

105TH CONGRESS
1ST SESSION

H. R. 31

To reform the Federal Home Loan Bank System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. BAKER (for himself and Mr. KANJORSKI) introduced the following bill;
which was referred to the Committee on Banking and Financial Services

A BILL

To reform the Federal Home Loan Bank System, and for
other purposes.

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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Enterprise Resource Bank Act of 1996”.

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

Sec. 1. Short title; table of contents; findings.

Sec. 2. Redesignation of Federal home loan banks as enterprise resource banks.

Sec. 3. Provisions relating to banks and bank ownership.

Sec. 4. Federal Housing Finance Board.

Sec. 5. The Office of Finance.

Sec. 6. Capital.

Sec. 7. Prompt corrective action.

Sec. 8. Management of banks.

- Sec. 9. Sustainable economic development program.
- Sec. 10. Enforcement authority to promote safety and soundness of enterprise resource banks.
- Sec. 11. Resolution Funding Corporation obligation.
- Sec. 12. Powers and duties of banks; technical and conforming amendments.
- Sec. 13. Incorporation of banks; corporate powers.
- Sec. 14. Succession of enterprise resource banks.
- Sec. 15. Definitions.
- Sec. 16. Study of overcollateralization.

1 (c) FINDINGS.—The Congress finds the following:

2 (1) The Federal Home Loan Bank System was
 3 established in 1932 primarily to provide a source of
 4 intermediate- and long-term credit for State savings
 5 institutions to finance long-term residential mort-
 6 gages and to provide a source for liquidity loans for
 7 such institutions, neither of which was readily avail-
 8 able for such institutions at that time.

9 (2) Recently, the System's membership has
 10 been expanded to include other depository institu-
 11 tions that are significant housing lenders.

12 (3) That portion of depository institutions
 13 which are specialized mortgage lending has de-
 14 creased, both with respect to the volume of loans
 15 and as a percentage of market share and may con-
 16 tinue to decrease.

17 (4) The establishment of the Federal National
 18 Mortgage Association, the Federal Home Loan
 19 Mortgage Corporation, and the Government Na-
 20 tional Mortgage Association and the subsequent de-
 21 velopment of an extensive private secondary market

1 for residential mortgages has challenged the Federal
2 Home Loan Bank System as a source of
3 intermediate- and long-term credit to support pri-
4 mary residential mortgage lenders.

5 (5) For most depository institutions, residential
6 mortgage lending has been incorporated into a prod-
7 uct mix of community banking that typically pro-
8 vides a range of mortgage, consumer, and commer-
9 cial loans in their communities.

10 (6) Community banks have a difficult time
11 accessing capital markets and adequately funding
12 intermediate- and long-term assets held by the bank
13 for investment purposes, particularly community
14 banks located in rural areas where nonfarm busi-
15 nesses tend to rely heavily on community banks as
16 their primary lender.

17 (7) Since community banks in rural areas, like
18 savings associations in the 1930s, tend to draw most
19 of their funds from local deposits, credit for borrow-
20 ers in rural areas may be difficult to obtain and the
21 economy of rural America could benefit from in-
22 creased competition if community banks in rural
23 areas were provided with enhanced access to capital
24 markets.

1 (8) Access to liquidity through Federal home
2 loan banks greatly benefits well-managed, adequately
3 capitalized community banks because—

4 (A) term advances reduce interest rate
5 risk; and

6 (B) the ability of a community bank to ob-
7 tain advances to offset deposit decreases or to
8 temporarily fund portfolios during an increase
9 in loan demands reduces the bank’s overall cost
10 of operation and allows the community bank to
11 better serve its market and community.

12 (9) Used prudently, the Federal Home Loan
13 Bank System is an integral tool to assist properly
14 regulated, well-capitalized community banks, espe-
15 cially community banks in rural areas and under-
16 served neighborhoods, to obtain a more stable fund-
17 ing source for intermediate- and long-term assets.

18 **SEC. 2. REDESIGNATION OF FEDERAL HOME LOAN BANKS**

19 **AS ENTERPRISE RESOURCE BANKS.**

20 (a) IN GENERAL.—Each Federal home loan bank is
21 hereby redesignated as an enterprise resource bank.

22 (b) UNIVERSAL CONFORMING AMENDMENTS.—

23 (1) FEDERAL HOME LOAN BANK.—The Federal
24 Home Loan Bank Act (12 U.S.C. 1421 et seq.) is
25 amended by striking “Federal Home Loan Bank”

1 and “Federal Home Loan Banks” each place such
2 terms appear in such Act (other than in connection
3 with a reference to the Federal Home Loan Bank
4 System) and inserting “enterprise resource bank”
5 and “enterprise resource banks”, respectively.

6 (2) FEDERAL HOME LOAN BANK SYSTEM.—The
7 Federal Home Loan Bank Act (12 U.S.C. 1421 et
8 seq.) is amended by striking “Federal Home Loan
9 Bank System” and inserting “enterprise resource
10 bank system”.

11 (c) REDESIGNATION OF ACT.—

12 (1) IN GENERAL.—The Federal Home Loan
13 Bank Act (12 U.S.C. 1421 et seq.) is amended by
14 striking the clause that appears after the enacting
15 clause and before section 2 and inserting the follow-
16 ing new section:

17 **“SECTION 1. SHORT TITLE.**

18 “This Act may be cited as the ‘Enterprise Resource
19 Bank System Act’.”.

20 (2) REFERENCES TO FEDERAL HOME LOAN
21 BANK ACT.—Any reference in this Act and any other
22 Federal law to the Federal Home Loan Bank Act
23 shall be deemed, as of the date of the enactment of
24 this Act, to be a reference to the Enterprise Re-
25 source Bank System Act.

1 (d) REFERENCES TO FEDERAL HOME LOAN
 2 BANKS.—Any reference in a Federal law to any Federal
 3 home loan bank shall be deemed, as of the date of the
 4 enactment of this Act, to be a reference to an enterprise
 5 resource bank.

6 **SEC. 3. PROVISIONS RELATING TO BANKS AND BANK OWN-**
 7 **ERSHIP.**

8 The Federal Home Loan Bank Act (12 U.S.C. 1421)
 9 is amended by inserting after section 4 the following new
 10 section:

11 **“SEC. 5. MISSION STATEMENT; ENTERPRISE RESOURCE**
 12 **BANKS.**

13 “(a) MISSION.—The enterprise resource banks are
 14 established by the Congress as profit-making financial in-
 15 stitutions whose purposes are as follows:

16 “(1) To promote residential mortgage lending
 17 (including mortgages on housing for low- and mod-
 18 erate-income families).

19 “(2) To facilitate community and economic de-
 20 velopment lending, including rural economic develop-
 21 ment lending.

22 “(3) To assist such lending, safely and soundly,
 23 through a program of collateralized advances and
 24 other financial services that provide long-term fund-
 25 ing, liquidity, operational, and interest rate risk

1 management to the bank's shareholders and certain
2 mortgagees who are not shareholders of the bank.

3 “(b) DISTRICTS.—

4 “(1) IN GENERAL.—Subject to subsection (c),
5 there are 12 districts which shall be known as enter-
6 prise resource bank districts.

7 “(2) NAME OF DISTRICT.—Each district shall
8 bear a name descriptive of the district.

9 “(3) DISTRICTS DESIGNATED.—Subject to sub-
10 section (c), the 12 districts shall be comprised as fol-
11 lows:

12 “(A) District 1 shall be composed of the
13 States of Connecticut, Maine, Massachusetts,
14 New Hampshire, Rhode Island, and Vermont.

15 “(B) District 2 shall be composed of the
16 States of New Jersey and New York, the Com-
17 monwealth of Puerto Rico, and the territory of
18 the Virgin Islands.

19 “(C) District 3 shall be composed of the
20 States of Delaware, Pennsylvania, and West
21 Virginia.

22 “(D) District 4 shall be composed of the
23 States of Alabama, Florida, Georgia, Maryland,
24 North Carolina, South Carolina, and Virginia,
25 and the District of Columbia.

1 “(E) District 5 shall be composed of the
2 States of Kentucky, Ohio, and Tennessee.

3 “(F) District 6 shall be composed of the
4 States of Indiana and Michigan.

5 “(G) District 7 shall be composed of the
6 States of Illinois and Wisconsin.

7 “(H) District 8 shall be composed of the
8 States of Iowa, Minnesota, Missouri, North Da-
9 kota, and South Dakota.

10 “(I) District 9 shall be composed of the
11 states of Arkansas, Louisiana, Mississippi, New
12 Mexico, and Texas.

13 “(J) District 10 shall be composed of the
14 states of Colorado, Kansas, Nebraska, and
15 Oklahoma.

16 “(K) District 11 shall be composed of the
17 states of Arizona, California, and Nevada.

18 “(L) District 12 shall be composed of the
19 states of Alaska, Hawaii, Idaho, Montana, Or-
20 egon, Utah, Washington, and Wyoming, and
21 the territories of Guam and the Pacific Islands.

22 “(4) SINGLE BANK IN EACH DISTRICT.—There
23 shall be 1 enterprise resource bank in each district.

1 “(5) NO ADDITIONAL BANKS AUTHORIZED.—No
2 additional enterprise resource banks may be char-
3 tered by the Finance Board after the date of the en-
4 actment of the Enterprise Resource Bank Act of
5 1996, except in connection with a transaction under
6 subsection (c).

7 “(c) MERGERS, CONSOLIDATIONS AND COMBINA-
8 TIONS OF BANKS.—

9 “(1) MERGER, CONSOLIDATION, AND COMBINA-
10 TION AUTHORITY.—In addition to the authority of
11 the Finance Board under section 24 and notwith-
12 standing subsection (b), 2 or more enterprise re-
13 source banks may merge or otherwise combine or
14 consolidate.

15 “(2) PREREQUISITES FOR TRANSACTION.—A
16 merger, combination, or consolidation of enterprise
17 banks may be consummated under this subsection
18 only if the transaction is approved by—

19 “(A) a majority of the board of directors
20 of each bank participating in the transaction;

21 “(B) the holders of a majority of the vot-
22 ing shares of capital stock of each such bank,
23 in a vote by such shareholders in accordance
24 with the applicable procedure under section
25 7(d); and

1 “(C) the Finance Board.

2 “(3) EFFECTIVE DATE OF TRANSACTION.—If
3 the requirements of paragraph (2) have been met, a
4 merger, combination, or consolidation of enterprise
5 resource banks shall be effective as of the date the
6 following conditions are met:

7 “(A) A certificate of merger, combination,
8 or consolidation (in such form as the Finance
9 Board shall prescribe) is—

10 “(i) executed by the banks participat-
11 ing in such transaction; and

12 “(ii) filed with the Finance Board in
13 accordance with section 12(a)(3).

14 “(B) The Finance Board has—

15 “(i) approved the transaction in ac-
16 cordance with paragraph (12)(A); or

17 “(ii) not disapproved the transaction
18 in accordance with paragraph (12)(B) be-
19 fore the end of the 120-day period begin-
20 ning on the date of the filing described in
21 subparagraph (A)(ii).

22 “(4) MERGER AGREEMENT.—

23 “(A) IN GENERAL.—Any merger, combina-
24 tion, or consolidation of enterprise resource
25 banks under this subsection shall be carried out

1 pursuant to an agreement entered into by all
2 the enterprise resource banks participating in
3 the transaction.

4 “(B) CONTENTS OF AGREEMENT.—Any
5 agreement referred to in subparagraph (A)
6 shall specify—

7 “(i) the terms and conditions of the
8 merger, combination, or consolidation;

9 “(ii) the amendments to the charter
10 documents of the resulting bank to be af-
11 fected by the transaction, if any;

12 “(iii) the location of the principal of-
13 fice of the resulting bank;

14 “(iv) the manner of converting the
15 shares of each of the banks participating
16 in the transaction into shares of the result-
17 ing bank; and

18 “(v) such other details or provisions
19 as are appropriate.

20 “(5) SUCCESSION IN INTEREST.—Upon the ef-
21 fective date of any merger, combination, or consoli-
22 dation of enterprise resource banks under this sub-
23 section—

1 “(A) the separate existence of any bank
 2 participating in the transaction other than the
 3 resulting bank shall cease to exist;

4 “(B) the resulting bank shall—

5 “(i) succeed to all the rights and
 6 properties of each of the banks described
 7 in subparagraph (A) without other trans-
 8 fer; and

9 “(ii) be subject to all the debts and li-
 10 abilities of each such bank in the same
 11 manner as if the resulting bank had in-
 12 curred such debts and liabilities.

13 “(6) EXISTING RIGHTS NOT AFFECTED.—This
 14 subsection shall not affect any right of any creditor
 15 of any enterprise resource bank which is participat-
 16 ing in any merger, combination, or consolidation
 17 under this subsection.

18 “(7) PRESERVATION OF LIENS.—All liens upon
 19 the property of any enterprise resource bank which
 20 is participating in any merger, combination, or con-
 21 solidation under this subsection shall continue to be
 22 effective after the consummation of the transaction
 23 except that any lien upon property of any bank other
 24 than the resulting bank shall be effective only with

1 respect to the property which was subject to the lien
2 immediately before consummation of the transaction.

3 “(8) CONTINUATION OF SUITS.—

4 “(A) IN GENERAL.—No action or other
5 proceeding commenced by or against any enter-
6 prise resource bank which is participating in
7 any merger, combination, or consolidation
8 under this subsection shall abate by reason of
9 the consummation of such transaction.

10 “(B) SUBSTITUTION OF RESULTING
11 BANK.—In any action or proceeding described
12 in subparagraph (A), the enterprise resource
13 bank resulting from the transaction referred to
14 in such subparagraph shall be substituted for
15 the enterprise resource bank involved in such
16 action or proceeding before the consummation
17 of the transaction.

18 “(C) APPLICABILITY TO RESULTING
19 BANK.—Any final judgment or other determina-
20 tion which becomes final in any action or pro-
21 ceeding described in subparagraph (A) shall be
22 binding on the bank resulting from the trans-
23 action referred to in such subparagraph.

1 “(9) NUMBER OF ELECTED DIRECTORS OF RE-
2 SULTING BANK.—Subject to section 7(a), any enter-
3 prise resource bank resulting from a merger, com-
4 bination, or consolidation pursuant to this section
5 may have a number of elected directors equal to or
6 less than the total number of elected directors of all
7 the banks which participated in such transaction (as
8 determined immediately before such transaction).

9 “(10) NUMBER OF APPOINTED DIRECTORS OF
10 RESULTING BANK.—The number of appointed direc-
11 tors of any enterprise resource bank resulting from
12 a merger, combination, or consolidation pursuant to
13 this section shall be the amount which is 2 less than
14 the number of elected directors.

15 “(11) ADJUSTMENT OF DISTRICT BOUND-
16 ARIES.—After a merger, combination, or consolida-
17 tion of 2 or more enterprise resource banks under
18 this subsection is consummated, the Finance Board
19 shall adjust the districts established pursuant to
20 subsection (b) to reflect such merger, combination,
21 or consolidation.

1 “(12) FINANCE BOARD AUTHORITY.—Upon re-
 2 ceipt of a certificate of merger, combination, or con-
 3 solidation filed with the Finance Board in accord-
 4 ance with section 12(a)(3), the Finance Board
 5 may—

6 “(A) approve the transaction on the basis
 7 of a determination that the transaction provides
 8 for a resulting enterprise resource bank which
 9 is safe and sound; or

10 “(B) disapprove the transaction on the
 11 basis of a determination that the transaction
 12 does not provide for a resulting enterprise re-
 13 source bank which is safe and sound.

14 “(d) PROHIBITION ON JOINT OFFICES.—Except with
 15 regard to the office of finance or to the extent specifically
 16 provided in this Act, there shall be no joint or collective
 17 offices of the enterprise resource banks.”.

18 **SEC. 4. FEDERAL HOUSING FINANCE BOARD.**

19 (a) IN GENERAL.—Section 3 of the Federal Home
 20 Loan Bank Act (12 U.S.C. 1423) is amended to read as
 21 follows:

22 **“SEC. 3. FEDERAL HOUSING FINANCE BOARD.**

23 “(a) ESTABLISHMENT.—

24 “(1) IN GENERAL.—There shall be a Federal
 25 Housing Finance Board in the executive branch

1 which shall be an independent agency to regulate the
2 safety and soundness of the enterprise resource
3 banks.

4 “(2) DUTIES.—The duties of the Finance
5 Board shall be the following:

6 “(A) To ensure that the enterprise re-
7 source banks—

8 “(i) operate in accordance with this
9 Act and in a safe and sound manner; and

10 “(ii) remain adequately capitalized.

11 “(B) To ensure that programs adminis-
12 tered by any enterprise resource bank are con-
13 sistent with, and contribute to the fulfillment
14 of, the mission of the bank.

15 “(C) To provide periodic reports to the
16 Congress regarding the safety and soundness
17 and the composition of the shareholders in the
18 enterprise resource banks and the extent to
19 which such banks are fulfilling their mission.

20 “(3) CLARIFICATION OF AUTHORITY OF FI-
21 NANCE BOARD.—The Finance Board shall have no
22 authority—

23 “(A) to manage the operations of any en-
24 terprise resource bank;

1 “(B) to manage the sustainable economic
2 development program of any enterprise resource
3 bank, including the community investment pro-
4 gram or the affordable housing program of any
5 such bank; or

6 “(C) to approve or disapprove funding by
7 any such bank for any program referred to in
8 subparagraph (B).

9 “(4) MANAGEMENT OF FINANCE BOARD.—The
10 management of the Finance Board shall be vested in
11 a chief executive officer.

12 “(b) COMPOSITION OF FINANCE BOARD.—

13 “(1) IN GENERAL.—Subject to paragraph (9),
14 the Finance Board shall be composed of 5 directors
15 as follows:

16 “(A) The Secretary of the Department of
17 Housing and Urban Development, who shall
18 serve without additional compensation.

19 “(B) 3 directors appointed by the Presi-
20 dent, by and with the advice and consent of the
21 Senate, from among individuals who—

22 “(i) are citizens of the United States;

23 and

24 “(ii) have—

1 “(I) extensive experience or
2 training in housing finance, commu-
3 nity and economic development (in-
4 cluding rural economic development),
5 financial safety and soundness regula-
6 tion, or extensive experience with an
7 organization which represents
8 consumer or community interest in
9 banking services, credit needs, hous-
10 ing, financial consumer protection, or
11 small businesses; and

12 “(II) a commitment to provide
13 specialized housing, small business, or
14 rural credit.

15 “(C) 1 director appointed by the President,
16 by and with the advice and consent of the Sen-
17 ate, from among individuals who—

18 “(i) are citizens of the United States;
19 and

20 “(ii) have extensive experience or
21 training in financial safety and soundness
22 regulation.

23 “(2) TERMS.—

24 “(A) IN GENERAL.—Except as provided in
25 paragraph (10), each director of the Finance

1 Board appointed under subparagraph (B) or
2 (C) of paragraph (1) shall be appointed for a
3 term of 7 years.

4 “(B) INTERIM APPOINTMENTS.—Any di-
5 rector appointed to fill a vacancy occurring be-
6 fore the expiration of the term for which such
7 director’s predecessor was appointed shall be
8 appointed only for the remainder of such term.

9 “(C) CONTINUATION OF SERVICE.—Each
10 director may continue to serve after the expira-
11 tion of the term to which such director was ap-
12 pointed until a successor has been appointed
13 and qualified.

14 “(3) CHAIRPERSON AND ACTING CHAIR-
15 PERSON.—

16 “(A) CHAIRPERSON.—The President shall
17 designate 1 of the directors appointed pursuant
18 to subparagraph (B) or (C) of paragraph (1) to
19 be the Chairperson of the Finance Board.

20 “(B) SERVICE AS CHIEF EXECUTIVE OFFI-
21 CER.—The Chairperson shall be the chief exec-
22 utive officer of the Finance Board.

23 “(C) ACTING CHAIRPERSON.—

24 “(i) IN GENERAL.—The Chairperson
25 shall designate another director to serve as

1 acting Chairperson during the absence or
2 disability of the Chairperson.

3 “(ii) SELECTION BY DIRECTORS.—If a
4 designation by the Chairperson has not
5 been made pursuant to clause (i) and the
6 position of Chairperson becomes vacant,
7 the remaining directors shall elect a direc-
8 tor to serve as the Acting Chairperson
9 until a Chairperson has been appointed.

10 “(D) POWERS AND RESPONSIBILITY OF
11 CEO.—

12 “(i) IN GENERAL.—As the chief exec-
13 utive officer, the Chairperson shall be re-
14 sponsible for—

15 “(I) the overall management, or-
16 ganization, and functioning of the Fi-
17 nance Board in accordance with the
18 policies established and regulations
19 prescribed by the Finance Board;

20 “(II) directing the implementa-
21 tion of regulations prescribed and
22 policies established by the Finance
23 Board; and

24 “(III) appoint, remove, promote,
25 direct, and set rates of compensation

1 for employees, attorneys, and agents
2 of the Finance Board consistent with
3 the policies established by the Finance
4 Board pursuant to subsection (e)(1).

5 “(ii) MEETINGS.—The Chairperson
6 may call a meeting of the Finance Board.

7 “(iii) DELEGATION.—The Chairperson
8 may delegate any authority of the Chair-
9 person as the chief executive officer of the
10 Finance Board to any officer or employee
11 of the Finance Board, including another
12 director of the Finance Board.

13 “(iv) GOVERNING STANDARDS.—In
14 carrying out the duties of the chief execu-
15 tive officer, the Chairperson shall be sub-
16 ject to and governed by the policies adopt-
17 ed by the Finance Board and any regu-
18 latory decision, finding, or determination
19 made by the Finance Board.

20 “(4) REPRESENTATIONAL REQUIREMENTS.—

21 “(A) POLITICAL AFFILIATION.—Not more
22 than 2 of the directors appointed under sub-
23 paragraphs (B) and (C) of paragraph (1) may
24 be members of the same political party.

1 “(B) DISTRICT REPRESENTATION.—Not
2 more than 1 director may be appointed under
3 subparagraphs (B) and (C) of paragraph (1)
4 from any single district of the enterprise re-
5 source Bank System.

6 “(5) VACANCY.—Any vacancy on the Finance
7 Board shall be filled in the manner in which the
8 original appointment was made.

9 “(6) LIMITATIONS ON CONFLICTS OF INTER-
10 EST.—No director on the Finance Board may, while
11 serving as a director—

12 “(A) serve as a director, officer, employee,
13 counsel, or agent of any enterprise resource
14 bank; or

15 “(B) hold shares of, serve as a director, of-
16 ficer, employee, counsel, or agent of, or have
17 any other financial interest in any shareholder
18 of any such bank.

19 “(7) FULL-TIME SERVICE.—No director other
20 than the Chairperson (or any director serving as the
21 acting Chairperson) may serve on the Finance
22 Board on a full-time basis.

23 “(8) QUORUM.—A quorum of the Finance
24 Board shall consist of at least one-half of all the di-
25 rectors serving on the Finance Board.

1 “(9) DELEGATION BY SECRETARY.—The Sec-
2 retary of Housing and Urban Development may del-
3 egate such Secretary’s position on the Finance
4 Board to an officer of such Secretary’s agency who
5 has been appointed to such office by the President,
6 by and with the advice and consent of the Senate.

7 “(10) CONTINUED SERVICE OF FEDERAL HOUS-
8 ING FINANCE BOARD DIRECTORS.—Any director of
9 the Federal Housing Finance Board whose term has
10 not expired before the date of enactment of the En-
11 terprise Resource Bank Act of 1996 shall remain a
12 director of the Finance Board, in the same capacity,
13 and shall be deemed to have been appointed under
14 subparagraph (B) or (C) of paragraph (1).

15 “(c) GENERAL POWERS.—Subject to subsection
16 (a)(3), the Finance Board shall have the following powers:

17 “(1) To maintain such oversight of the enter-
18 prise resource banks, subsidiaries of such banks, and
19 the office of finance as may be necessary to ensure
20 that such banks and subsidiaries and the office of fi-
21 nance operate in accordance with this Act and in a
22 financially safe and sound manner.

1 “(2) To prescribe or issue, and enforce, such
2 regulations and orders as the Finance Board deter-
3 mines to be necessary to carry out the provisions of
4 this Act.

5 “(3) To suspend or remove for cause a director,
6 officer, employee, or agent of any enterprise resource
7 bank or the office of finance.

8 “(4) To determine necessary expenditures of
9 the Finance Board under this Act and the manner
10 in which such expenditures shall be incurred, al-
11 lowed, and paid.

12 “(5) To use the United States mails in the
13 same manner and under the same conditions as a
14 department or agency of the United States.

15 “(6) To sue and be sued and to complain and
16 defend, by and through the Finance Board’s own at-
17 torneys, in any action brought by or against the Fi-
18 nance Board in any court of competent jurisdiction.

19 “(7) To make contracts.

20 “(8) To exercise incidental powers that are con-
21 sistent with this Act and are appropriate to carry
22 out the provisions of this Act.

23 “(d) RECEIPTS OF THE FINANCE BOARD.—

24 “(1) DEPOSIT IN TREASURY.—Receipts of the
25 Finance Board derived from assessments imposed on

1 the enterprise resource banks and from other
2 sources shall be deposited in an account of the Fi-
3 nance Board in the Treasury of the United States.

4 “(2) PAYMENT OF EXPENSES.—Salaries of the
5 directors and other employees of the Finance Board
6 and all other expenses of the Finance Board may be
7 paid from the receipts described in paragraph (1).

8 “(3) TREATMENT OF AMOUNTS RECEIVED.—
9 Notwithstanding any other provision of law—

10 “(A) no amount received by the Finance
11 Board pursuant to any assessment imposed on
12 any enterprise resource bank or any other in-
13 come of the Finance Board may be construed
14 to be Government funds or appropriated money;

15 “(B) no authority of the Finance Board to
16 spend or otherwise obligate any such amount
17 may be treated as budget authority, spending
18 authority, or credit authority or as authority to
19 obligate funds of the United States, notwith-
20 standing the fact that the receipts described in
21 paragraph (1) are deposited in the account of
22 the Finance Board in the Treasury; and

23 “(C) no such amount shall be subject to
24 apportionment for purposes of chapter 15 of

1 title 31, United States Code, or under any
2 other authority.

3 “(e) STAFF.—

4 “(1) IN GENERAL.—The Finance Board may
5 provide for the employment, direction, compensation,
6 and number of employees, attorneys, and agents of
7 the Finance Board.

8 “(2) PROHIBITION ON DELEGATION TO BANKS
9 OR THE OFFICE OF FINANCE.—The Finance Board
10 may not delegate, or provide for the delegation of,
11 any function of the Finance Board to any employee
12 or administrative unit of any bank or the office of
13 finance.

14 “(3) RESTATEMENT OF PRIOR LAW.—The com-
15 pensation of staff, attorneys, and agents shall be
16 paid without regard to the provisions of other laws
17 applicable to officers or employees of the United
18 States, except that the chairperson and the other ap-
19 pointed directors shall be compensated pursuant to
20 sections 5314 and 5315 of title 5, United States
21 Code, respectively.

22 “(f) ANNUAL REPORTS.—

23 “(1) BOARD REPORTS.—The Finance Board
24 shall make an annual report to the Congress regard-
25 ing—

1 “(A) the safety and soundness of the en-
2 terprise resource banks and the office of fi-
3 nance;

4 “(B) the fulfillment of the mission of the
5 banks under this Act; and

6 “(C) the composition of the shareholders in
7 the enterprise resource banks.

8 “(2) BANK REPORTS.—Each enterprise re-
9 source bank shall submit an annual report to the Fi-
10 nance Board on the fulfillment of the mission of the
11 bank under this Act.

12 “(3) AFFORDABLE HOUSING ADVISORY COUN-
13 CILS.—The affordable housing advisory councils of
14 the enterprise resource banks shall each submit an
15 annual report to the Finance Board on the fulfill-
16 ment by such bank of its affordable housing mission
17 under section 10.

18 “(g) SUSPENSION OR REMOVAL OF BANK EMPLOY-
19 EES FOR CAUSE.—

20 “(1) WRITTEN NOTICE.—In exercising any au-
21 thority under subsection (c)(3) to suspend or remove
22 for cause a director, officer, employee, or agent of
23 any enterprise resource bank or the office of finance,
24 the Finance Board shall provide written notice of

1 such suspension or removal and the cause of the sus-
 2 pension or removal to such director, officer, em-
 3 ployee, or agent and to such bank or office.

4 “(2) HEARING.—The notice provided pursuant
 5 to paragraph (1) shall establish the time and place
 6 for a hearing on the suspension or removal in ac-
 7 cordance with section 554 of title 5, United States
 8 Code.”.

9 (b) INDEPENDENCE OF FINANCE BOARD.—Section
 10 111 of Public Law 93—495 (12 U.S.C. 250) is amended
 11 by striking “the Federal Home Loan Bank Board,” and
 12 inserting “the Director of the Office of Thrift Supervision,
 13 the Federal Housing Finance Board,”.

14 **SEC. 5. THE OFFICE OF FINANCE.**

15 Section 4 of the Federal Home Loan Bank Act (12
 16 U.S.C. 1424) is amended to read as follows:

17 **“SEC. 4. THE OFFICE OF FINANCE.**

18 “(a) OPERATION.—The enterprise resource banks
 19 shall operate jointly an office of finance (hereafter in this
 20 section referred to as the ‘office’) to issue the notes, bonds,
 21 and debentures of the enterprise resource banks in accord-
 22 ance with this Act.

23 “(b) POWERS.—Subject to the other provisions of
 24 this Act and such safety and soundness regulations as the

1 Finance Board may prescribe, the office shall be author-
2 ized by the enterprise resource banks to act as the agent
3 of such banks to issue enterprise resource bank notes,
4 bonds and debentures pursuant to section 11 of this Act
5 on behalf of the banks.

6 “(c) CENTRAL BOARD OF DIRECTORS.—

7 “(1) ESTABLISHMENT.—The enterprise re-
8 source banks shall establish a central board of direc-
9 tors of the office of finance to administer the affairs
10 of the office in accordance with the provisions of this
11 Act.

12 “(2) COMPOSITION OF BOARD.—Each enter-
13 prise resource bank shall annually select 1 individual
14 who, as of the time of the election, is an officer or
15 director of such bank to serve as a member of the
16 central board of directors.

17 “(d) STATUS.—Except to the extent expressly pro-
18 vided in this Act, the office shall be treated as an enter-
19 prise resource bank for purposes of any law.

20 “(e) MONITORING INVESTMENT EXPOSURE.—

21 “(1) REGULAR POSITION REPORTING RE-
22 QUIRED.—

1 “(A) IN GENERAL.—Beginning 30 days
 2 after the date of the enactment of the Enter-
 3 prise Resource Bank Act of 1996, each enter-
 4 prise resource bank shall regularly report the
 5 bank’s closing position on all of the bank’s in-
 6 vestments and qualified financial contracts (as
 7 defined in section 11(e)(8)(D) of the Federal
 8 Deposit Insurance Act) to the office of finance
 9 and the Finance Board.

10 “(B) FINANCE BOARD REQUIREMENTS.—
 11 The Finance Board may specify the contents of
 12 the reports required under subparagraph (A).

13 “(2) SYSTEM PROCEDURES.—In addition to the
 14 reports required under paragraph (1), the Finance
 15 Board, the enterprise resource banks, and the office
 16 shall jointly establish procedures for monitoring the
 17 investment exposure, including credit and interest
 18 rate risk, of the banks’ individual and combined in-
 19 vestment portfolios.”.

20 **SEC. 6. CAPITAL.**

21 (a) IN GENERAL.—Section 6 of the Federal Home
 22 Loan Bank Act (12 U.S.C. 1426) is amended by striking
 23 all that precedes subsection (h) and inserting the follow-
 24 ing:

1 **“SEC. 6. CAPITAL STRUCTURE OF ENTERPRISE RESOURCE**
2 **BANKS.**

3 “(a) CAPITAL STRUCTURE PLAN.—Before the end of
4 the 6-month period beginning on the date of the enact-
5 ment of the Enterprise Resource Bank Act of 1996, the
6 board of directors of each enterprise resource bank shall
7 complete, and file with the Finance Board for approval,
8 a plan for establishing and implementing a capital struc-
9 ture for such bank which—

10 “(1) the board of directors determines is the
11 best suited for the condition and operation of the
12 bank and the interests of the shareholders of the
13 bank;

14 “(2) meets the requirements of subsection (b);
15 and

16 “(3) meets the minimum capital standards and
17 requirements established under subsection (c) and
18 any regulations prescribed by the Finance Board
19 pursuant to such subsection.

20 “(b) CONTENTS OF PLAN.—The capital structure
21 plan of each enterprise resource bank shall meet the fol-
22 lowing requirements:

23 “(1) ADJUSTMENT OF EQUITY INVESTMENTS.—
24 The plan shall include a timetable for adjusting, by

1 such amount as the board of directors may deter-
2 mine to be appropriate, the amount of the equity in-
3 vestment of the shareholders of the bank as of the
4 date of the enactment of the Enterprise Resource
5 Bank Act of 1996.

6 “(2) UNIFORM STANDARDS FOR SHAREHOLD-
7 ERS.—The plan shall establish uniform standards,
8 criteria, and requirements for the issuance, pur-
9 chase, trading, and transfer of shares of any class
10 of stock of the bank.

11 “(3) PROCEDURE FOR MEETING PERMANENT
12 CAPITAL REQUIREMENT.—The plan shall establish
13 the process by which the bank shall meet the perma-
14 nent capital requirement in subsection (c)(5) as soon
15 as practicable after the date of the enactment of the
16 Enterprise Resource Bank Act of 1996.

17 “(4) LIMITED TRANSFERABILITY OF STOCK.—
18 The plan shall provide that any equity securities is-
19 sued by the bank shall be available only to, held only
20 by, and tradable only among, shareholders of the
21 bank or institutions eligible to become shareholders
22 of the bank under subsection (d).

23 “(5) DESCRIPTION OF STOCK AND RIGHTS OF
24 SHAREHOLDERS.—The plan shall provide for and
25 describe the terms, rights (voting, liquidation, and

1 other rights), and preferences (such as dividends) of
2 any class or series of stock and any other type of eq-
3 uity security issued or to be issued by the bank.

4 “(6) ACQUISITION, TRANSFER, AND REDEMP-
5 TION OF STOCK.—The plan shall identify the man-
6 ner in which any equity securities to be issued by
7 the bank may be sold, transferred, or redeemed.

8 “(7) FINAL DISPOSITION OF OWNERSHIP IN-
9 TERESTS OF SHAREHOLDER.—The plan shall pro-
10 vide for the manner of disposition of any outstand-
11 ing equity securities held by, and the liquidation of
12 any claims of the bank against, a shareholder who
13 provides notice of intention to dispose of all owner-
14 ship interest in the enterprise resource bank.

15 “(8) CLARIFICATION OF VOTING RIGHTS.—The
16 voting rights of any shareholder of any enterprise re-
17 source bank shall cease upon disposition of all own-
18 ership interests of the shareholder in the bank.

19 “(9) APPROVAL OF CAPITAL STRUCTURE
20 PLANS.—In approving capital structure plans under
21 this subsection, the Finance Board shall ensure
22 that—

1 “(A) the capital instruments, and the char-
 2 acteristics of such instruments, of the enter-
 3 prise resource banks are consistent among all
 4 such banks; and

5 “(B) the plan for each enterprise resource
 6 bank establishes a process for managing the or-
 7 derly redemption of redeemable stock and other
 8 equity interests in the bank.

9 “(c) CAPITAL STANDARDS.—

10 “(1) IN GENERAL.—The Finance Board shall
 11 prescribe, by regulation, uniform capital standards
 12 applicable to each enterprise resource bank which
 13 shall include—

14 “(A) a leverage limit;

15 “(B) a risk-based capital requirement; and

16 “(C) a permanent capital requirement.

17 “(2) RISK-BASED CAPITAL TEST.—The Finance
 18 Board shall adopt a capital stress test substantially
 19 similar to the risk-based capital test established by
 20 the Director of the Office of Federal Housing Enter-
 21 prise Oversight of the Department of Housing and
 22 Urban Development pursuant to section 1361 of the
 23 Federal Housing Enterprises Financial Safety and
 24 Soundness Act of 1992, with such modifications as
 25 the Finance Board determines appropriate to reflect

1 differences in operation between the enterprise re-
2 source bank system and the enterprises (as defined
3 in section 1303(6) of such Act).

4 “(3) MINIMUM LEVERAGE LIMIT.—The leverage
5 limit established by the Finance Board shall require
6 each enterprise resource bank to maintain total cap-
7 ital in an amount not less than the applicable
8 amount in the following subparagraphs, as deter-
9 mined in accordance with generally accepted ac-
10 counting principles:

11 “(A) 5 percent of the total assets of the
12 bank, during any period in which—

13 “(i) the bank does not meet the re-
14 quirement of paragraph (5); and

15 “(ii) the amount of the capital of the
16 bank which is taken into account under
17 paragraph (5) is less than 0.5 percent of
18 such total assets.

19 “(B) 4.5 percent of the total assets of the
20 bank, during any period in which—

21 “(i) the bank does not meet the re-
22 quirement of paragraph (5); and

23 “(ii) the amount of the capital of the
24 bank which is taken into account under

1 paragraph (5) is 0.5 percent or more, and
2 less than 1 percent, of such total assets.

3 “(C) 4 percent of the bank’s total assets
4 during any period in which—

5 “(i) the amount of the capital of the
6 bank which is taken into account under
7 paragraph (5) is 1 percent or more of such
8 total assets; and

9 “(ii) the bank is obligated, under sec-
10 tion 21B(f)(2)(C), to provide funding to
11 cover interest payments on obligations is-
12 sued by the Resolution Funding Corpora-
13 tion.

14 “(D) 3 percent of the bank’s total assets
15 during any other period.

16 “(4) RISK-BASED CAPITAL STANDARD.—The
17 risk-based capital standard established by the Fi-
18 nance Board shall require each enterprise resource
19 bank to maintain total capital in an amount not less
20 than the greater of the following:

21 “(A) 10 percent of the risk-adjusted assets
22 of the bank, as determined using the risk
23 weighting established by the Bank for Inter-
24 national Settlements pursuant to the Basel Ac-
25 cord.

1 “(B) The amount which enables the bank
2 to maintain a positive equity account under the
3 application of the capital stress test adopted es-
4 tablished by the Finance Board pursuant to
5 paragraph (2).

6 “(5) PERMANENT CAPITAL REQUIREMENT.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), the Finance Board shall require
9 each enterprise resource bank to maintain, as
10 soon as practicable after the date of the enact-
11 ment of the Enterprise Resource Bank Act of
12 1996, such amount of permanent capital as the
13 Finance Board may prescribe in any of the fol-
14 lowing forms or combination of forms:

15 “(i) Retained earnings.

16 “(ii) A risk-insurance pool.

17 “(iii) Nonredeemable stock of the
18 bank.

19 “(iv) Stock of the bank as to which
20 any right to redeem is explicitly suspended
21 during any period in which the bank is
22 undercapitalized.

1 “(B) MINIMUM AMOUNT.—The amount
 2 prescribed by the Finance Board under sub-
 3 paragraph (A) may not be less than 1 percent
 4 of the total assets of the bank.

5 “(d) CRITERIA FOR ELIGIBILITY FOR OWNERSHIP
 6 INTEREST IN A BANK.—

7 “(1) IN GENERAL.—Any insured depository in-
 8 stitution and insured credit union, and, except as
 9 provided in paragraph (5), only such institutions
 10 and credit unions, may acquire and retain shares of
 11 stock of an enterprise resource bank.

12 “(2) WHOLE MORTGAGE TEST FOR LARGE DE-
 13 POSITORY INSTITUTIONS.—

14 “(A) IN GENERAL.—Notwithstanding para-
 15 graph (1), an institution which has an average
 16 annual amount of total assets of \$500,000,000
 17 or more at any time after June 30, 1998, shall
 18 maintain an investment in whole mortgage
 19 loans in accordance with the following table:

“Annually—

**Not less than the following per-
 cent of the average annual
 amount of total assets of
 the institution are invested
 in whole mortgage loans—**

During the 1-year period beginning on July 1, 1998	7%
During the 1-year period beginning on July 1, 1999	8%
During the 1-year period beginning on July 1, 2000	9%
After June 30, 2001	10%

“(B) WHOLE MORTGAGE LOAN DEFINED.—For purposes of this subsection, the term ‘whole mortgage loan’ does not include—

“(i) a partial interest in a residential mortgage on improved residential real property; or

“(ii) a security that represents an interest in a residential mortgage loan.

“(C) OTHER ASSETS.—The Finance Board may identify other mission-related assets as assets which may be taken into account, in addition to whole mortgage loans, for purposes of subparagraph (A).

“(D) PENALTIES FOR FAILING TO MEET WHOLE MORTGAGE LOAN TEST.—An enterprise resource bank shall take the appropriate action under the following clauses with respect to an institution which is subject to the requirement of subparagraph (A) and fails to comply with such requirement:

“(i) An institution which fails to meet such requirement shall not be eligible for any long-term advance from the bank until the institution has met such requirement

1 on an average daily basis for 2 consecutive
2 calendar quarters.

3 “(ii) An institution which fails to meet
4 such requirement for 4 consecutive cal-
5 endar quarters shall not be eligible for any
6 advance from the bank.

7 “(iii) An institution which fails to
8 meet such requirement for 8 consecutive
9 calendar quarters shall be required to di-
10 vest all ownership interests of the institu-
11 tion in the bank in accordance with sub-
12 section (e)(2).

13 “(E) INDEXING OF TOTAL ASSETS
14 AMOUNT.—The Finance Board shall establish a
15 methodology for adjusting the dollar amount of
16 total assets in subparagraph (A) after Decem-
17 ber 31, 1998, to reflect asset inflation and
18 other relevant factors.

19 “(3) DESIGNATION OF BANK.—An institution
20 which is eligible to acquire and retain shares of an
21 enterprise resource bank under paragraph (1) may
22 only acquire the shares of, or secure advances
23 from—

1 “(A) the enterprise resource bank of the
2 district in which is located the institution’s
3 principal place of business; or

4 “(B) the bank of a district adjoining the
5 district described in subparagraph (A) if—

6 “(i) demanded by convenience; and

7 “(ii) an application by such institution
8 to the bank and the Finance Board for the
9 acquisition of shares of such bank is—

10 “(I) approved by the bank; and

11 “(II) not disapproved by the Fi-
12 nance Board before the end of the 30-
13 day period beginning on the date the
14 Finance Board receives the applica-
15 tion from such institution.

16 “(4) EXCEPTION FOR CERTAIN NONDEPOSI-
17 TORY INSTITUTIONS.—Any company which, as of the
18 day before the date of the enactment of the Enter-
19 prise Resource Bank Act of 1996, was a member of
20 a Federal home loan bank may continue, subject to
21 this Act, to be a voting shareholder of the bank after
22 such date with all rights and privileges as a voting
23 shareholder.

24 “(e) REDEMPTION OF CAPITAL.—

1 “(1) IN GENERAL.—Except as otherwise pro-
2 vided in the capital structure plan of an enterprise
3 resource bank, any voting shareholder may dispose
4 of all ownership interests of such shareholder in the
5 bank in accordance with this subsection after the
6 end of the 6-month period beginning on the date the
7 shareholder files a written notice with the bank of
8 the shareholder’s intention to dispose of all such
9 ownership interests.

10 “(2) DIVESTITURE.—The board of directors of
11 any enterprise resource bank may order, after a
12 hearing, the divestiture by any shareholder of all
13 ownership interests of such shareholder in the bank,
14 if—

15 “(A) in the opinion of the board of direc-
16 tors, such shareholder has failed to comply with
17 a provision of this Act or any regulation pre-
18 scribed under this Act; or

19 “(B) the shareholder has been determined
20 to be insolvent, or otherwise subject to the ap-
21 pointment of a conservator, receiver, or other
22 legal custodian, by a state or Federal authority
23 with regulatory and supervisory responsibility
24 for such shareholder.

1 “(3) IMPAIRMENT OF CAPITAL.—If the Finance
 2 Board or the board of directors of an enterprise re-
 3 source bank determines that the paid-in capital of
 4 the bank is, or is likely to be, impaired as a result
 5 of losses in or depreciation of the assets of the bank,
 6 the enterprise resource bank shall withhold that por-
 7 tion of the amount due any shareholder with respect
 8 to any redemption or retirement of any class of
 9 stock which bears the same ratio to the total of such
 10 amount as the amount of the impaired capital bears
 11 to the total amount of capital allocable to such class
 12 of stock.

13 “(4) POLICIES.—Subject to the requirements of
 14 this section, the board of directors of each enterprise
 15 resource bank shall promptly establish policies, con-
 16 sistent with this Act, governing the capital stock of
 17 such bank and other provisions of this section.”.

18 (b) REDUCTION OF PERIOD REQUIRED BEFORE
 19 FULLY DIVESTED STOCKHOLDER MAY REACQUIRE
 20 SHARES OF A BANK.—Subsection (h) of section 6 of the
 21 Federal Home Loan Bank Act (12 U.S.C. 1426) (as
 22 amended by subsection (a)) is amended—

23 (1) by redesignating such subsection as sub-
 24 section (f);

25 (2) by striking “10” and inserting “5”; and

1 (3) by inserting before the period at the end “,
 2 except that any institution that withdrew from mem-
 3 bership in any such bank before December 31, 1995,
 4 may acquire an ownership interest in a enterprise
 5 resource bank at any time after such date subject to
 6 the requirements of this Act.”.

7 (c) ELIGIBILITY OF NON-QTL SAVINGS ASSOCIA-
 8 TIONS TO OBTAIN NEW ADVANCES AND MAINTAIN AD-
 9 VANCES.—Section 10(m)(3)(B) of the Home Owners’
 10 Loan Act (12 U.S.C. 1467a(m)(3)(B)) is amended—

11 (1) in clause (i), by striking subclause (III) and
 12 redesignating subclause (IV) as subclause (III); and

13 (2) in clause (ii), by striking subclause (II).

14 (d) VOLUNTARY OWNERSHIP INTERESTS OF FED-
 15 ERAL SAVINGS ASSOCIATIONS.—Section 5(f) of the Home
 16 Owners’ Loan Act (12 U.S.C. 1464(f)) is amended to read
 17 as follows:

18 “(f) VOLUNTARY OWNERSHIP INTERESTS IN ENTER-
 19 PRISE RESOURCE BANK.—Each Federal savings associa-
 20 tion may be eligible to acquire shares of stock in an enter-
 21 prise resource bank in the manner provided in the Enter-
 22 prise Resource Bank System Act.”.

23 **SEC. 7. PROMPT CORRECTIVE ACTION.**

24 Section 24 of the Federal Home Loan Bank Act (12
 25 U.S.C. 1444) is amended to read as follows:

1 **“SEC. 24. PROMPT CORRECTIVE ACTION.**

2 “(a) PURPOSES.—The purposes of this section are to
3 ensure that the enterprise resource banks remain—

4 “(1) adequately capitalized;

5 “(2) able to raise funds in the capital markets;

6 and

7 “(3) able to meet the obligations of such banks
8 under this Act.

9 “(b) CAPITAL CLASSIFICATIONS.—The Finance
10 Board shall classify the capital adequacy of enterprise re-
11 source banks in accordance with the following capital cat-
12 egories:

13 “(1) ADEQUATELY CAPITALIZED.—An enter-
14 prise resource bank shall be classified as adequately
15 capitalized if such bank meets the required mini-
16 mum level for each relevant capital measure.

17 “(2) UNDERCAPITALIZED.—An enterprise re-
18 source bank shall be classified as undercapitalized if
19 such bank fails to meet the minimum level for any
20 capital measure required by this Act, or any addi-
21 tional capital requirement that may be established
22 for such bank by the Finance Board.

23 “(3) CRITICALLY UNDERCAPITALIZED.—An en-
24 terprise resource bank shall be classified as critically
25 undercapitalized for purposes of this section if the
26 bank fails to meet the requirements specified by the

1 Finance Board under paragraph (4) which must be
 2 met in order not to be treated as critically under-
 3 capitalized.

4 “(4) CAPITAL CATEGORIES.—The Finance
 5 Board shall, by regulation, specify for each relevant
 6 capital measure the levels at which an enterprise re-
 7 source bank is adequately capitalized, undercapital-
 8 ized, and critically undercapitalized.

9 “(5) QUARTERLY EVALUATION OF CAPITAL
 10 ADEQUACY.—

11 “(A) IN GENERAL.—The Finance Board
 12 shall—

13 “(i) evaluate the capital adequacy of
 14 each enterprise resource bank at least once
 15 in each calendar quarter, and

16 “(ii) classify the capital adequacy of
 17 the bank in accordance with the categories
 18 established pursuant to paragraph (1).

19 “(B) JUDICIAL REVIEW.—For the purpose
 20 of obtaining judicial review of—

21 “(i) any classification of the capital
 22 adequacy of an enterprise resource bank
 23 under subparagraph (A); or

24 “(ii) any action taken by the Finance
 25 Board pursuant to such classification,

1 the classification, or the action taken pursuant
 2 to a classification, shall be treated as a final
 3 order of the Finance Board.

4 “(c) PROVISION APPLICABLE TO ALL ENTERPRISE
 5 RESOURCE BANKS.—

6 “(1) CAPITAL DISTRIBUTIONS RESTRICTED.—

7 An enterprise resource bank shall make no capital
 8 distribution if, after making the distribution, the
 9 bank would be undercapitalized.

10 “(2) EXCEPTIONS.—Notwithstanding para-
 11 graph (1)—

12 “(A) an enterprise resource bank may re-
 13 deem a voting shareholder’s stock in accordance
 14 with section 6(e)(3); and

15 “(B) the Finance Board may permit an
 16 enterprise resource bank to repurchase, redeem,
 17 retire, or otherwise acquire the shares of the
 18 bank if the repurchase, redemption, retirement,
 19 or other acquisition—

20 “(i) is made in connection with the is-
 21 suanee of additional shares of the bank in
 22 at least an equivalent amount; and

23 “(ii) will reduce the bank’s financial
 24 obligations or otherwise improve the bank’s
 25 financial condition.

1 “(d) SUPERVISORY ACTIONS APPLICABLE TO
2 UNDERCAPITALIZED ENTERPRISE RESOURCE BANKS.—

3 “(1) MANDATORY ACTIONS.—

4 “(A) CAPITAL AND INCOME RESTORATION
5 PLANS.—Any undercapitalized enterprise re-
6 source bank shall file an acceptable capital and
7 income restoration plan with the Finance
8 Board, in accordance with subsection (f).

9 “(B) RECLASSIFICATION FROM UNDER-
10 CAPITALIZED TO CRITICALLY UNDER-
11 CAPITALIZED.—The Finance Board shall reclas-
12 sify as critically undercapitalized any enterprise
13 resource bank that is classified as undercapital-
14 ized if—

15 “(i) the bank does not submit an ac-
16 ceptable capital and income restoration
17 plan within the time periods prescribed; or

18 “(ii) the Finance Board determines
19 that the bank has failed to make, in good
20 faith, reasonable efforts to comply with an
21 accepted capital and income restoration
22 plan.

23 “(C) PRIOR APPROVAL FOR NEW ACTIVI-
24 TIES.—The Finance Board shall require an

1 undercapitalized enterprise resource bank to ob-
2 tain prior approval from the Finance Board be-
3 fore engaging in any new activities.

4 “(2) DISCRETIONARY ACTIONS.—The Finance
5 Board may, with respect to an undercapitalized en-
6 terprise resource bank, take such other actions as
7 the Finance Board determines are necessary or ap-
8 propriate to carry out the purpose of this section in-
9 cluding—

10 “(A) imposition of restrictions on growth
11 in assets;

12 “(B) limitations on increases in bank obli-
13 gations;

14 “(C) imposition of restrictions on activities
15 that the Finance Board determines create ex-
16 cessive risk to the bank; and

17 “(D) requiring changes in or any restric-
18 tion on the board of directors or management
19 of the bank.

20 “(e) SUPERVISORY ACTIONS APPLICABLE TO CRITI-
21 CALLY UNDERCAPITALIZED ENTERPRISE RESOURCE
22 BANKS.—

23 “(1) MERGER, LIQUIDATION, REORGANIZATION,
24 OR OTHER ACTION REQUIRED.—The Finance Board
25 shall—

1 “(A) combine, by merger or otherwise, any
 2 critically undercapitalized enterprise resource
 3 bank with another enterprise resource bank;

4 “(B) liquidate or reorganize any such criti-
 5 cally undercapitalized bank; or

6 “(C) take such other action in connection
 7 with such bank as the Finance Board deter-
 8 mines would better achieve the purpose of this
 9 section.

10 “(2) PERIODIC REDETERMINATION RE-
 11 QUIRED.—Any determination by the Finance Board
 12 under paragraph (1) to take any action with respect
 13 to a critically undercapitalized enterprise resource
 14 bank other than combining, reorganizing, or liq-
 15 uidating the bank shall cease to be effective not later
 16 than the end of the 90-day period after the deter-
 17 mination was made and the bank shall be combined,
 18 reorganized or liquidated unless the Finance Board
 19 makes a new determination.

20 “(3) ACTIVITIES RESTRICTIONS.—The Finance
 21 Board shall restrict and closely monitor the activities
 22 of a critically undercapitalized enterprise resource
 23 bank, including taking any of the discretionary ac-
 24 tions applicable to an undercapitalized bank.

25 “(f) CAPITAL AND INCOME RESTORATION PLANS.—

1 “(1) IN GENERAL.—The Finance Board shall
2 prescribe regulations which require any undercapital-
3 ized enterprise resource bank to file within the pre-
4 scribed periods and implement an acceptable capital
5 and income restoration plan with the Finance
6 Board.

7 “(2) REQUIREMENTS RELATING TO PLAN.—

8 “(A) CONTENTS OF PLAN.—A capital and
9 income restoration plan shall—

10 “(i) specify the steps that the bank
11 will take to become adequately capitalized
12 and to increase earnings;

13 “(ii) specify the levels of capital to be
14 attained during each year in which the
15 plan will be in effect;

16 “(iii) describe how the bank will com-
17 ply with the restrictions or requirements in
18 effect under this section; and

19 “(iv) specify the types and levels of
20 activities in which the bank will engage
21 during the term of the plan.

22 “(B) DEADLINES FOR SUBMISSION.—

23 “(i) INITIAL PERIOD.—The Finance
24 Board shall, by regulation, establish a

1 deadline for submission of a capital and in-
2 come restoration plan which may not be
3 more than 45 days after the bank is noti-
4 fied that a plan is required.

5 “(ii) EXTENSION OF DEADLINE.—The
6 regulations shall provide that the Finance
7 Board may extend, in writing, the deadline
8 to a date certain if the Finance Board de-
9 termines such extension is appropriate.

10 “(C) APPROVAL.—

11 “(i) REVIEW PERIOD.—The Finance
12 Board shall review each capital and income
13 restoration plan submitted under this sec-
14 tion and, not later than 30 days after re-
15 ceipt of the plan, approve or disapprove
16 the plan.

17 “(ii) EXTENSION OF REVIEW PE-
18 RIOD.—The Finance Board may extend, in
19 writing, the period for approval or dis-
20 approval for any plan for a single addi-
21 tional 30-day period if the Finance Board
22 determines such extension is appropriate.

23 “(D) NOTICE OF BOARD ACTION.—The Fi-
24 nance Board shall provide written notice to any

1 bank which submits a plan under this sub-
 2 section of the approval or disapproval of the
 3 plan and shall include the reasons for any dis-
 4 approval of the plan.

5 “(E) RESUBMISSION.—If the Finance
 6 Board disapproves the initial capital and in-
 7 come restoration plan submitted by the bank,
 8 the bank shall submit an amended plan accept-
 9 able to the Finance Board within 30 days or
 10 such longer period that the Finance Board de-
 11 termines is in the public interest.

12 “(g) APPOINTMENT OF CONSERVATOR FOR CRITI-
 13 CALLY UNDERCAPITALIZED ENTERPRISE RESOURCE
 14 BANK.—

15 “(1) GROUNDS.—The Finance Board may ap-
 16 point a conservator for a critically undercapitalized
 17 enterprise resource bank upon a written determina-
 18 tion that—

19 “(A) the bank is not likely to pay obliga-
 20 tions of the bank in the normal course of busi-
 21 ness;

22 “(B) the bank has incurred or is reason-
 23 ably likely to incur losses, or has pending appli-
 24 cations for stock redemptions, that would de-
 25plete substantially all of the capital of the bank

1 and it is unlikely that the bank will replenish
2 such capital within a reasonable period;

3 “(C) the bank has concealed or is conceal-
4 ing books, papers, records, or assets of the
5 bank that are material to the discharge of the
6 Finance Board’s responsibilities under this sub-
7 title, or has refused or is refusing to submit
8 such books, papers, records, or information re-
9 garding the affairs of the bank for inspection to
10 the Finance Board upon the demand of the Fi-
11 nance Board;

12 “(D) the bank has willfully violated, or is
13 willfully violating, a final cease-and-desist order;
14 or

15 “(E) the bank, by an affirmative vote of a
16 majority of the bank’s board of directors or an
17 affirmative vote of the shareholders of the bank,
18 consents to such appointment.

19 “(2) QUALIFICATIONS.—The Finance Board
20 may appoint—

21 “(A) itself as the conservator for any en-
22 terprise resource bank;

23 “(B) as conservator for any such bank,
24 any other Federal agency or department or

1 other person that the Finance Board deter-
2 mines has—

3 “(i) no claim against, or financial in-
4 terest in, the bank;

5 “(ii) no other basis for a conflict of
6 interest with respect to the bank; and

7 “(iii) the financial and management
8 expertise necessary to direct the operations
9 and affairs of the bank.

10 “(3) APPOINTMENT EX PARTE AND WITHOUT
11 NOTICE.—If, in the opinion of the Finance Board, a
12 ground for the appointment of a conservator for an
13 enterprise resource bank exists, the Finance Board
14 may appoint a conservator for the bank ex parte and
15 without notice.

16 “(4) JUDICIAL REVIEW.—

17 “(A) JURISDICTION.—Except as provided
18 in subparagraph (D), a bank for which a con-
19 servator is appointed may bring an action dur-
20 ing the 30-day period beginning upon the ap-
21 pointment of the conservator in the United
22 States District Court for the District of Colum-
23 bia for an order requiring the Finance Board to
24 terminate the appointment of the conservator.

1 “(B) STANDARD OF REVIEW.—A decision
2 of the Finance Board to appoint a conservator
3 may be set aside only if the court finds that the
4 decision was arbitrary, capricious, an abuse of
5 discretion, or otherwise not in accordance with
6 applicable laws.

7 “(C) LIMITATION ON JURISDICTION.—Ex-
8 cept as otherwise provided in this subsection, no
9 court may take any action regarding the re-
10 moval of a conservator or otherwise restrain or
11 affect the exercise of powers or functions of a
12 conservator.

13 “(D) CONSENSUAL APPOINTMENTS.—Ap-
14 pointment of a conservator pursuant to consent
15 of the bank shall not be subject to judicial re-
16 view under this subsection.

17 “(5) REPLACEMENT.—

18 “(A) IN GENERAL.—The Finance Board
19 may, without notice or hearing, replace a con-
20 servator for an enterprise resource bank with
21 another conservator.

22 “(B) NO EFFECT ON JUDICIAL REVIEW.—
23 The replacement of a conservator for an enter-
24 prise resource bank shall not affect the right of

1 the bank to obtain judicial review under para-
2 graph (4) of the Finance Board's decision to
3 make the initial appointment of a conservator.

4 “(6) EXAMINATIONS.—The Finance Board may
5 examine and supervise any enterprise resource bank
6 for which a conservator has been appointed during
7 the period in which the bank continues to operate as
8 a going concern.

9 “(7) TERMINATION.—

10 “(A) IN GENERAL.—If, at any time, the
11 Finance Board determines that termination of
12 a conservatorship for an enterprise resource
13 bank is in the public interest and may safely be
14 accomplished, the Finance Board may termi-
15 nate the conservatorship and permit the bank
16 to resume the transaction of the business of the
17 bank subject to such terms, conditions, and lim-
18 itations as the Finance Board may prescribe.

19 “(B) ENFORCEMENT OF TERMS, CONDI-
20 TIONS, AND LIMITATIONS.—Any terms, condi-
21 tions, and limitations imposed by the Finance
22 Board in accordance with subparagraph (A)
23 upon termination of a conservatorship for an
24 enterprise resource bank shall be enforceable

1 and renewable to the same extent as any cease-
2 and-desist order issued by the Finance Board.

3 “(h) POWERS OF CONSERVATOR.—A conservator ap-
4 pointed for an enterprise resource bank shall have all the
5 powers of the shareholders, the directors, and the officers
6 of the bank and may operate the bank in the bank’s own
7 name or conserve the assets of the bank in the manner
8 and to the extent authorized by the Finance Board.

9 “(i) EXCEPTION.—Notwithstanding any other provi-
10 sion of this section, the Finance Board may permit an en-
11 terprise resource bank to redeem the stock of a share-
12 holder of such bank, repurchase, retire, or otherwise ac-
13 quire shares of the bank if the repurchase, redemption,
14 retirement, or other acquisition—

15 “(1) is made in connection with the issuance of
16 additional shares of the bank in at least an equiva-
17 lent amount; and

18 “(2) will reduce the bank’s financial obligations
19 or otherwise improve the bank’s financial condi-
20 tion.”.

21 **SEC. 8. MANAGEMENT OF BANKS.**

22 Section 7 of the Federal Home Loan Bank Act (12
23 U.S.C. 1427) is amended to read as follows:

24 **“SEC. 7. MANAGEMENT OF BANKS.**

25 “(a) BOARD OF DIRECTORS.—

1 “(1) COMPOSITION OF BOARD.—Except as oth-
2 erwise provided in this section, the management of
3 each enterprise resource bank shall be vested in a
4 board of directors consisting of 14 directors selected
5 as follows:

6 “(A) 8 shall be elected by the members of
7 the bank as provided in paragraph (6).

8 “(B) 6 shall be appointed by the Finance
9 Board.

10 “(2) QUALIFICATIONS.—

11 “(A) IN GENERAL.—Each director of an
12 enterprise resource bank shall be a citizen of
13 the United States and a bona fide resident of
14 the district in which such bank is located.

15 “(B) DISQUALIFICATION.—An individual
16 who is an officer or director of a depository in-
17 stitution that fails to meet any applicable cap-
18 ital requirement shall not be qualified to be a
19 director on the board of directors of an enter-
20 prise resource bank.

21 “(3) REPRESENTATIONAL CRITERIA.—

22 “(A) REPRESENTATION OF STATES.—Sub-
23 ject to subparagraph (B), the bylaws of each
24 enterprise resource bank shall provide for the
25 manner in which the representation of the

1 shareholders of the bank from the various
2 States within such bank's district will be dis-
3 tributed among the positions of the elected di-
4 rectors of such bank.

5 “(B) TRANSITION PROVISION.—Notwith-
6 standing subparagraph (A), the composition of
7 the boards of directors of the 12 enterprise re-
8 source banks immediately after the effective
9 date of the Enterprise Resource Bank Act of
10 1996 shall be the same as the composition of
11 such boards of directors on January 1, 1996.

12 “(C) DISCRETIONARY INCREASE IN OVER-
13 ALL NUMBER OF DIRECTORS.—

14 “(i) ELECTED DIRECTORS.—In order
15 to ensure director representation on the
16 board of directors of an enterprise resource
17 bank consistent with this paragraph, the
18 board of directors of the bank may in-
19 crease the number of elected directors on
20 the board of directors.

21 “(ii) APPOINTED DIRECTORS.—If the
22 board of directors of an enterprise resource
23 bank increases the number of elected direc-
24 tors pursuant to clause (i), the number of

1 appointed directors on such board of direc-
2 tors shall be increased to the amount
3 which is 2 less than the number of elected
4 directors.

5 “(D) INCREASE TO ACHIEVE MINIMUM
6 STATE REPRESENTATION.—If, at any time, the
7 number of elected directors of an enterprise re-
8 source bank is less than the number of States
9 in the district of such bank, the board of direc-
10 tors of the bank may increase the number of
11 elected directors on such board of directors to
12 a number at least equal to the number of
13 States in such district.

14 “(E) REPRESENTATIONAL COMPOSITION
15 OF BOARD OF DIRECTORS.—In establishing by-
16 laws for the election of directors, and in ap-
17 pointing directors, to the board of directors of
18 an enterprise resource bank, the board of direc-
19 tors shall establish such procedures as may be
20 appropriate to achieve a board of directors
21 which reflects the geographical diversity of the
22 district and the representation of both large
23 and small institutional shareholders.

24 “(4) CHAIRPERSON AND VICE CHAIRPERSON.—

1 “(A) IN GENERAL.—The board of directors
2 of each enterprise resource bank shall elect—

3 “(i) 1 of the directors appointed
4 under paragraph (1)(B) to be the chair-
5 person of the board of directors; and

6 “(ii) 1 of the directors to be vice
7 chairperson of the board of directors.

8 “(B) LIMITATION.—The president of an
9 enterprise resource bank may not be designated
10 under subparagraph (A) as the chairperson or
11 vice chairperson of the bank.

12 “(5) PROVISIONS APPLICABLE TO APPOINTED
13 DIRECTORS.—

14 “(A) REPRESENTATIONAL REQUIRE-
15 MENT.—At least 2 of the directors of each en-
16 terprise resource bank who are appointed by the
17 Finance Board shall be appointed from among
18 representatives of organizations with more than
19 a 2-year history of representing consumer or
20 community interests on banking services, credit
21 needs, housing, or financial consumer protec-
22 tions.

23 “(B) CONFLICT OF INTEREST PROVI-
24 SION.—No director on the board of directors of
25 an enterprise resource bank who is appointed

1 pursuant to this subsection may, during such
2 director's term of office, serve as an officer of
3 any enterprise resource bank or as a director or
4 officer of any shareholder of a bank.

5 “(6) PROVISIONS APPLICABLE TO ELECTED DI-
6 RECTORS.—

7 “(A) DESIGNATION OF STATE TO BE REP-
8 RESENTED.—Each position of elected director
9 on the board of directors of any enterprise re-
10 source bank shall be designated by the board of
11 directors as a position to be filled by a director
12 representing the voting shareholders of the
13 bank whose principal places of business are lo-
14 cated in a particular State.

15 “(B) SHAREHOLDERS LOCATED IN U.S.
16 TERRITORIES.—In the case of any voting share-
17 holder (of an enterprise resource bank) whose
18 principal place of business is not located in any
19 State, the enterprise resource bank shall des-
20 ignate the State in such bank's district in which
21 such shareholder shall be deemed to be located
22 for purposes of this subsection.

23 “(C) QUALIFICATION.—Only presidents,
24 chief executive officers, and other senior execu-
25 tive officers (as defined by the Finance Board)

1 of voting shareholders whose principal places of
2 business are located in a State shall be qualified
3 to serve as a director representing such State.

4 “(D) NOMINATION OF DIRECTORS.—Each
5 voting shareholder (of an enterprise resource
6 bank) whose principal place of business is lo-
7 cated in any State may nominate any qualified
8 individual for election as a director representing
9 such State.

10 “(E) PLURALITY DECISION.—Each posi-
11 tion of elected director of an enterprise resource
12 bank shall be filled by the nominee, for such po-
13 sition, who receives a larger number of the
14 votes cast in an election held for the purpose of
15 filling such position than any other nominee.

16 “(7) TERMS.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (E), the term of each director
19 who is elected or appointed to the board of di-
20 rectors of an enterprise resource bank after the
21 date of the enactment of the Enterprise Re-
22 source Bank Act of 1996 shall be 4 years.

23 “(B) TERM LIMITS.—

1 “(i) APPOINTED DIRECTORS.—No in-
2 dividual may serve as an appointed direc-
3 tor on the board of directors of an enter-
4 prise resource bank for more than 2 full
5 consecutive 4-year terms.

6 “(ii) ELECTED DIRECTORS.—If, dur-
7 ing any 8-year period, the board of direc-
8 tors of any enterprise resource bank has
9 included, as an elected director, any officer
10 of a specific voting shareholder of the
11 bank, no officer of such shareholder shall
12 be eligible to serve as an elected member of
13 such board of directors during the subse-
14 quent 4-year period.

15 “(C) INTERIM APPOINTMENTS.—Any di-
16 rector appointed or elected to fill a vacancy oc-
17 curring before the expiration of the term for
18 which such director’s predecessor was appointed
19 or elected shall be appointed or elected only for
20 the remainder of such term.

21 “(D) CONTINUATION OF SERVICE.—Each
22 director of an enterprise resource bank may
23 continue to serve after the expiration of the
24 term to which such director was appointed or
25 elected until a successor has been qualified.

1 “(E) STAGGERED TERMS.—

2 “(i) IN GENERAL.—The bylaws of
3 each enterprise resource bank shall provide
4 for staggering the terms of the elected and
5 appointed directors so that the positions of
6 approximately one-quarter of the appointed
7 directors and approximately one-quarter of
8 the elected directors shall become vacant
9 each year.

10 “(ii) DESIGNATION OF SHORTER
11 TERMS TO ACHIEVE STAGGERING.—When-
12 ever necessary to achieve staggered terms
13 for the directors of an enterprise resource
14 bank, the board of directors of such bank,
15 with respect to elected directors, and the
16 Finance Board, with respect to appointed
17 directors, may, by resolution (and in ac-
18 cordance with the bylaws of the bank) and
19 before the election or appointment of a di-
20 rector, designate a shorter term for such
21 position for the next succeeding term.

22 “(8) VACANCIES.—

23 “(A) APPOINTED DIRECTOR.—Any vacancy
24 occurring in the position of appointed director
25 of an enterprise resource bank shall be filled in

1 the manner in which the original appointment
2 was made.

3 “(B) ELECTED DIRECTOR.—Any vacancy
4 occurring in the position of elected director of
5 an enterprise resource bank shall be filled by an
6 affirmative vote of a majority of the remaining
7 directors of such bank, without regard to
8 whether such remaining directors constitute a
9 quorum of the board of directors.

10 “(C) VACANCY AS A RESULT OF DISQUALI-
11 FICATION OF DIRECTOR.—

12 “(i) IN GENERAL.—If any director of
13 an enterprise resource bank ceases to meet
14 any qualification for such position—

15 “(I) the position shall imme-
16 diately become vacant by operation of
17 law; and

18 “(II) service by such director in
19 such position shall cease.

20 “(ii) CONTINUATION.—Notwithstand-
21 ing clause (i)(II), an appointed director of
22 an enterprise resource bank whose position
23 became vacant pursuant to clause (i)(I)
24 may continue to serve in such position
25 until a successor has been qualified.

1 “(9) INELIGIBILITY OF CERTAIN OFFICERS FOR
2 POSITION OF DIRECTOR.—No officer or employee of,
3 or any attorney or agent for, any enterprise resource
4 bank who receives compensation for such service,
5 other than the president of the bank, shall be eligible
6 to serve on the board of directors of such bank or
7 any other enterprise resource bank.

8 “(10) NOMINATIONS AND ELECTIONS.—The by-
9 laws of each enterprise resource bank shall provide
10 procedures for the nomination and election of direc-
11 tors on the board of directors of the bank.

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

14 “(A) VOTING SHAREHOLDER.—The term
15 ‘voting shareholder’ means, with respect to any
16 year, any institution which holds voting shares
17 of an enterprise resource bank and held voting
18 shares of such bank at the end of the imme-
19 diately preceding calendar year.

20 “(B) STATE.—The term ‘State’ means any
21 State, the District of Columbia, and the Com-
22 monwealth of Puerto Rico.

23 “(12) APPLICABILITY.—This subsection shall
24 apply to elections and appointments of directors to

1 terms that begin after the date of enactment of the
2 Enterprise Resource Bank Act of 1996.

3 “(b) POWERS OF BOARDS OF DIRECTORS.—The
4 board of directors of each enterprise resource bank shall
5 have all power necessary to exercise the responsibility of
6 such board with respect to such bank.

7 “(c) DUTIES OF BOARDS OF DIRECTORS.—The
8 board of directors of each enterprise resource bank shall—

9 “(1) administer the affairs of the bank fairly
10 and impartially and without discrimination in favor
11 of or against any voting shareholder or borrower;
12 and

13 “(2) subject to the provisions of this Act, ex-
14 tend to each institution authorized to secure ad-
15 vances such advances as may be made safely and
16 soundly with due regard for—

17 “(A) the claims and demands of other in-
18 stitutions; and

19 “(B) the maintenance of adequate credit
20 standing for the bank and the bank’s obliga-
21 tions.

22 “(d) SHAREHOLDER VOTING PROCEDURES.—

23 “(1) BEFORE APPROVAL OF CAPITAL STRUC-
24 TURE PLAN.—Before the capital structure plan of an
25 enterprise resource bank is approved in accordance

1 with section 6, each voting shareholder of the bank
2 may, with respect to any matter on which voting
3 shareholders of the bank are entitled to vote, cast a
4 number of votes equal to the lesser of—

5 “(A) the minimum number of voting
6 shares of the capital stock of such bank in
7 which such shareholder is required to be in-
8 vested as of the end of the calendar year imme-
9 diately preceding the vote, as determined by the
10 board of directors of the enterprise resource
11 bank; and

12 “(B) the average of the minimum number
13 of voting shares of such stock in which all vot-
14 ing shareholders whose principal places of busi-
15 ness are located in the State in which is located
16 the principal place of business of such share-
17 holder are required to be invested as of the end
18 of the calendar year immediately preceding the
19 election, as so determined.

20 “(2) AFTER APPROVAL OF CAPITAL STRUCTURE
21 PLAN.—After the capital structure plan of an enter-
22 prise resource bank is approved in accordance with
23 section 6, votes of shareholders shall be conducted in
24 accordance with the provisions of the plan.”.

1 **SEC. 9. SUSTAINABLE ECONOMIC DEVELOPMENT PRO-**
2 **GRAM.**

3 (a) FINDINGS AND PURPOSE.—

4 (1) FINDINGS.—The Congress finds as follows:

5 (A) In exchange for Federal deposit insur-
6 ance, the Federal Government has placed regu-
7 lations on financial institutions to ensure safety
8 and soundness and to promote lending to un-
9 derserved communities.

10 (B) These regulations place a significant
11 cost on financial institutions.

12 (C) While there is a compelling need for
13 solutions to the country's most difficult social
14 problems, including poverty and high unemploy-
15 ment, in economically distressed communities,
16 especially inner-cities and rural areas, the most
17 effective model for solutions to such problems is
18 through the development of a sustainable eco-
19 nomic base for these communities.

20 (D) To develop a sustainable economic
21 base the Government should encourage main-
22 stream private institutions to improve the envi-
23 ronment for growth and new business opportu-
24 nities in distressed neighborhoods by providing
25 incentives for such actions.

1 (E) The Congress recognizes the difficul-
2 ties facing community banks in attempting to
3 increase the availability of credit in economi-
4 cally distressed neighborhoods, including—

5 (i) the lack of a mutual understanding
6 between the lenders and the potential bor-
7 rowers;

8 (ii) the perception that loans to bor-
9 rowers in such neighborhoods are or would
10 be high-risk;

11 (iii) the frequent need for credit en-
12 hancement in connection with loans to bor-
13 rowers in such neighborhoods; and

14 (iv) the higher costs involved in lend-
15 ing in such neighborhoods due to the addi-
16 tional time and effort which is frequently
17 required in conducting adequate credit
18 analysis.

19 (F) Lending in economically distressed
20 neighborhoods is most effective if community
21 banks make rational credit decisions with re-
22 gard to—

23 (i) the profitability of lending in such
24 neighborhoods; and

1 (ii) the potential profits from the es-
2 tablishment of a market presence by com-
3 munity banks in such neighborhoods.

4 (G) While it may be desirable for the Gov-
5 ernment to encourage depository institutions to
6 provide banking services and extend credit in
7 economically distressed communities, such en-
8 couragement should come in the form of incen-
9 tives.

10 (2) PURPOSE.—It is the purpose of this section
11 to enhance the efficiency of providing debt and eq-
12 uity capital and other financial services to under-
13 served communities by encouraging, and creating in-
14 centives for, community banks to develop a sustain-
15 able economic base in such communities.

16 (b) MISSION OF SUSTAINABLE ECONOMIC DEVELOP-
17 MENT.—The mission of the community support require-
18 ments, the community investment program, and the af-
19 fordable housing program is to serve depository institu-
20 tions as an intermediary—

21 (1) to aid in the development of a sustainable
22 economic base in the banks' communities;

23 (2) to promote access to credit throughout the
24 Nation (including rural areas and underserved

1 neighborhoods by increasing the liquidity of eco-
 2 nomic development financing and improving the dis-
 3 tribution of investment capital available for economic
 4 development financing; and

5 (3) to assist with technical expertise for compli-
 6 ance with the Community Reinvestment Act of
 7 1977.

8 (c) AVAILABILITY OF PORTION OF AHP FUNDS FOR
 9 CIP.—Section 10(j) of the Federal Home Loan Bank Act
 10 (12 U.S.C. 1430(j)) is amended by adding at the end the
 11 following new paragraph:

12 “(13) AVAILABILITY OF CONTRIBUTIONS FOR
 13 COMMUNITY INVESTMENT PROGRAM.—The board of
 14 directors of each enterprise resource bank may, in
 15 the discretion of the board of directors, use not more
 16 than 25 percent of such bank’s contribution pursu-
 17 ant to paragraph (5) to the affordable housing pro-
 18 gram of such bank for any year to provide funding
 19 under subsection (i) for new community-oriented
 20 mortgage lending, and for interest rate subsidies for
 21 advances, under the community investment program
 22 of such bank.”.

23 (d) CASH ADVANCES THROUGH COMMUNITY INVEST-
 24 MENT PROGRAM.—

25 (1) ANNUAL GOALS.—

1 (A) IN GENERAL.—The Federal Housing
2 Finance Board (hereafter in this subsection re-
3 ferred to as the “Finance Board”) shall estab-
4 lish, by regulation, an annual goal for the vol-
5 ume of cash advances made by each of the en-
6 terprise resource banks through the Community
7 Investment Program.

8 (B) SUBGOALS FOR CERTAIN GOALS.—The
9 Finance Board shall establish separate subgoals
10 within the goal under this subsection for cash
11 advances used for eligible community economic
12 development activities, for low- and very-low in-
13 come housing, and such other subgoals as the
14 Finance Board may deem appropriate.

15 (C) CONSULTATION.—Such annual goals
16 and subgoals shall be established by the Fi-
17 nance Board in consultation with each enter-
18 prise resource bank and each enterprise re-
19 source bank affordable housing advisory coun-
20 cil.

21 (2) FACTORS TO BE APPLIED.—In establishing
22 the goals and subgoals under this subsection, the Fi-
23 nance Board shall consider—

24 (A) regional economic conditions within
25 each District;

1 (B) low- and moderate-income housing and
2 community economic development needs within
3 each bank district;

4 (C) the performance and effort of the
5 banks toward achieving the goals and subgoals
6 in previous years;

7 (D) the total level of regular (nonspecial-
8 ized cash advances) outstanding;

9 (E) the size and scope of the conventional
10 mortgage market serving low- and moderate-in-
11 come families relative to the size of the overall
12 conventional mortgage market;

13 (F) the size and scope of the market serv-
14 ing eligible community economic development
15 needs relative to the size of the overall commer-
16 cial loan market;

17 (G) the ability of the banks to encourage
18 voting shareholders of the banks to make credit
19 available for activities eligible under the com-
20 munity investment program;

21 (H) the need to maintain the sound finan-
22 cial condition of the enterprise resource bank
23 system; and

24 (I) such other factors the Finance Board
25 deems appropriate.

1 (3) MONITORING.—

2 (A) GENERAL.—The Finance Board shall
3 monitor the performance of each enterprise re-
4 source bank in carrying out the requirements of
5 this subsection and enforce compliance with the
6 goals and subgoals established under this sub-
7 section.

8 (B) GUIDELINES.—The Finance Board
9 shall establish guidelines to measure the extent
10 of compliance with the goals and subgoals,
11 which may assign full credit, partial credit, or
12 no credit toward achievement of the goals and
13 subgoals to different categories of housing and
14 community economic activities, based on such
15 criteria as the Finance Board deems appro-
16 priate.

17 (C) NOTICE AND DETERMINATION OF
18 FAILURE TO MEET GOALS.—

19 (i) IN GENERAL.—If the Finance
20 Board determines that an enterprise re-
21 source bank has failed to meet any goal or
22 subgoal established under this subsection,
23 the Finance Board shall provide written
24 notice to the bank of such determination,
25 the reasons for such determination, and

1 the information on which the Finance
2 Board based the determination.

3 (ii) RESPONSE PERIOD.—During the
4 30-day period beginning on the date that
5 the enterprise resource bank is provided
6 notice under clause (i), the bank may sub-
7 mit to the Finance Board any written in-
8 formation that the bank considers appro-
9 priate for consideration by the Finance
10 Board in determining whether such failure
11 has occurred or whether achievement of
12 such goal was or is feasible.

13 (iii) GOAL ACHIEVEMENT PLAN.—If
14 the Finance Board finds pursuant to
15 clause (i) that an enterprise resource bank
16 has failed or there is a substantial prob-
17 ability that an enterprise resource bank
18 will fail to meet the goal or subgoals estab-
19 lished under this subsection, and the
20 achievement of that goal or subgoal was or
21 is feasible, the Finance Board shall require
22 the bank to submit a goal achievement
23 plan for approval describing the specific
24 actions the bank will undertake to achieve

1 the goal or subgoal for the next calendar
2 year.

3 (e) COMMUNITY SUPPORT REQUIREMENTS.—Sub-
4 section (g) of section 10 of the Federal Home Loan Bank
5 Act (12 U.S.C. 1430(g)) is amended by adding at the end
6 the following new paragraph:

7 “(3) SAFE HARBOR FOR SHAREHOLDERS RE-
8 CEIVING CRA RATINGS OF SATISFACTORY OR BET-
9 TER.—Notwithstanding paragraphs (1) and (2), any
10 depository institution which is a shareholder in an
11 enterprise resource bank and receives a rating of
12 satisfactory or outstanding pursuant to section 807
13 of the Community Reinvestment Act of 1977 in such
14 shareholder’s most recent examination, if any, shall
15 be treated as having satisfied the requirements of
16 such paragraphs.”.

17 (f) PROHIBITION ON DELEGATION OF CERTAIN
18 FUNDING DETERMINATIONS TO MANAGEMENT OF
19 BANK.—The board of directors of an enterprise resource
20 may not delegate, or provide for the delegation of, any
21 authority of the board of directors to approve or dis-
22 approve funding by such bank under the affordable hous-
23 ing program established pursuant to section 10(j) of the
24 Federal Home Loan Bank Act to any officer or employee
25 of the bank.

1 **SEC. 10. ENFORCEMENT AUTHORITY TO PROMOTE SAFETY**
2 **AND SOUNDNESS OF ENTERPRISE RESOURCE**
3 **BANKS.**

4 Section 3 of the Federal Home Loan Bank Act (as
5 amended by section 4 of this Act) is amended—

6 (1) by redesignating subsections (f) and (g) as
7 subsections (g) and (h), respectively; and

8 (2) by inserting after subsection (e) the follow-
9 ing new subsection:

10 “(f) ENFORCEMENT POWERS.—The Finance Board
11 shall have the same powers, rights, and duties to enforce
12 this Act with regard to the enterprise resource banks as
13 the appropriate Federal banking agencies (as defined in
14 section 3(q) of the Federal Deposit Insurance Act) have
15 under section 8 of the Federal Deposit Insurance Act with
16 respect to insured depository institutions (as defined in
17 section 3(c) of such Act).”.

18 **SEC. 11. RESOLUTION FUNDING CORPORATION OBLIGA-**
19 **TION.**

20 Effective on January 1, 1998, section
21 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12
22 U.S.C. 1441b(f)(2)(C)(ii)) is amended to read as follows:

23 “(C) PAYMENTS BY ENTERPRISE RE-
24 SOURCE BANKS.—To the extent the
25 amounts available pursuant to subpara-
26 graphs (A) and (B) are insufficient to

cover the amount of interest payments,
 each enterprise resource bank shall pay to
 the Funding Corporation each calendar
 year an amount equal to 23.7 percent of
 the bank's net earnings for the year for
 which such amount is required to be
 paid.”.

**SEC. 12. POWERS AND DUTIES OF BANKS; TECHNICAL AND
 CONFORMING AMENDMENTS.**

(a) SECTION 9.—Section 9 of the Federal Home
 Loan Bank Act (12 U.S.C. 1429) is amended—

(1) in the 2d sentence, by striking “with the
 approval of the Board”; and

(2) in the 3d sentence, by striking “, subject to
 the approval of the Board,”.

(b) SECTION 10.—

(1) Subsection (a) of section 10 of the Federal
 Home Loan Bank Act (12 U.S.C. 1430(a)) is
 amended—

(A) in that portion of the subsection which
 precedes paragraph (1)—

(i) by inserting “and subject to regu-
 lations prescribed by the Finance Board”
 after “in the judgment of the Bank”; and

(ii) by striking the 2d sentence;

1 (B) in paragraph (1), by inserting “mort-
2 gages on improved residential property which
3 are insured or guaranteed by the United States
4 or any agency or department of the United
5 States,” after “90 days delinquent),”;

6 (C) in paragraph (3), by striking “Depos-
7 its” and inserting “Cash or deposits”;

8 (D) in paragraph (4), by striking “30 per-
9 cent” and inserting “50 percent”; and

10 (E) by striking paragraph (5) and insert-
11 ing the following new paragraphs:

12 “(5) Assets consisting of small business loans
13 the principal amounts of which do not exceed the
14 maximum amount permitted for guaranteed loans
15 under section 7(a)(3)(A) of the Small Business Act.

16 “(6) Assets consisting of loans to municipalities
17 and other units of general local government for
18 maintenance and improvement of the infrastructure
19 (as defined by the Finance Board) the principal
20 amounts of which are less than \$2,500,000.

21 “(7) Municipal securities rated as investment
22 grade by 1 or more nationwide statistical rating or-
23 ganizations.”.

24 (2) Section 10(b) of the Federal Home Loan
25 Bank Act (12 U.S.C. 1430(b)) is amended—

1 (A) by striking “(b) For the purposes of
2 this section” and inserting “(b) PROTECTION
3 OF INTEREST IN COLLATERAL.—

4 “(1) INVESTIGATIONS.—For the purposes of
5 this section”;

6 (B) by striking “Board” where such term
7 appears in the last sentence and inserting
8 “bank”; and

9 (C) by adding at the end the following new
10 paragraphs:

11 “(2) ADEQUACY OF CONTROLS.—In order to
12 minimize the various risks borne by an enterprise re-
13 source bank with regard to advances, each enterprise
14 resource bank shall ensure that—

15 “(A) adequate controls exist to manage
16 risk;

17 “(B) ensure that the collateral has a read-
18 ily ascertainable market value; and

19 “(C) a security interest in such collateral
20 can be perfected.

21 “(3) OTHER PROTECTIVE MEASURES.—

22 “(A) ADDITIONAL COLLATERAL.—An en-
23 terprise resource bank may take such steps as
24 the bank determines to be necessary to protect
25 the security position of the bank with respect to

1 outstanding advances, including requiring the
 2 deposit of additional collateral security whether
 3 or not such collateral would be eligible under
 4 subsection (a) to be eligible to be used as collat-
 5 eral for an advance at the time of origination.

6 “(B) REDUCTION IN OUTSTANDING AD-
 7 VANCE.—If a borrower from an enterprise re-
 8 source bank has insufficient eligible collateral to
 9 support an outstanding advance to such bor-
 10 rower, the borrower shall promptly and pru-
 11 dently reduce the level of outstanding advances
 12 in accordance with a schedule determined by
 13 such bank.”.

14 (3) Section 10(c) of the Federal Home Loan
 15 Bank Act (12 U.S.C. 1430(c)) is amended—

16 (A) in the 1st sentence, by striking
 17 “Board” and inserting “bank”; and

18 (B) by striking the 2d sentence.

19 (4) Section 10(d) of the Federal Home Loan
 20 Bank Act (12 U.S.C. 1430(d)) is amended—

21 (A) in the first sentence, by striking “and
 22 the approval of the Board”; and

23 (B) in the last sentence, by striking “Sub-
 24 ject to the approval of the Board, any” and in-
 25 serting “Any”.

1 (5) Section 10 of the Federal Home Loan Bank
2 Act (12 U.S.C. 1430) is amended by striking the
3 first of the 2 subsections designated as subsection
4 (e) (relating to qualified thrift lender status).

5 (6) Section 10(j)(1) of the Federal Home Loan
6 Bank Act (12 U.S.C. 1430(j)(1)) is amended—

7 (A) by striking “IN GENERAL.—Pursuant
8 to” and inserting “ESTABLISHMENT.—

9 “(A) IN GENERAL.—Pursuant to”;

10 (B) by striking “to subsidize the interest
11 rate on advances” and inserting “to provide
12 subsidies, including subsidized interest rates on
13 advances,”; and

14 (C) by adding at the end the following new
15 subparagraph:

16 “(B) BANK APPROVAL AUTHORITY.—The
17 board of directors of each enterprise resource
18 bank may—

19 “(i) approve or disapprove a request
20 from a shareholder of the bank for a sub-
21 sidy under the affordable housing program
22 of the bank; and

23 “(ii) not delegate such approval or
24 disapproval authority.”.

1 (7) Section 10(j) of the Federal Home Loan
2 Bank Act is amended by striking the terms “ad-
3 vances” and “subsidized advances” each place such
4 terms appear in paragraphs (2), (3), (4), (5), (9),
5 (10), (11), and (12) and inserting “subsidies, includ-
6 ing subsidized advances”.

7 (8) The 1st sentence of paragraph (11) of sec-
8 tion 10(j) of the Federal Home Loan Bank Act is
9 amended—

10 (A) by striking “drawn from community
11 and nonprofit organizations” and inserting
12 “representing consumer or community interests
13 or nonprofit organizations”; and

14 (B) by striking the period at the end and
15 inserting “, except that not more than 30 per-
16 cent of the members of the advisory council
17 may consist of representatives of State and
18 local housing agencies”.

19 (9) Section 10 of the Federal Home Loan Bank
20 Act (12 U.S.C. 1430) is amended by adding at the
21 end the following new subsection:

22 “(k) LIMITATIONS ON ADVANCES TO UNDER-
23 CAPITALIZED INSTITUTIONS.—

1 “(1) LIMITATION ON EXTENDED PERIODS.—
2 Except as provided in paragraph (2), no new ad-
3 vances to any undercapitalized depository institution
4 by any enterprise resource bank under this section
5 may be outstanding for more than 60 days in any
6 120-day period.

7 “(2) VIABILITY EXCEPTION.—

8 “(A) IN GENERAL.—If the head of the ap-
9 propriate Federal banking agency certifies in
10 advance in writing to the enterprise resource
11 bank that any depository institution is viable,
12 the limitation contained in paragraph (1) shall
13 not apply during the 60-day period beginning
14 on the date such certification is received.

15 “(B) EXTENSIONS OF PERIOD.—The 60-
16 day period may be extended for additional 60-
17 day periods upon receipt by the enterprise re-
18 source bank of additional written certifications
19 under subparagraph (A) with respect to each
20 such additional period.

21 “(C) AUTHORITY TO ISSUE A CERTIFICATE
22 OF VIABILITY MAY NOT BE DELEGATED.—The
23 authority of the head of any agency to issue a

1 written certification of viability under this para-
2 graph may not be delegated to any other per-
3 son.

4 “(3) PROHIBITION ON ADVANCES TO CRITI-
5 CALLY UNDERCAPITALIZED DEPOSITORY INSTITU-
6 TIONS.—Notwithstanding any other provision of this
7 Act, no new advances may be made to a critically
8 undercapitalized depository institution.

9 “(4) NO OBLIGATION TO MAKE ADVANCES.—An
10 enterprise resource bank shall have no obligation to
11 make, increase, renew, or extend any advance or dis-
12 count under this Act to any shareholder.

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

15 “(A) APPROPRIATE FEDERAL BANKING
16 AGENCY.—The term ‘appropriate Federal bank-
17 ing agency’—

18 “(i) has the same meaning as in sec-
19 tion 3 of the Federal Deposit Insurance
20 Act; and

21 “(ii) includes the National Credit
22 Union Administration.

23 “(B) CRITICALLY UNDERCAPITALIZED.—
24 The term ‘critically undercapitalized’ has the

1 meaning given to such term in section 38 of the
2 Federal Deposit Insurance Act.

3 “(C) NEW ADVANCE.—The term ‘new ad-
4 vance’ includes a renewal or extension of, or an
5 increase in, an outstanding advance.

6 “(D) UNDERCAPITALIZED DEPOSITORY IN-
7 STITUTION.—The term ‘undercapitalized depos-
8 itory institution’ means any depository institu-
9 tion which—

10 “(i) is undercapitalized, as defined in
11 section 38 of the Federal Deposit Insur-
12 ance Act (or as defined by the National
13 Credit Union Administration Board, in the
14 case of an insured credit union); or

15 “(ii) has a composite CAMEL rating
16 of 5 under the Uniform Financial Institu-
17 tions Rating System (or an equivalent rat-
18 ing by any such agency under a com-
19 parable rating system) as of the most re-
20 cent examination of such institution.

1 “(E) VIABLE.—The term ‘viable’ means,
 2 with respect to a depository institution, a de-
 3 pository institution which the appropriate Fed-
 4 eral banking agency determines, giving due re-
 5 gard to the economic conditions and cir-
 6 cumstances in the market in which the institu-
 7 tion operates—

8 “(i) is not critically undercapitalized;

9 “(ii) is not expected to become criti-
 10 cally undercapitalized; and

11 “(iii) is not expected to be placed in
 12 conservatorship or receivership.”.

13 (c) SECTION 10b.—Subsection (a) of section 10b of
 14 the Federal Home Loan Bank Act (12 U.S.C. 1430b) is
 15 amended to read as follows:

16 “(a) IN GENERAL.—

17 “(1) AUTHORITY.—Each enterprise resource
 18 bank may make advances to a permissible nonshare-
 19 holder mortgagee.

20 “(2) PERMISSIBLE NONSHAREHOLDER MORTGA-
 21 GEE.—For purposes of paragraph (1), the term ‘per-
 22 missible nonshareholder mortgagee’ means—

23 “(A) any State or local housing finance
 24 agency or Indian housing authority (including

1 any subsidiary of such agency or authority) ap-
2 proved under title II of the National Housing
3 Act—

4 “(i) which is a chartered institution
5 having succession and subject to the in-
6 spection and supervision of a governmental
7 agency; and

8 “(ii) whose principal activity in the
9 mortgage field must consist of lending the
10 institution’s own funds; or

11 “(B) any community development financial
12 institution—

13 “(i) which is not an insured deposi-
14 tory institution or a subsidiary of an in-
15 sured depository institution;

16 “(ii) which, at the time the advance is
17 made, has been certified within the last
18 year as a community development financial
19 institution under the Community Develop-
20 ment Banking and Financial Institutions
21 Act of 1994;

22 “(iii) which is a chartered institution
23 having succession; and

1 “(iv) whose principal activity in the
2 mortgage field must consist of lending the
3 institution’s own funds.

4 “(3) SECURITY.—Advances under paragraph
5 (1) shall be collateralized in accordance with the re-
6 quirements of section 10.

7 “(4) TERMS AND CONDITIONS.—Advances made
8 under the terms of this section shall be at such rates
9 of interest and upon such terms and conditions as
10 shall be determined by the enterprise resource bank.

11 “(5) DEFINITIONS OF COMMUNITY DEVELOP-
12 MENT FINANCIAL INSTITUTION.—The term ‘commu-
13 nity development financial institution’ has the same
14 meaning as in section 103 of the Community Devel-
15 opment Banking and Financial Institutions Act of
16 1994.”.

17 (d) SECTION 11.—

18 (1) Subsection (a) of section 11 of the Federal
19 Home Loan Bank Act (12 U.S.C. 1431(a)) is
20 amended—

21 (A) by striking “(a) Each Federal Home
22 Loan Bank” and inserting “(a) BORROWING
23 AUTHORITY.—

24 “(1) IN GENERAL.—Each enterprise resource
25 bank”;

1 (B) by striking “, subject to rules and reg-
 2 ulations prescribed by the Board”;

3 (C) by striking “Board” and inserting
 4 “board of directors of the bank”; and

5 (D) by adding at the end the following new
 6 paragraph:

7 “(2) BORROWING THROUGH THE OFFICE OF FI-
 8 NANCE ONLY.—Notwithstanding paragraph (1), all
 9 notes, bonds, and debentures issued by any enter-
 10 prise resource bank shall be issued through the of-
 11 fice of finance as agent for the banks.”.

12 (2) Subsection (b) of section 11 of the Federal
 13 Home Loan Bank Act (12 U.S.C. 1431(b)) is
 14 amended to read as follows:

15 “(b) ISSUANCE OF ENTERPRISE RESOURCE BANK
 16 BONDS.—

17 “(1) IN GENERAL.—The office of finance may
 18 issue consolidated enterprise resource bank bonds
 19 and other consolidated obligations on behalf of the
 20 banks.

21 “(2) JOINT AND SEVERAL OBLIGATIONS.—Con-
 22 solidated obligations issued by the office of finance
 23 under paragraph (1) shall be the joint and several
 24 obligations of all the enterprise resource banks.”.

(3) Subsection (c) of section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431(c)) is amended to read as follows:

“(c) SEPARATELY CAPITALIZED SUBSIDIARIES.—

“(1) ESTABLISHMENT AUTHORIZED.—

“(A) IN GENERAL.—Any enterprise resource bank may, subject to Finance Board approval, establish a subsidiary for the purpose of providing mission-related products and services as described in paragraph (2).

“(B) SEPARATE CAPITALIZATION FROM SURPLUS CAPITAL.—In determining compliance by an enterprise resource bank with the capital standards established under section 6, all of the bank’s investments in and extensions of credit to a subsidiary established pursuant to this paragraph shall be deducted from the capital of the bank.

“(2) PRODUCTS AND SERVICES.—The board of directors of an enterprise resource bank may request authority to establish a subsidiary pursuant to paragraph (1) to provide products and services to shareholders which—

“(A) assist shareholders in providing credit for housing and other mission-related purposes;

1 “(B) facilitate the mission of the enterprise
2 resource banks; and

3 “(C) do not duplicate credit products and
4 services otherwise readily available in the dis-
5 trict of the enterprise resource bank.

6 “(3) FINANCE BOARD APPROVAL.—In determin-
7 ing whether to approve the establishment, by an
8 enterprise resource bank, of a subsidiary under
9 paragraph (1), the Finance Board shall consider the
10 impact of the subsidiary on the safe and sound oper-
11 ation of such bank.”.

12 (4) Section 11(d) of the Federal Home Loan
13 Bank Act (12 U.S.C. 1431(d)) is amended to read
14 as follows:

15 “(d) ADDITIONAL OR SUBSTITUTED COLLATERAL.—
16 The Finance Board, for safety and soundness reasons,
17 may require any enterprise resource bank to deposit addi-
18 tional collateral or to make substitutions of collateral.”.

19 (5) Section 11(e) of the Federal Home Loan
20 Bank Act (12 U.S.C. 1431(e)) is amended to read
21 as follows:

22 “(e) ACCEPTANCE OF DEPOSITS; REGULATIONS.—

23 “(1) ACCEPTANCE OF DEPOSITS.—Subject to
24 regulations prescribed by the Finance Board, each
25 enterprise resource bank may accept deposits made

1 by shareholders of such bank or by any other enter-
2 prise resource bank or other instrumentality of the
3 United States, upon such terms and conditions as
4 the bank may determine.

5 “(2) COLLECTION AND SETTLEMENT OF
6 CHECKS.—

7 “(A) IN GENERAL.—Subject to regulations
8 of the Finance Board, an enterprise resource
9 bank may be a drawee of, and engage in, or be
10 agents or intermediaries for, or otherwise par-
11 ticipate or assist in, the collection and settle-
12 ment of (including presentment, clearing, and
13 payment of, and remitting for), checks, drafts,
14 or any other negotiable or nonnegotiable items
15 or instruments of payment drawn on or issued
16 by shareholders of any enterprise resource bank
17 or by institutions which are eligible to make ap-
18 plication to become shareholders pursuant to
19 section 6, and to have such incidental powers as
20 the Finance Board shall find necessary for the
21 exercise of any such authorization.

22 “(B) CHARGES.—An enterprise resource
23 bank shall make charges, to be determined by
24 the bank consistent with the principles set forth
25 in section 11A(c) of the Federal Reserve Act, or

1 utilize the services of, or act as agent for, or be
2 a member of, a Federal reserve bank, clearing-
3 house, or any other public or private financial
4 institution or other agency, in the exercise of
5 any powers or functions pursuant to this para-
6 graph.

7 “(C) REGULATIONS.—

8 “(i) IN GENERAL.—The Finance
9 Board may, with respect to participation in
10 the collection and settlement of any items
11 by enterprise resource banks, and with re-
12 spect to the collection and settlement (in-
13 cluding payment by the payor institution)
14 of items payable by shareholders of such
15 banks, to prescribe regulations regarding
16 the rights, powers, responsibilities, duties,
17 and liabilities, including standards relating
18 to such rights, powers, responsibilities, du-
19 ties, and liabilities, of such enterprise re-
20 source banks, shareholders, and other par-
21 ties to any such item or the collection and
22 settlement of any such item.

23 “(ii) APPLICATION OF BANKING
24 USAGE AND PRACTICE.—In prescribing
25 such regulations, the Finance Board may

1 adopt or apply, in whole or in part, general
 2 banking usage and practices, and, in in-
 3 stances or respects in which they would
 4 otherwise not be applicable, regulations of
 5 the Board of Governors of the Federal Re-
 6 serve System and operating letters, the
 7 Uniform Commercial Code, and clearing-
 8 house rules.

9 “(3) PROHIBITION ON OTHER GENERAL BANK-
 10 ING ACTIVITIES.—An enterprise resource bank may
 11 not engage in any banking or other commercial ac-
 12 tivities other than the activities specifically author-
 13 ized under this Act and activities incidental to such
 14 authorized activities.”.

15 (6) Subsection (f) of section 11 of the Federal
 16 Home Loan Bank Act is amended to read as follows:

17 “(f) REDISCOUNT OF NOTES HELD BY OTHER
 18 BANKS; PURCHASE OF BONDS OF OTHER BANKS.—The
 19 enterprise resource banks may—

20 “(1) rediscount the discounted notes of share-
 21 holders of an enterprise resource bank which are
 22 held by other enterprise resource banks;

23 “(2) make loans to, or make deposits with,
 24 other enterprise resource banks; or

1 “(3) purchase any bonds or debentures issued
2 under this section.”.

3 (7) Subsection (h) of section 11 of the Federal
4 Home Loan Bank Act is amended by striking “sec-
5 tion 301(d) of the Small Business Investment Act of
6 1958” and inserting “title III of the Small Business
7 Investment Act of 1958”.

8 (8) Subsection (j) of section 11 of the Federal
9 Home Loan Bank Act is amended to read as follows:
10 “(j) AUDITS.—

11 “(1) AUDITS BY INSPECTOR GENERAL AND
12 GAO.—The financial transactions of each enterprise
13 resource bank and the office of finance shall be au-
14 dited in accordance with paragraph (1) of section
15 9105(a) of title 31, United States Code, and may be
16 audited in accordance with paragraph (4) of such
17 section.

18 “(2) SELECTION OF EXTERNAL AUDITORS.—

19 “(A) IN GENERAL.—The enterprise re-
20 source banks and the office of finance shall con-
21 tract jointly for an annual external audit.

22 “(B) ROLE OF THE BOARD.—Notwith-
23 standing any other provision of law, the Fi-
24 nance Board shall not participate in the audit
25 contracting process under this paragraph except

1 that the Finance Board may establish require-
2 ments for external audit contracts and require-
3 ments to assure consistency in financial re-
4 port.”.

5 (e) SECTION 16.—

6 (1) Section 16(a) of the Federal Home Loan
7 Bank Act (12 U.S.C. 1436(a)) is amended in the 3d
8 sentence, by striking “and then only with the ap-
9 proval of the Federal Housing Finance Board” and
10 inserting “subject to such regulations as may be pre-
11 scribed by the Finance Board”.

12 (2) Section 16 of the Federal Home Loan Bank
13 Act (12 U.S.C. 1436) is amended by adding at the
14 end the following new subsection:

15 “(d) OWNERSHIP INTEREST IN RETAINED EARNINGS
16 RECOGNIZED.—Subject to any other provision of this Act,
17 each enterprise resource bank and, indirectly, the voting
18 shareholders of each bank, shall have an ownership inter-
19 est in, and a property right in, the retained earnings of
20 the bank.”.

21 (f) REPEAL OF SECTIONS 2A, 2B, 26, AND 27.—The
22 Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.)
23 is amended by striking sections 2A, 2B, 26, and 27.

1 **SEC. 13. INCORPORATION OF BANKS; CORPORATE POWERS.**

2 Section 12 of the Federal Home Loan Bank Act is
3 amended to read as follows:

4 **“SEC. 12. INCORPORATION OF BANKS; CORPORATE POW-**
5 **ERS.**

6 “(a) ORGANIZATIONAL CERTIFICATES.—

7 “(1) CUSTODIANSHIP.—The Finance Board
8 shall be the custodian of the organizational certifi-
9 cates of the enterprise resource banks previously
10 filed with the Federal Home Loan Bank Board (as
11 in existence before the end of the 60-day period be-
12 ginning on the date of the enactment of the Finan-
13 cial Institutions Reform, Recovery, and Enforcement
14 Act of 1989) or the Finance Board.

15 “(2) REPLACEMENT OF LOST OR DESTROYED
16 CERTIFICATE.—If the organizational certificate of an
17 enterprise resource bank is lost or destroyed, the
18 board of directors of the bank shall provide the Fi-
19 nance Board with a substitute certificate containing
20 such information as the Finance Board may require.

21 “(3) AMENDMENT IN CASE OF MERGER, COM-
22 BINATION, OR CONSOLIDATION.—If 2 or more enter-
23 prise resource banks merge, combine, or otherwise

1 consolidate, the resulting bank shall provide the Fi-
2 nance Board with an amended organizational certifi-
3 cate containing such information as the Finance
4 Board may require.

5 “(b) CORPORATE STATUS.—Each enterprise resource
6 bank shall be a corporation.

7 “(c) POWERS.—Each enterprise resource bank shall
8 have the following powers:

9 “(1) To adopt, alter, and use a corporate seal.

10 “(2) To make contracts.

11 “(3) To purchase or lease and hold or dispose
12 of such real estate as may be necessary or conven-
13 ient for the transaction of the business of the bank.

14 “(4) To sue and be sued, to complain, and to
15 defend, in any court of competent jurisdiction.

16 “(5) To select, employ, and fix the compensa-
17 tion of such officers, employees, attorneys, and
18 agents as the board of directors determines to be
19 necessary for the transaction of the business of the
20 bank.

21 “(6) To define the duties of, and require bonds
22 of, officers, employees, attorneys, and agents of the
23 bank and fix the penalties of any such bonds.

24 “(7) To dismiss, at pleasure, officers, employ-
25 ees, attorneys, and agents of the bank.

1 “(8) By the board of directors, to prescribe,
2 amend, and repeal bylaws and policies governing the
3 manner in which the affairs of the bank may be ad-
4 ministered.

5 “(9) Such incidental powers as are not incon-
6 sistent with the provisions of this Act and are cus-
7 tomary and usual in corporations generally.

8 “(d) PROHIBITION ON EXCESSIVE COMPENSATION.—

9 “(1) IN GENERAL.—The Finance Board shall
10 prohibit the enterprise resource banks from provid-
11 ing compensation to any employee of the bank that
12 is not reasonable and comparable with compensation
13 for employment in other similar businesses (includ-
14 ing other financial institutions or major financial
15 services companies) involving similar duties and re-
16 sponsibilities.

17 “(2) LIMITATION ON FINANCE BOARD’S AU-
18 THORITY TO SET COMPENSATION.—In carrying out
19 paragraph (1), the Financial Board may not pre-
20 scribe or set a specific level or range of compensa-
21 tion.

22 “(e) STATUS OF BANK EMPLOYEES.—Notwithstand-
23 ing any other provision of this Act, no officer, employee,
24 or agent of an enterprise resource bank or the office of
25 finance of such banks shall be considered to be an officer

1 or employee of the United States for purposes of title 5,
2 United States Code.

3 “(f) GUARANTEED HOUSING PROJECT LOANS.—
4 Subject to such regulations as may be prescribed by the
5 Finance Board, an enterprise resource bank may acquire,
6 hold, or dispose of, in whole or in part, or facilitate the
7 acquisition, holding, or disposition by shareholders of such
8 bank of, any housing project loan which has the benefit
9 of any guaranty under section 221, 222, or 224 of the
10 Foreign Assistance Act of 1961, any interest in any such
11 loan, or any commitment or agreement with respect to any
12 such loan or interest.”.

13 **SEC. 14. SUCCESSION OF ENTERPRISE RESOURCE BANKS.**

14 Section 25 of the Federal Home Loan Bank Act (12
15 U.S.C. 1445) is amended by inserting “, operation of
16 law,” after “the Board under this Act”.

17 **SEC. 15. DEFINITIONS.**

18 (a) FINANCE BOARD DEFINED.—Paragraph (1) of
19 section 2 of the Federal Home Loan Bank Act (12 U.S.C.
20 1422(1)) is amended to read as follows:

21 “(1) FINANCE BOARD.—The term ‘Finance
22 Board’ means the Federal Housing Finance Board
23 established under section 3.”.

24 (b) HOME MORTGAGE LOAN DEFINED.—Section 2 of
25 the Federal Home Loan Bank Act (12 U.S.C. 1422) is

1 amended by striking paragraphs (5) and (6) and inserting
2 the following new paragraph:

3 “(5) HOME MORTGAGE LOAN.—

4 “(A) IN GENERAL.—The term ‘home mort-
5 gage loan’ means a loan made by a voting
6 shareholder or nonshareholder borrower upon
7 the security of—

8 “(i) a mortgage, deed of trust, or
9 other security arrangement upon qualified
10 real estate, in fee simple; or

11 “(ii) on a qualified leasehold—

12 “(I) under a lease which has a
13 period to maturity of not less than 99
14 years and is renewable; or

15 “(II) under a lease having a pe-
16 riod of not less than 50 years to run
17 from the date the mortgage, deed of
18 trust, or other security arrangement
19 was executed.

20 “(B) CERTAIN LOANS INCLUDED.—The
21 term ‘home mortgage loan’ includes—

22 “(i) such classes of first liens as are
23 commonly given to secure advances on real
24 estate, under the laws of the State in

1 which the real estate is located, by institu-
 2 tions authorized under this Act to become
 3 shareholders of an enterprise resource
 4 bank; and

5 “(ii) the credit instruments, if any, se-
 6 cured by such liens.

7 “(C) QUALIFIED REAL ESTATE; QUALIFIED
 8 LEASEHOLD.—The term ‘qualified real estate’
 9 and ‘qualified leasehold’ mean real estate upon
 10 which is located, or which comprises or in-
 11 cludes, 1 or more homes or other dwelling
 12 units.

13 “(D) DEFINITION OF FURTHER TERMS.—
 14 The Finance Board may define any term used
 15 in this paragraph.”.

16 (c) RESIDENTIAL MORTGAGE ASSETS DEFINED.—
 17 Section 2 of the Federal Home Loan Bank Act (12 U.S.C.
 18 1422) is amended—

19 (1) by redesignating paragraphs (7), (8), (9),
 20 (10), (11), and (12) as paragraphs (6), (7), (8), (9),
 21 (10), and (11), respectively; and

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

24 “(12) RESIDENTIAL MORTGAGE ASSETS.—The
 25 term ‘residential mortgage asset’—

1 “(A) means a home mortgage, deed of
2 trust, or other security arrangement upon real
3 estate that is solely residential; and

4 “(B) includes any mortgage pass-through
5 security or mortgage debt security representing
6 an interest in, or which is collateralized by,
7 home mortgage loans.”.

8 (d) REGULATED FINANCIAL INSTITUTION DE-
9 FINED.—Section 2 of the Federal Home Loan Bank Act
10 (12 U.S.C. 1422) is amended by adding after paragraph
11 (12) (as added by subsection (c) of this section) the follow-
12 ing new paragraph:

13 “(13) REGULATED FINANCIAL INSTITUTION.—

14 The term ‘regulated financial institution’ means—

15 “(A) any depository institution (as defined
16 in section 3(c) of the Federal Deposit Insurance
17 Act); and

18 “(B) any insured or noninsured credit
19 union (as such terms are defined in section
20 101(7) of the Federal Credit Union Act).”.

21 (e) CAPITAL DISTRIBUTION DEFINED.—Section 2 of
22 the Federal Home Loan Bank Act (12 U.S.C. 1422) is
23 amended by adding after paragraph (13) (as added by
24 subsection (d) of this section) the following new para-
25 graph:

1 “(14) CAPITAL DISTRIBUTION.—The term ‘cap-
2 ital distribution’ means—

3 “(A) any dividend or other distribution in
4 cash or other property made with respect to any
5 shares of, or other ownership interest in, an en-
6 terprise resource bank, other than a dividend
7 consisting only of shares of any such bank;

8 “(B) any payment in cash or other prop-
9 erty made by an enterprise resource bank to re-
10 purchase, redeem, retire, or otherwise acquire
11 any of the shares of the bank, including any ex-
12 tension of credit made to finance an acquisition
13 by a bank of such shares; and

14 “(C) any transaction that the Finance
15 Board determines by regulation to be, in sub-
16 stance, a distribution of capital of an enterprise
17 resource bank.”.

18 (f) BANK-AFFILIATED PARTY.—Section 2 of the
19 Federal Home Loan Bank Act (12 U.S.C. 1422) is
20 amended by adding after paragraph (14) (as added by
21 subsection (e) of this section) the following new para-
22 graph:

23 “(15) BANK-AFFILIATED PARTY.—The term
24 ‘bank-affiliated party’ means—

1 “(A) any director, officer, or employee of,
2 or agent for, an enterprise resource bank;

3 “(B) any voting shareholder, consultant,
4 joint venture partner, and any other person as
5 determined by the Finance Board who partici-
6 pates in the conduct of the affairs of an enter-
7 prise resource bank; and

8 “(C) any independent contractor (including
9 any attorney, appraiser, or accountant) who
10 knowingly or recklessly participates in—

11 “(i) any violation of any law or regu-
12 lation;

13 “(ii) any breach of fiduciary duty; or

14 “(iii) any unsafe or unsound practice,
15 which caused or is likely to cause more than a
16 minimal financial loss to, or a significant ad-
17 verse effect on, the enterprise resource bank.”.

18 (g) VOTING SHAREHOLDER.—Section 2 of the Fed-
19 eral Home Loan Bank Act (12 U.S.C. 1422) is amended
20 by adding after paragraph (15) (as added by subsection
21 (f) of this section) the following new paragraph:

22 “(16) VOTING SHAREHOLDER.—The term ‘vot-
23 ing shareholder’ means any regulated financial insti-
24 tution or insurance company which holds any voting
25 stock of an enterprise resource bank.”.

1 **SEC. 16. STUDY OF OVERCOLLATERALIZATION.**

2 (a) **STUDY REQUIRED.**—The Federal Housing Fi-
3 nance Board shall conduct a study on the effects of the
4 requirement for overcollateralization of advances from en-
5 terprise resource banks and issues relating to such re-
6 quirement, including the benefits and drawbacks of such
7 requirement as it relates to the banks, the voting share-
8 holders of the banks, and State and local housing finance
9 agencies, and the availability and usefulness of advances
10 for housing and State and local housing finance agencies.

11 (b) **REPORT REQUIRED.**—Before the end of the 1-
12 year period beginning on the date of the enactment of this
13 Act, the Federal Housing Finance Board shall submit a
14 report to the Congress on the findings and conclusions of
15 the Finance Board in connection with the study conducted
16 pursuant to subsection (a).

17 (c) **RECOMMENDATIONS.**—The report submitted pur-
18 suant to subsection (b) shall include such recommenda-
19 tions for legislative or administrative actions as the Fed-
20 eral Housing Finance Board may determine to be appro-
21 priate.

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