

111TH CONGRESS
1ST SESSION

H. R. 384

To reform the Troubled Assets Relief Program of the Secretary of the Treasury and ensure accountability under such Program.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2009

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Ways and Means and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform the Troubled Assets Relief Program of the Secretary of the Treasury and ensure accountability under such Program.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “TARP Reform and Accountability Act of 2009”.

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

Sec. 1. Short title; table of contents.

TITLE I—MODIFICATIONS TO TARP AND TARP OVERSIGHT

- Sec. 101. New conditionality for TARP-assisted institutions.
- Sec. 102. Executive compensation and corporate governance.
- Sec. 103. New lending by insured depository institutions that is attributable to TARP investments and assistance.
- Sec. 104. Other protections for the taxpayer.
- Sec. 105. Availability of TARP funds to smaller community institutions.
- Sec. 106. Increase in size and authority of Financial Stability Oversight Board.
- Sec. 107. Clarification.

TITLE II—FORECLOSURE RELIEF

- Sec. 201. TARP foreclosure mitigation plan and implementation.
- Sec. 202. Elements of plan.
- Sec. 203. Program alternatives.
- Sec. 204. Systematic foreclosure prevention and mortgage modification plan established.
- Sec. 204. Modification of plan.
- Sec. 205. Servicer safe harbor.
- Sec. 206. Report by Congressional Oversight Panel.

TITLE III—AUTO INDUSTRY FINANCING AND RESTRUCTURING

- Sec. 301. Short title.
- Sec. 302. Direct loan provisions.

TITLE IV—CLARIFICATION OF AUTHORITY

- Sec. 401. Consumer loans.
- Sec. 402. Municipal securities.
- Sec. 403. Commercial real estate loans.

TITLE V—HOPE FOR HOMEOWNERS PROGRAM IMPROVEMENTS

- Sec. 501. Changes to HOPE for Homeowners Program.
- Sec. 502. Funding of increased HOPE for Homeowners Program credit subsidy costs.

TITLE VI—HOME BUYER STIMULUS

- Sec. 601. Home buyer stimulus program.

TITLE VII—FDIC PROVISIONS

- Sec. 701. Permanent increase in deposit insurance.
- Sec. 702. Extension of restoration plan period.
- Sec. 703. Borrowing authority.
- Sec. 704. Systemic risk special assessments.

1 “(B) shall establish appropriate mecha-
2 nisms to ensure appropriate use and compliance
3 with all terms of any use of funds made avail-
4 able under this title.

5 “(3) CONSULTATION.—The Secretary shall con-
6 sult with the appropriate Federal banking agencies
7 in establishing the reporting requirements under this
8 subsection that are applicable to insured depository
9 institutions.

10 “(f) USE AND ACCOUNTABILITY FOR USE OF
11 FUNDS.—

12 “(1) INSURED DEPOSITORY INSTITUTION.—

13 “(A) INVESTMENT IN OR OTHER INJEC-
14 TION OF FUNDS INTO A DEPOSITORY INSTITU-
15 TION.—As a condition for the provision of any
16 investment in the capital or assets of, or any
17 other provision of assistance to or for the ben-
18 efit of, any insured depository institution, the
19 Secretary shall incorporate into the agreement
20 for such investment or assistance an agreement
21 between the depository institution and the ap-
22 propriate Federal banking agency with respect
23 to such institution on the manner in which the
24 funds are to be used and benchmarks that the
25 institution is required to meet in using the

1 funding so as to advance the purposes of this
2 Act to strengthen the soundness of the financial
3 system and the availability of credit to the econ-
4 omy.

5 “(B) EXAMINATIONS.—In the case of any
6 assisted insured depository institution that be-
7 came an assisted institution on or after October
8 3, 2008, the appropriate Federal banking agen-
9 cy shall specifically review at least once annu-
10 ally the use, by the institution, of funds made
11 available under this Act and compliance by the
12 institution with the requirements established by
13 or pursuant to this title or by agreement of the
14 institution with the Secretary or the appro-
15 priate Federal banking agency, including execu-
16 tive compensation and any other specific agree-
17 ment terms. Such review may be conducted in
18 connection with the regular full-site examina-
19 tion, or any other examination.

20 “(C) COMPLIANCE PROCEDURES RE-
21 QUIRED.—Each appropriate Federal banking
22 agency shall prescribe regulations requiring as-
23 sisted insured depository institutions to estab-
24 lish and maintain procedures designed to assure
25 and monitor the compliance of such depository

1 institutions with the requirements established
2 by or pursuant to this title or by agreement of
3 the institution with the Secretary or such agen-
4 cy.

5 “(2) USE OF TARP FUNDS FOR MERGERS OR
6 ACQUISITIONS.—Effective as of the date of the en-
7 actment of the TARP Reform and Accountability
8 Act of 2009, no assisted institution that became an
9 assisted institution at any time on or after October
10 3, 2008, may merge or consolidate with any insured
11 depository institution or, either directly or indirectly,
12 acquire the assets of, or assume liability to pay any
13 deposits made in, any insured depository institution,
14 and no Federal banking agency may approve any
15 such action under section 18(c) of the Federal De-
16 posit Insurance Act, while any of such assistance is
17 outstanding unless, prior to the approval of such
18 agency, the Secretary has determined in consultation
19 with any relevant Federal banking agencies that—

20 “(A) such action will reduce risk to the
21 taxpayer; or

22 “(B) the transaction could have been con-
23 summated without funds provided under this
24 title.

1 “(3) NONDEPOSITORY INSTITUTIONS.—In the
2 case of any assisted institution that became an as-
3 sisted institution on or after October 3, 2008, and
4 is not described in and subject to paragraph (1), the
5 Secretary shall establish such reporting requirements
6 and require any other conditions or agreements no
7 less stringent than those applicable to assisted in-
8 sured depository institutions, including requirements
9 to conduct examinations of the books, affairs, and
10 procedures of any such financial institution by the
11 Secretary or by delegation to the Board.

12 “(g) NO IMPEDIMENT TO WITHDRAWAL.—Subject to
13 consultation with the appropriate Federal banking agen-
14 cies, the Secretary may permit an insured depository insti-
15 tution to repay any assistance previously provided under
16 this title to such depository institution without regard to
17 whether the depository institution has replaced such funds
18 from any other source.”.

19 (b) DEFINITIONS.—Section 3 of the Emergency Eco-
20 nomic Stabilization Act of 2008 (12 U.S.C. 5202) is
21 amended by adding at the end the following new para-
22 graphs:

23 “(10) DEFINITIONS RELATING TO INSURED DE-
24 POSITORY INSTITUTIONS.—The terms ‘depository in-
25 stitution’, ‘insured depository institution’, ‘Federal

1 banking agency’ and ‘appropriate Federal banking
2 agency’ have the same meanings as in section 3 of
3 the Federal Deposit Insurance Act.

4 “(11) ASSISTED INSTITUTION.—The terms ‘as-
5 sisted institution’ or ‘assisted insured depository in-
6 stitution’ means any such institution that receives,
7 directly or indirectly, any assistance or benefit that
8 involves the obligation or expenditure, loan, or in-
9 vestment of funds available to the Secretary under
10 title I.”.

11 **SEC. 102. EXECUTIVE COMPENSATION AND CORPORATE**
12 **GOVERNANCE.**

13 (a) IN GENERAL.—Section 111 of the Emergency
14 Economic Stabilization Act of 2008 (12 U.S.C. 5221) is
15 amended by adding at the end the following new sub-
16 sections:

17 “(e) ACROSS-THE-BOARD EXECUTIVE COMPENSA-
18 TION AND CORPORATE GOVERNANCE REQUIREMENTS.—

19 “(1) STANDARDS REQUIRED.—Effective as of
20 the date of the enactment of the TARP Reform and
21 Accountability Act of 2009 and notwithstanding any
22 provision of, and in addition to any requirement of
23 subsection (a), (b), or (c) (other than the definitions
24 in subsection (b)(3)), the Secretary shall require any
25 assisted institution to meet standards for executive

1 compensation and corporate governance while any
2 assistance under this title is outstanding.

3 “(2) SPECIFIC REQUIREMENTS.—The standards
4 established under paragraph (1) shall include—

5 “(A) limits on compensation that exclude
6 incentives for senior executive officers of an as-
7 sisted institution which received assistance
8 under this title to take unnecessary and exces-
9 sive risks that threaten the value of such insti-
10 tution during the period that any assistance
11 under this title is outstanding;

12 “(B) a provision for the recovery by such
13 institution of any bonus or incentive compensa-
14 tion paid to a senior executive officer based on
15 statements of earnings, gains, or other criteria
16 that are later found to be materially inaccurate;

17 “(C) a prohibition on such institution mak-
18 ing any golden parachute payment to a senior
19 executive officer during the period that the as-
20 sistance under this title is outstanding;

21 “(D) a prohibition on such institution pay-
22 ing or accruing any bonus or incentive com-
23 pensation, during the period that the assistance
24 under this title is outstanding, to the 25 most
25 highly-compensated employees; and

1 “(E) a prohibition on any compensation
2 plan that would encourage manipulation of such
3 institution’s reported earnings to enhance the
4 compensation of any of its employees.

5 “(3) DIVESTITURE.—During the period in
6 which any assistance under this title to any assisted
7 institution is outstanding, the institution may not
8 own or lease any private passenger aircraft, or have
9 any interest in such aircraft, except that such insti-
10 tution shall not be treated as being in violation of
11 this provision with respect to any aircraft or interest
12 in any aircraft that was owned or held by the insti-
13 tution immediately before receiving such assistance,
14 as long as the recipient demonstrates to the satisfac-
15 tion of the Secretary that all reasonable steps are
16 being taken to sell or divest such aircraft or interest.

17 “(4) APPLICABILITY TO PRIOR ASSISTANCE.—
18 Notwithstanding any limitations included in sub-
19 section (a), (b), or (c) with regard to applicability,
20 the Secretary may apply the requirements of and the
21 standards established under this subsection to any
22 assisted institution that received any assistance
23 under this title on or after the date of the enactment
24 of the TARP Reform and Accountability Act of
25 2009.

1 “(f) BOARD OBSERVER.—The Secretary may require
 2 the attendance of an observer delegated by the Secretary,
 3 on behalf of the Secretary, to attend the meetings of the
 4 board of directors of any assisted institution that became
 5 an assisted institution on or after October 3, 2008, and
 6 any committees of such board of directors, while any as-
 7 sistance under this title is outstanding.”.

8 (b) REPEAL OF DE MINIMIS EXCEPTION.—Section
 9 111(c) of the Emergency Economic Stabilization Act of
 10 2008 (12 U.S.C. 5221(c)) is amended by striking “and
 11 only where such purchases per financial institution in the
 12 aggregate exceed \$300,000,000 (including direct pur-
 13 chases),”.

14 **SEC. 103. NEW LENDING BY INSURED DEPOSITORY INSTI-**
 15 **TUTIONS THAT IS ATTRIBUTABLE TO TARP**
 16 **INVESTMENTS AND ASSISTANCE.**

17 Section 7(a) of the Federal Deposit Insurance Act
 18 (U.S.C. 1817(a)) is amended by adding at the end the
 19 following new paragraph:

20 “(12) LENDING INCREASES ATTRIBUTABLE TO
 21 INVESTMENT OR OTHER ASSISTANCE UNDER THE
 22 TROUBLED ASSETS RELIEF PROGRAM.—

23 “(A) IN GENERAL.—Each report of condi-
 24 tion filed pursuant to this subsection by an in-
 25 sured depository institution which received an

1 investment or other assistance under the Trou-
2 bled Assets Relief Program established by the
3 Emergency Economic Stabilization Act of 2008
4 or section 136(d) of the Energy Independence
5 and Security Act of 2007 shall report the
6 amount of any increase in new lending in the
7 period covered by such report (or the amount of
8 any reduction in any decrease in new lending)
9 that is attributable to such investment or as-
10 sistance, to the extent possible.

11 “(B) ALTERNATIVE MEASURE.—If an in-
12 sured depository institution that is subject to
13 subparagraph (A) cannot accurately quantify
14 the effect that an investment or other assist-
15 ance under such Troubled Assets Relief Pro-
16 gram has had on new lending by the institution,
17 the insured depository institution shall report
18 the total amount of the increase in new lending,
19 if any, in the period covered by such report.

20 “(C) DESIGNATION OF REPORTING RE-
21 QUIREMENT.—The Federal banking agencies
22 and the Secretary of the Treasury shall specify
23 the form, content, and manner of reports re-
24 quired under this paragraph.”.

1 **SEC. 104. OTHER PROTECTIONS FOR THE TAXPAYER.**

2 (a) **WARRANT REQUIREMENTS.**—Subsection (d) of
3 section 113 of the Emergency Economic Stabilization Act
4 of 2008 (12 U.S.C. 5223(d)) is amended by striking para-
5 graph (1) and inserting the following new paragraph:

6 “(1) **WARRANTS.**—

7 “(A) **IN GENERAL.**—The Secretary may
8 not provide any assistance under this title to
9 any institution, unless the Secretary, receives
10 from the institution—

11 “(i) in the case of an institution the
12 securities of which are traded on a national
13 securities exchange, a warrant giving the
14 right to the Secretary to receive nonvoting
15 common stock or preferred stock in such
16 institution, or voting stock, with respect to
17 which the Secretary agrees not to exercise
18 voting power, whichever the Secretary de-
19 termines appropriate; or

20 “(ii) in the case of an institution
21 other than one described in clause (i), a
22 warrant for common or preferred stock, or
23 an instrument that is the economic equiva-
24 lent (as determined by the Secretary) of
25 such a warrant in the financial institution
26 (in the case of a mutual association), hold-

1 ing company of the financial institution, or
2 any company that controls a majority
3 stake in the financial institution, whichever
4 the Secretary determines appropriate.

5 “(B) AMOUNT.—

6 “(i) IN GENERAL.—The warrants or
7 instruments described in subparagraph (A)
8 with respect to an assisted institution shall
9 have a value equal to 15 percent of the ag-
10 gregate amount of all assistance provided
11 to the institution under this title. Such
12 warrants or instruments shall entitle the
13 Government to purchase—

14 “(I) nonvoting common stock, up
15 to a maximum amount of 15 percent
16 of the issued and outstanding common
17 stock of —

18 “(aa) the assisted institu-
19 tion; or

20 “(bb) in the case of an as-
21 sisted institution, the securities
22 of which are not traded on a na-
23 tional securities exchange, a hold-
24 ing company or company that
25 controls a majority of the stock

1 thereof (in this section referred
2 to as the ‘warrant common’); and

3 “(II) preferred stock having an
4 aggregate liquidation preference equal
5 to 15 percent of such aggregate loan
6 amount, less the value of common
7 stock available for purchase under the
8 warrant common (in this section re-
9 ferred to as the ‘warrant preferred’).

10 “(ii) COMMON STOCK WARRANT
11 PRICE.—The exercise price on a warrant
12 or instrument described in paragraph (1)
13 shall be—

14 “(I) the 15-day trailing average,
15 as of 1 day prior to the date on which
16 any commitment to provide assistance
17 under this title was entered into, of
18 the market price of the common stock
19 of the assisted institution; or

20 “(II) in the case of an assisted
21 institution, which is a mutual associa-
22 tion or the securities of which are not
23 traded on a national securities ex-
24 change, the economic equivalent of the

1 market price described in clause (I),
2 as determined by the Secretary.

3 “(iii) TERMS OF PREFERRED STOCK
4 WARRANT.—

5 “(I) IN GENERAL.—The initial
6 exercise price for the preferred stock
7 warrant shall be \$0.01 per share or
8 such greater amount as the corporate
9 charter may require as the par value
10 per share of the warrant preferred.
11 The Government shall have the right
12 to immediately exercise the warrants.

13 “(II) REDEMPTION.—The war-
14 rant preferred may be redeemed at
15 any time after exercise of the pre-
16 ferred stock warrant at 100 percent of
17 its issue price, plus any accrued and
18 unpaid dividends.”.

19 (b) REPEAL OF CERTAIN EXCEPTION.—Section
20 113(d)(3) of the Emergency Economic Stabilization Act
21 of 2008 (12 U.S.C. 5223(d)(3)) is amended by striking
22 subparagraph (A).

23 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
24 Section 113(d)(2) of the Emergency Economic Stabiliza-

1 tion Act of 2008 (12 U.S.C. 2553(d)) is amended by strik-
2 ing subparagraph (E).

3 **SEC. 105. AVAILABILITY OF TARP FUNDS TO SMALLER COM-**
4 **MUNITY INSTITUTIONS.**

5 (a) PROMPT ACTION.—The Secretary shall promptly
6 take all necessary actions to make available funds under
7 title I of the Emergency Economic Stabilization Act of
8 2008 to smaller community financial institutions.

9 (b) COMPARABLE TERMS.—If any institution be-
10 comes an assisted institution after the date of the enact-
11 ment of this Act, such funding for depository institutions
12 that—

13 (1) have submitted applications on which no ac-
14 tion has been taken, such as institutions that are C
15 corporations (including privately held institutions)
16 and community development financial institutions;
17 or

18 (2) are of a type for which the Secretary has
19 not yet established an application deadline or for
20 which any such deadline has not yet occurred as of
21 the date of the enactment of this Act, such as insti-
22 tutions that are non-stock corporations, S-corpora-
23 tions, mutually-owned insured depository institutions
24 (as defined in section 3 of the Federal Deposit In-
25 surance Act),

1 shall receive such funding on terms comparable to the
2 terms applicable to institutions that received funding prior
3 to the date of the enactment of this Act.

4 (c) DEFINITIONS.—For purposes of this section, the
5 terms “S Corporation” and “C Corporation” shall have
6 the same meaning given to those terms in section 1361(a)
7 of the Internal Revenue Code of 1986.

8 **SEC. 106. INCREASE IN SIZE AND AUTHORITY OF FINAN-**
9 **CIAL STABILITY OVERSIGHT BOARD.**

10 (a) AUTHORITY.—Section 104 of the Emergency
11 Economic Stabilization Act of 2008 (12 U.S.C. 2514) is
12 amended—

13 (1) by redesignating subsections (g) and (h) as
14 subsections (h) and (i), respectively; and

15 (2) by inserting after subsection (f) the fol-
16 lowing new subsection:

17 “(g) REVIEW AND DECISIONMAKING.—After con-
18 ducting any review under this section of a policy deter-
19 mination made by the Secretary, the Financial Stability
20 Oversight Board may overturn any such policy determina-
21 tion by a $\frac{2}{3}$ vote of all members of such board.”.

22 (b) APPOINTMENT OF 3 ADDITIONAL MEMBERS.—
23 Section 104(b) of the Emergency Economic Stabilization
24 Act of 2008 (12 U.S.C. 2514(b)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (4);

3 (2) by striking the period at the end of para-
4 graph (5) and inserting a semicolon; and

5 (3) by adding at the end the following new
6 paragraphs:

7 “(6) the Chairperson of the Board of Directors
8 of the Federal Deposit Insurance Corporation; and

9 “(7) 2 members appointed by the President, by
10 and with the consent of the Senate, from among in-
11 dividuals who are not officers or employees of the
12 United States Government.”.

13 **SEC. 107. CLARIFICATION.**

14 Section 101 of the Emergency Economic Stabilization
15 Act of 2008 (12 U.S.C. 2514(b)) is amended by adding
16 at the end the following new subsection:

17 “(f) CLARIFICATION.—Any provision of capital to,
18 purchase of equity in, or assistance provided to any insti-
19 tution under this title shall be considered to be a purchase
20 of troubled assets for purposes of this title.”.

1 **TITLE II—FORECLOSURE**
2 **RELIEF**

3 **SEC. 201. TARP FORECLOSURE MITIGATION PLAN AND IM-**
4 **PLEMENTATION.**

5 (a) **PLAN REQUIRED.**—Notwithstanding any provi-
6 sion of title I of the Emergency Economic Stabilization
7 Act of 2008, none of the funds otherwise available to the
8 Secretary of the Treasury (in this title referred to as the
9 “Secretary”) pursuant to section 115(a)(3) of such Act
10 shall be available to the Secretary after March 15, 2009,
11 unless a comprehensive plan to prevent and mitigate fore-
12 closures on residential properties, in accordance with the
13 requirements of this title, has been developed by the Sec-
14 retary and approved by the Financial Stability Oversight
15 Board by such date.

16 (b) **COMMITMENT OF RESOURCES.**—The comprehen-
17 sive plan established pursuant to subsection (a) shall re-
18 quire the commitment of funds made available to the Sec-
19 retary under title I of the Emergency Economic Stabiliza-
20 tion Act of 2008 in an amount up to \$100,000,000,000,
21 but in no case less than \$40,000,000,000.

22 (c) **IMPLEMENTATION REQUIRED.**—The Secretary
23 shall begin committing funds available to the Secretary
24 under title I of the Emergency Economic Stabilization Act

1 of 2008 to implement the comprehensive plan established
2 pursuant to subsection (a) by not later than April 1, 2009.

3 (d) CERTIFICATION.—If by May 1, 2009, the Sec-
4 retary does not commit more than the minimum of
5 \$40,000,000,000 as required under subsection (b), the
6 Secretary shall certify to the Congress, no later than May
7 15, 2009, the specific reasons that such additional funds
8 have not been committed.

9 **SEC. 202. ELEMENTS OF PLAN.**

10 (a) REQUIRED ELEMENTS.—The comprehensive plan
11 established pursuant to section 201(a) shall comply with
12 the following requirements:

13 (1) OWNER-OCCUPIED RESIDENCES ONLY.—
14 The programs implemented under the plan shall pre-
15 vent and mitigate foreclosures specifically on owner-
16 occupied residential properties.

17 (2) LEVERAGING OF PRIVATE CAPITAL.—The
18 plan shall leverage private capital to the maximum
19 extent possible consistent with the purpose of pre-
20 venting and mitigating foreclosures on such prop-
21 erties.

22 (3) USE OF PROGRAM ALTERNATIVES.—The ac-
23 tions to be taken under the plan shall consist of one,
24 or a combination of more than one, of the program
25 alternatives set forth in section 203.

1 (b) CONCENTRATIONS OF FORECLOSURES.—The
2 comprehensive plan established pursuant to section 201(a)
3 may include provisions designed to prevent and mitigate
4 foreclosures on residential properties located in areas that
5 are most seriously affected by such foreclosures.

6 **SEC. 203. PROGRAM ALTERNATIVES.**

7 The program alternatives set forth in this section are
8 as follows:

9 (1) SYSTEMATIC LOAN MODIFICATION PRO-
10 GRAM.—The systematic foreclosure prevention and
11 mortgage modification program under section 204.

12 (2) REDUCTION OF HOPE FOR HOMEOWNERS
13 PROGRAM COSTS.—A program under which the Sec-
14 retary—

15 (A) provides coverage for fees under the
16 HOPE for Homeowners Program under section
17 257 of the National Housing Act (12 U.S.C.
18 1715z-23), as amended by title V of this Act;
19 or

20 (B) ensures the affordability of interest
21 rates of mortgages insured under such Pro-
22 gram.

23 (3) BUY-DOWN OF SECOND LIEN MORT-
24 GAGES.—A program under which the Secretary
25 makes available to owners of owner-occupied residen-

1 tial properties a direct mortgage loan the proceeds
2 of which shall be used only to reduce the out-
3 standing debt of such owner under an existing sec-
4 ond lien mortgage on such residential property, for
5 the purpose of facilitating loan modification, subject
6 to such reductions in the principal of such existing
7 second lien mortgages as the Secretary may require.

8 (4) SERVICER INCENTIVES AND ASSISTANCE.—
9 A program under which the Secretary may make
10 payments to servicers who implement modifications
11 to mortgages that result in mortgages that meet
12 such requirements as the Secretary shall establish.

13 (5) LOAN PURCHASES.—A program under
14 which the Secretary, or one or more entities that the
15 Secretary, in consultation with the Secretary of
16 Housing and Urban Development, enters into a con-
17 tract with to carry out the program under this para-
18 graph, which may include the Federal Deposit Insur-
19 ance Corporation and entities selected as contractors
20 under section 107 of the Emergency Economic Sta-
21 bilization Act of 2008, purchases whole loans for the
22 purpose of modifying or refinancing the loans.

1 **SEC. 204. SYSTEMATIC FORECLOSURE PREVENTION AND**
2 **MORTGAGE MODIFICATION PLAN ESTAB-**
3 **LISHED.**

4 (a) **IN GENERAL.**—The systematic foreclosure pre-
5 vention and mortgage modification program under this
6 section shall be a program established by the Secretary,
7 in consultation with the Chairperson of the Board of Di-
8 rectors of the Federal Deposit Insurance Corporation and
9 the Secretary of Housing and Urban Development, that—

10 (1) provides lenders and loan servicers with cer-
11 tain compensation to cover administrative costs for
12 each loan modified according to the required stand-
13 ards; and

14 (2) provides loss sharing or guarantees for cer-
15 tain losses incurred if a modified loan should subse-
16 quently re-default.

17 (b) **PROGRAM ADMINISTRATION.**—The Secretary, in
18 consultation with the Secretary of Housing and Urban De-
19 velopment, may contract with one or more entities, includ-
20 ing the Federal Deposit Insurance Corporation and enti-
21 ties selected as contractors under section 107 of the Emer-
22 gency Economic Stabilization Act of 2008, to conduct the
23 program activities required under the program under this
24 section.

1 (c) PROGRAM COMPONENTS.—The program estab-
2 lished under subsection (a) may include the following com-
3 ponents:

4 (1) ELIGIBLE BORROWERS.—The program shall
5 be limited to loans secured by owner-occupied prop-
6 erties.

7 (2) EXCLUSION FOR EARLY PAYMENT DE-
8 FAULT.—To promote sustainable mortgages, loss
9 sharing or guarantees shall be available only after
10 the borrower has made a specified minimum number
11 of payments on the modified mortgage.

12 (3) STANDARD NET PRESENT VALUE TEST.—In
13 order to promote consistency and simplicity in imple-
14 mentation and audit, the Secretary shall prescribe a
15 standardized net present value analysis for partici-
16 pating lenders and servicers comparing the expected
17 net present value of modifying past due loans com-
18 pared to the net present value of foreclosing on them
19 will be applied. Under this test, standard assump-
20 tions shall be used to ensure that a consistent stand-
21 ard for affordability is provided based on a ratio of
22 the borrower's mortgage-related expenses for the
23 first priority mortgage-to-gross income specified by
24 the Secretary.

1 (4) SYSTEMATIC LOAN REVIEW BY PARTICI-
2 PATING LENDERS AND SERVICERS.—Participating
3 lenders and servicers shall be required to undertake
4 a systematic review of all of the loans under their
5 management, to subject each loan to a standard net
6 present value test to determine whether it is a suit-
7 able candidate for modification, and to offer modi-
8 fications for all loans that pass this test. The pen-
9 alty for failing to undertake such a systematic re-
10 view and to carry out modifications where they are
11 justified would be disqualification from further par-
12 ticipation in the program until such a systematic
13 program was introduced.

14 (5) MODIFICATIONS.—Modifications may in-
15 clude any of the following:

- 16 (A) Reduction in interest rates and fees.
17 (B) Term or amortization extensions.
18 (C) Forbearance or forgiveness of prin-
19 cipal.
20 (D) Other similar modifications.

21 (6) SIMPLIFIED LOSS SHARE CALCULATION.—
22 In order to ensure the administrative efficiency and
23 effective operation of the program, the Secretary
24 shall define appropriate measures for loss sharing or
25 guarantees designed to reduce the risk and loss upon

1 redefault of modified mortgages in order to provide
2 adequate incentives to lenders, servicers, and inves-
3 tors to modify eligible mortgages and avoid unneces-
4 sary foreclosures. Interim modifications shall be al-
5 lowed.

6 (7) DE MINIMIS TEST.—To lower administra-
7 tive costs, a de minimis test shall be used to exclude
8 from loss sharing any modification that does not
9 lower the monthly payment at least 10 percent.

10 (8) 8 YEAR LIMIT ON LOSS SHARING PAY-
11 MENT.—The loss sharing guarantee shall terminate
12 at the end of the 8-year period beginning on the
13 date the modification was consummated.

14 (d) ALTERNATIVE COMPONENTS.—The Secretary
15 may, with the approval of the Board, implement fore-
16 closure prevention and mitigation actions other than those
17 included pursuant to subsection (c) in the comprehensive
18 plan initially approved by the Board pursuant to section
19 201(a) that the Secretary believes would provide equiva-
20 lent or greater impact on foreclosure mitigation.

21 (e) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary to implement this
23 section and prevent evasions thereof.

24 (f) TROUBLED ASSETS.—The costs incurred by the
25 Federal Government in carrying out the loan modification

1 program established under this section shall be covered
2 out of the funds made available to the Secretary of the
3 Treasury under section 118 of the Emergency Economic
4 Stabilization Act of 2008 or such other funds as may be
5 available to the Secretary.

6 (g) REPORT.—Before the end of the 6-month period
7 beginning on the date of the enactment of this Act, the
8 Secretary shall submit a progress report to the Congress
9 containing such findings and such recommendations for
10 legislative or administrative action as the Secretary may
11 determine to be appropriate.

12 **SEC. 204. MODIFICATION OF PLAN.**

13 (a) IN GENERAL.—If the Secretary, in consultation
14 with the Chairperson of the Board of Directors of the Fed-
15 eral Deposit Insurance Corporation and the Secretary of
16 Housing and Urban Development, determines at any time
17 that modification of the comprehensive plan initially ap-
18 proved by the Board pursuant to section 201(a) (as such
19 plan may subsequently have been modified pursuant to
20 this section), or that modification of any component pro-
21 gram element, is necessary to maximize the prevention of
22 foreclosures on residential properties or minimize costs to
23 taxpayers of such foreclosure mitigation, the Secretary
24 may modify the plan or program element, but only to the
25 extent such modifications are approved by the Board.

1 **SEC. 205. SERVICER SAFE HARBOR.**

2 (a) SAFE HARBOR.—

3 (1) LOAN MODIFICATIONS AND WORKOUT
4 PLANS.—Notwithstanding any other provision of
5 law, and notwithstanding any investment contract
6 between a servicer and a securitization vehicle or in-
7 vestor, a servicer that acts consistent with the duty
8 set forth in section 129A(a) of Truth in Lending Act
9 (15 U.S.C. 1639a) shall not be liable for entering
10 into a loan modification or workout plan with re-
11 spect to any such mortgage that meets all of the cri-
12 teria set forth in paragraph (2)(B) to—

13 (A) any person, based on that person’s
14 ownership of a residential mortgage loan or any
15 interest in a pool of residential mortgage loans
16 or in securities that distribute payments out of
17 the principal, interest and other payments in
18 loans on the pool;

19 (B) any person who is obligated to make
20 payments determined in reference to any loan
21 or any interest referred to in subparagraph (A);
22 or

23 (C) any person that insures any loan or
24 any interest referred to in subparagraph (A)
25 under any law or regulation of the United

1 States or any law or regulation of any State or
2 political subdivision of any State.

3 (2) ABILITY TO MODIFY MORTGAGES.—

4 (A) ABILITY.—Notwithstanding any other
5 provision of law, and notwithstanding any in-
6 vestment contract between a servicer and a
7 securitization vehicle or investor, a servicer—

8 (i) shall not be limited in the ability
9 to modify mortgages, the number of mort-
10 gages that can be modified, the frequency
11 of loan modifications, or the range of per-
12 missible modifications; and

13 (ii) shall not be obligated to repur-
14 chase loans from or otherwise make pay-
15 ments to the securitization vehicle on ac-
16 count of a modification, workout, or other
17 loss mitigation plan for a residential mort-
18 gage or a class of residential mortgages
19 that constitute a part or all of the mort-
20 gages in the securitization vehicle,

21 if any mortgage so modified meets all of the cri-
22 teria set forth in subparagraph (B).

23 (B) CRITERIA.—The criteria under this
24 subparagraph with respect to a mortgage are as
25 follows:

1 (i) Default on the payment of such
2 mortgage has occurred or is reasonably
3 foreseeable.

4 (ii) The property securing such mort-
5 gage is occupied by the mortgagor of such
6 mortgage.

7 (iii) The servicer reasonably and in
8 good faith believes that the anticipated re-
9 covery on the principal outstanding obliga-
10 tion of the mortgage under the particular
11 modification or workout plan or other loss
12 mitigation action will exceed, on a net
13 present value basis, the anticipated recov-
14 ery on the principal outstanding obligation
15 of the mortgage to be realized through
16 foreclosure.

17 (3) APPLICABILITY.—This subsection shall
18 apply only with respect to modifications, workouts,
19 and other loss mitigation plans initiated before Jan-
20 uary 1, 2012.

21 (b) LEGAL COSTS.—If an unsuccessful action is
22 brought against a servicer by any person described in sub-
23 paragraph (A), (B), or (C) of subsection (a)(1), such per-
24 son shall bear any actual legal costs of the servicer, includ-
25 ing reasonable attorney fees and expert witness fees, in-

1 curred in good faith in such action, as determined by the
2 court.

3 (c) REPORTING.—Each servicer that engages in loan
4 modifications or workout plans subject to the safe harbor
5 in subsection (a) shall report to the Secretary on a regular
6 basis regarding the extent, scope and results of the
7 servicer’s modification activities. The Secretary shall pre-
8 scribe regulations specifying the form, content, and timing
9 of such reports.

10 (d) DEFINITION OF SECURITIZATION VEHICLES.—
11 For purposes of this section, the term “securitization vehi-
12 cle” means a trust, corporation, partnership, limited liabil-
13 ity entity, special purpose entity, or other structure that—

14 (1) is the issuer, or is created by the issuer, of
15 mortgage pass-through certificates, participation cer-
16 tificates, mortgage-backed securities, or other similar
17 securities backed by a pool of assets that includes
18 residential mortgage loans; and

19 (2) holds such mortgages.

20 **SEC. 206. REPORT BY CONGRESSIONAL OVERSIGHT PANEL.**

21 The Congressional Oversight Panel established by
22 section 125 of the Emergency Economic Stabilization Act
23 of 2008 shall submit a report to the Congress, not later
24 than July 1, 2009, regarding—

1 (1) the actions taken by the Secretary pursuant
2 to this title;

3 (2) the impact and effectiveness of such actions
4 on foreclosures on residential properties; and

5 (3) the effectiveness of such actions from the
6 standpoint of minimizing costs to the taxpayers.

7 **TITLE III—AUTO INDUSTRY FI-**
8 **NANCING AND RESTRUC-**
9 **TURING**

10 **SEC. 301. SHORT TITLE.**

11 This title may be cited as the “TARP Reform and
12 Accountability Act of 2009”.

13 **SEC. 302. DIRECT LOAN PROVISIONS.**

14 (a) IN GENERAL.—The Emergency Economic Sta-
15 bilization Act of 2008 (division A of Public Law 110–343)
16 is amended by adding at the end the following:

17 **“TITLE IV—AUTO INDUSTRY FI-**
18 **NANCING AND RESTRUC-**
19 **TURING**

20 **“SEC. 401. PURPOSES.**

21 “The purposes of this title are—

22 “(1) to clarify and confirm the authority and
23 facilities to restore liquidity and stability to domestic
24 vehicle manufacturers in the United States; and

1 “(2) to ensure that such authority and such fa-
2 cilities are used in a manner that—

3 “(A) results in a viable and competitive do-
4 mestic automobile industry that minimizes ad-
5 verse effects on the environment;

6 “(B) enhances the ability and the capacity
7 of the domestic automobile industry to pursue
8 the timely and aggressive production of energy-
9 efficient advanced technology vehicles;

10 “(C) preserves and promotes the jobs of
11 American workers employed directly by the do-
12 mestic automobile industry and in related in-
13 dustries;

14 “(D) safeguards the ability of the domestic
15 automobile industry to provide retirement and
16 health care benefits for the industry’s retirees
17 and their dependents; and

18 “(E) stimulates manufacturing and sales
19 of automobiles produced by automobile manu-
20 facturers in the United States.

21 **“SEC. 402. PRESIDENTIAL DESIGNATION.**

22 “(a) DESIGNATION.—The President shall designate
23 one or more officers from the Executive Branch having
24 appropriate expertise in such areas as economic stabiliza-
25 tion, financial aid to commerce and industry, financial re-

1 structuring, energy efficiency, and environmental protec-
2 tion (who shall hereinafter in this title be collectively re-
3 ferred to as the ‘President’s designee’) to carry out the
4 purposes of this title, including the facilitation of restruc-
5 turing necessary to achieve the long-term financial viabil-
6 ity of domestic automobile manufacturers, who shall serve
7 at the pleasure of the President.

8 “(b) **ADDITIONAL PERSONS.**—The President or the
9 President’s designee may also employ, appoint, or contract
10 with additional persons having such expertise as the Presi-
11 dent or the President’s designee believes will assist the
12 Government in carrying out the purposes of this title.

13 “(c) **PARTICIPATION BY OTHER AGENCY PER-**
14 **SONNEL.**—Other Federal agencies may provide, at the re-
15 quest of the President’s designee, staff on detail from such
16 agencies for purposes of carrying out this title.

17 **“SEC. 403. BRIDGE FINANCING.**

18 “(a) **IN GENERAL.**—The President’s designee shall
19 authorize and direct the disbursement of bridge loans or
20 enter into commitments for lines of credit to each auto-
21 mobile manufacturer that submitted a plan to the Con-
22 gress on December 2, 2008 (hereafter in this title referred
23 to as an ‘eligible automobile manufacturer’), and has sub-
24 mitted a request for such loan or commitment. Nothing
25 in this section shall preclude the President’s designee from

1 authorizing and directing the disbursement of bridge loans
2 or entering into commitments for lines of credit to other
3 entities.

4 “(b) AMOUNT OF ASSISTANCE.—The President’s des-
5 ignee shall authorize bridge loans or commitments for
6 lines of credit to each eligible automobile manufacturer in
7 an amount that is intended to facilitate the continued op-
8 erations of the eligible automobile manufacturer and to
9 prevent the failure of the eligible automobile manufac-
10 turer, consistent with the plan submitted on December 2,
11 2008, and subject to available funds.

12 **“SEC. 404. RESTRUCTURING PROGRESS ASSESSMENT.**

13 “(a) ESTABLISHMENT OF MEASURES FOR ASSESSING
14 PROGRESS.—Not later than February 1, 2009, the Presi-
15 dent’s designee shall determine appropriate measures for
16 assessing the progress of each eligible automobile manu-
17 facturer toward transforming the plan submitted by such
18 manufacturer to the Congress on December 2, 2008, into
19 the restructuring plan to be submitted under section
20 405(b).

21 “(b) EVALUATION OF PROGRESS ON BASIS OF RE-
22 STRUCTURING PROGRESS ASSESSMENT MEASURES.—

23 “(1) IN GENERAL.—The President’s designee
24 shall evaluate the progress of each eligible auto-
25 mobile manufacturer toward the development of a

1 restructuring plan, on the basis of the restructuring
2 progress assessment measures established under this
3 section for such manufacturer.

4 “(2) TIMING.—Each evaluation required under
5 paragraph (1) for any eligible automobile manufac-
6 turer shall be conducted at the end of the 15-day pe-
7 riod beginning on the date on which the restruc-
8 turing progress assessment measures were estab-
9 lished by the President’s designee for such eligible
10 automobile manufacturer.

11 **“SEC. 405. SUBMISSION OF PLANS.**

12 “(a) NEGOTIATED PLANS.—

13 “(1) FACILITATION.—

14 “(A) IN GENERAL.—Beginning on the date
15 of any disbursement under the facility, the
16 President’s designee shall seek to facilitate
17 agreement on any restructuring plan to achieve
18 and sustain the long-term viability, inter-
19 national competitiveness, and energy efficiency
20 of an eligible automobile manufacturer, nego-
21 tiated and agreed to by representatives of inter-
22 ested parties (in this title referred to as a ‘ne-
23 gotiated plan’) with respect to any eligible auto-
24 mobile manufacturer.

1 “(B) INTERESTED PARTIES.—For pur-
2 poses of this section, the term ‘interested party’
3 shall be construed broadly so as to include all
4 persons who have a direct financial interest in
5 a particular automobile manufacturer, includ-
6 ing—

7 “(i) employees and retirees of the eli-
8 gible automobile manufacturer;

9 “(ii) trade unions;

10 “(iii) creditors;

11 “(iv) suppliers;

12 “(v) automobile dealers; and

13 “(vi) shareholders.

14 “(2) ACTIONS OF THE PRESIDENT’S DES-
15 IGNEE.—

16 “(A) IN GENERAL.—For the purpose of
17 achieving a negotiated plan, the President’s
18 designee may convene, chair, and conduct for-
19 mal and informal meetings, discussions, and
20 consultations, as appropriate, with interested
21 parties of an eligible automobile manufacturer.

22 “(B) CLARIFICATION.—The Federal Advi-
23 sory Committee Act shall not apply with respect
24 to any of the activities conducted or taken by
25 the President’s designee pursuant to this title.

1 “(b) RESTRUCTURING PLAN.—Not later than March
2 31, 2009, each eligible automobile manufacturer shall sub-
3 mit to the President’s designee a restructuring plan to
4 achieve and sustain the long-term viability, international
5 competitiveness, and energy efficiency of the eligible auto-
6 mobile manufacturer (in this title referred to as the ‘re-
7 structuring plan’) in accordance with this section. The
8 President’s designee shall approve the restructuring plan
9 if the President’s designee determines that the plan will
10 result in—

11 “(1) the repayment of all Government-provided
12 financing, consistent with the terms specified in sec-
13 tion 408, or otherwise agreed to;

14 “(2) the ability—

15 “(A) to comply with applicable fuel effi-
16 ciency and emissions requirements;

17 “(B) to commence domestic manufacturing
18 of advanced technology vehicles, as described in
19 section 136 of the Energy Independence and
20 Security Act of 2007 (Public Law 110–140; 42
21 U.S.C. 17013); and

22 “(C) to produce new and existing products
23 and capacity;

24 “(3) the achievement of a positive net present
25 value, using reasonable assumptions and taking into

1 account all existing and projected future costs, in-
2 cluding repayment of any financial assistance pro-
3 vided pursuant to this title;

4 “(4) the ability to rationalize costs, capitaliza-
5 tion, and capacity with respect to the manufacturing
6 workforce, suppliers, and dealerships of the eligible
7 automobile manufacturer;

8 “(5) proposals to restructure existing debt, in-
9 cluding, where appropriate, the conversion of debt to
10 equity, to improve the ability of the eligible auto-
11 mobile manufacturer to raise private capital; and

12 “(6) a product mix and cost structure that is
13 competitive in the marketplace.

14 “(c) EXTENSION OF NEGOTIATIONS AND PLAN
15 DEADLINE.—Notwithstanding the time limitations in sub-
16 section (b), the President’s designee, upon making a deter-
17 mination that the interested parties are negotiating in
18 good faith, are making significant progress, and that an
19 additional period of time would likely facilitate agreement
20 on a negotiated plan, and upon notification of the Con-
21 gress, may extend for not longer than 30 additional days
22 the negotiation period under subsection (b).

23 **“SEC. 406. FINANCING FOR RESTRUCTURING.**

24 “Upon approval by the President’s designee of a re-
25 structuring plan, the President’s designee may provide fi-

1 nancial assistance to an eligible automobile manufacturer
2 to implement the restructuring plan.

3 **“SEC. 407. DISAPPROVAL AND CALL OF LOAN.**

4 “If the President’s designee has not approved the re-
5 structuring plan at the expiration of the period provided
6 in section 405 for submission and approval of the restruc-
7 turing plan, the President’s designee shall call the loan
8 or cancel the commitment within 30 days, unless a re-
9 structuring plan is approved within that period.

10 **“SEC. 408. TERMS AND CONDITIONS.**

11 “(a) DURATION.—The duration of any loan made
12 under this title shall be 7 years, or such period as the
13 President’s designee may determine with respect to such
14 loan.

15 “(b) NO PREPAYMENT PENALTY.—A loan made
16 under this title shall be prepayable without penalty at any
17 time.

18 “(c) INFORMATION ACCESS.—As a condition for the
19 receipt of any financial assistance made under this title,
20 an eligible automobile manufacturer shall agree—

21 “(1) to allow the President’s designee to exam-
22 ine any books, papers, records, or other data of the
23 eligible automobile manufacturer, and those of any
24 subsidiary, affiliate, or entity holding an ownership
25 interest of 50 percent or more of such automobile

1 manufacturer, that may be relevant to the financial
2 assistance, including compliance with the terms of a
3 loan or any conditions imposed under this title; and

4 “(2) to provide in a timely manner any infor-
5 mation requested by the President’s designee, in-
6 cluding requiring any officer or employee of the eli-
7 gible automobile manufacturer, any subsidiary, affil-
8 iate, or entity referred to in paragraph (1) with re-
9 spect to such manufacturer, or any person having
10 possession, custody, or care of the reports and
11 records required under paragraph (1), to appear be-
12 fore the President’s designee at a time and place re-
13 quested and to provide such books, papers, records,
14 or other data, as requested, as may be relevant or
15 material.

16 “(d) OVERSIGHT OF TRANSACTIONS AND FINANCIAL
17 CONDITION.—

18 “(1) DUTY TO INFORM.—During the period in
19 which any loan extended under this title remains
20 outstanding, the eligible automobile manufacturer
21 which received such loan shall promptly inform the
22 President’s designee of—

23 “(A) any asset sale, investment, contract,
24 commitment, or other transaction proposed to
25 be entered into by such eligible automobile

1 manufacturer that has a value in excess of
2 \$100,000,000; and

3 “(B) any other material change in the fi-
4 nancial condition of such eligible automobile
5 manufacturer.

6 “(2) AUTHORITY OF THE PRESIDENT’S DES-
7 IGNEE.—During the period in which any loan ex-
8 tended under this title remains outstanding, the
9 President’s designee may—

10 “(A) review any asset sale, investment,
11 contract, commitment, or other transaction de-
12 scribed in paragraph (1); and

13 “(B) prohibit the eligible automobile man-
14 ufacturer which received the loan from consum-
15 mating any such proposed sale, investment,
16 contract, commitment, or other transaction, if
17 the President’s designee determines that con-
18 summation of such transaction would be incon-
19 sistent with or detrimental to the long-term via-
20 bility of the eligible automobile manufacturer.

21 “(3) PROCEDURES.—The President’s designee
22 may establish procedures for conducting any review
23 under this subsection.

1 “(e) CONSEQUENCES FOR FAILURE TO COMPLY.—

2 The terms of any financial assistance made under this title

3 shall provide that if—

4 “(1) an evaluation by the President’s designee

5 under section 404(b) demonstrates that the eligible

6 automobile manufacturer which received the finan-

7 cial assistance has failed to make adequate progress

8 towards meeting the restructuring progress assess-

9 ment measures established by the President’s des-

10 signee under section 404(a) with respect to such re-

11 cipient;

12 “(2) after March 31, 2009, the eligible auto-

13 mobile manufacturer which received the financial as-

14 sistance fails to submit an acceptable restructuring

15 plan under section 405(b), or fails to comply with

16 any conditions or requirement applicable under this

17 title or applicable fuel efficiency and emissions re-

18 quirements; or

19 “(3) after a restructuring plan of an eligible

20 automobile manufacturer has been approved by the

21 President’s designee, the auto manufacturer fails to

22 make adequate progress in the implementation of

23 the plan, as determined by the President’s designee,

24 the repayment of any loan may be accelerated to such ear-

25 lier date or dates as the President’s designee may deter-

1 mine and any other financial assistance may be cancelled
2 by the President's designee.

3 **“SEC. 409. TAXPAYER PROTECTION.**

4 “(a) WARRANTS.—

5 “(1) IN GENERAL.—The President's designee
6 may not provide any loan under this title, unless the
7 President's designee, or such department or agency
8 as is designated for such purpose by the President,
9 receives from the eligible automobile manufacturer—

10 “(A) in the case of an eligible automobile
11 manufacturer, the securities of which are traded
12 on a national securities exchange, a warrant
13 giving the right to the President's designee to
14 receive nonvoting common stock or preferred
15 stock in such eligible automobile manufacturer,
16 or voting stock, with respect to which the Presi-
17 dent's designee agrees not to exercise voting
18 power, whichever the President's designee de-
19 termines appropriate; or

20 “(B) in the case of an eligible automobile
21 manufacturer other than one described in sub-
22 paragraph (A), a warrant for common or pre-
23 ferred stock, or an instrument that is the eco-
24 nomic equivalent (as determined by the Presi-
25 dent's designee) of such a warrant in the hold-

1 ing company of the eligible automobile manu-
2 facturer, or any company that controls a major-
3 ity stake in the eligible automobile manufac-
4 turer, whichever the President’s designee deter-
5 mines appropriate.

6 “(2) AMOUNT.—

7 “(A) IN GENERAL.—The warrants or in-
8 struments described in paragraph (1) shall have
9 a value equal to 20 percent of the aggregate
10 amount of all loans provided to the eligible
11 automobile manufacturer under this title. Such
12 warrants or instruments shall entitle the Gov-
13 ernment to purchase—

14 “(i) nonvoting common stock, up to a
15 maximum amount of 20 percent of the
16 issued and outstanding common stock of—

17 “(I) the eligible automobile man-
18 ufacturer; or

19 “(II) in the case of an eligible
20 automobile manufacturer, the securi-
21 ties of which are not traded on a na-
22 tional securities exchange, a holding
23 company or company that controls a
24 majority of the stock thereof (in this

1 section referred to as the ‘warrant
2 common’); and

3 “(ii) preferred stock having an aggre-
4 gate liquidation preference equal to 20 per-
5 cent of such aggregate loan amount, less
6 the value of common stock available for
7 purchase under the warrant common (in
8 this section referred to as the ‘warrant
9 preferred’).

10 “(B) COMMON STOCK WARRANT PRICE.—

11 The exercise price on a warrant or instrument
12 described in paragraph (1) shall be—

13 “(i) the 15-day trailing average, as of
14 the day before the date on which any com-
15 mitment to provide a loan was entered
16 into, of the market price of the common
17 stock of the eligible automobile manufac-
18 turer which received any loan under this
19 title; or

20 “(ii) in the case of an eligible auto-
21 mobile manufacturer, the securities of
22 which are not traded on a national securi-
23 ties exchange, the economic equivalent of
24 the market price described in clause (i), as
25 determined by the President’s designee.

1 “(C) TERMS OF PREFERRED STOCK WAR-
2 RANT.—

3 “(i) IN GENERAL.—The initial exer-
4 cise price for the preferred stock warrant
5 shall be \$0.01 per share or such greater
6 amount as the corporate charter may re-
7 quire as the par value per share of the
8 warrant preferred. The Government shall
9 have the right to immediately exercise the
10 warrants.

11 “(ii) REDEMPTION.—The warrant
12 preferred may be redeemed at any time
13 after exercise of the preferred stock war-
14 rant at 100 percent of its issue price, plus
15 any accrued and unpaid dividends.

16 “(iii) OTHER TERMS AND CONDI-
17 TIONS.—Other terms and conditions of the
18 warrant preferred shall be determined by
19 the President’s designee to protect the in-
20 terests of taxpayers.

21 “(3) APPLICATION OF OTHER PROVISIONS OF
22 LAW.—Except as otherwise provided in this section,
23 the requirements for the purchase of warrants under
24 section 113(d)(2) of the Emergency Economic Sta-
25 bilization Act of 2008 (division A of Public Law

1 110–343) shall apply to any warrant or instrument
2 described in paragraph (1), including the
3 antidilution protection provisions therein.

4 “(b) EXECUTIVE COMPENSATION AND CORPORATE
5 GOVERNANCE.—

6 “(1) IN GENERAL.—During the period in which
7 any financial assistance under this title remains out-
8 standing, the eligible automobile manufacturer which
9 received such assistance shall be subject to—

10 “(A) the standards established by the
11 President’s designee under paragraph (2); and

12 “(B) the provisions of section 162(m)(5) of
13 the Internal Revenue Code of 1986, as applica-
14 ble.

15 “(2) STANDARDS REQUIRED.—The President’s
16 designee shall require any eligible automobile manu-
17 facturer which received any financial assistance
18 under this title to meet appropriate standards for
19 executive compensation and corporate governance.

20 “(3) SPECIFIC REQUIREMENTS.—The standards
21 established under paragraph (2) shall include—

22 “(A) limits on compensation that exclude
23 incentives for senior executive officers of an eli-
24 gible automobile manufacturer which received
25 assistance under this title to take unnecessary

1 and excessive risks that threaten the value of
2 such manufacturer during the period that the
3 loan is outstanding;

4 “(B) a provision for the recovery by such
5 automobile manufacturer of any bonus or incen-
6 tive compensation paid to a senior executive of-
7 ficer based on statements of earnings, gains, or
8 other criteria that are later found to be materi-
9 ally inaccurate;

10 “(C) a prohibition on such automobile
11 manufacturer making any golden parachute
12 payment to a senior executive officer during the
13 period that the loan is outstanding;

14 “(D) a prohibition on such automobile
15 manufacturer paying or accruing any bonus or
16 incentive compensation during the period that
17 the loan is outstanding to the 25 most highly-
18 compensated employees; and

19 “(E) a prohibition on any compensation
20 plan that would encourage manipulation of such
21 automobile manufacturer’s reported earnings to
22 enhance the compensation of any of its employ-
23 ees.

24 “(4) DIVESTITURE.—During the period in
25 which any financial assistance provided under this

1 title to any eligible automobile manufacturer is out-
2 standing, the eligible automobile manufacturer may
3 not own or lease any private passenger aircraft, or
4 have any interest in such aircraft, except that such
5 eligible automobile manufacturer shall not be treated
6 as being in violation of this provision with respect to
7 any aircraft or interest in any aircraft that was
8 owned or held by the manufacturer immediately be-
9 fore receiving such assistance, as long as the recipi-
10 ent demonstrates to the satisfaction of the Presi-
11 dent's designee that all reasonable steps are being
12 taken to sell or divest such aircraft or interest.

13 “(5) DEFINITIONS.—For purposes of this sub-
14 section, the following definitions shall apply:

15 “(A) SENIOR EXECUTIVE OFFICER.—The
16 term ‘senior executive officer’ means an indi-
17 vidual who is one of the top five most highly
18 paid executives of a public company, whose
19 compensation is required to be disclosed pursu-
20 ant to the Securities Exchange Act of 1934,
21 and any regulations issued thereunder, and
22 non-public company counterparts.

23 “(B) GOLDEN PARACHUTE PAYMENT.—
24 The term ‘golden parachute payment’ means
25 any payment to a senior executive officer for

1 departure from a company for any reason, ex-
2 cept for payments for services performed or
3 benefits accrued.

4 “(c) PROHIBITION ON PAYMENT OF DIVIDENDS.—
5 Except with respect to obligations owed pursuant to law
6 to any nonaffiliated party or any existing contract with
7 any nonaffiliated party in effect as of December 2, 2008,
8 no dividends or distributions of any kind, or the economic
9 equivalent thereof (as determined by the President’s des-
10 ignee), may be paid by any eligible automobile manufac-
11 turer which receives financial assistance under this title,
12 or any holding company or company that controls a major-
13 ity stake in the eligible automobile manufacturer, while
14 such financial assistance is outstanding.

15 “(d) OTHER INTERESTS SUBORDINATED.—

16 “(1) IN GENERAL.—In the case of an eligible
17 automobile manufacturer which received a loan
18 under this title, to the extent permitted by the terms
19 of any obligation, liability, or debt of the eligible
20 automobile manufacturer in effect as of December 2,
21 2008, any other obligation of such eligible auto-
22 mobile manufacturer shall be subordinate to such
23 loan, and such loan shall be senior and prior to all
24 obligations, liabilities, and debts of the eligible auto-
25 mobile manufacturer, and such eligible automobile

1 manufacturer shall provide to the Government, all
2 available security and collateral against which the
3 loans under this title shall be secured.

4 “(2) APPLICABILITY IN CERTAIN CASES.—In
5 the case of an eligible automobile manufacturer re-
6 ferred to in paragraph (1), the securities of which
7 are not traded on a national securities exchange, a
8 loan under this title to the eligible automobile manu-
9 facturer shall—

10 “(A) be treated as a loan to any holding
11 company of, or company that controls a major-
12 ity stake in, the eligible automobile manufac-
13 turer; and

14 “(B) be senior and prior to all obligations,
15 liabilities, and debts of any such holding com-
16 pany or company that controls a majority stake
17 in the eligible automobile manufacturer.

18 “(e) ADDITIONAL TAXPAYER PROTECTIONS.—

19 “(1) DISCHARGE.—A discharge under title 11,
20 United States Code, shall not discharge an eligible
21 automobile manufacturer, or any successor in inter-
22 est thereto, from any debt for financial assistance
23 received pursuant to this title.

24 “(2) EXEMPTION.—Any financial assistance
25 provided to an eligible automobile manufacturer

1 under this title shall be exempt from the automatic
2 stay established by section 362 of title 11, United
3 States Code.

4 “(3) INTERESTED PARTIES.—Notwithstanding
5 any provision of title 11, United States Code, any
6 interest in property or equity rights of the United
7 States arising from financial assistance provided to
8 an eligible automobile manufacturer under this title
9 shall remain unaffected by any plan of reorganiza-
10 tion, except as the United States may agree to in
11 writing.

12 **“SEC. 410. OVERSIGHT AND AUDITS.**

13 “(a) COMPTROLLER GENERAL OVERSIGHT.—

14 “(1) SCOPE OF OVERSIGHT.—The Comptroller
15 General of the United States shall conduct ongoing
16 oversight of the activities and performance of the
17 President’s designee.

18 “(2) CONDUCT AND ADMINISTRATION OF OVER-
19 SIGHT.—

20 “(A) GAO PRESENCE.—The President’s
21 designee shall provide to the Comptroller Gen-
22 eral appropriate space and facilities for pur-
23 poses of this subsection.

24 “(B) ACCESS TO RECORDS.—To the extent
25 otherwise consistent with law, the Comptroller

1 General shall have access, upon request, to any
2 information, data, schedules, books, accounts,
3 financial records, reports, files, electronic com-
4 munications, or other papers, things, or prop-
5 erty belonging to or in use by the President’s
6 designee, at such reasonable time as the Comp-
7 troller General may request. The Comptroller
8 General shall be afforded full facilities for
9 verifying transactions with the balances or secu-
10 rities held by depositaries, fiscal agents, and
11 custodians. The Comptroller General may make
12 and retain copies of such books, accounts, and
13 other records as the Comptroller General deems
14 appropriate.

15 “(3) REPORTING.—The Comptroller General
16 shall submit reports of findings under this section to
17 Congress, regularly and not less frequently than
18 once every 60 days. The Comptroller General may
19 also submit special reports under this subsection, as
20 warranted by the findings of its oversight activities.

21 “(b) SPECIAL INSPECTOR GENERAL.—It shall be the
22 duty of the Special Inspector General established under
23 section 121 of Public Law 110–343 to conduct, supervise,
24 and coordinate audits and investigations of the President’s
25 designee in addition to the duties of the Special Inspector

1 General under such section and for such purposes. The
2 Special Inspector General shall also have the duties, re-
3 sponsibilities, and authorities of inspectors general under
4 the Inspector General Act of 1978, including section 6 of
5 such Act. In the event that the Office of the Special In-
6 spector General is terminated, the Inspector General of
7 the Department of the Treasury shall assume the respon-
8 sibilities of the Special Inspector General under this sub-
9 section.

10 “(c) ACCESS TO RECORDS OF BORROWERS BY
11 GAO.—Notwithstanding any other provision of law, dur-
12 ing the period in which any financial assistance provided
13 under this title is outstanding, the Comptroller General
14 of the United States shall have access, upon request, to
15 any information, data, schedules, books, accounts, finan-
16 cial records, reports, files, electronic communications, or
17 other papers, things, or property belonging to or in use
18 by the eligible automobile manufacturer, and any sub-
19 sidiary, affiliate, or entity holding an ownership interest
20 of 50 percent or more of such eligible automobile manufac-
21 turer (collectively referred to in this section as ‘related en-
22 tities’), and to any officer, director, or other agent or rep-
23 resentative of the eligible automobile manufacturer and its
24 related entities, at such reasonable times as the Comp-
25 troller General may request. The Comptroller General may

1 make and retain copies of such books, accounts, and other
2 records as the Comptroller General deems appropriate.

3 **“SEC. 411. REPORTING AND MONITORING.**

4 “(a) REPORTING ON CONSUMMATION OF LOANS.—
5 The President’s designee shall submit a report to the Con-
6 gress on each bridge loan made under this title not later
7 than 5 days after the date of the consummation of such
8 loan.

9 “(b) REPORTING ON RESTRUCTURING PROGRESS AS-
10 SSESSMENT MEASURES.—The President’s designee shall
11 submit a report to the Congress on the restructuring
12 progress assessment measures established for each manu-
13 facturer under section 404(a) not later than 10 days after
14 establishing the restructuring progress assessment meas-
15 ures.

16 “(c) REPORTING ON EVALUATIONS.—The Presi-
17 dent’s designee shall submit a report to the Congress con-
18 taining the detailed findings and conclusions of the Presi-
19 dent’s designee in connection with the evaluation of an eli-
20 gible automobile manufacturer under section 404(b).

21 “(d) REPORTING ON CONSEQUENCES FOR FAILURE
22 TO COMPLY.—The President’s designee shall submit a re-
23 port to the Congress on the exercise of a right under sec-
24 tion 408(e) to accelerate indebtedness of an eligible auto-
25 mobile manufacturer under this title or to cancel any other

1 financial assistance provided to such eligible automobile
2 manufacturer, and the facts and circumstances on which
3 such exercise was based, before the end of the 10-day pe-
4 riod beginning on the date of the exercise of the right.

5 “(e) MONITORING.—The President’s designee shall
6 monitor the use of loan funds received by eligible auto-
7 mobile manufacturers under this title, and shall report to
8 Congress once every 90 days (beginning 30 days after the
9 date of enactment of this title) on the progress of the abil-
10 ity of the recipient of the loan to continue operations and
11 proceed with restructuring processes that restore the fi-
12 nancial viability of the recipient and promote environ-
13 mental sustainability.

14 **“SEC. 412. REPORT TO CONGRESS ON LACK OF PROGRESS**
15 **TOWARD ACHIEVING AN ACCEPTABLE NEGOTIATED PLAN.**
16

17 “(a) AUTHORITY TO FACILITATE A NEGOTIATED
18 PLAN.—At any such time as the President’s designee de-
19 termines that action is necessary to avoid disruption to
20 the economy or to achieve a negotiated plan, the Presi-
21 dent’s designee shall submit to Congress a report outlining
22 any additional powers and authorities necessary to facili-
23 tate the completion of a negotiated plan required under
24 section 405.

1 “(b) IMPEDIMENTS TO ACHIEVING NEGOTIATED
2 PLANS.—If the President’s designee determines, on the
3 basis of an evaluation by the President’s designee of the
4 progress being made by an eligible automobile manufac-
5 turer toward meeting the restructuring progress assess-
6 ment measures established under section 404, that ade-
7 quate progress is not being made toward achieving a nego-
8 tiated plan by March 31, 2009, the President’s designee
9 shall submit to Congress a report detailing the impedi-
10 ments to achievement of a negotiated plan by the eligible
11 automobile manufacturer.

12 **“SEC. 413. SUBMISSION OF PLAN TO CONGRESS BY THE**
13 **PRESIDENT’S DESIGNEE.**

14 “Upon submission of a report pursuant to section
15 412(b), the President’s designee shall provide to Congress
16 a plan that represents the judgement of the President’s
17 designee as to the steps necessary to achieve the long-term
18 viability, international competitiveness, and energy effi-
19 ciency of the eligible automobile manufacturer, consistent
20 with the factors set forth in section 405(b), including
21 through a negotiated plan, a plan to be implemented by
22 legislation, or a reorganization pursuant to chapter 11 of
23 title 11, United States Code.

1 **“SEC. 414. COORDINATION WITH OTHER LAWS.**

2 “(a) IN GENERAL.—No provision of this title may be
3 construed as altering, affecting, or superseding—

4 “(1) the provisions of section 129 of division A
5 of the Consolidated Security, Disaster Assistance,
6 and Continuing Appropriations Act, 2009, relating
7 to funding for the manufacture of advanced tech-
8 nology vehicles;

9 “(2) any existing authority to provide financial
10 assistance or liquidity for purposes of the day-to-day
11 operations in the ordinary course of business or re-
12 search and development.

13 “(b) ANTITRUST PROVISIONS.—

14 “(1) IN GENERAL.—Subject to paragraphs (2)
15 and (4), the antitrust laws shall not apply to meet-
16 ings, discussions, or consultations among an eligible
17 automobile manufacturer and its interested parties
18 for the purpose of achieving a negotiated plan pur-
19 suant to section 405(a)(2).

20 “(2) EXCLUSIONS.—Paragraph (1) shall not
21 apply with respect to price-fixing, allocating a mar-
22 ket between competitors, monopolizing (or attempt-
23 ing to monopolize) a market, or boycotting.

24 “(3) ANTITRUST AGENCY PARTICIPATION.—The
25 Attorney General of the United States and the Fed-
26 eral Trade Commission shall, to the extent prac-

1 ticable, receive reasonable advance notice of, and be
2 permitted to participate in, each meeting, discussion,
3 or consultation described in paragraph (1).

4 “(4) PRESERVATION OF ENFORCEMENT AU-
5 THORITY.—Paragraph (1) shall not be construed to
6 preclude the Attorney General of the United States
7 or the Federal Trade Commission from bringing an
8 enforcement action under the antitrust laws for in-
9 junctive relief.

10 “(5) SUNSET.—Paragraph (1) shall apply only
11 with respect to meetings, discussions, or consulta-
12 tions that occur within the 3-year period beginning
13 on the date of the enactment of this title.

14 “(6) DEFINITION.—For purposes of this sub-
15 section, the term ‘antitrust laws’—

16 “(A) has the same meaning as in sub-
17 section (a) of the first section of the Clayton
18 Act (15 U.S.C. 12(a)), except that such term
19 includes section 5 of the Federal Trade Com-
20 mission Act (15 U.S.C. 45), to the extent that
21 such section 5 applies to unfair methods of
22 competition; and

23 “(B) includes any provision of State law
24 that is similar to the laws referred to in sub-
25 paragraph (A).

1 **“SEC. 415. TREATMENT OF RESTRUCTURING FOR PUR-**
2 **POSES OF APPLYING LIMITATIONS ON NET**
3 **OPERATING LOSS CARRYFORWARDS AND**
4 **CERTAIN BUILT-IN LOSSES.**

5 “Section 382 of the Internal Revenue Code of 1986
6 shall not apply in the case of an ownership change result-
7 ing from this title or pursuant to a restructuring plan ap-
8 proved under this title.

9 **“SEC. 416. CLARIFICATION OF AVAILABILITY OF FINANCIAL**
10 **SUPPORT FOR FINANCING ARMS.**

11 “The authority of the President’s designee to provide
12 assistance to any eligible automobile manufacturer in-
13 cludes the authority to provide support to finance com-
14 pany affiliates of the manufacturer to ensure that such
15 affiliates have the necessary resources to continue to pro-
16 vide needed credit, including through dealer and other fi-
17 nancing of consumer and business auto and other vehicle
18 loans and dealer floor plan loans.”.

19 **TITLE IV—CLARIFICATION OF**
20 **AUTHORITY**

21 **SEC. 401. CONSUMER LOANS.**

22 Title I of the Emergency Economic Stabilization Act
23 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
24 at the end the following new section:

1 **“SEC. 137. CLARIFICATION OF AUTHORITY REGARDING**
2 **CONSUMER LOANS.**

3 “The authority of the Secretary to take any action
4 under this title includes the authority to establish or sup-
5 port facilities to support the availability of consumer
6 loans, including loans for autos and other vehicles and stu-
7 dent loans, including through purchase of asset-backed se-
8 curities, directly or through the Board or any Federal re-
9 serve bank.”.

10 **SEC. 402. MUNICIPAL SECURITIES.**

11 Section 103 of the Emergency Economic Stabilization
12 Act of 2008 (12 U.S.C. 5211) is amended by inserting
13 after subsection (f) (as added by section 401 of this title)
14 the following new subsection:

15 “(g) **CLARIFICATION OF AUTHORITY REGARDING**
16 **MUNICIPAL SECURITIES.—**

17 “(1) **CLARIFICATION.—**The authority of the
18 Secretary to take any action under this title includes
19 the authority to provide support to State and local
20 governments, and other issuers of municipal securi-
21 ties, which are having difficulty accessing appro-
22 priate financing in the capital markets. Such sup-
23 port includes the direct purchase of municipal secu-
24 rities and providing credit enhancement in connec-
25 tion with municipal securities whose purchase is fi-

1 nanced under any facility provided by the Board or
2 any Federal reserve bank.

3 “(2) DEFINITION.—For purposes of this sub-
4 section, the term ‘municipal security’ has the mean-
5 ing given the term ‘State or local bond’ in section
6 103(c) of the Internal Revenue Code of 1986 (26
7 U.S.C. 103(c)) and the regulations issued there-
8 under.”.

9 **SEC. 403. COMMERCIAL REAL ESTATE LOANS.**

10 Title I of the Emergency Economic Stabilization Act
11 of 2008 (12 U.S.C. 5211 et seq.) is amended by adding
12 after section 137 (as added by section 401 of this title)
13 the following new section:

14 **“SEC. 138. CLARIFICATION OF AUTHORITY REGARDING**
15 **COMMERCIAL REAL ESTATE LOANS.**

16 “The authority of the Secretary to take any action
17 under this title includes the authority to establish or sup-
18 port facilities to support the availability of commercial real
19 estate loans, including through purchase of asset-backed
20 securities, directly or through the Board of Governors of
21 the Federal Reserve System or any Federal reserve
22 bank.”.

1 **TITLE V—HOPE FOR HOME-**
2 **OWNERS PROGRAM IMPROVE-**
3 **MENTS**

4 **SEC. 501. CHANGES TO HOPE FOR HOMEOWNERS PRO-**
5 **GRAM.**

6 Section 257 of the National Housing Act (12 U.S.C.
7 1715z-23) is amended—

8 (1) in subsection (e)—

9 (A) by striking paragraph (1);

10 (B) in paragraph (2)(B), by striking “90
11 percent” and inserting “93 percent”;

12 (C) by striking paragraph (7);

13 (D) in paragraph (9), by striking “by pro-
14 curing” and all that follows through “by any
15 other method”; and

16 (E) by redesignating paragraphs (2), (3),
17 (4), (5), (6), (8), (9), (10), and (11) as para-
18 graphs (1), (2), (3), (4), (5), (6), (7), (8), and
19 (9), respectively;

20 (2) in subsection (h)(2), by striking “, or in any
21 case in which a mortgagor fails to make the first
22 payment on a refinanced eligible mortgage”;

23 (3) by striking subsection (i) and inserting the
24 following new subsection:

25 “(i) ANNUAL PREMIUMS.—

1 “(1) IN GENERAL.—For each refinanced eligible
2 mortgage insured under this section, the Secretary
3 shall establish and collect an annual premium in an
4 amount equal to not less than 0.55 percent of the
5 amount of the remaining insured principal balance
6 of the mortgage and not more than 0.75 percent of
7 such remaining insured principal balance, as deter-
8 mined according to a schedule established by the
9 Board that assigns such annual premiums based
10 upon the credit risk of the mortgage.

11 “(2) REDUCTION OR TERMINATION DURING
12 MORTGAGE TERM.—Notwithstanding paragraph (1),
13 the Secretary may provide that the annual premiums
14 charged for refinanced eligible mortgages insured
15 under this section are reduced over the term of the
16 mortgage or that the collection of such premiums is
17 discontinued at some time during the term of the
18 mortgage, in a manner that is consistent with poli-
19 cies for such reduction or discontinuation of annual
20 premiums charged for mortgages in accordance with
21 section 203(c).”;

22 (4) in subsection (k)—

23 (A) by striking the subsection heading and
24 inserting “EXIT FEE”;

1 (B) in paragraph (1), in the matter pre-
2 ceding subparagraph (A), by striking “such sale
3 or refinancing” and inserting “the mortgage
4 being insured under this section”; and

5 (C) by striking paragraph (2);

6 (5) in subsection (s)(3)(A)(ii), by striking “sub-
7 section (e)(1)(B) and such other” and inserting
8 “such”;

9 (6) in subsection (v), by inserting after the pe-
10 riod at the end the following: “The Board shall con-
11 form documents, forms, and procedures for mort-
12 gages insured under this section to those in place for
13 mortgages insured under section 203(b) to the max-
14 imum extent possible consistent with the require-
15 ments of this section.”;

16 (7) in subsection (w)(1)(C), by striking
17 “(e)(4)(A)” and inserting “(e)(3)(A)”; and

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

20 “(x) PAYMENT TO EXISTING LOAN SERVICER.—The
21 Board may establish a payment to the servicer of the exist-
22 ing senior mortgage for every loan insured under the
23 HOPE for Homeowners Program.”.

1 **SEC. 502. FUNDING OF INCREASED HOPE FOR HOME-**
2 **OWNERS PROGRAM CREDIT SUBSIDY COSTS.**

3 Section 257 of the National Housing Act (12 U.S.C.
4 1715z-23) is amended by adding after subsection (x) (as
5 added by section 501 of this title) the following new sub-
6 section:

7 “(y) FUNDING OF CREDIT SUBSIDY COSTS OF 2009
8 AMENDMENTS.—Notwithstanding section 1338(b) of the
9 Housing and Community Development Act of 1992 (12
10 U.S.C. 4568(b)) and subsection (w) of this section—

11 “(1) to the extent amounts are available to the
12 Secretary of the Treasury pursuant to section 118
13 of the Emergency Economic Stabilization Act of
14 2008, the Secretary shall use such amounts to cover
15 any increase in the net costs to the Federal Govern-
16 ment of the HOPE for Homeowners program under
17 this section resulting from the amendments made by
18 title V of the TARP Reform and Accountability Act
19 of 2009, and actions authorized by title I of the
20 Emergency Economic Stabilization Act of 2008 shall
21 include such use; and

22 “(2) any remaining net costs to the Federal
23 Government of the HOPE for Homeowners program
24 under this section not resulting from the amend-
25 ments made under this title shall be paid, and the
26 Secretary of the Treasury shall be reimbursed for

1 such costs, in accordance with the provisions of such
2 section 1338 and subsection (w) of this section.”.

3 **TITLE VI—HOME BUYER**
4 **STIMULUS**

5 **SEC. 601. HOME BUYER STIMULUS PROGRAM.**

6 (a) IN GENERAL.—The Secretary of the Treasury (in
7 this title referred to as the “Secretary”) shall carry out
8 a program using the authority made available by section
9 1117 of the Housing and Economic Recovery Act of 2008
10 to stimulate demand for home purchases and reduce
11 unsold inventories of residential properties, which shall in-
12 clude ensuring the availability of affordable interest rates
13 on mortgages made for the purchase, by qualified home
14 buyers, of 1- to 4-family residential properties.

15 (b) PURCHASE OBLIGATIONS AND SECURITIES
16 USING HERA AUTHORITY.—The Secretary shall execute
17 the program under this section through the purchase of
18 obligations and other securities issued by—

19 (1) the Federal National Mortgage Association,
20 pursuant to the authority under section 304(g) of
21 the Federal National Mortgage Association Charter
22 Act (12 U.S.C. 1719(g)),

23 (2) the Federal Home Loan Mortgage Corpora-
24 tion, pursuant to the authority under section 304(l)

1 of the Federal Home Loan Mortgage Corporation
2 Act (12 U.S.C. 1455(l)), and

3 (3) any Federal Home Loan Bank, pursuant to
4 the authority under section 11(l) of the Federal
5 Home Loan Bank Act (12 U.S.C. 1431(l)),

6 as added by section 1117 of the Housing and Economic
7 Recovery Act of 2008 (Public Law 110–289).

8 (c) USE OF LOAN ORIGINATORS AND PORTFOLIO
9 LENDERS.—The program under this section shall provide
10 mechanisms to ensure availability of such mortgages for
11 home purchase having affordable interest rates through fi-
12 nancial institutions that act as loan originators or as port-
13 folio lenders.

14 (d) AVAILABILITY OF AFFORDABLE LOANS UNDER
15 HOPE FOR HOMEOWNERS PROGRAM.—The Secretary, in
16 consultation with the Secretary of Housing and Urban De-
17 velopment, shall ensure that the affordable interest rates
18 made available through the program under this section are
19 made available in connection with mortgages made for re-
20 financing eligible mortgages, as such term is defined in
21 section 257 of the National Housing Act (12 U.S.C.
22 1715z–23), to be insured under the HOPE for Home-
23 owners Program under such section.

24 (e) TARGETING.—In carrying out the program under
25 this section, the Secretary may take into consideration the

1 impact of activities under the program on geographical
2 areas having the greatest number of properties with fore-
3 closed-upon mortgages.

4 **TITLE VII—FDIC PROVISIONS**

5 **SEC. 701. PERMANENT INCREASE IN DEPOSIT INSURANCE.**

6 (a) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE
7 ACT.—Section 11(a)(1) of the Federal Deposit Insurance
8 Act (12 U.S.C. 1821(a)) is amended—

9 (1) in paragraph (1)(E), by striking
10 “\$100,000” and inserting “\$250,000”

11 (2) in paragraph (1)(F)(i), by striking “2010”
12 and inserting “2015”;

13 (3) in subclause (I) of paragraph (1)(F)(i), by
14 striking “\$100,000” and inserting “\$250,000”;

15 (4) in subclause (II) of paragraph (1)(F)(i), by
16 striking “the calendar year preceding the date this
17 subparagraph takes effect under the Federal Deposit
18 Insurance Reform Act of 2005” and inserting “cal-
19 endar year 2008”; and

20 (5) in paragraph (3)(A)(iii), by striking “, ex-
21 cept that \$250,000 shall be substituted for \$100,000
22 wherever such term appears in such paragraph”.

23 (b) REPEAL OF EESA PROVISION.—Section 136 of
24 the Emergency Economic Stabilization Act (Public Law
25 110–343; 122 Stat. 3765) is hereby repealed.

1 (c) AMENDMENT TO FEDERAL CREDIT UNION
2 ACT.—Section 207(k) of the Federal Credit Union Act
3 (12 U.S.C. 1787(k) is amended—

4 (1) in paragraph (3)—

5 (A) by striking the opening quotation mark
6 before “\$250,000”;

7 (B) by striking “, except that \$250,000
8 shall be substituted for \$100,000 wherever such
9 term appears in such section”; and

10 (C) by striking the closing quotation mark
11 after the closing parenthesis; and

12 (2) in paragraph (5), by striking “\$100,000”
13 and inserting “\$250,000”;

14 **SEC. 702. EXTENSION OF RESTORATION PLAN PERIOD.**

15 Section 7(b)(3)(E)(ii) of the Federal Deposit Insur-
16 ance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by
17 striking “5-year period” and inserting “8-year period”.

18 **SEC. 703. BORROWING AUTHORITY.**

19 Section 14(a) of the Federal Deposit Insurance Act
20 (12 U.S.C. 1814(a)) is amended—

21 (1) by striking “\$30,000,000,000” and insert-
22 ing “\$100,000,000,000”; and

23 (2) by inserting prior to the last sentence, the
24 following new sentence: “The Corporation may re-
25 quest in writing to borrow, and the Secretary may

1 authorize and approve the borrowing of, additional
2 amounts above \$100,000,000,000 to the extent that
3 the Board of Directors and the Secretary determine
4 such borrowing to be necessary.”.

5 **SEC. 704. SYSTEMIC RISK SPECIAL ASSESSMENTS.**

6 Section 13(c)(4)(G)(ii) of the Federal Deposit Insur-
7 ance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read
8 as follows:

9 “(ii) REPAYMENT OF LOSS.—

10 “(I) IN GENERAL.—The Corpora-
11 tion shall recover the loss to the De-
12 posit Insurance Fund arising from
13 any action taken or assistance pro-
14 vided with respect to an insured de-
15 pository institution under clause (i)
16 from 1 or more special assessments on
17 insured depository institutions, deposi-
18 tory institution holding companies
19 (with the concurrence of the Secretary
20 of the Treasury with respect to hold-
21 ing companies), or both, as the Cor-
22 poration determines to be appropriate.

23 “(II) TREATMENT OF DEPOSI-
24 TORY INSTITUTION HOLDING COMPA-
25 NIES.—For purposes of this clause,

1 sections 7(c)(2) and 18(h) shall apply
2 to depository institution holding com-
3 panies as if they were insured deposi-
4 tory institutions.

5 “(III) REGULATIONS.—The Cor-
6 poration shall prescribe such regula-
7 tions as it deems necessary to imple-
8 ment this clause. In prescribing such
9 regulations, defining terms, and set-
10 ting the appropriate assessment rate
11 or rates, the Corporation shall con-
12 sider: the types of entities that benefit
13 from any action taken or assistance
14 provided under this subparagraph;
15 economic conditions; the effects on the
16 industry; and such other factors as
17 the Corporation deems appropriate.”.

○