SECTIONS 123, 126, 206, 209, 227, 469, AND 470 OF THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983 AND TITLE IX OF THE DOMESTIC HOUSING AND INTERNATIONAL RECOVERY AND FINANCIAL STABILITY ACT

[As Amended Through P.L. 111–203, Enacted July 21, 2010]

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[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

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TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

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PART B—OTHER PROGRAMS

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JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM

SEC. 123. [42 U.S.C. 5318a] (a) For the purposes of this section:

(1) The term "eligible neighborhood development activity" means—

(A) creating permanent jobs in the neighborhood;

(B) establishing or expanding businesses within the neighborhood;

(C) developing, rehabilitating, or managing neighborhood housing stock;

(D) developing delivery mechanisms for essential services that have lasting benefit to the neighborhood; or

(E) planning, promoting, or financing voluntary neighborhood improvement efforts.

(2) The term "eligible neighborhood development organization" means—

(A)(i) an entity organized as a private, voluntary, nonprofit corporation under the laws of the State in which it operates;

(ii) an organization that is responsible to residents of its neighborhood through a governing body, not less than

51 per centum of the members of which are residents of the area served;

(iii) an organization that has conducted business for at least one year prior to the date of application for participation;

(iv) an organization that operates within an area that—

(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

(II) is designated as an enterprise zone under Federal law;

(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and

(v) an organization that conducts one or more eligible neighborhood development activities that have as their primary beneficiaries low- and moderate-income persons, as defined in section 102(a)(2) of the Housing and Community Development Act of 1974; or

(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).

(3) The term "neighborhood development funding organization" means—

(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(b)(1) The Secretary shall carry out, in accordance with this section, a program to support eligible neighborhood development activities by providing Federal matching funds to eligible neighborhood development organizations on the basis of the monetary support such organizations have received from individuals, businesses, and nonprofit or other organizations in their neighborhoods, and from neighborhood development funding organizations, prior to receiving assistance under this section.

(2) The Secretary shall accept applications from eligible neighborhood development organizations for participation in the program. Eligible organizations may participate in more than one year of the program, but shall be required to submit a new application

and to compete in the selection process for each program year. For fiscal year 1993 and thereafter, not more than 50 percent of the grants may be for multiyear awards.

(3) From the pool of eligible neighborhood development organizations submitting applications for participation in a given program year, the Secretary shall select participating organizations in an appropriate number through a competitive selection process. To be selected, an applicant shall—

(A) have demonstrated measurable achievements in one or more of the activities specified in subsection (a)(1);

(B) specify a business plan for accomplishing one or more of the activities specified in subsection (a)(1);

(C) specify a strategy for achieving greater long term private sector support, especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and

(D) specify a strategy for increasing the capacity of the organization.

(c) The Secretary shall award grants under this section among the eligible neighborhood development organizations submitting applications for such grants on the basis of—

(1) the degree of economic distress of the neighborhood involved;

(2) the extent to which the proposed activities will benefit persons of low and moderate income;

(3) the extent of neighborhood participation in the proposed activities, as indicated by the proportion of the households and businesses in the neighborhood involved that are members of the eligible neighborhood development organization involved and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

(A) is located in an [1] neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any

[1] So in law.

neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation; and

(4) the extent of voluntary contributions available for the purpose of subsection (e)(4), except that the Secretary shall waive the requirement of this subparagraph in the case of an application submitted by a small eligible neighborhood development organization, an application involving activities in a very low-income neighborhood, or an application that is especially meritorious.

(d) The Secretary shall consult with an informal working group representative of eligible neighborhood organizations with respect to the implementation and evaluation of the program established in this section.

(e)(1) The Secretary shall assign each participating organization a defined program year, during which time voluntary contributions from individuals, businesses, and nonprofit or other organizations in the neighborhood, and from neighborhood development funding organizations, shall be eligible for matching.

(2) Subject to paragraph (3), at the end of each three-month period occurring during the program year, the Secretary shall pay to each participating neighborhood development organization the product of—

(A) the aggregate amount of voluntary contributions that such organization certifies to the satisfaction of the Secretary it received during such three-month period; and

(B) the matching ratio established for such test neighborhoods under paragraph (4).

(3) The Secretary shall pay not more than $50,000 under this section to any participating neighborhood development organization during a single program year, except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization.

(4) For purposes of paragraph (2), the Secretary shall, for each participating organization, determine an appropriate ratio by which monetary contributions made to participating neighborhood development organizations will be matched by Federal funds. The highest such ratios shall be established for neighborhoods having the smallest number of households or the greatest degree of economic distress.

(5) The Secretary shall insure that—

(A) grants and other forms of assistance may be made available under this section only if the application contains a certification by the unit of general local government within which the neighborhood to be assisted is located that such assistance is not inconsistent with the comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston-Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted under section 104(m) of the Housing and Community Development Act of 1974, except that the failure of a unit of general local government to

respond to a request for a certification within thirty days after the request is made shall be deemed to be a certification; and

(B) eligible neighborhood development activities comply with all applicable provisions of the Civil Rights Act of 1964.

(6) To carry out this section, the Secretary—

(A) may issue regulations as necessary;

(B) shall utilize, to the fullest extent practicable, relevant research previously conducted by Federal agencies, State and local governments, and private organizations and persons;

(C) shall disseminate information about the kinds of activities, forms of organizations, and fund-raising mechanisms associated with successful programs; and

(D) may use not more than 5 per centum of the funds appropriated for administrative or other expenses in connection with the program.

(f) AUTHORIZATION.—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and $3,000,000 for fiscal year 1994 shall be available to carry out this section.

(g) [42 U.S.C. 5318 note] SHORT TITLE.—This section may be cited as the "John Heinz Neighborhood Development Act".

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REPEALERS

SEC. 126. [40 U.S.C. 484b note] (a)(1) Section 414 of the Housing and Urban Development Act of 1969[2] hereby is repealed.

(2) Notwithstanding paragraph (1), the Secretary of Housing and Urban Development and the Secretary of Agriculture may dispose of Federal surplus real property pursuant to the terms of section 414 of such Act if, prior to the date of the enactment of this Act[3], either Secretary had requested the Administrator of General Services to transfer such property for such disposition.

(3) Notwithstanding paragraph (1), section 414(b) of such Act shall continue to apply, where applicable, to all property transferred by either Secretary pursuant to section 414 of such Act, including properties transferred pursuant to paragraph (2).

TITLE II—HOUSING ASSISTANCE PROGRAMS

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AMENDMENTS AFFECTING TENANT RENTS OR CONTRIBUTIONS

SEC. 206.

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(d)(1) [42 U.S.C. 1437a note] The following provisions of this paragraph apply to determinations of the rent to be paid by or the contribution required of a tenant occupying housing assisted under the authorities amended by this section or subsections (a) through

[2] Such section authorized transfer of surplus real property to the Secretary of Housing and Urban Development or the Secretary of Agriculture for sale or lease.

[3] November 30, 1983.

(h) of section 322 of the Housing and Community Development Amendments of 1981 (hereinafter referred to as "assisted housing") on or before the effective date of regulations implementing this section:

(A) Notwithstanding any other provision of this section or subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") may provide for delayed applicability, or for staged implementation, of the procedures for determining rents or contributions, as appropriate, required by such provisions if the Secretary determines that immediate application of such procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants.

(B) The Secretary shall provide that the rent or contribution, as appropriate, required to be paid by a tenant shall not increase as a result of the amendments made by this section and subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981, and as a result of any other provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such amendments, law, or regulation.

(2) Tenants of assisted housing other than those referred to in paragraph (1) shall be subject to immediate rent payment or contribution determinations in accordance with applicable law and without regard to the provisions of paragraph (1), but the Secretary shall provide that the rent or contribution payable by any such tenant who is occupying assisted housing on the effective date of any provision of Federal law or regulation shall not increase, as a result of any such provision of Federal law or regulation, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such law or regulation.

(3) In the case of tenants receiving rental assistance under section 521(a)(1) of the Housing Act of 1949 on the effective date of this section whose assistance is converted to assistance under section 8 of the United States Housing Act of 1937 on or after such date, the Secretary shall provide that the rent or contribution payable by any such tenant shall not increase, as a result of such conversion, by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to such conversion or to any provision of Federal law or regulation.

(4)(A) Notwithstanding any other provision of law, in the case of the conversion of any assistance under section 101 of the Housing and Urban Development Act of 1965, section 236(f)(2) of the National Housing Act, or section 23 of the United States Housing Act of 1937 (as in effect before the date of the enactment of the Housing and Community Development Act of 1974) to assistance under section 8 of the United States Housing Act of 1937, any increase in rent payments or contributions resulting from such con-

version, and from the amendments made by this section of any tenant benefiting from such assistance who is sixty-two years of age or older may not exceed 10 per centum per annum.

(B) In the case of any such conversion of assistance occurring on or after October 1, 1981, and before the date of the enactment of this section, the rental payments due after such date of enactment by any tenant benefiting from such assistance who was sixty-two years of age or older on the date of such conversion shall be computed as if the tenant's rental payment or contribution had, on the date of conversion, been the lesser of the actual rental payment or contribution required, or 25 per centum of the tenant's income.

(5) The limitations on increases in rent contained in paragraphs (1)(B), (2), (3), and (4) shall remain in effect and may not be changed or superseded except by another provision of law which amends this subsection.

(6) As used in this subsection, the term "contribution" means an amount representing 30 per centum of a tenant's monthly adjusted income, 10 per centum of the tenant's monthly income, or the designated amount of welfare assistance, whichever amount is used to determine the monthly assistance payment for the tenant under section 3(a) of the United States Housing Act of 1937.

(7) The provisions of subsections (a) through (h) of section 322 of the Housing and Community Development Amendments of 1981 shall be implemented and fully applicable to all affected tenants no later than five years following the date of enactment of such amendments, except that the Secretary may extend the time for implementation if the Secretary determines that full implementation would result in extraordinary hardship for any class of tenants.

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REPEAL OF NEW CONSTRUCTION AUTHORITY

SEC. 209. (a) The United States Housing Act of 1937 is amended as follows:

(1) Section 8(a) is amended by striking out ", newly constructed, and substantially rehabilitated".

(2) Section 8(b)(2) is repealed.

(3) Section 8(e) of such Act is amended by striking out paragraphs (1), (2), and (3) and by redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(4) Section 8(i) of such Act is repealed.

(5) Section 8 of such Act is amended by striking out subsections (l) and (m).

(6) Section 8(n) of such Act is amended by striking out "(e)(5) and subsection (i)" and inserting in lieu thereof "(e)(2)".

(b) The amendments made by subsection (a) shall take effect on October 1, 1983, except that the provisions repealed shall remain in effect—

(1) with respect to any funds obligated for a viable project under section 8 of the United States Housing Act of 1937 prior to January 1, 1984; and

(2) with respect to any project financed under section 202 of the Housing Act of 1959.

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PET OWNERSHIP IN ASSISTED RENTAL HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 227. [12 U.S.C. 1701r–1] (a) No owner or manager of any federally assisted rental housing for the elderly or handicapped may—

(1) as a condition of tenancy or otherwise, prohibit or prevent any tenant in such housing from owning common household pets or having common household pets living in the dwelling accommodations of such tenant in such housing; or

(2) restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of such pets by, or the presence of such pets in the dwelling accommodations of, such person.

(b)(1) Not later than the expiration of the twelve-month period following the date of the enactment of this Act,[4] the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each issue such regulations as may be necessary to ensure (A) compliance with the provisions of subsection (a) with respect to any program of assistance referred to in subsection (d) that is administered by such Secretary; and (B) attaining the goal of providing decent, safe, and sanitary housing for the elderly or handicapped.

(2) Such regulations shall establish guidelines under which the owner or manager of any federally assisted rental housing for the elderly or handicapped (A) may prescribe reasonable rules for the keeping of pets by tenants in such housing; and (B) shall consult with the tenants of such housing in prescribing such rules. Such rules may consider factors such as density of tenants, pet size, types or pets, potential financial obligations of tenants, and standards of pet care.

(c) Nothing in this section may be construed to prohibit any owner or manager of federally assisted rental housing for the elderly or handicapped, or any local housing authority or other appropriate authority of the community where such housing is located, from requiring the removal from any such housing of any pet whose conduct or condition is duly determined to constitute a nuisance or a threat to the health or safety of the other occupants of such housing or of other persons in the community where such housing is located.

(d) For purposes of this section, the term "federally assisted rental housing for the elderly or handicapped" means any rental housing project that—

(1) is assisted under section 202 of the Housing Act of 1959; or

(2) is assisted under the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, and is designated for occupancy by elderly or handi-

[4] The date of enactment was November 30, 1983.

capped families, as such term is defined in section 202(d)(4) of the Housing Act of 1959.[5]

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TITLE IV—PROGRAM AMENDMENTS AND EXTENSIONS

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PART C—REGULATORY AND OTHER PROGRAMS

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PERIODIC REPORT ON RESIDENTIAL MORTGAGE DELINQUENCIES AND FORECLOSURES

SEC. 469. [12 U.S.C. 1701p–1] As soon as practicable following the date of the enactment of this Act, the Secretary of Housing and Urban Development, with the cooperation of the Federal Housing Finance Agency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency, shall develop a method of accurately reporting to the Congress on a periodic basis with respect to residential mortgage delinquencies and foreclosures. Each such report shall include information with respect to the number of residential mortgage foreclosures, and the number of sixty- and ninety-day residential mortgage delinquencies, in the Nation and in each State.

PUBLIC NOTICE AND COMMENT REGARDING DEPARTMENT DEMONSTRATION PROGRAMS

SEC. 470. [42 U.S.C. 3542] (a) No demonstration program not expressly authorized in law may be commenced by the Secretary of Housing and Urban Development until (1) a description of such demonstration program is published in the Federal Register, which description may be included in a notice of funding availability; and (2) there expires a period of sixty calendar days following the date of such publication, during which period the Secretary shall fully consider any public comments submitted with respect to such demonstration program.

(b) Nothing in this section may be considered to authorize the conducting of any demonstration program by the Secretary of Housing and Urban Development.

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TITLE IX—INTERNATIONAL LENDING SUPERVISION

SHORT TITLE

SEC. 901. [12 U.S.C. 3901 note] This title may be cited as the "International Lending Supervision Act of 1983".

[5] For exemption of Indian housing, see section 201(c) of the United States Housing Act of 1937, which is set forth, *ante*, in part II of this compilation.

DECLARATION OF POLICY

SEC. 902. [12 U.S.C. 3901] (a)(1) It is the policy of the Congress to assure that the economic health and stability of the United States and the other nations of the world shall not be adversely affected or threatened in the future by imprudent lending practices or inadequate supervision.

(2) This shall be achieved by strengthening the bank regulatory framework to encourage prudent private decisionmaking and by enhancing international coordination among bank regulatory authorities.

(b) The Federal banking agencies shall consult with the banking supervisory authorities of other countries to reach understandings aimed at achieving the adoption of effective and consistent supervisory policies and practices with respect to international lending.

DEFINITIONS

SEC. 903. [12 U.S.C. 3902] For purposes of this title—

(1) the term "appropriate Federal banking agency" has the same meaning given such term in section 3(q) of the Federal Deposit Insurance Act, except that for purposes of this title such term means the Board of Governors of the Federal Reserve System for—

(A) bank holding companies and any nonbank subsidiary thereof;

(B) Edge Act corporations organized under section 25(a) of the Federal Reserve Act; and

(C) Agreement Corporations operating under section 25 of the Federal Reserve Act; and

(2) the term "banking institution" means—

(A)(i) an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or any subsidiary of an insured bank;

(ii) an Edge Act corporation organized under section 25(a) of the Federal Reserve Act; and

(iii) an Agreement Corporation operating under section 25 of the Federal Reserve Act; and

(B) to the extent determined by the appropriate Federal banking agency, any agency or branch of a foreign bank, and any commercial lending company owned or controlled by one or more foreign banks or companies that control a foreign bank as those terms are defined in the International Banking Act of 1978. The term "banking institution" shall not include a foreign bank.

STRENGTHENED SUPERVISION OF INTERNATIONAL LENDING

SEC. 904. [12 U.S.C. 3903] (a) Each appropriate Federal banking agency shall evaluate banking institution foreign country exposure and transfer risk for use in banking institution examination and supervision.

(b) Each such agency shall establish examination and supervisory procedures to assure that factors such as foreign country ex-

posure and transfer risk are taken into account in evaluating the adequacy of the capital of banking institutions.

RESERVES

SEC. 905. [12 U.S.C. 3904] (a)(1) Each appropriate Federal banking agency shall require a banking institution to establish and maintain a special reserve whenever, in the judgment of such appropriate Federal banking agency—

(A) the quality of such banking institution's assets has been impaired by a protracted inability of public or private borrowers in a foreign country to make payments on their external indebtedness as indicated by such factors, among others, as—

(i) a failure by such public or private borrowers to make full interest payments on external indebtedness;

(ii) a failure to comply with the terms of any restructured indebtedness; or

(iii) a failure by the foreign country to comply with any International Monetary Fund or other suitable adjustment program; or

(B) no definite prospects exist for the orderly restoration of debt service.

(2) Such reserves shall be charged against current income and shall not be considered as part of capital and surplus or allowances for possible loan losses for regulatory, supervisory, or disclosure purposes.

(b) The appropriate Federal banking agencies shall analyze the results of foreign loan rescheduling negotiations, assess the loan loss risk reflected in rescheduling agreements, and, using the powers set forth in section 908 (regarding capital adequacy), ensure that the capital and reserve positions of United States banks are adequate to accommodate potential losses on their foreign loans.

(c) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after the date of the enactment of this title.

SEC. 905A. [12 U.S.C. 3904a] ADDITIONAL RESERVE REQUIREMENTS.

(a) IN GENERAL.—Each appropriate Federal banking agency shall review the exposure to risk of United States banking institutions arising from the medium- and long-term loans made by such institutions that are outstanding to any highly indebted country. Each agency shall provide direction to such institutions regarding additions to general reserves maintained by each banking institution for potential loan losses and special reserves required by such agency arising from such review.

(b) DETERMINATION OF INSTITUTIONAL EXPOSURE TO RISK.—In determining the exposure of an institution to risk for purposes of subsection (a), the appropriate Federal banking agency—

(1) shall determine whether any country exposure that is, and has been for at least 2 years, rated in the category "Other Transfer Risk Problems" or the category "Substandard" by the Interagency Country Exposure Review Committee should be reevaluated;

(2) may exempt, in full or in part, from reserve requirements established pursuant to subsection (a), any loan—

(A) to a country that enters into a debt reduction, debt service reduction, or financing program with its bank creditors that is supported by the International Bank for Reconstruction and Development or the International Monetary Fund; or

(B) secured, in whole or in part, by appropriate collateral for payment of interest or principal;

(3) take into account any other factors which bear on such exposure and the particular circumstances of the institution; and

(4) shall consider as indicators of risk, where appropriate, the average reserve levels maintained by or required of banking institutions in foreign countries and secondary market prices for such loans.

(c) TIMING AND REPORT.—

(1) DETERMINED BY AGENCY.—Except as provided in paragraph (3), each appropriate Federal banking agency shall determine the timing of any addition to reserves required by subsection (a).

(2) REPORT.—Each appropriate Federal banking agency shall include in each report required to be made under section 913(d) after 1989 a report on the actions taken pursuant to this section.

(3) DEADLINE.—Each Federal agency required to undertake a review described in subsection (a) shall complete the review not later than December 31, 1990.

(d) HIGHLY INDEBTED COUNTRY DEFINED.—As used in this section, the term "highly indebted country" means any country designated as a "Highly Indebted Country" in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.

ACCOUNTING FOR FEES ON INTERNATIONAL LOANS

SEC. 906. [12 U.S.C. 3905] (a)(1) In order to avoid excessive debt service burdens on debtor countries, no banking institution shall charge, in connection with the restructuring of an international loan, any fee exceeding the administrative cost of the restructuring unless it amortizes such fee over the effective life of each such loan.

(2)(A) Each appropriate Federal banking agency shall promulgate such regulations as are necessary to further carry out the provisions of this subsection.

(B) The requirement of paragraph (1) shall take effect on the date of the enactment of this section.

(b)(1) Subject to subsection (a), the appropriate Federal banking agencies shall promulgate regulations for accounting for agency, commitment, management and other fees charged by a banking institution in connection with an international loan.

(2) Such regulations shall establish the accounting treatment of such fees for regulatory, supervisory, and disclosure purposes to

assure that the appropriate portion of such fees is accrued in income over the effective life of each such loan.

(3) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this subsection within one hundred and twenty days after the date of the enactment of this title.

COLLECTION AND DISCLOSURE OF CERTAIN INTERNATIONAL LENDING DATA

SEC. 907. [12 U.S.C. 3906] (a) Each appropriate Federal banking agency shall require, by regulation, each banking institution with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure in a format prescribed by such regulations.

(b) Each appropriate Federal banking agency shall require, by regulation, banking institutions to disclose to the public information regarding material foreign country exposure in relation to assets and to capital.

(c) The appropriate Federal banking agencies shall promulgate regulations or orders necessary to implement this section within one hundred and twenty days after the date of the enactment of this title.

CAPITAL ADEQUACY

SEC. 908. [12 U.S.C. 3907] (a)(1) Each appropriate Federal banking agency shall cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by using such other methods as the appropriate Federal banking agency deems appropriate. Each appropriate Federal banking agency shall seek to make the capital standards required under this section or other provisions of Federal law for insured depository institutions countercyclical so that the amount of capital required to be maintained by an insured depository institution increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the insured depository institution.

(2) Each appropriate Federal banking agency shall have the authority to establish such minimum level of capital for a banking institution as the appropriate Federal banking agency, in its discretion, deems to be necessary or appropriate in light of the particular circumstances of the banking institution.

(b)(1) Failure of a banking institution to maintain capital at or above its minimum level as established pursuant to subsection (a) may be deemed by the appropriate Federal banking agency, in its discretion, to constitute an unsafe and unsound practice within the meaning of section 8 of the Federal Deposit Insurance Act.

(2)(A) In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the appropriate Federal banking agency may issue a directive to a banking institution that fails to maintain capital at or above its required level as established pursuant to subsection (a).

(B)(i) Such directive may require the banking institution to submit and adhere to a plan acceptable to the appropriate Federal

banking agency describing the means and timing by which the banking institution shall achieve its required capital level.

(ii) Any such directive issued pursuant to this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act to the same extent as an effective and outstanding order issued pursuant to section 8(b) of the Federal Deposit Insurance Act which has become final.

(3)(A) Each appropriate Federal banking agency may consider such banking institution's progress in adhering to any plan required under this subsection whenever such banking institution, or an affiliate thereof, or the holding company which controls such banking institution, seeks the requisite approval of such appropriate Federal banking agency for any proposal which would divert earnings, diminish capital, or otherwise impede such banking institution's progress in achieving its minimum capital level.

(B) Such appropriate Federal banking agency may deny such approval where it determines that such proposal would adversely affect the ability of the banking institution to comply with such plan.

(C) The Chairman of the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall encourage governments, central banks, and regulatory authorities of other major banking countries to work toward maintaining and, where appropriate, strengthening the capital bases of banking institutions involved in international lending.

FOREIGN LOAN EVALUATIONS

SEC. 909. [12 U.S.C. 3908] (a)(1) In any case in which one or more banking institutions extend credit, whether by loan, lease, guarantee, or otherwise, which individually or in the aggregate exceeds $20,000,000, to finance any project which has as a major objective the construction or operation of any mining operation, any metal or mineral primary processing operation, any fabricating facility or operation, or any metal-making operations (semi and finished) located outside the United States or its territories and possessions, a written economic feasibility evaluation of such foreign project shall be prepared and approved in writing by a senior official of the banking institution, or, if more than one banking institution is involved, the lead banking institution, prior to the extension of such credit.

(2) Such evaluation shall—

(A) take into account the profit potential of the project, the impact of the project on world markets, the inherent competitive advantages and disadvantages of the project over the entire life of the project, and the likely effect of the project upon the overall long-term economic development of the country in which the project is located; and

(B) consider whether the extension of credit can reasonably be expected to be repaid from revenues generated by such foreign project without regard to any subsidy, as defined in international agreements, provided by the government involved or any instrumentality of any country.

(b) Such economic feasibility evaluations shall be reviewed by representatives of the appropriate Federal banking agencies whenever an examination by such appropriate Federal banking agency is conducted.

(c)(1) The authorities of the Federal banking agencies contained in section 8 of the Federal Deposit Insurance Act and in section 910 of this Act, except those contained in section 910(d), shall be applicable to this section.

(2) No private right of action or claim for relief may be predicated upon this section.

GENERAL AUTHORITIES

SEC. 910. [12 U.S.C. 3909] (a)(1) The appropriate Federal banking agencies are authorized to interpret and define the terms used in this title, and each appropriate Federal banking agency shall prescribe rules or regulations or issue orders as necessary to effectuate the purposes of this title and to prevent evasions thereof.

(2) The appropriate Federal banking agency is authorized to apply the provisions of this title to any affiliate of an insured depository institution, but only to affiliates for which it is the appropriate Federal banking agency, in order to promote uniform application of this title or to prevent evasions thereof.

(3) For purposes of this section, the term "affiliate" shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term "member bank" in such section shall be deemed to refer to an "insured depository institution", as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act.

(b) The appropriate Federal banking agencies shall establish uniform systems to implement the authorities provided under this title.

(c)(1) The powers and authorities granted in this title shall be supplemental to and shall not be deemed in any manner to derogate from or restrict the authority of each appropriate Federal banking agency under section 8 of the Federal Deposit Insurance Act or any other law including the authority to require additional capital or reserves.

(2) Any such authority may be used by any appropriate Federal banking agency to ensure compliance by a banking institution with the provisions of this title and all rules, regulations, or orders issued pursuant thereto.

(d)(1) Any banking institution which violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such banking institution, who violates any provision of this title, or any rule, regulation, or order, issued under this title, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues.

(2) Such violations shall be deemed to be a violation of a final order under section 8(i)(2) of the Federal Deposit Insurance Act and the penalty shall be assessed and collected by the appropriate Federal banking agency under the procedures established by, and subject to the rights afforded to parties in, such section.

GAO AUDIT AUTHORITY

SEC. 911. [12 U.S.C. 3910] (a)(1) Under regulations of the Comptroller General, the Comptroller General shall audit the appropriate Federal banking agencies (as defined in section 903 of this title), but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate Federal banking agency has consented in writing.

(2) An audit under this subsection may include a review or evaluation of the international regulation, supervision, and examination activities of the appropriate Federal banking agency, including the coordination of such activities with similar activities of regulatory authorities of a foreign government or international organization.

(3) Audits of the Federal Reserve Board and Federal Reserve banks may not include—

(A) transactions for, or with, a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(B) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, or open market operations;

(C) transactions made under the direction of the Federal Open Market Committee; or

(D) a part of a discussion or communication among or between members of the Board of Governors of the Federal Reserve System and officers and employees of the Federal Reserve System related to subparagraphs (A) through (C) of this paragraph.

(b)(1)(A) Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company.

(B) The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the General Accounting Office may discuss a customer, bank, or bank holding company with an official of an appropriate Federal banking agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) This subsection does not authorize an officer or employee of an appropriate Federal banking agency to withhold information from a committee of the Congress authorized to have the information.

(c)(1)(A) To carry out this section, all records and property of or used by an appropriate Federal banking agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and

workpapers and correspondence related to the reports shall be made available to the Comptroller General, including such records and property pertaining to the coordination of international regulation, supervisor and examination activities of an appropriate Federal banking agency.

(B) The Comptroller General shall give each appropriate Federal banking agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit.

(C) Each appropriate Federal banking agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.

(2) Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an appropriate Federal banking agency that the Comptroller General possesses during an audit, shall remain in such agency. The Comptroller General shall prevent unauthorized access to records or property.

EQUAL REPRESENTATION FOR THE FEDERAL DEPOSIT INSURANCE CORPORATION AND THE OFFICE OF THRIFT SUPERVISION [6]

SEC. 912. [7] [12 U.S.C. 3911]

(a) IN GENERAL.—As one of the 4 Federal bank regulatory and supervisory agencies, and as the insurer of the United States banks involved in international lending, the Federal Deposit Insurance Corporation shall be given equal representation with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.

(b) [8] As one of the 4 Federal bank regulatory and supervisory agencies, the Office of Thrift Supervision shall be given equal representation with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.

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[6] The typeface for new text added to the heading for section 912 by section 713(a)(1) of Public Law 109–351 (120 Stat. ???) has been changed to conform with the style of the existing heading. The typeface for the text that appears in the public law is as follows: "AND THE OFFICE OF THRIFT SUPERVISION".

[8] Subsection (b) of section 912 was added by section 713(a)(3) Public Law 109–351 (120 Stat. 1995) without including a subsection heading.

[7] So in law. See amendment made by section 713(a)(2) Public Law 109–351 (120 Stat. 1995).