Director shall, by regula-*
17 *tion—*

18 (A) *establish the capital classifications*
19 *specified under paragraph (2) for the Federal*
20 *home loan banks;*

21 (B) *establish criteria for each such capital*
22 *classification based on the amount and types of*
23 *capital held by a bank and the risk-based, min-*
24 *imum, and critical capital levels for the banks*
25 *and taking due consideration of the capital clas-*

1 *sifications established under subsection (a) for*
2 *the enterprises, with such modifications as the*
3 *Director determines to be appropriate to reflect*
4 *the difference in operations between the banks*
5 *and the enterprises; and*

6 *“(C) shall classify the Federal home loan*
7 *banks according to such capital classifications.*

8 “(2) *CLASSIFICATIONS.—The capital classifica-*
9 *tions specified under this paragraph are—*

10 *“(A) adequately capitalized;*

11 *“(B) undercapitalized;*

12 *“(C) significantly undercapitalized; and*

13 *“(D) critically undercapitalized.*

14 “(c) *DISCRETIONARY CLASSIFICATION.—*

15 *“(1) GROUNDS FOR RECLASSIFICATION.—The*
16 *Director may reclassify a regulated entity under*
17 *paragraph (2) if—*

18 *“(A) at any time, the Director determines*
19 *in writing that the regulated entity is engaging*
20 *in conduct that could result in a rapid depletion*
21 *of core or total capital or, in the case of an en-*
22 *terprise, that the value of the property subject to*
23 *mortgages held or securitized by the enterprise*
24 *has decreased significantly;*

1 “(B) after notice and an opportunity for
2 hearing, the Director determines that the regu-
3 lated entity is in an unsafe or unsound condi-
4 tion; or

5 “(C) pursuant to section 1371(b), the Direc-
6 tor deems the regulated entity to be engaging in
7 an unsafe or unsound practice.

8 “(2) RECLASSIFICATION.—In addition to any
9 other action authorized under this title, including the
10 reclassification of a regulated entity for any reason
11 not specified in this subsection, if the Director takes
12 any action described in paragraph (1) the Director
13 may classify a regulated entity—

14 “(A) as undercapitalized, if the regulated
15 entity is otherwise classified as adequately cap-
16 italized;

17 “(B) as significantly undercapitalized, if
18 the regulated entity is otherwise classified as
19 undercapitalized; and

20 “(C) as critically undercapitalized, if the
21 regulated entity is otherwise classified as signifi-
22 cantly undercapitalized.”; and

23 (5) by inserting after subsection (d) (as so reded-
24 ignated by paragraph (3) of this subsection), the fol-
25 lowing new subsection:

1 “(e) *RESTRICTION ON CAPITAL DISTRIBUTIONS.*—

2 “(1) *IN GENERAL.*—*A regulated entity shall*
3 *make no capital distribution if, after making the dis-*
4 *tribution, the regulated entity would be undercapital-*
5 *ized.*

6 “(2) *EXCEPTION.*—*Notwithstanding paragraph*
7 *(1), the Director may permit a regulated entity, to*
8 *the extent appropriate or applicable, to repurchase,*
9 *redeem, retire, or otherwise acquire shares or owner-*
10 *ship interests if the repurchase, redemption, retire-*
11 *ment, or other acquisition—*

12 “(A) *is made in connection with the*
13 *issuance of additional shares or obligations of the*
14 *regulated entity in at least an equivalent*
15 *amount; and*

16 “(B) *will reduce the financial obligations of*
17 *the regulated entity or otherwise improve the fi-*
18 *nancial condition of the entity.”.*

19 “(b) *REGULATIONS.*—*Not later than the expiration of*
20 *the 180-day period beginning on the effective date under*
21 *section 365, the Director of the Federal Housing Finance*
22 *Agency shall issue regulations to carry out section 1364(b)*
23 *of the Housing and Community Development Act of 1992*
24 *(as added by paragraph (4) of this subsection), relating to*
25 *capital classifications for the Federal home loan banks.*

1 **SEC. 346. SUPERVISORY ACTIONS APPLICABLE TO UNDER-**
2 **CAPITALIZED REGULATED ENTITIES.**

3 *Section 1365 of the Housing and Community Develop-*
4 *ment Act of 1992 (12 U.S.C. 4615) is amended—*

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

7 *(2) in subsection (a)—*

8 *(A) by redesignating paragraphs (1) and*
9 *(2) as paragraphs (2) and (3), respectively;*

10 *(B) by inserting before paragraph (2), as so*
11 *redesignated by subparagraph (A) of this para-*
12 *graph, the following paragraph:*

13 *“(1) REQUIRED MONITORING.—The Director*
14 *shall—*

15 *“(A) closely monitor the condition of any*
16 *regulated entity that is classified as under-*
17 *capitalized;*

18 *“(B) closely monitor compliance with the*
19 *capital restoration plan, restrictions, and re-*
20 *quirements imposed under this section; and*

21 *“(C) periodically review the plan, restric-*
22 *tions, and requirements applicable to the under-*
23 *capitalized regulated entity to determine whether*
24 *the plan, restrictions, and requirements are*
25 *achieving the purpose of this section.”; and*

1 (C) by inserting at the end the following
2 new paragraphs:

3 “(4) *RESTRICTION OF ASSET GROWTH.*—A regu-
4 lated entity that is classified as undercapitalized shall
5 not permit its average total assets (as such term is de-
6 fined in section 1316(b) during any calendar quarter
7 to exceed its average total assets during the preceding
8 calendar quarter unless—

9 “(A) the Director has accepted the capital
10 restoration plan of the regulated entity;

11 “(B) any increase in total assets is con-
12 sistent with the plan; and

13 “(C) the ratio of total capital to assets for
14 the regulated entity increases during the cal-
15 endar quarter at a rate sufficient to enable the
16 entity to become adequately capitalized within a
17 reasonable time.

18 “(5) *PRIOR APPROVAL OF ACQUISITIONS, NEW*
19 *PRODUCTS, AND NEW ACTIVITIES.*—A regulated entity
20 that is classified as undercapitalized shall not, di-
21 rectly or indirectly, acquire any interest in any enti-
22 ty or initially offer any new product (as such term
23 is defined in section 1321(f)) or engage in any new
24 activity, service, undertaking, or offering unless—

1 “(A) the Director has accepted the capital
2 restoration plan of the regulated entity, the enti-
3 ty is implementing the plan, and the Director
4 determines that the proposed action is consistent
5 with and will further the achievement of the
6 plan; or

7 “(B) the Director determines that the pro-
8 posed action will further the purpose of this sec-
9 tion.”;

10 (3) in the subsection heading for subsection (b),
11 by striking “FROM UNDERCAPITALIZED TO SIGNIFI-
12 CANTLY UNDERCAPITALIZED”; and

13 (4) by striking subsection (c) and inserting the
14 following new subsection:

15 “(c) OTHER DISCRETIONARY SAFEGUARDS.—The Di-
16 rector may take, with respect to a regulated entity that is
17 classified as undercapitalized, any of the actions authorized
18 to be taken under section 1366 with respect to a regulated
19 entity that is classified as significantly undercapitalized,
20 if the Director determines that such actions are necessary
21 to carry out the purpose of this subtitle.”.

1 **SEC. 347. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFI-**
2 **CANTLY UNDERCAPITALIZED REGULATED EN-**
3 **TITIES.**

4 *Section 1366 of the Housing and Community Develop-*
5 *ment Act of 1992 (12 U.S.C. 4616) is amended—*

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

8 *(2) in subsection (a)(2)(A), by striking “enter-*
9 *prise” the last place such term appears;*

10 *(3) in subsection (b)—*

11 *(A) in the subsection heading, by striking*
12 *“DISCRETIONARY SUPERVISORY ACTIONS” and*
13 *inserting “SPECIFIC ACTIONS”.*

14 *(B) in the matter preceding paragraph (1),*
15 *by striking “may, at any time, take any” and*
16 *inserting “shall carry out this section by taking,*
17 *at any time, one or more”;*

18 *(C) by redesignating paragraphs (5) and*
19 *(6) as paragraphs (6) and (7), respectively;*

20 *(D) by inserting after paragraph (4) the fol-*
21 *lowing new paragraph:*

22 *“(5) IMPROVEMENT OF MANAGEMENT.—Take one*
23 *or more of the following actions:*

24 *“(A) NEW ELECTION OF BOARD.—Order a*
25 *new election for the board of directors of the reg-*
26 *ulated entity.*

1 “(B) *DISMISSAL OF DIRECTORS OR EXECU-*
2 *TIVE OFFICERS.*—Require the regulated entity to
3 dismiss from office any director or executive offi-
4 cer who had held office for more than 180 days
5 immediately before the entity became under-
6 capitalized. Dismissal under this subparagraph
7 shall not be construed to be a removal pursuant
8 to the Director’s enforcement powers provided in
9 section 1377.

10 “(C) *EMPLOY QUALIFIED EXECUTIVE OFFI-*
11 *CERS.*—Require the regulated entity to employ
12 qualified executive officers (who, if the Director
13 so specifies, shall be subject to approval by the
14 Director).”; and

15 (E) by inserting at the end the following
16 new paragraph:

17 “(8) *OTHER ACTION.*—Require the regulated en-
18 tity to take any other action that the Director deter-
19 mines will better carry out the purpose of this section
20 than any of the actions specified in this paragraph.”;

21 (4) by redesignating subsection (c) as subsection
22 (d); and

23 (5) by inserting after subsection (b) the following
24 new subsection:

1 “(c) *RESTRICTION ON COMPENSATION OF EXECUTIVE*
 2 *OFFICERS.*—A regulated entity that is classified as signifi-
 3 cantly undercapitalized may not, without prior written ap-
 4 proval by the Director—

5 “(1) pay any bonus to any executive officer; or

6 “(2) provide compensation to any executive offi-
 7 cer at a rate exceeding that officer’s average rate of
 8 compensation (excluding bonuses, stock options, and
 9 profit sharing) during the 12 calendar months pre-
 10 ceeding the calendar month in which the regulated en-
 11 tity became undercapitalized.”.

12 **SEC. 348. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
 13 **IZED REGULATED ENTITIES.**

14 (a) *IN GENERAL.*—Section 1367 of the Housing and
 15 Community Development Act of 1992 (12 U.S.C. 4617) is
 16 amended to read as follows:

17 **“SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
 18 **IZED REGULATED ENTITIES.**

19 “(a) *APPOINTMENT OF AGENCY AS CONSERVATOR OR*
 20 *RECEIVER.*—

21 “(1) *IN GENERAL.*—Notwithstanding any other
 22 provision of Federal or State law, if any of the
 23 grounds under paragraph (3) exist, at the discretion
 24 of the Director, the Director may establish a con-
 25 servatorship or receivership, as appropriate, for the

1 *purpose of reorganizing, rehabilitating, or winding*
2 *up the affairs of a regulated entity.*

3 “(2) *APPOINTMENT.*—*In any conservatorship or*
4 *receivership established under this section, the Direc-*
5 *tor shall appoint the Agency as conservator or re-*
6 *ceiver.*

7 “(3) *GROUND FOR APPOINTMENT.*—*The grounds*
8 *for appointing a conservator or receiver for a regu-*
9 *lated entity are as follows:*

10 “(A) *ASSETS INSUFFICIENT FOR OBLIGA-*
11 *TIONS.*—*The assets of the regulated entity are*
12 *less than the obligations of the regulated entity*
13 *to its creditors and others.*

14 “(B) *SUBSTANTIAL DISSIPATION.*—*Substan-*
15 *tial dissipation of assets or earnings due to—*

16 “(i) *any violation of any provision of*
17 *Federal or State law; or*

18 “(ii) *any unsafe or unsound practice.*

19 “(C) *UNSAFE OR UNSOUND CONDITION.*—*An*
20 *unsafe or unsound condition to transact busi-*
21 *ness.*

22 “(D) *CEASE-AND-DESIST ORDERS.*—*Any*
23 *willful violation of a cease-and-desist order that*
24 *has become final.*

1 “(E) *CONCEALMENT.*—Any concealment of
2 the books, papers, records, or assets of the regu-
3 lated entity, or any refusal to submit the books,
4 papers, records, or affairs of the regulated entity,
5 for inspection to any examiner or to any lawful
6 agent of the Director.

7 “(F) *INABILITY TO MEET OBLIGATIONS.*—
8 The regulated entity is likely to be unable to pay
9 its obligations or meet the demands of its credi-
10 tors in the normal course of business.

11 “(G) *LOSSES.*—The regulated entity has in-
12 curred or is likely to incur losses that will de-
13 plete all or substantially all of its capital, and
14 there is no reasonable prospect for the regulated
15 entity to become adequately capitalized (as de-
16 fined in section 1364(a)(1)).

17 “(H) *VIOLATIONS OF LAW.*—Any violation
18 of any law or regulation, or any unsafe or un-
19 sound practice or condition that is likely to—

20 “(i) cause insolvency or substantial
21 dissipation of assets or earnings; or

22 “(ii) weaken the condition of the regu-
23 lated entity.

1 “(I) *CONSENT.*—*The regulated entity, by*
2 *resolution of its board of directors or its share-*
3 *holders or members, consents to the appointment.*

4 “(J) *UNDERCAPITALIZATION.*—*The regu-*
5 *lated entity is undercapitalized or significantly*
6 *undercapitalized (as defined in section*
7 *1364(a)(3) or in regulations issued pursuant to*
8 *section 1364(b), as applicable), and—*

9 “(i) *has no reasonable prospect of be-*
10 *coming adequately capitalized;*

11 “(ii) *fails to become adequately cap-*
12 *italized, as required by—*

13 “(I) *section 1365(a)(1) with re-*
14 *spect to an undercapitalized regulated*
15 *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 “(K) *CRITICAL UNDERCAPITALIZATION.*—
2 *The regulated entity is critically undercapital-*
3 *ized, as defined in section 1364(a)(4) or in regu-*
4 *lations issued pursuant to section 1364(b), as*
5 *applicable.*

6 “(L) *MONEY LAUNDERING.*—*The Attorney*
7 *General notifies the Director in writing that the*
8 *regulated entity has been found guilty of a*
9 *criminal offense under section 1956 or 1957 of*
10 *title 18, United States Code, or section 5322 or*
11 *5324 of title 31, United States Code.*

12 “(4) *MANDATORY RECEIVERSHIP.*—

13 “(A) *IN GENERAL.*—*The Director shall ap-*
14 *point the Agency as receiver for a regulated enti-*
15 *ty if the Director determines, in writing, that—*

16 “(i) *the assets of the regulated entity*
17 *are, and during the preceding 30 calendar*
18 *days have been, less than the obligations of*
19 *the regulated entity to its creditors and oth-*
20 *ers; or*

21 “(ii) *the regulated entity is not, and*
22 *during the preceding 30 calendar days has*
23 *not been, generally paying the debts of the*
24 *regulated entity (other than debts that are*

1 the subject of a bona fide dispute) as such
2 debts become due.

3 “(B) *PERIODIC DETERMINATION REQUIRED*
4 *FOR CRITICALLY UNDER CAPITALIZED REGU-*
5 *LATED ENTITY.—If a regulated entity is criti-*
6 *cally undercapitalized, the Director shall make a*
7 *determination, in writing, as to whether the reg-*
8 *ulated entity meets the criteria specified in*
9 *clause (i) or (ii) of subparagraph (A)—*

10 “(i) *not later than 30 calendar days*
11 *after the regulated entity initially becomes*
12 *critically undercapitalized; and*

13 “(ii) *at least once during each suc-*
14 *ceeding 30-calendar day period.*

15 “(C) *DETERMINATION NOT REQUIRED IF*
16 *RECEIVERSHIP ALREADY IN PLACE.—Subpara-*
17 *graph (B) shall not apply with respect to a regu-*
18 *lated entity in any period during which the*
19 *Agency serves as receiver for the regulated entity.*

20 “(D) *RECEIVERSHIP TERMINATES CON-*
21 *SERVATORSHIP.—The appointment under this*
22 *section of the Agency as receiver of a regulated*
23 *entity shall immediately terminate any con-*
24 *servatorship established under this title for the*
25 *regulated entity.*

1 “(5) *JUDICIAL REVIEW.*—

2 “(A) *IN GENERAL.*—*If the Agency is ap-*
3 *pointed conservator or receiver under this sec-*
4 *tion, the regulated entity may, within 30 days of*
5 *such appointment, bring an action in the United*
6 *States District Court for the judicial district in*
7 *which the principal place of business of such reg-*
8 *ulated entity is located, or in the United States*
9 *District Court for the District of Columbia, for*
10 *an order requiring the Agency to remove itself as*
11 *conservator or receiver.*

12 “(B) *REVIEW.*—*Upon the filing of an ac-*
13 *tion under subparagraph (A), the court shall,*
14 *upon the merits, dismiss such action or direct*
15 *the Agency to remove itself as such conservator*
16 *or receiver.*

17 “(6) *DIRECTORS NOT LIABLE FOR ACQUIESCING*
18 *IN APPOINTMENT OF CONSERVATOR OR RECEIVER.*—
19 *The members of the board of directors of a regulated*
20 *entity shall not be liable to the shareholders or credi-*
21 *tors of the regulated entity for acquiescing in or con-*
22 *senting in good faith to the appointment of the Agen-*
23 *cy as conservator or receiver for that regulated entity.*

24 “(7) *AGENCY NOT SUBJECT TO ANY OTHER FED-*
25 *ERAL AGENCY.*—*When acting as conservator or re-*

1 *ceiver, the Agency shall not be subject to the direction*
2 *or supervision of any other agency of the United*
3 *States or any State in the exercise of the rights, pow-*
4 *ers, and privileges of the Agency.*

5 *“(b) POWERS AND DUTIES OF THE AGENCY AS CON-*
6 *SERVATOR OR RECEIVER.—*

7 *“(1) RULEMAKING AUTHORITY OF THE AGEN-*
8 *CY.—The Agency may prescribe such regulations as*
9 *the Agency determines to be appropriate regarding*
10 *the conduct of conservatorships or receiverships.*

11 *“(2) GENERAL POWERS.—*

12 *“(A) SUCCESSOR TO REGULATED ENTITY.—*
13 *The Agency shall, as conservator or receiver, and*
14 *by operation of law, immediately succeed to—*

15 *“(i) all rights, titles, powers, and*
16 *privileges of the regulated entity, and of*
17 *any stockholder, officer, or director of such*
18 *regulated entity with respect to the regu-*
19 *lated entity and the assets of the regulated*
20 *entity; and*

21 *“(ii) title to the books, records, and as-*
22 *sets of any other legal custodian of such reg-*
23 *ulated entity.*

24 *“(B) OPERATE THE REGULATED ENTITY.—*
25 *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; and

12 “(iv) preserve and conserve the assets
13 and property of such regulated entity.

14 “(C) *FUNCTIONS OF OFFICERS, DIRECTORS,*
15 *AND SHAREHOLDERS OF A REGULATED ENTI-*
16 *TY.—The Agency may, by regulation or order,*
17 *provide for the exercise of any function by any*
18 *stockholder, director, or officer of any regulated*
19 *entity for which the Agency has been named con-*
20 *servator or receiver.*

21 “(D) *POWERS AS CONSERVATOR.—The*
22 *Agency may, as conservator, take such action as*
23 *may be—*

24 “(i) necessary to put the regulated en-
25 tity in a sound and solvent condition; and

1 “(ii) appropriate to carry on the busi-
2 ness of the regulated entity and preserve
3 and conserve the assets and property of the
4 regulated entity, including, if two or more
5 Federal home loan banks have been placed
6 in conservatorship contemporaneously,
7 merging two or more such banks into a sin-
8 gle Federal home loan bank.

9 “(E) *ADDITIONAL POWERS AS RECEIVER.*—
10 *The Agency may, as receiver, place the regulated*
11 *entity in liquidation and proceed to realize upon*
12 *the assets of the regulated entity, having due re-*
13 *gard to the conditions of the housing finance*
14 *market.*

15 “(F) *ORGANIZATION OF NEW REGULATED*
16 *ENTITIES.*—*The Agency may, as receiver, orga-*
17 *nize a successor regulated entity that will oper-*
18 *ate pursuant to subsection (i).*

19 “(G) *TRANSFER OF ASSETS AND LIABIL-*
20 *ITIES.*—*The Agency may, as conservator or re-*
21 *ceiver, transfer any asset or liability of the regu-*
22 *lated entity in default without any approval, as-*
23 *signment, or consent with respect to such trans-*
24 *fer. Any Federal home loan bank may, with the*
25 *approval of the Agency, acquire the assets of any*

1 *Bank in conservatorship or receivership, and as-*
2 *sume the liabilities of such Bank.*

3 “(H) *PAYMENT OF VALID OBLIGATIONS.—*
4 *The Agency, as conservator or receiver, shall, to*
5 *the extent of proceeds realized from the perform-*
6 *ance of contracts or sale of the assets of a regu-*
7 *lated entity, pay all valid obligations of the reg-*
8 *ulated entity in accordance with the prescrip-*
9 *tions and limitations of this section.*

10 “(I) *SUBPOENA AUTHORITY.—*

11 “(i) *IN GENERAL.—*

12 “(I) *IN GENERAL.—The Agency*
13 *may, as conservator or receiver, and*
14 *for purposes of carrying out any*
15 *power, authority, or duty with respect*
16 *to a regulated entity (including deter-*
17 *mining any claim against the regu-*
18 *lated entity and determining and real-*
19 *izing upon any asset of any person in*
20 *the course of collecting money due the*
21 *regulated entity), exercise any power*
22 *established under section 1348.*

23 “(II) *APPLICABILITY OF LAW.—*

24 *The provisions of section 1348 shall*
25 *apply with respect to the exercise of*

1 *any power exercised under this sub-*
2 *paragraph in the same manner as such*
3 *provisions apply under that section.*

4 “(i) *AUTHORITY OF DIRECTOR.*—*A*
5 *subpoena or subpoena duces tecum may be*
6 *issued under clause (i) only by, or with the*
7 *written approval of, the Director, or the des-*
8 *ignee of the Director.*

9 “(iii) *RULE OF CONSTRUCTION.*—*This*
10 *subsection shall not be construed to limit*
11 *any rights that the Agency, in any capac-*
12 *ity, might otherwise have under section*
13 *1317 or 1379D.*

14 “(J) *CONTRACTING FOR SERVICES.*—*The*
15 *Agency may, as conservator or receiver, provide*
16 *by contract for the carrying out of any of its*
17 *functions, activities, actions, or duties as conser-*
18 *vator or receiver.*

19 “(K) *INCIDENTAL POWERS.*—*The Agency*
20 *may, as conservator or receiver—*

21 *“(i) exercise all powers and authorities*
22 *specifically granted to conservators or re-*
23 *ceivers, respectively, under this section, and*
24 *such incidental powers as shall be necessary*
25 *to carry out such powers; and*

1 “(i) take any action authorized by
2 this section, which the Agency determines is
3 in the best interests of the regulated entity
4 or the Agency.

5 “(3) *AUTHORITY OF RECEIVER TO DETERMINE*
6 *CLAIMS.—*

7 “(A) *IN GENERAL.—*The Agency may, as re-
8 ceiver, determine claims in accordance with the
9 requirements of this subsection and any regula-
10 tions prescribed under paragraph (4).

11 “(B) *NOTICE REQUIREMENTS.—*The re-
12 ceiver, in any case involving the liquidation or
13 winding up of the affairs of a closed regulated
14 entity, shall—

15 “(i) promptly publish a notice to the
16 creditors of the regulated entity to present
17 their claims, together with proof, to the re-
18 ceiver by a date specified in the notice
19 which shall be not less than 90 days after
20 the publication of such notice; and

21 “(ii) republish such notice approxi-
22 mately 1 month and 2 months, respectively,
23 after the publication under clause (i).

24 “(C) *MAILING REQUIRED.—*The receiver
25 shall mail a notice similar to the notice pub-

1 *lished under subparagraph (B)(i) at the time of*
2 *such publication to any creditor shown on the*
3 *books of the regulated entity—*

4 *“(i) at the last address of the creditor*
5 *appearing in such books; or*

6 *“(ii) upon discovery of the name and*
7 *address of a claimant not appearing on the*
8 *books of the regulated entity within 30 days*
9 *after the discovery of such name and ad-*
10 *dress.*

11 *“(4) RULEMAKING AUTHORITY RELATING TO DE-*
12 *TERMINATION OF CLAIMS.—Subject to subsection (c),*
13 *the Director may prescribe regulations regarding the*
14 *allowance or disallowance of claims by the receiver*
15 *and providing for administrative determination of*
16 *claims and review of such determination.*

17 *“(5) PROCEDURES FOR DETERMINATION OF*
18 *CLAIMS.—*

19 *“(A) DETERMINATION PERIOD.—*

20 *“(i) IN GENERAL.—Before the end of*
21 *the 180-day period beginning on the date on*
22 *which any claim against a regulated entity*
23 *is filed with the Agency as receiver, the*
24 *Agency shall determine whether to allow or*
25 *disallow the claim and shall notify the*

1 *claimant of any determination with respect*
2 *to such claim.*

3 “(ii) *EXTENSION OF TIME.*—*The pe-*
4 *riod described in clause (i) may be extended*
5 *by a written agreement between the claim-*
6 *ant and the Agency.*

7 “(iii) *MAILING OF NOTICE SUFFI-*
8 *CIENT.*—*The notification requirements of*
9 *clause (i) shall be deemed to be satisfied if*
10 *the notice of any determination with respect*
11 *to any claim is mailed to the last address*
12 *of the claimant which appears—*

13 “(I) *on the books of the regulated*
14 *entity;*

15 “(II) *in the claim filed by the*
16 *claimant; or*

17 “(III) *in documents submitted in*
18 *proof of the claim.*

19 “(iv) *CONTENTS OF NOTICE OF DIS-*
20 *ALLOWANCE.*—*If any claim filed under*
21 *clause (i) is disallowed, the notice to the*
22 *claimant shall contain—*

23 “(I) *a statement of each reason for*
24 *the disallowance; and*

1 “(II) the procedures available for
2 obtaining agency review of the deter-
3 mination to disallow the claim or judi-
4 cial determination of the claim.

5 “(B) ALLOWANCE OF PROVEN CLAIM.—The
6 receiver shall allow any claim received on or be-
7 fore the date specified in the notice published
8 under paragraph (3)(B)(i), or the date specified
9 in the notice required under paragraph (3)(C),
10 which is proved to the satisfaction of the receiver.

11 “(C) DISALLOWANCE OF CLAIMS FILED
12 AFTER END OF FILING PERIOD.—Claims filed
13 after the date specified in the notice published
14 under paragraph (3)(B)(i), or the date specified
15 under paragraph (3)(C), shall be disallowed and
16 such disallowance shall be final.

17 “(D) AUTHORITY TO DISALLOW CLAIMS.—

18 “(i) IN GENERAL.—The receiver may
19 disallow any portion of any claim by a
20 creditor or claim of security, preference, or
21 priority which is not proved to the satisfac-
22 tion of the receiver.

23 “(ii) PAYMENTS TO LESS THAN FULLY
24 SECURED CREDITORS.—In the case of a
25 claim of a creditor against a regulated enti-

1 *ty which is secured by any property or*
2 *other asset of such regulated entity, the re-*
3 *ceiver—*

4 *“(I) may treat the portion of such*
5 *claim which exceeds an amount equal*
6 *to the fair market value of such prop-*
7 *erty or other asset as an unsecured*
8 *claim against the regulated entity; and*

9 *“(II) may not make any payment*
10 *with respect to such unsecured portion*
11 *of the claim other than in connection*
12 *with the disposition of all claims of*
13 *unsecured creditors of the regulated en-*
14 *tity.*

15 *“(iii) EXCEPTIONS.—No provision of*
16 *this paragraph shall apply with respect to*
17 *any extension of credit from any Federal*
18 *Reserve Bank, Federal home loan bank, or*
19 *the Treasury of the United States.*

20 *“(E) NO JUDICIAL REVIEW OF DETERMINA-*
21 *TION PURSUANT TO SUBPARAGRAPH (d).—No*
22 *court may review the determination of the Agen-*
23 *cy under subparagraph (D) to disallow a claim.*
24 *This subparagraph shall not affect the authority*

1 *of a claimant to obtain de novo judicial review*
2 *of a claim pursuant to paragraph (6).*

3 “(F) *LEGAL EFFECT OF FILING.*—

4 “(i) *STATUTE OF LIMITATION*
5 *TOLLED.*—*For purposes of any applicable*
6 *statute of limitations, the filing of a claim*
7 *with the receiver shall constitute a com-*
8 *mencement of an action.*

9 “(ii) *NO PREJUDICE TO OTHER AC-*
10 *TIONS.*—*Subject to paragraph (10), the fil-*
11 *ing of a claim with the receiver shall not*
12 *prejudice any right of the claimant to con-*
13 *tinue any action which was filed before the*
14 *date of the appointment of the receiver, sub-*
15 *ject to the determination of claims by the*
16 *receiver.*

17 “(6) *PROVISION FOR JUDICIAL DETERMINATION*
18 *OF CLAIMS.*—

19 “(A) *IN GENERAL.*—*The claimant may file*
20 *suit on a claim (or continue an action com-*
21 *menced before the appointment of the receiver) in*
22 *the district or territorial court of the United*
23 *States for the district within which the principal*
24 *place of business of the regulated entity is located*
25 *or the United States District Court for the Dis-*

1 *trict of Columbia (and such court shall have ju-*
2 *risdiction to hear such claim), before the end of*
3 *the 60-day period beginning on the earlier of—*

4 *“(i) the end of the period described in*
5 *paragraph (5)(A)(i) with respect to any*
6 *claim against a regulated entity for which*
7 *the Agency is receiver; or*

8 *“(ii) the date of any notice of disallow-*
9 *ance of such claim pursuant to paragraph*
10 *(5)(A)(i).*

11 *“(B) STATUTE OF LIMITATIONS.—A claim*
12 *shall be deemed to be disallowed (other than any*
13 *portion of such claim which was allowed by the*
14 *receiver), and such disallowance shall be final,*
15 *and the claimant shall have no further rights or*
16 *remedies with respect to such claim, if the claim-*
17 *ant fails, before the end of the 60-day period de-*
18 *scribed under subparagraph (A), to file suit on*
19 *such claim (or continue an action commenced be-*
20 *fore the appointment of the receiver).*

21 *“(7) REVIEW OF CLAIMS.—*

22 *“(A) OTHER REVIEW PROCEDURES.—*

23 *“(i) IN GENERAL.—The Agency shall*
24 *establish such alternative dispute resolution*
25 *processes as may be appropriate for the res-*

1 *olution of claims filed under paragraph*
2 *(5)(A)(i).*

3 “(ii) *CRITERIA.—In establishing alter-*
4 *native dispute resolution processes, the*
5 *Agency shall strive for procedures which are*
6 *expeditious, fair, independent, and low cost.*

7 “(iii) *VOLUNTARY BINDING OR NON-*
8 *BINDING PROCEDURES.—The Agency may*
9 *establish both binding and nonbinding proc-*
10 *esses, which may be conducted by any gov-*
11 *ernment or private party. All parties, in-*
12 *cluding the claimant and the Agency, must*
13 *agree to the use of the process in a par-*
14 *ticular case.*

15 “(B) *CONSIDERATION OF INCENTIVES.—The*
16 *Agency shall seek to develop incentives for claim-*
17 *ants to participate in the alternative dispute res-*
18 *olution process.*

19 “(8) *EXPEDITED DETERMINATION OF CLAIMS.—*

20 “(A) *ESTABLISHMENT REQUIRED.—The*
21 *Agency shall establish a procedure for expedited*
22 *relief outside of the routine claims process estab-*
23 *lished under paragraph (5) for claimants who—*

24 “(i) *allege the existence of legally valid*
25 *and enforceable or perfected security inter-*

1 *ests in assets of any regulated entity for*
2 *which the Agency has been appointed re-*
3 *ceiver; and*

4 *“(i) allege that irreparable injury will*
5 *occur if the routine claims procedure is fol-*
6 *lowed.*

7 *“(B) DETERMINATION PERIOD.—Before the*
8 *end of the 90-day period beginning on the date*
9 *any claim is filed in accordance with the proce-*
10 *dures established under subparagraph (A), the*
11 *Director shall—*

12 *“(i) determine—*

13 *“(I) whether to allow or disallow*
14 *such claim; or*

15 *“(II) whether such claim should*
16 *be determined pursuant to the proce-*
17 *dures established under paragraph (5);*
18 *and*

19 *“(ii) notify the claimant of the deter-*
20 *mination, and if the claim is disallowed,*
21 *provide a statement of each reason for the*
22 *disallowance and the procedure for obtain-*
23 *ing agency review or judicial determina-*
24 *tion.*

1 “(C) *PERIOD FOR FILING OR RENEWING*
2 *SUIT.—Any claimant who files a request for ex-*
3 *pedited relief shall be permitted to file a suit, or*
4 *to continue a suit filed before the appointment of*
5 *the receiver, seeking a determination of the rights*
6 *of the claimant with respect to such security in-*
7 *terest after the earlier of—*

8 “(i) *the end of the 90-day period begin-*
9 *ning on the date of the filing of a request*
10 *for expedited relief; or*

11 “(ii) *the date the Agency denies the*
12 *claim.*

13 “(D) *STATUTE OF LIMITATIONS.—If an ac-*
14 *tion described under subparagraph (C) is not*
15 *filed, or the motion to renew a previously filed*
16 *suit is not made, before the end of the 30-day pe-*
17 *riod beginning on the date on which such action*
18 *or motion may be filed under subparagraph (B),*
19 *the claim shall be deemed to be disallowed as of*
20 *the end of such period (other than any portion*
21 *of such claim which was allowed by the receiver),*
22 *such disallowance shall be final, and the claim-*
23 *ant shall have no further rights or remedies with*
24 *respect to such claim.*

25 “(E) *LEGAL EFFECT OF FILING.—*

1 “(i) *STATUTE OF LIMITATION*
2 *TOLLED.*—*For purposes of any applicable*
3 *statute of limitations, the filing of a claim*
4 *with the receiver shall constitute a com-*
5 *mencement of an action.*

6 “(ii) *NO PREJUDICE TO OTHER AC-*
7 *TIONS.*—*Subject to paragraph (10), the fil-*
8 *ing of a claim with the receiver shall not*
9 *prejudice any right of the claimant to con-*
10 *tinue any action that was filed before the*
11 *appointment of the receiver, subject to the*
12 *determination of claims by the receiver.*

13 “(9) *PAYMENT OF CLAIMS.*—

14 “(A) *IN GENERAL.*—*The receiver may, in*
15 *the discretion of the receiver, and to the extent*
16 *funds are available from the assets of the regu-*
17 *lated entity, pay creditor claims, in such man-*
18 *ner and amounts as are authorized under this*
19 *section, which are—*

20 “(i) *allowed by the receiver;*

21 “(ii) *approved by the Agency pursuant*
22 *to a final determination pursuant to para-*
23 *graph (7) or (8); or*

24 “(iii) *determined by the final judgment*
25 *of any court of competent jurisdiction.*

1 “(B) *AGREEMENTS AGAINST THE INTEREST*
2 *OF THE AGENCY.*—No agreement that tends to
3 diminish or defeat the interest of the Agency in
4 any asset acquired by the Agency as receiver
5 under this section shall be valid against the
6 Agency unless such agreement is in writing, and
7 executed by an authorized official of the regu-
8 lated entity, except that such requirements for
9 qualified financial contracts shall be applied in
10 a manner consistent with reasonable business
11 trading practices in the financial contracts mar-
12 ket.

13 “(C) *PAYMENT OF DIVIDENDS ON CLAIMS.*—
14 The receiver may, in the sole discretion of the re-
15 ceiver, pay from the assets of the regulated entity
16 dividends on proved claims at any time, and no
17 liability shall attach to the Agency, by reason of
18 any such payment, for failure to pay dividends
19 to a claimant whose claim is not proved at the
20 time of any such payment.

21 “(D) *RULEMAKING AUTHORITY OF THE DI-*
22 *RECTOR.*—The Director may prescribe such
23 rules, including definitions of terms, as the Di-
24 rector deems appropriate to establish a single
25 uniform interest rate for, or to make payments

1 *of post-insolvency interest to creditors holding*
2 *proven claims against the receivership estates of*
3 *regulated entities following satisfaction by the re-*
4 *ceiver of the principal amount of all creditor*
5 *claims.*

6 “(10) *SUSPENSION OF LEGAL ACTIONS.*—

7 “(A) *IN GENERAL.*—*After the appointment*
8 *of a conservator or receiver for a regulated enti-*
9 *ty, the conservator or receiver may, in any judi-*
10 *cial action or proceeding to which such regulated*
11 *entity is or becomes a party, request a stay for*
12 *a period not to exceed—*

13 “(i) *45 days, in the case of any conser-*
14 *vator; and*

15 “(ii) *90 days, in the case of any re-*
16 *ceiver.*

17 “(B) *GRANT OF STAY BY ALL COURTS RE-*
18 *QUIRED.*—*Upon receipt of a request by any con-*
19 *servator or receiver under subparagraph (A) for*
20 *a stay of any judicial action or proceeding in*
21 *any court with jurisdiction of such action or*
22 *proceeding, the court shall grant such stay as to*
23 *all parties.*

24 “(11) *ADDITIONAL RIGHTS AND DUTIES.*—

1 “(A) *PRIOR FINAL ADJUDICATION.*—*The*
2 *Agency shall abide by any final unappealable*
3 *judgment of any court of competent jurisdiction*
4 *which was rendered before the appointment of*
5 *the Agency as conservator or receiver.*

6 “(B) *RIGHTS AND REMEDIES OF CONSER-*
7 *VATOR OR RECEIVER.*—*In the event of any ap-*
8 *pealable judgment, the Agency as conservator or*
9 *receiver shall—*

10 “(i) *have all the rights and remedies*
11 *available to the regulated entity (before the*
12 *appointment of such conservator or receiver)*
13 *and the Agency, including removal to Fed-*
14 *eral court and all appellate rights; and*

15 “(ii) *not be required to post any bond*
16 *in order to pursue such remedies.*

17 “(C) *NO ATTACHMENT OR EXECUTION.*—*No*
18 *attachment or execution may issue by any court*
19 *upon assets in the possession of the receiver.*

20 “(D) *LIMITATION ON JUDICIAL REVIEW.*—
21 *Except as otherwise provided in this subsection,*
22 *no court shall have jurisdiction over—*

23 “(i) *any claim or action for payment*
24 *from, or any action seeking a determination*
25 *of rights with respect to, the assets of any*

1 *regulated entity for which the Agency has*
2 *been appointed receiver; or*

3 “(ii) *any claim relating to any act or*
4 *omission of such regulated entity or the*
5 *Agency as receiver.*

6 “(E) *DISPOSITION OF ASSETS.—In exer-*
7 *cising any right, power, privilege, or authority*
8 *as conservator or receiver in connection with any*
9 *sale or disposition of assets of a regulated entity*
10 *for which the Agency has been appointed conser-*
11 *vator or receiver, the Agency shall conduct its*
12 *operations in a manner which maintains sta-*
13 *bility in the housing finance markets and, to the*
14 *extent consistent with that goal—*

15 “(i) *maximizes the net present value*
16 *return from the sale or disposition of such*
17 *assets;*

18 “(ii) *minimizes the amount of any loss*
19 *realized in the resolution of cases; and*

20 “(iii) *ensures adequate competition*
21 *and fair and consistent treatment of*
22 *offerors.*

23 “(12) *STATUTE OF LIMITATIONS FOR ACTIONS*
24 *BROUGHT BY CONSERVATOR OR RECEIVER.—*

1 “(A) *IN GENERAL.*—*Notwithstanding any*
2 *provision of any contract, the applicable statute*
3 *of limitations with regard to any action brought*
4 *by the Agency as conservator or receiver shall*
5 *be—*

6 “(i) *in the case of any contract claim,*
7 *the longer of—*

8 “(I) *the 6-year period beginning*
9 *on the date the claim accrues; or*

10 “(II) *the period applicable under*
11 *State law; and*

12 “(ii) *in the case of any tort claim, the*
13 *longer of—*

14 “(I) *the 3-year period beginning*
15 *on the date the claim accrues; or*

16 “(II) *the period applicable under*
17 *State law.*

18 “(B) *DETERMINATION OF THE DATE ON*
19 *WHICH A CLAIM ACCRUES.*—*For purposes of sub-*
20 *paragraph (A), the date on which the statute of*
21 *limitations begins to run on any claim described*
22 *in such subparagraph shall be the later of—*

23 “(i) *the date of the appointment of the*
24 *Agency as conservator or receiver; or*

1 “(ii) the date on which the cause of ac-
2 tion accrues.

3 “(13) *REVIVAL OF EXPIRED STATE CAUSES OF*
4 *ACTION.*—

5 “(A) *IN GENERAL.*—*In the case of any tort*
6 *claim described under subparagraph (B) for*
7 *which the statute of limitations applicable under*
8 *State law with respect to such claim has expired*
9 *not more than 5 years before the appointment of*
10 *the Agency as conservator or receiver, the Agency*
11 *may bring an action as conservator or receiver*
12 *on such claim without regard to the expiration*
13 *of the statute of limitation applicable under*
14 *State law.*

15 “(B) *CLAIMS DESCRIBED.*—*A tort claim re-*
16 *ferred to under subparagraph (A) is a claim*
17 *arising from fraud, intentional misconduct re-*
18 *sulting in unjust enrichment, or intentional mis-*
19 *conduct resulting in substantial loss to the regu-*
20 *lated entity.*

21 “(14) *ACCOUNTING AND RECORDKEEPING RE-*
22 *QUIREMENTS.*—

23 “(A) *IN GENERAL.*—*The Agency as conser-*
24 *vator or receiver shall, consistent with the ac-*
25 *counting and reporting practices and procedures*

1 *established by the Agency, maintain a full ac-*
2 *counting of each conservatorship and receiver-*
3 *ship or other disposition of a regulated entity in*
4 *default.*

5 “(B) *ANNUAL ACCOUNTING OR REPORT.*—

6 *With respect to each conservatorship or receiver-*
7 *ship, the Agency shall make an annual account-*
8 *ing or report available to the Board, the Comp-*
9 *troller General of the United States, the Com-*
10 *mittee on Banking, Housing, and Urban Affairs*
11 *of the Senate, and the Committee on Financial*
12 *Services of the House of Representatives.*

13 “(C) *AVAILABILITY OF REPORTS.*—*Any re-*

14 *port prepared under subparagraph (B) shall be*
15 *made available by the Agency upon request to*
16 *any shareholder of a regulated entity or any*
17 *member of the public.*

18 “(D) *RECORDKEEPING REQUIREMENT.*—

19 *After the end of the 6-year period beginning on*
20 *the date that the conservatorship or receivership*
21 *is terminated by the Director, the Agency may*
22 *destroy any records of such regulated entity*
23 *which the Agency, in the discretion of the Agen-*
24 *cy, determines to be unnecessary unless directed*

1 *not to do so by a court of competent jurisdiction*
2 *or governmental agency, or prohibited by law.*

3 “(15) *FRAUDULENT TRANSFERS.*—

4 “(A) *IN GENERAL.*—*The Agency, as conser-*
5 *vator or receiver, may avoid a transfer of any*
6 *interest of a regulated entity-affiliated party, or*
7 *any person who the conservator or receiver deter-*
8 *mines is a debtor of the regulated entity, in*
9 *property, or any obligation incurred by such*
10 *party or person, that was made within 5 years*
11 *of the date on which the Agency was appointed*
12 *conservator or receiver, if such party or person*
13 *voluntarily or involuntarily made such transfer*
14 *or incurred such liability with the intent to*
15 *hinder, delay, or defraud the regulated entity,*
16 *the Agency, the conservator, or receiver.*

17 “(B) *RIGHT OF RECOVERY.*—*To the extent a*
18 *transfer is avoided under subparagraph (A), the*
19 *conservator or receiver may recover, for the ben-*
20 *efit of the regulated entity, the property trans-*
21 *ferred, or, if a court so orders, the value of such*
22 *property (at the time of such transfer) from—*

23 “(i) *the initial transferee of such trans-*
24 *fer or the regulated entity-affiliated party*

1 or person for whose benefit such transfer
2 was made; or

3 “(ii) any immediate or mediate trans-
4 feree of any such initial transferee.

5 “(C) *RIGHTS OF TRANSFEREE OR OBLI-*
6 *GEE.—The conservator or receiver may not re-*
7 *cover under subparagraph (B) from—*

8 “(i) any transferee that takes for value,
9 including satisfaction or securing of a
10 present or antecedent debt, in good faith; or

11 “(ii) any immediate or mediate good
12 faith transferee of such transferee.

13 “(D) *RIGHTS UNDER THIS PARAGRAPH.—*
14 *The rights under this paragraph of the conser-*
15 *vator or receiver described under subparagraph*
16 *(A) shall be superior to any rights of a trustee*
17 *or any other party (other than any party which*
18 *is a Federal agency) under title 11, United*
19 *States Code.*

20 “(16) *ATTACHMENT OF ASSETS AND OTHER IN-*
21 *JUNCTIVE RELIEF.—Subject to paragraph (17), any*
22 *court of competent jurisdiction may, at the request of*
23 *the conservator or receiver, issue an order in accord-*
24 *ance with Rule 65 of the Federal Rules of Civil Proce-*
25 *dure, including an order placing the assets of any*

1 *person designated by the Agency or such conservator*
2 *under the control of the court, and appointing a*
3 *trustee to hold such assets.*

4 “(17) *STANDARDS OF PROOF.*—*Rule 65 of the*
5 *Federal Rules of Civil Procedure shall apply with re-*
6 *spect to any proceeding under paragraph (16) with-*
7 *out regard to the requirement of such rule that the ap-*
8 *plicant show that the injury, loss, or damage is irrep-*
9 *arable and immediate.*

10 “(18) *TREATMENT OF CLAIMS ARISING FROM*
11 *BREACH OF CONTRACTS EXECUTED BY THE RECEIVER*
12 *OR CONSERVATOR.*—

13 “(A) *IN GENERAL.*—*Notwithstanding any*
14 *other provision of this subsection, any final and*
15 *unappealable judgment for monetary damages*
16 *entered against a receiver or conservator for the*
17 *breach of an agreement executed or approved in*
18 *writing by such receiver or conservator after the*
19 *date of its appointment, shall be paid as an ad-*
20 *ministrative expense of the receiver or conser-*
21 *vator.*

22 “(B) *NO LIMITATION OF POWER.*—*Nothing*
23 *in this paragraph shall be construed to limit the*
24 *power of a receiver or conservator to exercise any*
25 *rights under contract or law, including to termi-*

1 *nate, breach, cancel, or otherwise discontinue*
2 *such agreement.*

3 “(19) *GENERAL EXCEPTIONS.—*

4 “(A) *LIMITATIONS.—The rights of a conser-*
5 *vator or receiver appointed under this section*
6 *shall be subject to the limitations on the powers*
7 *of a receiver under sections 402 through 407 of*
8 *the Federal Deposit Insurance Corporation Im-*
9 *provement Act of 1991 (12 U.S.C. 4402 through*
10 *4407).*

11 “(B) *MORTGAGES HELD IN TRUST.—*

12 “(i) *IN GENERAL.—Any mortgage, pool*
13 *of mortgages, or interest in a pool of mort-*
14 *gages, held in trust, custodial, or agency ca-*
15 *capacity by a regulated entity for the benefit*
16 *of persons other than the regulated entity*
17 *shall not be available to satisfy the claims*
18 *of creditors generally.*

19 “(ii) *HOLDING OF MORTGAGES.—Any*
20 *mortgage, pool of mortgages, or interest in*
21 *a pool of mortgages, described under clause*
22 *(i) shall be held by the conservator or re-*
23 *ceiver appointed under this section for the*
24 *beneficial owners of such mortgage, pool of*
25 *mortgages, or interest in a pool of mort-*

1 *gages in accordance with the terms of the*
2 *agreement creating such trust, custodial, or*
3 *other agency arrangement.*

4 “(iii) *LIABILITY OF RECEIVER.—The*
5 *liability of a receiver appointed under this*
6 *section for damages shall, in the case of any*
7 *contingent or unliquidated claim relating to*
8 *the mortgages held in trust, be estimated in*
9 *accordance set forth in the regulations of the*
10 *Director.*

11 “(c) *PRIORITY OF EXPENSES AND UNSECURED*
12 *CLAIMS.—*

13 “(1) *IN GENERAL.—Unsecured claims against a*
14 *regulated entity, or a receiver, that are proven to the*
15 *satisfaction of the receiver shall have priority in the*
16 *following order:*

17 “(A) *Administrative expenses of the re-*
18 *ceiver.*

19 “(B) *Any other general or senior liability of*
20 *the regulated entity and claims of other Federal*
21 *home loan banks arising from their payment ob-*
22 *ligations (including joint and several payment*
23 *obligations).*

24 “(C) *Any obligation subordinated to general*
25 *creditors.*

1 “(D) *Any obligation to shareholders or*
2 *members arising as a result of their status as*
3 *shareholder or members.*

4 “(2) *CREDITORS SIMILARLY SITUATED.—All*
5 *creditors that are similarly situated under paragraph*
6 *(1) shall be treated in a similar manner, except that*
7 *the Agency may make such other payments to credi-*
8 *tors necessary to maximize the present value return*
9 *from the sale or disposition of such regulated entity’s*
10 *assets or to minimize the amount of any loss realized*
11 *in the resolution of cases so long as all creditors simi-*
12 *larly situated receive not less than the amount pro-*
13 *vided under subsection (e)(2).*

14 “(3) *DEFINITION.—The term ‘administrative ex-*
15 *penditures of the receiver’ shall include the actual, nec-*
16 *essary costs and expenses incurred by the receiver in*
17 *preserving the assets of the regulated entity or liqui-*
18 *dating or otherwise resolving the affairs of the regu-*
19 *lated entity. Such expenses shall include obligations*
20 *that are incurred by the receiver after appointment as*
21 *receiver that the Director determines are necessary*
22 *and appropriate to facilitate the smooth and orderly*
23 *liquidation or other resolution of the regulated entity.*

1 “(d) *PROVISIONS RELATING TO CONTRACTS ENTERED*
2 *INTO BEFORE APPOINTMENT OF CONSERVATOR OR RE-*
3 *CEIVER.*—

4 “(1) *AUTHORITY TO REPUDIATE CONTRACTS.*—
5 *In addition to any other rights a conservator or re-*
6 *ceiver may have, the conservator or receiver for any*
7 *regulated entity may disaffirm or repudiate any con-*
8 *tract or lease—*

9 “(A) *to which such regulated entity is a*
10 *party;*

11 “(B) *the performance of which the conser-*
12 *vator or receiver, in its sole discretion, deter-*
13 *mines to be burdensome; and*

14 “(C) *the disaffirmance or repudiation of*
15 *which the conservator or receiver determines, in*
16 *its sole discretion, will promote the orderly ad-*
17 *ministration of the affairs of the regulated enti-*
18 *ty.*

19 “(2) *TIMING OF REPUDIATION.*—*The conservator*
20 *or receiver shall determine whether or not to exercise*
21 *the rights of repudiation under this subsection within*
22 *a reasonable period following such appointment.*

23 “(3) *CLAIMS FOR DAMAGES FOR REPUDIATION.*—

24 “(A) *IN GENERAL.*—*Except as otherwise*
25 *provided under subparagraph (C) and para-*

1 *graphs (4), (5), and (6), the liability of the con-*
2 *servator or receiver for the disaffirmance or re-*
3 *pudiation of any contract pursuant to para-*
4 *graph (1) shall be—*

5 *“(i) limited to actual direct compen-*
6 *satory damages; and*

7 *“(ii) determined as of—*

8 *“(I) the date of the appointment*
9 *of the conservator or receiver; or*

10 *“(II) in the case of any contract*
11 *or agreement referred to in paragraph*
12 *(8), the date of the disaffirmance or re-*
13 *pudiation of such contract or agree-*
14 *ment.*

15 *“(B) NO LIABILITY FOR OTHER DAMAGES.—*

16 *For purposes of subparagraph (A), the term ‘ac-*
17 *tual direct compensatory damages’ shall not in-*
18 *clude—*

19 *“(i) punitive or exemplary damages;*

20 *“(ii) damages for lost profits or oppor-*
21 *tunity; or*

22 *“(iii) damages for pain and suffering.*

23 *“(C) MEASURE OF DAMAGES FOR REPUDI-*
24 *ATION OF FINANCIAL CONTRACTS.—In the case of*
25 *any qualified financial contract or agreement to*

1 *which paragraph (8) applies, compensatory*
2 *damages shall be—*

3 “(i) *deemed to include normal and rea-*
4 *sonable costs of cover or other reasonable*
5 *measures of damages utilized in the indus-*
6 *tries for such contract and agreement*
7 *claims; and*

8 “(ii) *paid in accordance with this sub-*
9 *section and subsection (e), except as other-*
10 *wise specifically provided in this section.*

11 “(4) *LEASES UNDER WHICH THE REGULATED*
12 *ENTITY IS THE LESSEE.—*

13 “(A) *IN GENERAL.—If the conservator or re-*
14 *ceiver disaffirms or repudiates a lease under*
15 *which the regulated entity was the lessee, the con-*
16 *servator or receiver shall not be liable for any*
17 *damages (other than damages determined under*
18 *subparagraph (B)) for the disaffirmance or repu-*
19 *diation of such lease.*

20 “(B) *PAYMENTS OF RENT.—Notwith-*
21 *standing subparagraph (A), the lessor under a*
22 *lease to which that subparagraph applies shall—*

23 “(i) *be entitled to the contractual rent*
24 *accruing before the later of the date—*

1 “(I) the notice of disaffirmance or
2 repudiation is mailed; or

3 “(II) the disaffirmance or repudi-
4 ation becomes effective, unless the lessor
5 is in default or breach of the terms of
6 the lease;

7 “(ii) have no claim for damages under
8 any acceleration clause or other penalty
9 provision in the lease; and

10 “(iii) have a claim for any unpaid
11 rent, subject to all appropriate offsets and
12 defenses, due as of the date of the appoint-
13 ment, which shall be paid in accordance
14 with this subsection and subsection (e).

15 “(5) LEASES UNDER WHICH THE REGULATED
16 ENTITY IS THE LESSOR.—

17 “(A) IN GENERAL.—If the conservator or re-
18 ceiver repudiates an unexpired written lease of
19 real property of the regulated entity under which
20 the regulated entity is the lessor and the lessee is
21 not, as of the date of such repudiation, in de-
22 fault, the lessee under such lease may either—

23 “(i) treat the lease as terminated by
24 such repudiation; or

1 “(ii) remain in possession of the lease-
2 hold interest for the balance of the term of
3 the lease, unless the lessee defaults under the
4 terms of the lease after the date of such re-
5 pudiation.

6 “(B) PROVISIONS APPLICABLE TO LESSEE
7 REMAINING IN POSSESSION.—If any lessee under
8 a lease described under subparagraph (A) re-
9 mains in possession of a leasehold interest under
10 clause (ii) of such subparagraph—

11 “(i) the lessee—

12 “(I) shall continue to pay the con-
13 tractual rent pursuant to the terms of
14 the lease after the date of the repudi-
15 ation of such lease; and

16 “(II) may offset against any rent
17 payment which accrues after the date
18 of the repudiation of the lease, and any
19 damages which accrue after such date
20 due to the nonperformance of any obli-
21 gation of the regulated entity under the
22 lease after such date; and

23 “(ii) the conservator or receiver shall
24 not be liable to the lessee for any damages
25 arising after such date as a result of the re-

1 *repudiation other than the amount of any off-*
2 *set allowed under clause (i)(II).*

3 “(6) *CONTRACTS FOR THE SALE OF REAL PROP-*
4 *ERTY.—*

5 “(A) *IN GENERAL.—If the conservator or re-*
6 *ceiver repudiates any contract for the sale of real*
7 *property and the purchaser of such real property*
8 *under such contract is in possession, and is not,*
9 *as of the date of such repudiation, in default,*
10 *such purchaser may either—*

11 “(i) *treat the contract as terminated by*
12 *such repudiation; or*

13 “(ii) *remain in possession of such real*
14 *property.*

15 “(B) *PROVISIONS APPLICABLE TO PUR-*
16 *CHASER REMAINING IN POSSESSION.—If any*
17 *purchaser of real property under any contract*
18 *described under subparagraph (A) remains in*
19 *possession of such property under clause (ii) of*
20 *such subparagraph—*

21 “(i) *the purchaser—*

22 “(I) *shall continue to make all*
23 *payments due under the contract after*
24 *the date of the repudiation of the con-*
25 *tract; and*

1 “(II) may offset against any such
2 payments any damages which accrue
3 after such date due to the nonperform-
4 ance (after such date) of any obligation
5 of the regulated entity under the con-
6 tract; and

7 “(i) the conservator or receiver shall—

8 “(I) not be liable to the purchaser
9 for any damages arising after such
10 date as a result of the repudiation
11 other than the amount of any offset al-
12 lowed under clause (i)(II);

13 “(II) deliver title to the purchaser
14 in accordance with the provisions of
15 the contract; and

16 “(III) have no obligation under
17 the contract other than the performance
18 required under subclause (II).

19 “(C) ASSIGNMENT AND SALE ALLOWED.—

20 “(i) IN GENERAL.—No provision of
21 this paragraph shall be construed as lim-
22 iting the right of the conservator or receiver
23 to assign the contract described under sub-
24 paragraph (A), and sell the property subject

1 to the contract and the provisions of this
2 paragraph.

3 “(ii) *NO LIABILITY AFTER ASSIGNMENT*
4 *AND SALE.*—If an assignment and sale de-
5 scribed under clause (i) is consummated, the
6 conservator or receiver shall have no further
7 liability under the contract described under
8 subparagraph (A), or with respect to the
9 real property which was the subject of such
10 contract.

11 “(7) *PROVISIONS APPLICABLE TO SERVICE CON-*
12 *TRACTS.*—

13 “(A) *SERVICES PERFORMED BEFORE AP-*
14 *POINTMENT.*—In the case of any contract for
15 services between any person and any regulated
16 entity for which the Agency has been appointed
17 conservator or receiver, any claim of such person
18 for services performed before the appointment of
19 the conservator or the receiver shall be—

20 “(i) a claim to be paid in accordance
21 with subsections (b) and (e); and

22 “(ii) deemed to have arisen as of the
23 date the conservator or receiver was ap-
24 pointed.

1 “(B) *SERVICES PERFORMED AFTER AP-*
2 *POINTMENT AND PRIOR TO REPUDIATION.—If, in*
3 *the case of any contract for services described*
4 *under subparagraph (A), the conservator or re-*
5 *ceiver accepts performance by the other person*
6 *before the conservator or receiver makes any de-*
7 *termination to exercise the right of repudiation*
8 *of such contract under this section—*

9 “(i) *the other party shall be paid*
10 *under the terms of the contract for the serv-*
11 *ices performed; and*

12 “(ii) *the amount of such payment shall*
13 *be treated as an administrative expense of*
14 *the conservatorship or receivership.*

15 “(C) *ACCEPTANCE OF PERFORMANCE NO*
16 *BAR TO SUBSEQUENT REPUDIATION.—The ac-*
17 *ceptance by any conservator or receiver of serv-*
18 *ices referred to under subparagraph (B) in con-*
19 *nection with a contract described in such sub-*
20 *paragraph shall not affect the right of the conser-*
21 *vator or receiver to repudiate such contract*
22 *under this section at any time after such per-*
23 *formance.*

24 “(8) *CERTAIN QUALIFIED FINANCIAL CON-*
25 *TRACTS.—*

1 “(A) *RIGHTS OF PARTIES TO CONTRACTS.*—
2 *Subject to paragraphs (9) and (10) and notwith-*
3 *standing any other provision of this Act, any*
4 *other Federal law, or the law of any State, no*
5 *person shall be stayed or prohibited from exer-*
6 *cising—*

7 “(i) *any right such person has to cause*
8 *the termination, liquidation, or acceleration*
9 *of any qualified financial contract with a*
10 *regulated entity that arises upon the ap-*
11 *pointment of the Agency as receiver for such*
12 *regulated entity at any time after such ap-*
13 *pointment;*

14 “(ii) *any right under any security*
15 *agreement or arrangement or other credit*
16 *enhancement relating to one or more quali-*
17 *fied financial contracts described in clause*
18 *(i); or*

19 “(iii) *any right to offset or net out any*
20 *termination value, payment amount, or*
21 *other transfer obligation arising under or in*
22 *connection with 1 or more contracts and*
23 *agreements described in clause (i), includ-*
24 *ing any master agreement for such con-*
25 *tracts or agreements.*

1 “(B) *APPLICABILITY OF OTHER PROVI-*
2 *SIONS.—Paragraph (10) of subsection (b) shall*
3 *apply in the case of any judicial action or pro-*
4 *ceeding brought against any receiver referred to*
5 *under subparagraph (A), or the regulated entity*
6 *for which such receiver was appointed, by any*
7 *party to a contract or agreement described under*
8 *subparagraph (A)(i) with such regulated entity.*

9 “(C) *CERTAIN TRANSFERS NOT AVOID-*
10 *ABLE.—*

11 “(i) *IN GENERAL.—Notwithstanding*
12 *paragraph (11) or any other Federal or*
13 *State laws relating to the avoidance of pref-*
14 *erential or fraudulent transfers, the Agency,*
15 *whether acting as such or as conservator or*
16 *receiver of a regulated entity, may not*
17 *avoid any transfer of money or other prop-*
18 *erty in connection with any qualified finan-*
19 *cial contract with a regulated entity.*

20 “(ii) *EXCEPTION FOR CERTAIN TRANS-*
21 *FERS.—Clause (i) shall not apply to any*
22 *transfer of money or other property in con-*
23 *nection with any qualified financial con-*
24 *tract with a regulated entity if the Agency*
25 *determines that the transferee had actual*

1 *intent to hinder, delay, or defraud such reg-*
2 *ulated entity, the creditors of such regulated*
3 *entity, or any conservator or receiver ap-*
4 *pointed for such regulated entity.*

5 “(D) CERTAIN CONTRACTS AND AGREE-
6 MENTS DEFINED.—*In this subsection:*

7 “(i) QUALIFIED FINANCIAL CON-
8 TRACT.—*The term ‘qualified financial con-*
9 *tract’ means any securities contract, com-*
10 *modity contract, forward contract, repur-*
11 *chase agreement, swap agreement, and any*
12 *similar agreement that the Agency deter-*
13 *mines by regulation, resolution, or order to*
14 *be a qualified financial contract for pur-*
15 *poses of this paragraph.*

16 “(ii) SECURITIES CONTRACT.—*The*
17 *term ‘securities contract’—*

18 “(I) *means a contract for the pur-*
19 *chase, sale, or loan of a security, a cer-*
20 *tificate of deposit, a mortgage loan, or*
21 *any interest in a mortgage loan, a*
22 *group or index of securities, certificates*
23 *of deposit, or mortgage loans or inter-*
24 *ests therein (including any interest*
25 *therein or based on the value thereof)*

1 *or any option on any of the foregoing,*
2 *including any option to purchase or*
3 *sell any such security, certificate of de-*
4 *posit, mortgage loan, interest, group or*
5 *index, or option, and including any re-*
6 *purchase or reverse repurchase trans-*
7 *action on any such security, certificate*
8 *of deposit, mortgage loan, interest,*
9 *group or index, or option;*

10 *“(II) does not include any pur-*
11 *chase, sale, or repurchase obligation*
12 *under a participation in a commercial*
13 *mortgage loan unless the Agency deter-*
14 *mines by regulation, resolution, or*
15 *order to include any such agreement*
16 *within the meaning of such term;*

17 *“(III) means any option entered*
18 *into on a national securities exchange*
19 *relating to foreign currencies;*

20 *“(IV) means the guarantee by or*
21 *to any securities clearing agency of*
22 *any settlement of cash, securities, cer-*
23 *tificates of deposit, mortgage loans or*
24 *interests therein, group or index of se-*
25 *curities, certificates of deposit, or mort-*

1 *gage loans or interests therein (includ-*
2 *ing any interest therein or based on*
3 *the value thereof) or option on any of*
4 *the foregoing, including any option to*
5 *purchase or sell any such security, cer-*
6 *tificate of deposit, mortgage loan, in-*
7 *terest, group or index, or option;*

8 *“(V) means any margin loan;*

9 *“(VI) means any other agreement*
10 *or transaction that is similar to any*
11 *agreement or transaction referred to in*
12 *this clause;*

13 *“(VII) means any combination of*
14 *the agreements or transactions referred*
15 *to in this clause;*

16 *“(VIII) means any option to enter*
17 *into any agreement or transaction re-*
18 *ferred to in this clause;*

19 *“(IX) means a master agreement*
20 *that provides for an agreement or*
21 *transaction referred to in subclause (I),*
22 *(III), (IV), (V), (VI), (VII), or (VIII),*
23 *together with all supplements to any*
24 *such master agreement, without regard*
25 *to whether the master agreement pro-*

1 *vides for an agreement or transaction*
2 *that is not a securities contract under*
3 *this clause, except that the master*
4 *agreement shall be considered to be a*
5 *securities contract under this clause*
6 *only with respect to each agreement or*
7 *transaction under the master agree-*
8 *ment that is referred to in subclause*
9 *(I), (III), (IV), (V), (VI), (VII), or*
10 *(VIII); and*

11 *“(X) means any security agree-*
12 *ment or arrangement or other credit*
13 *enhancement related to any agreement*
14 *or transaction referred to in this*
15 *clause, including any guarantee or re-*
16 *imbursement obligation in connection*
17 *with any agreement or transaction re-*
18 *ferred to in this clause.*

19 *“(iii) COMMODITY CONTRACT.—The*
20 *term ‘commodity contract’ means—*

21 *“(I) with respect to a futures com-*
22 *mission merchant, a contract for the*
23 *purchase or sale of a commodity for fu-*
24 *ture delivery on, or subject to the rules*
25 *of, a contract market or board of trade;*

1 “(II) with respect to a foreign fu-
2 tures commission merchant, a foreign
3 future;

4 “(III) with respect to a leverage
5 transaction merchant, a leverage trans-
6 action;

7 “(IV) with respect to a clearing
8 organization, a contract for the pur-
9 chase or sale of a commodity for future
10 delivery on, or subject to the rules of,
11 a contract market or board of trade
12 that is cleared by such clearing organi-
13 zation, or commodity option traded on,
14 or subject to the rules of, a contract
15 market or board of trade that is
16 cleared by such clearing organization;

17 “(V) with respect to a commodity
18 options dealer, a commodity option;

19 “(VI) any other agreement or
20 transaction that is similar to any
21 agreement or transaction referred to in
22 this clause;

23 “(VII) any combination of the
24 agreements or transactions referred to
25 in this clause;

1 “(VIII) any option to enter into
2 any agreement or transaction referred
3 to in this clause;

4 “(IX) a master agreement that
5 provides for an agreement or trans-
6 action referred to in subclause (I), (II),
7 (III), (IV), (V), (VI), (VII), or (VIII),
8 together with all supplements to any
9 such master agreement, without regard
10 to whether the master agreement pro-
11 vides for an agreement or transaction
12 that is not a commodity contract
13 under this clause, except that the mas-
14 ter agreement shall be considered to be
15 a commodity contract under this clause
16 only with respect to each agreement or
17 transaction under the master agree-
18 ment that is referred to in subclause
19 (I), (II), (III), (IV), (V), (VI), (VII), or
20 (VIII); or

21 “(X) any security agreement or
22 arrangement or other credit enhance-
23 ment related to any agreement or
24 transaction referred to in this clause,
25 including any guarantee or reimburse-

1 *ment obligation in connection with*
2 *any agreement or transaction referred*
3 *to in this clause.*

4 “(iv) *FORWARD CONTRACT.*—*The term*
5 *‘forward contract’ means—*

6 “(I) *a contract (other than a com-*
7 *modity contract) for the purchase, sale,*
8 *or transfer of a commodity or any*
9 *similar good, article, service, right, or*
10 *interest which is presently or in the fu-*
11 *ture becomes the subject of dealing in*
12 *the forward contract trade, or product*
13 *or byproduct thereof, with a maturity*
14 *date more than 2 days after the date*
15 *the contract is entered into, including,*
16 *a repurchase transaction, reverse re-*
17 *purchase transaction, consignment,*
18 *lease, swap, hedge transaction, deposit,*
19 *loan, option, allocated transaction,*
20 *unallocated transaction, or any other*
21 *similar agreement;*

22 “(II) *any combination of agree-*
23 *ments or transactions referred to in*
24 *subclauses (I) and (III);*

1 “(III) any option to enter into
2 any agreement or transaction referred
3 to in subclause (I) or (II);

4 “(IV) a master agreement that
5 provides for an agreement or trans-
6 action referred to in subclauses (I),
7 (II), or (III), together with all supple-
8 ments to any such master agreement,
9 without regard to whether the master
10 agreement provides for an agreement
11 or transaction that is not a forward
12 contract under this clause, except that
13 the master agreement shall be consid-
14 ered to be a forward contract under
15 this clause only with respect to each
16 agreement or transaction under the
17 master agreement that is referred to in
18 subclause (I), (II), or (III); or

19 “(V) any security agreement or
20 arrangement or other credit enhance-
21 ment related to any agreement or
22 transaction referred to in subclause (I),
23 (II), (III), or (IV), including any
24 guarantee or reimbursement obligation
25 in connection with any agreement or

1 *transaction referred to in any such*
2 *subclause.*

3 “(v) *REPURCHASE AGREEMENT.*—*The*
4 *term ‘repurchase agreement’ (which defini-*
5 *tion also applies to a reverse repurchase*
6 *agreement)—*

7 *“(I) means an agreement, includ-*
8 *ing related terms, which provides for*
9 *the transfer of one or more certificates*
10 *of deposit, mortgage-related securities*
11 *(as such term is defined in the Securi-*
12 *ties Exchange Act of 1934), mortgage*
13 *loans, interests in mortgage-related se-*
14 *curities or mortgage loans, eligible*
15 *bankers’ acceptances, qualified foreign*
16 *government securities or securities that*
17 *are direct obligations of, or that are*
18 *fully guaranteed by, the United States*
19 *or any agency of the United States*
20 *against the transfer of funds by the*
21 *transferee of such certificates of de-*
22 *posit, eligible bankers’ acceptances, se-*
23 *curities, mortgage loans, or interests*
24 *with a simultaneous agreement by such*
25 *transferee to transfer to the transferor*

1 *thereof certificates of deposit, eligible*
2 *bankers' acceptances, securities, mort-*
3 *gage loans, or interests as described*
4 *above, at a date certain not later than*
5 *1 year after such transfers or on de-*
6 *mand, against the transfer of funds, or*
7 *any other similar agreement;*

8 *“(II) does not include any repur-*
9 *chase obligation under a participation*
10 *in a commercial mortgage loan unless*
11 *the Agency determines by regulation,*
12 *resolution, or order to include any such*
13 *participation within the meaning of*
14 *such term;*

15 *“(III) means any combination of*
16 *agreements or transactions referred to*
17 *in subclauses (I) and (IV);*

18 *“(IV) means any option to enter*
19 *into any agreement or transaction re-*
20 *ferred to in subclause (I) or (III);*

21 *“(V) means a master agreement*
22 *that provides for an agreement or*
23 *transaction referred to in subclause (I),*
24 *(III), or (IV), together with all supple-*
25 *ments to any such master agreement,*

1 *without regard to whether the master*
2 *agreement provides for an agreement*
3 *or transaction that is not a repurchase*
4 *agreement under this clause, except*
5 *that the master agreement shall be con-*
6 *sidered to be a repurchase agreement*
7 *under this subclause only with respect*
8 *to each agreement or transaction under*
9 *the master agreement that is referred to*
10 *in subclause (I), (III), or (IV); and*

11 *“(VI) means any security agree-*
12 *ment or arrangement or other credit*
13 *enhancement related to any agreement*
14 *or transaction referred to in subclause*
15 *(I), (III), (IV), or (V), including any*
16 *guarantee or reimbursement obligation*
17 *in connection with any agreement or*
18 *transaction referred to in any such*
19 *subclause.*

20 *For purposes of this clause, the term ‘quali-*
21 *fied foreign government security’ means a*
22 *security that is a direct obligation of, or*
23 *that is fully guaranteed by, the central gov-*
24 *ernment of a member of the Organization*
25 *for Economic Cooperation and Development*

1 *(as determined by regulation or order*
2 *adopted by the appropriate Federal banking*
3 *authority).*

4 “(vi) *SWAP AGREEMENT.*—*The term*
5 *‘swap agreement’ means—*

6 “(I) *any agreement, including the*
7 *terms and conditions incorporated by*
8 *reference in any such agreement, which*
9 *is an interest rate swap, option, future,*
10 *or forward agreement, including a rate*
11 *floor, rate cap, rate collar, cross-cur-*
12 *rency rate swap, and basis swap; a*
13 *spot, same day-tomorrow, tomorrow-*
14 *next, forward, or other foreign ex-*
15 *change or precious metals agreement; a*
16 *currency swap, option, future, or for-*
17 *ward agreement; an equity index or eq-*
18 *uity swap, option, future, or forward*
19 *agreement; a debt index or debt swap,*
20 *option, future, or forward agreement; a*
21 *total return, credit spread or credit*
22 *swap, option, future, or forward agree-*
23 *ment; a commodity index or com-*
24 *modity swap, option, future, or for-*

1 *ward agreement; or a weather swap,*
2 *weather derivative, or weather option;*

3 “(II) *any agreement or trans-*
4 *action that is similar to any other*
5 *agreement or transaction referred to in*
6 *this clause and that is of a type that*
7 *has been, is presently, or in the future*
8 *becomes, the subject of recurrent deal-*
9 *ings in the swap markets (including*
10 *terms and conditions incorporated by*
11 *reference in such agreement) and that*
12 *is a forward, swap, future, or option*
13 *on one or more rates, currencies, com-*
14 *modities, equity securities or other eq-*
15 *uity instruments, debt securities or*
16 *other debt instruments, quantitative*
17 *measures associated with an occur-*
18 *rence, extent of an occurrence, or con-*
19 *tingency associated with a financial,*
20 *commercial, or economic consequence,*
21 *or economic or financial indices or*
22 *measures of economic or financial risk*
23 *or value;*

1 “(III) any combination of agree-
2 ments or transactions referred to in
3 this clause;

4 “(IV) any option to enter into
5 any agreement or transaction referred
6 to in this clause;

7 “(V) a master agreement that pro-
8 vides for an agreement or transaction
9 referred to in subclause (I), (II), (III),
10 or (IV), together with all supplements
11 to any such master agreement, without
12 regard to whether the master agreement
13 contains an agreement or transaction
14 that is not a swap agreement under
15 this clause, except that the master
16 agreement shall be considered to be a
17 swap agreement under this clause only
18 with respect to each agreement or
19 transaction under the master agree-
20 ment that is referred to in subclause
21 (I), (II), (III), or (IV); and

22 “(VI) any security agreement or
23 arrangement or other credit enhance-
24 ment related to any agreements or
25 transactions referred to in subclause

1 (I), (II), (III), (IV), or (V), including
2 any guarantee or reimbursement obli-
3 gation in connection with any agree-
4 ment or transaction referred to in any
5 such subclause.

6 Such term is applicable for purposes of this
7 subsection only and shall not be construed
8 or applied so as to challenge or affect the
9 characterization, definition, or treatment of
10 any swap agreement under any other stat-
11 ute, regulation, or rule, including the Secu-
12 rities Act of 1933, the Securities Exchange
13 Act of 1934, the Public Utility Holding
14 Company Act of 1935, the Trust Indenture
15 Act of 1939, the Investment Company Act of
16 1940, the Investment Advisers Act of 1940,
17 the Securities Investor Protection Act of
18 1970, the Commodity Exchange Act, the
19 Gramm-Leach-Bliley Act, and the Legal
20 Certainty for Bank Products Act of 2000.

21 “(vii) *TREATMENT OF MASTER AGREE-*
22 *MENT AS ONE AGREEMENT.*—Any master
23 agreement for any contract or agreement de-
24 scribed in any preceding clause of this sub-
25 paragraph (or any master agreement for

1 *such master agreement or agreements), to-*
2 *gether with all supplements to such master*
3 *agreement, shall be treated as a single*
4 *agreement and a single qualified financial*
5 *contract. If a master agreement contains*
6 *provisions relating to agreements or trans-*
7 *actions that are not themselves qualified fi-*
8 *nancial contracts, the master agreement*
9 *shall be deemed to be a qualified financial*
10 *contract only with respect to those trans-*
11 *actions that are themselves qualified finan-*
12 *cial contracts.*

13 “(viii) *TRANSFER.*—*The term ‘trans-*
14 *fer’ means every mode, direct or indirect,*
15 *absolute or conditional, voluntary or invol-*
16 *untary, of disposing of or parting with*
17 *property or with an interest in property,*
18 *including retention of title as a security in-*
19 *terest and foreclosure of the regulated enti-*
20 *ty’s equity of redemption.*

21 “(E) *CERTAIN PROTECTIONS IN EVENT OF*
22 *APPOINTMENT OF CONSERVATOR.*—*Notwith-*
23 *standing any other provision of this Act (other*
24 *than paragraph (13) of this subsection), any*
25 *other Federal law, or the law of any State, no*

1 *person shall be stayed or prohibited from exer-*
2 *cising—*

3 “(i) *any right such person has to cause*
4 *the termination, liquidation, or acceleration*
5 *of any qualified financial contract with a*
6 *regulated entity in a conservatorship based*
7 *upon a default under such financial con-*
8 *tract which is enforceable under applicable*
9 *noninsolvency law;*

10 “(ii) *any right under any security*
11 *agreement or arrangement or other credit*
12 *enhancement relating to one or more such*
13 *qualified financial contracts; or*

14 “(iii) *any right to offset or net out any*
15 *termination values, payment amounts, or*
16 *other transfer obligations arising under or*
17 *in connection with such qualified financial*
18 *contracts.*

19 “(F) *CLARIFICATION.—No provision of law*
20 *shall be construed as limiting the right or power*
21 *of the Agency, or authorizing any court or agen-*
22 *cy to limit or delay, in any manner, the right*
23 *or power of the Agency to transfer any qualified*
24 *financial contract in accordance with para-*
25 *graphs (9) and (10) of this subsection or to dis-*

1 *affirm or repudiate any such contract in accord-*
2 *ance with subsection (d)(1) of this section.*

3 “(G) *WALKAWAY CLAUSES NOT EFFEC-*
4 *TIVE.—*

5 “(i) *IN GENERAL.—Notwithstanding*
6 *the provisions of subparagraphs (A) and*
7 *(E), and sections 403 and 404 of the Fed-*
8 *eral Deposit Insurance Corporation Im-*
9 *provement Act of 1991, no walkaway clause*
10 *shall be enforceable in a qualified financial*
11 *contract of a regulated entity in default.*

12 “(ii) *WALKAWAY CLAUSE DEFINED.—*
13 *For purposes of this subparagraph, the term*
14 *‘walkaway clause’ means a provision in a*
15 *qualified financial contract that, after cal-*
16 *culatation of a value of a party’s position or*
17 *an amount due to or from 1 of the parties*
18 *in accordance with its terms upon termi-*
19 *nation, liquidation, or acceleration of the*
20 *qualified financial contract, either does not*
21 *create a payment obligation of a party or*
22 *extinguishes a payment obligation of a*
23 *party in whole or in part solely because of*
24 *such party’s status as a nondefaulting*
25 *party.*

1 “(9) *TRANSFER OF QUALIFIED FINANCIAL CON-*
2 *TRACTS.—In making any transfer of assets or liabil-*
3 *ities of a regulated entity in default which includes*
4 *any qualified financial contract, the conservator or*
5 *receiver for such regulated entity shall either—*

6 “(A) *transfer to 1 person—*

7 “(i) *all qualified financial contracts*
8 *between any person (or any affiliate of such*
9 *person) and the regulated entity in default;*

10 “(ii) *all claims of such person (or any*
11 *affiliate of such person) against such regu-*
12 *lated entity under any such contract (other*
13 *than any claim which, under the terms of*
14 *any such contract, is subordinated to the*
15 *claims of general unsecured creditors of such*
16 *regulated entity);*

17 “(iii) *all claims of such regulated enti-*
18 *ty against such person (or any affiliate of*
19 *such person) under any such contract; and*

20 “(iv) *all property securing or any*
21 *other credit enhancement for any contract*
22 *described in clause (i) or any claim de-*
23 *scribed in clause (ii) or (iii) under any*
24 *such contract; or*

1 “(B) transfer none of the financial con-
2 tracts, claims, or property referred to under sub-
3 paragraph (A) (with respect to such person and
4 any affiliate of such person).

5 “(10) NOTIFICATION OF TRANSFER.—

6 “(A) IN GENERAL.—If—

7 “(i) the conservator or receiver for a
8 regulated entity in default makes any trans-
9 fer of the assets and liabilities of such regu-
10 lated entity, and

11 “(ii) the transfer includes any quali-
12 fied financial contract,

13 the conservator or receiver shall notify any per-
14 son who is a party to any such contract of such
15 transfer by 5:00 p.m. (eastern time) on the busi-
16 ness day following the date of the appointment
17 of the receiver in the case of a receivership, or the
18 business day following such transfer in the case
19 of a conservatorship.

20 “(B) CERTAIN RIGHTS NOT ENFORCE-
21 ABLE.—

22 “(i) RECEIVERSHIP.—A person who is
23 a party to a qualified financial contract
24 with a regulated entity may not exercise
25 any right that such person has to terminate,

1 *liquidate, or net such contract under para-*
2 *graph (8)(A) of this subsection or section*
3 *403 or 404 of the Federal Deposit Insurance*
4 *Corporation Improvement Act of 1991, sole-*
5 *ly by reason of or incidental to the appoint-*
6 *ment of a receiver for the regulated entity*
7 *(or the insolvency or financial condition of*
8 *the regulated entity for which the receiver*
9 *has been appointed)—*

10 *“(I) until 5:00 p.m. (eastern time)*
11 *on the business day following the date*
12 *of the appointment of the receiver; or*

13 *“(II) after the person has received*
14 *notice that the contract has been trans-*
15 *ferred pursuant to paragraph (9)(A).*

16 *“(ii) CONSERVATORSHIP.—A person*
17 *who is a party to a qualified financial con-*
18 *tract with a regulated entity may not exer-*
19 *cise any right that such person has to ter-*
20 *minate, liquidate, or net such contract*
21 *under paragraph (8)(E) of this subsection*
22 *or section 403 or 404 of the Federal Deposit*
23 *Insurance Corporation Improvement Act of*
24 *1991, solely by reason of or incidental to the*
25 *appointment of a conservator for the regu-*

1 *lated entity (or the insolvency or financial*
2 *condition of the regulated entity for which*
3 *the conservator has been appointed).*

4 *“(iii) NOTICE.—For purposes of this*
5 *paragraph, the Agency as receiver or conser-*
6 *vator of a regulated entity shall be deemed*
7 *to have notified a person who is a party to*
8 *a qualified financial contract with such reg-*
9 *ulated entity if the Agency has taken steps*
10 *reasonably calculated to provide notice to*
11 *such person by the time specified in sub-*
12 *paragraph (A).*

13 *“(C) BUSINESS DAY DEFINED.—For pur-*
14 *poses of this paragraph, the term ‘business day’*
15 *means any day other than any Saturday, Sun-*
16 *day, or any day on which either the New York*
17 *Stock Exchange or the Federal Reserve Bank of*
18 *New York is closed.*

19 *“(11) DISAFFIRMANCE OR REPUDIATION OF*
20 *QUALIFIED FINANCIAL CONTRACTS.—In exercising the*
21 *rights of disaffirmance or repudiation of a conser-*
22 *vator or receiver with respect to any qualified finan-*
23 *cial contract to which a regulated entity is a party,*
24 *the conservator or receiver for such institution shall*
25 *either—*

1 “(A) disaffirm or repudiate all qualified fi-
2 nancial contracts between—

3 “(i) any person or any affiliate of such
4 person; and

5 “(ii) the regulated entity in default; or

6 “(B) disaffirm or repudiate none of the
7 qualified financial contracts referred to in sub-
8 paragraph (A) (with respect to such person or
9 any affiliate of such person).

10 “(12) CERTAIN SECURITY INTERESTS NOT AVOID-
11 ABLE.—No provision of this subsection shall be con-
12 strued as permitting the avoidance of any legally en-
13 forceable or perfected security interest in any of the
14 assets of any regulated entity, except where such an
15 interest is taken in contemplation of the insolvency of
16 the regulated entity, or with the intent to hinder,
17 delay, or defraud the regulated entity or the creditors
18 of such regulated entity.

19 “(13) AUTHORITY TO ENFORCE CONTRACTS.—

20 “(A) IN GENERAL.—Notwithstanding any
21 provision of a contract providing for termi-
22 nation, default, acceleration, or exercise of rights
23 upon, or solely by reason of, insolvency or the
24 appointment of a conservator or receiver, the
25 conservator or receiver may enforce any contract

1 *or regulated entity bond entered into by the regu-*
2 *lated entity.*

3 “(B) *CERTAIN RIGHTS NOT AFFECTED.*—No
4 *provision of this paragraph may be construed as*
5 *impairing or affecting any right of the conser-*
6 *vator or receiver to enforce or recover under a di-*
7 *rector’s or officer’s liability insurance contract or*
8 *surety bond under other applicable law.*

9 “(C) *CONSENT REQUIREMENT.*—

10 “(i) *IN GENERAL.*—*Except as otherwise*
11 *provided under this section, no person may*
12 *exercise any right or power to terminate,*
13 *accelerate, or declare a default under any*
14 *contract to which a regulated entity is a*
15 *party, or to obtain possession of or exercise*
16 *control over any property of the regulated*
17 *entity, or affect any contractual rights of*
18 *the regulated entity, without the consent of*
19 *the conservator or receiver, as appropriate,*
20 *for a period of—*

21 “(I) *45 days after the date of ap-*
22 *pointment of a conservator; or*

23 “(II) *90 days after the date of ap-*
24 *pointment of a receiver.*

1 “(i) *EXCEPTIONS.—This paragraph*
2 *shall—*

3 “(I) *not apply to a director’s or*
4 *officer’s liability insurance contract;*

5 “(II) *not apply to the rights of*
6 *parties to any qualified financial con-*
7 *tracts under subsection (d)(8); and*

8 “(III) *not be construed as permit-*
9 *ting the conservator or receiver to fail*
10 *to comply with otherwise enforceable*
11 *provisions of such contracts.*

12 “(14) *SAVINGS CLAUSE.—The meanings of terms*
13 *used in this subsection are applicable for purposes of*
14 *this subsection only, and shall not be construed or ap-*
15 *plied so as to challenge or affect the characterization,*
16 *definition, or treatment of any similar terms under*
17 *any other statute, regulation, or rule, including the*
18 *Gramm-Leach-Bliley Act, the Legal Certainty for*
19 *Bank Products Act of 2000, the securities laws (as*
20 *that term is defined in section 3(a)(47) of the Securi-*
21 *ties Exchange Act of 1934), and the Commodity Ex-*
22 *change Act.*

23 “(15) *EXCEPTION FOR FEDERAL RESERVE AND*
24 *FEDERAL HOME LOAN BANKS.—No provision of this*
25 *subsection shall apply with respect to—*

1 “(A) any extension of credit from any Fed-
2 eral home loan bank or Federal Reserve Bank to
3 any regulated entity; or

4 “(B) any security interest in the assets of
5 the regulated entity securing any such extension
6 of credit.

7 “(e) VALUATION OF CLAIMS IN DEFAULT.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of Federal law or the law of any State, and
10 regardless of the method which the Agency determines
11 to utilize with respect to a regulated entity in default
12 or in danger of default, including transactions au-
13 thorized under subsection (i), this subsection shall
14 govern the rights of the creditors of such regulated en-
15 tity.

16 “(2) MAXIMUM LIABILITY.—The maximum li-
17 ability of the Agency, acting as receiver or in any
18 other capacity, to any person having a claim against
19 the receiver or the regulated entity for which such re-
20 ceiver is appointed shall equal the lesser of—

21 “(A) the amount such claimant would have
22 received if the Agency had liquidated the assets
23 and liabilities of such regulated entity without
24 exercising the authority of the Agency under sub-
25 section (i) of this section; or

1 “(B) the amount of proceeds realized from
2 the performance of contracts or sale of the assets
3 of the regulated entity.

4 “(f) *LIMITATION ON COURT ACTION.*—Except as pro-
5 vided in this section or at the request of the Director, no
6 court may take any action to restrain or affect the exercise
7 of powers or functions of the Agency as a conservator or
8 a receiver.

9 “(g) *LIABILITY OF DIRECTORS AND OFFICERS.*—

10 “(1) *IN GENERAL.*—A director or officer of a reg-
11 ulated entity may be held personally liable for mone-
12 tary damages in any civil action by, on behalf of, or
13 at the request or direction of the Agency, which action
14 is prosecuted wholly or partially for the benefit of the
15 Agency—

16 “(A) acting as conservator or receiver of
17 such regulated entity, or

18 “(B) acting based upon a suit, claim, or
19 cause of action purchased from, assigned by, or
20 otherwise conveyed by such receiver or conser-
21 vator,

22 for gross negligence, including any similar conduct or
23 conduct that demonstrates a greater disregard of a
24 duty of care (than gross negligence) including inten-

1 *tional tortious conduct, as such terms are defined and*
2 *determined under applicable State law.*

3 “(2) *NO LIMITATION.*—*Nothing in this para-*
4 *graph shall impair or affect any right of the Agency*
5 *under other applicable law.*

6 “(h) *DAMAGES.*—*In any proceeding related to any*
7 *claim against a director, officer, employee, agent, attorney,*
8 *accountant, appraiser, or any other party employed by or*
9 *providing services to a regulated entity, recoverable dam-*
10 *ages determined to result from the improvident or otherwise*
11 *improper use or investment of any assets of the regulated*
12 *entity shall include principal losses and appropriate inter-*
13 *est.*

14 “(i) *LIMITED-LIFE REGULATED ENTITIES.*—

15 “(1) *ORGANIZATION.*—

16 “(A) *PURPOSE.*—*If a regulated entity is in*
17 *default, or if the Agency anticipates that a regu-*
18 *lated entity will default, the Agency may orga-*
19 *nize a limited-life regulated entity with those*
20 *powers and attributes of the regulated entity in*
21 *default or in danger of default that the Director*
22 *determines necessary, subject to the provisions of*
23 *this subsection. The Director shall grant a tem-*
24 *porary charter to the limited-life regulated enti-*

1 *ty, and the limited-life regulated entity shall op-*
2 *erate subject to that charter.*

3 “(B) *AUTHORITIES.*—*Upon the creation of*
4 *a limited-life regulated entity under subpara-*
5 *graph (A), the limited-life regulated entity*
6 *may—*

7 “(i) *assume such liabilities of the regu-*
8 *lated entity that is in default or in danger*
9 *of default as the Agency may, in its discre-*
10 *tion, determine to be appropriate, provided*
11 *that the liabilities assumed shall not exceed*
12 *the amount of assets of the limited-life regu-*
13 *lated entity;*

14 “(ii) *purchase such assets of the regu-*
15 *lated entity that is in default, or in danger*
16 *of default, as the Agency may, in its discre-*
17 *tion, determine to be appropriate; and*

18 “(iii) *perform any other temporary*
19 *function which the Agency may, in its dis-*
20 *cretion, prescribe in accordance with this*
21 *section.*

22 “(2) *CHARTER.*—

23 “(A) *CONDITIONS.*—*The Agency may grant*
24 *a temporary charter if the Agency determines*
25 *that the continued operation of the regulated en-*

1 *tity in default or in danger of default is in the*
2 *best interest of the national economy and the*
3 *housing markets.*

4 “(B) *TREATMENT AS BEING IN DEFAULT*
5 *FOR CERTAIN PURPOSES.—A limited-life regu-*
6 *lated entity shall be treated as a regulated entity*
7 *in default at such times and for such purposes*
8 *as the Agency may, in its discretion, determine.*

9 “(C) *MANAGEMENT.—A limited-life regu-*
10 *lated entity, upon the granting of its charter,*
11 *shall be under the management of a board of di-*
12 *rectors consisting of not fewer than 5 nor more*
13 *than 10 members appointed by the Agency.*

14 “(D) *BYLAWS.—The board of directors of a*
15 *limited-life regulated entity shall adopt such by-*
16 *laws as may be approved by the Agency.*

17 “(3) *CAPITAL STOCK.—No capital stock need be*
18 *paid into a limited-life regulated entity by the Agen-*
19 *cy.*

20 “(4) *INVESTMENTS.—Funds of a limited-life regu-*
21 *lated entity shall be kept on hand in cash, invested*
22 *in obligations of the United States or obligations*
23 *guaranteed as to principal and interest by the United*
24 *States, or deposited with the Agency, or any Federal*
25 *Reserve bank.*

1 “(5) *EXEMPT STATUS.*—Notwithstanding any
2 *other provision of Federal or State law, the limited-*
3 *life regulated entity, its franchise, property, and in-*
4 *come shall be exempt from all taxation now or here-*
5 *after imposed by the United States, by any territory,*
6 *dependency, or possession thereof, or by any State,*
7 *county, municipality, or local taxing authority.*

8 “(6) *WINDING UP.*—

9 “(A) *IN GENERAL.*—Subject to subpara-
10 *graph (B), unless Congress authorizes the sale of*
11 *the capital stock of the limited-life regulated en-*
12 *tity, not later than 2 years after the date of its*
13 *organization, the Agency shall wind up the af-*
14 *fairs of the limited-life regulated entity.*

15 “(B) *EXTENSION.*—The Director may, in
16 *the discretion of the Director, extend the status*
17 *of the limited-life regulated entity for 3 addi-*
18 *tional 1-year periods.*

19 “(7) *TRANSFER OF ASSETS AND LIABILITIES.*—

20 “(A) *IN GENERAL.*—

21 “(i) *TRANSFER OF ASSETS AND LIABIL-*
22 *ITIES.*—The Agency, as receiver, may trans-
23 *fer any assets and liabilities of a regulated*
24 *entity in default, or in danger of default, to*

1 *the limited-life regulated entity in accord-*
2 *ance with paragraph (1).*

3 “(ii) *SUBSEQUENT TRANSFERS.—At*
4 *any time after a charter is transferred to a*
5 *limited-life regulated entity, the Agency, as*
6 *receiver, may transfer any assets and liabil-*
7 *ities of such regulated entity in default, or*
8 *in danger in default, as the Agency may, in*
9 *its discretion, determine to be appropriate*
10 *in accordance with paragraph (1).*

11 “(iii) *EFFECTIVE WITHOUT AP-*
12 *PROVAL.—The transfer of any assets or li-*
13 *abilities of a regulated entity in default, or*
14 *in danger of default, transferred to a lim-*
15 *ited-life regulated entity shall be effective*
16 *without any further approval under Federal*
17 *or State law, assignment, or consent with*
18 *respect thereto.*

19 “(8) *PROCEEDS.—To the extent that available*
20 *proceeds from the limited-life regulated entity exceed*
21 *amounts required to pay obligations, such proceeds*
22 *may be paid to the regulated entity in default, or in*
23 *danger of default.*

24 “(9) *POWERS.—*

1 “(A) *IN GENERAL.*—*Each limited-life regu-*
2 *lated entity created under this subsection shall*
3 *have all corporate powers of, and be subject to*
4 *the same provisions of law as, the regulated enti-*
5 *ty in default or in danger of default to which it*
6 *relates, except that—*

7 “(i) *the Agency may—*

8 “(I) *remove the directors of a lim-*
9 *ited-life regulated entity; and*

10 “(II) *fix the compensation of*
11 *members of the board of directors and*
12 *senior management, as determined by*
13 *the Agency in its discretion, of a lim-*
14 *ited-life regulated entity;*

15 “(ii) *the Agency may indemnify the*
16 *representatives for purposes of paragraph*
17 *(1)(B), and the directors, officers, employ-*
18 *ees, and agents of a limited-life regulated*
19 *entity on such terms as the Agency deter-*
20 *mines to be appropriate; and*

21 “(iii) *the board of directors of a lim-*
22 *ited-life regulated entity—*

23 “(I) *shall elect a chairperson who*
24 *may also serve in the position of chief*
25 *executive officer, except that such per-*

1 son shall not serve either as chair-
2 person or as chief executive officer
3 without the prior approval of the Agen-
4 cy; and

5 “(II) may appoint a chief execu-
6 tive officer who is not also the chair-
7 person, except that such person shall
8 not serve as chief executive officer with-
9 out the prior approval of the Agency.

10 “(B) *STAY OF JUDICIAL ACTION.*—Any judi-
11 cial action to which a limited-life regulated enti-
12 ty becomes a party by virtue of its acquisition
13 of any assets or assumption of any liabilities of
14 a regulated entity in default shall be stayed from
15 further proceedings for a period of up to 45 days
16 at the request of the limited-life regulated entity.
17 Such period may be modified upon the consent
18 of all parties.

19 “(10) *OBTAINING OF CREDIT AND INCURRING OF*
20 *DEBT.*—

21 “(A) *IN GENERAL.*—The limited-life regu-
22 lated entity may obtain unsecured credit and
23 incur unsecured debt in the ordinary course of
24 business.

1 “(B) *INABILITY TO OBTAIN CREDIT.*—If the
2 *limited-life regulated entity is unable to obtain*
3 *unsecured credit the Director may authorize the*
4 *obtaining of credit or the incurring of debt—*

5 “(i) *with priority over any or all ad-*
6 *ministrative expenses;*

7 “(ii) *secured by a lien on property that*
8 *is not otherwise subject to a lien; or*

9 “(iii) *secured by a junior lien on prop-*
10 *erty that is subject to a lien.*

11 “(C) *LIMITATIONS.*—

12 “(i) *IN GENERAL.*—*The Director, after*
13 *notice and a hearing, may authorize the ob-*
14 *taining of credit or the incurring of debt se-*
15 *cured by a senior or equal lien on property*
16 *that is subject to a lien (other than mort-*
17 *gages that collateralize the mortgage-backed*
18 *securities issued or guaranteed by the regu-*
19 *lated entity) only if—*

20 “(I) *the limited-life regulated en-*
21 *tity is unable to obtain such credit oth-*
22 *erwise; and*

23 “(II) *there is adequate protection*
24 *of the interest of the holder of the lien*

1 on the property which such senior or
2 equal lien is proposed to be granted.

3 “(ii) *BURDEN OF PROOF.*—In any
4 hearing under this subsection, the Director
5 has the burden of proof on the issue of ade-
6 quate protection.

7 “(D) *EFFECT ON DEBTS AND LIENS.*—The
8 reversal or modification on appeal of an author-
9 ization under this paragraph to obtain credit or
10 incur debt, or of a grant under this section of a
11 priority or a lien, does not affect the validity of
12 any debt so incurred, or any priority or lien so
13 granted, to an entity that extended such credit in
14 good faith, whether or not such entity knew of
15 the pendency of the appeal, unless such author-
16 ization and the incurring of such debt, or the
17 granting of such priority or lien, were stayed
18 pending appeal.

19 “(11) *ISSUANCE OF PREFERRED DEBT.*—A lim-
20 ited-life regulated entity may, subject to the approval
21 of the Director and subject to such terms and condi-
22 tions as the Director may prescribe, issue notes,
23 bonds, or other debt obligations of a class to which all
24 other debt obligations of the limited-life regulated en-
25 tity shall be subordinate in right and payment.

1 “(12) *NO FEDERAL STATUS.*—

2 “(A) *AGENCY STATUS.*—*A limited-life regu-*
3 *lated entity is not an agency, establishment, or*
4 *instrumentality of the United States.*

5 “(B) *EMPLOYEE STATUS.*—*Representatives*
6 *for purposes of paragraph (1)(B), interim direc-*
7 *tors, directors, officers, employees, or agents of a*
8 *limited-life regulated entity are not, solely by*
9 *virtue of service in any such capacity, officers or*
10 *employees of the United States. Any employee of*
11 *the Agency or of any Federal instrumentality*
12 *who serves at the request of the Agency as a rep-*
13 *resentative for purposes of paragraph (1)(B), in-*
14 *terim director, director, officer, employee, or*
15 *agent of a limited-life regulated entity shall*
16 *not—*

17 “(i) *solely by virtue of service in any*
18 *such capacity lose any existing status as an*
19 *officer or employee of the United States for*
20 *purposes of title 5, United States Code, or*
21 *any other provision of law; or*

22 “(ii) *receive any salary or benefits for*
23 *service in any such capacity with respect to*
24 *a limited-life regulated entity in addition to*
25 *such salary or benefits as are obtained*

1 *through employment with the Agency or*
2 *such Federal instrumentality.*

3 “(13) *ADDITIONAL POWERS.*—*In addition to any*
4 *other powers granted under this subsection, a limited-*
5 *life regulated entity may—*

6 “(A) *extend a maturity date or change in*
7 *an interest rate or other term of outstanding se-*
8 *curities;*

9 “(B) *issue securities of the limited-life regu-*
10 *lated entity, for cash, for property, for existing*
11 *securities, or in exchange for claims or interests,*
12 *or for any other appropriate purposes; and*

13 “(C) *take any other action not inconsistent*
14 *with this section.*

15 “(j) *OTHER EXEMPTIONS.*—*When acting as a receiver,*
16 *the following provisions shall apply with respect to the*
17 *Agency:*

18 “(1) *EXEMPTION FROM TAXATION.*—*The Agency,*
19 *including its franchise, its capital, reserves, and sur-*
20 *plus, and its income, shall be exempt from all tax-*
21 *ation imposed by any State, country, municipality,*
22 *or local taxing authority, except that any real prop-*
23 *erty of the Agency shall be subject to State, territorial,*
24 *county, municipal, or local taxation to the same ex-*
25 *tent according to its value as other real property is*

1 *taxed, except that, notwithstanding the failure of any*
2 *person to challenge an assessment under State law of*
3 *the value of such property, and the tax thereon, shall*
4 *be determined as of the period for which such tax is*
5 *imposed.*

6 “(2) *EXEMPTION FROM ATTACHMENT AND*
7 *LIENS.—No property of the Agency shall be subject to*
8 *levy, attachment, garnishment, foreclosure, or sale*
9 *without the consent of the Agency, nor shall any in-*
10 *voluntary lien attach to the property of the Agency.*

11 “(3) *EXEMPTION FROM PENALTIES AND FINES.—*
12 *The Agency shall not be liable for any amounts in the*
13 *nature of penalties or fines, including those arising*
14 *from the failure of any person to pay any real prop-*
15 *erty, personal property, probate, or recording tax or*
16 *any recording or filing fees when due.*

17 “(k) *PROHIBITION OF CHARTER REVOCATION.—In no*
18 *case may a receiver appointed pursuant to this section re-*
19 *voke, annul, or terminate the charter of a regulated entity.*

20 “(l) *PRESERVATION OF BANKRUPTCY LAW .—Nothing*
21 *in this Act shall be construed to modify, impair, or super-*
22 *sede the operation of any provision of title 11 of the United*
23 *States Code, or the operation of any provision of title 28*
24 *of such Code that relates to cases under such title 11, except*
25 *as otherwise provided in section 1367(b) of this Act and*

1 *except that a regulated entity may not be a debtor under*
2 *such title 11.”.*

3 (b) *CONFORMING AMENDMENTS.*—

4 (1) *HOUSING AND COMMUNITY DEVELOPMENT*
5 *ACT OF 1992.*—*Subtitle B of title XIII of the Housing*
6 *and Community Development Act of 1992 is amended*
7 *by striking sections 1369 (12 U.S.C. 4619), 1369A*
8 *(12 U.S.C. 4620), and 1369B (12 U.S.C. 4621).*

9 (2) *FEDERAL HOME LOAN BANKS.*—*Section 25 of*
10 *the Federal Home Loan Bank Act (12 U.S.C. 1445)*
11 *is amended to read as follows:*

12 **“SEC. 25. SUCCESSION OF FEDERAL HOME LOAN BANKS.**

13 *“Each Federal Home Loan Bank shall have succession*
14 *until it is voluntarily merged with another Bank under this*
15 *Act, or until it is merged, reorganized, rehabilitated, liq-*
16 *uidated, or otherwise wound up by the Director in accord-*
17 *ance with the provisions of section 1367 of the Housing and*
18 *Community Development Act of 1992, or by further Act of*
19 *Congress.”.*

20 **SEC. 349. CONFORMING AMENDMENTS.**

21 *Title XIII of the Housing and Community Develop-*
22 *ment Act of 1992, as amended by the preceding provisions*
23 *of this title, is further amended—*

24 (1) *in sections 1365 (12 U.S.C. 4615) through*
25 *1369D (12 U.S.C. 4623), but not including section*

1 1367 (12 U.S.C. 4617) as amended by section 349 of
2 this title—

3 (A) by striking “An enterprise” each place
4 such term appears and inserting “A regulated
5 entity”;

6 (B) by striking “an enterprise” each place
7 such term appears and inserting “a regulated
8 entity”; and

9 (C) by striking “the enterprise” each place
10 such term appears and inserting “the regulated
11 entity”;

12 (2) in section 1366 (12 U.S.C. 4616)—

13 (A) in subsection (b)(7), by striking “section
14 1369 (excluding subsection (a)(1) and (2))” and
15 inserting “section 1367”; and

16 (B) in subsection (d), by striking “the en-
17 terprises” and inserting “the regulated entities”;

18 (3) in section 1368(d) (12 U.S.C. 4618(d)), by
19 striking “Committee on Banking, Finance and Urban
20 Affairs” and inserting “Committee on Financial
21 Services”;

22 (4) in section 1369C (12 U.S.C. 4622)—

23 (A) in subsection (a)(4), by striking “activi-
24 ties (including existing and new programs)” and
25 inserting “activities, services, undertakings, and

1 offerings (including existing and new products
2 (as such term is defined in section 1321(f));
3 and

4 (B) in subsection (c), by striking “any en-
5 terprise” and inserting “any regulated entity”;
6 and

7 (5) in subsections (a) and (d) of section 1369D,
8 by striking “section 1366 or 1367 or action under sec-
9 tion 1369)” each place such phrase appears and in-
10 serting “section 1367”).

11 **CHAPTER 4—ENFORCEMENT ACTIONS**

12 **SEC. 351. CEASE-AND-DESIST PROCEEDINGS.**

13 Section 1371 of the Housing and Community Develop-
14 ment Act of 1992 (12 U.S.C. 4631) is amended—

15 (1) by striking subsections (a) and (b) and in-
16 serting the following new subsections:

17 “(a) **ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES**
18 **AND VIOLATIONS OF RULES OR LAWS.**—If, in the opinion
19 of the Director, a regulated entity or any regulated entity-
20 affiliated party is engaging or has engaged, or the Director
21 has reasonable cause to believe that the regulated entity or
22 any regulated entity-affiliated party is about to engage, in
23 an unsafe or unsound practice in conducting the business
24 of the regulated entity or is violating or has violated, or
25 the Director has reasonable cause to believe that the regu-

1 *lated entity or any regulated entity-affiliated party is about*
2 *to violate, a law, rule, or regulation, or any condition im-*
3 *posed in writing by the Director in connection with the*
4 *granting of any application or other request by the regu-*
5 *lated entity or any written agreement entered into with the*
6 *Director, the Director may issue and serve upon the regu-*
7 *lated entity or such party a notice of charges in respect*
8 *thereof. The Director may not, pursuant to this section, en-*
9 *force compliance with any housing goal established under*
10 *subpart B of part 2 of subtitle A of this title, with section*
11 *1336 or 1337 of this title, with subsection (m) or (n) of*
12 *section 309 of the Federal National Mortgage Association*
13 *Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e)*
14 *or (f) of section 307 of the Federal Home Loan Mortgage*
15 *Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph*
16 *(5) of section 10(j) of the Federal Home Loan Bank Act*
17 *(12 U.S.C. 1430(j)).*

18 “(b) *ISSUANCE FOR UNSATISFACTORY RATING.—If a*
19 *regulated entity receives, in its most recent report of exam-*
20 *ination, a less-than-satisfactory rating for asset quality,*
21 *management, earnings, or liquidity, the Director may (if*
22 *the deficiency is not corrected) deem the regulated entity*
23 *to be engaging in an unsafe or unsound practice for pur-*
24 *poses of this subsection.”;*

1 (2) *in subsection (c)(2), by striking “enterprise,*
2 *executive officer, or director” and inserting “regulated*
3 *entity or regulated entity-affiliated party”;* and

4 (3) *in subsection (d)—*

5 (A) *in the matter preceding paragraph (1),*
6 *by striking “enterprise, executive officer, or di-*
7 *rector” and inserting “regulated entity or regu-*
8 *lated entity-affiliated party”;*

9 (B) *in paragraph (1)—*

10 (i) *by striking “an executive officer or*
11 *a director” and inserting “a regulated enti-*
12 *ty affiliated party”;* and

13 (ii) *by inserting “(including reim-*
14 *bursement of compensation under section*
15 *1318)” after “reimbursement”;*

16 (C) *in paragraph (6), by striking “and” at*
17 *the end;*

18 (D) *by redesignating paragraph (7) as*
19 *paragraph (8); and*

20 (E) *by inserting after paragraph (6) the fol-*
21 *lowing new paragraph:*

22 “(7) *to effect an attachment on a regulated enti-*
23 *ty or regulated entity-affiliated party subject to an*
24 *order under this section or section 1372; and”.*

1 **SEC. 352. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.**

2 *Section 1372 of the Housing and Community Develop-*
3 *ment Act of 1992 (12 U.S.C. 4632) is amended—*

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

6 *“(a) GROUNDS FOR ISSUANCE.—Whenever the Direc-*
7 *tor determines that the violation or threatened violation or*
8 *the unsafe or unsound practice or practices specified in the*
9 *notice of charges served upon the regulated entity or any*
10 *regulated entity-affiliated party pursuant to section*
11 *1371(a), or the continuation thereof, is likely to cause insol-*
12 *veny or significant dissipation of assets or earnings of the*
13 *regulated entity, or is likely to weaken the condition of the*
14 *regulated entity prior to the completion of the proceedings*
15 *conducted pursuant to sections 1371 and 1373, the Director*
16 *may issue a temporary order requiring the regulated entity*
17 *or such party to cease and desist from any such violation*
18 *or practice and to take affirmative action to prevent or rem-*
19 *edy such insolvency, dissipation, condition, or prejudice*
20 *pending completion of such proceedings. Such order may*
21 *include any requirement authorized under section*
22 *1371(d).”;*

23 *(2) in subsection (b), by striking “enterprise, ex-*
24 *ecutive officer, or director” and inserting “regulated*
25 *entity or regulated entity-affiliated party”;*

26 *(3) in subsection (d)—*

1 (A) by striking “An enterprise, executive of-
2 ficer, or director” and inserting “A regulated en-
3 tity or regulated entity-affiliated party”; and

4 (B) by striking “the enterprise, executive of-
5 ficer, or director” and inserting “the regulated
6 entity or regulated entity-affiliated party”; and

7 (4) by striking subsection (e) and in inserting
8 the following new subsection:

9 “(e) **ENFORCEMENT.**—In the case of violation or
10 threatened violation of, or failure to obey, a temporary
11 cease-and-desist order issued pursuant to this section, the
12 Director may apply to the United States District Court for
13 the District of Columbia or the United States district court
14 within the jurisdiction of which the headquarters of the reg-
15 ulated entity is located, for an injunction to enforce such
16 order, and, if the court determines that there has been such
17 violation or threatened violation or failure to obey, it shall
18 be the duty of the court to issue such injunction.”.

19 **SEC. 353. PREJUDGMENT ATTACHMENT.**

20 The Housing and Community Development Act of
21 1992 is amended by inserting after section 1375 (12 U.S.C.
22 4635) the following new section:

23 **“SEC. 1375A. PREJUDGMENT ATTACHMENT.**

24 “(a) **IN GENERAL.**—In any action brought pursuant
25 to this title, or in actions brought in aid of, or to enforce

1 *an order in, any administrative or other civil action for*
2 *money damages, restitution, or civil money penalties*
3 *brought pursuant to this title, the court may, upon applica-*
4 *tion of the Director or Attorney General, as applicable,*
5 *issue a restraining order that—*

6 “(1) *prohibits any person subject to the pro-*
7 *ceeding from withdrawing, transferring, removing,*
8 *dissipating, or disposing of any funds, assets or other*
9 *property; and*

10 “(2) *appoints a person on a temporary basis to*
11 *administer the restraining order.*

12 “(b) *STANDARD.—*

13 “(1) *SHOWING.—Rule 65 of the Federal Rules of*
14 *Civil Procedure shall apply with respect to any pro-*
15 *ceeding under subsection (a) without regard to the re-*
16 *quirement of such rule that the applicant show that*
17 *the injury, loss, or damage is irreparable and imme-*
18 *diate.*

19 “(2) *STATE PROCEEDING.—If, in the case of any*
20 *proceeding in a State court, the court determines that*
21 *rules of civil procedure available under the laws of*
22 *such State provide substantially similar protections*
23 *to a party’s right to due process as Rule 65 (as modi-*
24 *fied with respect to such proceeding by paragraph*

1 (1)), the relief sought under subsection (a) may be re-
2 quested under the laws of such State.”.

3 **SEC. 354. ENFORCEMENT AND JURISDICTION.**

4 Section 1375 of the Housing and Community Develop-
5 ment Act of 1992 (12 U.S.C. 4635) is amended—

6 (1) by striking subsection (a) and inserting the
7 following new subsection:

8 “(a) *ENFORCEMENT.*—The Director may, in the dis-
9 cretion of the Director, apply to the United States District
10 Court for the District of Columbia, or the United States
11 district court within the jurisdiction of which the head-
12 quarters of the regulated entity is located, for the enforce-
13 ment of any effective and outstanding notice or order issued
14 under this subtitle or subtitle B, or request that the Attorney
15 General of the United States bring such an action. Such
16 court shall have jurisdiction and power to order and require
17 compliance with such notice or order.”; and

18 (2) in subsection (b), by striking “or 1376” and
19 inserting “1376, or 1377”.

20 **SEC. 355. CIVIL MONEY PENALTIES.**

21 Section 1376 of the Housing and Community Develop-
22 ment Act of 1992 (12 U.S.C. 4636) is amended—

23 (1) in subsection (a)—

24 (A) in the matter preceding paragraph (1),
25 by striking “, or any executive officer or direc-

1 *tor*” and inserting “or any regulated-entity af-
2 *filiated party*”; and

3 *(B) in paragraph (1)—*

4 *(i) by striking “the Federal National*
5 *Mortgage Association Charter Act, the Fed-*
6 *eral Home Loan Mortgage Corporation Act”*
7 *and inserting “any provision of any of the*
8 *authorizing statutes”;*

9 *(ii) by striking “or Act” and inserting*
10 *“or statute”;*

11 *(iii) by striking “or subsection” and*
12 *inserting “, subsection”;* and

13 *(iv) by inserting “, or paragraph (5)*
14 *or (12) of section 10(j) of the Federal Home*
15 *Loan Bank Act” before the semicolon at the*
16 *end;*

17 *(2) by striking subsection (b) and inserting the*
18 *following new subsection:*

19 *“(b) AMOUNT OF PENALTY.—*

20 *“(1) FIRST TIER.—Any regulated entity which,*
21 *or any regulated entity-affiliated party who—*

22 *“(A) violates any provision of this title, any*
23 *provision of any of the authorizing statutes, or*
24 *any order, condition, rule, or regulation under*
25 *any such title or statute, except that the Director*

1 *may not, pursuant to this section, enforce com-*
2 *pliance with any housing goal established under*
3 *subpart B of part 2 of subtitle A of this title,*
4 *with section 1336 or 1337 of this title, with sub-*
5 *section (m) or (n) of section 309 of the Federal*
6 *National Mortgage Association Charter Act (12*
7 *U.S.C. 1723a(m), (n)), with subsection (e) or (f)*
8 *of section 307 of the Federal Home Loan Mort-*
9 *gage Corporation Act (12 U.S.C. 1456(e), (f)), or*
10 *with paragraph (5) or (12) of section 10(j) of the*
11 *Federal Home Loan Bank Act;*

12 *“(B) violates any final or temporary order*
13 *or notice issued pursuant to this title;*

14 *“(C) violates any condition imposed in*
15 *writing by the Director in connection with the*
16 *grant of any application or other request by such*
17 *regulated entity; or*

18 *“(D) violates any written agreement be-*
19 *tween the regulated entity and the Director,*
20 *shall forfeit and pay a civil money penalty of not*
21 *more than \$10,000 for each day during which such*
22 *violation continues.*

23 *“(2) SECOND TIER.—Notwithstanding paragraph*
24 *(1)—*

1 “(A) if a regulated entity, or a regulated
2 entity-affiliated party—

3 “(i) commits any violation described
4 in any subparagraph of paragraph (1);

5 “(ii) recklessly engages in an unsafe or
6 unsound practice in conducting the affairs
7 of such regulated entity; or

8 “(iii) breaches any fiduciary duty; and

9 “(B) the violation, practice, or breach—

10 “(i) is part of a pattern of misconduct;

11 “(ii) causes or is likely to cause more
12 than a minimal loss to such regulated enti-
13 ty; or

14 “(iii) results in pecuniary gain or
15 other benefit to such party,

16 the regulated entity or regulated entity-affiliated
17 party shall forfeit and pay a civil penalty of not
18 more than \$50,000 for each day during which such
19 violation, practice, or breach continues.

20 “(3) *THIRD TIER.*—Notwithstanding paragraphs
21 (1) and (2), any regulated entity which, or any regu-
22 lated entity-affiliated party who—

23 “(A) knowingly—

1 “(i) commits any violation or engages
2 in any conduct described in any subpara-
3 graph of paragraph (1);

4 “(ii) engages in any unsafe or unsound
5 practice in conducting the affairs of such
6 regulated entity; or

7 “(iii) breaches any fiduciary duty; and

8 “(B) knowingly or recklessly causes a sub-
9 stantial loss to such regulated entity or a sub-
10 stantial pecuniary gain or other benefit to such
11 party by reason of such violation, practice, or
12 breach,

13 shall forfeit and pay a civil penalty in an amount
14 not to exceed the applicable maximum amount deter-
15 mined under paragraph (4) for each day during
16 which such violation, practice, or breach continues.

17 “(4) *MAXIMUM AMOUNTS OF PENALTIES FOR ANY*
18 *VIOLATION DESCRIBED IN PARAGRAPH (3).*—*The max-*
19 *imum daily amount of any civil penalty which may*
20 *be assessed pursuant to paragraph (3) for any viola-*
21 *tion, practice, or breach described in such paragraph*
22 *is—*

23 “(A) in the case of any person other than
24 a regulated entity, an amount not to exceed
25 \$2,000,000; and

1 “(B) in the case of any regulated entity,
2 \$2,000,000.”;

3 (3) in subsection (c)(1)(B), by striking “enter-
4 prise, executive officer, or director” and inserting
5 “regulated entity or regulated entity-affiliated party”;

6 (4) in subsection (d), by striking the first sen-
7 tence and inserting the following: “If a regulated enti-
8 ty or regulated entity-affiliated party fails to comply
9 with an order of the Director imposing a civil money
10 penalty under this section, after the order is no longer
11 subject to review as provided under subsection (c)(1)
12 and section 1374, the Director may, in the discretion
13 of the Director, bring an action in the United States
14 District Court for the District of Columbia, or the
15 United States district court within the jurisdiction of
16 which the headquarters of the regulated entity is lo-
17 cated, to obtain a monetary judgment against the reg-
18 ulated entity or regulated entity affiliated party and
19 such other relief as may be available, or request that
20 the Attorney General of the United States bring such
21 an action.”; and

22 (5) in subsection (g), by striking “subsection
23 (b)(3)” and inserting “this section, unless authorized
24 by the Director by rule, regulation, or order”.

1 **SEC. 356. REMOVAL AND PROHIBITION AUTHORITY.**

2 (a) *IN GENERAL.*—*Subtitle C of title XIII of the Hous-*
3 *ing and Community Development Act of 1992 is amend-*
4 *ed—*

5 (1) *by redesignating sections 1377, 1378, 1379,*
6 *1379A, and 1379B (12 U.S.C. 4637–41) as sections*
7 *1379, 1379A, 1379B, 1379C, and 1379D, respectively;*
8 *and*

9 (2) *by inserting after section 1376 (12 U.S.C.*
10 *4636) the following new section:*

11 **“SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.**

12 *“(a) AUTHORITY TO ISSUE ORDER.—Whenever the*
13 *Director determines that—*

14 *“(1) any regulated entity-affiliated party has,*
15 *directly or indirectly—*

16 *“(A) violated—*

17 *“(i) any law or regulation;*

18 *“(ii) any cease-and-desist order which*
19 *has become final;*

20 *“(iii) any condition imposed in writ-*
21 *ing by the Director in connection with the*
22 *grant of any application or other request by*
23 *such regulated entity; or*

24 *“(iv) any written agreement between*
25 *such regulated entity and the Director;*

1 “(B) engaged or participated in any unsafe
2 or unsound practice in connection with any reg-
3 ulated entity; or

4 “(C) committed or engaged in any act,
5 omission, or practice which constitutes a breach
6 of such party’s fiduciary duty;

7 “(2) by reason of the violation, practice, or
8 breach described in any subparagraph of paragraph
9 (1)—

10 “(A) such regulated entity has suffered or
11 will probably suffer financial loss or other dam-
12 age; or

13 “(B) such party has received financial gain
14 or other benefit by reason of such violation, prac-
15 tice, or breach; and

16 “(3) such violation, practice, or breach—

17 “(A) involves personal dishonesty on the
18 part of such party; or

19 “(B) demonstrates willful or continuing dis-
20 regard by such party for the safety or soundness
21 of such regulated entity, the Director may serve
22 upon such party a written notice of the Direc-
23 tor’s intention to remove such party from office
24 or to prohibit any further participation by such

1 *party, in any manner, in the conduct of the af-*
2 *fairs of any regulated entity.*

3 “(b) *SUSPENSION ORDER.*—

4 “(1) *SUSPENSION OR PROHIBITION AUTHOR-*
5 *ITY.*—*If the Director serves written notice under sub-*
6 *section (a) to any regulated entity-affiliated party of*
7 *the Director’s intention to issue an order under such*
8 *subsection, the Director may—*

9 “(A) *suspend such party from office or pro-*
10 *hibit such party from further participation in*
11 *any manner in the conduct of the affairs of the*
12 *regulated entity, if the Director—*

13 “(i) *determines that such action is nec-*
14 *essary for the protection of the regulated en-*
15 *tity; and*

16 “(ii) *serves such party with written*
17 *notice of the suspension order; and*

18 “(B) *prohibit the regulated entity from re-*
19 *leasing to or on behalf of the regulated entity-af-*
20 *filiated party any compensation or other pay-*
21 *ment of money or other thing of current or po-*
22 *tential value in connection with any resignation,*
23 *removal, retirement, or other termination of em-*
24 *ployment or office of the party.*

1 “(2) *EFFECTIVE PERIOD.*—Any suspension order
2 issued under this subsection—

3 “(A) shall become effective upon service; and

4 “(B) unless a court issues a stay of such
5 order under subsection (g) of this section, shall
6 remain in effect and enforceable until—

7 “(i) the date the Director dismisses the
8 charges contained in the notice served under
9 subsection (a) with respect to such party; or

10 “(ii) the effective date of an order
11 issued by the Director to such party under
12 subsection (a).

13 “(3) *COPY OF ORDER.*—If the Director issues a
14 suspension order under this subsection to any regu-
15 lated entity-affiliated party, the Director shall serve a
16 copy of such order on any regulated entity with which
17 such party is affiliated at the time such order is
18 issued.

19 “(c) *NOTICE, HEARING, AND ORDER.*—A notice of in-
20 tention to remove a regulated entity-affiliated party from
21 office or to prohibit such party from participating in the
22 conduct of the affairs of a regulated entity shall contain
23 a statement of the facts constituting grounds for such ac-
24 tion, and shall fix a time and place at which a hearing
25 will be held on such action. Such hearing shall be fixed for

1 a date not earlier than 30 days nor later than 60 days after
2 the date of service of such notice, unless an earlier or a
3 later date is set by the Director at the request of (1) such
4 party, and for good cause shown, or (2) the Attorney Gen-
5 eral of the United States. Unless such party shall appear
6 at the hearing in person or by a duly authorized representa-
7 tive, such party shall be deemed to have consented to the
8 issuance of an order of such removal or prohibition. In the
9 event of such consent, or if upon the record made at any
10 such hearing the Director shall find that any of the grounds
11 specified in such notice have been established, the Director
12 may issue such orders of suspension or removal from office,
13 or prohibition from participation in the conduct of the af-
14 fairs of the regulated entity, as it may deem appropriate,
15 together with an order prohibiting compensation described
16 in subsection (b)(1)(B). Any such order shall become effec-
17 tive at the expiration of 30 days after service upon such
18 regulated entity and such party (except in the case of an
19 order issued upon consent, which shall become effective at
20 the time specified therein). Such order shall remain effective
21 and enforceable except to such extent as it is stayed, modi-
22 fied, terminated, or set aside by action of the Director or
23 a reviewing court.

1 “(d) *PROHIBITION OF CERTAIN SPECIFIC ACTIVI-*
2 *TIES.*—*Any person subject to an order issued under this sec-*
3 *tion shall not—*

4 “(1) *participate in any manner in the conduct*
5 *of the affairs of any regulated entity;*

6 “(2) *solicit, procure, transfer, attempt to trans-*
7 *fer, vote, or attempt to vote any proxy, consent, or au-*
8 *thorization with respect to any voting rights in any*
9 *regulated entity;*

10 “(3) *violate any voting agreement previously ap-*
11 *proved by the Director; or*

12 “(4) *vote for a director, or serve or act as a regu-*
13 *lated entity-affiliated party.*

14 “(e) *INDUSTRY-WIDE PROHIBITION.*—

15 “(1) *IN GENERAL.*—*Except as provided in para-*
16 *graph (2), any person who, pursuant to an order*
17 *issued under this section, has been removed or sus-*
18 *pending from office in a regulated entity or prohibited*
19 *from participating in the conduct of the affairs of a*
20 *regulated entity may not, while such order is in effect,*
21 *continue or commence to hold any office in, or par-*
22 *ticipate in any manner in the conduct of the affairs*
23 *of, any regulated entity.*

24 “(2) *EXCEPTION IF DIRECTOR PROVIDES WRIT-*
25 *TEN CONSENT.*—*If, on or after the date an order is*

1 *issued under this section which removes or suspends*
2 *from office any regulated entity-affiliated party or*
3 *prohibits such party from participating in the con-*
4 *duct of the affairs of a regulated entity, such party*
5 *receives the written consent of the Director, the order*
6 *shall, to the extent of such consent, cease to apply to*
7 *such party with respect to the regulated entity de-*
8 *scribed in the written consent. If the Director grants*
9 *such a written consent, it shall publicly disclose such*
10 *consent.*

11 *“(3) VIOLATION OF PARAGRAPH (1) TREATED AS*
12 *VIOLATION OF ORDER.—Any violation of paragraph*
13 *(1) by any person who is subject to an order described*
14 *in such subsection shall be treated as a violation of*
15 *the order.*

16 *“(f) APPLICABILITY.—This section shall only apply to*
17 *a person who is an individual, unless the Director specifi-*
18 *cally finds that it should apply to a corporation, firm, or*
19 *other business enterprise.*

20 *“(g) STAY OF SUSPENSION AND PROHIBITION OF REG-*
21 *ULATED ENTITY-AFFILIATED PARTY.—Within 10 days*
22 *after any regulated entity-affiliated party has been sus-*
23 *pended from office and/or prohibited from participation in*
24 *the conduct of the affairs of a regulated entity under this*
25 *section, such party may apply to the United States District*

1 *Court for the District of Columbia, or the United States*
2 *district court for the judicial district in which the head-*
3 *quarters of the regulated entity is located, for a stay of such*
4 *suspension and/or prohibition and any prohibition under*
5 *subsection (b)(1)(B) pending the completion of the adminis-*
6 *trative proceedings pursuant to the notice served upon such*
7 *party under this section, and such court shall have jurisdic-*
8 *tion to stay such suspension and/or prohibition.*

9 “(h) *SUSPENSION OR REMOVAL OF REGULATED ENTI-*
10 *TY-AFFILIATED PARTY CHARGED WITH FELONY.—*

11 “(1) *SUSPENSION OR PROHIBITION.—*

12 “(A) *IN GENERAL.—Whenever any regu-*
13 *lated entity-affiliated party is charged in any*
14 *information, indictment, or complaint, with the*
15 *commission of or participation in a crime in-*
16 *volving dishonesty or breach of trust which is*
17 *punishable by imprisonment for a term exceed-*
18 *ing one year under State or Federal law, the Di-*
19 *rector may, if continued service or participation*
20 *by such party may pose a threat to the regulated*
21 *entity or impair public confidence in the regu-*
22 *lated entity, by written notice served upon such*
23 *party—*

24 “(i) *suspend such party from office or*
25 *prohibit such party from further participa-*

1 *tion in any manner in the conduct of the*
2 *affairs of any regulated entity; and*

3 *“(ii) prohibit the regulated entity from*
4 *releasing to or on behalf of the regulated en-*
5 *tity-affiliated party any compensation or*
6 *other payment of money or other thing of*
7 *current or potential value in connection*
8 *with the period of any such suspension or*
9 *with any resignation, removal, retirement,*
10 *or other termination of employment or of-*
11 *fice of the party.*

12 *“(B) PROVISIONS APPLICABLE TO NO-*
13 *TICE.—*

14 *“(i) COPY.—A copy of any notice*
15 *under paragraph (1)(A) shall also be served*
16 *upon the regulated entity.*

17 *“(ii) EFFECTIVE PERIOD.—A suspen-*
18 *sion or prohibition under subparagraph (A)*
19 *shall remain in effect until the information,*
20 *indictment, or complaint referred to in such*
21 *subparagraph is finally disposed of or until*
22 *terminated by the Director.*

23 *“(2) REMOVAL OR PROHIBITION.—*

24 *“(A) IN GENERAL.—If a judgment of con-*
25 *viction or an agreement to enter a pretrial diver-*

1 *sion or other similar program is entered against*
2 *a regulated entity-affiliated party in connection*
3 *with a crime described in paragraph (1)(A), at*
4 *such time as such judgment is not subject to fur-*
5 *ther appellate review, the Director may, if con-*
6 *tinued service or participation by such party*
7 *may pose a threat to the regulated entity or im-*
8 *pair public confidence in the regulated entity,*
9 *issue and serve upon such party an order that—*

10 *“(i) removes such party from office or*
11 *prohibits such party from further participa-*
12 *tion in any manner in the conduct of the*
13 *affairs of the regulated entity without the*
14 *prior written consent of the Director; and*

15 *“(ii) prohibits the regulated entity*
16 *from releasing to or on behalf of the regu-*
17 *lated entity-affiliated party any compensa-*
18 *tion or other payment of money or other*
19 *thing of current or potential value in con-*
20 *nection with the termination of employment*
21 *or office of the party.*

22 *“(B) PROVISIONS APPLICABLE TO ORDER.—*

23 *“(i) COPY.—A copy of any order under*
24 *paragraph (2)(A) shall also be served upon*
25 *the regulated entity, whereupon the regu-*

1 *lated entity-affiliated party who is subject*
2 *to the order (if a director or an officer)*
3 *shall cease to be a director or officer of such*
4 *regulated entity.*

5 *“(ii) EFFECT OF ACQUITTAL.—A find-*
6 *ing of not guilty or other disposition of the*
7 *charge shall not preclude the Director from*
8 *instituting proceedings after such finding or*
9 *disposition to remove such party from office*
10 *or to prohibit further participation in regu-*
11 *lated entity affairs, and to prohibit com-*
12 *penetration or other payment of money or*
13 *other thing of current or potential value in*
14 *connection with any resignation, removal,*
15 *retirement, or other termination of employ-*
16 *ment or office of the party, pursuant to sub-*
17 *sections (a), (d), or (e) of this section.*

18 *“(iii) EFFECTIVE PERIOD.—Any notice*
19 *of suspension or order of removal issued*
20 *under this subsection shall remain effective*
21 *and outstanding until the completion of any*
22 *hearing or appeal authorized under para-*
23 *graph (4) unless terminated by the Director.*

24 *“(3) AUTHORITY OF REMAINING BOARD MEM-*
25 *BERS.—If at any time, because of the suspension of*

1 *one or more directors pursuant to this section, there*
2 *shall be on the board of directors of a regulated entity*
3 *less than a quorum of directors not so suspended, all*
4 *powers and functions vested in or exercisable by such*
5 *board shall vest in and be exercisable by the director*
6 *or directors on the board not so suspended, until such*
7 *time as there shall be a quorum of the board of direc-*
8 *tors. In the event all of the directors of a regulated*
9 *entity are suspended pursuant to this section, the Di-*
10 *rector shall appoint persons to serve temporarily as*
11 *directors in their place and stead pending the termi-*
12 *nation of such suspensions, or until such time as*
13 *those who have been suspended cease to be directors of*
14 *the regulated entity and their respective successors*
15 *take office.*

16 *“(4) HEARING REGARDING CONTINUED PARTICI-*
17 *PATION.—Within 30 days from service of any notice*
18 *of suspension or order of removal issued pursuant to*
19 *paragraph (1) or (2) of this subsection, the regulated*
20 *entity-affiliated party concerned may request in writ-*
21 *ing an opportunity to appear before the Director to*
22 *show that the continued service to or participation in*
23 *the conduct of the affairs of the regulated entity by*
24 *such party does not, or is not likely to, pose a threat*
25 *to the interests of the regulated entity or threaten to*

1 *impair public confidence in the regulated entity.*
2 *Upon receipt of any such request, the Director shall*
3 *fix a time (not more than 30 days after receipt of*
4 *such request, unless extended at the request of such*
5 *party) and place at which such party may appear,*
6 *personally or through counsel, before one or more*
7 *members of the Director or designated employees of*
8 *the Director to submit written materials (or, at the*
9 *discretion of the Director, oral testimony) and oral*
10 *argument. Within 60 days of such hearing, the Direc-*
11 *tor shall notify such party whether the suspension or*
12 *prohibition from participation in any manner in the*
13 *conduct of the affairs of the regulated entity will be*
14 *continued, terminated, or otherwise modified, or*
15 *whether the order removing such party from office or*
16 *prohibiting such party from further participation in*
17 *any manner in the conduct of the affairs of the regu-*
18 *lated entity, and prohibiting compensation in connec-*
19 *tion with termination will be rescinded or otherwise*
20 *modified. Such notification shall contain a statement*
21 *of the basis for the Director's decision, if adverse to*
22 *such party. The Director is authorized to prescribe*
23 *such rules as may be necessary to effectuate the pur-*
24 *poses of this subsection.*

25 “(i) *HEARINGS AND JUDICIAL REVIEW.*—

1 “(1) *VENUE AND PROCEDURE.*—*Any hearing*
2 *provided for in this section shall be held in the Dis-*
3 *trict of Columbia or in the Federal judicial district*
4 *in which the headquarters of the regulated entity is*
5 *located, unless the party afforded the hearing consents*
6 *to another place, and shall be conducted in accord-*
7 *ance with the provisions of chapter 5 of title 5,*
8 *United States Code. After such hearing, and within*
9 *90 days after the Director has notified the parties*
10 *that the case has been submitted to it for final deci-*
11 *sion, it shall render its decision (which shall include*
12 *findings of fact upon which its decision is predicated)*
13 *and shall issue and serve upon each party to the pro-*
14 *ceeding an order or orders consistent with the provi-*
15 *sions of this section. Judicial review of any such*
16 *order shall be exclusively as provided in this sub-*
17 *section. Unless a petition for review is timely filed in*
18 *a court of appeals of the United States, as provided*
19 *in paragraph (2), and thereafter until the record in*
20 *the proceeding has been filed as so provided, the Di-*
21 *rector may at any time, upon such notice and in such*
22 *manner as it shall deem proper, modify, terminate, or*
23 *set aside any such order. Upon such filing of the*
24 *record, the Director may modify, terminate, or set*
25 *aside any such order with permission of the court.*

1 “(2) *REVIEW OF ORDER.*—Any party to any
2 proceeding under paragraph (1) may obtain a review
3 of any order served pursuant to paragraph (1) (other
4 than an order issued with the consent of the regulated
5 entity or the regulated entity-affiliated party con-
6 cerned, or an order issued under subsection (h) of this
7 section) by the filing in the United States Court of
8 Appeals for the District of Columbia Circuit or court
9 of appeals of the United States for the circuit in
10 which the headquarters of the regulated entity is lo-
11 cated, within 30 days after the date of service of such
12 order, a written petition praying that the order of the
13 Director be modified, terminated, or set aside. A copy
14 of such petition shall be forthwith transmitted by the
15 clerk of the court to the Director, and thereupon the
16 Director shall file in the court the record in the pro-
17 ceeding, as provided in section 2112 of title 28,
18 United States Code. Upon the filing of such petition,
19 such court shall have jurisdiction, which upon the fil-
20 ing of the record shall (except as provided in the last
21 sentence of paragraph (1)) be exclusive, to affirm,
22 modify, terminate, or set aside, in whole or in part,
23 the order of the Director. Review of such proceedings
24 shall be had as provided in chapter 7 of title 5,
25 United States Code. The judgment and decree of the

1 *court shall be final, except that the same shall be sub-*
2 *ject to review by the Supreme Court upon certiorari,*
3 *as provided in section 1254 of title 28, United States*
4 *Code.*

5 *“(3) PROCEEDINGS NOT TREATED AS STAY.—The*
6 *commencement of proceedings for judicial review*
7 *under paragraph (2) shall not, unless specifically or-*
8 *dered by the court, operate as a stay of any order*
9 *issued by the Director.”.*

10 *(b) CONFORMING AMENDMENTS.—*

11 *(1) 1992 ACT.—Section 1317(f) of the Housing*
12 *and Community Development Act of 1992 (12 U.S.C.*
13 *4517(f)) is amended by striking “section 1379B” and*
14 *inserting “section 1379D”.*

15 *(2) FANNIE MAE CHARTER ACT.—The second sen-*
16 *tence of subsection (b) of section 308 of the Federal*
17 *National Mortgage Association Charter Act (12*
18 *U.S.C. 1723(b)) is amended by striking “The” and*
19 *inserting “Except to the extent that action under sec-*
20 *tion 1377 of the Housing and Community Develop-*
21 *ment Act of 1992 temporarily results in a lesser num-*
22 *ber, the”.*

23 *(3) FREDDIE MAC ACT.—The second sentence of*
24 *subparagraph (A) of section 303(a)(2) of the Federal*
25 *Home Loan Mortgage Corporation Act (12 U.S.C.*

1 1452(a)(2)(A)) is amended by striking “The” and in-
2 serting “Except to the extent that action under section
3 1377 of the Housing and Community Development
4 Act of 1992 temporarily results in a lesser number,
5 the”.

6 **SEC. 357. CRIMINAL PENALTY.**

7 Subtitle C of title XIII of the Housing and Community
8 Development Act of 1992 (12 U.S.C. 4631 et seq.) is amend-
9 ed by inserting after section 1377 (as added by the pre-
10 ceding provisions of this title) the following new section:

11 **“SEC. 1378. CRIMINAL PENALTY.**

12 “Whoever, being subject to an order in effect under sec-
13 tion 1377, without the prior written approval of the Direc-
14 tor, knowingly participates, directly or indirectly, in any
15 manner (including by engaging in an activity specifically
16 prohibited in such an order) in the conduct of the affairs
17 of any regulated entity shall be fined not more than
18 \$1,000,000, imprisoned for not more than 5 years, or both.”.

19 **SEC. 358. SUBPOENA AUTHORITY.**

20 Section 1379D(c) of the Housing and Community De-
21 velopment Act of 1992 (12 U.S.C. 4641(c)), as so redesign-
22 ated by section 356(a)(1) of this title, is further amend-
23 ed—

1 (1) by striking “request the Attorney General of
2 the United States to” and inserting “, in the discre-
3 tion of the Director,”;

4 (2) by inserting “or request that the Attorney
5 General of the United States bring such an action,”
6 after “District of Columbia,”; and

7 (3) by striking “or may, under the direction and
8 control of the Attorney General, bring such an ac-
9 tion”.

10 **SEC. 359. CONFORMING AMENDMENTS.**

11 *Subtitle C of title XIII of the Housing and Community*
12 *Development Act of 1992 (12 U.S.C. 4631 et seq.), as*
13 *amended by the preceding provisions of this title, is amend-*
14 *ed—*

15 (1) in section 1372(c)(1) (12 U.S.C. 4632(c)), by
16 striking “that enterprise” and inserting “that regu-
17 lated entity”;

18 (2) in section 1379 (12 U.S.C. 4637), as so redес-
19 ignated by section 356(a)(1) of this title—

20 (A) by inserting “, or of a regulated entity-
21 affiliated party,” before “shall not affect”; and

22 (B) by striking “such director or executive
23 officer” each place such term appears and insert-
24 ing “such director, executive officer, or regulated
25 entity-affiliated party”;

1 (3) *in section 1379A (12 U.S.C. 4638), as so re-*
2 *designated by section 356(a)(1) of this title, by insert-*
3 *ing “or against a regulated entity-affiliated party,”*
4 *before “or impair”;*

5 (4) *by striking “An enterprise” each place such*
6 *term appears in such subtitle and inserting “A regu-*
7 *lated entity”;*

8 (5) *by striking “an enterprise” each place such*
9 *term appears in such subtitle and inserting “a regu-*
10 *lated entity”;*

11 (6) *by striking “the enterprise” each place such*
12 *term appears in such subtitle and inserting “the regu-*
13 *lated entity”;* *and*

14 (7) *by striking “any enterprise” each place such*
15 *term appears in such subtitle and inserting “any regu-*
16 *lated entity”.*

17 **CHAPTER 5—GENERAL PROVISIONS**

18 **SEC. 361. BOARDS OF ENTERPRISES.**

19 (a) *FANNIE MAE.*—

20 (1) *IN GENERAL.*—*Section 308(b) of the Federal*
21 *National Mortgage Association Charter Act (12*
22 *U.S.C. 1723(b)) is amended—*

23 (A) *in the first sentence, by striking “eight-*
24 *een persons, five of whom shall be appointed an-*
25 *nually by the President of the United States, and*

1 *the remainder of whom” and inserting “13 per-*
2 *sons, or such other number that the Director de-*
3 *termines appropriate, who”;*

4 *(B) in the second sentence, by striking “ap-*
5 *pointed by the President”;*

6 *(C) in the third sentence—*

7 *(i) by striking “appointed or”; and*

8 *(ii) by striking “, except that any such*
9 *appointed member may be removed from of-*
10 *ice by the President for good cause”;*

11 *(D) in the fourth sentence, by striking “elec-*
12 *tive”; and*

13 *(E) by striking the fifth sentence.*

14 (2) *TRANSITIONAL PROVISION.—The amendments*
15 *made by paragraph (1) shall not apply to any ap-*
16 *pointed position of the board of directors of the Fed-*
17 *eral National Mortgage Association until the expira-*
18 *tion of the annual term for such position during*
19 *which the effective date under section 365 occurs.*

20 (b) *FREDDIE MAC.—*

21 (1) *IN GENERAL.—Section 303(a)(2) of the Fed-*
22 *eral Home Loan Mortgage Corporation Act (12*
23 *U.S.C. 1452(a)(2)) is amended—*

24 (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 365 occurs.*

1 **SEC. 362. REPORT ON PORTFOLIO OPERATIONS, SAFETY**
2 **AND SOUNDNESS, AND MISSION OF ENTER-**
3 **PRISES.**

4 *Not later than the expiration of the 12-month period*
5 *beginning on the effective date under section 365, the Direc-*
6 *tor of the Federal Housing Finance Agency shall submit*
7 *a report to the Congress which shall include—*

8 *(1) a description of the portfolio holdings of the*
9 *enterprises (as such term is defined in section 1303*
10 *of the Housing and Community Development Act of*
11 *1992 (12 U.S.C. 4502) in mortgages (including whole*
12 *loans and mortgage-backed securities), non-mortgages,*
13 *and other assets;*

14 *(2) a description of the risk implications for the*
15 *enterprises of such holdings and the consequent risk*
16 *management undertaken by the enterprises (including*
17 *the use of derivatives for hedging purposes), compared*
18 *with off-balance sheet liabilities of the enterprises (in-*
19 *cluding mortgage-backed securities guaranteed by the*
20 *enterprises);*

21 *(3) an analysis of portfolio holdings for safety*
22 *and soundness purposes;*

23 *(4) an assessment of whether portfolio holdings*
24 *fulfill the mission purposes of the enterprises under*
25 *the Federal National Mortgage Association Charter*

1 *Act and the Federal Home Loan Mortgage Corpora-*
2 *tion Act; and*

3 (5) *an analysis of the potential systemic risk im-*
4 *plications for the enterprises, the housing and capital*
5 *markets, and the financial system of portfolio hold-*
6 *ings, and whether such holdings should be limited or*
7 *reduced over time.*

8 **SEC. 363. CONFORMING AND TECHNICAL AMENDMENTS.**

9 (a) *1992 ACT.—Title XIII of the Housing and Com-*
10 *munity Development Act of 1992 is amended by striking*
11 *section 1383 (12 U.S.C. 1451 note).*

12 (b) *TITLE 18, UNITED STATES CODE.—Section 1905*
13 *of title 18, United States Code, is amended by striking “Of-*
14 *fice of Federal Housing Enterprise Oversight” and insert-*
15 *ing “Federal Housing Finance Agency”.*

16 (c) *FLOOD DISASTER PROTECTION ACT OF 1973.—*
17 *Section 102(f)(3)(A) of the Flood Disaster Protection Act*
18 *of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking*
19 *“Director of the Office of Federal Housing Enterprise Over-*
20 *sight of the Department of Housing and Urban Develop-*
21 *ment” and inserting “Director of the Federal Housing Fi-*
22 *nance Agency”.*

23 (d) *DEPARTMENT OF HOUSING AND URBAN DEVELOP-*
24 *MENT ACT.—Section 5 of the Department of Housing and*

1 *Urban Development Act (42 U.S.C. 3534) is amended by*
2 *striking subsection (d).*

3 (e) *TITLE 5, UNITED STATES CODE.—*

4 (1) *DIRECTOR’S PAY RATE.—Section 5313 of*
5 *title 5, United States Code, is amended by striking*
6 *the item relating to the Director of the Office of Fed-*
7 *eral Housing Enterprise Oversight, Department of*
8 *Housing and Urban Development and inserting the*
9 *following new item:*

10 “*Director of the Federal Housing Finance Agen-*
11 *cy.*”.

12 (2) *EXCLUSION FROM SENIOR EXECUTIVE SERV-*
13 *ICE.—Section 3132(a)(1)(D) of title 5, United States*
14 *Code, is amended—*

15 (A) *by striking “the Federal Housing Fi-*
16 *nance Board,”; and*

17 (B) *by striking “the Office of Federal Hous-*
18 *ing Enterprise Oversight of the Department of*
19 *Housing and Urban Development” and inserting*
20 *“the Federal Housing Finance Agency”.*

21 (f) *INSPECTOR GENERAL ACT OF 1978.—Section*
22 *8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C.*
23 *App.) is amended by striking “Federal Housing Finance*
24 *Board” and inserting “Federal Housing Finance Agency”.*

1 (g) *FEDERAL DEPOSIT INSURANCE ACT.*—Section
2 *11(t)(2)(A)* of the *Federal Deposit Insurance Act* (12
3 *U.S.C.1821(t)(2)(A)*) is amended by adding at the end the
4 following new clause:

5 “(vii) *The Federal Housing Finance*
6 *Agency.*”.

7 (h) *1997 EMERGENCY SUPPLEMENTAL APPROPRIA-*
8 *TIONS ACT.*—Section *10001* of the *1997 Emergency Supple-*
9 *mental Appropriations Act for Recovery From Natural Dis-*
10 *asters, and for Overseas Peacekeeping Efforts, Including*
11 *Those In Bosnia* (42 *U.S.C. 3548*) is amended—

12 (1) by striking “*the Government National Mort-*
13 *gage Association, and the Office of Federal Housing*
14 *Enterprise Oversight*” and inserting “*and the Govern-*
15 *ment National Mortgage Association*”; and

16 (2) by striking “*, the Government National*
17 *Mortgage Association, or the Office of Federal Hous-*
18 *ing Enterprise Oversight*” and inserting “*or the Gov-*
19 *ernment National Mortgage Association*”.

20 (i) *NATIONAL HOMEOWNERSHIP TRUST ACT.*—Section
21 *302(b)(4)* of the *Cranston-Gonzalez National Affordable*
22 *Housing Act* (42 *U.S.C. 12851(b)(4)*) is amended by strik-
23 ing “*the chairperson of the Federal Housing Finance*
24 *Board*” and inserting “*the Director of the Federal Housing*
25 *Finance Agency*”.

1 **SEC. 364. STUDY OF ALTERNATIVE SECONDARY MARKET**
2 **SYSTEMS.**

3 (a) *IN GENERAL.*—*The Director of the Federal Hous-*
4 *ing Finance Agency, in consultation with the Board of Gov-*
5 *ernors of the Federal Reserve System, the Secretary of the*
6 *Treasury, and the Secretary of Housing and Urban Devel-*
7 *opment, shall conduct a comprehensive study of the effects*
8 *on financial and housing finance markets of alternatives*
9 *to the current secondary market system for housing finance,*
10 *taking into consideration changes in the structure of finan-*
11 *cial and housing finance markets and institutions since the*
12 *creation of the Federal National Mortgage Association and*
13 *the Federal Home Loan Mortgage Corporation.*

14 (b) *CONTENTS.*—*The study under this section shall—*

15 (1) *include, among the alternatives to the current*
16 *secondary market system analyzed—*

17 (A) *repeal of the chartering Acts for the*
18 *Federal National Mortgage Association and the*
19 *Federal Home Loan Mortgage Corporation;*

20 (B) *establishing bank-like mechanisms for*
21 *granting new charters for limited purposed*
22 *mortgage securitization entities;*

23 (C) *permitting the Director of the Federal*
24 *Housing Finance Agency to grant new charters*
25 *for limited purpose mortgage securitization enti-*
26 *ties, which shall include analyzing the terms on*

1 *which such charters should be granted, including*
2 *whether such charters should be sold, or whether*
3 *such charters and the charters for the Federal*
4 *National Mortgage Association and the Federal*
5 *Home Loan Mortgage Corporation should be*
6 *taxed or otherwise assessed a monetary price;*
7 *and*

8 *(D) such other alternatives as the Director*
9 *considers appropriate;*

10 (2) *examine all of the issues involved in making*
11 *the transition to a completely private secondary mort-*
12 *gage market system;*

13 *(3) examine the technological advancements the*
14 *private sector has made in providing liquidity in the*
15 *secondary mortgage market and how such advance-*
16 *ments have affected liquidity in the secondary mort-*
17 *gage market; and*

18 *(4) examine how taxpayers would be impacted*
19 *by each alternative system, including the complete*
20 *privatization of the Federal National Mortgage Asso-*
21 *ciation and the Federal Home Loan Mortgage Cor-*
22 *poration.*

23 (c) *REPORT.*—*The Director of the Federal Housing Fi-*
24 *nance Agency shall submit a report to the Congress on the*

1 *study not later than the expiration of the 24-month period*
2 *beginning on the effective date under section 365.*

3 **SEC. 365. EFFECTIVE DATE.**

4 *Except as specifically provided otherwise in this sub-*
5 *title, this subtitle shall take effect on and the amendments*
6 *made by this subtitle shall take effect on, and shall apply*
7 *beginning on, the expiration of the 6-month period begin-*
8 *ning on the date of the enactment of this Act.*

9 ***Subtitle B—Federal Home Loan***
10 ***Banks***

11 **SEC. 371. DEFINITIONS.**

12 *Section 2 of the Federal Home Loan Bank Act (12*
13 *U.S.C. 1422) is amended—*

14 *(1) by striking paragraphs (1), (10), and (11);*

15 *(2) by redesignating paragraphs (2) through (9)*
16 *as paragraphs (1) through (8), respectively;*

17 *(3) by redesignating paragraphs (12) and (13)*
18 *as paragraphs (9) and (10), respectively; and*

19 *(4) by adding at the end the following:*

20 *“(11) DIRECTOR.—The term ‘Director’ means*
21 *the Director of the Federal Housing Finance Agency.*

22 *“(12) AGENCY.—The term ‘Agency’ means the*
23 *Federal Housing Finance Agency.”.*

1 **SEC. 372. DIRECTORS.**

2 (a) *ELECTION.*—Section 7 of the *Federal Home Loan*
3 *Bank Act (12 U.S.C. 1427)* is amended—

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

6 “(a) *NUMBER; ELECTION; QUALIFICATIONS; CON-*
7 *FLICTS OF INTEREST.*—

8 “(1) *IN GENERAL.*—*The management of each*
9 *Federal Home Loan Bank shall be vested in a board*
10 *of 13 directors, or such other number as the Director*
11 *determines appropriate, each of whom shall be a cit-*
12 *izen of the United States. All directors of a Bank who*
13 *are not independent directors pursuant to paragraph*
14 *(3) shall be elected by the members.*

15 “(2) *MEMBER DIRECTORS.*—*A majority of the*
16 *directors of each Bank shall be officers or directors of*
17 *a member of such Bank that is located in the district*
18 *in which such Bank is located.*

19 “(3) *INDEPENDENT DIRECTORS.*—*At least two-*
20 *fifths of the directors of each Bank shall be inde-*
21 *pendent directors, who shall be appointed by the Di-*
22 *rector of the Federal Housing Finance Agency from*
23 *a list of individuals recommended by the Federal*
24 *Housing Enterprise Board. The Federal Housing En-*
25 *terprise Board may recommend individuals who are*
26 *identified by the Board’s own independent process or*

1 *included on a list of individuals recommended by the*
2 *board of directors of the Bank involved, which shall*
3 *be submitted to the Federal Housing Enterprise*
4 *Board by such board of directors. The number of indi-*
5 *viduals on any such list submitted by a Bank's board*
6 *of directors shall be equal to at least two times the*
7 *number of independent directorships to be filled. All*
8 *independent directors appointed shall meet the fol-*
9 *lowing criteria:*

10 *“(A) IN GENERAL.—Each independent di-*
11 *rector shall be a bona fide resident of the district*
12 *in which such Bank is located.*

13 *“(B) PUBLIC INTEREST DIRECTORS.—At*
14 *least 2 of the independent directors under this*
15 *paragraph of each Bank shall be representatives*
16 *chosen from organizations with more than a 2-*
17 *year history of representing consumer or commu-*
18 *nity interests on banking services, credit needs,*
19 *housing, community development, economic de-*
20 *velopment, or financial consumer protections.*

21 *“(C) OTHER DIRECTORS.—*

22 *“(i) QUALIFICATIONS.—Each inde-*
23 *pendent director that is not a public inter-*
24 *est director under subparagraph (B) shall*
25 *have demonstrated knowledge of, or experi-*

1 ence in, financial management, auditing
2 and accounting, risk management practices,
3 derivatives, project development, or organi-
4 zational management, or such other knowl-
5 edge or expertise as the Director may pro-
6 vide by regulation.

7 “(i) CONSULTATION WITH BANKS.—In
8 appointing other directors to serve on the
9 board of a Federal home loan bank, the Di-
10 rector of the Federal Housing Finance
11 Agency may consult with each Federal home
12 loan bank about the knowledge, skills, and
13 expertise needed to assist the board in better
14 fulfilling its responsibilities.

15 “(D) CONFLICTS OF INTEREST.—Notwith-
16 standing subsection (f)(2), an independent direc-
17 tor under this paragraph of a Bank may not,
18 during such director’s term of office, serve as an
19 officer of any Federal Home Loan Bank or as a
20 director or officer of any member of a Bank.

21 “(E) COMMUNITY DEMOGRAPHICS.—In ap-
22 pointing independent directors of a Bank pursu-
23 ant to this paragraph, the Director shall take
24 into consideration the demographic makeup of
25 the community most served by the Affordable

1 *Housing Program of the Bank pursuant to sec-*
2 *tion 10(j).”;*

3 (2) *in the first sentence of subsection (b), by*
4 *striking “elective directorship” and inserting “mem-*
5 *ber directorship established pursuant to subsection*
6 *(a)(2)”;*

7 (3) *in subsection (c)—*

8 (A) *by striking “elective” each place such*
9 *term appears and inserting “member”, except—*

10 (i) *in the second sentence, the second*
11 *place such term appears; and*

12 (ii) *each place such term appears in*
13 *the fifth sentence;*

14 (B) *in the first sentence, by inserting after*
15 *“less than one” the following: “or two, as deter-*
16 *mined by the board of directors of the appro-*
17 *priate Federal home loan bank,”; and*

18 (C) *in the second sentence—*

19 (i) *by inserting “(A) except as pro-*
20 *vided in clause (B) of this sentence,” before*
21 *“if at any time”; and*

22 (ii) *by inserting before the period at*
23 *the end the following: “, and (B) clause (A)*
24 *of this sentence shall not apply to the direc-*
25 *torships of any Federal home loan bank re-*

1 *sulting from the merger of any two or more*
2 *such banks”*; and

3 (4) *by striking “elective” each place such term*
4 *appears (except in subsections (c), (e), and (f)).*

5 (b) *TERMS.—*

6 (1) *IN GENERAL.—Section 7(d) of the Federal*
7 *Home Loan Bank Act (12 U.S.C. 1427(d)) is amend-*
8 *ed—*

9 (A) *in the first sentence, by striking “3*
10 *years” and inserting “4 years”*; and

11 (B) *in the second sentence—*

12 (i) *by striking “Federal Home Loan*
13 *Bank System Modernization Act of 1999”*
14 *and inserting “Federal Housing Finance*
15 *Reform Act of 2008”*; and

16 (ii) *by striking “1/3” and inserting “1/*
17 *4”*.

18 (2) *SAVINGS PROVISION.—The amendments made*
19 *by paragraph (1) shall not apply to the term of office*
20 *of any director of a Federal home loan bank who is*
21 *serving as of the effective date of this subtitle under*
22 *section 381, including any director elected to fill a*
23 *vacancy in any such office.*

24 (c) *CONTINUED SERVICE OF INDEPENDENT DIREC-*
25 *TORS AFTER EXPIRATION OF TERM.—Section 7(f)(2) of the*

1 *Federal Home Loan Bank Act (12 U.S.C. 1427(f)(2)) is*
2 *amended—*

3 (1) *in the second sentence, by striking “or the*
4 *term of such office expires, whichever occurs first”;*

5 (2) *by adding at the end the following new sen-*
6 *tence: “An independent Bank director may continue*
7 *to serve as a director after the expiration of the term*
8 *of such director until a successor is appointed.”;*

9 (3) *in the paragraph heading, by striking “AP-*
10 *POINTED” and inserting “INDEPENDENT”; and*

11 (4) *by striking “appointive” each place such*
12 *term appears and inserting “independent”.*

13 (d) *CONFORMING AMENDMENTS.—Section 7(f)(3) of*
14 *the Federal Home Loan Bank Act (12 U.S.C. 1427(f)(3))*
15 *is amended—*

16 (1) *in the paragraph heading, by striking*
17 *“ELECTED” and inserting “MEMBER”; and*

18 (2) *by striking “elective” each place such term*
19 *appears in the first and third sentences and inserting*
20 *“member”.*

21 (e) *COMPENSATION.—Subsection (i) of section 7 of the*
22 *Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is*
23 *amended to read as follows:*

24 “(i) *DIRECTORS’ COMPENSATION.—*

1 “(1) *IN GENERAL.*—*Each Federal home loan*
2 *bank may pay the directors on the board of directors*
3 *for the bank reasonable and appropriate compensa-*
4 *tion for the time required of such directors, and rea-*
5 *sonable and appropriate expenses incurred by such*
6 *directors, in connection with service on the board of*
7 *directors, in accordance with resolutions adopted by*
8 *the board of directors and subject to the approval of*
9 *the Director.*

10 “(2) *ANNUAL REPORT BY THE BOARD.*—*The Di-*
11 *rector shall include, in the annual report submitted to*
12 *the Congress pursuant to section 1319B of the Federal*
13 *Housing Enterprises Financial Safety and Soundness*
14 *Act of 1992, information regarding the compensation*
15 *and expenses paid by the Federal home loan banks to*
16 *the directors on the boards of directors of the banks.”.*

17 “(f) *TRANSITION RULE.*—*Any member of the board of*
18 *directors of a Federal Home Loan Bank serving as of the*
19 *effective date under section 381 may continue to serve as*
20 *a member of such board of directors for the remainder of*
21 *the term of such office as provided in section 7 of the Fed-*
22 *eral Home Loan Bank Act, as in effect before such effective*
23 *date.*

1 **SEC. 373. FEDERAL HOUSING FINANCE AGENCY OVERSIGHT**
2 **OF FEDERAL HOME LOAN BANKS.**

3 *The Federal Home Loan Bank Act (12 U.S.C. 1421*
4 *et seq.), other than in provisions of that Act added or*
5 *amended otherwise by this title, is amended—*

6 (1) *by striking sections 2A and 2B (12 U.S.C.*
7 *1422a, 1422b);*

8 (2) *in section 6 (12 U.S.C. 1426(b)(1))—*

9 (A) *in subsection (b)(1), in the matter pre-*
10 *ceding subparagraph (A), by striking “Finance*
11 *Board approval” and inserting “approval by the*
12 *Director”; and*

13 (B) *in each of subsections (c)(4)(B) and*
14 *(d)(2), by striking “Finance Board regulations”*
15 *each place that term appears and inserting “reg-*
16 *ulations of the Director”;*

17 (3) *in section 8 (12 U.S.C. 1428), in the section*
18 *heading, by striking “BY THE BOARD”;*

19 (4) *in section 10(b) (12 U.S.C. 1430(b)), by*
20 *striking “by formal resolution”;*

21 (5) *in section 10 (12 U.S.C. 1430), by adding at*
22 *the end the following new subsection:*

23 *“(k) MONITORING AND ENFORCING COMPLIANCE WITH*
24 *AFFORDABLE HOUSING AND COMMUNITY INVESTMENT*
25 *PROGRAM REQUIREMENTS.—The requirements under sub-*
26 *section (i) and (j) that the Banks establish Community In-*

1 *vestment and Affordable Housing Programs, respectively,*
2 *and contribute to the Affordable Housing Program, shall*
3 *be enforceable by the Director with respect to the Banks in*
4 *the same manner and to the same extent as the housing*
5 *goals under subpart B of part 2 of subtitle A of title XIII*
6 *of the Housing and Community Development Act of 1992*
7 *(12 U.S.C. 4561 et seq.) are enforceable under section 1336*
8 *of such Act with respect to the Federal National Mortgage*
9 *Association and the Federal Home Loan Mortgage Corpora-*
10 *tion.”;*

11 (6) *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 two commas after*
8 *“permit” and inserting “or”; and*

9 *(ii) by striking the comma after “re-*
10 *quire”;*

11 *(7) in section 15 (12 U.S.C. 1435), by inserting*
12 *“or the Director” after “the Board”;*

13 *(8) in section 18 (12 U.S.C. 1438), by striking*
14 *subsection (b);*

15 *(9) in section 21 (12 U.S.C. 1441)—*

16 *(A) in subsection (b)—*

17 *(i) in paragraph (5), by striking*
18 *“Chairperson of the Federal Housing Fi-*
19 *nance Board” and inserting “Director”;*
20 *and*

21 *(ii) in the heading for paragraph (8),*
22 *by striking “FEDERAL HOUSING FINANCE*
23 *BOARD” and inserting “DIRECTOR”; and*

1 (B) in subsection (i), in the heading for
2 paragraph (2), by striking “FEDERAL HOUSING
3 FINANCE BOARD” and inserting “DIRECTOR”;

4 (10) in section 23 (12 U.S.C. 1443), by striking
5 “Board of Directors of the Federal Housing Finance
6 Board” and inserting “Director”;

7 (11) by striking “the Board” each place such
8 term appears in such Act (except in section 15 (12
9 U.S.C. 1435), section 21(f)(2) (12 U.S.C. 1441(f)(2)),
10 subsections (a), (k)(2)(B)(i), and (n)(6)(C)(ii) of sec-
11 tion 21A (12 U.S.C. 1441a), subsections (f)(2)(C),
12 and (k)(7)(B)(ii) of section 21B (12 U.S.C. 1441b),
13 and the first two places such term appears in section
14 22 (12 U.S.C. 1442)) and inserting “the Director”;

15 (12) by striking “The Board” each place such
16 term appears in such Act (except in sections 7(e) (12
17 U.S.C. 1427(e)), and 11(b) (12 U.S.C. 1431(b)) and
18 inserting “The Director”;

19 (13) by striking “the Board’s” each place such
20 term appears in such Act and inserting “the Direc-
21 tor’s”;

22 (14) by striking “The Board’s” each place such
23 term appears in such Act and inserting “The Direc-
24 tor’s”;

1 (15) by striking “the Finance Board” each place
2 such term appears in such Act and inserting “the Di-
3 rector”;

4 (16) by striking “Federal Housing Finance
5 Board” each place such term appears and inserting
6 “Director”;

7 (17) in section 11(i) (12 U.S.C. 1431(i), by
8 striking “the Chairperson of”;

9 (18) in section 21(e)(9) (12 U.S.C. 1441(e)(9)),
10 by striking “Chairperson of the”.

11 **SEC. 374. JOINT ACTIVITIES OF BANKS.**

12 Section 11 of the Federal Home Loan Bank Act (12
13 U.S.C. 1431) is amended by adding at the end the following
14 new subsection:

15 “(l) *JOINT ACTIVITIES.*—Subject to the regulation of
16 the Director, any two or more Federal Home Loan Banks
17 may establish a joint office for the purpose of performing
18 functions for, or providing services to, the Banks on a com-
19 mon or collective basis, or may require that the Office of
20 Finance perform such functions or services, but only if the
21 Banks are otherwise authorized to perform such functions
22 or services individually.”.

1 **SEC. 375. SHARING OF INFORMATION BETWEEN FEDERAL**
2 **HOME LOAN BANKS.**

3 (a) *IN GENERAL.*—*The Federal Home Loan Bank Act*
4 *is amended by inserting after section 20 (12 U.S.C. 1440)*
5 *the following new section:*

6 **“SEC. 20A. SHARING OF INFORMATION BETWEEN FEDERAL**
7 **HOME LOAN BANKS.**

8 “(a) *REGULATORY AUTHORITY.*—*The Director shall*
9 *prescribe such regulations as may be necessary to ensure*
10 *that each Federal Home Loan Bank has access to informa-*
11 *tion that the Bank needs to determine the nature and extent*
12 *of its joint and several liability.*

13 “(b) *NO WAIVER OF PRIVILEGE.*—*The Director shall*
14 *not be deemed to have waived any privilege applicable to*
15 *any information concerning a Federal Home Loan Bank*
16 *by transferring, or permitting the transfer of, that informa-*
17 *tion to any other Federal Home Loan Bank for the purpose*
18 *of enabling the recipient to evaluate the nature and extent*
19 *of its joint and several liability.”.*

20 (b) *REGULATIONS.*—*The regulations required under*
21 *the amendment made by subsection (a) shall be issued in*
22 *final form not later than 6 months after the effective date*
23 *under section 381 of this title.*

1 **SEC. 376. REORGANIZATION OF BANKS AND VOLUNTARY**
2 **MERGER.**

3 *Section 26 of the Federal Home Loan Bank Act (12*
4 *U.S.C. 1446) is amended—*

5 *(1) by inserting “(a) REORGANIZATION.—” be-*
6 *fore “Whenever”; and*

7 *(2) by striking “liquidated or” each place such*
8 *phrase appears;*

9 *(3) by striking “liquidation or”; and*

10 *(4) by adding at the end the following new sub-*
11 *section:*

12 *“(b) VOLUNTARY MERGERS.—Any two or more Banks*
13 *may, with the approval of the Director, and the approval*
14 *of the boards of directors of the Banks involved, merge. The*
15 *Director shall promulgate regulations establishing the con-*
16 *ditions and procedures for the consideration and approval*
17 *of any such voluntary merger, including the procedures for*
18 *Bank member approval.”.*

19 **SEC. 377. SECURITIES AND EXCHANGE COMMISSION DIS-**
20 **CLOSURE.**

21 *(a) IN GENERAL.—The Federal Home Loan Banks*
22 *shall be exempt from compliance with—*

23 *(1) sections 13(e), 14(a), 14(c), and 17A of the*
24 *Securities Exchange Act of 1934 and related Commis-*
25 *sion regulations; and*

1 (2) *section 15 of that Act and related Securities*
2 *and Exchange Commission regulations with respect to*
3 *transactions in capital stock of the Banks.*

4 (b) *MEMBER EXEMPTION.—The members of the Fed-*
5 *eral Home Loan Banks shall be exempt from compliance*
6 *with sections 13(d), 13(f), 13(g), 14(d), and 16 of the Secu-*
7 *rities Exchange Act of 1934 and related Securities and Ex-*
8 *change Commission regulations with respect to their owner-*
9 *ship of, or transactions in, capital stock of the Federal*
10 *Home Loan Banks.*

11 (c) *EXEMPTED AND GOVERNMENT SECURITIES.—*

12 (1) *CAPITAL STOCK.—The capital stock issued by*
13 *each of the Federal Home Loan Banks under section*
14 *6 of the Federal Home Loan Bank Act are—*

15 (A) *exempted securities within the meaning*
16 *of section 3(a)(2) of the Securities Act of 1933;*
17 *and*

18 (B) *“exempted securities” within the mean-*
19 *ing of section 3(a)(12)(A) of the Securities Ex-*
20 *change Act of 1934.*

21 (2) *OTHER OBLIGATIONS.—The debentures,*
22 *bonds, and other obligations issued under section 11*
23 *of the Federal Home Loan Bank Act are—*

24 (A) *exempted securities within the meaning*
25 *of section 3(a)(2) of the Securities Act of 1933;*

1 (B) “government securities” within the
2 meaning of section 3(a)(42) of the Securities Ex-
3 change Act of 1934;

4 (C) excluded from the definition of “govern-
5 ment securities broker” within section 3(a)(43)
6 of the Securities Exchange Act of 1934;

7 (D) excluded from the definition of “govern-
8 ment securities dealer” within section 3(a)(44) of
9 the Securities Exchange Act of 1934; and

10 (E) “government securities” within the
11 meaning of section 2(a)(16) of the Investment
12 Company Act of 1940.

13 (d) *EXEMPTION FROM REPORTING REQUIREMENTS.*—
14 The Federal Home Loan Banks shall be exempt from peri-
15 odic reporting requirements pertaining to—

16 (1) the disclosure of related party transactions
17 that occur in the ordinary course of business of the
18 Banks with their members; and

19 (2) the disclosure of unregistered sales of equity
20 securities.

21 (e) *TENDER OFFERS.*—The Securities and Exchange
22 Commission’s rules relating to tender offers shall not apply
23 in connection with transactions in capital stock of the Fed-
24 eral Home Loan Banks.

1 (f) *REGULATIONS.*—*In issuing any final regulations*
2 *to implement provisions of this section, the Securities and*
3 *Exchange Commission shall consider the distinctive charac-*
4 *teristics of the Federal Home Loan Banks when evaluating*
5 *the accounting treatment with respect to the payment to*
6 *Resolution Funding Corporation, the role of the combined*
7 *financial statements of the twelve Banks, the accounting*
8 *classification of redeemable capital stock, and the account-*
9 *ing treatment related to the joint and several nature of the*
10 *obligations of the Banks.*

11 **SEC. 378. COMMUNITY FINANCIAL INSTITUTION MEMBERS.**

12 (a) *TOTAL ASSET REQUIREMENT.*—*Paragraph (10) of*
13 *section 2 of the Federal Home Loan Bank Act (12 U.S.C.*
14 *1422(10)), as so redesignated by section 371(3) of this title,*
15 *is amended by striking “\$500,000,000” each place such*
16 *term appears and inserting “\$1,000,000,000”.*

17 (b) *USE OF ADVANCES FOR COMMUNITY DEVELOP-*
18 *MENT ACTIVITIES.*—*Section 10(a) of the Federal Home*
19 *Loan Bank Act (12 U.S.C. 1430(a)) is amended—*

20 (1) *in paragraph (2)(B)—*

21 (A) *by striking “and”; and*

22 (B) *by inserting “, and community develop-*
23 *ment activities” before the period at the end;*

1 (2) *in paragraph (3)(E), by inserting “or com-*
 2 *munity development activities” after “agriculture,”;*
 3 *and*

4 (3) *in paragraph (6)—*

5 (A) *by striking “and”; and*

6 (B) *by inserting “, and ‘community devel-*
 7 *opment activities’” before “shall”.*

8 **SEC. 379. TECHNICAL AND CONFORMING AMENDMENTS.**

9 (a) *RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Sec-*
 10 *tion 1113(o) of the Right to Financial Privacy Act of 1978*
 11 *(12 U.S.C. 3413(o)) is amended—*

12 (1) *by striking “Federal Housing Finance*
 13 *Board” and inserting “Federal Housing Finance*
 14 *Agency”; and*

15 (2) *by striking “Federal Housing Finance*
 16 *Board’s” and inserting “Federal Housing Finance*
 17 *Agency’s”.*

18 (b) *RIEGLE COMMUNITY DEVELOPMENT AND REGU-*
 19 *LATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of the*
 20 *Riegle Community Development and Regulatory Improve-*
 21 *ment Act of 1994 (12 U.S.C. 4716(e)) is amended by strik-*
 22 *ing “Federal Housing Finance Board” and inserting “Fed-*
 23 *eral Housing Finance Agency”.*

24 (c) *TITLE 18, UNITED STATES CODE.—Title 18,*
 25 *United States Code, is amended by striking “Federal Hous-*

1 *ing Finance Board” each place such term appears in each*
2 *of sections 212, 657, 1006, 1014, and inserting “Federal*
3 *Housing Finance Agency”.*

4 *(d) MAHRA ACT OF 1997.—Section 517(b)(4) of the*
5 *Multifamily Assisted Housing Reform and Affordability*
6 *Act of 1997 (42 U.S.C. 1437f note) is amended by striking*
7 *“Federal Housing Finance Board” and inserting “Federal*
8 *Housing Finance Agency”.*

9 *(e) TITLE 44, UNITED STATES CODE.—Section*
10 *3502(5) of title 44, United States Code, is amended by strik-*
11 *ing “Federal Housing Finance Board” and inserting “Fed-*
12 *eral Housing Finance Agency”.*

13 *(f) ACCESS TO LOCAL TV ACT OF 2000.—Section*
14 *1004(d)(2)(D)(iii) of the Launching Our Communities’ Ac-*
15 *cess to Local Television Act of 2000 (47 U.S.C.*
16 *1103(d)(2)(D)(iii)) is amended by striking “Office of Fed-*
17 *eral Housing Enterprise Oversight, the Federal Housing Fi-*
18 *nance Board” and inserting “Federal Housing Finance*
19 *Agency”.*

20 *(g) SARBANES-OXLEY ACT OF 2002.—Section*
21 *105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002 (15*
22 *U.S.C. 7215(B)(5)(b)(ii)(II)) is amended by inserting “and*
23 *the Director of the Federal Housing Finance Agency” after*
24 *“Commission,”.*

1 **SEC. 380. STUDY OF AFFORDABLE HOUSING PROGRAM USE**
2 **FOR LONG-TERM CARE FACILITIES.**

3 *The Comptroller General shall conduct a study of the*
4 *use of affordable housing programs of the Federal home loan*
5 *banks under section 10(j) of the Federal Home Loan Bank*
6 *Act to determine how and the extent to which such programs*
7 *are used to assist long-term care facilities for low- and mod-*
8 *erate-income individuals, and the effectiveness and ade-*
9 *quacy of such assistance in meeting the needs of affected*
10 *communities. The study shall examine the applicability of*
11 *such use to the affordable housing fund required to be estab-*
12 *lished by the Director of the Federal Housing Finance*
13 *Agency pursuant to the amendment made by section 340*
14 *of this title. The Comptroller General shall submit a report*
15 *to the Director of the Federal Housing Finance Agency and*
16 *the Congress regarding the results of the study not later*
17 *than the expiration of the 1-year period beginning on the*
18 *date of the enactment of this Act. This section shall take*
19 *effect on the date of the enactment of this Act.*

20 **SEC. 381. EFFECTIVE DATE.**

21 *Except as specifically provided otherwise in this sub-*
22 *title, this subtitle shall take effect on and the amendments*
23 *made by this subtitle shall take effect on, and shall apply*
24 *beginning on, the expiration of the 6-month period begin-*
25 *ning on the date of the enactment of this Act.*

1 ***Subtitle C—Transfer of Functions,***
2 ***Personnel, and Property of Of-***
3 ***fice of Federal Housing Enter-***
4 ***prise Oversight, Federal Housing***
5 ***Finance Board, and Department***
6 ***of Housing and Urban Develop-***
7 ***ment***

8 ***CHAPTER 1—OFFICE OF FEDERAL***
9 ***HOUSING ENTERPRISE OVERSIGHT***

10 ***SEC. 385. ABOLISHMENT OF OFHEO.***

11 *(a) IN GENERAL.—Effective at the end of the 6-month*
12 *period beginning on the date of the enactment of this Act,*
13 *the Office of Federal Housing Enterprise Oversight of the*
14 *Department of Housing and Urban Development and the*
15 *positions of the Director and Deputy Director of such Office*
16 *are abolished.*

17 *(b) DISPOSITION OF AFFAIRS.—During the 6-month*
18 *period beginning on the date of the enactment of this Act,*
19 *the Director of the Office of Federal Housing Enterprise*
20 *Oversight shall, for the purpose of winding up the affairs*
21 *of the Office of Federal Housing Enterprise Oversight and*
22 *in addition to carrying out its other responsibilities under*
23 *law—*

24 *(1) manage the employees of such Office and pro-*
25 *vide for the payment of the compensation and benefits*

1 of any such employee which accrue before the effective
2 date of the transfer of such employee pursuant to sec-
3 tion 387; and

4 (2) may take any other action necessary for the
5 purpose of winding up the affairs of the Office.

6 (c) *STATUS OF EMPLOYEES BEFORE TRANSFER.*—The
7 amendments made by subtitle A and the abolishment of the
8 Office of Federal Housing Enterprise Oversight under sub-
9 section (a) of this section may not be construed to affect
10 the status of any employee of such Office as employees of
11 an agency of the United States for purposes of any other
12 provision of law before the effective date of the transfer of
13 any such employee pursuant to section 387.

14 (d) *USE OF PROPERTY AND SERVICES.*—

15 (1) *PROPERTY.*—The Director of the Federal
16 Housing Finance Agency may use the property of the
17 Office of Federal Housing Enterprise Oversight to
18 perform functions which have been transferred to the
19 Director of the Federal Housing Finance Agency for
20 such time as is reasonable to facilitate the orderly
21 transfer of functions transferred pursuant to any
22 other provision of this title or any amendment made
23 by this title to any other provision of law.

24 (2) *AGENCY SERVICES.*—Any agency, depart-
25 ment, or other instrumentality of the United States,

1 *and any successor to any such agency, department, or*
2 *instrumentality, which was providing supporting*
3 *services to the Office of Federal Housing Enterprise*
4 *Oversight before the expiration of the period under*
5 *subsection (a) in connection with functions that are*
6 *transferred to the Director of the Federal Housing Fi-*
7 *nance Agency shall—*

8 *(A) continue to provide such services, on a*
9 *reimbursable basis, until the transfer of such*
10 *functions is complete; and*

11 *(B) consult with any such agency to coordi-*
12 *nate and facilitate a prompt and reasonable*
13 *transition.*

14 *(e) SAVINGS PROVISIONS.—*

15 *(1) EXISTING RIGHTS, DUTIES, AND OBLIGA-*
16 *TIONS NOT AFFECTED.—Subsection (a) shall not affect*
17 *the validity of any right, duty, or obligation of the*
18 *United States, the Director of the Office of Federal*
19 *Housing Enterprise Oversight, or any other person,*
20 *which—*

21 *(A) arises under or pursuant to the title*
22 *XIII of the Housing and Community Develop-*
23 *ment Act of 1992, the Federal National Mortgage*
24 *Association Charter Act, the Federal Home Loan*
25 *Mortgage Corporation Act, or any other provi-*

1 (2) *are in effect on the date of the abolishment*
2 *under section 385(a) of this title, shall remain in ef-*
3 *fect according to the terms of such regulations, orders,*
4 *determinations, and resolutions, and shall be enforce-*
5 *able by or against the Director of the Federal Hous-*
6 *ing Finance Agency until modified, terminated, set*
7 *aside, or superseded in accordance with applicable*
8 *law by such Director, as the case may be, any court*
9 *of competent jurisdiction, or operation of law.*

10 **SEC. 387. TRANSFER AND RIGHTS OF EMPLOYEES OF**
11 **OFHEO.**

12 (a) *TRANSFER.—Each employee of the Office of Fed-*
13 *eral Housing Enterprise Oversight shall be transferred to*
14 *the Federal Housing Finance Agency for employment no*
15 *later than the date of the abolishment under section 385(a)*
16 *of this title and such transfer shall be deemed a transfer*
17 *of function for purposes of section 3503 of title 5, United*
18 *States Code.*

19 (b) *GUARANTEED POSITIONS.—Each employee trans-*
20 *ferred under subsection (a) shall be guaranteed a position*
21 *with the same status, tenure, grade, and pay as that held*
22 *on the day immediately preceding the transfer. Each such*
23 *employee holding a permanent position shall not be invol-*
24 *untarily separated or reduced in grade or compensation for*
25 *12 months after the date of transfer, except for cause or,*

1 *if the employee is a temporary employee, separated in ac-*
2 *cordance with the terms of the appointment.*

3 (c) *APPOINTMENT AUTHORITY FOR EXCEPTED SERV-*
4 *ICE EMPLOYEES.—*

5 (1) *IN GENERAL.—In the case of employees occu-*
6 *pying positions in the excepted service, any appoint-*
7 *ment authority established pursuant to law or regula-*
8 *tions of the Office of Personnel Management for filling*
9 *such positions shall be transferred, subject to para-*
10 *graph (2).*

11 (2) *DECLINE OF TRANSFER.—The Director of the*
12 *Federal Housing Finance Agency may decline a*
13 *transfer of authority under paragraph (1) (and the*
14 *employees appointed pursuant thereto) to the extent*
15 *that such authority relates to positions excepted from*
16 *the competitive service because of their confidential,*
17 *policy-making, policy-determining, or policy-advo-*
18 *cating character.*

19 (d) *REORGANIZATION.—If the Director of the Federal*
20 *Housing Finance Agency determines, after the end of the*
21 *1-year period beginning on the date of the abolishment*
22 *under section 385(a), that a reorganization of the combined*
23 *work force is required, that reorganization shall be deemed*
24 *a major reorganization for purposes of affording affected*

1 *employees retirement under section 8336(d)(2) or*
2 *8414(b)(1)(B) of title 5, United States Code.*

3 *(e) EMPLOYEE BENEFIT PROGRAMS.—Any employee*
4 *of the Office of Federal Housing Enterprise Oversight ac-*
5 *cepting employment with the Director of the Federal Hous-*
6 *ing Finance Agency as a result of a transfer under sub-*
7 *section (a) may retain for 12 months after the date such*
8 *transfer occurs membership in any employee benefit pro-*
9 *gram of the Federal Housing Finance Agency or the Office*
10 *of Federal Housing Enterprise Oversight, as applicable, in-*
11 *cluding insurance, to which such employee belongs on the*
12 *date of the abolishment under section 385(a) if—*

13 *(1) the employee does not elect to give up the*
14 *benefit or membership in the program; and*

15 *(2) the benefit or program is continued by the*
16 *Director of the Federal Housing Finance Agency,*

17 *The difference in the costs between the benefits which would*
18 *have been provided by such agency and those provided by*
19 *this section shall be paid by the Director of the Federal*
20 *Housing Finance Agency. If any employee elects to give up*
21 *membership in a health insurance program or the health*
22 *insurance program is not continued by such Director, the*
23 *employee shall be permitted to select an alternate Federal*
24 *health insurance program within 30 days of such election*

1 *or notice, without regard to any other regularly scheduled*
2 *open season.*

3 **SEC. 388. TRANSFER OF PROPERTY AND FACILITIES.**

4 *Upon the abolishment under section 385(a), all prop-*
5 *erty of the Office of Federal Housing Enterprise Oversight*
6 *shall transfer to the Director of the Federal Housing Fi-*
7 *nance Agency.*

8 **CHAPTER 2—FEDERAL HOUSING FINANCE**
9 **BOARD**

10 **SEC. 391. ABOLISHMENT OF THE FEDERAL HOUSING FI-**
11 **NANCE BOARD.**

12 *(a) IN GENERAL.—Effective at the end of the 6-month*
13 *period beginning on the date of enactment of this Act, the*
14 *Federal Housing Finance Board (in this subtitle referred*
15 *to as the “Board”) is abolished.*

16 *(b) DISPOSITION OF AFFAIRS.—During the 6-month*
17 *period beginning on the date of enactment of this Act, the*
18 *Board, for the purpose of winding up the affairs of the*
19 *Board and in addition to carrying out its other responsibil-*
20 *ities under law—*

21 *(1) shall manage the employees of such Board*
22 *and provide for the payment of the compensation and*
23 *benefits of any such employee which accrue before the*
24 *effective date of the transfer of such employee under*
25 *section 393; and*

1 (2) *may take any other action necessary for the*
2 *purpose of winding up the affairs of the Board.*

3 (c) *STATUS OF EMPLOYEES BEFORE TRANSFER.*—*The*
4 *amendments made by subtitles A and B and the abolish-*
5 *ment of the Board under subsection (a) may not be con-*
6 *strued to affect the status of any employee of such Board*
7 *as employees of an agency of the United States for purposes*
8 *of any other provision of law before the effective date of the*
9 *transfer of any such employee under section 393.*

10 (d) *USE OF PROPERTY AND SERVICES.*—

11 (1) *PROPERTY.*—*The Director of the Federal*
12 *Housing Finance Agency may use the property of the*
13 *Board to perform functions which have been trans-*
14 *ferred to the Director of the Federal Housing Finance*
15 *Agency for such time as is reasonable to facilitate the*
16 *orderly transfer of functions transferred under any*
17 *other provision of this title or any amendment made*
18 *by this title to any other provision of law.*

19 (2) *AGENCY SERVICES.*—*Any agency, depart-*
20 *ment, or other instrumentality of the United States,*
21 *and any successor to any such agency, department, or*
22 *instrumentality, which was providing supporting*
23 *services to the Board before the expiration of the pe-*
24 *riod under subsection (a) in connection with func-*

1 *tions that are transferred to the Director of the Fed-*
2 *eral Housing Finance Agency shall—*

3 *(A) continue to provide such services, on a*
4 *reimbursable basis, until the transfer of such*
5 *functions is complete; and*

6 *(B) consult with any such agency to coordi-*
7 *nate and facilitate a prompt and reasonable*
8 *transition.*

9 *(e) SAVINGS PROVISIONS.—*

10 *(1) EXISTING RIGHTS, DUTIES, AND OBLIGA-*
11 *TIONS NOT AFFECTED.—Subsection (a) shall not affect*
12 *the validity of any right, duty, or obligation of the*
13 *United States, a member of the Board, or any other*
14 *person, which—*

15 *(A) arises under the Federal Home Loan*
16 *Bank Act or any other provision of law applica-*
17 *ble with respect to such Board; and*

18 *(B) existed on the day before the effective*
19 *date of the abolishment under subsection (a).*

20 *(2) CONTINUATION OF SUITS.—No action or*
21 *other proceeding commenced by or against the Board*
22 *in connection with functions that are transferred to*
23 *the Director of the Federal Housing Finance Agency*
24 *shall abate by reason of the enactment of this title, ex-*
25 *cept that the Director of the Federal Housing Finance*

1 **SEC. 393. TRANSFER AND RIGHTS OF EMPLOYEES OF THE**
2 **FEDERAL HOUSING FINANCE BOARD.**

3 (a) *TRANSFER.*—Each employee of the Board shall be
4 transferred to the Federal Housing Finance Agency for em-
5 ployment not later than the effective date of the abolishment
6 under section 391(a), and such transfer shall be deemed a
7 transfer of function for purposes of section 3503 of title 5,
8 United States Code.

9 (b) *GUARANTEED POSITIONS.*—Each employee trans-
10 ferred under subsection (a) shall be guaranteed a position
11 with the same status, tenure, grade, and pay as that held
12 on the day immediately preceding the transfer. Each such
13 employee holding a permanent position shall not be invol-
14 untarily separated or reduced in grade or compensation for
15 12 months after the date of transfer, except for cause or,
16 if the employee is a temporary employee, separated in ac-
17 cordance with the terms of the appointment.

18 (c) *APPOINTMENT AUTHORITY FOR EXCEPTED AND*
19 *SENIOR EXECUTIVE SERVICE EMPLOYEES.*—

20 (1) *IN GENERAL.*—In the case of employees occu-
21 pying positions in the excepted service or the Senior
22 Executive Service, any appointment authority estab-
23 lished under law or by regulations of the Office of
24 Personnel Management for filling such positions shall
25 be transferred, subject to paragraph (2).

1 (2) *DECLINE OF TRANSFER.*—*The Director of the*
2 *Federal Housing Finance Agency may decline a*
3 *transfer of authority under paragraph (1) to the ex-*
4 *tent that such authority relates to positions excepted*
5 *from the competitive service because of their confiden-*
6 *tial, policymaking, policy-determining, or policy-ad-*
7 *vocating character, and noncareer positions in the*
8 *Senior Executive Service (within the meaning of sec-*
9 *tion 3132(a)(7) of title 5, United States Code).*

10 (d) *REORGANIZATION.*—*If the Director of the Federal*
11 *Housing Finance Agency determines, after the end of the*
12 *1-year period beginning on the effective date of the abolish-*
13 *ment under section 391(a), that a reorganization of the*
14 *combined workforce is required, that reorganization shall*
15 *be deemed a major reorganization for purposes of affording*
16 *affected employees retirement under section 8336(d)(2) or*
17 *8414(b)(1)(B) of title 5, United States Code.*

18 (e) *EMPLOYEE BENEFIT PROGRAMS.*—

19 (1) *IN GENERAL.*—*Any employee of the Board*
20 *accepting employment with the Federal Housing Fi-*
21 *nance Agency as a result of a transfer under sub-*
22 *section (a) may retain for 12 months after the date*
23 *on which such transfer occurs membership in any em-*
24 *ployee benefit program of the Federal Housing Fi-*
25 *nance Agency or the Board, as applicable, including*

1 *insurance, to which such employee belongs on the ef-*
2 *fective date of the abolishment under section 391(a)*
3 *if—*

4 *(A) the employee does not elect to give up*
5 *the benefit or membership in the program; and*

6 *(B) the benefit or program is continued by*
7 *the Director of the Federal Housing Finance*
8 *Agency.*

9 *(2) COST DIFFERENTIAL.—The difference in the*
10 *costs between the benefits which would have been pro-*
11 *vided by the Board and those provided by this section*
12 *shall be paid by the Director of the Federal Housing*
13 *Finance Agency. If any employee elects to give up*
14 *membership in a health insurance program or the*
15 *health insurance program is not continued by such*
16 *Director, the employee shall be permitted to select an*
17 *alternate Federal health insurance program within 30*
18 *days after such election or notice, without regard to*
19 *any other regularly scheduled open season.*

20 **SEC. 394. TRANSFER OF PROPERTY AND FACILITIES.**

21 *Upon the effective date of the abolishment under sec-*
22 *tion 391(a), all property of the Board shall transfer to the*
23 *Director of the Federal Housing Finance Agency.*

1 **CHAPTER 3—DEPARTMENT OF HOUSING**
2 **AND URBAN DEVELOPMENT**

3 **SEC. 395. TERMINATION OF ENTERPRISE-RELATED FUNC-**
4 **TIONS.**

5 *(a) TERMINATION DATE.—For purposes of this chap-*
6 *ter, the term “termination date” means the date that occurs*
7 *6 months after the date of the enactment of this Act.*

8 *(b) DETERMINATION OF TRANSFERRED FUNCTIONS*
9 *AND EMPLOYEES.—*

10 *(1) IN GENERAL.—Not later than the expiration*
11 *of the 3-month period beginning on the date of the en-*
12 *actment of this Act, the Secretary, in consultation*
13 *with the Director of the Office of Federal Housing*
14 *Enterprise Oversight, shall determine—*

15 *(A) the functions, duties, and activities of*
16 *the Secretary of Housing and Urban Develop-*
17 *ment regarding oversight or regulation of the en-*
18 *terprises under or pursuant to the authorizing*
19 *statutes, title XIII of the Housing and Commu-*
20 *nity Development Act of 1992, and any other*
21 *provisions of law, as in effect before the date of*
22 *the enactment of this Act, but not including any*
23 *such functions, duties, and activities of the Di-*
24 *rector of the Office of Federal Housing Enter-*

1 *prise Oversight of the Department of Housing*
2 *and Urban Development and such Office; and*

3 *(B) the employees of the Department of*
4 *Housing and Urban Development necessary to*
5 *perform such functions, duties, and activities.*

6 *(2) ENTERPRISE-RELATED FUNCTIONS.—For*
7 *purposes of this chapter, the term “enterprise-related*
8 *functions of the Department” means the functions,*
9 *duties, and activities of the Department of Housing*
10 *and Urban Development determined under paragraph*
11 *(1)(A).*

12 *(3) ENTERPRISE-RELATED EMPLOYEES.—For*
13 *purposes of this chapter, the term “enterprise-related*
14 *employees of the Department” means the employees of*
15 *the Department of Housing and Urban Development*
16 *determined under paragraph (1)(B).*

17 *(c) DISPOSITION OF AFFAIRS.—During the 6-month*
18 *period beginning on the date of enactment of this Act, the*
19 *Secretary of Housing and Urban Development (in this sub-*
20 *title referred to as the “Secretary”), for the purpose of wind-*
21 *ing up the affairs of the Secretary regarding the enterprise-*
22 *related functions of the Department of Housing and Urban*
23 *Development (in this subtitle referred to as the “Depart-*
24 *ment”) and in addition to carrying out the Secretary’s*
25 *other responsibilities under law regarding such functions—*

1 (1) *shall manage the enterprise-related employees*
2 *of the Department and provide for the payment of the*
3 *compensation and benefits of any such employee*
4 *which accrue before the effective date of the transfer*
5 *of any such employee under section 397; and*

6 (2) *may take any other action necessary for the*
7 *purpose of winding up the enterprise-related functions*
8 *of the Department.*

9 (d) *STATUS OF EMPLOYEES BEFORE TRANSFER.—The*
10 *amendments made by subtitles A and B and the termi-*
11 *nation of the enterprise-related functions of the Department*
12 *under subsection (b) may not be construed to affect the sta-*
13 *tus of any employee of the Department as employees of an*
14 *agency of the United States for purposes of any other provi-*
15 *sion of law before the effective date of the transfer of any*
16 *such employee under section 397.*

17 (e) *USE OF PROPERTY AND SERVICES.—*

18 (1) *PROPERTY.—The Director of the Federal*
19 *Housing Finance Agency may use the property of the*
20 *Secretary to perform functions which have been trans-*
21 *ferred to the Director of the Federal Housing Finance*
22 *Agency for such time as is reasonable to facilitate the*
23 *orderly transfer of functions transferred under any*
24 *other provision of this title or any amendment made*
25 *by this title to any other provision of law.*

1 (2) *AGENCY SERVICES.*—Any agency, depart-
2 ment, or other instrumentality of the United States,
3 and any successor to any such agency, department, or
4 instrumentality, which was providing supporting
5 services to the Secretary regarding enterprise-related
6 functions of the Department before the termination
7 date under subsection (a) in connection with such
8 functions that are transferred to the Director of the
9 Federal Housing Finance Agency shall—

10 (A) continue to provide such services, on a
11 reimbursable basis, until the transfer of such
12 functions is complete; and

13 (B) consult with any such agency to coordi-
14 nate and facilitate a prompt and reasonable
15 transition.

16 (f) *SAVINGS PROVISIONS.*—

17 (1) *EXISTING RIGHTS, DUTIES, AND OBLIGA-*
18 *TIONS NOT AFFECTED.*—Subsection (a) shall not affect
19 the validity of any right, duty, or obligation of the
20 United States, the Secretary, or any other person,
21 which—

22 (A) arises under the authorizing statutes,
23 title XIII of the Housing and Community Devel-
24 opment Act of 1992, or any other provision of
25 law applicable with respect to the Secretary, in

1 *connection with the enterprise-related functions*
2 *of the Department; and*

3 *(B) existed on the day before the termi-*
4 *nation date under subsection (a).*

5 (2) *CONTINUATION OF SUITS.*—*No action or*
6 *other proceeding commenced by or against the Sec-*
7 *retary in connection with the enterprise-related func-*
8 *tions of the Department shall abate by reason of the*
9 *enactment of this title, except that the Director of the*
10 *Federal Housing Finance Agency shall be substituted*
11 *for the Secretary or any member thereof as a party*
12 *to any such action or proceeding.*

13 **SEC. 396. CONTINUATION AND COORDINATION OF CERTAIN**
14 **REGULATIONS.**

15 (a) *IN GENERAL.*—*All regulations, orders, and deter-*
16 *minations described in subsection (b) shall remain in effect*
17 *according to the terms of such regulations, orders, deter-*
18 *minations, and resolutions, and shall be enforceable by or*
19 *against the Director of the Federal Housing Finance Agen-*
20 *cy until modified, terminated, set aside, or superseded in*
21 *accordance with applicable law by such Director, any court*
22 *of competent jurisdiction, or operation of law.*

23 (b) *APPLICABILITY.*—*A regulation, order, or deter-*
24 *mination is described under this subsection if it—*

1 (1) *was issued, made, prescribed, or allowed to*
2 *become effective by—*

3 (A) *the Secretary; or*

4 (B) *a court of competent jurisdiction and*
5 *that relate to the enterprise-related functions of*
6 *the Department; and*

7 (2) *is in effect on the termination date under*
8 *section 395(a).*

9 **SEC. 397. TRANSFER AND RIGHTS OF EMPLOYEES OF DE-**
10 **PARTMENT OF HOUSING AND URBAN DEVEL-**
11 **OPMENT.**

12 (a) *TRANSFER.—*

13 (1) *IN GENERAL.—Except as provided in para-*
14 *graph (2), each enterprise-related employee of the De-*
15 *partment shall be transferred to the Federal Housing*
16 *Finance Agency for employment not later than the*
17 *termination date under section 395(a) and such*
18 *transfer shall be deemed a transfer of function for*
19 *purposes of section 3503 of title 5, United States*
20 *Code.*

21 (2) *AUTHORITY TO DECLINE.—An enterprise-re-*
22 *lated employee of the Department may, in the discre-*
23 *tion of the employee, decline transfer under para-*
24 *graph (1) to a position in the Federal Housing Fi-*
25 *nance Agency and shall be guaranteed a position in*

1 *the Department with the same status, tenure, grade,*
2 *and pay as that held on the day immediately pre-*
3 *ceding the date that such declination was made. Each*
4 *such employee holding a permanent position shall not*
5 *be involuntarily separated or reduced in grade or*
6 *compensation for 12 months after the date that the*
7 *transfer would otherwise have occurred, except for*
8 *cause or, if the employee is a temporary employee,*
9 *separated in accordance with the terms of the ap-*
10 *pointment.*

11 *(b) GUARANTEED POSITIONS.—Each enterprise-related*
12 *employee of the Department transferred under subsection*
13 *(a) shall be guaranteed a position with the same status,*
14 *tenure, grade, and pay as that held on the day immediately*
15 *preceding the transfer. Each such employee holding a per-*
16 *manent position shall not be involuntarily separated or re-*
17 *duced in grade or compensation for 12 months after the date*
18 *of transfer, except for cause or, if the employee is a tem-*
19 *porary employee, separated in accordance with the terms*
20 *of the appointment.*

21 *(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND*
22 *SENIOR EXECUTIVE SERVICE EMPLOYEES.—*

23 *(1) IN GENERAL.—In the case of employees occu-*
24 *pying positions in the excepted service or the Senior*
25 *Executive Service, any appointment authority estab-*

1 *lished under law or by regulations of the Office of*
2 *Personnel Management for filling such positions shall*
3 *be transferred, subject to paragraph (2).*

4 (2) *DECLINE OF TRANSFER.*—*The Director of the*
5 *Federal Housing Finance Agency may decline a*
6 *transfer of authority under paragraph (1) (and the*
7 *employees appointed pursuant thereto) to the extent*
8 *that such authority relates to positions excepted from*
9 *the competitive service because of their confidential,*
10 *policymaking, policy-determining, or policy-advocating*
11 *character, and noncareer positions in the Senior*
12 *Executive Service (within the meaning of section*
13 *3132(a)(7) of title 5, United States Code).*

14 (d) *REORGANIZATION.*—*If the Director of the Federal*
15 *Housing Finance Agency determines, after the end of the*
16 *1-year period beginning on the termination date under sec-*
17 *tion 395(a), that a reorganization of the combined work-*
18 *force is required, that reorganization shall be deemed a*
19 *major reorganization for purposes of affording affected em-*
20 *ployees retirement under section 8336(d)(2) or*
21 *8414(b)(1)(B) of title 5, United States Code.*

22 (e) *EMPLOYEE BENEFIT PROGRAMS.*—

23 (1) *IN GENERAL.*—*Any enterprise-related em-*
24 *ployee of the Department accepting employment with*
25 *the Federal Housing Finance Agency as a result of a*

1 *transfer under subsection (a) may retain for 12*
2 *months after the date on which such transfer occurs*
3 *membership in any employee benefit program of the*
4 *Federal Housing Finance Agency or the Department,*
5 *as applicable, including insurance, to which such em-*
6 *ployee belongs on the termination date under section*
7 *395(a) if—*

8 *(A) the employee does not elect to give up*
9 *the benefit or membership in the program; and*

10 *(B) the benefit or program is continued by*
11 *the Director of the Federal Housing Finance*
12 *Agency.*

13 *(2) COST DIFFERENTIAL.—The difference in the*
14 *costs between the benefits which would have been pro-*
15 *vided by the Department and those provided by this*
16 *section shall be paid by the Director of the Federal*
17 *Housing Finance Agency. If any employee elects to*
18 *give up membership in a health insurance program*
19 *or the health insurance program is not continued by*
20 *such Director, the employee shall be permitted to se-*
21 *lect an alternate Federal health insurance program*
22 *within 30 days after such election or notice, without*
23 *regard to any other regularly scheduled open season.*

1 **SEC. 398. TRANSFER OF APPROPRIATIONS, PROPERTY, AND**
 2 **FACILITIES.**

3 *Upon the termination date under section 395(a), all*
 4 *assets, liabilities, contracts, property, records, and unex-*
 5 *pendent balances of appropriations, authorizations, alloca-*
 6 *tions, and other funds employed, held, used, arising from,*
 7 *available to, or to be made available to the Department in*
 8 *connection with enterprise-related functions of the Depart-*
 9 *ment shall transfer to the Director of the Federal Housing*
 10 *Finance Agency. Unexpended funds transferred by this sec-*
 11 *tion shall be used only for the purposes for which the funds*
 12 *were originally authorized and appropriated.*

13 **TITLE IV—EMERGENCY MORT-**
 14 **GAGE LOAN MODIFICATION**

15 **SEC. 401. SHORT TITLE.**

16 *This title may be cited as the “Emergency Mortgage*
 17 *Loan Modification Act of 2008”.*

18 **SEC. 402. SAFE HARBOR FOR QUALIFIED LOAN MODIFICA-**
 19 **TIONS OR WORKOUT PLANS FOR CERTAIN**
 20 **RESIDENTIAL MORTGAGE LOANS.**

21 *(a) STANDARD FOR LOAN MODIFICATIONS OR WORK-*
 22 *OUT PLANS.—Absent contractual provisions to the con-*
 23 *trary—*

24 *(1) the duty to maximize, or to not adversely af-*
 25 *fect, the recovery of total proceeds from pooled resi-*
 26 *dential mortgage loans is owed by a servicer of such*

1 *pooled loans to the securitization vehicle for the ben-*
2 *efit of all investors and holders of beneficial interests*
3 *in the pooled loans, in the aggregate, and not to any*
4 *individual party or group of parties; and*

5 *(2) a servicer of pooled residential mortgage*
6 *loans shall be deemed to be acting on behalf of the*
7 *securitization vehicle in the best interest of all inves-*
8 *tors and holders of beneficial interests in the pooled*
9 *loans, in the aggregate, if for a loan that is in pay-*
10 *ment default under the loan agreement or for which*
11 *payment default is imminent or reasonably foresee-*
12 *able, the loan servicer makes or causes to be made rea-*
13 *sonable and documented efforts to implement a modi-*
14 *fication or workout plan or, if such efforts are unsuc-*
15 *cessful or such plan would be infeasible, engages or*
16 *causes to engage in other loss mitigation, including*
17 *accepting a short payment or partial discharge of*
18 *principal, or agreeing to a short sale of the property,*
19 *to the extent that the servicer reasonably believes the*
20 *modification or workout plan or other mitigation ac-*
21 *tions will maximize the net present value to be real-*
22 *ized on the loan over that which would be realized*
23 *through foreclosure.*

24 *(b) SAFE HARBOR.—Absent contractual provisions to*
25 *the contrary, a servicer of a residential mortgage loan that*

1 *acts or causes to act in a manner consistent with the duty*
2 *set forth in subsection (a), shall not be liable for entering*
3 *into a qualified loan modification or workout plan, to—*

4 (1) *any person, based on that person’s ownership*
5 *of a residential mortgage loan or any interest in a*
6 *pool of residential mortgage loans or in securities that*
7 *distribute payments out of the principal, interest and*
8 *other payments in loans on the pool;*

9 (2) *any person who is obligated to make pay-*
10 *ments pursuant to a derivatives instrument deter-*
11 *mined in reference to any interest referred to in para-*
12 *graph (1); or*

13 (3) *any person that insures any loan or any in-*
14 *terest referred to in paragraph (1) under any law or*
15 *regulation of the United States or any law or regula-*
16 *tion of any State or political subdivision of any*
17 *State.*

18 (c) *RULE OF CONSTRUCTION.—No provision of this*
19 *section shall be construed as limiting the ability of a*
20 *servicer to enter into loan modifications or workout plans*
21 *other than qualified loan modification or workout plans.*

22 (d) *DEFINITIONS.—For purposes of this section, the*
23 *following definitions shall apply:*

1 (1) *QUALIFIED LOAN MODIFICATION OR WORK-*
2 *OUT PLAN.*—*The term “qualified loan modification or*
3 *workout plan” means a modification or plan that—*

4 (A) *is scheduled to remain in place until*
5 *the borrower sells or refinances the property, or*
6 *for at least 5 years from the date of adoption of*
7 *the plan, whichever is sooner;*

8 (B) *does not provide for a repayment sched-*
9 *ule that results in an increase in the outstanding*
10 *principal balance of the loan, including by de-*
11 *ferred or unpaid interest, fees, or other charges;*
12 *and*

13 (C) *does not require the borrower to pay ad-*
14 *ditional points and fees.*

15 (2) *RESIDENTIAL MORTGAGE LOAN DEFINED.*—
16 *The term “residential mortgage loan” means a loan*
17 *that is secured by a lien on an owner-occupied resi-*
18 *dential dwelling.*

19 (3) *SECURITIZATION VEHICLE.*—*The term*
20 *“securitization vehicle” means a trust, corporation,*
21 *partnership, limited liability entity, special purpose*
22 *entity, or other structure that—*

23 (A) *is the issuer, or is created by the issuer,*
24 *of mortgage pass-through certificates, participa-*
25 *tion certificates, mortgage-backed securities, or*

1 *other similar securities backed by a pool of assets*
2 *that includes residential mortgage loans; and*

3 *(B) holds such loans.*

4 *(e) EFFECTIVE PERIOD.—This section shall apply only*
5 *with respect to qualified loan modification or workout plans*
6 *initiated prior to January 1, 2011.*

7 **TITLE V—OTHER HOUSING**
8 **PROVISIONS**

9 **SEC. 501. DEPOSITORY INSTITUTION COMMUNITY DEVELOPMENT INVESTMENTS ENHANCEMENT.**
10

11 *(a) TECHNICAL CORRECTIONS.—*

12 *(1) NATIONAL BANKS.—The first sentence of the*
13 *paragraph designated as the “Eleventh” of section*
14 *5136 of the Revised Statutes of the United States (12*
15 *U.S.C. 24) (as amended by section 305(a) of the Fi-*
16 *nancial Services Regulatory Relief Act of 2006) is*
17 *amended by striking “promotes the public welfare by*
18 *benefitting primarily” and inserting “is designed pri-*
19 *marily to promote the public welfare, including the*
20 *welfare of”.*

21 *(2) STATE MEMBER BANKS.—The first sentence*
22 *of the 23rd undesignated paragraph of section 9 of the*
23 *Federal Reserve Act (12 U.S.C. 338a) (as amended by*
24 *section 305(b) of the Financial Services Regulatory*
25 *Relief Act of 2006) is amended by striking “promotes*

1 *the public welfare by benefitting primarily” and in-*
2 *serting “is designed primarily to promote the public*
3 *welfare, including the welfare of”.*

4 ***(b) INVESTMENTS BY FEDERAL SAVINGS ASSOCIA-***
5 ***TIONS AUTHORIZED TO PROMOTE THE PUBLIC WEL-***
6 ***FARE.—***

7 ***(1) IN GENERAL.—****Section 5(c)(3) of the Home*
8 ***Owners’ Loan Act (12 U.S.C. 1464(c)) is amended by***
9 ***adding at the end the following new subparagraph:***

10 ***“(D) DIRECT INVESTMENTS TO PROMOTE***
11 ***THE PUBLIC WELFARE.—***

12 ***“(i) IN GENERAL.—****A Federal savings*
13 *association may make investments, directly*
14 *or indirectly, each of which is designed pri-*
15 *marily to promote the public welfare, in-*
16 *cluding the welfare of low- and moderate-in-*
17 *come communities or families through the*
18 *provision of housing, services, and jobs.*

19 ***“(ii) DIRECT INVESTMENTS OR ACQUI-***
20 ***SITION OF INTEREST IN OTHER COMPA-***
21 ***NIES.—****Investments under clause (i) may be*
22 *made directly or by purchasing interests in*
23 *an entity primarily engaged in making*
24 *such investments.*

1 “(iii) *PROHIBITION ON UNLIMITED LI-*
2 *ABILITY.—No investment may be made*
3 *under this subparagraph which would sub-*
4 *ject a Federal savings association to unlim-*
5 *ited liability to any person.*

6 “(iv) *SINGLE INVESTMENT LIMITATION*
7 *TO BE ESTABLISHED BY DIRECTOR.—Sub-*
8 *ject to clauses (v) and (vi), the Director*
9 *shall establish, by order or regulation, lim-*
10 *its on—*

11 “(I) *the amount any savings asso-*
12 *ciation may invest in any 1 project;*
13 *and*

14 “(II) *the aggregate amount of in-*
15 *vestment of any savings association*
16 *under this subparagraph.*

17 “(v) *FLEXIBLE AGGREGATE INVEST-*
18 *MENT LIMITATION.—The aggregate amount*
19 *of investments of any savings association*
20 *under this subparagraph may not exceed an*
21 *amount equal to the sum of 5 percent of the*
22 *savings association’s capital stock actually*
23 *paid in and unimpaired and 5 percent of*
24 *the savings association’s unimpaired sur-*
25 *plus, unless—*

1 “(I) the Director determines that
2 the savings association is adequately
3 capitalized; and

4 “(II) the Director determines, by
5 order, that the aggregate amount of in-
6 vestments in a higher amount than the
7 limit under this clause will pose no
8 significant risk to the affected deposit
9 insurance fund.

10 “(vi) *MAXIMUM AGGREGATE INVEST-*
11 *MENT LIMITATION.*—Notwithstanding clause
12 (v), the aggregate amount of investments of
13 any savings association under this subpara-
14 graph may not exceed an amount equal to
15 the sum of 15 percent of the savings associa-
16 tion’s capital stock actually paid in and
17 unimpaired and 15 percent of the savings
18 association’s unimpaired surplus.

19 “(vii) *INVESTMENTS NOT SUBJECT TO*
20 *OTHER LIMITATION ON QUALITY OF INVEST-*
21 *MENTS.*—No obligation a Federal savings
22 association acquires or retains under this
23 subparagraph shall be taken into account
24 for purposes of the limitation contained in
25 section 28(d) of the Federal Deposit Insur-

1 *ance Act on the acquisition and retention of*
 2 *any corporate debt security not of invest-*
 3 *ment grade.*

4 “(viii) *APPLICABILITY OF STANDARDS*
 5 *TO EACH INVESTMENT.—The standards and*
 6 *limitations of this subparagraph shall*
 7 *apply to each investment under this sub-*
 8 *paragraph made by a savings association*
 9 *directly and by its subsidiaries.”.*

10 (2) *TECHNICAL AND CONFORMING AMEND-*
 11 *MENTS.—Section 5(c)(3)(A) of the Home Owners’*
 12 *Loan Act (12 U.S.C. 1464(c)(3)(A)) is amended to*
 13 *read as follows:*

14 “(A) **【Repealed】**”.

15 **SEC. 502. PRESERVATION OF CERTAIN AFFORDABLE HOUS-**
 16 **ING DWELLING UNITS.**

17 (a) *CONVERSION OF HUD CONTRACTS.—Notwith-*
 18 *standing any other provision of law, the Secretary of Hous-*
 19 *ing and Urban Development may, at the request of the*
 20 *owner of the multifamily housing project to which Section*
 21 *8 Project Number NY 913 VO 0018 and RAP Contract*
 22 *Number 012035NIRAP are subject, convert such contracts*
 23 *to a contract for project-based rental assistance under sec-*
 24 *tion 8 of the United States Housing Act of 1937 (42 U.S.C.*
 25 *1437f).*

1 (b) *INITIAL RENEWAL.*—

2 (1) *ELIGIBILITY.*—*At the request of the owner*
3 *made no later than 90 days prior to a conversion, the*
4 *Secretary may, to the extent sufficient amounts are*
5 *made available in appropriation Acts and notwith-*
6 *standing any other law, treat the contemplated result-*
7 *ing contract as if such contract were eligible for ini-*
8 *tial renewal under section 524(a) of the Multifamily*
9 *Assisted Housing Reform and Affordability Act of*
10 *1997 (42 U.S.C. 1437f note).*

11 (2) *REQUEST.*—*A request by the owner pursuant*
12 *to paragraph (1) shall be upon such terms and condi-*
13 *tions as the Secretary may require.*

14 (c) *RESULTING CONTRACT.*—*The resulting contract*
15 *shall—*

16 (1) *be subject to section 524(a) of MAHRA (42*
17 *U.S.C. 1437f note);*

18 (2) *be considered for all purposes a contract that*
19 *has been renewed under section 524(a) of MAHRA*
20 *(42 U.S.C. 1437f note) for a term not to exceed 20*
21 *years;*

22 (3) *be subsequently renewable at the request of*
23 *the owner, under any renewal option for which the*
24 *project is eligible under MAHRA (42 U.S.C. 1437f*
25 *note);*

1 (4) contain provisions limiting distributions, as
2 the Secretary determines appropriate, not to exceed
3 10 percent of the initial investment of the owner;

4 (5) be subject to the availability of sufficient
5 amounts in appropriation Acts; and

6 (6) be subject to such other terms and conditions
7 as the Secretary considers appropriate.

8 (d) *INCOME TARGETING.*—The owner shall be deemed
9 to be in compliance with all income-targeting requirements
10 under the United States Housing Act of 1937 by serving
11 low-income families, as such term is defined in the section
12 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2)).

13 (e) *TENANT ELIGIBILITY.*—Notwithstanding any other
14 provision of law, each family residing in an assisted dwell-
15 ing unit on the date of the conversion under this section,
16 subject to the resulting contract under subsection (a), shall
17 be considered to meet the applicable requirements for in-
18 come eligibility and occupancy.

19 (f) *DEFINITIONS.*—As used in this section—

20 (1) the term “assisted dwelling unit” means the
21 dwelling units that, on the date of the conversion
22 under this section, were subject to Section 8 Project
23 Number NY 913 VO 0018 or RAP Contract Number
24 012035NIRAP;

1 (2) *the term “conversion” means the action*
2 *under which Section 8 Project Number NY 913 VO*
3 *0018 and RAP Contract Number 012035NIRAP be-*
4 *come a contract for project-based rental assistance*
5 *under section 8 of the United States Housing Act of*
6 *1937 (42 U.S.C. 1437f) pursuant to subsection (a);*

7 (3) *the term “MAHRA” means the Multifamily*
8 *Assisted Housing Reform and Affordability Act of*
9 *1997 (42 U.S.C. 1437f note);*

10 (4) *the term “owner” means Starrett City Asso-*
11 *ciates or any successor owner of the multifamily hous-*
12 *ing project to which Section 8 Project Number NY*
13 *913 VO 0018 and RAP Contract Number*
14 *012035NIRAP are subject;*

15 (5) *the term “resulting contract” means the new*
16 *contract after a conversion of Section 8 Project Num-*
17 *ber NY 913 VO 0018 and RAP Contract Number*
18 *012035NIRAP to a contract for project-based rental*
19 *assistance under section 8 of the United States Hous-*
20 *ing Act of 1937 (42 U.S.C. 1437f) pursuant to sub-*
21 *section (a); and*

22 (6) *the term “Secretary” means the Secretary of*
23 *Housing and Urban Development.*

1 **SEC. 503. ELIGIBILITY OF CERTAIN PROJECTS FOR EN-**
2 **HANCED VOUCHER ASSISTANCE.**

3 *Notwithstanding any other provision of law—*

4 *(1) the property known as The Heritage Apart-*
5 *ments (FHA No. 023-44804), in Malden, Massachu-*
6 *setts, shall be considered eligible low-income housing*
7 *for purposes of the eligibility of residents of the prop-*
8 *erty for enhanced voucher assistance under section*
9 *8(t) of the United States Housing Act of 1937 (42*
10 *U.S.C. 1437f(t)), pursuant to paragraph (2)(A) of*
11 *section 223(f) of the Low-Income Housing Preserva-*
12 *tion and Resident Homeownership Act of 1990 (12*
13 *U.S.C. 4113(f)(2)(A));*

14 *(2) such residents shall receive enhanced rental*
15 *housing vouchers upon the prepayment of the mort-*
16 *gage loan for the property under section 236 of the*
17 *National Housing Act (12 U.S.C. 1715z-1); and*

18 *(3) the Secretary shall approve such prepayment*
19 *and subsequent transfer of the property without any*
20 *further condition, except that the property shall be re-*
21 *stricted for occupancy, until the original maturity*
22 *date of the prepaid mortgage loan, only by families*
23 *with incomes not exceeding 80 percent of the adjusted*
24 *median income for the area in which the property is*
25 *located, as published by the Secretary.*

1 *Amounts for the enhanced vouchers pursuant to this section*
2 *shall be provided under amounts appropriated for tenant-*
3 *based rental assistance otherwise authorized under section*
4 *8(t) of the United States Housing Act of 1937.*

5 **SEC. 504. TRANSFER OF CERTAIN RENTAL ASSISTANCE**
6 **CONTRACTS.**

7 *(a) TRANSFER.—Subject to subsection (c) and notwith-*
8 *standing any other provision of law, the Secretary of Hous-*
9 *ing and Urban Development shall, at the request of the*
10 *owner, transfer or authorize the transfer, of the contracts,*
11 *restrictions, and debt described in subsection (b)—*

12 *(1) on the housing that is owned or managed by*
13 *Community Properties of Ohio Management Services*
14 *LLC or an affiliate of Ohio Capital Corporation for*
15 *Housing and located in Franklin County, Ohio, to*
16 *other properties located in Franklin County, Ohio;*
17 *and*

18 *(2) on the housing that is owned or managed by*
19 *The Model Group, Inc., and located in Hamilton*
20 *County, Ohio, to other properties located in Hamilton*
21 *County, Ohio.*

22 *(b) CONTRACTS, RESTRICTIONS, AND DEBT COV-*
23 *ERED.—The contracts, restrictions, and debt described in*
24 *this subsection are as follows:*

1 (1) *All or a portion of a project-based rental as-*
2 *stance housing assistance payments contract under*
3 *section 8 of the United States Housing Act of 1937*
4 *(42 U.S.C. 1437f).*

5 (2) *Existing Federal use restrictions, including*
6 *without limitation use agreements, regulatory agree-*
7 *ments, and accommodation agreements.*

8 (3) *Any subordinate debt held by the Secretary*
9 *or assigned and any mortgages securing such debt, all*
10 *related loan and security documentation and obliga-*
11 *tions, and reserve and escrow balances.*

12 (c) *RETENTION OF SAME NUMBER OF UNITS AND*
13 *AMOUNT OF ASSISTANCE.—Any transfer pursuant to sub-*
14 *section (a) shall result in—*

15 (1) *a total number of dwelling units (including*
16 *units retained by the owners and units transferred)*
17 *covered by assistance described in subsection (b)(1)*
18 *after the transfer remaining the same as such number*
19 *assisted before the transfer, with such increases or de-*
20 *creases in unit sizes as may be contained in a plan*
21 *approved by a local planning or development commis-*
22 *sion or department; and*

23 (2) *no reduction in the total amount of the hous-*
24 *ing assistance payments under contracts described in*
25 *subsection (b)(1).*

1 **SEC. 505. PROTECTION AGAINST DISCRIMINATORY TREAT-**
2 **MENT.**

3 *Section 525 of title 11, the United States Code, is*
4 *amended by adding at the end the following:*

5 *“(d) A governmental unit that operates a mortgage*
6 *loan program, including a loan guarantee or subsidy pro-*
7 *gram, may not deny the benefits of such program to a dis-*
8 *abled veteran (as defined in section 3741(1) of title 38) be-*
9 *cause he or she is or has been a debtor under this title,*
10 *has been insolvent before the commencement of a case under*
11 *this title or during the pendency of the case but before being*
12 *granted or denied a discharge, or has not paid a debt that*
13 *is dischargeable in the case under this title.”.*

In the matter proposed to be inserted by the amend-
ment of the Senate to the text of the bill, strike titles
VII, IX, and XI.

(2) In the matter proposed to be inserted by the Senate
amendment to the text of the bill, strike titles VI (relat-
ing to tax-related provisions), VIII (relating to REIT in-
vestment diversification and empowerment), and X (relat-
ing to clean energy tax stimulus) and add at the end the
following new title (and conform the table of contents ac-
cordingly):

1 **TITLE VI—REVENUE AND OTHER**
 2 **PROVISIONS**

3 **SEC. 600. AMENDMENT OF 1986 CODE.**

4 *Except as otherwise expressly provided, whenever in*
 5 *this title an amendment or repeal is expressed in terms of*
 6 *an amendment to, or repeal of, a section or other provision,*
 7 *the reference shall be considered to be made to a section or*
 8 *other provision of the Internal Revenue Code of 1986.*

9 **Subtitle A—Housing Tax Incentives**

10 **PART 1—MULTI-FAMILY HOUSING**

11 **Subpart A—Low-Income Housing Tax Credit**

12 **SEC. 601. TEMPORARY INCREASE IN VOLUME CAP FOR LOW-**
 13 **INCOME HOUSING TAX CREDIT.**

14 *Paragraph (3) of section 42(h) is amended by adding*
 15 *at the end the following new subparagraph:*

16 *“(I) INCREASE IN STATE HOUSING CREDIT*
 17 *CEILING FOR 2008 AND 2009.—In the case of cal-*
 18 *endar years 2008 and 2009, the dollar amount*
 19 *in effect under subparagraph (C)(ii)(I) for such*
 20 *calendar year (after any increase under subpara-*
 21 *graph (H)) shall be increased by \$0.20.”.*

22 **SEC. 602. DETERMINATION OF CREDIT RATE.**

23 *(a) ELIMINATION OF DISTINCTION BETWEEN NEW AND*
 24 *EXISTING BUILDINGS; MINIMUM CREDIT RATE FOR NON-*
 25 *FEDERALLY SUBSIDIZED BUILDINGS.—*

1 (1) *IN GENERAL.*—Subsection (b) section 42 is
2 amended to read as follows:

3 “(b) *APPLICABLE PERCENTAGE.*—For purposes of this
4 section—

5 “(1) *IN GENERAL.*—The term ‘applicable per-
6 centage’ means, with respect to any building, the ap-
7 propriate percentage prescribed by the Secretary for
8 the earlier of—

9 “(A) the month in which such building is
10 placed in service, or

11 “(B) at the election of the taxpayer—

12 “(i) the month in which the taxpayer
13 and the housing credit agency enter into an
14 agreement with respect to such building
15 (which is binding on such agency, the tax-
16 payer, and all successors in interest) as to
17 the housing credit dollar amount to be allo-
18 cated to such building, or

19 “(ii) in the case of any building to
20 which subsection (h)(4)(B) applies, the
21 month in which the tax-exempt obligations
22 are issued.

23 A month may be elected under clause (ii) only if the
24 election is made not later than the 5th day after the

1 *close of such month. Such an election, once made,*
2 *shall be irrevocable.*

3 “(2) *METHOD OF PRESCRIBING PERCENTAGES.—*

4 “(A) *IN GENERAL.—For purposes of para-*
5 *graph (1), the percentages prescribed by the Sec-*
6 *retary for any month shall be—*

7 “(i) *in the case of any building which*
8 *is not federally subsidized for the taxable*
9 *year, the greater of—*

10 “(I) *the average percentage deter-*
11 *mined under subclause (II) for months*
12 *in the preceding calendar year, or*

13 “(II) *the percentage which will*
14 *yield over a 10-year period amounts of*
15 *credit under subsection (a) which have*
16 *a present value equal to 70 percent of*
17 *the qualified basis of such building,*
18 *and*

19 “(ii) *in the case of any other building,*
20 *the percentage which will yield over a 10-*
21 *year period amounts of credit under sub-*
22 *section (a) which have a present value equal*
23 *to 30 percent of the qualified basis of such*
24 *building.*

1 “(B) *METHOD OF DISCOUNTING.*—*The*
2 *present value under subparagraph (A) shall be*
3 *determined—*

4 “(i) *as of the last day of the 1st year*
5 *of the 10-year period referred to in subpara-*
6 *graph (A),*

7 “(ii) *by using a discount rate equal to*
8 *72 percent of the average of the annual Fed-*
9 *eral mid-term rate and the annual Federal*
10 *long-term rate applicable under section*
11 *1274(d)(1) to the month applicable under*
12 *subparagraph (A) and compounded annu-*
13 *ally, and*

14 “(iii) *by assuming that the credit al-*
15 *lowable under this section for any year is*
16 *received on the last day of such year.*

17 “(3) *CROSS REFERENCES.*—

18 “(A) *For treatment of certain rehabilitation*
19 *expenditures as separate buildings, see subsection*
20 *(e).*

21 “(B) *For determination of applicable per-*
22 *centage for increases in qualified basis after the*
23 *1st year of the credit period, see subsection (f)(3).*

24 “(C) *For authority of housing credit agency*
25 *to limit applicable percentage and qualified*

1 *basis which may be taken into account under*
2 *this section with respect to any building, see sub-*
3 *section (h)(7).”.*

4 (2) *CONFORMING AMENDMENTS.—*

5 (A) *Subparagraph (B) of section 42(e)(3) is*
6 *amended by striking “subsection (b)(2)(B)(ii)”*
7 *and inserting “subsection (b)(2)(A)(ii)”.*

8 (B) *Subparagraph (A) of section 42(i)(2) is*
9 *amended by striking “new building” and insert-*
10 *ing “building”.*

11 (b) *MODIFICATIONS TO DEFINITION OF FEDERALLY*
12 *SUBSIDIZED BUILDING.—*

13 (1) *IN GENERAL.—Subparagraph (A) of section*
14 *42(i)(2) is amended by striking “, or any below mar-*
15 *ket Federal loan,”.*

16 (2) *CONFORMING AMENDMENTS.—*

17 (A) *Subparagraph (B) of section 42(i)(2) is*
18 *amended—*

19 (i) *by striking “BALANCE OF LOAN OR”*
20 *in the heading thereof,*

21 (ii) *by striking “loan or” in the matter*
22 *preceding clause (i), and*

23 (iii) *by striking “subsection (d)—”*
24 *and all that follows and inserting “sub-*
25 *section (d) the proceeds of such obligation.”.*

1 (B) Subparagraph (C) of section 42(i)(2) is
2 amended—

3 (i) by striking “or below market Fed-
4 eral loan” in the matter preceding clause
5 (i),

6 (ii) in clause (i)—

7 (I) by striking “or loan (when
8 issued or made)” and inserting “(when
9 issued)”, and

10 (II) by striking “the proceeds of
11 such obligation or loan” and inserting
12 “the proceeds of such obligation”, and
13 (iii) by striking “, and such loan is re-
14 paid,” in clause (ii).

15 (C) Paragraph (2) of section 42(i) is
16 amended by striking subparagraphs (D) and
17 (E).

18 (c) *EFFECTIVE DATE.*—The amendments made by this
19 subsection shall apply to buildings placed in service after
20 the date of the enactment of this Act.

21 **SEC. 603. MODIFICATIONS TO DEFINITION OF ELIGIBLE**
22 **BASIS.**

23 (a) *INCREASE IN CREDIT FOR CERTAIN STATE DES-*
24 *IGNATED BUILDINGS.*—Subparagraph (C) of section
25 42(d)(5) (relating to increase in credit for buildings in high

1 *cost areas), before redesignation under subsection (f), is*
 2 *amended by adding at the end the following new clause:*

3 “(v) *BUILDINGS DESIGNATED BY*
 4 *STATE HOUSING CREDIT AGENCY.—Any*
 5 *building which is designated by the State*
 6 *housing credit agency as requiring the in-*
 7 *crease in credit under this subparagraph in*
 8 *order for such building to be financially fea-*
 9 *sible as part of a qualified low-income hous-*
 10 *ing project shall be treated for purposes of*
 11 *this subparagraph as located in a difficult*
 12 *development area which is designated for*
 13 *purposes of this subparagraph. The pre-*
 14 *ceding sentence shall not apply to any*
 15 *building if paragraph (1) of subsection (h)*
 16 *does not apply to any portion of the eligible*
 17 *basis of such building by reason of para-*
 18 *graph (4) of such subsection.”.*

19 (b) *MODIFICATION TO REHABILITATION REQUIRE-*
 20 *MENTS.—*

21 (1) *IN GENERAL.—Clause (ii) of section*
 22 *42(e)(3)(A) is amended—*

23 (A) *by striking “10 percent” in subclause*
 24 (I) *and inserting “20 percent”, and*

1 (B) by striking “\$3,000” in subclause (II)
2 and inserting “\$6,000”.

3 (2) *INFLATION ADJUSTMENT.*—Paragraph (3) of
4 section 42(e) is amended by adding at the end the fol-
5 lowing new subparagraph:

6 “(D) *INFLATION ADJUSTMENT.*—In the case
7 of any expenditures which are treated under
8 paragraph (4) as placed in service during any
9 calendar year after 2009, the \$6,000 amount in
10 subparagraph (A)(ii)(II) shall be increased by
11 an amount equal to—

12 “(i) such dollar amount, multiplied by
13 “(ii) the cost-of-living adjustment de-
14 termined under section 1(f)(3) for such cal-
15 endar year by substituting ‘calendar year
16 2008’ for ‘calendar year 1992’ in subpara-
17 graph (B) thereof.

18 Any increase under the preceding sentence which
19 is not a multiple of \$100 shall be rounded to the
20 nearest multiple of \$100.”.

21 (3) *CONFORMING AMENDMENT.*—Subclause (II)
22 of section 42(f)(5)(B)(ii) is amended by striking “if
23 subsection (e)(3)(A)(ii)(II)” and all that follows and
24 inserting “if the dollar amount in effect under sub-

1 *section (e)(3)(A)(ii)(II) were two-thirds of such*
 2 *amount.”.*

3 *(c) INCREASE IN ALLOWABLE COMMUNITY SERVICE*
 4 *FACILITY SPACE FOR SMALL PROJECTS.—Clause (ii) of sec-*
 5 *tion 42(d)(4)(C) (relating to limitation) is amended by*
 6 *striking “10 percent of the eligible basis of the qualified low-*
 7 *income housing project of which it is a part. For purposes*
 8 *of” and inserting “the sum of—*

9 *“(I) 15 percent of so much of the*
 10 *eligible basis of the qualified low-in-*
 11 *come housing project of which it is a*
 12 *part as does not exceed \$5,000,000,*
 13 *plus*

14 *“(II) 10 percent of so much of the*
 15 *eligible basis of such project as is not*
 16 *taken into account under subclause (I).*

17 *For purposes of”.*

18 *(d) CLARIFICATION OF TREATMENT OF FEDERAL*
 19 *GRANTS.—Subparagraph (A) of section 42(d)(5) is amend-*
 20 *ed to read as follows:*

21 *“(A) FEDERAL GRANTS NOT TAKEN INTO*
 22 *ACCOUNT IN DETERMINING ELIGIBLE BASIS.—*
 23 *The eligible basis of a building shall not include*
 24 *any costs financed with the proceeds of a Feder-*
 25 *ally funded grant.”.*

1 (e) *SIMPLIFICATION OF RELATED PARTY RULES.*—
2 Clause (iii) of section 42(d)(2)(D), before redesignation
3 under subsection (f)(2), is amended—

4 (1) by striking all that precedes subclause (II),
5 (2) by redesignating subclause (II) as clause (iii)
6 and moving such clause two ems to the left, and
7 (3) by striking the last sentence thereof.

8 (f) *REPEAL OF DEADWOOD.*—

9 (1) Clause (ii) of section 42(d)(2)(B) is amended
10 by striking “the later of—” and all that follows and
11 inserting “the date the building was last placed in
12 service,”.

13 (2) Subparagraph (D) of section 42(d)(2) is
14 amended by striking clause (i) and by redesignating
15 clauses (ii) and (iii) as clauses (i) and (ii), respec-
16 tively.

17 (3) Paragraph (5) of section 42(d) is amended
18 by striking subparagraph (B) and by redesignating
19 subparagraph (C) as subparagraph (B).

20 (g) *EFFECTIVE DATE.*—The amendments made by this
21 subsection shall apply to buildings placed in service after
22 the date of the enactment of this Act.

1 **SEC. 604. OTHER SIMPLIFICATION AND REFORM OF LOW-IN-**
2 **COME HOUSING TAX INCENTIVES.**

3 (a) *REPEAL PROHIBITION ON MODERATE REHABILI-*
4 *TATION ASSISTANCE.*—Paragraph (2) of section 42(c) (de-
5 *fining qualified low-income building) is amended by strik-*
6 *ing the flush sentence at the end.*

7 (b) *MODIFICATION OF TIME LIMIT FOR INCURRING 10*
8 *PERCENT OF PROJECT'S COST.*—Clause (ii) of section
9 42(h)(1)(E) is amended by striking “(as of the later of the
10 date which is 6 months after the date that the allocation
11 was made or the close of the calendar year in which the
12 allocation is made)” and inserting “(as of the date which
13 is 1 year after the date that the allocation was made)”.

14 (c) *REPEAL OF BONDING REQUIREMENT ON DISPOSI-*
15 *TION OF BUILDING.*—Paragraph (6) of section 42(j) (relat-
16 *ing to no recapture on disposition of building (or interest*
17 *therein) where bond posted) is amended to read as follows:*

18 “(6) *NO RECAPTURE ON DISPOSITION OF BUILD-*
19 *ING WHICH CONTINUES IN QUALIFIED USE.*—

20 “(A) *IN GENERAL.*—The increase in tax
21 under this subsection shall not apply solely by
22 reason of the disposition of a building (or an in-
23 terest therein) if it is reasonably expected that
24 such building will continue to be operated as a
25 qualified low-income building for the remaining
26 compliance period with respect to such building.

1 “(B) *STATUTE OF LIMITATIONS.*—If a
2 *building (or an interest therein) is disposed of*
3 *during any taxable year and there is any reduc-*
4 *tion in the qualified basis of such building which*
5 *results in an increase in tax under this sub-*
6 *section for such taxable or any subsequent tax-*
7 *able year, then—*

8 “(i) *the statutory period for the assess-*
9 *ment of any deficiency with respect to such*
10 *increase in tax shall not expire before the*
11 *expiration of 3 years from the date the Sec-*
12 *retary is notified by the taxpayer (in such*
13 *manner as the Secretary may prescribe) of*
14 *such reduction in qualified basis, and*

15 “(ii) *such deficiency may be assessed*
16 *before the expiration of such 3-year period*
17 *notwithstanding the provisions of any other*
18 *law or rule of law which would otherwise*
19 *prevent such assessment.”.*

20 (d) *ENERGY EFFICIENCY AND HISTORIC NATURE*
21 *TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.*—Sub-
22 *paragraph (C) of section 42(m)(1) (relating to plans for*
23 *allocation of credit among projects) is amended by striking*
24 *“and” at the end of clause (vii), by striking the period at*

1 *the end of clause (viii) and inserting a comma, and by add-*
2 *ing at the end the following new clauses:*

3 “(ix) *the energy efficiency of the*
4 *project, and*

5 “(x) *the historic nature of the project.*”.

6 (e) *CONTINUED ELIGIBILITY FOR STUDENTS WHO RE-*
7 *CEIVED FOSTER CARE ASSISTANCE.*—*Clause (i) of section*
8 *42(i)(3)(D) is amended by striking “or” at the end of sub-*
9 *clause (I), by redesignating subclause (II) as subclause*
10 *(III), and by inserting after subclause (I) the following new*
11 *subclause:*

12 “(II) *a student who was pre-*
13 *viously under the care and placement*
14 *responsibility of the State agency re-*
15 *sponsible for administering a plan*
16 *under part B or part E of title IV of*
17 *the Social Security Act, or*”.

18 (f) *TREATMENT OF RURAL PROJECTS.*—*Section 42(i)*
19 *(relating to definitions and special rules) is amended by*
20 *adding at the end the following new paragraph:*

21 “(8) *TREATMENT OF RURAL PROJECTS.*—*For*
22 *purposes of this section, in the case of any project for*
23 *residential rental property located in a rural area (as*
24 *defined in section 520 of the Housing Act of 1949),*
25 *any income limitation measured by reference to area*

1 *median gross income shall be measured by reference*
2 *to the greater of area median gross income or na-*
3 *tional non-metropolitan median income. The pre-*
4 *ceding sentence shall not apply with respect to any*
5 *building if paragraph (1) of section 42(h) does not*
6 *apply by reason of paragraph (4) thereof to any por-*
7 *tion of the credit determined under this section with*
8 *respect to such building.”.*

9 *(g) EFFECTIVE DATE.—*

10 *(1) IN GENERAL.—Except as otherwise provided*
11 *in this subsection, the amendments made by this sec-*
12 *tion shall apply to buildings placed in service after*
13 *the date of the enactment of this Act.*

14 *(2) REPEAL OF BONDING REQUIREMENT ON DIS-*
15 *POSITION OF BUILDING.—The amendment made by*
16 *subsection (c) shall apply to—*

17 *(A) interests in buildings disposed after the*
18 *date of the enactment of this Act, and*

19 *(B) interests in buildings disposed of on or*
20 *before such date if—*

21 *(i) it is reasonably expected that such*
22 *building will continue to be operated as a*
23 *qualified low-income building (within the*
24 *meaning of section 42 of the Internal Rev-*
25 *enue Code of 1986) for the remaining com-*

1 *pliance period (within the meaning of such*
2 *section) with respect to such building, and*
3 *(ii) the taxpayer elects the application*
4 *of this subparagraph with respect to such*
5 *disposition.*

6 *Notwithstanding the preceding sentence, the amend-*
7 *ments made by subsection (c) shall not apply to any*
8 *disposition after the date 5 years after the date of the*
9 *enactment of this Act.*

10 *(3) ENERGY EFFICIENCY AND HISTORIC NATURE*
11 *TAKEN INTO ACCOUNT IN MAKING ALLOCATIONS.—The*
12 *amendments made by subsection (d) shall apply to al-*
13 *locations made after December 31, 2008.*

14 *(4) CONTINUED ELIGIBILITY FOR STUDENTS WHO*
15 *RECEIVED FOSTER CARE ASSISTANCE.—The amend-*
16 *ments made by subsection (e) shall apply to deter-*
17 *minations made after the date of the enactment of this*
18 *Act.*

19 *(5) TREATMENT OF RURAL PROJECTS.—The*
20 *amendment made by subsection (f) shall apply to de-*
21 *terminations made after the date of the enactment of*
22 *this Act.*

1 **Subpart B—Modifications to Tax-Exempt Housing**
2 **Bond Rules**

3 **SEC. 606. RECYCLING OF TAX-EXEMPT DEBT FOR FINANC-**
4 **ING RESIDENTIAL RENTAL PROJECTS.**

5 (a) *IN GENERAL.*—Subsection (i) of section 146 (relat-
6 ing to treatment of refunding issues) is amended by adding
7 at the end the following new paragraph:

8 “(6) *TREATMENT OF CERTAIN RESIDENTIAL*
9 *RENTAL PROJECT BONDS AS REFUNDING BONDS IRRE-*
10 *SPECTIVE OF OBLIGOR.*—

11 “(A) *IN GENERAL.*—If, during the 6-month
12 period beginning on the date of a repayment of
13 a loan financed by an issue 95 percent or more
14 of the net proceeds of which are used to provide
15 projects described in section 142(d), such repay-
16 ment is used to provide a new loan for any
17 project so described, any bond which is issued to
18 refinance such issue shall be treated as a refund-
19 ing issue to the extent the principal amount of
20 such refunding issue does not exceed the prin-
21 cipal amount of the bonds refunded.

22 “(B) *LIMITATIONS.*—Subparagraph (A)
23 shall apply to only one refunding of the original
24 issue and only if—

1 “(C) *EXCEPTION FOR PROJECTS WITH RE-*
2 *SPECT TO WHICH AFFORDABLE HOUSING CREDIT*
3 *IS ALLOWED.—In the case of a project with re-*
4 *spect to which credit is allowed under section 42,*
5 *the second sentence of subparagraph (B) shall be*
6 *applied by substituting ‘building (within the*
7 *meaning of section 42)’ for ‘project’.*”

8 (b) *STUDENTS.—Paragraph (2) of section 142(d) (re-*
9 *lating to definitions and special rules) is amended by add-*
10 *ing at the end the following new subparagraph:*

11 “(C) *STUDENTS.—Rules similar to the rules*
12 *of 42(i)(3)(D) shall apply for purposes of this*
13 *subsection.*”

14 (c) *SINGLE-ROOM OCCUPANCY UNITS.—Paragraph (2)*
15 *of section 142(d) (relating to definitions and special rules),*
16 *as amended by subsection (b), is further amended by adding*
17 *at the end the following new subparagraph:*

18 “(D) *SINGLE-ROOM OCCUPANCY UNITS.—A*
19 *unit shall not fail to be treated as a residential*
20 *unit merely because such unit is a single-room*
21 *occupancy unit (within the meaning of section*
22 *42).*”

23 (d) *EFFECTIVE DATE.—The amendments made by this*
24 *section shall apply to determinations of the status of quali-*
25 *fied residential rental projects for periods beginning after*

1 *the date of the enactment of this Act, with respect to bonds*
2 *issued before, on, or after such date.*

3 ***Subpart C—Reforms Related to the Low-Income***
4 ***Housing Credit and Tax-Exempt Housing Bonds***

5 ***SEC. 609. HOLD HARMLESS FOR REDUCTIONS IN AREA ME-***
6 ***DIAN GROSS INCOME.***

7 *(a) IN GENERAL.—Paragraph (2) of section 142(d), as*
8 *amended by section 607, is further amended by adding at*
9 *the end the following new subparagraph:*

10 *“(E) HOLD HARMLESS FOR REDUCTIONS IN*
11 *AREA MEDIAN GROSS INCOME.—*

12 *“(i) IN GENERAL.—Any determination*
13 *of area median gross income under sub-*
14 *paragraph (B) with respect to any project*
15 *for any calendar year after 2008 shall not*
16 *be less than the area median gross income*
17 *determined under such subparagraph with*
18 *respect to such project for the calendar year*
19 *preceding the calendar year for which such*
20 *determination is made.*

21 *“(ii) SPECIAL RULE FOR CERTAIN CEN-*
22 *SUS CHANGES.—In the case of a HUD hold*
23 *harmless impacted project, the area median*
24 *gross income with respect to such project for*
25 *any calendar year after 2008 (hereafter in*

1 *this clause referred to as the current cal-*
2 *endar year) shall be the greater of the*
3 *amount determined without regard to this*
4 *clause or the sum of—*

5 *“(I) the area median gross income*
6 *determined under the HUD hold harm-*
7 *less policy with respect to such project*
8 *for calendar year 2008, plus*

9 *“(II) any increase in the area me-*
10 *dian gross income determined under*
11 *subparagraph (B) (determined without*
12 *regard to the HUD hold harmless pol-*
13 *icy and this subparagraph) with re-*
14 *spect to such project for the current*
15 *calendar year over the area median*
16 *gross income (as so determined) with*
17 *respect to such project for calendar*
18 *year 2008.*

19 *“(iii) HUD HOLD HARMLESS POL-*
20 *ICY.—The term ‘HUD hold harmless policy’*
21 *means the regulations under which a policy*
22 *similar to the rules of clause (i) applied to*
23 *prevent a change in the method of deter-*
24 *mining area median gross income from re-*
25 *sulting in a reduction in the area median*

1 *gross income determined with respect to cer-*
2 *tain projects in calendar years 2007 and*
3 *2008.*

4 “(iv) *HUD HOLD HARMLESS IM-*
5 *PACTED PROJECT.—The term ‘HUD hold*
6 *harmless impacted project’ means any*
7 *project with respect to which area median*
8 *gross income was determined under sub-*
9 *paragraph (B) for calendar year 2007 or*
10 *2008 if such determination would have been*
11 *less but for the HUD hold harmless policy.”.*

12 (b) *EFFECTIVE DATE.—The amendment made by this*
13 *section shall apply to determinations of area median gross*
14 *income for calendar years after 2008.*

15 **SEC. 610. EXCEPTION TO ANNUAL CURRENT INCOME DE-**
16 **TERMINATION REQUIREMENT WHERE DETER-**
17 **MINATION NOT RELEVANT.**

18 (a) *IN GENERAL.—Subparagraph (A) of section*
19 *142(d)(3) is amended by adding at the end the following*
20 *new sentence: “The preceding sentence shall not apply with*
21 *respect to any project for any year if during such year no*
22 *residential unit in the project is occupied by a new resident*
23 *whose income exceeds the applicable income limit.”.*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
2 *section shall apply to years ending after the date of the en-*
3 *actment of this Act.*

4 **PART 2—SINGLE FAMILY HOUSING**

5 **SEC. 612. FIRST-TIME HOMEBUYER CREDIT.**

6 (a) *IN GENERAL.*—*Subpart C of part IV of subchapter*
7 *A of chapter 1 is amended by redesignating section 36 as*
8 *section 37 and by inserting after section 35 the following*
9 *new section:*

10 **“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

11 “(a) *ALLOWANCE OF CREDIT.*—*In the case of an indi-*
12 *vidual who is a first-time homebuyer of a principal resi-*
13 *dence in the United States during a taxable year, there shall*
14 *be allowed as a credit against the tax imposed by this sub-*
15 *title for such taxable year an amount equal to 10 percent*
16 *of the purchase price of the residence.*

17 “(b) *LIMITATIONS.*—

18 “(1) *DOLLAR LIMITATION.*—

19 “(A) *IN GENERAL.*—*Except as otherwise*
20 *provided in this paragraph, the credit allowed*
21 *under subsection (a) shall not exceed \$7,500.*

22 “(B) *MARRIED INDIVIDUALS FILING SEPA-*
23 *RATELY.*—*In the case of a married individual*
24 *filing a separate return, subparagraph (A) shall*
25 *be applied by substituting ‘\$3,750’ for ‘\$7,500’.*

1 “(C) *OTHER INDIVIDUALS.*—*If two or more*
2 *individuals who are not married purchase a*
3 *principal residence, the amount of the credit al-*
4 *lowed under subsection (a) shall be allocated*
5 *among such individuals in such manner as the*
6 *Secretary may prescribe, except that the total*
7 *amount of the credits allowed to all such individ-*
8 *uals shall not exceed \$7,500.*

9 “(2) *LIMITATION BASED ON MODIFIED ADJUSTED*
10 *GROSS INCOME.*—

11 “(A) *IN GENERAL.*—*The amount allowable*
12 *as a credit under subsection (a) (determined*
13 *without regard to this paragraph) for the taxable*
14 *year shall be reduced (but not below zero) by the*
15 *amount which bears the same ratio to the*
16 *amount which is so allowable as—*

17 “(i) *the excess (if any) of—*

18 “(I) *the taxpayer’s modified ad-*
19 *justed gross income for such taxable*
20 *year, over*

21 “(II) *\$70,000 (\$140,000 in the*
22 *case of a joint return), bears to*

23 “(ii) *\$20,000.*

24 “(B) *MODIFIED ADJUSTED GROSS IN-*
25 *COME.*—*For purposes of subparagraph (A), the*

1 term ‘modified adjusted gross income’ means the
2 adjusted gross income of the taxpayer for the tax-
3 able year increased by any amount excluded
4 from gross income under section 911, 931, or
5 933.

6 “(c) DEFINITIONS.—For purposes of this section—

7 “(1) FIRST-TIME HOMEBUYER.—The term ‘first-
8 time homebuyer’ means any individual if such indi-
9 vidual (and if married, such individual’s spouse) had
10 no present ownership interest in a principal residence
11 during the 3-year period ending on the date of the
12 purchase of the principal residence to which this sec-
13 tion applies.

14 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
15 cipal residence’ has the same meaning as when used
16 in section 121.

17 “(3) PURCHASE.—

18 “(A) IN GENERAL.—The term ‘purchase’
19 means any acquisition, but only if—

20 “(i) the property is not acquired from
21 a person related to the person acquiring it,
22 and

23 “(ii) the basis of the property in the
24 hands of the person acquiring it is not de-
25 termined—

1 “(I) *in whole or in part by ref-*
2 *erence to the adjusted basis of such*
3 *property in the hands of the person*
4 *from whom acquired, or*

5 “(II) *under section 1014(a) (relat-*
6 *ing to property acquired from a dece-*
7 *dent).*

8 “(B) *CONSTRUCTION.*—*A residence which is*
9 *constructed by the taxpayer shall be treated as*
10 *purchased by the taxpayer on the date the tax-*
11 *payer first occupies such residence.*

12 “(4) *PURCHASE PRICE.*—*The term ‘purchase*
13 *price’ means the adjusted basis of the principal resi-*
14 *dence on the date such residence is purchased.*

15 “(5) *RELATED PERSONS.*—*A person shall be*
16 *treated as related to another person if the relationship*
17 *between such persons would result in the disallowance*
18 *of losses under section 267 or 707(b) (but, in applying*
19 *section 267(b) and (c) for purposes of this section,*
20 *paragraph (4) of section 267(c) shall be treated as*
21 *providing that the family of an individual shall in-*
22 *clude only his spouse, ancestors, and lineal descend-*
23 *ants).*

1 “(d) *EXCEPTIONS.*—No credit under subsection (a)
2 shall be allowed to any taxpayer for any taxable year with
3 respect to the purchase of a residence if—

4 “(1) a credit under section 1400C (relating to
5 first-time homebuyer in the District of Columbia) is
6 allowable to the taxpayer (or the taxpayer’s spouse)
7 for such taxable year or any prior taxable year,

8 “(2) the residence is financed by the proceeds of
9 a qualified mortgage issue the interest on which is ex-
10 empt from tax under section 103,

11 “(3) the taxpayer is a nonresident alien, or

12 “(4) the taxpayer disposes of such residence (or
13 such residence ceases to be the principal residence of
14 the taxpayer (and, if married, the taxpayer’s spouse))
15 before the close of such taxable year.

16 “(e) *REPORTING.*—If the Secretary requires informa-
17 tion reporting under section 6045 by a person described in
18 subsection (e)(2) thereof to verify the eligibility of taxpayers
19 for the credit allowable by this section, the exception pro-
20 vided by section 6045(e) shall not apply.

21 “(f) *RECAPTURE OF CREDIT.*—

22 “(1) *IN GENERAL.*—Except as otherwise provided
23 in this subsection, if a credit under subsection (a) is
24 allowed to a taxpayer, the tax imposed by this chap-
25 ter shall be increased by $6\frac{2}{3}$ percent of the amount

1 of such credit for each taxable year in the recapture
2 period.

3 “(2) ACCELERATION OF RECAPTURE.—If a tax-
4 payer disposes of the principal residence with respect
5 to which a credit was allowed under subsection (a)
6 (or such residence ceases to be the principal residence
7 of the taxpayer (and, if married, the taxpayer’s
8 spouse)) before the end of the recapture period—

9 “(A) the tax imposed by this chapter for the
10 taxable year of such disposition or cessation,
11 shall be increased by the excess of the amount of
12 the credit allowed over the amounts of tax im-
13 posed by paragraph (1) for preceding taxable
14 years, and

15 “(B) paragraph (1) shall not apply with re-
16 spect to such credit for such taxable year or any
17 subsequent taxable year.

18 “(3) LIMITATION BASED ON GAIN.—In the case of
19 the sale of the principal residence to a person who is
20 not related to the taxpayer, the increase in tax deter-
21 mined under paragraph (2) shall not exceed the
22 amount of gain (if any) on such sale. Solely for pur-
23 poses of the preceding sentence, the adjusted basis of
24 such residence shall be reduced by the amount of the

1 *credit allowed under subsection (a) to the extent not*
2 *previously recaptured under paragraph (1).*

3 “(4) *EXCEPTIONS.*—

4 “(A) *DEATH OF TAXPAYER.*—*Paragraphs*
5 *(1) and (2) shall not apply to any taxable year*
6 *ending after the date of the taxpayer’s death.*

7 “(B) *INVOLUNTARY CONVERSION.*—*Para-*
8 *graph (2) shall not apply in the case of a resi-*
9 *dence which is compulsorily or involuntarily*
10 *converted (within the meaning of section*
11 *1033(a)) if the taxpayer acquires a new prin-*
12 *cipal residence during the 2-year period begin-*
13 *ning on the date of the disposition or cessation*
14 *referred to in paragraph (2). Paragraph (2)*
15 *shall apply to such new principal residence dur-*
16 *ing the recapture period in the same manner as*
17 *if such new principal residence were the con-*
18 *verted residence.*

19 “(C) *TRANSFERS BETWEEN SPOUSES OR IN-*
20 *CIDENT TO DIVORCE.*—*In the case of a transfer*
21 *of a residence to which section 1041(a) applies—*

22 “(i) *paragraph (2) shall not apply to*
23 *such transfer, and*

24 “(ii) *in the case of taxable years end-*
25 *ing after such transfer, paragraphs (1) and*

1 (2) shall apply to the transferee in the same
2 manner as if such transferee were the trans-
3 feror (and shall not apply to the transferor).

4 “(5) *JOINT RETURNS.*—In the case of a credit al-
5 lowed under subsection (a) with respect to a joint re-
6 turn, half of such credit shall be treated as having
7 been allowed to each individual filing such return for
8 purposes of this subsection.

9 “(6) *RECAPTURE PERIOD.*—For purposes of this
10 subsection, the term ‘recapture period’ means the 15
11 taxable years beginning with the second taxable year
12 following the taxable year in which the purchase of
13 the principal residence for which a credit is allowed
14 under subsection (a) was made.

15 “(g) *APPLICATION OF SECTION.*—This section shall
16 only apply to a principal residence purchased by the tax-
17 payer on or after April 9, 2008, and before April 1, 2009.”.

18 (b) *CONFORMING AMENDMENTS.*—

19 (1) Section 26(b)(2) is amended by striking
20 “and” at the end of subparagraph (U), by striking the
21 period and inserting “, and” and the end of subpara-
22 graph (V), and by inserting after subparagraph (V)
23 the following new subparagraph:

24 “(W) section 36(f) (relating to recapture of
25 homebuyer credit).”.

1 “(7) *REAL PROPERTY TAX DEDUCTION.*—For
2 purposes of paragraph (1), the real property tax de-
3 duction is the lesser of—

4 “(A) *the amount allowable as a deduction*
5 *under this chapter for State and local taxes de-*
6 *scribed in section 164(a)(1), or*

7 “(B) *\$350 (\$700 in the case of a joint re-*
8 *turn).*

9 *Any taxes taken into account under section 62(a)*
10 *shall not be taken into account under this para-*
11 *graph.”.*

12 (c) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall apply to taxable years beginning after Decem-*
14 *ber 31, 2007.*

15 **PART 3—GENERAL PROVISIONS**

16 **SEC. 615. TEMPORARY LIBERALIZATION OF TAX-EXEMPT**
17 **HOUSING BOND RULES.**

18 (a) *TEMPORARY INCREASE IN VOLUME CAP.*—

19 (1) *IN GENERAL.*—*Subsection (d) of section 146*
20 *is amended by adding at the end the following new*
21 *paragraph:*

22 “(5) *INCREASE AND SET ASIDE FOR HOUSING*
23 *BONDS FOR 2008.*—

24 “(A) *INCREASE FOR 2008.*—*In the case of*
25 *calendar year 2008, the State ceiling for each*

1 *State shall be increased by an amount equal to*
2 *\$10,000,000,000 multiplied by a fraction—*

3 *“(i) the numerator of which is the pop-*
4 *ulation of such State, and*

5 *“(ii) the denominator of which is the*
6 *total population of all States.*

7 *“(B) SET ASIDE.—*

8 *“(i) IN GENERAL.—Any amount of the*
9 *State ceiling for any State which is attrib-*
10 *utable to an increase under this paragraph*
11 *shall be allocated solely for one or more*
12 *qualified housing issues.*

13 *“(ii) QUALIFIED HOUSING ISSUE.—For*
14 *purposes of this paragraph, the term ‘quali-*
15 *fied housing issue’ means—*

16 *“(I) an issue described in section*
17 *142(a)(7) (relating to qualified resi-*
18 *dential rental projects), or*

19 *“(II) a qualified mortgage issue*
20 *(determined by substituting ‘12-month*
21 *period’ for ‘42-month period’ each*
22 *place it appears in section*
23 *143(a)(2)(D)(i)).”.*

1 (2) *CARRYFORWARD OF UNUSED LIMITATIONS.*—
2 *Subsection (f) of section 146 is amended by adding at*
3 *the end the following new paragraph:*

4 “(6) *SPECIAL RULES FOR INCREASED VOLUME*
5 *CAP UNDER SUBSECTION (d)(5).*—*No amount which is*
6 *attributable to the increase under subsection (d)(5)*
7 *may be used—*

8 “(A) *for any issue other than a qualified*
9 *housing issue (as defined in subsection (d)(5)),*
10 *or*

11 “(B) *to issue any bond after calendar year*
12 *2010.*”.

13 (b) *TEMPORARY RULE FOR USE OF QUALIFIED MORT-*
14 *GAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING*
15 *LOANS.*—

16 (1) *IN GENERAL.*—*Section 143(k) (relating to*
17 *other definitions and special rules) is amended by*
18 *adding at the end the following new paragraph:*

19 “(12) *SPECIAL RULES FOR SUBPRIME*
20 *REFINANCINGS.*—

21 “(A) *IN GENERAL.*—*Notwithstanding the re-*
22 *quirements of subsection (i)(1), the proceeds of a*
23 *qualified mortgage issue may be used to refi-*
24 *nance a mortgage on a residence which was*

1 *originally financed by the mortgagor through a*
2 *qualified subprime loan.*

3 “(B) *SPECIAL RULES.—In applying sub-*
4 *paragraph (A) to any refinancing—*

5 “(i) *subsection (a)(2)(D)(i) shall be ap-*
6 *plied by substituting ‘12-month period’ for*
7 *‘42-month period’ each place it appears,*

8 “(ii) *subsection (d) (relating to 3-year*
9 *requirement) shall not apply, and*

10 “(iii) *subsection (e) (relating to pur-*
11 *chase price requirement) shall be applied by*
12 *using the market value of the residence at*
13 *the time of refinancing in lieu of the acqui-*
14 *sition cost.*

15 “(C) *QUALIFIED SUBPRIME LOAN.—The*
16 *term ‘qualified subprime loan’ means an adjust-*
17 *able rate single-family residential mortgage loan*
18 *made after December 31, 2001, and before Janu-*
19 *ary 1, 2008, that the bond issuer determines*
20 *would be reasonably likely to cause financial*
21 *hardship to the borrower if not refinanced.*

22 “(D) *TERMINATION.—This paragraph shall*
23 *not apply to any bonds issued after December*
24 *31, 2010.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to bonds issued after the date of the en-*
 3 *actment of this Act.*

4 **SEC. 616. REPEAL OF ALTERNATIVE MINIMUM TAX LIMITA-**
 5 **TIONS ON TAX-EXEMPT HOUSING BONDS,**
 6 **LOW-INCOME HOUSING TAX CREDIT, AND RE-**
 7 **HABILITATION CREDIT.**

8 (a) *TAX-EXEMPT INTEREST ON CERTAIN HOUSING*
 9 *BONDS EXEMPTED FROM ALTERNATIVE MINIMUM TAX.*—

10 (1) *IN GENERAL.*—*Subparagraph (C) of section*
 11 *57(a)(5) (relating to specified private activity bonds)*
 12 *is amended by redesignating clauses (iii) and (iv) as*
 13 *clauses (iv) and (v), respectively, and by inserting*
 14 *after clause (ii) the following new clause:*

15 “(iii) *EXCEPTION FOR CERTAIN HOUS-*
 16 *ING BONDS.*—*For purposes of clause (i), the*
 17 *term ‘private activity bond’ shall not in-*
 18 *clude any bond issued after the date of the*
 19 *enactment of this clause if such bond is—*

20 “(I) *an exempt facility bond*
 21 *issued as part of an issue 95 percent or*
 22 *more of the net proceeds of which are*
 23 *to be used to provide qualified residen-*
 24 *tial rental projects (as defined in sec-*
 25 *tion 142(d)),*

1 “(II) a qualified mortgage bond
2 (as defined in section 143(a)), or

3 “(III) a qualified veterans’ mort-
4 gage bond (as defined in section
5 143(b)).

6 *The preceding sentence shall not apply to*
7 *any refunding bond unless such preceding*
8 *sentence applied to the refunded bond (or in*
9 *the case of a series of refundings, the origi-*
10 *nal bond).’.*

11 (2) *NO ADJUSTMENT TO ADJUSTED CURRENT*
12 *EARNINGS.—Subparagraph (B) of section 56(g)(4) is*
13 *amended by adding at the end the following new*
14 *clause:*

15 “(iii) *TAX EXEMPT INTEREST ON CER-*
16 *TAIN HOUSING BONDS.—Clause (i) shall not*
17 *apply in the case of any interest on a bond*
18 *to which section 57(a)(5)(C)(iii) applies.’.*

19 (b) *ALLOWANCE OF LOW-INCOME HOUSING CREDIT*
20 *AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B)*
21 *of section 38(c)(4) (relating to specified credits) is amended*
22 *by redesignating clauses (ii) through (iv) as clauses (iii)*
23 *through (v) and inserting after clause (i) the following new*
24 *clause:*

1 “(i) the credit determined under sec-
2 tion 42 to the extent attributable to build-
3 ings placed in service after December 31,
4 2007.”.

5 (c) *ALLOWANCE OF REHABILITATION CREDIT AGAINST*
6 *ALTERNATIVE MINIMUM TAX.*—Subparagraph (B) of sec-
7 tion 38(c)(4), as amended by subsection (b), is amended by
8 striking “and” at the end of clause (iv), by redesignating
9 clause (v) as clause (vi), and by inserting after clause (iv)
10 the following new clause:

11 “(v) the credit determined under sec-
12 tion 47 to the extent attributable to quali-
13 fied rehabilitation expenditures properly
14 taken into account for periods after Decem-
15 ber 31, 2007, and”.

16 (d) *EFFECTIVE DATE.*—

17 (1) *HOUSING BONDS.*—The amendments made
18 by subsection (a) shall apply to bonds issued after the
19 date of the enactment of this Act.

20 (2) *LOW INCOME HOUSING CREDIT.*—The amend-
21 ments made by subsection (b) shall apply to credits
22 determined under section 42 of the Internal Revenue
23 Code of 1986 to the extent attributable to buildings
24 placed in service after December 31, 2007.

1 (3) *REHABILITATION CREDIT.*—*The amendments*
2 *made by subsection (c) shall apply to credits deter-*
3 *mined under section 47 of the Internal Revenue Code*
4 *of 1986 to the extent attributable to qualified rehabili-*
5 *tation expenditures properly taken into account for*
6 *periods after December 31, 2007.*

7 **SEC. 617. BONDS GUARANTEED BY FEDERAL HOME LOAN**
8 **BANKS ELIGIBLE FOR TREATMENT AS TAX-EX-**
9 **EMPT BONDS.**

10 (a) *IN GENERAL.*—*Subparagraph (A) of section*
11 *149(b)(3) (relating to exceptions for certain insurance pro-*
12 *grams) is amended by striking “or” at the end of clause*
13 *(ii), by striking the period at the end of clause (iii) and*
14 *inserting “, or” and by adding at the end the following new*
15 *clause:*

16 “(iv) *any guarantee by a Federal home*
17 *loan bank made in connection with the*
18 *original issuance of a bond during the pe-*
19 *riod beginning on the date of the enactment*
20 *of this Act and ending on December 31,*
21 *2010 (or a renewal or extension of a guar-*
22 *antee so made).”.*

23 (b) *SAFETY AND SOUNDNESS REQUIREMENTS.*—*Para-*
24 *graph (3) of section 149(b) is amended by adding at the*
25 *end the following new subparagraph:*

1 “(i) the affidavit specified in para-
2 graph (2) is furnished to a qualified sub-
3 stitute, and

4 “(ii) the qualified substitute furnishes
5 a statement to the transferee stating, under
6 penalty of perjury, that the qualified sub-
7 stitute has such affidavit in his possession.

8 “(B) REGULATIONS.—The Secretary shall
9 prescribe such regulations as may be necessary
10 or appropriate to carry out this paragraph.”.

11 (b) QUALIFIED SUBSTITUTE.—Subsection (f) of section
12 1445 (relating to definitions) is amended by adding at the
13 end the following new paragraph:

14 “(6) QUALIFIED SUBSTITUTE.—The term ‘quali-
15 fied substitute’ means, with respect to a disposition of
16 a United States real property interest—

17 “(A) the person (including any attorney or
18 title company) responsible for closing the trans-
19 action, other than the transferor’s agent, and

20 “(B) the transferee’s agent.”.

21 (c) EXEMPTION NOT TO APPLY IF KNOWLEDGE OR
22 NOTICE THAT AFFIDAVIT OR STATEMENT IS FALSE.—

23 (1) IN GENERAL.—Paragraph (7) of section
24 1445(b) (relating to special rules for paragraphs (2)
25 and (3)) is amended to read as follows:

1 “(7) *SPECIAL RULES FOR PARAGRAPHS (2), (3),*
2 *AND (9).—Paragraph (2), (3), or (9) (as the case may*
3 *be) shall not apply to any disposition—*

4 “(A) *if—*

5 “(i) *the transferee or qualified sub-*
6 *stitute has actual knowledge that the affi-*
7 *davit referred to in such paragraph, or the*
8 *statement referred to in paragraph*
9 *(9)(A)(ii), is false, or*

10 “(ii) *the transferee or qualified sub-*
11 *stitute receives a notice (as described in sub-*
12 *section (d)) from a transferor’s agent, trans-*
13 *feree’s agent, or qualified substitute that*
14 *such affidavit or statement is false, or*

15 “(B) *if the Secretary by regulations requires*
16 *the transferee or qualified substitute to furnish a*
17 *copy of such affidavit or statement to the Sec-*
18 *retary and the transferee or qualified substitute*
19 *fails to furnish a copy of such affidavit or state-*
20 *ment to the Secretary at such time and in such*
21 *manner as required by such regulations.”.*

22 (2) *LIABILITY.—*

23 (A) *NOTICE.—Paragraph (1) of section*
24 *1445(d) (relating to notice of false affidavit; for-*
25 *foreign corporations) is amended to read as follows:*

1 “(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN
2 CORPORATION.—If—

3 “(A) the transferor furnishes the transferee
4 or qualified substitute an affidavit described in
5 paragraph (2) of subsection (b) or a domestic
6 corporation furnishes the transferee an affidavit
7 described in paragraph (3) of subsection (b), and

8 “(B) in the case of—

9 “(i) any transferor’s agent—

10 “(I) such agent has actual knowl-
11 edge that such affidavit is false, or

12 “(II) in the case of an affidavit
13 described in subsection (b)(2) furnished
14 by a corporation, such corporation is a
15 foreign corporation, or

16 “(ii) any transferee’s agent or qualified
17 substitute, such agent or substitute has ac-
18 tual knowledge that such affidavit is false,
19 such agent or qualified substitute shall so notify
20 the transferee at such time and in such manner
21 as the Secretary shall require by regulations.”.

22 (B) FAILURE TO FURNISH NOTICE.—Para-
23 graph (2) of section 1445(d) (relating to failure
24 to furnish notice) is amended to read as follows:

25 “(2) FAILURE TO FURNISH NOTICE.—

1 “(A) *IN GENERAL.*—*If any transferor’s*
2 *agent, transferee’s agent, or qualified substitute*
3 *is required by paragraph (1) to furnish notice,*
4 *but fails to furnish such notice at such time or*
5 *times and in such manner as may be required*
6 *by regulations, such agent or substitute shall*
7 *have the same duty to deduct and withhold that*
8 *the transferee would have had if such agent or*
9 *substitute had complied with paragraph (1).*”

10 “(B) *LIABILITY LIMITED TO AMOUNT OF*
11 *COMPENSATION.*—*An agent’s or substitute’s li-*
12 *ability under subparagraph (A) shall be limited*
13 *to the amount of compensation the agent or sub-*
14 *stitute derives from the transaction.”.*”

15 “(C) *CONFORMING AMENDMENT.*—*The head-*
16 *ing for section 1445(d) is amended by striking*
17 *“OR TRANSFEREE’S AGENTS” and inserting “,*
18 *TRANSFEREE’S AGENTS, OR QUALIFIED SUB-*
19 *STITUTES”.*”

20 “(d) *EFFECTIVE DATE.*—*The amendments made by this*
21 *section shall apply to dispositions of United States real*
22 *property interests after the date of the enactment of this*
23 *Act.*”

1 **SEC. 619. MODIFICATION OF DEFINITION OF TAX-EXEMPT**
 2 **USE PROPERTY FOR PURPOSES OF THE RE-**
 3 **HABILITATION CREDIT.**

4 (a) *IN GENERAL.*—Subclause (I) of section
 5 47(c)(2)(B)(v) is amended by striking “section 168(h)” and
 6 inserting “section 168(h), except that ‘50 percent’ shall be
 7 substituted for ‘35 percent’ in paragraph (1)(B)(iii) there-
 8 of”.

9 (b) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall apply to expenditures properly taken into ac-
 11 count for periods after December 31, 2007.

12 **Subtitle B—Reforms Related to**
 13 **Real Estate Investment Trusts**
 14 **PART 1—FOREIGN CURRENCY AND OTHER**
 15 **QUALIFIED ACTIVITIES**

16 **SEC. 621. REVISIONS TO REIT INCOME TESTS.**

17 (a) *ADDITION OF PERMISSIBLE INCOME CAT-*
 18 *EGORIES.*—Section 856(c) (relating to limitations) is
 19 amended—

20 (1) by striking “and” at the end of paragraph
 21 (2)(G) and by inserting after paragraph (2)(H) the
 22 following new subparagraphs:

23 “(I) passive foreign exchange gains; and

24 “(J) any other item of income or gain as
 25 determined by the Secretary;”, and

1 (2) by striking “and” at the end of paragraphs
 2 (3)(H) and (3)(I) and by inserting after paragraph
 3 (3)(I) the following new subparagraphs:

4 “(J) real estate foreign exchange gains; and
 5 “(K) any other item of income or gain as
 6 determined by the Secretary; and”.

7 (b) *RULES REGARDING FOREIGN CURRENCY TRANS-*
 8 *ACTIONS.*—Section 856 (defining real estate investment
 9 *trust*) is amended by adding at the end the following new
 10 *subsection:*

11 “(n) *RULES REGARDING FOREIGN CURRENCY TRANS-*
 12 *ACTIONS.*—With respect to any taxable year—

13 “(1) *REAL ESTATE FOREIGN EXCHANGE*
 14 *GAINS.*—For purposes of subsection (c)(3)(J), the term
 15 ‘real estate foreign exchange gains’ means—

16 “(A) foreign currency gains (as defined in
 17 section 988(b)(1)) which are attributable to—

18 “(i) any item described in subsection
 19 (c)(3) (other than in subparagraph (J)
 20 thereof),

21 “(ii) the acquisition or ownership of
 22 obligations secured by mortgages on real
 23 property or on interests in real property
 24 (other than foreign currency gains attrib-

1 *utable to any item described in clause (i)),*
2 *or*

3 *“(iii) becoming or being the obligor*
4 *under obligations secured by mortgages on*
5 *real property or on interests in real prop-*
6 *erty (other than foreign currency gains at-*
7 *tributable to any item described in clause*
8 *(i)),*

9 *“(B) gains described in section 987 attrib-*
10 *utable to a qualified business unit (as defined by*
11 *section 989) of the real estate investment trust,*
12 *but only if such qualified business unit meets the*
13 *requirements under—*

14 *“(i) subsection (c)(3) (without regard*
15 *to subparagraph (J) thereof) for the taxable*
16 *year, and*

17 *“(ii) subsection (c)(4)(A) at the close of*
18 *each quarter that the real estate investment*
19 *trust has directly or indirectly held the*
20 *qualified business unit, and*

21 *“(C) any other foreign currency gains as*
22 *determined by the Secretary.*

23 *“(2) PASSIVE FOREIGN EXCHANGE GAINS.—For*
24 *purposes of subsection (c)(2)(I), the term ‘passive for-*
25 *ign exchange gains’ means—*

1 “(A) real estate foreign exchange gains,

2 “(B) foreign currency gains (as defined in
3 section 988(b)(1)) which are not described in
4 subparagraph (A) and which are attributable to
5 any item described in subsection (c)(2) (other
6 than in subparagraph (I) thereof), and

7 “(C) any other foreign currency gains as
8 determined by the Secretary.”.

9 (c) *ADDITION TO REIT HEDGING RULE.*—Subpara-
10 graph (G) of section 856(c)(5) is amended to read as fol-
11 lows:

12 “(G) *TREATMENT OF CERTAIN HEDGING IN-*
13 *STRUMENTS.*—Except to the extent as determined
14 by the Secretary—

15 “(i) any income of a real estate invest-
16 ment trust from a hedging transaction (as
17 defined in clause (ii) or (iii) of section
18 1221(b)(2)(A)) which is clearly identified
19 pursuant to section 1221(a)(7), including
20 gain from the sale or disposition of such a
21 transaction, shall not constitute gross in-
22 come under paragraphs (2) and (3) to the
23 extent that the transaction hedges any in-
24 debtedness incurred or to be incurred by the

1 *trust to acquire or carry real estate assets,*
2 *and*

3 “(ii) *any income of a real estate in-*
4 *vestment trust from a transaction entered*
5 *into by the trust primarily to manage risk*
6 *of currency fluctuations with respect to any*
7 *item described in paragraph (2) or (3), in-*
8 *cluding gain from the termination of such*
9 *a transaction, shall not constitute gross in-*
10 *come under paragraphs (2) and (3), but*
11 *only if such transaction is clearly identified*
12 *as such before the close of the day on which*
13 *it was acquired, originated, or entered into*
14 *(or such other time as the Secretary may*
15 *prescribe).”.*

16 (d) *AUTHORITY TO EXCLUDE ITEMS OF INCOME FROM*
17 *REIT INCOME TESTS.*—Section 856(c)(5) is amended by
18 *adding at the end the following new subparagraph:*

19 “(H) *SECRETARIAL AUTHORITY TO EX-*
20 *CLUDE OTHER ITEMS OF INCOME.*—*The Sec-*
21 *retary is authorized to determine whether any*
22 *item of income or gain which does not otherwise*
23 *qualify under paragraph (2) or (3) may be con-*
24 *sidered as not constituting gross income solely*
25 *for purposes of this part.”.*

1 **SEC. 622. REVISIONS TO REIT ASSET TESTS.**

2 (a) *CLARIFICATION OF VALUATION TEST.*—*The first*
3 *sentence in the matter following section*
4 *856(c)(4)(B)(iii)(III) is amended by inserting “(including*
5 *a discrepancy caused solely by the change in the foreign*
6 *currency exchange rate used to value a foreign asset)” after*
7 *“such requirements”.*

8 (b) *CLARIFICATION OF PERMISSIBLE ASSET CAT-*
9 *EGORY.*—*Section 856(c)(5), as amended by section 621(d),*
10 *is amended by adding at the end the following new subpara-*
11 *graph:*

12 “(I) *CASH.*—*The term ‘cash’ includes for-*
13 *ign currency if the real estate investment trust*
14 *or its qualified business unit (as defined in sec-*
15 *tion 989) uses such foreign currency as its func-*
16 *tional currency (as defined in section 985(b)).”.*

17 **SEC. 623. CONFORMING FOREIGN CURRENCY REVISIONS.**

18 (a) *NET INCOME FROM FORECLOSURE PROPERTY.*—
19 *Clause (i) of section 857(b)(4)(B) is amended to read as*
20 *follows:*

21 “(i) *gain (including any foreign cur-*
22 *rency gain, as defined in section 988(b)(1))*
23 *from the sale or other disposition of fore-*
24 *closure property described in section*
25 *1221(a)(1) and the gross income for the tax-*
26 *able year derived from foreclosure property*

1 (as defined in section 856(e)), but only to
2 the extent such gross income is not described
3 in (or, in the case of foreign currency gain,
4 not attributable to gross income described
5 in) section 856(c)(3) other than subpara-
6 graph (F) thereof, over”.

7 (b) *NET INCOME FROM PROHIBITED TRANS-*
8 *ACTIONS.*—Clause (i) of section 857(b)(6)(B) is amended to
9 *read as follows:*

10 “(i) the term ‘net income derived from
11 prohibited transactions’ means the excess of
12 the gain (including any foreign currency
13 gain, as defined in section 988(b)(1)) from
14 prohibited transactions over the deductions
15 (including any foreign currency loss, as de-
16 fined in section 988(b)(2)) allowed by this
17 chapter which are directly connected with
18 prohibited transactions;”.

19 **PART 2—TAXABLE REIT SUBSIDIARIES**

20 **SEC. 625. CONFORMING TAXABLE REIT SUBSIDIARY ASSET**

21 **TEST.**

22 Section 856(c)(4)(B)(ii) is amended by striking “20
23 percent” and inserting “25 percent”.

PART 3—DEALER SALES**2 SEC. 627. HOLDING PERIOD UNDER SAFE HARBOR.**

3 *Section 857(b)(6) (relating to income from prohibited*
4 *transactions) is amended—*

5 *(1) by striking “4 years” in subparagraphs*
6 *(C)(i), (C)(iv), and (D)(i) and inserting “2 years”,*

7 *(2) by striking “4-year period” in subpara-*
8 *graphs (C)(ii), (D)(ii), and (D)(iii) and inserting “2-*
9 *year period”, and*

10 *(3) by striking “real estate asset” and all that fol-*
11 *lows through “if” in the matter preceding clause (i)*
12 *of subparagraphs (C) and (D), respectively, and in-*
13 *serting “real estate asset (as defined in section*
14 *856(c)(5)(B)) and which is described in section*
15 *1221(a)(1) if”.*

16 SEC. 628. DETERMINING VALUE OF SALES UNDER SAFE
17 HARBOR.

18 *Section 857(b)(6) is amended—*

19 *(1) by striking the semicolon at the end of sub-*
20 *paragraph (C)(iii) and inserting “, or (III) the fair*
21 *market value of property (other than sales of fore-*
22 *closure property or sales to which section 1033 ap-*
23 *plies) sold during the taxable year does not exceed 10*
24 *percent of the fair market value of all of the assets of*
25 *the trust as of the beginning of the taxable year;”, and*

1 (2) by adding “or” at the end of subclause (II)
2 of subparagraph (D)(iv) and by adding at the end of
3 such subparagraph the following new subclause:

4 “(III) the fair market value of prop-
5 erty (other than sales of foreclosure property
6 or sales to which section 1033 applies) sold
7 during the taxable year does not exceed 10
8 percent of the fair market value of all of the
9 assets of the trust as of the beginning of the
10 taxable year.”.

11 **PART 4—HEALTH CARE REITS**

12 **SEC. 630. CONFORMITY FOR HEALTH CARE FACILITIES.**

13 (a) *RELATED PARTY RENTALS.*—Subparagraph (B) of
14 section 856(d)(8) (relating to special rule for taxable REIT
15 subsidiaries) is amended to read as follows:

16 “(B) *EXCEPTION FOR CERTAIN LODGING FA-*
17 *CILITIES AND HEALTH CARE PROPERTY.*—The
18 requirements of this subparagraph are met with
19 respect to an interest in real property which is
20 a qualified lodging facility or a qualified health
21 care property (as defined in subsection
22 (e)(6)(D)(i)) leased by the trust to a taxable
23 REIT subsidiary of the trust if the property is
24 operated on behalf of such subsidiary by a person
25 who is an eligible independent contractor. For

1 *purposes of this section, a taxable REIT sub-*
2 *subsidiary is not considered to be operating or man-*
3 *aging a qualified health care property or quali-*
4 *fied lodging facility solely because it directly or*
5 *indirectly possesses a license, permit or similar*
6 *instrument enabling it to do so.”.*

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 **PART 5—EFFECTIVE DATES**

15 **SEC. 632. EFFECTIVE DATES.**

16 (a) *IN GENERAL.*—Except as otherwise provided in
17 this section, the amendments made by this subtitle shall
18 apply to taxable years beginning after the date of the enact-
19 ment of this Act.

20 (b) *REIT INCOME TESTS.*—

21 (1) The amendment made by section 621(a) and
22 (b) shall apply to gains and items of income recog-
23 nized after the date of the enactment of this Act.

1 (2) *The amendment made by section 621(c) shall*
 2 *apply to transactions entered into after the date of the*
 3 *enactment of this Act.*

4 (3) *The amendment made by section 621(d) shall*
 5 *apply after the date of the enactment of this Act.*

6 (c) *CONFORMING FOREIGN CURRENCY REVISIONS.—*

7 (1) *The amendment made by section 623(a) shall*
 8 *apply to gains recognized after the date of the enact-*
 9 *ment of this Act.*

10 (2) *The amendment made by section 623(b) shall*
 11 *apply to gains and deductions recognized after the*
 12 *date of the enactment of this Act.*

13 (d) *DEALER SALES.—The amendments made by part*
 14 *3 shall apply to sales made after the date of the enactment*
 15 *of this Act.*

16 ***Subtitle C—Revenue Provisions***

17 ***SEC. 641. BROKER REPORTING OF CUSTOMER'S BASIS IN*** 18 ***SECURITIES TRANSACTIONS.***

19 (a) *IN GENERAL.—*

20 (1) *BROKER REPORTING FOR SECURITIES TRANS-*
 21 *ACTIONS.—Section 6045 (relating to returns of bro-*
 22 *kers) is amended by adding at the end the following*
 23 *new subsection:*

24 “(g) *ADDITIONAL INFORMATION REQUIRED IN THE*
 25 *CASE OF SECURITIES TRANSACTIONS, ETC.—*

1 “(1) *IN GENERAL.*—*If a broker is otherwise re-*
2 *quired to make a return under subsection (a) with re-*
3 *spect to the gross proceeds of the sale of a covered se-*
4 *curity, the broker shall include in such return the in-*
5 *formation described in paragraph (2).*

6 “(2) *ADDITIONAL INFORMATION REQUIRED.*—

7 “(A) *IN GENERAL.*—*The information re-*
8 *quired under paragraph (1) to be shown on a re-*
9 *turn with respect to a covered security of a cus-*
10 *tomer shall include the customer’s adjusted basis*
11 *in such security and whether any gain or loss*
12 *with respect to such security is long-term or*
13 *short-term (within the meaning of section 1222).*

14 “(B) *DETERMINATION OF ADJUSTED*
15 *BASIS.*—*For purposes of subparagraph (A)—*

16 “(i) *IN GENERAL.*—*The customer’s ad-*
17 *justed basis shall be determined—*

18 “(I) *in the case of any security*
19 *(other than any stock for which an av-*
20 *erage basis method is permissible*
21 *under section 1012), in accordance*
22 *with the first-in first-out method unless*
23 *the customer notifies the broker by*
24 *means of making an adequate identi-*

1 *fication of the stock sold or transferred,*
2 *and*

3 *“(II) in the case of any stock for*
4 *which an average basis method is per-*
5 *missible under section 1012, in accord-*
6 *ance with the broker’s default method*
7 *unless the customer notifies the broker*
8 *that he elects another acceptable meth-*
9 *od under section 1012 with respect to*
10 *the account in which such stock is held.*

11 *“(ii) EXCEPTION FOR WASH SALES.—*
12 *Except as otherwise provided by the Sec-*
13 *retary, the customer’s adjusted basis shall be*
14 *determined without regard to section 1091*
15 *(relating to loss from wash sales of stock or*
16 *securities) unless the transactions occur in*
17 *the same account with respect to identical*
18 *securities.*

19 *“(3) COVERED SECURITY.—For purposes of this*
20 *subsection—*

21 *“(A) IN GENERAL.—The term ‘covered secu-*
22 *rity’ means any specified security acquired on or*
23 *after the applicable date if such security—*

1 “(i) was acquired through a trans-
2 action in the account in which such security
3 is held, or

4 “(ii) was transferred to such account
5 from an account in which such security was
6 a covered security, but only if the broker re-
7 ceived a statement under section 6045A
8 with respect to the transfer.

9 “(B) SPECIFIED SECURITY.—The term
10 ‘specified security’ means—

11 “(i) any share of stock in a corpora-
12 tion,

13 “(ii) any note, bond, debenture, or
14 other evidence of indebtedness,

15 “(iii) any commodity, or contract or
16 derivative with respect to such commodity,
17 if the Secretary determines that adjusted
18 basis reporting is appropriate for purposes
19 of this subsection, and

20 “(iv) any other financial instrument
21 with respect to which the Secretary deter-
22 mines that adjusted basis reporting is ap-
23 propriate for purposes of this subsection.

24 “(C) APPLICABLE DATE.—The term ‘appli-
25 cable date’ means—

1 “(i) *January 1, 2010, in the case of*
2 *any specified security which is stock in a*
3 *corporation (other than any stock described*
4 *in clause (ii)),*

5 “(ii) *January 1, 2011, in the case of*
6 *any stock for which an average basis meth-*
7 *od is permissible under section 1012, and*

8 “(iii) *January 1, 2012, or such later*
9 *date determined by the Secretary in the case*
10 *of any other specified security.*

11 “(4) *TREATMENT OF S CORPORATIONS.—In the*
12 *case of the sale of a covered security acquired by an*
13 *S corporation (other than a financial institution)*
14 *after December 31, 2011, such S corporation shall be*
15 *treated in the same manner as a partnership for pur-*
16 *poses of this section.*

17 “(5) *SPECIAL RULES FOR SHORT SALES.—In the*
18 *case of a short sale, reporting under this section shall*
19 *be made for the year in which such sale is closed.”.*

20 “(2) *BROKER INFORMATION REQUIRED WITH RE-*
21 *SPECT TO OPTIONS.—Section 6045, as amended by*
22 *subsection (a), is amended by adding at the end the*
23 *following new subsection:*

24 “(h) *APPLICATION TO OPTIONS ON SECURITIES.—*

1 “(1) *EXERCISE OF OPTION.*—For purposes of
2 this section, if a covered security is acquired or dis-
3 posed of pursuant to the exercise of an option that
4 was granted or acquired in the same account as the
5 covered security, the amount received with respect to
6 the grant or paid with respect to the acquisition of
7 such option shall be treated as an adjustment to gross
8 proceeds or as an adjustment to basis, as the case
9 may be.

10 “(2) *LAPSE OR CLOSING TRANSACTION.*—In the
11 case of the lapse (or closing transaction (as defined in
12 section 1234(b)(2)(A))) of an option on a specified se-
13 curity or the exercise of a cash-settled option on a
14 specified security, reporting under subsections (a) and
15 (g) with respect to such option shall be made for the
16 calendar year which includes the date of such lapse,
17 closing transaction, or exercise.

18 “(3) *PROSPECTIVE APPLICATION.*—Paragraphs
19 (1) and (2) shall not apply to any option which is
20 granted or acquired before January 1, 2012.

21 “(4) *DEFINITIONS.*—For purposes of this sub-
22 section, the terms ‘covered security’ and ‘specified se-
23 curity’ shall have the meanings given such terms in
24 subsection (g)(3).”.

1 (3) *EXTENSION OF PERIOD FOR STATEMENTS*
2 *SENT TO CUSTOMERS.—*

3 (A) *IN GENERAL.—*Subsection (b) of section
4 6045 is amended by striking “January 31” and
5 inserting “February 15”.

6 (B) *STATEMENTS RELATED TO SUBSTITUTE*
7 *PAYMENTS.—*Subsection (d) of section 6045 is
8 amended—

9 (i) by striking “at such time and”, and

10 (ii) by inserting after “other item.” the
11 following new sentence: “The written state-
12 ment required under the preceding sentence
13 shall be furnished on or before February 15
14 of the year following the calendar year in
15 which the payment was made.”.

16 (C) *OTHER STATEMENTS.—*Subsection (b)
17 of section 6045 is amended by adding at the end
18 the following: “In the case of a consolidated re-
19 porting statement (as defined in regulations)
20 with respect to any account, any statement
21 which would otherwise be required to be fur-
22 nished on or before January 31 of a calendar
23 year with respect to any item reportable to the
24 taxpayer shall instead be required to be fur-
25 nished on or before February 15 of such calendar

1 year if furnished with such consolidated report-
2 ing statement.”.

3 (b) *DETERMINATION OF BASIS OF CERTAIN SECURI-*
4 *TIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METH-*
5 *OD.*—Section 1012 (relating to basis of property–cost) is
6 amended—

7 (1) by striking “The basis of property” and in-
8 serting the following:

9 “(a) *IN GENERAL.*—The basis of property”,

10 (2) by striking “The cost of real property” and
11 inserting the following:

12 “(b) *SPECIAL RULE FOR APPORTIONED REAL ESTATE*
13 *TAXES.*—The cost of real property”, and

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

16 “(c) *DETERMINATIONS BY ACCOUNT.*—

17 “(1) *IN GENERAL.*—In the case of the sale, ex-
18 change, or other disposition of a specified security on
19 or after the applicable date, the conventions pre-
20 scribed by regulations under this section shall be ap-
21 plied on an account by account basis.

22 “(2) *APPLICATION TO OPEN-END FUNDS.*—

23 “(A) *IN GENERAL.*—Except as provided in
24 subparagraph (B), any stock in an open-end
25 fund acquired before January 1, 2011, shall be

1 *treated as a separate account from any such*
2 *stock acquired on or after such date.*

3 “(B) *ELECTION BY OPEN-END FUND FOR*
4 *TREATMENT AS SINGLE ACCOUNT.—If an open-*
5 *end fund elects to have this subparagraph apply*
6 *with respect to one or more of its stockholders—*

7 “(i) *subparagraph (A) shall not apply*
8 *with respect to any stock in such fund held*
9 *by such stockholders, and*

10 “(ii) *all stock in such fund which is*
11 *held by such stockholders shall be treated as*
12 *covered securities described in section*
13 *6045(g)(3) without regard to the date of the*
14 *acquisition of such stock.*

15 *A rule similar to the rule of the preceding sen-*
16 *tence shall apply with respect to a broker holding*
17 *stock in an open-end fund as a nominee.*

18 “(3) *DEFINITIONS.—For purposes of this sec-*
19 *tion—*

20 “(A) *OPEN-END FUND.—The term ‘open-end*
21 *fund’ means a regulated investment company (as*
22 *defined in section 851) which is offering for sale*
23 *or has outstanding any redeemable security of*
24 *which it is the issuer. Any stock which is traded*

1 *on an established securities exchange shall not be*
2 *treated as stock in an open-end fund.*

3 “(B) *SPECIFIED SECURITY; APPLICABLE*
4 *DATE.—The terms ‘specified security’ and ‘appli-*
5 *cable date’ shall have the meaning given such*
6 *terms in section 6045(g).*

7 “(d) *AVERAGE BASIS FOR STOCK ACQUIRED PURSU-*
8 *ANT TO A DIVIDEND REINVESTMENT PLAN.—*

9 “(1) *IN GENERAL.—In the case of any stock ac-*
10 *quired after December 31, 2010, in connection with a*
11 *dividend reinvestment plan, the basis of such stock*
12 *while held as part of such plan shall be determined*
13 *using one of the methods which may be used for deter-*
14 *mining the basis of stock in an open-end fund.*

15 “(2) *TREATMENT AFTER TRANSFER.—In the case*
16 *of the transfer to another account of stock to which*
17 *paragraph (1) applies, such stock shall have a cost*
18 *basis in such other account equal to its basis in the*
19 *dividend reinvestment plan immediately before such*
20 *transfer (properly adjusted for any fees or other*
21 *charges taken into account in connection with such*
22 *transfer).*

23 “(3) *SEPARATE ACCOUNTS; ELECTION FOR*
24 *TREATMENT AS SINGLE ACCOUNT.—Rules similar to*

1 *the rules of subsection (c)(2) shall apply for purposes*
2 *of this subsection.*

3 “(4) *DIVIDEND REINVESTMENT PLAN.*—*For pur-*
4 *poses of this subsection—*

5 “(A) *IN GENERAL.*—*The term ‘dividend re-*
6 *investment plan’ means any arrangement under*
7 *which dividends on any stock are reinvested in*
8 *stock identical to the stock with respect to which*
9 *the dividends are paid.*

10 “(B) *INITIAL STOCK ACQUISITION TREATED*
11 *AS ACQUIRED IN CONNECTION WITH PLAN.*—
12 *Stock shall be treated as acquired in connection*
13 *with a dividend reinvestment plan if such stock*
14 *is acquired pursuant to such plan or if the divi-*
15 *dends paid on such stock are subject to such*
16 *plan.”.*

17 (c) *INFORMATION BY TRANSFERORS TO AID BRO-*
18 *KERS.*—

19 (1) *IN GENERAL.*—*Subpart B of part III of sub-*
20 *chapter A of chapter 61 is amended by inserting after*
21 *section 6045 the following new section:*

1 **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**
2 **WITH TRANSFERS OF COVERED SECURITIES**
3 **TO BROKERS.**

4 “(a) *FURNISHING OF INFORMATION.*—Every applica-
5 ble person which transfers to a broker (as defined in section
6 6045(c)(1)) a security which is a covered security (as de-
7 fined in section 6045(g)(3)) in the hands of such applicable
8 person shall furnish to such broker a written statement in
9 such manner and setting forth such information as the Sec-
10 retary may by regulations prescribe for purposes of ena-
11 bling such broker to meet the requirements of section
12 6045(g).

13 “(b) *APPLICABLE PERSON.*—For purposes of sub-
14 section (a), the term ‘applicable person’ means—

15 “(1) any broker (as defined in section
16 6045(c)(1)), and

17 “(2) any other person as provided by the Sec-
18 retary in regulations.

19 “(c) *TIME FOR FURNISHING STATEMENT.*—Except as
20 otherwise provided by the Secretary, any statement required
21 by subsection (a) shall be furnished not later than 15 days
22 after the date of the transfer described in such subsection.”.

23 (2) *ASSESSABLE PENALTIES.*—Paragraph (2) of
24 section 6724(d) (defining payee statement) is amend-
25 ed by redesignating subparagraphs (I) through (CC)
26 as subparagraphs (J) through (DD), respectively, and

1 by inserting after subparagraph (H) the following
2 new subparagraph:

3 “(I) section 6045A (relating to information
4 required in connection with transfers of covered
5 securities to brokers),”.

6 (3) *CLERICAL AMENDMENT.*—The table of sec-
7 tions for subpart B of part III of subchapter A of
8 chapter 61 is amended by inserting after the item re-
9 lating to section 6045 the following new item:

 “Sec. 6045A. Information required in connection with transfers of covered securi-
 ties to brokers.”.

10 (d) *ADDITIONAL ISSUER INFORMATION TO AID BRO-*
11 *KERS.*—

12 (1) *IN GENERAL.*—Subpart B of part III of sub-
13 chapter A of chapter 61, as amended by subsection
14 (b), is amended by inserting after section 6045A the
15 following new section:

16 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**
17 **BASIS OF SPECIFIED SECURITIES.**

18 “(a) *IN GENERAL.*—According to the forms or regula-
19 tions prescribed by the Secretary, any issuer of a specified
20 security shall make a return setting forth—

21 “(1) a description of any organizational action
22 which affects the basis of such specified security of
23 such issuer,

1 “(2) *the quantitative effect on the basis of such*
2 *specified security resulting from such action, and*

3 “(3) *such other information as the Secretary*
4 *may prescribe.*

5 “(b) *TIME FOR FILING RETURN.*—*Any return required*
6 *by subsection (a) shall be filed not later than the earlier*
7 *of—*

8 “(1) *45 days after the date of the action de-*
9 *scribed in subsection (a), or*

10 “(2) *January 15 of the year following the cal-*
11 *endar year during which such action occurred.*

12 “(c) *STATEMENTS TO BE FURNISHED TO HOLDERS OF*
13 *SPECIFIED SECURITIES OR THEIR NOMINEES.*—*According*
14 *to the forms or regulations prescribed by the Secretary,*
15 *every person required to make a return under subsection*
16 *(a) with respect to a specified security shall furnish to the*
17 *nominee with respect to the specified security (or certificate*
18 *holder if there is no nominee) a written statement show-*
19 *ing—*

20 “(1) *the name, address, and phone number of the*
21 *information contact of the person required to make*
22 *such return,*

23 “(2) *the information required to be shown on*
24 *such return with respect to such security, and*

1 “(3) such other information as the Secretary
2 may prescribe.

3 *The written statement required under the preceding sen-*
4 *tence shall be furnished to the holder on or before January*
5 *15 of the year following the calendar year during which*
6 *the action described in subsection (a) occurred.*

7 “(d) *SPECIFIED SECURITY.*—*For purposes of this sec-*
8 *tion, the term ‘specified security’ has the meaning given*
9 *such term by section 6045(g)(3)(B). No return shall be re-*
10 *quired under this section with respect to actions described*
11 *in subsection (a) with respect to a specified security which*
12 *occur before the applicable date (as defined in section*
13 *6045(g)(3)(C)) with respect to such security.*

14 “(e) *PUBLIC REPORTING IN LIEU OF RETURN.*—*The*
15 *Secretary may waive the requirements under subsections*
16 *(a) and (c) with respect to a specified security, if the person*
17 *required to make the return under subsection (a) makes*
18 *publicly available, in such form and manner as the Sec-*
19 *retary determines necessary to carry out the purposes of this*
20 *section—*

21 “(1) *the name, address, phone number, and*
22 *email address of the information contact of such per-*
23 *son, and*

24 “(2) *the information described in paragraphs*
25 *(1), (2), and (3) of subsection (a).”.*

1 (2) *ASSESSABLE PENALTIES.*—

2 (A) *Subparagraph (B) of section 6724(d)(1)*
3 *of such Code (defining information return) is*
4 *amended by redesignating clause (iv) and each of*
5 *the clauses which follow as clauses (v) through*
6 *(xxii), respectively, and by inserting after clause*
7 *(iii) the following new clause:*

8 “(iv) *section 6045B(a) (relating to re-*
9 *turns relating to actions affecting basis of*
10 *specified securities),”.*

11 (B) *Paragraph (2) of section 6724(d) of*
12 *such Code (defining payee statement), as amend-*
13 *ed by subsection (c)(2), is amended by redesign-*
14 *ating subparagraphs (J) through (DD) as sub-*
15 *paragraphs (K) through (EE), respectively, and*
16 *by inserting after subparagraph (I) the following*
17 *new subparagraph:*

18 “(J) *subsections (c) and (e) of section*
19 *6045B (relating to returns relating to actions af-*
20 *fecting basis of specified securities),”.*

21 (3) *CLERICAL AMENDMENT.*—*The table of sec-*
22 *tions for subpart B of part III of subchapter A of*
23 *chapter 61 of such Code, as amended by subsection*
24 *(b)(3), is amended by inserting after the item relating*
25 *to section 6045A the following new item:*

“*Sec. 6045B. Returns relating to actions affecting basis of specified securities.*”.

1 (e) *EFFECTIVE DATE.*—

2 (1) *IN GENERAL.*—*Except as otherwise provided*
3 *in this subsection, the amendments made by this sec-*
4 *tion shall take effect on January 1, 2010.*

5 (2) *EXTENSION OF PERIOD FOR STATEMENTS*
6 *SENT TO CUSTOMERS.*—*The amendments made by*
7 *subsection (a)(3) shall apply to statements required to*
8 *be furnished after December 31, 2008.*

9 **SEC. 642. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**
10 **TION OF INTEREST.**

11 (a) *IN GENERAL.*—*Paragraphs (5)(D) and (6) of sec-*
12 *tion 864(f) are each amended by striking “December 31,*
13 *2008” and inserting “December 31, 2009”.*

14 (b) *TRANSITIONAL RULE.*—*Subsection (f) of section*
15 *864 is amended by adding at the end the following new*
16 *paragraph:*

17 “(7) *TRANSITION.*—*In the case of the first tax-*
18 *able year to which this subsection applies, the in-*
19 *crease (if any) in the amount of the interest expense*
20 *allocable to sources within the United States by rea-*
21 *son of the application of this subsection shall be 78*
22 *percent of the amount of such increase determined*
23 *without regard to this paragraph.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2008.*

4 **SEC. 643. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
5 **TAXES.**

6 (a) *REPEAL OF ADJUSTMENT FOR 2012.*—*Subpara-*
7 *graph (B) of section 401(1) of the Tax Increase Prevention*
8 *and Reconciliation Act of 2005 is amended by striking the*
9 *percentage contained therein and inserting “100 percent”.*

10 (b) *MODIFICATION OF ADJUSTMENT FOR 2013.*—*The*
11 *percentage under subparagraph (C) of section 401(1) of the*
12 *Tax Increase Prevention and Reconciliation Act of 2005 in*
13 *effect on the date of the enactment of this Act is increased*
14 *by 13 percentage points.*

15 **Subtitle D—Coordination of Fed-**
16 **eral Housing Programs and Tax**
17 **Incentives for Housing**

18 **SEC. 651. SHORT TITLE.**

19 *This subtitle may be cited as the “Housing Tax Credit*
20 *Coordination Act of 2008”.*

21 **SEC. 652. APPROVALS BY DEPARTMENT OF HOUSING AND**
22 **URBAN DEVELOPMENT.**

23 (a) *ADMINISTRATIVE AND PROCEDURAL CHANGES.*—

24 (1) *IN GENERAL.*—*The Secretary of Housing and*
25 *Urban Development (in this section referred to as the*

1 “Secretary”) shall, not later than the expiration of
2 the 6-month period beginning upon after the date of
3 the enactment of this Act, implement administrative
4 and procedural changes to expedite approval of multi-
5 family housing projects under the jurisdiction of the
6 Department of Housing and Urban Development that
7 meet the requirements of the Secretary for such ap-
8 provals.

9 (2) *PROJECTS.*—The multifamily housing
10 projects referred to in paragraph (1) shall include—

11 (A) projects for which assistance is provided
12 by such Department in conjunction with any
13 low-income housing tax credits under section 42
14 of the Internal Revenue Code of 1986 or tax-ex-
15 empt housing bonds; and

16 (B) existing public housing projects and as-
17 sisted housing projects, for which approval of the
18 Secretary is necessary for transactions, in con-
19 junction with any such low-income housing tax
20 credits or tax-exempt housing bonds, involving
21 the preservation or rehabilitation of the project.

22 (3) *CHANGES.*—The administrative and proce-
23 dural changes referred to in paragraph (1) shall in-
24 clude all actions necessary to carry out paragraph
25 (1), which may include—

1 (A) *improving the efficiency of approval*
2 *procedures;*

3 (B) *simplifying approval requirements,*

4 (C) *establishing time deadlines or target*
5 *deadlines for required approvals;*

6 (D) *modifying division of approval author-*
7 *ity between field and national offices;*

8 (E) *improving outreach to project sponsors*
9 *regarding information that is required to be sub-*
10 *mitted for such approvals;*

11 (F) *requesting additional funding for in-*
12 *creasing staff, if necessary; and*

13 (G) *any other actions which would expedite*
14 *approvals.*

15 *Any such changes shall be made in a manner that*
16 *provides for full compliance with any existing re-*
17 *quirements under law or regulation that are designed*
18 *to protect families receiving public and assisted hous-*
19 *ing assistance, including income targeting, rent, and*
20 *fair housing provisions, and shall also comply with*
21 *requirements regarding environmental review and*
22 *protection and wages paid to laborers.*

23 (b) *CONSULTATION.*—*The Secretary shall consult with*
24 *the Commissioner of the Internal Revenue Service and take*
25 *such actions as are appropriate in conjunction with such*

1 *consultation to simplify the coordination of rules, regula-*
2 *tions, forms, and approval requirements for multifamily*
3 *housing projects projects for which assistance is provided*
4 *by such Department in conjunction with any low-income*
5 *housing tax credits under section 42 of the Internal Revenue*
6 *Code of 1986 or tax-exempt housing bonds.*

7 (c) *RECOMMENDATIONS.—In implementing the*
8 *changes required under this section, the Secretary shall so-*
9 *licit recommendations regarding such changes from project*
10 *owners and sponsors, investors and stakeholders in housing*
11 *tax credits, State and local housing finance agencies, public*
12 *housing agencies, tenant advocates, and other stakeholders*
13 *in such projects.*

14 (d) *REPORT.—Not later than the expiration of the 9-*
15 *month period beginning on the date of the enactment of this*
16 *Act, the Secretary shall submit a report to the Committee*
17 *on Financial Services of the House of Representatives and*
18 *the Committee on Banking, Housing, and Urban Affairs*
19 *of the Senate that—*

20 (1) *identifies the actions taken by the Secretary*
21 *to comply with this section;*

22 (2) *includes information regarding any resulting*
23 *improvements in the expedited approval for multi-*
24 *family housing projects;*

1 (3) identifies recommendations made pursuant
2 to subsection (c);

3 (4) identifies actions taken by the Secretary to
4 implement the provisions in the amendments made by
5 sections 4 and 5 of this Act; and

6 (5) makes recommendations for any legislative
7 changes that are needed to facilitate prompt approval
8 of assistance for such projects.

9 **SEC. 653. PROJECT APPROVALS BY RURAL HOUSING SERV-**
10 **ICE.**

11 Section 515(h) of the Housing Act of 1949 (42 U.S.C.
12 1485) is amended—

13 (1) by inserting “(1) CONDITION.—” after “(h)”;
14 and

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

17 “(2) **ACTIONS TO EXPEDITE PROJECT APPROVALS.—**

18 “(A) **IN GENERAL.—**The Secretary shall take ac-
19 tions to facilitate timely approval of requests to
20 transfer ownership or control, for the purpose of reha-
21 bilitation or preservation, of multifamily housing
22 projects for which assistance is provided by the Sec-
23 retary of Agriculture in conjunction with any low-in-
24 come housing tax credits under section 42 of the In-

1 *ternal Revenue Code of 1986 or tax-exempt housing*
2 *bonds.*

3 “(B) *CONSULTATION.*—*The Secretary of Agri-*
4 *culture shall consult with the Commissioner of the In-*
5 *ternal Revenue Service and take such actions as are*
6 *appropriate in conjunction with such consultation to*
7 *simplify the coordination of rules, regulations, forms*
8 *(including applications forms for project transfers),*
9 *and approval requirements multifamily housing*
10 *projects for which assistance is provided by the Sec-*
11 *retary of Agriculture in conjunction with any low-in-*
12 *come housing tax credits under section 42 of the In-*
13 *ternal Revenue Code of 1986 or tax-exempt housing*
14 *bonds.*

15 “(C) *EXISTING REQUIREMENTS.*—*Any actions*
16 *taken pursuant to this paragraph shall be taken in a*
17 *manner that provides for full compliance with any*
18 *existing requirements under law or regulation that*
19 *are designed to protect families receiving Federal*
20 *housing assistance, including income targeting, rent,*
21 *and fair housing provisions, and shall also comply*
22 *with requirements regarding environmental review*
23 *and protection and wages paid to laborers.*

24 “(D) *RECOMMENDATIONS.*—*In implementing the*
25 *changes required under this paragraph, the Secretary*

1 *shall solicit recommendations regarding such changes*
2 *from project owners and sponsors, investors and*
3 *stakeholders in housing tax credits, State and local*
4 *housing finance agencies, tenant advocates, and other*
5 *stakeholders in such projects.”.*

6 **SEC. 654. USE OF FHA LOANS WITH HOUSING TAX CREDITS.**

7 *(a) SUBSIDY LAYERING REQUIREMENTS.—Subsection*
8 *(d) of section 102 of the Department of Housing and Urban*
9 *Development Reform Act of 1989 (42 U.S.C. 3545(d)) is*
10 *amended—*

11 *(1) in the first sentence, by inserting after “as-*
12 *stance within the jurisdiction of the Department”*
13 *the following: “, as such term is defined in subsection*
14 *(m), except that for purposes of this subsection such*
15 *term shall not include any mortgage insurance pro-*
16 *vided pursuant to title II of the National Housing*
17 *Act (12 U.S.C. 1707 et seq.)”;* and

18 *(2) in the second sentence, by inserting “such”*
19 *before “assistance”.*

20 *(b) COST CERTIFICATION.—Section 227 of National*
21 *Housing Act (12 U.S.C. 1715r) is amended—*

22 *(1) in the matter preceding paragraph (a) (relat-*
23 *ing to a definition of “new or rehabilitated multi-*
24 *family housing”)—*

25 *(A) in the first sentence—*

1 (i) by striking “Notwithstanding” and
2 inserting “Except as provided in subsection
3 (b) and notwithstanding”; and

4 (ii) by redesignating clauses (a) and
5 (b) as clauses (A) and (B), respectively; and
6 (B) by striking “As used in this section—
7 ”;

8 (2) in paragraph (c) (relating to a definition of
9 “actual cost”)—

10 (A) in clause (i), by redesignating clauses
11 (1) and (2) as clauses (I) and (II), respectively;
12 and

13 (B) in clause (ii), by redesignating clauses
14 (1) and (2) as clauses (I) and (II), respectively;
15 (3) by redesignating paragraphs (a), (b), and (c)
16 as paragraphs (1), (2), and (3), respectively;

17 (4) by inserting before paragraph (1) (as so re-
18 designated by paragraph (3) of this subsection) the
19 following:

20 “(b) *EXEMPTION FOR CERTAIN PROJECTS ASSISTED*
21 *WITH LOW-INCOME HOUSING TAX CREDIT.*—In the case of
22 any mortgage insured under any provision of this title that
23 is executed in connection with the construction, rehabilita-
24 tion, purchase, or refinancing of a multifamily housing
25 project for which equity provided through any low-income

1 *housing tax credit pursuant to Section 42 of the Internal*
2 *Revenue Code of 1986 (26 U.S.C. 42), if the Secretary deter-*
3 *mines at the time of issuance of the firm commitment for*
4 *insurance that the ratio of the loan proceeds to the actual*
5 *cost of the project is less than 80 percent, subsection (a)*
6 *of this section shall not apply.*

7 “(c) *DEFINITIONS.—For purposes of this section, the*
8 *following definitions shall apply:”*; and

9 (5) by inserting “(a) *REQUIREMENT.—*” after
10 “227.”.

11 (c) *OTHER PROVISIONS REGARDING TREATMENT OF*
12 *MORTGAGES COVERING TAX CREDIT PROJECTS.—Title II*
13 *of the National Housing Act is amended by inserting after*
14 *section 227 (12 U.S.C. 1715r) the following new section:*

15 **“SEC. 228. TREATMENT OF MORTGAGES COVERING TAX**
16 **CREDIT PROJECTS.**

17 “(a) *DEFINITION.—For purposes of this section, the*
18 *term ‘insured mortgage covering a tax credit project’ means*
19 *a mortgage insured under any provision of this title that*
20 *is executed in connection with the construction, rehabilita-*
21 *tion, purchase, or refinancing of a multifamily housing*
22 *project for which equity provided through any low-income*
23 *housing tax credit pursuant to section 42 of the Internal*
24 *Revenue Code of 1986 (26 U.S.C. 42).*

1 “(b) *ACCEPTANCE OF LETTERS OF CREDIT.*—*In the*
2 *case of an insured mortgage covering a tax credit project,*
3 *the Secretary may not require the escrowing of equity pro-*
4 *vided by the sale of any low-income housing tax credits for*
5 *the project pursuant to Section 42 of the Internal Revenue*
6 *Code of 1986, or any other form of security, such as a letter*
7 *of credit.*

8 “(c) *ASSET MANAGEMENT REQUIREMENTS.*—*In the*
9 *case of an insured mortgage covering a tax credit project*
10 *for which project the applicable tax credit allocating agency*
11 *is causing to be performed periodic inspections in compli-*
12 *ance with the requirements of section 42 of the Internal*
13 *Revenue Code of 1986, such project shall be exempt from*
14 *requirements imposed by the Secretary regarding periodic*
15 *inspections of the property by the mortgagee. To the extent*
16 *that other compliance monitoring is being performed with*
17 *respect to such a project by such an allocating agency pur-*
18 *suant to such section 42, the Secretary shall, to the extent*
19 *that the Secretary determines such monitoring is sufficient*
20 *to ensure compliance with any requirements established by*
21 *the Secretary, accept such agency’s evidence of compliance*
22 *for purposes of determining compliance with the Secretary’s*
23 *requirements.*

24 “(d) *STREAMLINED PROCESSING PILOT PROGRAM.*—

1 “(1) *IN GENERAL.*—*The Secretary shall establish*
2 *a pilot program to demonstrate the effectiveness of*
3 *streamlining the review process, which shall include*
4 *all applications for mortgage insurance under any*
5 *provision of this title for mortgages executed in con-*
6 *nection with the construction, rehabilitation, pur-*
7 *chase, or refinancing of a multifamily housing project*
8 *for which equity provided through any low-income*
9 *housing tax credit pursuant to section 42 of the Inter-*
10 *nal Revenue Code of 1986. The Secretary shall issue*
11 *instructions for implementing the pilot program*
12 *under this subsection not later than the expiration of*
13 *the 180-day period beginning upon the date of the en-*
14 *actment of the Housing Tax Credit Coordination Act*
15 *of 2008.*

16 “(2) *REQUIREMENTS.*—*Such pilot program shall*
17 *provide for—*

18 “(A) *the Secretary to appoint designated*
19 *underwriters, who shall be responsible for review-*
20 *ing such mortgage insurance applications and*
21 *making determinations regarding the eligibility*
22 *of such applications for such mortgage insurance*
23 *in lieu of the processing functions regarding such*
24 *applications that are otherwise performed by*

1 *other employees of the Department of Housing*
2 *and Urban Development;*

3 “(B) *submission of applications for such*
4 *mortgage insurance by mortgagees who have pre-*
5 *viously been expressly approved by the Secretary;*
6 *and*

7 “(C) *determinations regarding the eligi-*
8 *bility of such applications for such mortgage in-*
9 *surance to be made by the chief underwriter pur-*
10 *suant to requirements prescribed by the Sec-*
11 *retary, which shall include requiring submission*
12 *of reports regarding applications of proposed*
13 *mortgagees by third-party entities expressly ap-*
14 *proved by the chief underwriter.”.*

15 **SEC. 655. OTHER HUD PROGRAMS.**

16 (a) *SECTION 8 ASSISTANCE.—*

17 (1) *PHA PROJECT-BASED ASSISTANCE.—Section*
18 *8(o)(13) of the United States Housing Act of 1937 (42*
19 *U.S.C. 1437f(o)(13)) is amended—*

20 (A) *in subparagraph (D)(i)—*

21 (i) *by striking “building” and insert-*
22 *ing “project”; and*

23 (ii) *by adding at the end the following:*
24 *“For purposes of this subparagraph, the*
25 *term ‘project’ means a single building, mul-*

1 *tiple contiguous buildings, or multiple*
2 *buildings on contiguous parcels of land.”;*

3 *(B) in the first sentence of subparagraph*
4 *(F), by striking “10 years” and inserting “15*
5 *years”;*

6 *(C) In subparagraph (G)—*

7 *(i) by inserting after the period at the*
8 *end of the first sentence the following: “Such*
9 *contract may, at the election of the public*
10 *housing agency and the owner of the struc-*
11 *ture, specify that such contract shall be ex-*
12 *tended for renewal terms of up to 15 years*
13 *each, if the agency makes the determination*
14 *required by this subparagraph and the*
15 *owner is in compliance with the terms of*
16 *the contract.”; and*

17 *(ii) by adding at the end the following:*
18 *“A public housing agency may agree to*
19 *enter into such a contract at the time it en-*
20 *ters into the initial agreement for a housing*
21 *assistance payment contract or at any time*
22 *thereafter that is before the expiration of the*
23 *housing assistance payment contract.”;*

24 *(D) in subparagraph (H), by inserting be-*
25 *fore the period at the end of the first sentence the*

1 following: “, except that in the case of a contract
2 unit that has been allocated low-income housing
3 tax credits and for which the rent limitation
4 pursuant to such section 42 is less than the
5 amount that would otherwise be permitted under
6 this subparagraph, the rent for such unit may,
7 in the sole discretion of a public housing agency,
8 be established at the higher section 8 rent, subject
9 only to paragraph (10)(A)”;

10 (E) in subparagraph (I)(i), by inserting be-
11 fore the semicolon the following: “, except that
12 the contract may provide that the maximum rent
13 permitted for a dwelling unit shall not be less
14 than the initial rent for the dwelling unit under
15 the initial housing assistance payments contract
16 covering the unit”; and

17 (F) by adding at the end the following new
18 subparagraphs:

19 “(L) USE IN COOPERATIVE HOUSING AND
20 ELEVATOR BUILDINGS.—A public housing agency
21 may enter into a housing assistance payments
22 contract under this paragraph with respect to—

23 “(i) dwelling units in cooperative hous-
24 ing; and

1 “(i) notwithstanding subsection (c),
2 dwelling units in a high-rise elevator
3 project, including such a project that is oc-
4 cupied by families with children, without
5 review and approval of the contract by the
6 Secretary.

7 “(M) *REVIEWS.*—

8 “(i) *SUBSIDY LAYERING.*—A subsidy
9 layering review in accordance with section
10 102(d) of the Department of Housing and
11 Urban Development Reform Act of 1989 (42
12 U.S.C. 3545(d)) shall not be required for as-
13 sistance under this paragraph in the case of
14 a housing assistance payments contract for
15 an existing structure, or if a subsidy
16 layering review has been conducted by the
17 applicable State or local agency.

18 “(ii) *ENVIRONMENTAL REVIEW.*—A
19 public housing agency shall not be required
20 to undertake any environmental review be-
21 fore entering into a housing assistance pay-
22 ments contract under this paragraph for an
23 existing structure, except to the extent such
24 a review is otherwise required by law or
25 regulation.”.

1 (2) *VOUCHER PROGRAM RENT REASONABLE-*
2 *NESS.—Section 8(o)(10) of the United States Housing*
3 *Act of 1937 (42 U.S.C. 1437f(o)(10)) is amended by*
4 *adding at the end the following new subparagraph;*

5 “(F) *TAX CREDIT PROJECTS.—In the case*
6 *of a dwelling unit receiving tax credits pursuant*
7 *to section 42 of the Internal Revenue Code of*
8 *1986 or for which assistance is provided under*
9 *subtitle A of title II of the Cranston Gonzalez*
10 *National Affordable Housing Act of 1990, for*
11 *which a housing assistance contract not subject*
12 *to paragraph (13) of this subsection is estab-*
13 *lished, rent reasonableness shall be determined as*
14 *otherwise provided by this paragraph, except*
15 *that—*

16 “(i) *comparison with rent for units in*
17 *the private, unassisted local market shall*
18 *not be required if the rent is equal to or less*
19 *than the rent for other comparable units re-*
20 *ceiving such tax credits or assistance in the*
21 *project that are not occupied by families as-*
22 *sisted with tenant-based assistance under*
23 *this subsection; and*

1 “(ii) the rent shall not be considered
2 reasonable for purposes of this paragraph if
3 it exceeds the greater of—

4 “(I) the rents charged for other
5 comparable units receiving such tax
6 credits or assistance in the project that
7 are not occupied by families assisted
8 with tenant-based assistance under this
9 subsection; and

10 “(II) the payment standard estab-
11 lished by the public housing agency for
12 a unit of the size involved.”.

13 (b) SECTION 202 HOUSING FOR ELDERLY PERSONS.—

14 Subsection (f) of section 202 of the Housing Act of 1959
15 (12 U.S.C. 1701q(f)) is amended—

16 (1) by striking “SELECTION CRITERIA.—” and
17 inserting “INITIAL SELECTION CRITERIA AND PROC-
18 ESSING.—(1) SELECTION CRITERIA.—”;

19 (2) by redesignating paragraphs (1) through (7)
20 as subparagraphs (A) through (G), respectively; and

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

23 “(2) DELEGATED PROCESSING.—

24 “(A) In issuing a capital advance under this
25 subsection for any project for which financing for the

1 *purposes described in the last two sentences of sub-*
2 *section (b) is provided by a combination of a capital*
3 *advance under subsection (c)(1) and sources other*
4 *than this section, within 30 days of award of the cap-*
5 *ital advance, the Secretary shall delegate review and*
6 *processing of such projects to a State or local housing*
7 *agency that—*

8 *“(i) is in geographic proximity to the prop-*
9 *erty;*

10 *“(ii) has demonstrated experience in and*
11 *capacity for underwriting multifamily housing*
12 *loans that provide housing and supportive serv-*
13 *ices;*

14 *“(iii) may or may not be providing low-in-*
15 *come housing tax credits in combination with*
16 *the capital advance under this section, and*

17 *“(iv) agrees to issue a firm commitment*
18 *within 12 months of delegation.*

19 *“(B) The Secretary shall retain the authority to*
20 *process capital advances in cases in which no State*
21 *or local housing agency has applied to provide dele-*
22 *gated processing pursuant to this paragraph or no*
23 *such agency has entered into an agreement with the*
24 *Secretary to serve as a delegated processing agency.*

1 “(C) *An agency to which review and processing*
2 *is delegated pursuant to subparagraph (A) may assess*
3 *a reasonable fee which shall be included in the capital*
4 *advance amounts and may recommend project rental*
5 *assistance amounts in excess of those initially award-*
6 *ed by the Secretary. The Secretary shall develop a*
7 *schedule for reasonable fees under this subparagraph*
8 *to be paid to delegated processing agencies, which*
9 *shall take into consideration any other fees to be paid*
10 *to the agency for other funding provided to the project*
11 *by the agency, including bonds, tax credits, and other*
12 *gap funding.*

13 “(D) *Under such delegated system, the Secretary*
14 *shall retain the authority to approve rents and devel-*
15 *opment costs and to execute a capital advance within*
16 *60 days of receipt of the commitment from the State*
17 *or local agency. The Secretary shall provide to such*
18 *agency and the project sponsor, in writing, the rea-*
19 *sons for any reduction in capital advance amounts or*
20 *project rental assistance and such reductions shall be*
21 *subject to appeal.”.*

22 (c) *MCKINNEY-VENTO ACT HOMELESS ASSISTANCE*
23 *UNDER SHELTER PLUS CARE PROGRAM.—*

1 (1) *TERM OF CONTRACTS WITH OWNER OR LES-*
2 *SOR.—Part I of subtitle F of the McKinney-Vento*
3 *Homeless Assistance Act is amended—*

4 (A) *by redesignating sections 462 and 463*
5 *(42 U.S.C. 11403g, 11403h) as sections 463 and*
6 *464, respectively;*

7 (B) *by striking “section 463” each place*
8 *such term appears in sections 471, 476, 481,*
9 *486, and 488 (42 U.S.C. 11404, 11405, 11406,*
10 *11407, and 11407b) and inserting “section 464”;*
11 *and*

12 (C) *by inserting after section 461 (42*
13 *U.S.C. 11403f) the following new section:*

14 **“SEC. 462. TERM OF CONTRACT WITH OWNER OR LESSOR.**

15 *“An applicant under this subtitle may enter into a*
16 *contract with the owner or lessor of a property that receives*
17 *rental assistance under this subtitle having a term of not*
18 *more than 15 years, subject to the availability of sufficient*
19 *funds provided in appropriation Acts for the purpose of re-*
20 *newing expiring contracts for assistance payments. Such*
21 *contract may, at the election of the applicant and owner*
22 *or lessor, specify that such contract shall be extended for*
23 *renewal terms of not more than 15 years each, subject to*
24 *the availability of sufficient such appropriated funds.”.*

1 (2) *PROJECT-BASED RENTAL ASSISTANCE CON-*
2 *TRACTS.*—Section 478(a) of the McKinney-Vento
3 *Homeless Assistance Act (42 U.S.C. 11405a(a)) is*
4 *amended by inserting before the period at the end the*
5 *following: “; except that, in the case of any project for*
6 *which equity is provided through any low-income*
7 *housing tax credit pursuant to section 42 of the Inter-*
8 *nal Revenue Code of 1986 (26 U.S.C. 42), if an ex-*
9 *penditure of such amount for each unit (including the*
10 *prorated share of such work) is required to make the*
11 *structure decent, safe, and sanitary, and the owner*
12 *agrees to reach initial closing on permanent financ-*
13 *ing from such other sources within two years and*
14 *agrees to carry out the rehabilitation with resources*
15 *other than assistance under this subtitle within 60*
16 *months of notification of grant approval, the contract*
17 *shall be for a term of 10 years (except that such pe-*
18 *riod may be extended by up to 1 year by the Sec-*
19 *retary, which extension shall be granted unless the*
20 *Secretary determines that the sponsor is primarily re-*
21 *sponsible for the failure to meet such deadline)”.*

22 (d) *DATA COLLECTION ON TENANTS OF HOUSING TAX*
23 *CREDIT PROJECTS.*—Title I of the United States Housing
24 *Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding*
25 *at the end the following new section:*

1 **“SEC. 36. COLLECTION OF INFORMATION ON TENANTS IN**
2 **TAX CREDIT PROJECTS.**

3 “(a) *IN GENERAL.*—Each State agency administering
4 tax credits under section 42 of the Internal Revenue Code
5 of 1986 (26 U.S.C. 42) shall furnish to the Secretary of
6 Housing and Urban Development, not less than annually,
7 information concerning the race, ethnicity, family composi-
8 tion, age, income, use of rental assistance under section 8(o)
9 of the United States Housing Act of 1937 or other similar
10 assistance, disability status, and monthly rental payments
11 of households residing in each property receiving such cred-
12 its through such agency. Such State agencies shall, to the
13 extent feasible, collect such information through existing re-
14 porting processes and in a manner that minimizes burdens
15 on property owners. In the case of any household that con-
16 tinues to reside in the same dwelling unit, information pro-
17 vided by the household in a previous year may be used if
18 the information is of a category that is not subject to change
19 or if information for the current year is not readily avail-
20 able to the owner of the property.

21 “(b) *STANDARDS.*—The Secretary shall establish
22 standards and definitions for the information collected
23 under subsection (a), provide States with technical assist-
24 ance in establishing systems to compile and submit such
25 information, and, in coordination with other Federal agen-
26 cies administering housing programs, establish procedures

1 to minimize duplicative reporting requirements for prop-
 2 erties assisted under multiple housing programs.

3 “(c) *PUBLIC AVAILABILITY.*—The Secretary shall, not
 4 less than annually, compile and make publicly available
 5 the information submitted to the Secretary pursuant to sub-
 6 section (a).

7 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—There is
 8 authorized to be appropriated for the cost of activities re-
 9 quired under subsections (b) and (c) \$2,500,000 for fiscal
 10 year 2009 and \$900,000 for each of fiscal years 2010
 11 through 2013.”.

12 ***Subtitle E—Limitation on Sale,***
 13 ***Foreclosure, or Seizure of Prop-***
 14 ***erty Owned by Servicemembers***

15 ***SEC. 661. LIMITATION ON SALE, FORECLOSURE, OR SEI-***
 16 ***ZURE OF PROPERTY OWNED BY***
 17 ***SERVICEMEMBERS DURING ONE-YEAR PE-***
 18 ***RIOD FOLLOWING PERIOD OF MILITARY***
 19 ***SERVICE.***

20 (a) *LIMITATION.*—Section 303(c) of the
 21 *Servicemembers Civil Relief Act* is amended by striking “90
 22 days” and inserting “one year”.

23 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 24 section (a) shall apply with respect to any sale, foreclosure,

1 *or seizure of property on or after the date of the enactment*
2 *of this Act.*

3 **SEC. 662. PROVISION OF FINANCIAL DISCLOSURE TO**
4 **SERVICEMEMBERS WHO DEFAULT ON CER-**
5 **TAIN OBLIGATIONS.**

6 *(a) PROVISION OF DISCLOSURE REQUIRED.—Section*
7 *303 of the Servicemembers Civil Relief Act (50 U.S.C. App.*
8 *533) is amended by adding at the end the following new*
9 *subsection:*

10 *“(e) PROVISION OF FINANCIAL DISCLOSURE.—In the*
11 *case of a servicemember who defaults on an obligation de-*
12 *scribed in subsection (a) for two consecutive months, the*
13 *mortgagor or loan servicer of the obligation shall provide*
14 *to the servicemember a written financial disclosure describ-*
15 *ing the servicemember’s liability with respect to the obliga-*
16 *tion for the period during which a sale, foreclosure, or sei-*
17 *zure of the property is not valid under subsection (c).”.*

18 *(b) EFFECTIVE DATE.—Subsection (e) of section 303*
19 *of the Servicemembers Civil Relief Act (50 U.S.C. App.*
20 *533), as added by subsection (a), shall apply with respect*
21 *to a servicemember who defaults on an obligation on or*
22 *after the date of the enactment of this Act.*

(3)At the appropriate place, insert the following new
section:

1 **SEC. ____ . RULE OF CONSTRUCTION.**

2 (a) *IN GENERAL.*—No provision of this Act, the Home
3 Owners’ Loan Act, or title LXII of the Revised Statutes of
4 the United States (commonly referred to as the “National
5 Bank Act”) may be construed as preempting the applica-
6 tion, to any entity, of any State law regulating the fore-
7 closure of residential real property in that State or the
8 treatment of foreclosed property.

9 (b) *NO NEGATIVE IMPLICATION.*—This section shall
10 not be construed as affecting in any way the applicability
11 of any other type of State law to any Federal depository
12 institution (as defined in section 3(c)(4) of the Federal De-
13 posit Insurance Act) or to any agent or subsidiary of any
14 such depository institution.

Attest:

Clerk.

110TH CONGRESS
2^D SESSION

H.R. 3221

**HOUSE AMENDMENTS
TO SENATE
AMENDMENTS**