

115TH CONGRESS
2D SESSION

H. R. 6746

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2018

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

A BILL

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century, 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.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Protecting American Taxpayers and Homeowners Act of
6 2018”.

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

Sec. 1. Short title; table of contents.

TITLE I—WIND-DOWN OF FANNIE MAE AND FREDDIE MAC

- Sec. 101. Definitions.
- Sec. 102. Termination of current conservatorship; mandatory receivership.
- Sec. 103. Limitations on enterprise authority.
- Sec. 104. Modifications to increases in conforming loan limits.
- Sec. 105. Mandatory risk-sharing.
- Sec. 106. Limitation of enterprise mortgage purchases to qualified mortgages.
- Sec. 107. Prohibition relating to use of power of eminent domain.
- Sec. 108. Receiver's discretionary authority to create receivership entity.
- Sec. 109. Authority of receiver to repeal enterprise charter.

TITLE II—FHA REFORM

Subtitle A—Business Authority and Requirements

- Sec. 201. Authority to carry out FHA and other business.
- Sec. 202. Eligible single-family mortgages.
- Sec. 203. Risk transfer.
- Sec. 204. Premiums.
- Sec. 205. Affordability requirements for multifamily mortgage insurance.
- Sec. 206. Effective date.

Subtitle B—Financial Safety and Soundness

- Sec. 211. Authority of Director.
- Sec. 212. Budgets and business plans.
- Sec. 213. Annual business plan.
- Sec. 214. Examinations, reports, and cost estimates.
- Sec. 215. Reimbursement of costs.
- Sec. 216. Mutual Mortgage Insurance Fund capital reserve.
- Sec. 217. Capital classifications and performance measures for Mutual Mortgage Insurance Fund.
- Sec. 218. Enforcement.
- Sec. 219. Capital reserve requirements for other funds.
- Sec. 220. Authority to establish temporary capital ratios in cases of nationwide countercyclical market adjustment.
- Sec. 221. 7-year borrower suspension for foreclosure.
- Sec. 222. Borrower ineligibility upon second foreclosure.
- Sec. 223. Limitation on seller concessions.
- Sec. 224. Lender repurchase requirement.
- Sec. 225. Indemnification by mortgagees.
- Sec. 226. Prohibitions relating to use of power of eminent domain.
- Sec. 227. Residual income requirement.
- Sec. 228. Effective date.

Subtitle C—Miscellaneous

- Sec. 241. Rule of construction.
- Sec. 242. Definitions.

TITLE III—DEVELOPMENT AND DEPLOYMENT OF A MORTGAGE SECURITY MARKET EXCHANGE, DATA REPOSITORY, AND COVERED BOND MARKET

- Sec. 301. Purposes.

Sec. 302. Definitions.

Subtitle A—Establishment and Authority of the Exchange

Sec. 311. Establishment.
 Sec. 312. General powers; authorized and prohibited activities.
 Sec. 313. Mission and structure of Common Securitization Solutions.
 Sec. 314. Transition period.
 Sec. 315. Transfer date.
 Sec. 316. Repayment of cost.
 Sec. 317. Regulation, supervision, and enforcement.

Subtitle B—Standards for Qualified Securities

Sec. 321. Qualified securities.
 Sec. 322. Standards for qualified securities.
 Sec. 323. Conforming amendments to Securities Act of 1933.

Subtitle C—National Mortgage Data Repository

Sec. 331. Organization and operation.
 Sec. 332. Legal effect of registration with Repository.
 Sec. 333. Grants to States; repayment.
 Sec. 334. Judicial review.
 Sec. 335. Transition provisions.

Subtitle D—Covered Bonds

Sec. 341. Definitions.
 Sec. 342. Regulatory oversight of covered bond programs established.
 Sec. 343. Resolution upon default or insolvency.
 Sec. 344. Securities law provisions.
 Sec. 345. Miscellaneous provisions.

TITLE IV—REMOVING BARRIERS TO NEW INVESTMENT

Sec. 401. Basel III Liquidity Coverage Ratio amendments.
 Sec. 402. Definition of points and fees.
 Sec. 403. Exclusion of issuers of asset-backed securities from covered funds.
 Sec. 404. Mortgages in qualified securities.
 Sec. 405. Mortgage loans held in portfolio.
 Sec. 406. Repeal of certain mortgage-related provisions.
 Sec. 407. Amendments to the Truth in Lending Act.
 Sec. 408. Financial Institutions Examination Fairness and Reform.
 Sec. 409. Notice of junior mortgage or lien.
 Sec. 410. Limitation on mortgages held by loan servicers.

TITLE V—REGULATORY STRUCTURE

Subtitle A—Ginnie Mae

Sec. 501. Removal from HUD; establishment as independent entity.
 Sec. 502. Guarantee fees.

Subtitle B—FHA

Sec. 511. Definitions.

PART 1—ORGANIZATION

- Sec. 521. Establishment.
- Sec. 522. Purposes.
- Sec. 523. General powers.
- Sec. 524. Board of Directors.
- Sec. 525. Officers and personnel.
- Sec. 526. Financial, underwriting, and operations systems.
- Sec. 527. Procurement.
- Sec. 528. Applicability of laws.
- Sec. 529. Evaluation.
- Sec. 530. Funding.

PART 2—AUTHORITY OVER RURAL HOUSING PROGRAMS OF DEPARTMENT
OF AGRICULTURE

- Sec. 541. Authority over Rural Housing Service programs.
- Sec. 542. Termination of Secretary of Agriculture’s rural housing authority.
- Sec. 543. Continuation of Obligations.
- Sec. 544. Status of employees.

PART 3—TRANSITION

- Sec. 551. Transition period.
- Sec. 552. Authority during transition period.
- Sec. 553. Advisory Board.
- Sec. 554. Transfer of HUD authority.
- Sec. 555. Wind-up of HUD affairs.
- Sec. 556. Continuation and coordination of certain actions.
- Sec. 557. Transfer and rights of HUD employees.
- Sec. 558. Transfer of property and facilities.
- Sec. 559. Effective Date.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Preservation of attorney-client privilege for information provided to FHFA.
- Sec. 602. FHFA Liaison Membership in Federal Financial Institutions Examination Council.
- Sec. 603. Recognition of FHFA enforcement authority with regard to regulated entities.
- Sec. 604. Exception from Right to Financial Privacy Act for FHFA as conservator or receiver.
- Sec. 605. Technical amendment to Federal Housing Enterprises Financial Safety and Soundness Act of 1992.
- Sec. 606. Application of presumption to enterprise streamlined refinancings.
- Sec. 607. FHFA authority to regulate and examine contractual counterparties.
- Sec. 608. Election of directors of a merged Federal Home Loan Bank.
- Sec. 609. Home equity conversion mortgage program.
- Sec. 610. FHA-related conforming amendments.

1 **TITLE I—WIND-DOWN OF FANNIE**
2 **MAE AND FREDDIE MAC**

3 **SEC. 101. DEFINITIONS.**

4 For purposes of this title, the following definitions
5 shall apply:

6 (1) CHARTER.—The term “charter” means—

7 (A) with respect to the Federal National
8 Mortgage Association, the Federal National
9 Mortgage Association Charter Act (12 U.S.C.
10 1716 et seq.); and

11 (B) with respect to the Federal Home
12 Loan Mortgage Corporation, the Federal Home
13 Loan Mortgage Corporation Act (12 U.S.C.
14 1451 et seq.).

15 (2) DIRECTOR.—The term “Director” means
16 the Director of the Federal Housing Finance Agen-
17 cy.

18 (3) ENTERPRISE.—The term “enterprise”
19 means—

20 (A) the Federal National Mortgage Asso-
21 ciation; and

22 (B) the Federal Home Loan Mortgage
23 Corporation.

1 **SEC. 102. TERMINATION OF CURRENT CONSERVATORSHIP;**
2 **MANDATORY RECEIVERSHIP.**

3 Upon the expiration of the 5-year period beginning
4 upon the date of the enactment of this Act, the Director
5 shall, with respect to each enterprise, immediately appoint
6 the Federal Housing Finance Agency as receiver under
7 section 1367 of the Federal Housing Enterprises Finan-
8 cial Safety and Soundness Act of 1992 and carry out such
9 receivership under the authority of such section.

10 **SEC. 103. LIMITATIONS ON ENTERPRISE AUTHORITY.**

11 (a) **PORTFOLIO LIMITATIONS.**—Subtitle B of title
12 XIII of the Housing and Community Development Act of
13 1992 (12 U.S.C. 4611 et seq.) is amended by adding at
14 the end the following new section:

15 **“SEC. 1369F. RESTRICTION ON MORTGAGE ASSETS OF EN-**
16 **TERPRISES.**

17 “(a) **RESTRICTION.**—No enterprise shall own, at any
18 time, mortgage assets in excess of \$250,000,000,000.

19 “(b) **DEFINITION OF MORTGAGE ASSETS.**—For pur-
20 poses of this section, the term ‘mortgage assets’ means,
21 with respect to an enterprise, assets of such enterprise
22 consisting of mortgages, mortgage loans, mortgage-related
23 securities, participation certificates, mortgage-backed
24 commercial paper, obligations of real estate mortgage in-
25 vestment conduits and similar assets, in each case to the
26 extent such assets would appear on the balance sheet of

1 such enterprise in accordance with generally accepted ac-
2 counting principles in effect in the United States as of
3 September 7, 2008 (as set forth in the opinions and pro-
4 nouncements of the Accounting Principles Board and the
5 American Institute of Certified Public Accountants and
6 statements and pronouncements of the Financial Account-
7 ing Standards Board from time to time; and without giv-
8 ing any effect to any change that may be made after Sep-
9 tember 7, 2008, in respect of Statement of Financial Ac-
10 counting Standards No. 140 or any similar accounting
11 standard).”.

12 (b) **EQUITABILITY IN GUARANTEE FEES.**—Section
13 1327 of Federal Housing Enterprises Financial Safety
14 and Soundness Act of 1992 (12 U.S.C. 4547) is amended
15 by adding at the end the following new subsection:

16 “(f) **EQUITABILITY IN GUARANTEE FEES.**—

17 “(1) **REQUIREMENT.**—Notwithstanding any
18 other provision of this section, the Director shall en-
19 sure, pursuant to the annual review conducted under
20 paragraph (2), that each enterprise charges a guar-
21 antee fee, in connection with any mortgage guaran-
22 teed after the date of the enactment of the Pro-
23 tecting American Taxpayers and Homeowners Act of
24 2018, in an amount that the Director determines is
25 equivalent to the amount that the enterprise would

1 charge if the enterprise were held to the same cap-
2 ital standards as private banks or financial institu-
3 tions.

4 “(2) ANNUAL DETERMINATION.—Not less often
5 than annually, the Director shall review the guar-
6 antee fees charged by each enterprise and determine
7 how such fees compare to the amount determined by
8 the Director under paragraph (1). If the Director
9 determines that such fees charged by an enterprise
10 are less than such amount, the Director shall, by
11 order, require the enterprise to increase such fees in
12 such amount as the Director determines necessary to
13 comply with paragraph (1).

14 “(3) FLEXIBILITY IN DETERMINATION OF IN-
15 CREASE.—To determine the amount of any increase
16 under this subsection, the Director shall establish a
17 pricing mechanism as the Director considers appro-
18 priate, taking into consideration current market con-
19 ditions, including the current market share of an en-
20 terprise, and any data collected pursuant to section
21 1601 of the Housing and Economic Recovery Act of
22 2008 (12 U.S.C. 4514a).”.

23 (c) REPEAL OF MANDATORY HOUSING ACTIVI-
24 TIES.—

1 (1) REPEAL OF HOUSING GOALS.—The Federal
2 Housing Enterprises Financial Safety and Sound-
3 ness Act of 1992 is amended by striking sections
4 1331 through 1336 (12 U.S.C. 4561–6).

5 (2) CONFORMING AMENDMENTS.—Federal
6 Housing Enterprises Financial Safety and Sound-
7 ness Act of 1992 is amended—

8 (A) in section 1303(28) (12 U.S.C.
9 4502(28)), by striking “, and, for the purposes”
10 and all that follows through “designated dis-
11 aster areas”;

12 (B) in section 1324(b)(1)(A) (12 U.S.C.
13 4544(b)(1)(A)), by striking clauses (i), (ii), and
14 (iv);

15 (C) in section 1339(h) (12 U.S.C.
16 4569(h)), by striking paragraph (7);

17 (D) in section 1341 (12 U.S.C. 4581)—

18 (i) in subsection (a)—

19 (I) in paragraph (1), by inserting
20 “or” after the semicolon at the end;

21 (II) in paragraph (2), by striking
22 the semicolon at the end and inserting
23 a period; and

24 (III) by striking paragraphs (3)
25 and (4); and

1 (ii) in subsection (b)(2)—

2 (I) in subparagraph (A), by in-
3 serting “or” after the semicolon at the
4 end;

5 (II) by striking subparagraphs
6 (B) and (C); and

7 (III) by redesignating subpara-
8 graph (D) as subparagraph (B);

9 (E) in section 1345(a) (12 U.S.C.
10 4585(a))—

11 (i) in paragraph (1), by inserting “or”
12 after the semicolon at the end;

13 (ii) in paragraph (2), by striking the
14 semicolon at the end and inserting a pe-
15 riod; and

16 (iii) by striking paragraphs (3) and
17 (4); and

18 (F) in section 1371(a)(2) (12 U.S.C.
19 4631(a)(2)), by striking “with any housing goal
20 established under subpart B of part 2 of sub-
21 title A of this title, with section 1336 or 1337
22 of this title,”.

23 (3) REPEAL OF HOUSING TRUST FUND.—

24 (A) REPEAL.—The Federal Housing En-
25 terprises Financial Safety and Soundness Act

1 of 1992 is amended by striking sections 1337
2 and 1338 (12 U.S.C. 4567, 4568).

3 (B) CONFORMING AMENDMENTS.—The
4 Federal Housing Enterprises Financial Safety
5 and Soundness Act of 1992 is amended—

6 (i) in section 1303(24)(B) (12 U.S.C.
7 4502(24)(B)), by striking “1338 and”;

8 (ii) in section 1324(b)(1)(A) (12
9 U.S.C. 4544(b)(1)(A)), as amended by the
10 preceding provisions of this Act—

11 (I) by striking clause (iii);

12 (II) by striking the dash after
13 “which” and inserting the text of
14 clause (v) and a period; and

15 (III) by striking clause (v);

16 (iii) in section 1339(b)—

17 (I) by striking paragraph (1);

18 (II) by striking the dash after
19 “consist of” and inserting the text of
20 paragraph (2) and a period; and

21 (III) by striking paragraph (2);

22 and

23 (iv) in section 1345 (12 U.S.C. 4585),

24 by striking subsection (f).

1 **SEC. 104. MODIFICATIONS TO INCREASES IN CONFORMING**
2 **LOAN LIMITS.**

3 (a) FANNIE MAE.—Section 302(b)(2) of the Federal
4 National Mortgage Association Charter Act (12 U.S.C.
5 1717(b)(2)) is amended—

6 (1) in the 8th sentence—

7 (A) in inserting “or subtracting from”
8 after “adding to”; and

9 (B) by inserting “or decrease, respectively”
10 before the first comma;

11 (2) by striking the 9th and 10th sentences;

12 (3) by striking the last sentence;

13 (4) by inserting “(A)” after the paragraph des-
14 ignation; and

15 (5) by adding at the end the following new sub-
16 paragraph:

17 “(B) HIGH-COST AREAS.—

18 “(i) MAXIMUM ORIGINAL PRINCIPAL LIMITA-
19 TION.—Subject to clause (ii), the limitations estab-
20 lished pursuant to subparagraph (A) shall also be in-
21 creased, with respect to properties of a particular
22 size located in any area for which 115 percent of the
23 median house price for such size residence exceeds
24 the limitation under subparagraph (A) for such size
25 residence, to the lesser of—

1 “(I)(aa) for the first year beginning after
2 the date of the enactment of the Protecting
3 American Taxpayers and Homeowners Act of
4 2018, the difference between—

5 “(AA) 150 percent of the limitation
6 under subparagraph (A) for such size resi-
7 dence; and

8 “(BB) \$20,000 in the case of a 1-
9 family residence, \$25,604 in the case of a
10 2-family residence, \$30,950 in the case of
11 a 3-family residence, and \$38,463 in the
12 case of a 4-family residence;

13 “(bb) for the second year beginning after
14 the date of the enactment of the Protecting
15 American Taxpayers and Homeowners Act of
16 2018, the difference between—

17 “(AA) 150 percent of the limitation
18 under subparagraph (A) for such size resi-
19 dence; and

20 “(BB) \$40,000 in the case of a 1-
21 family residence, \$51,208 in the case of a
22 2-family residence, \$61,900 in the case of
23 a 3-family residence, and \$76,926 in the
24 case of a 4-family residence;

1 “(cc) for the third year beginning after the
2 date of the enactment of the Protecting Amer-
3 ican Taxpayers and Homeowners Act of 2018,
4 the difference between—

5 “(AA) 150 percent of the limitation
6 under subparagraph (A) for such size resi-
7 dence; and

8 “(BB) \$60,000 in the case of a 1-
9 family residence, \$76,812 in the case of a
10 2-family residence, \$92,850 in the case of
11 a 3-family residence, and \$103,389 in the
12 case of a 4-family residence;

13 “(dd) for the fourth year beginning after
14 the date of the enactment of the Protecting
15 American Taxpayers and Homeowners Act of
16 2018, the difference between—

17 “(AA) 150 percent of the limitation
18 under subparagraph (A) for such size resi-
19 dence; and

20 “(BB) \$80,000 in the case of a 1-
21 family residence, \$102,416 in the case of a
22 2-family residence, \$123,800 in the case of
23 a 3-family residence, and \$153,852 in the
24 case of a 4-family residence; and

1 “(ee) for the fifth year beginning after the
2 date of the enactment of the Protecting Amer-
3 ican Taxpayers and Homeowners Act of 2018,
4 the difference between—

5 “(AA) 150 percent of the limitation
6 under subparagraph (A) for such size resi-
7 dence; and

8 “(BB) \$100,000 in the case of a 1-
9 family residence, \$128,020 in the case of a
10 2-family residence, \$154,750 in the case of
11 a 3-family residence, and \$192,315 in the
12 case of a 4-family residence;

13 “(II) the amount that is equal to 115 per-
14 cent of the median house price in such area for
15 such size residence; or

16 “(III) the limitation in effect for such size
17 residence for such area, pursuant to the last
18 sentence of this paragraph as in effect imme-
19 diately before the enactment of the Protecting
20 American Taxpayers and Homeowners Act of
21 2018, as of the date of such enactment.

22 “(ii) PROHIBITION ON NEW HIGH-COST
23 AREAS.—The limitations established pursuant to
24 subparagraph (A) may not be increased, with respect
25 to properties of any size located in a particular area

1 unless, as of the date of the enactment of the Pro-
2 tecting American Taxpayers and Homeowners Act of
3 2018, such foregoing limitations in effect for such
4 area for any size residence were determined under
5 the authority provided in the last sentence of this
6 paragraph, as in effect immediately before such en-
7 actment.”.

8 (b) FREDDIE MAC.—Section 305(a)(2) of the Fed-
9 eral Home Loan Mortgage Corporation Act (12 U.S.C.
10 1454(a)(2)) is amended—

11 (1) in the 7th sentence—

12 (A) in inserting “or subtracting from”
13 after “adding to”; and

14 (B) by inserting “or decrease, respectively”
15 before the first comma;

16 (2) by striking the 8th and 9th sentences;

17 (3) by striking the last sentence;

18 (4) by inserting “(A)” after the paragraph des-
19 ignation; and

20 (5) by adding at the end the following new sub-
21 paragraph:

22 “(B) HIGH-COST AREAS.—

23 “(i) MAXIMUM ORIGINAL PRINCIPAL LIMITA-
24 TION.—Subject to clause (ii), the limitations estab-
25 lished pursuant to subparagraph (A) shall also be in-

1 creased, with respect to properties of a particular
2 size located in any area for which 115 percent of the
3 median house price for such size residence exceeds
4 the limitation under subparagraph (A) for such size
5 residence, to the lesser of—

6 “(I)(aa) for the first year beginning after
7 the date of the enactment of the Protecting
8 American Taxpayers and Homeowners Act of
9 2018, the difference between—

10 “(AA) 150 percent of the limitation
11 under subparagraph (A) for such size resi-
12 dence; and

13 “(BB) \$20,000 in the case of a 1-
14 family residence, \$25,604 in the case of a
15 2-family residence, \$30,950 in the case of
16 a 3-family residence, and \$38,463 in the
17 case of a 4-family residence;

18 “(bb) for the second year beginning after
19 the date of the enactment of the Protecting
20 American Taxpayers and Homeowners Act of
21 2018, the difference between—

22 “(AA) 150 percent of the limitation
23 under subparagraph (A) for such size resi-
24 dence; and

1 “(BB) \$40,000 in the case of a 1-
2 family residence, \$51,208 in the case of a
3 2-family residence, \$61,900 in the case of
4 a 3-family residence, and \$76,926 in the
5 case of a 4-family residence;

6 “(cc) for the third year beginning after the
7 date of the enactment of the Protecting Amer-
8 ican Taxpayers and Homeowners Act of 2018,
9 the difference between—

10 “(AA) 150 percent of the limitation
11 under subparagraph (A) for such size resi-
12 dence; and

13 “(BB) \$60,000 in the case of a 1-
14 family residence, \$76,812 in the case of a
15 2-family residence, \$92,850 in the case of
16 a 3-family residence, and \$103,389 in the
17 case of a 4-family residence;

18 “(dd) for the fourth year beginning after
19 the date of the enactment of the Protecting
20 American Taxpayers and Homeowners Act of
21 2018, the difference between—

22 “(AA) 150 percent of the limitation
23 under subparagraph (A) for such size resi-
24 dence; and

1 “(BB) \$80,000 in the case of a 1-
2 family residence, \$102,416 in the case of a
3 2-family residence, \$123,800 in the case of
4 a 3-family residence, and \$153,852 in the
5 case of a 4-family residence; and

6 “(ee) for the fifth year beginning after the
7 date of the enactment of the Protecting Amer-
8 ican Taxpayers and Homeowners Act of 2018,
9 the difference between—

10 “(AA) 150 percent of the limitation
11 under subparagraph (A) for such size resi-
12 dence; and

13 “(BB) \$100,000 in the case of a 1-
14 family residence, \$128,020 in the case of a
15 2-family residence, \$154,750 in the case of
16 a 3-family residence, and \$192,315 in the
17 case of a 4-family residence;

18 “(II) the amount that is equal to 115 per-
19 cent of the median house price in such area for
20 such size residence; or

21 “(III) the limitation in effect for such size
22 residence for such area, pursuant to the last
23 sentence of this paragraph as in effect imme-
24 diately before the enactment of the Protecting

1 American Taxpayers and Homeowners Act of
2 2018, as of the date of such enactment.

3 “(ii) PROHIBITION ON NEW HIGH-COST
4 AREAS.—The limitations established pursuant to
5 subparagraph (A) may not be increased, with respect
6 to properties of any size located in a particular area
7 unless, as of the date of the enactment of the Pro-
8 tecting American Taxpayers and Homeowners Act of
9 2018, such foregoing limitations in effect for such
10 area for any size residence were determined under
11 the authority provided in the last sentence of this
12 paragraph, as in effect immediately before such en-
13 actment.”.

14 **SEC. 105. MANDATORY RISK-SHARING.**

15 Subpart A of part 2 of subtitle A of the Federal
16 Housing Enterprises Financial Safety and Soundness Act
17 of 1992 is amended by adding after section 1327 (12
18 U.S.C. 4547) the following new section:

19 **“SEC. 1328. MANDATORY RISK-SHARING TRANSACTIONS.**

20 “(a) IN GENERAL.—The Director shall require each
21 enterprise to develop and undertake transactions involving
22 the guarantee by the enterprises of securities and obliga-
23 tions based on or backed by mortgages on residential real
24 properties designed principally for occupancy of from 1 to
25 4 families that provide for private market participants to

1 share or assume credit risk associated with such mort-
2 gages, as follows:

3 “(1) REQUIRED PERCENTAGE OF BUSINESS.—

4 The Director shall require that not less than 10 per-
5 cent of the annual business of each enterprise (as
6 measured in such manner as the Director shall de-
7 termine) in guaranteeing such securities and obliga-
8 tions involve such transactions.

9 “(2) MULTIPLE TYPES OF TRANSACTIONS.—

10 The Director shall require that in complying with
11 paragraph (1), each enterprise undertake multiple
12 types of the various transactions and structures de-
13 scribed in subsection (b).

14 “(b) TYPES OF TRANSACTIONS.—The risk-sharing
15 transactions referred to in subsection (a) may include
16 transactions involving increased mortgage insurance re-
17 quirements, credit-linked notes and securities, senior and
18 subordinated security structures, and such other struc-
19 tures and transactions as the Director considers appro-
20 priate to increase private market assumption of credit
21 risk.”.

22 **SEC. 106. LIMITATION OF ENTERPRISE MORTGAGE PUR-**
23 **CHASES TO QUALIFIED MORTGAGES.**

24 (a) FANNIE MAE.—Section 302(b) of the Federal
25 National Mortgage Association Charter Act (12 U.S.C.

1 1717(b)) is amended by adding at the end the following
2 new paragraph:

3 “(7) Effective for mortgages with application dates
4 on or after January 10, 2019, the corporation may only
5 purchase, make commitments to purchase, service, sell,
6 lend on the security of, or otherwise deal in a mortgage
7 that is a qualified mortgage (as such term is defined in
8 section 129C(b) of the Truth in Lending Act (15 U.S.C.
9 1639c(b); as added by section 1412 of the Dodd-Frank
10 Wall Street Reform and Consumer Protection Act (124
11 Stat. 2145)), in accordance with the regulations issued by
12 the Bureau of Consumer Financial Protection to carry out
13 such section.”.

14 (b) FREDDIE MAC.—Section 305(a) of the Federal
15 Home Loan Mortgage Corporation Act (12 U.S.C.
16 1454(a)) is amended by adding at the end the following
17 new paragraph:

18 “(6) Effective for mortgages with application dates
19 on or after January 10, 2019, the Corporation may only
20 purchase, make commitments to purchase, service, sell,
21 lend on the security of, or otherwise deal in a mortgage
22 that is a qualified mortgage (as such term is defined in
23 section 129C(b) of the Truth in Lending Act (15 U.S.C.
24 1639c(b); as added by section 1412 of the Dodd-Frank
25 Wall Street Reform and Consumer Protection Act (124

1 Stat. 2145)), in accordance with the regulations issued by
2 the Bureau of Consumer Financial Protection to carry out
3 such section.”.

4 **SEC. 107. PROHIBITION RELATING TO USE OF POWER OF**
5 **EMINENT DOMAIN.**

6 (a) FANNIE MAE.—Subsection (b) of section 302 of
7 the Federal National Mortgage Association Charter Act
8 (12 U.S.C. 1717(b)) is amended by adding at the end the
9 following new paragraph:

10 “(7)(A) Notwithstanding any other provision of law,
11 the corporation may not purchase or guarantee any mort-
12 gage that is secured by a structure or dwelling unit that
13 is located within a county that contains any structure or
14 dwelling unit that secures or secured a residential mort-
15 gage loan which mortgage loan was obtained by the State
16 during the preceding 120 months by exercise of the power
17 of eminent domain.

18 “(B) For purposes of this paragraph, the following
19 definitions shall apply:

20 “(i) The term ‘residential mortgage loan’ means
21 a mortgage loan that is evidenced by a promissory
22 note and secured by a mortgage, deed of trust, or
23 other security instrument on a residential structure
24 or a dwelling unit in a residential structure. Such

1 term includes a first mortgage loan or any subordi-
2 nate mortgage loan.

3 “(ii) The term ‘State’ includes the District of
4 Columbia, the Commonwealth of Puerto Rico, and
5 any territory or possession of the United States, and
6 includes any agency or political subdivision of a
7 State.”.

8 (b) FREDDIE MAC.—Subsection (a) of section 305 of
9 the Federal Home Loan Mortgage Corporation Act (12
10 U.S.C. 1454(a)) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(6)(A) Notwithstanding any other provision of law,
13 the Corporation may not purchase or guarantee any mort-
14 gage that is secured by a structure or dwelling unit that
15 is located within a county that contains any structure or
16 dwelling unit that secures or secured a residential mort-
17 gage loan which mortgage loan was obtained by the State
18 during the preceding 120 months by exercise of the power
19 of eminent domain.

20 “(B) For purposes of this paragraph, the following
21 definitions shall apply:

22 “(i) The term ‘residential mortgage loan’ means
23 a mortgage loan that is evidenced by a promissory
24 note and secured by a mortgage, deed of trust, or
25 other security instrument on a residential structure

1 or a dwelling unit in a residential structure. Such
2 term includes a first mortgage or any subordinate
3 mortgage.

4 “(ii) The term ‘State’ includes the District of
5 Columbia, the Commonwealth of Puerto Rico, and
6 any territory or possession of the United States, and
7 includes any agency or political subdivision of a
8 State.”.

9 **SEC. 108. RECEIVER’S DISCRETIONARY AUTHORITY TO**
10 **CREATE RECEIVERSHIP ENTITY.**

11 Section 1367 of the Federal Housing Enterprises Fi-
12 nancial Safety and Soundness Act of 1992 (12 U.S.C.
13 4617) is amended by striking subsection (i) and inserting
14 the following:

15 “(i) RECEIVERSHIP ENTITY.—

16 “(1) AUTHORITY; ORGANIZATION.—The Agen-
17 cy, as receiver appointed pursuant to subsection (a),
18 may establish a receivership entity in such form or
19 structure as the Agency deems appropriate to meet
20 the purposes of receivership and this section.

21 “(2) POWERS.—Upon creation of such receiver-
22 ship entity, the Agency may transfer to it any assets
23 or liabilities of the regulated entity in default as the
24 Agency, in its discretion, determines to be appro-
25 priate, and may authorize the receivership entity to

1 perform any temporary function that the Agency, in
2 its discretion, prescribes in accordance with this sec-
3 tion. The transfer of any assets or liabilities of a
4 regulated entity for which the Agency has been ap-
5 pointed receiver shall be effective without any fur-
6 ther approval under Federal or State law, assign-
7 ment, or consent with respect thereto. Such author-
8 ity is in addition to any other power the Agency may
9 have as receiver or may confer on the receivership
10 entity.

11 “(3) EXEMPTION FROM TAXATION.—Notwith-
12 standing any other provision of Federal or State
13 law, any receivership entity established by the Agen-
14 cy pursuant to this section, its franchise, property
15 and income, shall be exempt from all taxation now
16 or hereafter imposed by the United States, by any
17 territory, dependency, or possession thereof, or by
18 any State, county, municipality, or local taxing au-
19 thority.

20 “(4) REGULATIONS.—The Agency may promul-
21 gate such regulations as the Agency determines to
22 be necessary or appropriate to implement this sub-
23 section.

24 “(5) NO FEDERAL STATUS.—A receivership en-
25 tity established pursuant to this section shall not be

1 an agency, establishment, or instrumentality of the
2 United States.”.

3 **SEC. 109. AUTHORITY OF RECEIVER TO REPEAL ENTER-**
4 **PRISE CHARTER.**

5 Section 1367 of the Federal Housing Enterprises Fi-
6 nancial Safety and Soundness Act of 1992 (12 U.S.C.
7 4617) is amended by striking subsection (k) and inserting
8 the following new subsection:

9 “(k) REPEAL OF ENTERPRISE CHARTERS.—

10 “(1) FANNIE MAE.—Effective five years after
11 the date of the enactment of the Protecting Amer-
12 ican Taxpayers and Homeowners Act of 2018, the
13 charter of the Federal National Mortgage Associa-
14 tion is repealed and the Federal National Mortgage
15 Association shall have no authority to conduct new
16 business under such charter, except that the provi-
17 sions of such charter in effect immediately before
18 such repeal shall continue to apply with respect to
19 the rights and obligations of any holders of—

20 “(A) outstanding debt obligations of the
21 Federal National Mortgage Association, includ-
22 ing any—

23 “(i) bonds, debentures, notes, or other
24 similar instruments;

25 “(ii) capital lease obligations; or

1 “(iii) obligations in respect of letters
2 of credit, bankers’ acceptances, or other
3 similar instruments; or

4 “(B) mortgage-backed securities guaran-
5 teed by the Federal National Mortgage Associa-
6 tion.

7 “(2) FREDDIE MAC.—Effective five years after
8 the date of the enactment of the Protecting Amer-
9 ican Taxpayers and Homeowners Act of 2018, the
10 charter of the Federal Home Loan Mortgage Cor-
11 poration is repealed and the Federal Home Loan
12 Mortgage Corporation shall have no authority to
13 conduct new business under such charter, except
14 that the provisions of such charter in effect imme-
15 diately before such repeal shall continue to apply
16 with respect to the rights and obligations of any
17 holders of—

18 “(A) outstanding debt obligations of the
19 Federal Home Loan Mortgage Corporation, in-
20 cluding any—

21 “(i) bonds, debentures, notes, or other
22 similar instruments;

23 “(ii) capital lease obligations; or

1 “(iii) obligations in respect of letters
2 of credit, bankers’ acceptances, or other
3 similar instruments; or

4 “(B) mortgage-backed securities guaran-
5 teed by the Federal Home Loan Mortgage Cor-
6 poration.

7 “(3) EXISTING GUARANTEE OBLIGATIONS.—

8 “(A) EXPLICIT GUARANTEE.—The full
9 faith and credit of the United States is pledged
10 to the payment of all amounts which may be re-
11 quired to be paid under any obligation de-
12 scribed in paragraph (1) or (2).

13 “(B) CONTINUED DIVIDEND PAYMENTS.—
14 Notwithstanding any other provision of law,
15 provision 2(a) (relating to Dividend Payment
16 Dates and Dividend Periods) and provision 2(c)
17 (relating to Dividend Rates and Dividend
18 Amount) of the Senior Preferred Stock Pur-
19 chase Agreement, or any provision of any cer-
20 tificate in connection with such Agreement cre-
21 ating or designating the terms, powers, pref-
22 erences, privileges, limitations, or any other
23 conditions of the Variable Liquidation Pref-
24 erence Senior Preferred Stock of an enterprise
25 issued pursuant to such Agreement—

1 “(i) shall not be amended, restated, or
2 otherwise changed to reduce the rate or
3 amount of dividends in effect pursuant to
4 such Agreement as of the Letter Agree-
5 ments between the Secretary of the Treas-
6 ury and the conservator of the enterprises
7 dated December 21, 2017, except that any
8 amendment to such Agreement to facilitate
9 the sale of assets of the enterprises shall
10 be permitted; and

11 “(ii) shall remain in effect until the
12 guarantee obligations described under
13 paragraphs (1)(B) and (2)(B) of this sub-
14 section are fully extinguished.

15 “(C) APPLICABILITY.—All guarantee fee
16 amounts derived from the single-family mort-
17 gage guarantee business of the enterprises in
18 existence as of five years after the date of the
19 enactment of the Protecting American Tax-
20 payers and Homeowners Act of 2018 shall be
21 deposited into the United States Treasury, for
22 purposes of deficit reduction.

23 “(D) SENIOR PREFERRED STOCK PUR-
24 CHASE AGREEMENT DEFINED.—For purposes

1 of this paragraph, the term ‘Senior Preferred
2 Stock Purchase Agreement’ means—

3 “(i) the Amended and Restated Senior
4 Preferred Stock Purchase Agreement,
5 dated September 26, 2008, as such Agree-
6 ment has been amended on May 6, 2009,
7 December 24, 2009, and August 17, 2012,
8 respectively, as such Agreement has been
9 modified by the Letter Agreements be-
10 tween the Secretary of the Treasury and
11 the conservator of the enterprises dated
12 December 21, 2017, and as such Agree-
13 ment may be further amended and re-
14 stated, entered into between the Depart-
15 ment of the Treasury and each enterprise,
16 as applicable; and

17 “(ii) any provision of any certificate in
18 connection with such Agreement creating
19 or designating the terms, powers, pref-
20 erences, privileges, limitations, or any
21 other conditions of the Variable Liquida-
22 tion Preference Senior Preferred Stock of
23 an enterprise issued or sold pursuant to
24 such Agreement.”.

1 **TITLE II—FHA REFORM**
2 **Subtitle A—Business Authority and**
3 **Requirements**

4 **SEC. 201. AUTHORITY TO CARRY OUT FHA AND OTHER**
5 **BUSINESS.**

6 (a) IN GENERAL.—After the expiration of the transi-
7 tion period under section 551—

8 (1) the FHA may exercise (in addition to pow-
9 ers set forth in section 552) any authority and un-
10 dertake any responsibilities of the Secretary of
11 Housing and Urban Development under the Na-
12 tional Housing Act (as amended by this title) relat-
13 ing to mortgage insurance, except as otherwise pro-
14 vided in this title and except that any authority that
15 requires an appropriation may be conducted only to
16 the extent that amounts are so appropriated;

17 (2) any amounts in the Mutual Mortgage Insur-
18 ance Fund under section 202(a) of the National
19 Housing Act (12 U.S.C. 1708(a)), any amounts in
20 the General Insurance Fund and Special Risk Insur-
21 ance Fund under sections 519 and 238(b), respec-
22 tively, of such Act (12 U.S.C. 1735c, 1715z–3(b)),
23 and any amounts in the Cooperative Management
24 Housing Insurance Fund under section 213(k) of

1 such Act (12 U.S.C. 1715e(k)), shall be used by the
2 FHA only—

3 (A) for meeting any obligations of such
4 Funds entered into before such transition date;
5 and

6 (B) for carrying out the mortgage insur-
7 ance obligations of the FHA pursuant to sec-
8 tion 662(1) and paragraph (1) of this section;
9 and

10 (3) the FHA may exercise any authority of the
11 FHA under this title.

12 (b) TERMINATION OF SECRETARY OF HUD'S FHA
13 AUTHORITY.—After the expiration of the transition period
14 under section 551, the Secretary of Housing and Urban
15 Development may not exercise any authority under the
16 National Housing Act relating to mortgage insurance.
17 This subsection may not be construed to limit or otherwise
18 affect the Secretary's authority under title I of the Na-
19 tional Housing Act (12 U.S.C. 1702 et seq.).

20 (c) CONTINUATION OF OBLIGATIONS.—This section
21 and section 552(1) may not be construed to affect the va-
22 lidity of any right, duty, or obligation of the United States
23 or other person arising under or pursuant to any commit-
24 ment or agreement lawfully entered into with the Sec-

1 retary of Housing and Urban Development under the Na-
2 tional Housing Act.

3 **SEC. 202. ELIGIBLE SINGLE-FAMILY MORTGAGES.**

4 (a) IN GENERAL.—Notwithstanding section 203 of
5 the National Housing Act (12 U.S.C. 1709) or any other
6 provision of law, the FHA may insure, and make commit-
7 ments to insure, a mortgage on a 1- to 4-family residential
8 property only if the mortgage complies with the following
9 requirements:

10 (1) MORTGAGE AMOUNT.—The mortgage shall
11 involve a principal obligation (including such initial
12 service charges, appraisal, inspection, and other fees
13 as the FHA shall approve) in an amount not to ex-
14 ceed the following amounts:

15 (A) APPRAISED VALUE.—100 percent of
16 the appraised value of the property.

17 (B) AREA LIMITATION.—

18 (i) MAXIMUM LIMIT.—The lesser of
19 the following amounts:

20 (I) In the case of—

21 (aa) a 1-family residence,
22 100 percent of the median 1-fam-
23 ily house price in the area in
24 which such residence is located,
25 as determined by the FHA; and

1 (bb) in the case of a 2-, 3-
2 , or 4-family residence, the per-
3 centage of such median price
4 that bears the same ratio to such
5 median price as the dollar
6 amount limitation determined
7 under the sixth sentence of sec-
8 tion 305(a)(2) of the Federal
9 Home Loan Mortgage Corpora-
10 tion Act (12 U.S.C. 1454(a)(2))
11 for a 2-, 3-, or 4-family resi-
12 dence, respectively, bears to the
13 dollar amount limitation deter-
14 mined under such section for a 1-
15 family residence; or

16 (II) 150 percent of the dollar
17 amount limitation determined under
18 the sixth sentence of such section
19 305(a)(2) for a residence of the appli-
20 cable size.

21 For purposes of the preceding sentence,
22 the term “area” means, for any property
23 located within a metropolitan statistical
24 area as established by the Office of Man-
25 agement and Budget, the zip code within

1 which the property is located, and for any
2 property not located within a metropolitan
3 statistical area, the county within which
4 the property is located. The dollar amount
5 limitations referred to in this clause shall
6 remain in effect for purposes of this clause
7 notwithstanding the receivership or dis-
8 solution of the Federal Home Loan Mort-
9 gage Corporation.

10 (ii) MINIMUM LIMIT.—Notwith-
11 standing clause (i), the principal obligation
12 limitation in effect for any area under this
13 subparagraph may not be less than
14 \$200,000.

15 (2) DOWNPAYMENT.—The mortgage shall be
16 executed by a mortgagor who shall have paid on ac-
17 count of the property subject to the mortgage an
18 amount, in cash or its equivalent, equal to or exceed-
19 ing 3.5 percent of the appraised value of the prop-
20 erty, as determined by the FHA.

21 (3) PROHIBITED MORTGAGES.—The mortgage
22 is not—

23 (A) a mortgage the proceeds of which are
24 used to prepay or pay off an existing loan that
25 is not—

1 (i) a loan insured under the National
2 Housing Act or under this title; or

3 (ii) a loan insured, made, or guaran-
4 teed under title V of the Housing Act of
5 1949; or

6 (B) a mortgage under which a portion of
7 the proceeds of the mortgage are used to pre-
8 pay or pay off the outstanding principal and in-
9 terest owed on an existing loan and a portion
10 of such proceeds are made available to or on be-
11 half of the borrower.

12 (4) PUBLIC PURPOSE REQUIREMENT.—The
13 mortgage shall meet the requirements of any one of
14 the following subparagraphs:

15 (A) FIRST-TIME HOMEBUYER.—The mort-
16 gator under the mortgage is a first-time home-
17 buyer (as such term is defined in section 242)
18 of the property subject to the mortgage and the
19 property is used as the principal residence of
20 the mortgagor.

21 (B) LOW- OR MODERATE-INCOME MORT-
22 GAGOR.—The mortgagor under the mortgage is
23 a member of a family as follows:

24 (i) IN GENERAL.—A family having an
25 income that is less than 115 percent of the

1 median income, as determined by the
2 FHA, for the area in which the property
3 subject to the mortgage is located, except
4 that the FHA may establish income ceil-
5 ings higher or lower than 115 percent of
6 the median for the area to take into con-
7 sideration various sizes of families.

8 (ii) HIGH-COST AREAS.—A family
9 that—

10 (I) resides in any area for which
11 the median 1-family house price ex-
12 ceeds the maximum dollar amount
13 limitation in effect for that year on
14 the original principal obligation of a
15 mortgage on a 1-family residence that
16 may be purchased by the Federal
17 Home Loan Mortgage Corporation, as
18 determined under section 305(a)(2) of
19 the Federal Home Loan Mortgage
20 Corporation Act (12 U.S.C.
21 1454(a)(2)); and

22 (II) has an income that is less
23 than 150 percent of the median in-
24 come, as determined by the FHA, for
25 the area in which the property subject

1 to the mortgage is located, except that
2 the FHA may establish income ceil-
3 ings higher or lower than 150 percent
4 of the median for the area to take
5 into consideration various sizes of
6 families.

7 For purposes of this subparagraph, the term
8 “area” has the meaning given such term in the
9 last sentence of paragraph (1)(B)(i).

10 (C) COUNTER-CYCLICAL MARKET ADJUST-
11 MENT.—The property subject to the mortgage
12 is located in a county or counties for which a
13 determination under this subparagraph has
14 been made, as follows:

15 (i) DETERMINATION.—A mortgage
16 may be insured pursuant to this subpara-
17 graph only upon a determination by the
18 Board, in consultation with the Chief Risk
19 Officer that—

20 (I) available credit for the pur-
21 chase of 1- to 4-family homes located
22 in such county or counties has con-
23 tracted significantly, as measured by
24 the credit availability measure of the

1 Office of the Comptroller of the Cur-
2 rency;

3 (II) housing prices in such coun-
4 ty or counties have declined signifi-
5 cantly, as measured by the applicable
6 housing price index of the Federal
7 Housing Finance Agency; or

8 (III) available credit for the pur-
9 chase of housing or such other eco-
10 nomic conditions exist sufficient to
11 evidence a significant contraction of
12 capital in such county or counties, as
13 measured by a metric identified by the
14 Board, in consultation with the Chief
15 Risk Officer, in a written notice made
16 publicly available, and provided to the
17 Congress, in advance of such deter-
18 mination.

19 (ii) CONDITIONS OF TERMINATION.—
20 Upon making a determination under clause
21 (i), the Board, in consultation with the
22 Chief Risk Officer, shall also identify
23 measurable criteria for determining that
24 the conditions determined under clause (i)

1 for such county or counties have ceased to
2 exist.

3 (iii) NOTICE TO CONGRESS.—Upon
4 making a determination under clause (i),
5 the Board shall provide written notice to
6 the Congress of such determination and
7 the specific measurable criteria identified
8 pursuant to clause (ii).

9 (iv) LIMITATION.—The Board may
10 not, pursuant to the authority under this
11 subparagraph—

12 (I) reduce premiums required to
13 be paid for mortgage insurance under
14 this title by more than 50 basis points
15 from the premiums charged, imme-
16 diately before the determination under
17 this subparagraph was made for such
18 county or counties, for mortgage in-
19 surance for mortgages on properties
20 located in such county or counties;

21 (II) increase the limitation under
22 this title on the amount of the max-
23 imum principal obligation of a mort-
24 gage that may be insured; or

1 (III) decrease the amount re-
2 quired to be paid, in cash or its equiv-
3 alent, on account of a property sub-
4 ject to a mortgage insured under this
5 title.

6 (v) TERMINATION.—The authority to
7 insure mortgages pursuant to this subpara-
8 graph on properties located in a county or
9 counties shall terminate upon the earlier
10 of—

11 (I) the expiration of the 18-
12 month period beginning upon the date
13 that notification under clause (iii) is
14 provided to the Congress of the deter-
15 mination under clause (i) with respect
16 to such county or counties; or

17 (II) the occurrence of the condi-
18 tions identified pursuant to clause (ii)
19 with respect to such county or coun-
20 ties.

21 (vi) MULTIPLE DETERMINATIONS.—
22 Nothing in this subparagraph may be con-
23 strued to prevent multiple or consecutive
24 periods for a county or counties during
25 which mortgages on properties located in

1 such county or counties may be insured
2 pursuant to this subparagraph.

3 (D) DISASTER AREA.—The Board of Di-
4 rectors exercises the authority to insure mort-
5 gages under this subparagraph, subject to the
6 following requirements:

7 (i) IMPLEMENTATION.—The Board of
8 Directors may implement authority to in-
9 sure mortgages under this subparagraph
10 only if the Board—

11 (I) by a vote of the majority of
12 its members, approves such implemen-
13 tation for a specific disaster area
14 under clause (iii) and a specific dis-
15 aster period under clause (iv); and

16 (II) notifies the Congress and the
17 President in writing of such approval,
18 such disaster period, and such dis-
19 aster area not less than 30 days be-
20 fore the commencement of the dis-
21 aster period.

22 (ii) ELIGIBLE MORTGAGES.—The
23 FHA may insure, or make a commitment
24 to insure, a mortgage under authority
25 under this subparagraph only if—

1 (I) the mortgage is made for the
2 purchase of a principal residence by a
3 mortgagor whose home (that the
4 mortgagor occupied as an owner or
5 tenant) was located in a disaster area
6 described under clause (iii) and was
7 destroyed or damaged to such an ex-
8 tent that reconstruction is required,
9 as a result of a major disaster de-
10 clared by the President under the
11 Robert T. Stafford Disaster Relief
12 and Emergency Assistance Act; and

13 (II) the commitment for mort-
14 gage insurance is made during the
15 disaster period established under
16 clause (iv) for such disaster area.

17 (iii) DISASTER AREA.—A disaster
18 area may be established for purposes of
19 this subparagraph only for the area af-
20 fected by a major disaster, as declared by
21 the President under the Robert T. Stafford
22 Disaster Relief and Emergency Assistance
23 Act, or a portion of such area, as deter-
24 mined by the FHA.

1 (iv) DISASTER PERIOD.—A disaster
2 period established for purposes of this sub-
3 paragraph shall—

4 (I) commence upon or after the
5 declaration of the major disaster re-
6 ferred to in clause (iii); and

7 (v) terminate on the date certain
8 approved by the Board of Directors
9 under clause (i)(I) and contained in
10 the notice under clause (i)(II), which
11 shall not be later than 18 months
12 after the commencement of the period.

13 (b) CONFORMING AMENDMENTS.—Section 203(b) of
14 the National Housing Act (12 U.S.C. 1709(b)) is amend-
15 ed—

16 (1) by striking paragraph (2); and

17 (2) in paragraph (9)—

18 (A) by striking subparagraph (A); and

19 (B) in subparagraph (B), by striking “this
20 paragraph” and inserting “section 242(a)(2) of
21 the Protecting American Taxpayers and Home-
22 owners Act of 2018”.

23 **SEC. 203. RISK TRANSFER.**

24 (a) DEMONSTRATION MODEL.—

1 (1) IN GENERAL.—The Administrator shall an-
2 nually cede a portion of the risk with respect to the
3 mortgages insured by the FHA to the private rein-
4 surance or capital markets, or any combination
5 thereof, and at rates and terms that the Adminis-
6 trator determines to be reasonable and appropriate,
7 in an amount that—

8 (A) is sufficient to maintain the ability of
9 FHA to pay claims;

10 (B) manages and limits the annual expo-
11 sure of the funds managed by FHA; and

12 (C) is subject to market conditions.

13 (2) DEVELOPMENT AND IMPLEMENTATION.—

14 (A) TIMING.—The Administrator shall de-
15 velop and implement models and standards for
16 ceding of risk as required under paragraph (1)
17 not later than the expiration of the 24-month
18 period beginning upon the date of the enact-
19 ment of this Act.

20 (B) CONSULTATION WITH GINNIE MAE.—
21 In developing the models and standards under
22 subparagraph (A), the FHA shall consult with
23 the Government National Mortgage Association
24 and shall review such Association’s guidelines

1 relating to risk-sharing and other credit en-
2 hancement activities.

3 (b) QUALIFICATIONS OF RISK TRANSFER PART-
4 NERS.—

5 (1) ESTABLISHMENT.—The model and stand-
6 ards established under this section shall include
7 guidelines for the qualification of persons or entities
8 to participate in risk transfer and other credit en-
9 hancement activities with the FHA.

10 (2) PROCEDURES.—In establishing such guide-
11 lines, the FHA shall review the guidelines estab-
12 lished by the Director for qualification of persons or
13 entities to participate in risk transfer, risk-sharing,
14 and other credit enhancement activities with the
15 Federal National Mortgage Association or the Fed-
16 eral Home Loan Mortgage Corporation. The FHA
17 shall determine whether such guidelines for such en-
18 terprises are sufficient for purposes of the FHA, in-
19 cluding whether such guidelines meet the require-
20 ments under paragraph (3), and—

21 (A) if the FHA determines that such
22 guidelines are so sufficient, the FHA shall
23 adopt such guidelines for purposes of this sec-
24 tion, to the extent appropriate, with any
25 changes necessary to account for differences be-

1 tween the mortgages insured under this title
2 and the National Housing Act and the business
3 under such provisions and the business of such
4 enterprises; or

5 (B) if the FHA determines that such
6 guidelines are not so sufficient, the FHA shall
7 adopt such guidelines for purposes of this sec-
8 tion, to the extent appropriate and with changes
9 referred to in subparagraph (A), together with
10 additional criteria sufficient to address any
11 such insufficiency.

12 (3) CONTENT.—Such guidelines shall ensure
13 that—

14 (A) persons or entities participating in risk
15 transfer, risk-sharing, and other credit enhance-
16 ment activities pursuant to this section have
17 sufficient capital, credit worthiness, and liquid-
18 ity, and are otherwise capable of fulfilling their
19 obligations to the FHA;

20 (B) such persons or entities and their prin-
21 cipals or officers are not engaged in a business
22 the goals of which would conflict with the pur-
23 poses of the FHA or the National Housing Act;
24 for purposes of this section, private mortgage
25 insurance is not considered a business the goals

1 of which conflict with the purposes of the FHA
2 or the National Housing Act; and

3 (C) product or service delivery will be con-
4 ducted in a manner that is efficient and effec-
5 tive, and that will comply with the requirement
6 under section 521(d).

7 (c) RISK TRANSFER REQUIREMENT.—

8 (1) REQUIREMENT.—After the expiration of the
9 24-month period referred to in subsection (a)(2)(A),
10 the FHA shall ensure that, in each fiscal year, not
11 less than 10 percent of any new business in mort-
12 gages on 1- to 4-family residential property is in-
13 sured pursuant to a risk transfer agreement with re-
14 spect to such mortgage that complies with the stand-
15 ards established pursuant to subsection (a).

16 (2) LIMITATION.—In any fiscal year, the FHA
17 may not comply with paragraph (1) by entering into
18 risk transfer agreements with respect only to one or
19 a limited number of types or categories of mort-
20 gages, or mortgages having only particular, or a par-
21 ticular range of, original principal obligation
22 amounts, but shall enter into risk transfer agree-
23 ments for all types and amounts of mortgages in-
24 sured by the FHA, to the extent required under
25 paragraph (1).

1 (3) NEW BUSINESS.—For purposes of this sub-
2 section, with respect to a fiscal year, the term “new
3 business” means the aggregate dollar amount of the
4 principal obligations of mortgages for which a com-
5 mitment to insure is made pursuant to the National
6 Housing Act or this title, as applicable, during such
7 fiscal year.

8 (d) REPORTS TO CONGRESS.—Upon the expiration of
9 each of the 3- and 5-year periods beginning on the date
10 of the enactment of this Act, the FHA shall submit a re-
11 port to the Congress on the findings and results of risk
12 transfer activities under this section. Such reports shall
13 describe the model and standards for entering into risk
14 transfer agreements, analyze appropriate dollar amount
15 limits for the original principal obligations of mortgages
16 that should be subject to a risk transfer requirement, iden-
17 tify the effects of such risk transfer activities on the Mu-
18 tual Mortgage Insurance Fund, identify the effects of such
19 risk transfer activities with respect to the Government Na-
20 tional Mortgage Association, and make recommendations
21 regarding expanding the risk transfer requirement under
22 subsection (c).

23 (e) EFFECTIVE DATE.—This section shall take effect
24 on the date of the enactment of this Act. During the tran-
25 sition period under section 551, any reference in this sec-

1 tion to the FHA shall be construed to refer to the Sec-
2 retary of Housing and Urban Development to the extent
3 the Secretary has not delegated authority under this sec-
4 tion to the FHA pursuant to section 552(1).

5 **SEC. 204. PREMIUMS.**

6 (a) ESTABLISHMENT.—The FHA shall establish and
7 collect premium payments for mortgage insurance pro-
8 vided pursuant to this title and the amendments made by
9 this title, and shall provide for sharing of premiums with
10 entities entering into risk transfer agreements with the
11 FHA pursuant to section 203 based on the relative portion
12 of the mortgage insured and the risk of loss borne.

13 (b) MINIMUM PREMIUMS.—In the case of mortgages
14 on 1- to 4-family residential properties insured by the
15 FHA, the premiums established and collected by the FHA
16 shall include an annual premium payment payable during
17 the entire term of the mortgage, in the following amounts:

18 (1) LTV EQUAL TO OR EXCEEDING 80 PER-
19 CENT.—In the case of a mortgage for which the out-
20 standing principal obligation is equal to or exceeds
21 80 percent of the appraised value of the property,
22 the annual premium payment shall be an amount
23 that is not less than 0.55 percent of the remaining
24 insured principal balance (excluding the portion of
25 the remaining balance attributable to any premium

1 collected at the time of insurance and without taking
2 into account delinquent payments or prepayments),
3 as the FHA shall establish.

4 (2) LTV LESS THAN 80 PERCENT.—In the case
5 of a mortgage for which the outstanding principal
6 obligation is less than 80 percent of the appraised
7 value of the property, the annual premium payment
8 shall be an amount that is less than the amount of
9 the annual premium payment established pursuant
10 to paragraph (1), as the FHA shall establish.

11 (c) PROCEDURES.—The FHA shall establish guide-
12 lines and procedures for mortgagors to apply for reduc-
13 tions of premiums pursuant to subsection (b)(2) and to
14 submit evidence regarding the appraised value of the prop-
15 erty subject to the mortgage.

16 (d) SELF-SUFFICIENT OPERATIONS.—Notwith-
17 standing section 203(c) of the National Housing Act (12
18 U.S.C. 1709(c)) or any other provision of law, premium
19 rates established under this section shall be established in
20 amounts sufficient to cover—

21 (1) costs of providing mortgage insurance cov-
22 erage under this title;

23 (2) costs for administration, operations, man-
24 agement, and technology systems for the FHA for
25 carrying out this title;

1 (3) the capital ratio required for the Mutual
2 Mortgage Insurance Fund under section 216(b) and
3 under section 219 with respect to mortgage insur-
4 ance for mortgages on multifamily properties; and

5 (4) salaries and expenses for officers and per-
6 sonnel of the FHA.

7 (e) RISK-BASED PREMIUMS.—The FHA may, with
8 respect to mortgages on 1- to 4-family residential prop-
9 erties insured by the FHA, establish a mortgage insurance
10 premium structure involving a single premium payment
11 collected prior to the insurance of the mortgage or annual
12 payments (which may be collected on a periodic basis), or
13 both.

14 (f) DISTRIBUTIVE SHARES.—

15 (1) REQUIREMENT.—Upon any termination of
16 the insurance obligation of the Mutual Mortgage In-
17 surance Fund by payment of any mortgage insured
18 thereunder, which termination occurs after the expi-
19 ration of the 24-month period beginning on the date
20 of the enactment of this Act, the FHA shall dis-
21 tribute to the mortgagor a share of the Participating
22 Reserve Account of the Mutual Mortgage Insurance
23 Fund in such manner and amount as the Secretary
24 shall determine to be equitable and in accordance
25 with sound actuarial and accounting practice.

1 (2) AMOUNT.—In no event shall any distribut-
2 able share pursuant to paragraph (1) exceed the ag-
3 gregate scheduled annual premiums of the mort-
4 gagor to the year of termination of the insurance.

5 (3) STATUTE OF LIMITATIONS.—The Secretary
6 shall not distribute any share to an eligible mort-
7 gagor under this subsection beginning on the date
8 which is 6 years after the date the Secretary first
9 transmitted written notification of eligibility to the
10 last known address of the mortgagor, unless the
11 mortgagor has applied in accordance with proce-
12 dures prescribed by the Secretary for payment of the
13 share within the 6-year period.

14 (4) APPLICABILITY.—This subsection shall
15 apply with respect only to mortgages insured under
16 the Mutual Mortgage Insurance Fund after the date
17 of the enactment of this Act.

18 (g) SAVINGS PROVISION.—Nothing in this section
19 may be construed to affect premiums charged for mort-
20 gage insurance provided for mortgages insured before the
21 date of the enactment of this Act.

22 (h) LIMITATION.—Nothing in this section shall per-
23 mit or be construed to permit the FHA to apply different
24 premium rates to the same mortgage product during the

1 same time period based solely on the characteristics of the
2 mortgagor.

3 **SEC. 205. AFFORDABILITY REQUIREMENTS FOR MULTI-**
4 **FAMILY MORTGAGE INSURANCE.**

5 (a) IN GENERAL.—Notwithstanding any provision of
6 the National Housing Act or any other provision of law,
7 the FHA may not insure any mortgage on a residential
8 property having 5 or more dwelling units unless the prop-
9 erty complies with such affordability requirements as the
10 FHA shall establish to ensure that each such insured
11 mortgage contributes to the financing of affordable hous-
12 ing for low- and moderate-income families, including such
13 families in areas that the FHA determines to have high
14 housing costs.

15 (b) LIMITATION.—This section may not be construed
16 to require the FHA to establish or enforce annual income
17 verification or rent certification requirements for residen-
18 tial properties referred to in subsection (a).

19 **SEC. 206. EFFECTIVE DATE.**

20 This subtitle and the amendments made by this sub-
21 title, except for section 203, shall take effect upon the ex-
22 piration of the transition period under section 551.

1 **Subtitle B—Financial Safety and**
2 **Soundness**

3 **SEC. 211. AUTHORITY OF DIRECTOR.**

4 (a) DUTY.—The Director of the Federal Housing Fi-
5 nance Agency shall supervise and regulate the safety and
6 soundness of the FHA and the programs of the Rural
7 Housing Service of the Department of Agriculture for
8 housing loans made, insured, or guaranteed under title V
9 of the Housing Act of 1949, and it shall be the duty of
10 the Director to ensure that the FHA and such Rural
11 Housing Service programs are adequately capitalized and
12 operating safely.

13 (b) AUTHORITY.—The Director may make such de-
14 terminations, take such actions, and perform such func-
15 tions as the Director determines necessary to meet the re-
16 sponsibilities of the Director under this subtitle.

17 **SEC. 212. BUDGETS AND BUSINESS PLANS.**

18 (a) SUBMISSION OF BUSINESS-TYPE BUDGET.—In
19 each year, the FHA shall prepare and submit an annual
20 budget as required under section 9103 of title 31, United
21 States Code, and shall submit such budget to the Director
22 by a date sufficient to enable the Director to produce, pur-
23 suant to section 215(e) of this title, the credit subsidy cost
24 estimates that are required for the budget of the United

1 States Government under section 1105(a) of title 31,
2 United States Code.

3 (b) SUBMISSION OF BUDGET AND CREDIT COST ES-
4 TIMATES TO OMB.—For purposes of inclusion in the
5 budget of the United States Government, the FHA shall
6 submit the annual budget of the FHA and the annual
7 credit subsidy cost estimates produced pursuant to section
8 215(c) of this title to the Director of the Office of Manage-
9 ment and Budget.

10 (c) RESERVES.—

11 (1) ESTABLISHMENT.—Subject to sections 216
12 and 219, the FHA may establish any reserve that
13 the FHA determines is necessary for the business
14 operations of the FHA.

15 (2) AMOUNTS.—The FHA may hold as a re-
16 serve in any financing account, as defined in section
17 502 of the Congressional Budget Act of 1974 (2
18 U.S.C. 661a), such amounts as the FHA considers
19 necessary to comply with the capital requirements
20 established for the FHA under sections 216 and 219
21 of this title and to fulfill the purposes of this title.

22 **SEC. 213. ANNUAL BUSINESS PLAN.**

23 The FHA shall establish a business plan on an an-
24 nual basis and shall make such plan available for review
25 by the Director. Such plan shall specify the products and

1 operational strategy of the FHA, including plans to ad-
2 dress compliance with the safety and soundness require-
3 ments applicable to the FHA.

4 **SEC. 214. EXAMINATIONS, REPORTS, AND COST ESTIMATES.**

5 (a) EXAMINATIONS.—The Director shall conduct
6 such examinations of the FHA and the Rural Housing
7 Service programs referred to in section 211(a) as the Di-
8 rector determines necessary to evaluate the safety and
9 soundness of the FHA and such programs. Such examina-
10 tions shall be subject to and governed by subsections (c)
11 through (h) of section 1317 of the Federal Housing Enter-
12 prises Financial Safety and Soundness Act of 1992 (12
13 U.S.C. 4517), except that the last sentence of subsection
14 (c) shall not apply and any reimbursements referred to
15 in such sentence shall be made from amounts collected
16 under section 215 of this title.

17 (b) REPORTS.—The Director may require the FHA
18 and the Rural Housing Service to submit, within a reason-
19 able period of time, any regular or special report, data,
20 or other information whenever, in the judgment of the Di-
21 rector, such report, data, or information is necessary to
22 carry out the Director's responsibilities under this title.

23 (c) CREDIT SUBSIDY COST ESTIMATES.—

24 (1) IN GENERAL.—The Director shall produce
25 and submit to the Director of the Office of Manage-

1 ment and Budget the annual credit subsidy cost esti-
2 mates for the FHA and the Rural Housing Service
3 programs referred to in section 211(a) required for
4 the President's budget. Such estimates shall be con-
5 sistent with the estimates of performance generated
6 by the risk-based capital model developed in accord-
7 ance with section 217(b), and with the President's
8 economic forecast.

9 (2) UNIFIED ESTIMATES.—The annual credit
10 subsidy cost estimates produced under this sub-
11 section by the Director shall be reported on a unified
12 basis, which shall be based upon the business of the
13 FHA, and the Rural Housing Service programs re-
14 ferred to in section 211(a), as a whole.

15 (d) ANNUAL REPORT ON SAFETY AND SOUND-
16 NESS.—The Director shall submit an annual report to
17 Congress and the Director of the Office of Management
18 and Budget on the financial safety and soundness of the
19 FHA and the Rural Housing Service programs referred
20 to in section 211(a), as measured pursuant to this subtitle.

21 **SEC. 215. REIMBURSEMENT OF COSTS.**

22 (a) ASSESSMENT AND COLLECTION.—The Director
23 shall assess and collect from the FHA and the Secretary
24 of Agriculture annual assessments in such amounts deter-
25 mined by the Director as necessary to reimburse the Fed-

1 eral Housing Finance Agency for the reasonable costs and
2 expenses of the activities undertaken by such Agency to
3 carry out the duties of the Director under this subtitle,
4 including the costs of examination, enforcement, and over-
5 sight expenses.

6 (b) REQUIREMENTS.—Annual assessments imposed
7 by the Director shall be—

8 (1) imposed prior to October 1 of each year;

9 (2) allocated among the FHA and the Secretary
10 of Agriculture proportionally based on the costs and
11 expenses of the Agency of carrying out the duties
12 under this subtitle with respect to FHA and the
13 Rural Housing Service program referred to in sec-
14 tion 211(a), respectively;

15 (3) collected at such time or times during each
16 assessment year as determined necessary or appro-
17 priate by the Director; and

18 (4) treated in the same manner as provided
19 under section 1316(f) of the Federal Housing Enter-
20 prises Financial Safety and Soundness Act of
21 1992(12 U.S.C. 4516(f)) with respect to amounts
22 received by the Director from assessments under
23 section 1316 of such Act, except that amounts from
24 assessments under this section may be used only for

1 expenses of the Director and the Agency relating to
2 the functions and responsibilities under this subtitle.

3 **SEC. 216. MUTUAL MORTGAGE INSURANCE FUND CAPITAL**
4 **RESERVE.**

5 (a) SEGREGATION OF BOOKS.—To ensure accurate
6 determinations of the capital ratio under subsection (b)
7 of this section and such ratio under section 205(f) of the
8 National Housing Act, as amended by subsection (d) of
9 this section, the FHA shall establish separate accounts in
10 the Mutual Mortgage Insurance Fund and take such other
11 actions as may be necessary to segregate the following
12 amounts:

13 (1) Capital attributable to new business.

14 (2) Capital attributable to mortgages that be-
15 come insured before the expiration of the transition
16 period under section 551.

17 (b) CAPITAL RATIO FOR NEW BUSINESS.—The FHA
18 shall ensure that the account for the Mutual Mortgage In-
19 surance Fund that is established pursuant to subsection
20 (a)(1) of this section at all times maintains a capital ratio
21 of not less than 4.0 percent.

22 (c) DEFINITIONS.—For purposes of this section, the
23 following definitions shall apply:

24 (1) CAPITAL.—The term “capital” means the
25 economic net worth of the account of the Fund that

1 is established pursuant to subsection (a)(1) of this
2 section, as determined by the FHA under the annual
3 audit required under section 538 of the National
4 Housing Act (12 U.S.C. 1735f–16).

5 (2) CAPITAL RATIO.—The term “capital ratio”
6 means the ratio of capital to unamortized insurance-
7 in-force.

8 (3) ECONOMIC NET WORTH.—The term “eco-
9 nomic net worth” means the current cash available
10 to the account of the Fund that is established pursu-
11 ant to subsection (a)(1) of this section, plus the net
12 present value of all future cash inflows and outflows
13 expected to result from outstanding new business.

14 (4) FUND.—The term “Fund” means the Mu-
15 tual Mortgage Insurance Fund established under
16 section 205 of the National Housing Act (12 U.S.C.
17 1711).

18 (5) NEW BUSINESS.—The term “new business”
19 means mortgages that are obligations of the Mutual
20 Mortgage Insurance Fund that become insured by
21 the FHA after the expiration of the transition period
22 under section 551.

23 (6) UNAMORTIZED INSURANCE IN FORCE.—The
24 term “unamortized insurance-in-force” means the

1 remaining obligation on outstanding new business,
2 as estimated by the FHA.

3 (d) TREATMENT OF EXISTING CAPITAL RATIO.—
4 Paragraph (4) of section 205(f) of the National Housing
5 Act (12 U.S.C. 1711(f)(4)) is amended—

6 (1) in subparagraph (A), by striking “Mutual
7 Mortgage Insurance Fund” and inserting “account
8 of the Mutual Mortgage Insurance Fund that is es-
9 tablished pursuant to section 216(a)(2) of the Pro-
10 tecting American Taxpayers and Homeowners Act of
11 2018”;

12 (2) in subparagraph (C)—

13 (A) by striking “Fund” the first place such
14 term appears and inserting “account of the Mu-
15 tual Mortgage Insurance Fund that is estab-
16 lished pursuant to section 216(a)(2) of the Pro-
17 tecting American Taxpayers and Homeowners
18 Act of 2018”; and

19 (B) by striking “the Fund.” and inserting
20 the following: “such account that become in-
21 sured by the Secretary of Housing and Urban
22 Development (or the FHA, pursuant to subtitle
23 B of title II of the Protecting American Tax-
24 payers and Homeowners Act of 2018) before

1 the expiration of the transition period under
2 section 551 of such Act.”; and

3 (3) in subparagraph (D), by inserting before
4 the comma the following: “and become insured be-
5 fore the expiration of the transition period under
6 section 551 of the Protecting American Taxpayers
7 and Homeowners Act of 2018”.

8 **SEC. 217. CAPITAL CLASSIFICATIONS AND PERFORMANCE**

9 **MEASURES FOR MUTUAL MORTGAGE INSUR-**
10 **ANCE FUND.**

11 (a) CAPITAL CLASSIFICATION; EFFECT ON INSUR-
12 ANCE AUTHORITY.—

13 (1) ADEQUATELY CAPITALIZED.—At any time
14 that the capital ratio (as such term is defined in sec-
15 tion 216(c)(2) of this title) is greater than 4.0 per-
16 cent, the account for the Mutual Mortgage Insur-
17 ance Fund established pursuant to section 216(a)(1)
18 shall be classified as adequately capitalized for pur-
19 poses of this subtitle.

20 (2) UNDERCAPITALIZED.—At any time that the
21 capital ratio is greater than 0.0 percent and is less
22 than 4.0 percent, the account for the Mutual Mort-
23 gage Insurance Fund established pursuant to section
24 216(a)(1) shall be classified as undercapitalized for
25 purposes of this subtitle.

1 (3) SIGNIFICANTLY UNDERCAPITALIZED.—At
2 any time that the capital ratio is less than 0.0 per-
3 cent—

4 (A) the account for the Mutual Mortgage
5 Insurance Fund established pursuant to section
6 216(a)(1) shall be classified as significantly
7 undercapitalized for purposes of this subtitle;
8 and

9 (B) the Director may, pursuant to section
10 218(a)(1), take actions under section 218(b).

11 (4) QUARTERLY DETERMINATION OF CAPITAL
12 RATIO.—The Director shall determine the capital
13 ratio and the capital classification of the account for
14 the Mutual Mortgage Insurance Fund established
15 pursuant to section 216(a)(1) for purposes of this
16 subtitle not less frequently than each calendar quar-
17 ter.

18 (b) STRESS TEST.—

19 (1) IN GENERAL.—The Director shall develop a
20 risk-based capital model to determine the amount of
21 capital that is sufficient for the FHA to maintain
22 positive capital during a period of economic stress.
23 The model shall incorporate the assumptions under
24 paragraphs (2) and (3).

1 (2) CREDIT RISK.—For purposes of paragraph
2 (1), the Director shall assume that, during the pe-
3 riod of economic stress referred to in paragraph (1),
4 credit losses occur at a rate consistent with a nation-
5 wide economic recession of average severity based on
6 nationwide economic recessions since 1950.

7 (3) OTHER RISKS.—For purposes of paragraph
8 (1), the Director shall make assumptions about such
9 other aspects of the period of economic stress as the
10 Director determines are appropriate and consistent.

11 (4) TIMING.—Not later than the expiration of
12 the 180-day period beginning on the date of the en-
13 actment of this Act, the Director shall submit the
14 risk-based capital model developed pursuant to this
15 to the Congress. The Director may not implement or
16 otherwise employ such risk-based capital model be-
17 fore the expiration of the 120-day period beginning
18 upon the submission of such model to the Congress.

19 (c) CAPITAL RESTORATION PLAN REQUIREMENT.—
20 If the account for the Mutual Mortgage Insurance Fund
21 established pursuant to section 216(a)(1) is classified as
22 undercapitalized or significantly undercapitalized, the
23 FHA shall—

24 (1) submit to the Director a capital restoration
25 plan meeting the requirements of section 218(d) for

1 raising or restoring the capital of such account to an
2 amount not less than the amount required for such
3 account to be classified as adequately capitalized;
4 and

5 (2) upon approval by the Director, carry out
6 such plan.

7 If the Director disapproves a capital restoration plan sub-
8 mitted under this subsection, the Director shall convey in
9 writing reasons for such disapproval and shall provide for
10 the FHA to resubmit a revised plan for approval by the
11 Director.

12 **SEC. 218. ENFORCEMENT.**

13 (a) GROUND.—The Director may take actions under
14 subsection (b) only if—

15 (1) the account for the Mutual Mortgage Insur-
16 ance Fund established pursuant to section 216(a)(1)
17 is classified under section 217(a) as significantly
18 undercapitalized;

19 (2) the account for the Mutual Mortgage Insur-
20 ance Fund established pursuant to section 216(a)(1)
21 is classified under section 217(a) as undercapitalized
22 and—

23 (A) the FHA does not submit a capital
24 restoration plan that is substantially in compli-
25 ance with section 217(e) within the applicable

1 period, or the Director disapproves the capital
2 restoration plan submitted by the FHA; or

3 (B) the FHA has failed to make, in good
4 faith, reasonable efforts necessary to comply
5 with the capital restoration plan; or

6 (3) the FHA is engaging or has engaged, or the
7 Director has reasonable cause to believe that the
8 FHA is about to engage in—

9 (A) any conduct that is likely to threaten
10 the adequacy of the capital of the account for
11 the Mutual Mortgage Insurance Fund estab-
12 lished pursuant to section 216(a)(1);

13 (B) any failure to comply with any written
14 agreement entered into by the FHA with the
15 Director; or

16 (C) any failure to comply with any request
17 by the Director for a report, data, or informa-
18 tion under section 214(b).

19 (b) ACTIONS.—The Director may, under this sub-
20 section, require the FHA—

21 (1) to cease and desist from any conduct or ac-
22 tivity that—

23 (A) with respect to the account for the
24 Mutual Mortgage Insurance Fund established
25 pursuant to section 216(a)(1), is described in

1 paragraph (2) or (3) of subsection (a), or that
2 contributes to the condition described in sub-
3 section (a)(1); and

4 (B) with respect to any other Fund, con-
5 tributes to a failure to meet a capital reserve
6 requirement established pursuant to section
7 219(a) or is likely to threaten the adequacy of
8 the capital of such Fund; and

9 (2) to take corrective or remedial action, includ-
10 ing—

11 (A) restricting the growth of, or con-
12 tracting, any category of assets or liabilities;

13 (B) reducing, modifying, or terminating
14 any activity that the Director determines cre-
15 ates excessive risk to the FHA;

16 (C) terminating agreements or contracts;

17 (D) engaging or employing qualified em-
18 ployees (who may be subject to approval by the
19 Director at the direction of the Director); or

20 (E) submitting to the Director for review
21 and approval a detailed and complete operating
22 plan.

23 (c) REPORTS.—If the Director is authorized under
24 subsection (a) of this section or section 219(b) to take ac-
25 tion under subsection (b) of this section and determines

1 not to take any such action, the Director shall prepare
2 a report detailing the basis of the Director's decision not
3 to take such action and shall, within 30 days of the deci-
4 sion, submit the report to the President, the Director of
5 the Office of Management and Budget, the Comptroller
6 General of the United States, the Committee on Financial
7 Services of the House of Representatives, and the Com-
8 mittee on Banking, Housing, and Urban Affairs of the
9 Senate.

10 (d) CAPITAL RESTORATION PLANS.—A capital res-
11 toration plan submitted pursuant to section 217(c),
12 219(b), or 220(d)(3) shall—

13 (1) set forth a feasible plan for raising or re-
14 storing the capital of the Fund for which it is pre-
15 pared;

16 (2) specify the level of capital to be achieved
17 and maintained;

18 (3) be submitted to the Director within 45 days
19 from the date of notification, or if the Director de-
20 termines that an extension is necessary, within such
21 additional time as the Director so determines;

22 (4) describe the actions that the FHA shall
23 take for such Fund to become classified as ade-
24 quately capitalized;

1 (5) establish a schedule for completing the ac-
2 tions set forth in the plan; and

3 (6) specify the types and levels of activities (in-
4 cluding existing and new business activities) in
5 which the FHA shall engage during the term of the
6 plan.

7 **SEC. 219. CAPITAL RESERVE REQUIREMENTS FOR OTHER**
8 **FUNDS.**

9 (a) **REQUIREMENTS.**—The Director shall establish
10 capital reserve requirements for—

11 (1) the General Insurance Fund established
12 under section 519 of the National Housing Act (12
13 U.S.C. 1735c);

14 (2) the Special Risk Insurance Fund estab-
15 lished under section 238(b) of such Act (12 U.S.C.
16 1715z-3(b));

17 (3) the Cooperative Management Housing In-
18 surance Fund established under section 213(k) of
19 such Act (12 U.S.C. 1715e(k));

20 (4) the Rural Housing Insurance Fund estab-
21 lished under title V of the Housing Act of 1949 (42
22 U.S.C. 1471), or the various accounts of such Fund;
23 and

1 (5) the Home Equity Conversion Insurance
2 Fund established under section 255(s) of the Na-
3 tional Housing Act (12 U.S.C. 1715–20(s)).

4 (b) ENFORCEMENT.—The Director may enforce com-
5 pliance with the requirements under subsection (a) of this
6 section with respect to a Fund by taking action under sec-
7 tion 218(b) or by requiring submission of a capital res-
8 toration plan for such Fund meeting the requirements of
9 section 218(d).

10 **SEC. 220. AUTHORITY TO ESTABLISH TEMPORARY CAPITAL**
11 **RATIOS IN CASES OF NATIONWIDE COUNTER-**
12 **CYCLICAL MARKET ADJUSTMENT.**

13 (a) AUTHORITY; DETERMINATION.—The Director
14 may suspend the applicability of the capital ratio under
15 section 716(b) for the Mutual Mortgage Insurance Fund
16 or any capital reserve requirement established pursuant
17 to section 219 for any Fund specified under such section
18 and establish a temporary alternative capital ratio with
19 respect to such Fund for a specified period of time, but
20 only upon a determination by the Board, in consultation
21 with the Chief Risk Officer, that—

22 (1) available credit throughout the United
23 States or a significant portion of the United States
24 for the purchase of the types of residences for which
25 mortgages that obligations of such Fund are made

1 has contracted significantly, as measured by the
2 credit availability measure of the Office of the
3 Comptroller of the Currency;

4 (2) housing prices throughout the United States
5 or a significant portion of the United States have
6 declined significantly, as measured by the applicable
7 housing price index of the Federal Housing Finance
8 Agency; or

9 (3) available credit for the purchase of housing
10 or such other economic conditions exist sufficient to
11 evidence a significant contraction of capital through-
12 out the United States or a significant portion of the
13 United States, as measured by a metric identified by
14 the Director and the Chief Risk Officer in a written
15 notice made publicly available, and provided to the
16 Congress, in advance of such determination.

17 (b) CONDITIONS OF TERMINATION.—Upon making a
18 determination under subsection (a), the Board, after con-
19 sultation with the Chief Risk Officer, shall also identify
20 measurable criteria for determining that the conditions de-
21 termined under subsection (a) have ceased to exist.

22 (c) NOTICE TO CONGRESS.—Upon making a deter-
23 mination under subsection (a), the Board, after consulta-
24 tion with the Chief Risk Officer, shall provide written no-

1 tice to the Congress of such determination and the specific
2 measurable criteria identified pursuant to subsection (b).

3 (d) EFFECT OF TEMPORARY ALTERNATIVE CAPITAL
4 RATIO.—During any period that a temporary alternative
5 capital ratio is in effect pursuant to subsection (a) with
6 respect to any Fund—

7 (1) in the case of a temporary capital ratio for
8 the Mutual Mortgage Insurance Fund, subsections
9 (a) and (c) of section 217 and section 218 shall not
10 apply;

11 (2) such temporary and alternative capital clas-
12 sifications as the Director shall establish shall be in
13 effect with respect to such Fund; and

14 (3) the Director shall require the FHA to sub-
15 mit and carry out a capital restoration plan for such
16 Fund meeting the requirements under section
17 218(d) and may take actions under section 218(b)
18 with respect to such Fund only in accordance with
19 such standards relating to such temporary and alter-
20 native capital classifications for such Fund as the
21 Director shall establish.

22 (e) TERMINATION.—Any temporary alternative cap-
23 ital ratio established pursuant to subsection (a) shall ter-
24minate upon the earlier of—

1 (1) the expiration of the 18-month period begin-
2 ning upon the date that notification under sub-
3 section (c) is provided to the Congress of the deter-
4 mination under subsection (a); or

5 (2) the occurrence of the conditions identified
6 pursuant to subsection (b).

7 (f) **MULTIPLE DETERMINATIONS.**—Nothing in this
8 section may be construed to prevent multiple or consecu-
9 tive periods during which temporary alternative capital ra-
10 tios are in effect pursuant to this section.

11 **SEC. 221. 7-YEAR BORROWER SUSPENSION FOR FORE-**
12 **CLOSURE.**

13 (a) **FHA.**—

14 (1) **IN GENERAL.**—Except as provided in para-
15 graph (2), with respect to any mortgage on a 1- to
16 4-family residential property that is foreclosed upon,
17 during the 7-year period beginning upon the date of
18 such foreclosure, the FHA may not newly insure,
19 under any provision of this title, the National Hous-
20 ing Act, or any FHA program, any other mortgage
21 under which the mortgagor is the individual who was
22 the mortgagor under the mortgage that was fore-
23 closed upon.

24 (2) **WAIVER.**—The FHA shall provide, by regu-
25 lation, for the FHA to waive the applicability of

1 paragraph (1) with respect to a mortgagor in cases
2 in which hardship circumstances materially contrib-
3 uted to the default and foreclosure of the mortgage.
4 For purposes of this subsection, such hardship cir-
5 cumstances may include divorce, job or other income
6 loss, health problems, death in the family, and such
7 other situations as the FHA may prescribe.

8 (b) RURAL HOUSING.—Section 505 of the Housing
9 Act of 1949 (42 U.S.C. 1475) is amended by adding at
10 the end the following new subsection:

11 “(c) 7-YEAR BORROWER SUSPENSION FOR FORE-
12 CLOSURE.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), with respect to any mortgage on a 1- to
15 4-family residential property that is foreclosed upon,
16 during the 7-year period beginning upon the date of
17 such foreclosure, the Secretary may not newly make,
18 insure, or guarantee, under any provision of this
19 title, any other loan under which the borrower is in-
20 dividual who was the mortgagor under the mortgage
21 that was foreclosed upon.

22 “(2) WAIVER.—The Secretary shall provide, by
23 regulation, for waiver of the applicability of para-
24 graph (1) with respect to a borrower in cases in
25 which hardship circumstances materially contributed

1 to the default and foreclosure of the mortgage. For
2 purposes of this subsection, such hardship cir-
3 cumstances may include divorce, job or other income
4 loss, health problems, death in the family, and such
5 other situations as the Secretary may prescribe.”.

6 (c) REGULATIONS.—The FHA and the Secretary of
7 Agriculture shall jointly issue regulations required under
8 subsection (a) of this section and section 505(c) of the
9 Housing Act of 1949, as added by subsection (b) of this
10 section.

11 **SEC. 222. BORROWER INELIGIBILITY UPON SECOND FORE-**
12 **CLOSURE.**

13 (a) FHA.—If any individual is the mortgagor under
14 any two mortgages on 1- to 4-family residential properties
15 that have been foreclosed upon, the FHA may not newly
16 insure, under any provision of this title, the National
17 Housing Act, or any FHA program, any other mortgage
18 under which such individual is the mortgagor.

19 (b) RURAL HOUSING.—Section 505 of the Housing
20 Act of 1949 (42 U.S.C. 1475), as amended by the pre-
21 ceding provisions of this title, is further amended by add-
22 ing at the end the following new subsection:

23 “(d) BORROWER INELIGIBILITY UPON SECOND
24 FORECLOSURE.—If any individual is the mortgagor under
25 any two mortgages for 1- to 4-family residential properties

1 that have been foreclosed upon, the Secretary may not
2 newly make, insure, or guarantee, under any provision of
3 this title, any other loan under which such individual is
4 the borrower.”.

5 **SEC. 223. LIMITATION ON SELLER CONCESSIONS.**

6 (a) FHA.—The FHA may not newly insure, under
7 any provision of this title, the National Housing Act, or
8 any FHA program, any mortgage on a 1- to 4-family resi-
9 dential property with respect to which the seller of the
10 property subject to such mortgage (or any third party or
11 entity that is reimbursed directly or indirectly by the sell-
12 er) contributes toward the acquisition of the property by
13 the mortgagor any amount in excess of 3 percent of the
14 lesser of the sale price of the property or the appraised
15 value of the property as of the time of such sale.

16 (b) RURAL HOUSING.—Section 501 of the Housing
17 Act of 1949 (42 U.S.C. 1471), as amended by the pre-
18 ceding provisions of this title, is further amended by add-
19 ing at the end the following new subsection:

20 “(n) LIMITATION ON SELLER CONCESSIONS.—The
21 Secretary may not newly make, insure, or guarantee,
22 under any provision of this title, any loan for a 1- to 4-
23 family residential property with respect to which the seller
24 of the property for which the loan is made (or any third
25 party or entity that is reimbursed directly or indirectly by

1 the seller) contributes toward the acquisition of the prop-
2 erty by the borrower any amount in excess of 3 percent
3 of the lesser of the sale price of the property or the ap-
4 praised value of the property as of the time of such sale.”.

5 **SEC. 224. LENDER REPURCHASE REQUIREMENT.**

6 (a) REQUIREMENT.—The FHA may not newly in-
7 sure, under any provision of this title, the National Hous-
8 ing Act, or any FHA program, any mortgage on a 1- to
9 4-family residential property unless the mortgagee under
10 such mortgage enters into such binding agreements as the
11 FHA considers necessary to ensure that, if the mortgagor
12 is in default with respect to the mortgagor’s obligation to
13 make payments under the mortgage for 60 or more con-
14 secutive days during the 6-month period beginning upon
15 origination of the mortgage, the mortgagee will, except as
16 provided pursuant to subsection (b) and upon notice by
17 the FHA, repurchase such mortgage in an amount equal
18 to the remaining principal obligation under the mortgage,
19 as determined in accordance with guidelines issued by the
20 FHA.

21 (b) EXCEPTION.—The FHA shall provide, by regula-
22 tion, for the FHA to waive the applicability of any binding
23 agreements regarding repurchase of a mortgage entered
24 into by a mortgagee pursuant to subsection (a) in cases
25 in which hardship circumstances for the mortgagor mate-

1 rially contributed to the default of the mortgage. For pur-
2 poses of this subsection, such hardship circumstances may
3 include divorce, job or other income loss, health problems,
4 death in the family, and such other situations as the FHA
5 may prescribe.

6 (c) EFFECTIVE DATE.—This section shall take effect
7 on the date of the enactment of this Act. During the tran-
8 sition period under section 551, any reference in this sec-
9 tion to the FHA shall be construed to refer to the Sec-
10 retary of Housing and Urban Development to the extent
11 the Secretary has not delegated authority under this sec-
12 tion to the FHA pursuant to section 552(1).

13 **SEC. 225. INDEMNIFICATION BY MORTGAGEES.**

14 (a) IN GENERAL.—If the FHA determines that at or
15 before the time of loan closing the mortgagee knew, or
16 should have known based on the information then reason-
17 ably available to the mortgagee, of a serious and material
18 violation of the requirements established by the FHA with
19 respect to a mortgage executed after the date of the enact-
20 ment of this Act by such mortgagee approved by the FHA
21 under the direct endorsement program or insured by a
22 mortgagee pursuant to the delegation of authority under
23 section 256 of the National Housing Act (12 U.S.C.
24 1715z–21) such that the mortgage loan should not have
25 been approved and endorsed for insurance, and the FHA

1 pays an insurance claim with respect to the mortgage
2 within a reasonable period specified by the FHA, the FHA
3 may require the mortgagee approved by the FHA under
4 the direct endorsement program or the mortgagee dele-
5 gated authority under such section 256 to indemnify the
6 FHA for the loss, or any portion thereof, if the violation
7 was a materially contributing factor to the cause of the
8 mortgage default.

9 (b) FRAUD OR MATERIAL MISREPRESENTATION.—If
10 fraud or material misrepresentation was involved in con-
11 nection with the origination or underwriting of a mortgage
12 executed after enactment by the mortgagee and the FHA
13 determines that at or before the time of loan closing such
14 mortgagee knew or should have known, based on the infor-
15 mation then reasonably available to such mortgagee, of the
16 fraud or material misrepresentation such that the mort-
17 gage loan should not have been approved and endorsed
18 for insurance, the FHA shall require the mortgagee ap-
19 proved by the FHA under the direct endorsement program
20 or the mortgagee delegated authority under such section
21 256 to indemnify the FHA for the loss, or any portion
22 thereof, if the fraud or material misrepresentation was a
23 materially contributing factor to the cause of the mortgage
24 default.

1 (c) APPEALS PROCESS.—The FHA shall, by regula-
2 tion, establish an appeals process for mortgagees to appeal
3 indemnification determinations made pursuant to sub-
4 section (a) or (b).

5 (d) REQUIREMENTS AND PROCEDURES.—The FHA
6 shall issue regulations establishing appropriate require-
7 ments and procedures governing the indemnification of the
8 FHA by the mortgagee, including public reporting on—

9 (1) the number of loans that—

10 (A) were not originated or underwritten in
11 accordance with the requirements established by
12 the FHA;

13 (B) involved fraud or material misrepre-
14 sentation in connection with the origination or
15 underwriting that was a material contributing
16 factor to the cause of the mortgage default; and

17 (C) the financial impact on the Mutual
18 Mortgage Insurance Fund when indemnification
19 is required.

20 (e) QUALITY CONTROL AND ASSURANCE.—

21 (1) MANUAL.—The FHA shall, pursuant to its
22 existing regulatory authority, issue and update an-
23 nually a manual, handbook, or guide that collects all
24 of the origination and underwriting requirements
25 that a mortgagee must follow to make residential

1 mortgage loans eligible for insurance by the FHA
2 which shall—

3 (A) provide clear and concise directions so
4 that a mortgagee can reasonably know what is
5 expected of it;

6 (B) identify examples of specific serious
7 and material violations that could be the basis
8 for an indemnification demand under this sec-
9 tion;

10 (C) apply nationally and be interpreted by
11 the FHA uniformly with respect to all mort-
12 gages endorsed for insurance; and

13 (D) permit prospective changes with rea-
14 sonable advance notice to mortgagees, which
15 such changes must be incorporated into the fol-
16 lowing year's revised version of the manual,
17 handbook, or guide and may not provide for
18 retroactive changes to mortgages previously en-
19 dored for insurance.

20 (2) REQUIREMENTS.—The FHA shall—

21 (A) make prompt initial determinations of
22 a mortgagee's potential liability for either in-
23 demnification under this section or other ad-
24 ministrative remedies or sanctions that may be
25 available under the National Housing Act or

1 other applicable laws, based on either self-re-
2 ports by the mortgagee or other findings by the
3 FHA through its examination processes of po-
4 tential serious and material violations of such
5 origination and underwriting requirements es-
6 tablished under paragraph (1) or other fraud
7 and material misrepresentations;

8 (B) promptly notify the mortgagee of such
9 initial determination and afford the lender the
10 opportunity to provide additional information
11 and analysis before a final determination is
12 made; and

13 (C) not pursue indemnification under sub-
14 sections (a) and (b) with respect to those mort-
15 gages reviewed under this subsection unless an
16 initial determination of mortgagee liability is
17 made and communicated to the mortgagee with-
18 in six months of the FHA's receipt of informa-
19 tion that is reasonably sufficient to enable the
20 FHA to determine initially that a serious and
21 material violation or fraud or material mis-
22 representation may have occurred.

23 (f) EFFECTIVE DATE.—This section shall take effect
24 on the date of the enactment of this Act. During the tran-
25 sition period under section 551, any reference in this sec-

1 tion to the FHA shall be construed to refer to the Sec-
2 retary of Housing and Urban Development to the extent
3 the Secretary has not delegated authority under this sec-
4 tion to the FHA pursuant to section 552(1).

5 **SEC. 226. PROHIBITIONS RELATING TO USE OF POWER OF**
6 **EMINENT DOMAIN.**

7 (a) FHA.—

8 (1) IN GENERAL.—Notwithstanding any other
9 provision of law, the FHA may not newly insure,
10 under any provision of this title, the National Hous-
11 ing Act, or any FHA program, any mortgage that
12 is secured by a structure or dwelling unit that is lo-
13 cated within a county that contains any structure or
14 dwelling unit that secures or secured a residential
15 mortgage loan which mortgage loan was obtained by
16 the State during the preceding 120 months by exer-
17 cise of the power of eminent domain.

18 (2) DEFINITIONS.—For purposes of this para-
19 graph, the following definitions shall apply:

20 (A) RESIDENTIAL MORTGAGE LOAN.—The
21 term “residential mortgage loan” means a
22 mortgage loan that is evidenced by a promis-
23 sory note and secured by a mortgage, deed of
24 trust, or other security instrument on a residen-
25 tial structure or a dwelling unit in a residential

1 structure. Such term includes a first mortgage
2 or any subordinate mortgage.

3 (B) STATE.—The term “State” includes
4 the District of Columbia, the Commonwealth of
5 Puerto Rico, and any territory or possession of
6 the United States, and includes any agency or
7 political subdivision of a State.

8 (b) RURAL HOUSING.—Section 501 of the Housing
9 Act of 1949 (42 U.S.C. 1471), as amended by the pre-
10 ceding provisions of this title, is further amended by add-
11 ing at the end the following new subsection:

12 “(o) PROHIBITION RELATING TO USE OF POWER OF
13 EMINENT DOMAIN.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of law, the Secretary may not newly guar-
16 antee, make, or insure under this title any mortgage
17 that is secured by a structure or dwelling unit that
18 is located within a county that contains any struc-
19 ture or dwelling unit that secures or secured a resi-
20 dential mortgage loan which mortgage loan was ob-
21 tained by the State during the preceding 120
22 months by exercise of the power of eminent domain.

23 “(2) DEFINITIONS.—For purposes of this sub-
24 section, the following definitions shall apply:

1 “(A) RESIDENTIAL MORTGAGE LOAN.—

2 The term ‘residential mortgage loan’ means a
3 mortgage loan that is evidenced by a promis-
4 sory note and secured by a mortgage, deed of
5 trust, or other security instrument on a residen-
6 tial structure or a dwelling unit in a residential
7 structure. Such term includes a first mortgage
8 or any subordinate mortgage.

9 “(B) STATE.—The term ‘State’ has the
10 meaning given such term in section 502(h)(12),
11 and includes any agency or political subdivision
12 of a State.”.

13 (c) EFFECTIVE DATE.—

14 (1) IN GENERAL.—This section and the amend-
15 ment made by this section shall take effect on the
16 date of the enactment of this Act.

17 (2) TRANSITION PERIOD.—During the transi-
18 tion period under section 551—

19 (A) any reference in subsection (a) to the
20 FHA shall be construed to refer to the Sec-
21 retary of Housing and Urban Development to
22 the extent such Secretary has not delegated au-
23 thority under subsection (a) to the FHA pursu-
24 ant to section 552(1); and

1 (B) any reference in section 501(o) of the
2 Housing Act of 1949 to the Secretary shall be
3 construed to refer to the FHA to the extent the
4 Secretary has delegated authority under such
5 section 501(o) pursuant to section 552(4).

6 **SEC. 227. RESIDUAL INCOME REQUIREMENT.**

7 (a) IN GENERAL.—The FHA may not newly insure,
8 under any provision of this title, the National Housing
9 Act, or title V of the Housing Act of 1949, or under any
10 FHA program, any mortgage on a 1- to 4-family residen-
11 tial property unless the mortgagor under such mortgage
12 meets such requirements as the FHA shall, by regulation,
13 establish to ensure that the mortgagor has sufficient resid-
14 ual income.

15 (b) RESIDUAL INCOME.—For purposes of this sec-
16 tion, the term “residual income” means, with respect to
17 a mortgagor, the net monthly income of the mortgagor,
18 as provided by regulation by the FHA, after taking into
19 consideration—

20 (1) any assets of the mortgagor other than the
21 property subject to such mortgage; and

22 (2) any monthly obligations of the mortgagor
23 with respect to mortgage payments, insurance pay-
24 ment, and taxes for the property subject to the
25 mortgage, income and other taxes, maintenance, and

1 utility expenses for the property, child care expenses,
2 auto, consumer, and any other debt obligations, ali-
3 mony and child support expenses, and such other ex-
4 penses as the FHA may provide.

5 (c) EFFECTIVE DATE.—This section shall take effect
6 on the date of the enactment of this Act. During the tran-
7 sition period under section 551, any reference in this sec-
8 tion to the FHA shall be construed to refer to the Sec-
9 retary of Housing and Urban Development to the extent
10 the Secretary has not delegated authority under this sec-
11 tion to the FHA pursuant to section 552(1).

12 **SEC. 228. EFFECTIVE DATE.**

13 This subtitle and the amendments made by this sub-
14 title (except for sections 224, 225, 226, and 227, and any
15 amendments made by such sections) shall take effect upon
16 the expiration of the transition period under section 661.

17 **Subtitle C—Miscellaneous**

18 **SEC. 241. RULE OF CONSTRUCTION.**

19 Notwithstanding any other evidence of the intent of
20 the Congress, it is hereby declared to be the intent of Con-
21 gress that the provisions of this title shall be construed
22 broadly to achieve the purposes of the title, and the provi-
23 sions of any other Act that must be construed with any
24 provision of this title shall similarly be construed to
25 achieve the purposes of this title to the extent reasonably

1 possible. This section shall take effect on the date of the
2 enactment of this Act.

3 **SEC. 242. DEFINITIONS.**

4 For purposes of this title, the following definitions
5 shall apply:

6 (1) BOARD.—The term “Board” means the
7 Board of Directors of the FHA established under
8 section 524.

9 (2) DIRECTOR.—The term “Director” means
10 the Director of the Federal Housing Finance Agen-
11 cy.

12 (3) FHA.—The term “FHA” means the Fed-
13 eral Housing Administration established under this
14 title.

15 (4) FIRST-TIME HOMEBUYER.—The term “first-
16 time homebuyer” means an individual who meets
17 any of the following criteria:

18 (A) An individual, and his or her spouse,
19 who has never had ownership in a principal res-
20 idence, as evidenced by inclusion of such indi-
21 vidual’s name on a mortgage, title, or deed in
22 connection with such ownership.

23 (B) A single parent (as such term is de-
24 fined in section 956 of the Cranston-Gonzalez
25 National Affordable Housing Act (42 U.S.C.

1 12713)) who has only owned a principal resi-
2 dence with a former spouse while married.

3 (C) An individual who is divorced, whose
4 only ownership in a principal residence was to-
5 gether with a previous spouse, as evidenced by
6 inclusion of such individual's name on a mort-
7 gage, title, or deed in connection with such
8 ownership.

9 (D) An individual who is a displaced home-
10 maker (as such term is defined in such section
11 956 of the Cranston-Gonzalez National Afford-
12 able Housing Act) and has only owned a prin-
13 cipal residence with a spouse.

14 (E) An individual who has only owned a
15 principal residence not permanently affixed to a
16 permanent foundation in accordance with appli-
17 cable regulations.

18 (F) An individual who has only owned a
19 property that was not in compliance with state,
20 local or model building codes and which cannot
21 be brought into compliance for less than the
22 cost of constructing a permanent structure.

23 (5) NATIVE AMERICAN GOVERNMENT.—The
24 term “Native American government” means the gov-
25 ernment of any Indian or Alaska native tribe, band,

1 nation, pueblo, village or community that the Sec-
2 retary of the Interior acknowledges to exist as an In-
3 dian Tribe, pursuant to the Federally Recognized
4 Indian Tribe List Act of 1994.

5 (6) UNITED STATES.—The term “United
6 States” includes the States, the District of Colum-
7 bia, the Commonwealth of Puerto Rico, the Com-
8 monwealth of the Northern Mariana Islands, Guam,
9 the Virgin Islands, American Samoa, and Native
10 American governments.

11 **TITLE III—DEVELOPMENT AND**
12 **DEPLOYMENT OF A MORT-**
13 **GAGE SECURITY MARKET EX-**
14 **CHANGE, DATA REPOSITORY,**
15 **AND COVERED BOND MARKET**

16 **SEC. 301. PURPOSES.**

17 The purposes of the national mortgage security mar-
18 ket exchange created by this title are—

19 (1) to enhance efficiency, liquidity, and security
20 in the secondary market for residential mortgages,
21 including mortgage-backed securities;

22 (2) to establish standards related to originating
23 and servicing eligible collateral and for issuers and
24 trustees of qualified securities, which would be ex-
25 empt from the Securities Act of 1933;

1 (3) to improve uniformity, quality and accessi-
2 bility of information related to the performance of
3 residential mortgage loans;

4 (4) to operate a common securitization platform
5 that could be available to issuers of residential mort-
6 gage-backed securities;

7 (5) to foster the use and uniformity of elec-
8 tronic methods for the creation, authentication,
9 transmission, storage, and availability of materials
10 relating to mortgages;

11 (6) to provide a central repository for notes,
12 mortgages, and other mortgage-related information,
13 and address problems that can arise when paper
14 notes cannot be produced, due to loss or destruction
15 as a result of natural disaster or other causes; and

16 (7) to provide a uniform procedure for dem-
17 onstrating the right to act with regard to such notes
18 or other registered data for all actions in any State
19 or Federal proceeding, judicial or nonjudicial, involv-
20 ing such notes or other data.

21 **SEC. 302. DEFINITIONS.**

22 For purposes of this title, the following definitions
23 shall apply:

24 (1) **AFFILIATE.**—With respect to the Exchange,
25 the term “affiliate” means any entity that controls,

1 is controlled by, or is under common control with,
2 the Exchange.

3 (2) AGENCY.—The term “Agency” means the
4 Federal Housing Finance Agency.

5 (3) COMMON SECURITIZATION PLATFORM;
6 PLATFORM.—The terms “Common Securitization
7 Platform” and “Platform” mean the securitization
8 platform first described by the paper issued by the
9 Agency on October 4, 2012, entitled “Building a
10 New Infrastructure for the Secondary Mortgage
11 Market”, and updated in subsequent documents re-
12 leased by the Agency, including annual strategic
13 plans for the conservatorship of the enterprises and
14 annual conservatorship scorecards.

15 (4) COMMON SECURITIZATION SOLUTIONS.—
16 The term “Common Securitization Solutions” means
17 Common Securitization Solutions, LLC, the joint
18 venture formed by the enterprises in October 2013,
19 or any successor to Common Securitization Solu-
20 tions, LLC, that is a joint venture of the enterprises.

21 (5) DEPOSITOR.—The term “depositor”
22 means—

23 (A) any person authorized to submit docu-
24 ments or data for registration with the Reposi-
25 tory; and

1 (B) any person qualified pursuant to sec-
2 tion 331 (relating to organization and operation
3 of the Repository) to inform the Repository
4 of—

5 (i) newly identified interest holders,
6 whether through creation, assignment, or
7 transfer; or

8 (ii) changes to interests of existing
9 holders, including through modification,
10 amendment, or restatement of, or dis-
11 charge related to, any registered mortgage-
12 related document.

13 (6) DIRECTOR.—The term “Director” means
14 the Director of the Federal Housing Finance Agen-
15 cy.

16 (7) ELIGIBLE COLLATERAL.—The term “eligi-
17 ble collateral” means a residential mortgage loan
18 that meets any standard for mortgage classification
19 established pursuant to section 322 (relating to
20 standards for qualified securities).

21 (8) ENTERPRISE.—The term “enterprise”
22 means—

23 (A) the Federal National Mortgage Asso-
24 ciation and any affiliate thereof, and

1 (B) the Federal Home Loan Mortgage
2 Corporation and any affiliate thereof.

3 (9) EXCHANGE.—The term “Exchange” means
4 the mortgage security market exchange established
5 under section 311.

6 (10) EXCHANGE-AFFILIATED PARTY.—The
7 term “exchange-affiliated party” means—

8 (A) any director, officer, employee or con-
9 trolling shareholder of, or agent for, the Ex-
10 change;

11 (B) any shareholder, affiliate, consultant,
12 or joint venture partner of the Exchange, and
13 any other person, as determined by the Director
14 (by regulation or on a case-by-case basis) that
15 participates in the conduct of the affairs of the
16 Exchange; and

17 (C) any independent contractor of the Ex-
18 change (including any attorney, appraiser or ac-
19 countant) if—

20 (i) the independent contractor know-
21 ingly or recklessly participates in any viola-
22 tion of law or regulation, any breach of fi-
23 duciary duty, or any unsafe or unsound
24 practice; and

1 (ii) such violation, breach or practice
2 caused, or is likely to cause, more than a
3 minimal financial loss to, or a significant
4 adverse effect on, the Exchange.

5 (11) MORTGAGE-RELATED DOCUMENT.—The
6 term “mortgage-related document” means any docu-
7 ment or other information or data related to the use
8 of residential real estate as security for a loan, in-
9 cluding documents establishing an obligation to
10 repay a loan secured by residential real estate, es-
11 tablishing a security interest in real estate (so long
12 as such security interest has first been recorded or
13 registered under State law to establish the priority
14 of such interest), establishing the value of the real
15 estate at the time the security interest is created,
16 and insuring clear title to residential real estate
17 pledged as security, or as the Director by regulation
18 may define. Such documents may include electronic
19 documents.

20 (12) ORGANIZER.—The term “organizer”
21 means the person or entity that establishes the Ex-
22 change.

23 (13) PARTICIPANT.—The term “participant”
24 means any person authorized to use data maintained

1 or created by the Repository that is not otherwise
2 available to the public.

3 (14) REPOSITORY.—The term “Repository”
4 means the national mortgage data repository orga-
5 nized under section 331.

6 (15) TRANSFER DATE.—The term “Transfer
7 Date” means the date established under section
8 315(b).

9 (16) TRANSITION PERIOD.—The term “Transi-
10 tion Period” means the period beginning on the date
11 of the enactment of this Act and ending on the
12 Transfer Date.

13 **Subtitle A—Establishment and** 14 **Authority of the Exchange**

15 **SEC. 311. ESTABLISHMENT.**

16 (a) AUTHORITY OF DIRECTOR.—Under such regula-
17 tions as the Director may prescribe, the Director shall pro-
18 vide for the organization, incorporation, examination, op-
19 eration, and regulation of a Mortgage Security Market Ex-
20 change (“Exchange”). The Exchange shall be organized,
21 operated, and managed as a not-for-profit entity.

22 (b) FORMATION OF EXCHANGE; APPLICATION.—

23 (1) FORMATION.—Subject to the terms of this
24 subtitle and any regulations issued by the Director,
25 a person or entity may file an application with the

1 Director to establish the Exchange. The Exchange
2 may be established as a corporation, mutual associa-
3 tion, partnership, limited liability corporation, coop-
4 erative, or any other organizational form that the
5 applicant may deem appropriate.

6 (2) CONTENTS OF APPLICATION.—An applica-
7 tion for establishment of the Exchange shall in-
8 clude—

9 (A) the proposed articles of association;

10 (B) a statement of the general object and
11 purpose of the Exchange, consistent with the
12 provisions of this subtitle;

13 (C) the proposed capitalization and busi-
14 ness plan for the Exchange;

15 (D) the proposed State whose law would
16 govern, by election of the applicant, the oper-
17 ation of the Exchange to the extent not other-
18 wise covered by this subtitle;

19 (E) information on the financial resources
20 of the applicant;

21 (F) a statement of the relevant housing fi-
22 nance experience of the applicant;

23 (G) identification of the proposed senior
24 managers of the Exchange, and the relevant ex-
25 perience of such individuals; and

1 (H) any other information the Director de-
2 termines to be necessary to evaluate the back-
3 ground, experience, and integrity of the appli-
4 cant and the proposed senior managers, or in-
5 formation otherwise relevant to determine the
6 likely success of the proposed Exchange.

7 (3) DIRECTORS.—The Exchange shall be gov-
8 erned by a board of directors—

9 (A) a majority of which have experience in
10 housing and housing finance businesses;

11 (B) at least one of which shall have knowl-
12 edge of smaller financial institutions; and

13 (C) at least one of which shall have knowl-
14 edge of residential mortgage securitization in-
15 vesting.

16 (4) SELECTION OF APPLICANT.—The Director
17 shall select the applicant to establish the Exchange
18 that the Director determines, in the Director’s sole
19 discretion, has the managerial, financial, and oper-
20 ational resources to succeed, consistent with the pur-
21 poses of this subtitle

22 (c) STATUS.—

23 (1) NOT A FEDERAL GOVERNMENT INSTRUMEN-
24 TALITY.—The Exchange is not, and shall not be

1 deemed to be, a department, agency, or instrumen-
2 tality of the United States Government.

3 (2) SUPERVISION.—Notwithstanding any other
4 provision of law—

5 (A) the Exchange shall be subject to exclu-
6 sive supervision by the Agency, and the Agency
7 shall have sole enforcement authority with re-
8 spect to the Exchange for any violation of Fed-
9 eral law;

10 (B) the Exchange shall not be subject to
11 designation under the Payment, Clearing, and
12 Settlement Supervision Act of 2010; and

13 (C) the Exchange is authorized to conduct
14 its business without regard to any qualification
15 or similar statute in any State.

16 (3) EXEMPTION FROM TAXATION.—The Ex-
17 change shall be exempt from all taxation imposed by
18 the United States, any territory, dependency, or pos-
19 session of the United States or any State, county,
20 municipality, or local taxing authority, except that
21 any real property of the Repository shall be subject
22 to State, territorial, county, municipal, or local tax-
23 ation to the same extent according to its value as
24 other real property.

1 (d) REPORTS TO CONGRESS.—Commencing with the
2 first annual report of the Director following the date of
3 the enactment of this Act, the annual report of the Direc-
4 tor under section 1319B of the Federal Housing Enter-
5 prises Financial Safety and Soundness Act of 1992 (12
6 U.S.C. 4521) shall include a description of the Agency’s
7 activities with regard to organization, incorporation, ex-
8 amination, operation, and regulation of the Exchange.

9 **SEC. 312. GENERAL POWERS; AUTHORIZED AND PROHIB-**
10 **ITED ACTIVITIES.**

11 (a) GENERAL POWERS.—The Exchange may—

12 (1) adopt and use a corporate seal;

13 (2) determine a State whose law will govern the
14 corporate business activities of the Exchange;

15 (3) adopt, amend, and repeal by-laws;

16 (4) sue or be sued, subject to section 334 (re-
17 lating to judicial review);

18 (5) make contracts, incur liabilities, and borrow
19 money;

20 (6) purchase, receive, hold, and use real and
21 personal property and other assets necessary for the
22 conduct of its operations;

23 (7) elect or appoint directors, officers, employ-
24 ees and agents, subject to section 311(d); and

1 (8) upon receipt of the Director’s prior written
2 approval, establish subsidiaries or affiliates that
3 shall be subject to the same rights, duties and re-
4 sponsibilities as the Exchange.

5 (b) AUTHORIZED ACTIVITIES.—In addition to the
6 general powers under subsection (a), the Exchange shall—

7 (1) develop standards and disclosures related to
8 originating, pooling, and securitizing residential
9 mortgage loans in accordance with subtitle B;

10 (2) develop standards and disclosures related to
11 servicing residential mortgage loans in accordance
12 with subtitle B;

13 (3) operate and maintain the Platform and es-
14 tablish fees for use of the Platform;

15 (4) establish basic rules for use of the Platform;

16 (5) establish the Repository and establish fees
17 for registration of mortgage-related documents and
18 maintenance and use of data of the Repository, in
19 accordance with subtitle C;

20 (6) perform any other service or engage in any
21 other activity that the Director determines, by regu-
22 lation or order, to be incidental to the activities enu-
23 merated in this subsection; and

1 (7) establish fees for the provision of other re-
2 lated or incidental services not inconsistent with the
3 purposes of this subtitle.

4 (c) PROHIBITED ACTIVITIES.—The Exchange may
5 not—

6 (1) own, originate, aggregate, issue, service, in-
7 sure, or guarantee any residential mortgage or other
8 financial instrument that is associated with a resi-
9 dential mortgage;

10 (2) guarantee timely payment of principal or in-
11 terest on any mortgage-related security;

12 (3) adopt access rules or fees for the Platform
13 the effect of which is to discriminate against loan
14 originators, aggregators, or issuers based on size,
15 composition, business line, or loan volume; or

16 (4) perform any service or engage in any activ-
17 ity other than those authorized under this subtitle,
18 unless such activity has been determined by the Di-
19 rector to be incidental to an authorized activity.

20 **SEC. 313. MISSION AND STRUCTURE OF COMMON**
21 **SECURITIZATION SOLUTIONS.**

22 (a) MISSION.—Prior to the Transfer Date, the mis-
23 sion of Common Securitization Solutions shall be to ac-
24 complish the following goals:

1 (1) Developing a Common Securitization Plat-
2 form—

3 (A) that is based upon interoperable tech-
4 nology and standards that can accommodate all
5 platform users; and

6 (B) that ensures fair and non-discrimina-
7 tory access for any issuer, enterprise, servicer,
8 agency, or other counterparty.

9 (2) Developing a uniform contractual and dis-
10 closure framework that facilitates a deep, liquid, and
11 resilient secondary mortgage market for mortgage-
12 backed securities.

13 (3) Developing functions to support the non-
14 Government guaranteed securitization market.

15 (4) Continuing, advancing, or developing any
16 other initiative as authorized by the CSS Board of
17 Managers, with the approval of the Director, to en-
18 hance efficiency, liquidity, and security in the sec-
19 ondary market for residential mortgage loans, pro-
20 vided such initiative does not conflict with or unrea-
21 sonably delay the completion of the goals described
22 under paragraph (1), (2), or (3).

23 (b) CSS BOARD OF MANAGERS.—

24 (1) SIZE.—The size of the membership of the
25 CSS Board of Managers shall be fixed at:

1 (A) For the one-year period beginning
2 upon commencement of the Transition Period,
3 four members.

4 (B) For the one-year period following the
5 period described under subparagraph (A), seven
6 members.

7 (C) After the end of the one-year period
8 described under subparagraph (B), nine mem-
9 bers.

10 (2) APPOINTMENT AND QUALIFICATIONS.—The
11 Director shall appoint the additional members re-
12 quired under paragraph (1) from among individuals
13 that—

14 (A) have demonstrated knowledge of, or
15 experience in, financial management, financial
16 services, risk management, information tech-
17 nology, mortgage securitization, secondary
18 mortgage markets, or housing finance; and

19 (B) will not be simultaneously employed by
20 an enterprise or serving as a director of an en-
21 terprise.

22 (3) FIDUCIARY DUTY.—All members of CSS
23 Board of Managers shall owe a fiduciary duty to the
24 enterprises prior to the Transfer Date.

1 **SEC. 314. TRANSITION PERIOD.**

2 (a) **REQUIRED ACTIVITIES PRIOR TO THE TRANSFER**
3 **DATE.**—

4 (1) **IN GENERAL.**—Prior to the Transfer Date,
5 Common Securitization Solutions shall develop, pro-
6 mulgate, and finalize standards that—

7 (A) develop a uniform contractual and dis-
8 closure framework for issuers, including issuers
9 other than the enterprises;

10 (B) specify the requirements for loans that
11 may serve as collateral for mortgage-backed se-
12 curities issued through the Common
13 Securitization Platform, including securities
14 that will be issued by issuers other than the en-
15 terprises; and

16 (C) specify the requirements for operating
17 and maintaining the Common Securitization
18 Platform and the establishment of reasonable
19 fees for use of the Common Securitization Plat-
20 form.

21 (2) **APPROVAL AND MODIFICATIONS OF STAND-**
22 **ARDS.**—

23 (A) **INITIAL STANDARDS.**—In establishing
24 the standards described under paragraph (1),
25 Common Securitization Solutions shall use es-
26 tablished industry standards as a basis for

1 standardization requirements for the issuance
2 of such securities through the Common
3 Securitization Platform.

4 (B) APPROVAL OF STANDARDS.—The
5 standards developed pursuant to paragraph (1)
6 shall be subject to approval by a $\frac{2}{3}$ vote of the
7 CSS Board of Managers and by the Director.

8 (C) REVISIONS TO STANDARDS.—Common
9 Securitization Solutions or the Exchange, as
10 applicable, may revise the standards established
11 pursuant to paragraph (1) from time to time as
12 may be necessary. Material revisions to such
13 standards shall require a $\frac{2}{3}$ vote of the CSS
14 Board of Managers or the board of directors of
15 the Exchange, as applicable, and approval of
16 the Director.

17 (3) ISSUING SECURITIES AND ENSURING CAPA-
18 BILITIES.—

19 (A) IN GENERAL.—The Director shall es-
20 tablish a date or dates, not later than 2 years
21 after the date of enactment of this Act, by
22 which Common Securitization Solutions shall
23 facilitate the issuance of securities by issuers
24 other than the enterprises to issue mortgage-
25 backed securities.

1 (B) EXCEPTION.—The Director may delay
2 a date established under subparagraph (A) for
3 1 year if the Director, in consultation with the
4 Federal Housing Finance Oversight Board—

5 (i) determines that—

6 (I) facilitation of such securities
7 is not feasible within that period of
8 time and could adversely impact the
9 housing market; or

10 (II) the capabilities of other enti-
11 ties is not feasible within that period
12 of time and could adversely impact fa-
13 cilitating the issuance of securities by
14 the enterprises; and

15 (ii) submits to Congress a report de-
16 scribing the justification for the determina-
17 tions made under clause (i).

18 (4) TRANSFER OF FUNDS FROM THE ENTER-
19 PRISES.—At a time established by the Director, but
20 not later than the Transfer Date, the Agency shall
21 transfer to Common Securitization Solutions such
22 funds from the enterprises as the Director, after
23 consultation with the CSS Board of Managers, de-
24 termines may be reasonably necessary for Common
25 Securitization Solutions to begin carrying out the

1 operations and activities of the Common
2 Securitization Platform and the contractual and dis-
3 closure framework.

4 (b) REPORTS ON DEVELOPMENT AND TRANSI-
5 TION.—

6 (1) QUARTERLY REPORT ON DEVELOPMENT.—

7 Not later than 1 year after the date of enactment
8 of this Act, and every quarter thereafter until the
9 Transfer Date, the Director shall submit to Con-
10 gress a report on the status of the development of
11 the Common Securitization Platform and the con-
12 tractual and disclosure framework, which shall in-
13 clude—

14 (A) the projected timelines, including
15 issues and impediments, for—

16 (i) completing development of the
17 Common Securitization Platform to sup-
18 port the securitization needs of the enter-
19 prises; and

20 (ii) completing development of the
21 Common Securitization Platform and the
22 contractual and disclosure framework to
23 support the securitization needs of issuers
24 other than the enterprises; and

1 (B) the projected budget, including costs
2 incurred by Common Securitization Solutions
3 and the enterprises, for the development of the
4 Common Securitization Platform and the con-
5 tractual and disclosure framework.

6 (2) REPORT ON TRANSITION.—Not later than 2
7 years after the date of enactment of this Act, the
8 Director shall develop a plan, and submit to the
9 Committee on Banking, Housing, and Urban Affairs
10 of the Senate and the Committee on Financial Serv-
11 ices of the House of Representatives a report on
12 such plan, to transition, by the Transfer Date, the
13 Common Securitization Platform and the contrac-
14 tual and disclosure framework from Common
15 Securitization Solutions into a private, nonprofit en-
16 tity that best facilitates a deep, liquid, and resilient
17 secondary mortgage market for mortgage-backed se-
18 curities.

19 (3) ANNUAL REPORT ON THE COMMON
20 SECURITIZATION PLATFORM.—The Inspector Gen-
21 eral of the Agency shall issue an annual report to
22 the Congress on the status of the Common
23 Securitization Platform until the Transfer Date.

1 **SEC. 315. TRANSFER DATE.**

2 (a) TRANSFER OF PLATFORM TO EXCHANGE.—Com-
3 mon Securitization Solutions shall transition the Common
4 Securitization Platform and the contractual and disclosure
5 framework, including any associated intellectual property,
6 technology, systems, and infrastructure, at the Transfer
7 Date, to the Exchange, in accordance with this Act.

8 (b) TRANSFER DATE.—

9 (1) DESIGNATED TRANSFER DATE.—The Direc-
10 tor shall establish a Transfer Date for the transition
11 of ownership of the Common Securitization Platform
12 and the contractual disclosure framework, including
13 any associated intellectual property, technology, sys-
14 tems, and infrastructure, from the enterprises and
15 Common Securitization Solutions to the Exchange.

16 (2) PUBLIC NOTICE.—In establishing the
17 Transfer Date under paragraph (1), the Director
18 shall provide notice to the public of such date, in-
19 cluding on the website of the Agency.

20 (3) DEADLINE.—The Transfer Date established
21 under paragraph (1) shall be no earlier than 2 years
22 after the date of the enactment of this Act and no
23 later than the date on which both charters of the en-
24 terprises are terminated pursuant to section 1367(k)
25 of the Federal Housing Enterprises Financial Safety
26 and Soundness Act of 1992.

1 (c) TRANSFER OF PROPERTY.—

2 (1) IN GENERAL.—At a time established by the
3 Director, but not later than the Transfer Date, the
4 Director shall direct the enterprises or Common
5 Securitization Solutions to transfer or sell to the Ex-
6 change any property, including intellectual property,
7 technology, systems, and infrastructure (including
8 technology, systems, and infrastructure developed by
9 the enterprises for the Common Securitization Plat-
10 form), as well as any other legacy systems, infra-
11 structure, and processes that may be necessary to
12 carry out their operations and activities.

13 (2) CONTRACTUAL AND OTHER LEGAL OBLIGA-
14 TIONS.—As may be necessary for the Agency and
15 the enterprises to comply with legal, contractual, or
16 other obligations, the Director shall have the author-
17 ity to require that any transfer authorized under
18 paragraph (1) occurs as an exchange for value, in-
19 cluding through the provision of appropriate com-
20 pensation to the enterprises or other entities respon-
21 sible for creating, or contracting with, the Exchange.

22 **SEC. 316. REPAYMENT OF COST.**

23 (a) IN GENERAL.—Not later than 10 years after the
24 Transfer Date, the total cost of the property transferred
25 in accordance with section 315(c) at the time of the transi-

1 tion, as determined by the Director, in consultation with
2 the Federal Housing Finance Oversight Board, shall be
3 repaid by the Exchange to the entity that owned the prop-
4 erty prior to the time of transfer.

5 (b) **THIRD-PARTY VALUATION.**—Before the repay-
6 ment required under subsection (a), the Director shall
7 contract with a third-party to provide a valuation of the
8 total cost of the property transferred in accordance with
9 section 315(c) at the time of the transition.

10 (c) **FEEES PERMITTED.**—The Exchange may charge
11 a reasonable fee for the use of the Common Securitization
12 Platform and other services, for the purpose of making
13 the repayment described under subsection (a).

14 **SEC. 317. REGULATION, SUPERVISION, AND ENFORCEMENT.**

15 (a) **GENERAL OVERSIGHT.**—The Director shall exer-
16 cise, by rule, order, or guidance, oversight of the Ex-
17 change, which shall include the authority to regulate, su-
18 pervise, and examine the Exchange and take enforcement
19 actions against the Exchange or any Exchange-affiliated
20 party, consistent with the provisions of the Federal Hous-
21 ing Enterprise Financial Safety and Soundness Act of
22 1992.

23 (b) **SCOPE OF AUTHORITY.**—The authority of the Di-
24 rector under this section shall include the authority to ex-
25 ercise such incidental powers as may be necessary or ap-

1 appropriate to fulfill the duties and responsibilities of the
2 Director in the oversight, supervision, and regulation of
3 the Exchange.

4 (c) CONSULTATION WITH OTHER AGENCIES.—In ex-
5 ercising authority to regulate and supervise the Exchange,
6 the Director shall consult with other Federal departments
7 and agencies that regulate or supervise entities, institu-
8 tions, or companies that are or may become subject to
9 standards, rules, processes, or procedures developed by the
10 Exchange (including issuers through the Platform and de-
11 positors or participants in the Repository), including the
12 Government National Mortgage Association, the Bureau
13 of Consumer Financial Protection, any Federal banking
14 agency (as defined under section 3 of the Federal Deposit
15 Insurance Act), and the National Credit Union Adminis-
16 tration.

17 (d) ANNUAL ASSESSMENT.—The Director shall es-
18 tablish and collect from the Exchange an annual assess-
19 ment in an amount not exceeding the amount sufficient
20 to provide for reasonable costs (including administrative
21 costs) and expenses of the Agency related to its oversight
22 of the Exchange. The amounts received by the Director
23 from assessments under this section shall not be construed
24 to be Government or public funds or appropriated money.
25 Notwithstanding any other provision of law, the amounts

1 received by the Director from assessments under this sec-
2 tion shall not be subject to apportionment for the purpose
3 of chapter 15 of title 31, United States Code, or under
4 any other authority.

5 **Subtitle B—Standards for Qualified** 6 **Securities**

7 **SEC. 321. QUALIFIED SECURITIES.**

8 For purposes of this subtitle, the term “qualified se-
9 curity” means a security that—

10 (1) is collateralized by a class, or multiple class-
11 es, of residential mortgages established under sec-
12 tion 322(a);

13 (2) is issued in accordance with a standard
14 form securitization agreement under section 322(d);

15 (3) is issued in accordance with section 322(e);

16 (4) is issued through the Platform; and

17 (5) is not guaranteed, in whole or in part, by
18 the United States Government.

19 **SEC. 322. STANDARDS FOR QUALIFIED SECURITIES.**

20 (a) **STANDARD MORTGAGE CLASSIFICATIONS.**—

21 (1) **ESTABLISHMENT OF MORTGAGE CLASSI-**
22 **FICATIONS.**—The Exchange shall prescribe classi-
23 fications for residential mortgages having various de-
24 grees of credit risk, ranging from a classification of
25 mortgages having little to no credit risk to a classi-

1 fication of mortgages having higher credit risk. In
2 prescribing such classifications the Exchange shall
3 seek to allow for the pricing of credit risk, allow for
4 the trading of securities collateralized by each classi-
5 fication of mortgages established pursuant to this
6 subsection in the forward market, and maintain well-
7 functioning liquid markets in securities collateralized
8 by each of the classifications of mortgages estab-
9 lished pursuant to this subsection.

10 (2) UNDERWRITING CRITERIA.—For each clas-
11 sification of mortgages established under paragraph
12 (1), the Exchange shall establish standards for each
13 of the following underwriting criteria:

14 (A) DEBT-TO-INCOME RATIO.—The ratio
15 of the amount of the total monthly debt of the
16 mortgagor to the amount of the monthly income
17 of the mortgagor.

18 (B) LOAN-TO-VALUE RATIO.—The ratio of
19 the principal obligation under the mortgage to
20 the value of the residence subject to the mort-
21 gage, at the time of mortgage origination.

22 (C) CREDIT HISTORY.—Information on the
23 credit history of the mortgagor, including credit
24 scores of the mortgagor.

1 (D) LOAN DOCUMENTATION.—The extent
2 of loan documentation and verification of the fi-
3 nancial resources of the mortgagor used to
4 qualify the mortgagor for the mortgage, includ-
5 ing any appraisal.

6 (E) OCCUPANCY.—Whether the residence
7 subject to the mortgage is occupied by the
8 mortgagor.

9 (F) CREDIT ENHANCEMENT.—Whether
10 any mortgage insurance or other type of insur-
11 ance or credit enhancement was obtained at the
12 time of origination.

13 (G) LOAN PAYMENT TERMS.—

14 (i) IN GENERAL.—The terms of the
15 mortgage that determine the magnitude
16 and timing of payments due from the
17 mortgagor, including the term to maturity
18 of the mortgage, the frequency of payment,
19 the type of amortization, any prepayment
20 penalties, and whether the interest rate is
21 fixed or may vary.

22 (ii) INCLUSION OF 30-YEAR FIXED IN-
23 TEREST RATE.—Terms established under
24 clause (i) shall include a 30-year fixed in-
25 terest rate mortgage.

1 (H) OTHER.—Such other underwriting cri-
2 teria as the Exchange may establish, consistent
3 with the goals of this subtitle.

4 (3) DEFINITIONS.—The Exchange shall, for
5 purposes of this subsection, prescribe definitions for
6 each of the following terms:

7 (A) MORTGAGE.—The term “mortgage”,
8 which definition shall include only mortgages on
9 residential properties.

10 (B) DEFAULT.—The term “default”, with
11 respect to a mortgage.

12 (C) DELINQUENCY.—The term “delin-
13 quency”, with respect to a mortgage.

14 (D) LOAN DOCUMENTATION.—The term
15 “loan documentation”, with respect to a mort-
16 gage.

17 (E) ADDITIONAL TERMS.—Such other
18 terms as the Exchange may establish.

19 (b) STANDARDS FOR AGGREGATORS.—The Exchange
20 may develop, adopt, and publish standards for aggregation
21 of eligible collateral by entities, institutions, or companies
22 other than an issuer. Notwithstanding any such standards
23 developed by the Exchange, any Federal Home Loan Bank
24 may act as an aggregator and offer the service of aggrega-

1 tion to any member of such Bank, subject to regulations
2 prescribed by the Director.

3 (c) STANDARDS FOR QUALIFIED ISSUERS.—

4 (1) IN GENERAL.—The Exchange shall develop,
5 adopt, and publish standards for an issuer to qualify
6 as a qualified issuer. Such standards shall only in-
7 clude—

8 (A) the experience, financial resources, and
9 integrity of the issuer and its principals, includ-
10 ing compliance history with Federal and State
11 laws;

12 (B) the adequacy of insurance and fidelity
13 coverage of the issuer with respect to errors
14 and omissions; and

15 (C) a requirement that the issuer submit
16 audited financial statements to the Exchange,
17 who shall make such statements publicly avail-
18 able through the Exchange's Web site.

19 (2) APPLICATION PROCESS.—

20 (A) IN GENERAL.—The Exchange shall es-
21 tablish an application process for the qualifica-
22 tion of issuers, in such form and manner and
23 requiring such information as the Exchange
24 may prescribe, in accordance with standards
25 adopted under paragraph (1).

1 (B) APPROVAL.—The Exchange shall ap-
2 prove any application made pursuant to sub-
3 paragraph (A) unless the issuer does not meet
4 the standards adopted under paragraph (1).

5 (C) PUBLICATION.—The Agency shall pub-
6 lish a list of newly qualified issuers in the Fed-
7 eral Register and the Exchange shall maintain
8 an updated list of qualified issuers on the Ex-
9 change’s Web site.

10 (3) REVIEW AND REVOCATION OF QUALIFIED
11 STATUS.—

12 (A) IN GENERAL.—The Exchange may re-
13 view the status of a qualified issuer if the Ex-
14 change is notified that a claim has been made
15 against the issuer by a trustee with respect to
16 a violation of a contractual term in a
17 securitization document of the issuer.

18 (B) REVOCATION.—

19 (i) IN GENERAL.—Subject to subpara-
20 graph (C), if the Exchange determines,
21 subject to the approval of the Director, in
22 a review pursuant to subparagraph (A),
23 that an issuer no longer meets the stand-
24 ards for qualification, the Exchange shall
25 revoke the issuer’s qualified status.

1 (ii) CONSTRUCTION.—The revocation
2 of an issuer’s qualified status under this
3 subparagraph shall—

4 (I) have no effect on the qualified
5 status of any security issued before
6 such revocation; and

7 (II) not relieve the issuer of any
8 obligation associated with any rep-
9 resentation or warranty or any repur-
10 chase obligations related to any quali-
11 fied security issued before such rev-
12 ocation.

13 (C) GRACE PERIOD.—The Exchange shall
14 establish standards by which a qualified issuer
15 who no longer meets the standards for quali-
16 fication may remediate and return to meeting
17 the standards, without losing the issuer’s quali-
18 fied status.

19 (D) PUBLICATION.—The Agency shall pub-
20 lish a list of issuers who are no longer qualified
21 in the Federal Register and the Exchange shall
22 maintain an updated list of such issuers on the
23 Exchange’s Web site.

24 (d) STANDARD FORM SECURITIZATION AGREE-
25 MENTS.—

1 (1) IN GENERAL.—The Exchange shall develop,
2 adopt, and publish standard form securitization
3 agreements for collateral that will be used to back
4 qualified securities.

5 (2) REQUIRED CONTENT.—The standard form
6 securitization agreements to be developed under
7 paragraph (1) shall include terms relating to—

8 (A) pooling and servicing;

9 (B) purchase and sale;

10 (C) representations and warranties, includ-
11 ing representations and warranties as to com-
12 pliance or conformity with standards estab-
13 lished by the Exchange, as appropriate;

14 (D) indemnification and remedies, includ-
15 ing principles of a repurchase program that will
16 ensure an appropriate amount of risk retention
17 under the representations and warranties set
18 forth under subparagraph (C); and

19 (E) the qualification, responsibilities, and
20 duties of trustees.

21 (e) REGISTRATION WITH THE REPOSITORY.—The
22 Exchange shall require that any mortgage-related docu-
23 ment associated with collateral for qualified securities be
24 registered with the Repository.

1 (f) STANDARDS FOR SERVICING.—The Exchange
2 shall develop, adopt, and publish—

3 (1) servicing standards, including for the modi-
4 fication, restructuring, or work-out of any mortgage
5 that serves as collateral for a qualified security; and

6 (2) a servicer succession plan, which may in-
7 clude provisions for—

8 (A) a specialty servicer that can replace
9 the existing servicer if the performance of the
10 mortgage pool deteriorates to specified levels;
11 and

12 (B) a plan to achieve consistency in serv-
13 icing systems related to systematic note-taking,
14 consistent mailing addresses, and other points
15 of contact for borrowers to use, among other
16 items.

17 (g) STANDARDS FOR SERVICER REPORTING.—The
18 Exchange shall develop, adopt, and publish standards for
19 the reporting obligations of servicers of any mortgage that
20 serves as collateral for a qualified security.

21 (h) DATA STANDARDS; DISCLOSURE STANDARDS.—

22 (1) DATA STANDARDS.—The Exchange shall
23 develop, adopt, and publish standard data definitions
24 for all aspects of loan origination, appraisals, and
25 servicing. In developing such definitions, the Ex-

1 change shall consider the data standard-setting work
2 undertaken by the Mortgage Industry Standards
3 Maintenance Organization through the enterprises'
4 Uniform Mortgage Data Program announced by the
5 Agency on May 24, 2010.

6 (2) DISCLOSURE STANDARDS.—The Exchange
7 shall develop, adopt, and publish standards for dis-
8 closure of loan origination, appraisal, and servicing
9 data, including data required in subsection (a)(2)
10 (relating to underwriting criteria) for residential
11 mortgage loans that comprise qualified securities.

12 (3) COORDINATION.—In developing the data
13 and disclosure standards required by this subsection,
14 the Exchange shall ensure that such standards are
15 coordinated.

16 (4) PRIVACY PROTECTIONS.—In prescribing the
17 definitions and standards required under this sub-
18 section, the Exchange shall take into consideration
19 issues of consumer privacy and all statutes, rules,
20 and regulations related to privacy of consumer credit
21 information and personally identifiable information.
22 Such standards shall expressly prohibit the identi-
23 fication of specific borrowers.

24 (5) CONSULTATION.—When reviewing any dis-
25 closure standards established under this subsection,

1 the Director shall consult with the Securities and
2 Exchange Commission.

3 (i) STANDARDS FOR TRUSTEES.—

4 (1) IN GENERAL.—There shall at all times be
5 one or more trustee for each pool of mortgages that
6 acts as collateral for a qualified security.

7 (2) RULEMAKING.—The Director shall issue
8 regulations regarding the qualifications of trustees
9 under paragraph (1) that shall, to the extent prac-
10 ticable, be consistent with the qualification provi-
11 sions applicable to trustees under section 310(a) of
12 the Trust Indenture Act of 1939 (15 U.S.C.
13 77jjj(a)).

14 (3) CONFLICTS OF INTEREST.—The Director
15 shall issue conflicts of interest regulations that apply
16 to a qualified trustee. Such regulations shall, to the
17 extent practicable, be consistent with those conflicts
18 of interest provisions applicable to an indenture
19 trustee under section 310(b) of the Trust Indenture
20 Act of 1939 (15 U.S.C. 77jjj(b)).

21 (4) REPORTING OF CLAIMS.—Any time a trust-
22 ee brings a claim against a qualified issuer on behalf
23 of investors with respect to a standard form
24 securitization agreement, the trustee shall notify the
25 Director of such claim.

1 (5) PROTECTION OF INVESTOR RIGHTS.—For
2 the purpose of protecting investor rights, each trust-
3 ee shall—

4 (A) maintain a list of all investors (bene-
5 ficial owners) in a qualified security;

6 (B) update such list from time to time;

7 (C) not make such list available to inves-
8 tors (beneficial owners); and

9 (D) act as a means to communicate infor-
10 mation about the qualified security to investors
11 (beneficial owners) and act as a means for in-
12 vestors (beneficial owners) to communicate with
13 each other.

14 (6) NO LIABILITY FOR CERTAIN COMMUNICA-
15 TIONS.—A trustee shall not be liable for the content
16 of any information provided to the trustee by an in-
17 vestor (beneficial owner) that the trustee commu-
18 nicates to another investor (beneficial owner).

19 (7) INVESTOR (BENEFICIAL OWNER) NOTIFICA-
20 TION OF TRUSTEE.—A person who becomes an in-
21 vestor (beneficial owner) in a qualified security shall
22 promptly notify the trustee of such security of the
23 change in ownership.

24 (j) INDEPENDENT THIRD PARTY.—If the majority of
25 investors (beneficial owners) in a pool of qualified securi-

1 ties chooses to hire an independent third party to act on
2 behalf of the best interests of the investors (beneficial own-
3 ers), such party shall—

4 (1) be granted access to the loan documents for
5 the mortgage loans backing such security and all
6 servicing reports the servicer provides to investors
7 (beneficial owners) or the trustee;

8 (2) be granted access to the list of investors
9 (beneficial owners) maintained by the trustee, on the
10 condition that the independent third party will not
11 make the list available to the investors (beneficial
12 owners); and

13 (3) have the right, on behalf of the investors
14 (beneficial owners), to inform the trustee of such se-
15 curities of any breach of the securitization agree-
16 ment identified by the third party.

17 (k) MANDATORY ARBITRATION.—

18 (1) IN GENERAL.—All disputes between an
19 owner of a qualified security and the qualified issuer
20 of such security relating to representations and war-
21 ranties shall be subject to mandatory arbitration
22 procedures established by the Exchange, in accord-
23 ance with current market practices.

24 (2) SELECTION OF ARBITRATOR.—Investors
25 (beneficial owners) and issuers subject to a dispute

1 described under paragraph (1) shall have the right
2 to agree on an independent arbitrator. If the parties
3 cannot agree on an independent arbitrator, the Ex-
4 change shall select an independent arbitrator for the
5 parties.

6 (3) REPORTING DUTY OF ARBITRATOR.—

7 (A) UPON COMMENCEMENT.—The arbi-
8 trator shall provide the Exchange with notice
9 upon commencement of any arbitration under
10 this subsection.

11 (B) UPON CONCLUSION.—Upon conclusion
12 of any arbitration under this subsection, the ar-
13 bitrator shall provide the Exchange with—

14 (i) the decision reached by the arbi-
15 trator; and

16 (ii) the basis for the arbitrator’s deci-
17 sion, including any evidence or testimony
18 received during the arbitration process.

19 (l) USE OF STANDARDS.—In developing, adopting,
20 and publishing the initial standards required under this
21 section, the Exchange shall, to the extent practicable, uti-
22 lize the standards finalized by Common Securitization So-
23 lutions pursuant to section 314(a).

24 (m) TIMING OF ISSUANCE; AGENCY REVIEW; AU-
25 THORITY TO REVISE STANDARDS.—

1 (1) TIMING.—The Director shall issue any reg-
2 ulations required by this section not later than the
3 end of the 12-month period beginning on the date of
4 the enactment of this Act. The Exchange shall issue
5 any definitions, standards, rules, processes, or proce-
6 dures required by this section not later than the end
7 of the 12-month period beginning on the date of the
8 establishment of the Exchange.

9 (2) AGENCY REVIEW.—Any definition, stand-
10 ard, rule, process or procedure established by the
11 Exchange shall be submitted to the Director for re-
12 view and approval prior to its implementation if, in
13 the Director’s discretion, the Director requires such
14 submission. Any definition, standard, rule, process
15 or procedure that the Director requires be submitted
16 to the Agency for review and approval shall be re-
17 viewed within three months of submission.

18 (3) AUTHORITY TO REVISE.—

19 (A) IN GENERAL.—The Exchange may re-
20 view, revise, and, if revised, re-publish any
21 standard form securitization agreement or other
22 definition, standard, rule, process, or procedure
23 required to be developed by this subtitle if the
24 Exchange determines review or revision to be

1 necessary or appropriate to satisfy the goals of
2 this subtitle.

3 (B) APPLICATION OF REVISIONS.—Any re-
4 visions made pursuant to subparagraph (A)
5 shall apply only to securitizations made after
6 the date of such revision.

7 (n) EFFECT OF CONFLICT.—In the event a defini-
8 tion, standard, rule, process, or procedure established by
9 the Exchange is in conflict with any definition, standard,
10 rule, process, or procedure established by another Federal
11 department or agency, the Director shall consult with the
12 other Federal department or agency, and provide prompt
13 written notification to the Committee on Banking, Hous-
14 ing, and Urban Affairs of the Senate and the Committee
15 on Financial Services of the House of Representatives, of
16 the conflict.

17 (o) PUBLIC INVOLVEMENT.—In developing defini-
18 tions, standards, rules, processes, and procedures required
19 by this subtitle, the Exchange shall work with market par-
20 ticipants, including servicers, originators, and mortgage
21 investors, and develop methods for gathering information
22 and comment from such groups.

1 **SEC. 323. CONFORMING AMENDMENTS TO SECURITIES ACT**
2 **OF 1933.**

3 (a) EXEMPTED SECURITIES.—Section 3(a) of the Se-
4 curities Act of 1933 (15 U.S.C. 77c(a)) is amended by
5 adding at the end the following new paragraph:

6 “(15) Any qualified security, as such term is
7 defined in section 321 of the Protecting American
8 Taxpayers and Homeowners Act of 2018.”.

9 (b) REMOVAL OF CREDIT RISK RETENTION REF-
10 ERENCE.—Section 27B of the Securities Act of 1933 (15
11 U.S.C. 77z–2a) is amended by striking subsection (d).

12 **Subtitle C—National Mortgage**
13 **Data Repository**

14 **SEC. 331. ORGANIZATION AND OPERATION.**

15 (a) ORGANIZATION AND OPERATION.—Under such
16 regulations as the Director may prescribe, the Exchange
17 shall organize and operate a national mortgage data repos-
18 itory (“Repository”).

19 (b) AUTHORIZED ACTIVITIES.—In addition to orga-
20 nizing and operating the Repository, the Exchange shall—

21 (1) establish and operate a repository for mort-
22 gage-related documents;

23 (2) establish standards for qualification of any
24 depositor of mortgage-related documents to the Re-
25 pository;

1 (3) establish standards and procedures for sub-
2 mission of mortgage-related documents to the Re-
3 pository, including required information and the type
4 and format of information and data;

5 (4) establish procedures for validation of mort-
6 gage-related documents and the data contained in
7 the Repository;

8 (5) establish standards and procedures for ac-
9 ceptance of mortgage-related documents (including
10 electronic copies), and notice of acceptance, by the
11 Repository;

12 (6) establish standards and procedures for reg-
13 istration of any mortgage-related document with the
14 Repository, including notice of registration and the
15 assignment of a unique identifier, where such stand-
16 ards and procedures include a requirement that any
17 such mortgage-related document must first be re-
18 corded in the appropriate local jurisdiction, as may
19 be required under State or local law;

20 (7) establish standards and procedures for re-
21 cording the creation, assignment, or transfer of an
22 interest in any registered mortgage-related document
23 and for requiring the Repository to notify the appro-
24 priate local jurisdiction of such creation, assignment,
25 or transfer;

1 (8) establish standards and procedures for qual-
2 ification of depositors and participants in the Repos-
3 itory;

4 (9) establish procedures for proper demonstra-
5 tion of registration of mortgage-related documents
6 with the Repository and recordation of an interest
7 by the holder of an interest in any such document,
8 subject to regulations issued by the Director in ac-
9 cordance with section 332 (relating to legal effect of
10 registration with the Repository);

11 (10) establish and maintain a catalog of the
12 mortgage-related documents registered with the Re-
13 pository;

14 (11) establish standards and procedures for dis-
15 position of mortgage-related documents, including
16 safekeeping, long-term storage, or destruction of
17 paper documents;

18 (12) establish standards and procedures for
19 making data publicly available;

20 (13) ensure that data collected and maintained
21 by the Repository are kept secure and protected
22 against unauthorized disclosure, taking into consid-
23 eration issues of consumer privacy and all statutes,
24 rules, and regulations related to privacy of consumer
25 credit information and personally identifiable infor-

1 mation, and prohibit the identification of specific
2 borrowers;

3 (14) establish a process, including notification
4 from the public, for identification and correction of
5 incorrect information submitted to or maintained by
6 the Repository;

7 (15) establish fees for registration of mortgage-
8 related documents and maintenance and use of data,
9 and for the provision of other related services not in-
10 consistent with the purposes of this subtitle; and

11 (16) perform any other service or engage in any
12 other activity that the Director determines, by regu-
13 lation or order, to be incidental to the activities enu-
14 merated in this subsection.

15 (c) PROHIBITED ACTIVITIES.—The Exchange may
16 not—

17 (1) transfer or sell data maintained by the Re-
18 pository to the parent or affiliated companies of the
19 operator of the Exchange; and

20 (2) use data maintained by the Repository for
21 marketing or any other purpose not directly associ-
22 ated with the operation of the Exchange.

23 (d) REQUIREMENTS ON PARTICIPANTS.—Each par-
24 ticipant shall—

1 **SEC. 333. GRANTS TO STATES; REPAYMENT.**

2 (a) GRANTS TO STATES.—There is hereby authorized
3 to be appropriated \$50,000,000 to the Director for the
4 establishment of a fund to be administered by the Agency
5 for providing grants to States, on application to the Agen-
6 cy, to facilitate participation in the Repository by any de-
7 positor or participant or class of depositors or partici-
8 pants, or any other person upon appropriate demonstra-
9 tion to the Agency that such a grant would assist in the
10 accomplishment of the purposes of this subtitle. Any such
11 amounts appropriated and not granted by the Agency
12 within five years of the date of the enactment of this Act
13 shall be returned to the Treasury of the United States.

14 (b) REPAYMENT.—The Director shall cause to be col-
15 lected from the Exchange and deposit in the Treasury of
16 the United States an amount equal to the aggregate
17 amount provided as grants to States pursuant to sub-
18 section (a) within the 10-year period beginning on the date
19 that the first grant is made pursuant to subsection (a).

20 **SEC. 334. JUDICIAL REVIEW.**

21 Except as otherwise expressly provided under this
22 subtitle, no person other than the Director or the Attorney
23 General of the United States, or any duly authorized rep-
24 resentative of the Director or the Attorney General, may
25 proceed against the Repository in any State or Federal
26 court. The prohibition in the preceding sentence shall not

1 apply to a civil action against the Repository or any duly
2 authorized agent thereof for breach of a contract, includ-
3 ing breach of a representation or warranty, or breach of
4 privacy related to data collected and maintained by the
5 Repository or any duly authorized agent thereof.

6 **SEC. 335. TRANSITION PROVISIONS.**

7 (a) IN GENERAL.—The Agency shall provide for a
8 transition period to permit the efficient implementation of
9 the provisions of this subtitle. Such transition may include
10 periods for testing, early adoption, and final mandatory
11 adoption for all recorded mortgages.

12 (b) ELECTRONIC SUBMISSIONS.—The Repository
13 shall accept electronic submissions and paper-based docu-
14 ments submitted electronically subject to rules of the Re-
15 pository. After the expiration of the 10-year period that
16 begins upon the date of the enactment of this Act, subject
17 to an extension of such period for up to 5 additional years
18 if the Director determines appropriate, the Repository
19 shall require only electronic submission.

20 **Subtitle D—Covered Bonds**

21 **SEC. 341. DEFINITIONS.**

22 For purposes of this subtitle, the following definitions
23 shall apply:

24 (1) ANCILLARY ASSET.—The term “ancillary
25 asset” means—

1 (A) any interest rate or currency swap as-
2 sociated with 1 or more eligible assets, sub-
3 stitute assets, or other assets in a cover pool;

4 (B) any credit enhancement or liquidity ar-
5 rangement associated with 1 or more eligible
6 assets, substitute assets, or other assets in a
7 cover pool;

8 (C) any guarantee, letter-of-credit right, or
9 other secondary obligation that supports any
10 payment or performance of 1 or more eligible
11 assets, substitute assets, or other assets in a
12 cover pool; and

13 (D) any proceeds of, or other property in-
14 cident to, 1 or more eligible assets, substitute
15 assets, or other assets in a cover pool.

16 (2) CORPORATION.—The term “Corporation”
17 means the Federal Deposit Insurance Corporation.

18 (3) COVER POOL.—The term “cover pool”
19 means a dynamic pool of assets that is comprised
20 of—

21 (A) in the case of any eligible issuer de-
22 scribed in subparagraph (A), (B), or (C) of
23 paragraph (9)—

24 (i) 1 or more eligible assets from a
25 single eligible asset class; and

1 (ii) 1 or more substitute assets or an-
2 cillary assets; and

3 (B) in the case of any eligible issuer de-
4 scribed in paragraph (9)(D)—

5 (i) the covered bonds issued by each
6 sponsoring eligible issuer; and

7 (ii) 1 or more substitute assets or an-
8 cillary assets.

9 (4) COVERED BOND.—The term “covered
10 bond” means any recourse debt obligation of an eli-
11 gible issuer that—

12 (A) has an original term to maturity of not
13 less than 1 year;

14 (B) is secured by a perfected security in-
15 terest in or other perfected lien on a cover pool
16 that is owned directly or indirectly by the issuer
17 of the obligation;

18 (C) is issued under a covered bond pro-
19 gram that has been approved by the applicable
20 covered bond regulator;

21 (D) is identified in a register of covered
22 bonds that is maintained by the Secretary; and

23 (E) is not a deposit (as defined in section
24 3(l) of the Federal Deposit Insurance Act (12
25 U.S.C. 1813(l))).

1 (5) COVERED BOND PROGRAM.—The term
2 “covered bond program” means any program of an
3 eligible issuer under which, on the security of a sin-
4 gle cover pool, 1 or more series of covered bonds
5 may be issued.

6 (6) COVERED BOND REGULATOR.—The term
7 “covered bond regulator” means—

8 (A) for any eligible issuer that is subject to
9 the jurisdiction of an appropriate Federal bank-
10 ing agency (as defined in section 3(q) of the
11 Federal Deposit Insurance Act (12 U.S.C.
12 1813(q))), the appropriate Federal banking
13 agency;

14 (B) for any eligible issuer that is described
15 in paragraph (9)(D), that is not subject to the
16 jurisdiction of an appropriate Federal banking
17 agency, and that is sponsored by only 1 eligible
18 issuer, the covered bond regulator for the spon-
19 sor;

20 (C) for any eligible issuer that is described
21 in paragraph (9)(D), that is not subject to the
22 jurisdiction of an appropriate Federal banking
23 agency, and that is sponsored by more than 1
24 eligible issuer, the covered bond regulator for
25 the sponsor whose covered bonds constitute the

1 largest share of the cover pool of the issuer;
2 and

3 (D) for any other eligible issuer that is not
4 subject to the jurisdiction of an appropriate
5 Federal banking agency, the Secretary.

6 (7) ELIGIBLE ASSET.—The term “eligible
7 asset” means—

8 (A) in the case of the residential mortgage
9 asset class, any first-lien mortgage loan that—

10 (i) is secured by 1-to-4 family residen-
11 tial property; and

12 (ii) is not made, insured, or guaran-
13 teed by the Government;

14 (B) in the case of the commercial mort-
15 gage asset class, any commercial mortgage loan
16 (including any multifamily mortgage loan);

17 (C) in the case of the public sector asset
18 class—

19 (i) any security issued by a State, mu-
20 nicipality, or other governmental authority;

21 (ii) any loan made to a State, munici-
22 pality, or other governmental authority;
23 and

24 (iii) any loan, security, or other obli-
25 gation that is insured or guaranteed, in

1 full or substantially in full, by the full faith
2 and credit of the United States Govern-
3 ment (whether or not such loan, security,
4 or other obligation is also part of another
5 eligible asset class);

6 (D) in the case of the auto asset class, any
7 auto loan or lease;

8 (E) in the case of the student loan asset
9 class, any student loan (whether guaranteed or
10 nonguaranteed);

11 (F) in the case of the credit or charge card
12 asset class, any extension of credit to a person
13 under an open-end credit plan;

14 (G) in the case of the small business asset
15 class, any loan that is made or guaranteed
16 under a program of the Small Business Admin-
17 istration; and

18 (H) in the case of any other eligible asset
19 class, any asset designated by the Secretary, by
20 rule and in consultation with the covered bond
21 regulators, as an eligible asset for purposes of
22 such class.

23 (8) ELIGIBLE ASSET CLASS.—The term “eligi-
24 ble asset class” means—

25 (A) a residential mortgage asset class;

- 1 (B) a commercial mortgage asset class;
- 2 (C) a public sector asset class;
- 3 (D) an auto asset class;
- 4 (E) a student loan asset class;
- 5 (F) a credit or charge card asset class;
- 6 (G) a small business asset class; and
- 7 (H) any other eligible asset class des-
- 8 igned by the Secretary, by rule and in con-
- 9 sultation with the covered bond regulators.

10 (9) ELIGIBLE ISSUER.—The term “eligible
11 issuer” means—

12 (A) any insured depository institution and
13 any subsidiary of such institution;

14 (B) any bank holding company, any sav-
15 ings and loan holding company, and any sub-
16 sidiary of any of such companies;

17 (C) any nonbank financial company (as de-
18 fined in section 102(a)(4) of the Dodd-Frank
19 Wall Street Reform and Consumer Protection
20 Act (12 U.S.C. 5311(a)(4))) that is supervised
21 by the Board of Governors of the Federal Re-
22 serve System under section 113 of the Dodd-
23 Frank Wall Street Reform and Consumer Pro-
24 tection Act (12 U.S.C. 5323), including any in-
25 termediate holding company supervised as a

1 nonbank financial company, and any subsidiary
2 of such a nonbank financial company; and

3 (D) any issuer that is sponsored by 1 or
4 more eligible issuers for the sole purpose of
5 issuing covered bonds on a pooled basis.

6 (10) OVERSIGHT PROGRAM.—The term “over-
7 sight program” means the covered bond regulatory
8 oversight program established under section 342(a).

9 (11) SECRETARY.—The term “Secretary”
10 means the Secretary of the Department of the
11 Treasury.

12 (12) SUBSTITUTE ASSET.—The term “sub-
13 stitute asset” means—

14 (A) cash;

15 (B) any direct obligation of the United
16 States Government, and any security or other
17 obligation whose full principal and interest are
18 insured or guaranteed by the full faith and
19 credit of the United States Government;

20 (C) any direct obligation of a United
21 States Government corporation or Government-
22 sponsored enterprise of the highest credit qual-
23 ity, and any other security or other obligation
24 of the highest credit quality whose full principal
25 and interest are insured or guaranteed by such

1 corporation or enterprise, except that the out-
2 standing principal amount of these obligations
3 in any cover pool may not exceed an amount
4 equal to 20 percent of the outstanding principal
5 amount of all assets in the cover pool without
6 the approval of the applicable covered bond reg-
7 ulator;

8 (D) any overnight investment in Federal
9 funds;

10 (E) any other substitute asset designated
11 by the Secretary, by rule and in consultation
12 with the covered bond regulators; and

13 (F) any deposit account or securities ac-
14 count into which only an asset described in sub-
15 paragraph (A), (B), (C), (D), or (E) may be de-
16 posited or credited.

17 **SEC. 342. REGULATORY OVERSIGHT OF COVERED BOND**
18 **PROGRAMS ESTABLISHED.**

19 (a) ESTABLISHMENT.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary shall, by rule and in consultation with the
23 covered bond regulators, establish a covered bond
24 regulatory oversight program that provides for—

1 (A) covered bond programs to be evaluated
2 according to reasonable and objective standards
3 in order to be approved under paragraph (2),
4 including any additional eligibility standards for
5 eligible assets and any other criteria determined
6 appropriate by the Secretary to further the pur-
7 poses of this subtitle;

8 (B) covered bond programs to be main-
9 tained in a manner that is consistent with this
10 subtitle and safe and sound asset-liability man-
11 agement and other financial practices; and

12 (C) any estate created under section 343
13 to be administered in a manner that is con-
14 sistent with maximizing the value and the pro-
15 ceeds of the related cover pool in a resolution
16 under this subtitle.

17 (2) APPROVAL OF EACH COVERED BOND PRO-
18 GRAM.—

19 (A) IN GENERAL.—A covered bond shall be
20 subject to this subtitle only if the covered bond
21 is issued by an eligible issuer under a covered
22 bond program that is approved by the applica-
23 ble covered bond regulator.

24 (B) APPROVAL PROCESS.—Each covered
25 bond regulator shall apply the standards estab-

1 lished by the Secretary under the oversight pro-
2 gram to evaluate a covered bond program that
3 has been submitted by an eligible issuer for ap-
4 proval. Each covered bond regulator also shall
5 take into account relevant supervisory factors,
6 including safety and soundness considerations,
7 in evaluating a covered bond program that has
8 been submitted for approval. Each covered bond
9 regulator, promptly after approving a covered
10 bond program, shall provide the Secretary with
11 the name of the covered bond program, the
12 name of the eligible issuer, and all other infor-
13 mation reasonably requested by the Secretary in
14 order to update the registry under paragraph
15 (3)(A). Each eligible issuer, promptly after
16 issuing a covered bond under an approved cov-
17 ered bond program, shall provide the Secretary
18 with all information reasonably requested by
19 the Secretary in order to update the registry
20 under paragraph (3)(B).

21 (C) EXISTING COVERED BOND PRO-
22 GRAMS.—A covered bond regulator may approve
23 a covered bond program that is in existence on
24 the date of the enactment of this Act. Upon
25 such approval, each covered bond under the

1 covered bond program shall be subject to this
2 subtitle, regardless of when the covered bond
3 was issued.

4 (D) MULTIPLE COVERED BOND PROGRAMS
5 PERMITTED.—An eligible issuer may have more
6 than 1 covered bond program.

7 (E) CEASE AND DESIST AUTHORITY.—The
8 applicable covered bond regulator may direct an
9 eligible issuer to cease issuing covered bonds
10 under an approved covered bond program if the
11 covered bond program is not maintained in a
12 manner that is consistent with this subtitle and
13 the oversight program and if, after notice that
14 is reasonable under the circumstances, the
15 issuer does not remedy all deficiencies identified
16 by the applicable covered bond regulator.

17 (F) CAP ON THE AMOUNT OF OUT-
18 STANDING COVERED BONDS.—

19 (i) IN GENERAL.—With respect to
20 each eligible issuer that submits a covered
21 bond program for approval, the applicable
22 covered bond regulator shall set, consistent
23 with safety and soundness considerations
24 and the financial condition of the eligible
25 issuer, the maximum amount, as a percent-

1 age of the eligible issuer's total assets, of
2 outstanding covered bonds that the eligible
3 issuer may issue.

4 (ii) REVIEW OF CAP.—The applicable
5 covered bond regulator may, not more fre-
6 quently than quarterly, review the percent-
7 age set under clause (i) and, if safety and
8 soundness considerations or the financial
9 condition of the eligible issuer has
10 changed, increase or decrease such per-
11 centage. Any decrease made pursuant to
12 this clause shall have no effect on existing
13 covered bonds issued by the eligible issuer.

14 (3) REGISTRY.—Under the oversight program,
15 the Secretary shall maintain a registry that is pub-
16 lished on a Web site available to the public and that,
17 for each covered bond program approved by a cov-
18 ered bond regulator, contains—

19 (A) the name of the covered bond program,
20 the name of the eligible issuer, and all other in-
21 formation that the Secretary considers nec-
22 essary to adequately identify the covered bond
23 program and the eligible issuer; and

24 (B) all information that the Secretary con-
25 siders necessary to adequately identify all out-

1 standing covered bonds issued under the cov-
2 ered bond program (including the reports de-
3 scribed in paragraphs (3) and (4) of subsection
4 (b)).

5 (4) FEES.—Each covered bond regulator may
6 levy, on the issuers of covered bonds under the pri-
7 mary supervision of such covered bond regulator,
8 reasonably apportioned fees that such covered bond
9 regulator considers necessary, in the aggregate, to
10 defray the costs of such covered bond regulator car-
11 rying out the provisions of this subtitle. Such funds
12 shall not be construed to be Government funds or
13 appropriated monies and shall not be subject to ap-
14 portionment for purposes of chapter 15 of title 31,
15 United States Code, or any other provision of law.

16 (b) MINIMUM OVER-COLLATERALIZATION REQUIRE-
17 MENTS.—

18 (1) REQUIREMENTS ESTABLISHED.—The Sec-
19 retary, by rule and in consultation with the covered
20 bond regulators, shall establish minimum over-
21 collateralization requirements for covered bonds
22 backed by each of the eligible asset classes. The min-
23 imum over-collateralization requirements shall be de-
24 signed to ensure that sufficient eligible assets and
25 substitute assets are maintained in the cover pool to

1 satisfy all principal and interest payments on the
2 covered bonds when due through maturity and shall
3 be based on the credit, collection, and interest rate
4 risks (excluding the liquidity risks) associated with
5 the eligible asset class.

6 (2) ASSET COVERAGE TEST.—The eligible as-
7 sets and the substitute assets in any cover pool shall
8 be required, in the aggregate, to meet at all times
9 the applicable minimum over-collateralization re-
10 quirements.

11 (3) MONTHLY REPORTING.—On a monthly
12 basis, each issuer of covered bonds shall submit a re-
13 port on whether the cover pool that secures the cov-
14 ered bonds meets the applicable minimum over-
15 collateralization requirements to—

16 (A) the Secretary;

17 (B) the applicable covered bond regulator;

18 (C) the applicable indenture trustee;

19 (D) the applicable covered bondholders;

20 and

21 (E) the applicable independent asset mon-
22 itor.

23 (4) INDEPENDENT ASSET MONITOR.—

24 (A) APPOINTMENT.—Each issuer of cov-
25 ered bonds shall appoint the indenture trustee

1 for the covered bonds, or another unaffiliated
2 entity, as an independent asset monitor for the
3 applicable cover pool.

4 (B) DUTIES.—An independent asset mon-
5 itor appointed under subparagraph (A) shall, on
6 an annual or other more frequent periodic basis
7 determined by the Secretary under the over-
8 sight program—

9 (i) verify whether the cover pool meets
10 the applicable minimum over-
11 collateralization requirements; and

12 (ii) report to the Secretary, the appli-
13 cable covered bond regulator, the applica-
14 ble indenture trustee, and the applicable
15 covered bondholders on whether the cover
16 pool meets the applicable minimum over-
17 collateralization requirements.

18 (5) NO LOSS OF STATUS.—Covered bonds shall
19 remain subject to this subtitle regardless of whether
20 the applicable cover pool ceases to meet the applica-
21 ble minimum over-collateralization requirements.

22 (6) FAILURE TO MEET REQUIREMENTS.—

23 (A) IN GENERAL.—If a cover pool fails to
24 meet the applicable minimum over-
25 collateralization requirements, and if the failure

1 is not cured within the time specified in the re-
2 lated transaction documents, the failure shall be
3 an uncured default for purposes of section
4 343(a).

5 (B) NOTICE REQUIRED.—An issuer of cov-
6 ered bonds shall promptly give the Secretary
7 and the applicable covered bond regulator writ-
8 ten notice if the cover pool securing the covered
9 bonds fails to meet the applicable minimum
10 over-collateralization requirements, if the failure
11 is cured within the time specified in the related
12 transaction documents, or if the failure is not
13 so cured.

14 (c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

15 (1) REQUIREMENTS.—

16 (A) LOANS.—A loan shall not qualify as an
17 eligible asset for so long as the loan is delin-
18 quent for more than 60 consecutive days.

19 (B) SECURITIES.—A security shall not
20 qualify as an eligible asset for so long as the se-
21 curity does not meet any credit-quality require-
22 ment under this subtitle.

23 (C) ORIGINATION.—An asset shall not
24 qualify as an eligible asset if the asset was not
25 originated in compliance with any rule or super-

1 visory guidance of a Federal agency applicable
2 to the asset at the time of origination.

3 (D) NO DOUBLE PLEDGE.—An asset shall
4 not qualify as an eligible asset for so long as
5 the asset is subject to a prior perfected security
6 interest or other prior perfected lien that has
7 been granted in an unrelated transaction. Noth-
8 ing in this subtitle shall affect such a prior per-
9 fected security interest or other prior perfected
10 lien, and the rights of such lien holders.

11 (2) FAILURE TO MEET REQUIREMENTS.—Sub-
12 ject to paragraph (1)(D), if an asset in a cover pool
13 does not satisfy any applicable requirement de-
14 scribed in paragraph (1) or any other applicable
15 standard or criterion described in this subtitle, the
16 oversight program, or the related transaction docu-
17 ments, the asset shall not qualify as an eligible asset
18 for purposes of the asset coverage test described in
19 subsection (b)(2). A disqualified asset shall remain
20 in the cover pool unless and until removed by the
21 issuer in compliance with the provisions of this sub-
22 title, the oversight program, and the related trans-
23 action documents. No disqualified asset may be re-
24 moved from the cover pool after an estate has been
25 created for the related covered bond program under

1 section 343(b)(1) or 343(c)(2), except in connection
2 with the management of the cover pool under section
3 343(d)(1)(E).

4 (d) OTHER REQUIREMENTS.—

5 (1) BOOKS AND RECORDS OF ISSUER.—Each
6 issuer of covered bonds shall clearly mark its books
7 and records to identify the assets that comprise the
8 cover pool securing the covered bonds.

9 (2) SCHEDULE OF ELIGIBLE ASSETS AND SUB-
10 STITUTE ASSETS.—Each issuer of covered bonds
11 shall deliver to the applicable indenture trustee and
12 the applicable independent asset monitor, on at least
13 a monthly basis, a schedule that identifies all eligible
14 assets and substitute assets in the cover pool secur-
15 ing the covered bonds.

16 (3) SINGLE ELIGIBLE ASSET CLASS.—No cover
17 pool described in section 341(3)(A) may include eli-
18 gible assets from more than 1 eligible asset class. No
19 cover pool described in section 341(3)(B) may in-
20 clude covered bonds backed by more than 1 eligible
21 asset class.

22 **SEC. 343. RESOLUTION UPON DEFAULT OR INSOLVENCY.**

23 (a) UNCURED DEFAULT DEFINED.—For purposes of
24 this section, the term “uncured default” means a default

1 on a covered bond that has not been cured within the time,
2 if any, specified in the related transaction documents.

3 (b) DEFAULT ON COVERED BONDS PRIOR TO CON-
4 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
5 RUPTCY.—

6 (1) CREATION OF SEPARATE ESTATE.—If an
7 uncured default occurs on a covered bond before the
8 issuer of the covered bond enters conservatorship,
9 receivership, liquidation, or bankruptcy, an estate
10 shall be immediately and automatically created by
11 operation of law and shall exist and be administered
12 separate and apart from the issuer or any subse-
13 quent conservatorship, receivership, liquidating agen-
14 cy, or estate in bankruptcy for the issuer or any
15 other assets of the issuer. A separate estate shall be
16 created for each affected covered bond program.

17 (2) ASSETS AND LIABILITIES OF ESTATE.—Any
18 estate created under paragraph (1) shall be com-
19 prised of the cover pool (including over-
20 collateralization in the cover pool) that secures the
21 covered bond. The cover pool shall be immediately
22 and automatically released to and held by the estate
23 free and clear of any right, title, interest, or claim
24 of the issuer or any conservator, receiver, liquidating
25 agent, or trustee in bankruptcy for the issuer or any

1 other assets of the issuer. Assets disqualified under
2 section 342(c)(1)(D) shall not be released to the es-
3 tate. The estate shall be fully liable on the covered
4 bond and all other covered bonds and related obliga-
5 tions of the issuer (including obligations under re-
6 lated derivative transactions) that are secured by a
7 perfected security interest in or other perfected lien
8 on the cover pool when the estate is created. The es-
9 tate shall not be liable on any obligation of the
10 issuer that is not secured by a perfected security in-
11 terest in or other perfected lien on the cover pool
12 when the estate is created. No conservator, receiver,
13 liquidating agent, or trustee in bankruptcy for the
14 issuer may charge or assess the estate for any claim
15 of the conservator, receiver, liquidating agent, or
16 trustee in bankruptcy or the conservatorship, receiv-
17 ership, liquidating agency, or estate in bankruptcy
18 and may not obtain or perfect a security interest in
19 or other lien on the cover pool to secure such a
20 claim.

21 (3) RETENTION OF CLAIMS.—Any holder of a
22 covered bond or related obligation for which an es-
23 tate has become liable under paragraph (2) shall re-
24 tain a claim against the issuer for any deficiency
25 with respect to the covered bond or related obliga-

1 tion. If the issuer enters conservatorship, receiver-
2 ship, liquidation, or bankruptcy, any contingent
3 claim for such a deficiency shall be allowed as a
4 provable claim in the conservatorship, receivership,
5 liquidating agency, or bankruptcy case. The contin-
6 gent claim shall be estimated by the conservator, re-
7 ceiver, liquidating agent, or bankruptcy court for
8 purposes of allowing the claim as a provable claim
9 if awaiting the fixing of the contingent claim would
10 unduly delay the resolution of the conservatorship,
11 receivership, liquidating agency, or bankruptcy case.

12 (4) RESIDUAL INTEREST.—

13 (A) ISSUANCE OF RESIDUAL INTEREST.—

14 Upon the creation of an estate under paragraph
15 (1), a residual interest in the estate shall be im-
16 mediately and automatically issued by operation
17 of law to the issuer.

18 (B) NATURE OF RESIDUAL INTEREST.—

19 The residual interest under subparagraph (A)
20 shall—

21 (i) be an exempted security as de-
22 scribed in section 344;

23 (ii) represent the right to any surplus
24 from the cover pool after the covered bonds

1 and all other liabilities of the estate have
2 been fully and irrevocably paid; and

3 (iii) be evidenced by a certificate exe-
4 cuted by the trustee of the estate.

5 (5) OBLIGATIONS OF ISSUER.—

6 (A) IN GENERAL.—After the creation of an
7 estate under paragraph (1), the issuer shall—

8 (i) transfer to or at the direction of
9 the trustee for the estate all property of
10 the estate that is in the possession or
11 under the control of the issuer, including
12 all tangible or electronic books, records,
13 files, and other documents or materials re-
14 lating to the assets and liabilities of the es-
15 tate; and

16 (ii) at the election of the trustee or a
17 servicer or administrator for the estate,
18 continue servicing the applicable cover pool
19 for 120 days after the creation of the es-
20 tate in return for a fair-market-value fee,
21 as determined by the trustee in consulta-
22 tion with the applicable covered bond regu-
23 lator, that shall be payable from the estate
24 as an administrative expense.

1 (B) OBLIGATIONS ABSOLUTE.—Neither
2 the issuer, whether acting as debtor in posses-
3 sion or in any other capacity, nor any conser-
4 vator, receiver, liquidating agent, or trustee in
5 bankruptcy for the issuer or any other assets of
6 the issuer may disaffirm, repudiate, or reject
7 the obligation to turn over property or to con-
8 tinue servicing the cover pool as provided in
9 subparagraph (A).

10 (c) DEFAULT ON COVERED BONDS UPON CON-
11 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
12 RUPTCY.—

13 (1) CORPORATION CONSERVATORSHIP OR RE-
14 CEIVERSHIP.—

15 (A) IN GENERAL.—If the Corporation is
16 appointed as conservator or receiver for an
17 issuer of covered bonds before an uncured de-
18 fault results in the creation of an estate under
19 subsection (b), the Corporation as conservator
20 or receiver shall have an exclusive right, during
21 the 1-year period beginning on the date of the
22 appointment, to transfer any cover pool owned
23 by the issuer in its entirety, together with all
24 covered bonds and related obligations that are
25 secured by a perfected security interest in or

1 other perfected lien on the cover pool, to an-
2 other eligible issuer that meets all conditions
3 and requirements specified in the related trans-
4 action documents. The Corporation as conser-
5 vator or receiver may not remove any asset
6 from the cover pool, except to the extent other-
7 wise agreed by a transferee that has assumed
8 the covered bond program pursuant to subpara-
9 graph (C).

10 (B) OBLIGATIONS DURING 1-YEAR PE-
11 RIOD.—During the 1-year period described in
12 subparagraph (A), the Corporation as conser-
13 vator or receiver shall fully and timely satisfy
14 all monetary and nonmonetary obligations of
15 the issuer under all covered bonds and the re-
16 lated transaction documents and shall fully and
17 timely cure all defaults by the issuer (other
18 than its conservatorship or receivership) under
19 the applicable covered bond program, in each
20 case, until the earlier of—

21 (i) the transfer of the applicable cov-
22 ered bond program to another eligible
23 issuer as provided in subparagraph (A); or

24 (ii) the delivery to the Secretary, the
25 applicable covered bond regulator, the ap-

1 applicable indenture trustee, and the applica-
2 ble covered bondholders of a written notice
3 from the Corporation as conservator or re-
4 ceiver electing to cease further perform-
5 ance under the applicable covered bond
6 program.

7 (C) ASSUMPTION BY TRANSFEREE.—If the
8 Corporation as conservator or receiver transfers
9 a covered bond program to another eligible
10 issuer within the 1-year period as provided in
11 subparagraph (A), the transferee shall take
12 ownership of the applicable cover pool and shall
13 become fully liable on all covered bonds and re-
14 lated obligations of the issuer that are secured
15 by a perfected security interest in or other per-
16 fected lien on the cover pool.

17 (2) OTHER CIRCUMSTANCES.—An estate shall
18 be immediately and automatically created by oper-
19 ation of law and shall exist and be administered sep-
20 arate and apart from an issuer of covered bonds and
21 any conservatorship, receivership, liquidating agency,
22 or estate in bankruptcy for the issuer or any other
23 assets of the issuer, if—

24 (A) a conservator, receiver, liquidating
25 agent, or trustee in bankruptcy, other than the

1 Corporation, is appointed for the issuer before
2 an uncured default results in the creation of an
3 estate under subsection (b); or

4 (B) in the case of the appointment of the
5 Corporation as conservator or receiver as de-
6 scribed in paragraph (1)(A), the Corporation as
7 conservator or receiver—

8 (i) does not complete the transfer of
9 the applicable covered bond program to an-
10 other eligible issuer within the 1-year pe-
11 riod as provided in paragraph (1)(A);

12 (ii) delivers to the Secretary, the ap-
13 plicable covered bond regulator, the appli-
14 cable indenture trustee, and the applicable
15 covered bondholders a written notice elect-
16 ing to cease further performance under the
17 applicable covered bond program; or

18 (iii) fails to fully and timely satisfy all
19 monetary and nonmonetary obligations of
20 the issuer under the covered bonds and the
21 related transaction documents or to fully
22 and timely cure all defaults by the issuer
23 (other than its conservatorship or receiver-
24 ship) under the applicable covered bond
25 program.

1 A separate estate shall be created for each affected
2 covered bond program.

3 (3) ASSETS AND LIABILITIES OF ESTATE.—Any
4 estate created under paragraph (2) shall be com-
5 prised of the cover pool (including over-
6 collateralization in the cover pool) that secures the
7 covered bonds. The cover pool shall be immediately
8 and automatically released to and held by the estate
9 free and clear of any right, title, interest, or claim
10 of the issuer or any conservator, receiver, liquidating
11 agent, or trustee in bankruptcy for the issuer or any
12 other assets of the issuer. The estate shall be fully
13 liable on the covered bonds and all other covered
14 bonds and related obligations of the issuer (including
15 obligations under related derivative transactions)
16 that are secured by a perfected security interest in
17 or other perfected lien on the cover pool when the
18 estate is created. The estate shall not be liable on
19 any obligation of the issuer that is not secured by
20 a perfected security interest in or other perfected
21 lien on the cover pool when the estate is created. No
22 conservator, receiver, liquidating agent, or trustee in
23 bankruptcy for the issuer may charge or assess the
24 estate for any claim of the conservator, receiver, liq-
25 uidating agent, or trustee in bankruptcy or the con-

1 servatorship, receivership, liquidating agency, or es-
2 tate in bankruptcy and may not obtain or perfect a
3 security interest in or other lien on the cover pool
4 to secure such a claim.

5 (4) CONTINGENT CLAIM.—Any contingent claim
6 against an issuer for a deficiency with respect to a
7 covered bond or related obligation for which an es-
8 tate has become liable under paragraph (3) shall be
9 allowed as a provable claim in the conservatorship,
10 receivership, liquidating agency, or bankruptcy case
11 for the issuer. The contingent claim shall be esti-
12 mated by the conservator, receiver, liquidating
13 agent, or bankruptcy court for purposes of allowing
14 the claim as a provable claim if awaiting the fixing
15 of the contingent claim would unduly delay the reso-
16 lution of the conservatorship, receivership, liqui-
17 dating agency, or bankruptcy case.

18 (5) RESIDUAL INTEREST.—

19 (A) ISSUANCE OF RESIDUAL INTEREST.—

20 Upon the creation of an estate under paragraph
21 (2), and regardless of whether any contingent
22 claim described in paragraph (4) becomes fixed
23 or is estimated, a residual interest in the estate
24 shall be immediately and automatically issued
25 by operation of law to the conservator, receiver,

1 liquidating agent, or trustee in bankruptcy for
2 the issuer.

3 (B) NATURE OF RESIDUAL INTEREST.—

4 The residual interest under subparagraph (A)
5 shall—

6 (i) be an exempted security as de-
7 scribed in section 344;

8 (ii) represent the right to any surplus
9 from the cover pool after the covered bonds
10 and all other liabilities of the estate have
11 been fully and irrevocably paid; and

12 (iii) be evidenced by a certificate exe-
13 cuted by the trustee of the estate.

14 (6) OBLIGATIONS OF ISSUER.—

15 (A) IN GENERAL.—After the creation of an
16 estate under paragraph (2), the issuer and its
17 conservator, receiver, liquidating agent, or
18 trustee in bankruptcy shall—

19 (i) transfer to or at the direction of
20 the trustee for the estate all property of
21 the estate that is in the possession or
22 under the control of the issuer or its con-
23 servator, receiver, liquidating agent, or
24 trustee in bankruptcy, including all tan-
25 gible or electronic books, records, files, and

1 other documents or materials relating to
2 the assets and liabilities of the estate; and

3 (ii) at the election of the trustee or a
4 servicer or administrator for the estate,
5 continue servicing the applicable cover pool
6 for 120 days after the creation of the es-
7 tate in return for a fair-market-value fee,
8 as determined by the trustee in consulta-
9 tion with the applicable covered bond regu-
10 lator, that shall be payable from the estate
11 as an administrative expense.

12 (B) OBLIGATIONS ABSOLUTE.—Neither
13 the issuer, whether acting as debtor in posses-
14 sion or in any other capacity, nor any conser-
15 vator, receiver, liquidating agent, or trustee in
16 bankruptcy for the issuer or any other assets of
17 the issuer may disaffirm, repudiate, or reject
18 the obligation to turn over property or to con-
19 tinue servicing the cover pool as provided in
20 subparagraph (A).

21 (d) ADMINISTRATION AND RESOLUTION OF ES-
22 TATES.—

23 (1) TRUSTEE, SERVICER, AND ADMINIS-
24 TRATOR.—

1 (A) IN GENERAL.—Upon the creation of
2 any estate under subsection (b)(1) or (c)(2), the
3 applicable covered bond regulator shall—

4 (i) appoint the trustee for the estate;

5 (ii) appoint 1 or more servicers or ad-
6 ministrators for the cover pool held by the
7 estate; and

8 (iii) give the Secretary, the applicable
9 indenture trustee, the applicable covered
10 bondholders, and the owner of the residual
11 interest written notice of the creation of
12 the estate.

13 (B) TERMS AND CONDITIONS OF APPOINT-
14 MENT.—All terms and conditions of any ap-
15 pointment under paragraph (1), including the
16 terms and conditions relating to compensation,
17 shall conform to the requirements of this sub-
18 title and the oversight program and otherwise
19 shall be determined by the applicable covered
20 bond regulator.

21 (C) QUALIFICATION.—The applicable cov-
22 ered bond regulator may require the trustee or
23 any servicer or administrator for an estate to
24 post in favor of the United States, for the ben-
25 efit of the estate, a bond that is conditioned on

1 the faithful performance of the duties of the
2 trustee or the servicer or administrator. The
3 covered bond regulator shall determine the
4 amount of any bond required under this sub-
5 paragraph and the sufficiency of the surety on
6 the bond. A proceeding on a bond required
7 under this subparagraph may not be com-
8 menced after two years after the date on which
9 the trustee or the servicer or administrator was
10 discharged.

11 (D) POWERS AND DUTIES OF TRUSTEE.—

12 The trustee for an estate is the representative
13 of the estate and, subject to the provisions of
14 this subtitle, has capacity to sue and be sued.
15 The trustee shall—

16 (i) administer the estate in compliance
17 with this subtitle, the oversight program,
18 and the related transaction documents;

19 (ii) be accountable for all property of
20 the estate that is received by the trustee;

21 (iii) make a final report and file a
22 final account of the administration of the
23 estate with the applicable covered bond
24 regulator; and

1 (iv) after the estate has been fully ad-
2 ministered, close the estate.

3 (E) POWERS AND DUTIES OF SERVICER OR
4 ADMINISTRATOR.—Any servicer or adminis-
5 trator for an estate—

6 (i) shall—

7 (I) collect, realize on (by liquida-
8 tion or other means), and otherwise
9 manage the cover pool held by the es-
10 tate for the purpose of winding down
11 the related cover bond program in
12 compliance with this subtitle, the
13 oversight program, and the related
14 transaction documents and in a man-
15 ner consistent with maximizing the
16 value and the proceeds of the cover
17 pool;

18 (II) deposit or invest all proceeds
19 and funds received in compliance with
20 this subtitle, the oversight program,
21 and the related transaction documents
22 and in a manner consistent with maxi-
23 mizing the net return to the estate,
24 taking into account the safety of the
25 deposit or investment; and

1 (III) apply, or direct the trustee
2 for the estate to apply, all proceeds
3 and funds received and the net return
4 on any deposit or investment to make
5 distributions in compliance with para-
6 graphs (3) and (4);

7 (ii) may borrow funds or otherwise ob-
8 tain credit, for the benefit of the estate, in
9 compliance with paragraph (2) on a se-
10 cured or unsecured basis and on a priority,
11 pari passu, or subordinated basis;

12 (iii) shall, at the times and in the
13 manner required by the applicable covered
14 bond regulator, submit to the covered bond
15 regulator, the Secretary, the applicable in-
16 denture trustee, the applicable covered
17 bondholders, the owner of the residual in-
18 terest, and any other person designated by
19 the covered bond regulator, reports that
20 describe the activities of the servicer or ad-
21 ministrator on behalf of the estate, the
22 performance of the cover pool held by the
23 estate, and distributions made by the es-
24 tate; and

1 (iv) shall assist the trustee in pre-
2 paring the final report and the final ac-
3 count of the administration of the estate.

4 (F) SUPERVISION OF TRUSTEE, SERVICER,
5 AND ADMINISTRATOR.—The applicable covered
6 bond regulator shall supervise the trustee and
7 any servicer or administrator for an estate. The
8 covered bond regulator shall require that all re-
9 ports submitted under subparagraph (E)(iii) do
10 not contain any untrue statement of a material
11 fact and do not omit to state a material fact
12 necessary in order to make the statements
13 made, in light of the circumstances under which
14 they are made, not misleading.

15 (G) REMOVAL AND REPLACEMENT OF
16 TRUSTEE, SERVICER, AND ADMINISTRATOR.—If
17 the covered bond regulator determines that it is
18 in the best interests of an estate, the covered
19 bond regulator may remove or replace the trust-
20 ee or any servicer or administrator for the es-
21 tate. The removal of the trustee or any servicer
22 or administrator does not abate any pending ac-
23 tion or proceeding involving the estate, and any
24 successor or other trustee, servicer, or adminis-

1 trator shall be substituted as a party in the ac-
2 tion or proceeding.

3 (H) PROFESSIONALS.—The trustee or any
4 servicer or administrator for an estate may em-
5 ploy 1 or more attorneys, accountants, apprais-
6 ers, auctioneers, or other professional persons
7 to represent or assist the trustee or the servicer
8 or administrator in carrying out its duties. The
9 employment of any professional person and all
10 terms and conditions of employment, including
11 the terms and conditions relating to compensa-
12 tion, shall conform to the requirements of this
13 subtitle and the oversight program and other-
14 wise shall be subject to the approval of the ap-
15 plicable covered bond regulator.

16 (I) APPROVED FEES AND EXPENSES.—Un-
17 less otherwise provided in the applicable terms
18 and conditions of appointment or employment,
19 all approved fees and expenses of the trustee,
20 any servicer or administrator, or any profes-
21 sional person employed by the trustee or any
22 servicer or administrator shall be payable from
23 the estate as administrative expenses.

24 (J) ACTIONS BY OR ON BEHALF OF ES-
25 TATE.—The trustee or any servicer or adminis-

1 trator for an estate may commence or continue
2 judicial, administrative, or other actions, in the
3 name of the estate or in its own name on behalf
4 of the estate, for the purpose of collecting, real-
5 izing on, or otherwise managing the cover pool
6 held by the estate or exercising its other powers
7 or duties on behalf of the estate.

8 (K) ACTIONS AGAINST ESTATE.—No court
9 may issue an attachment or execution on any
10 property of an estate. Except at the request of
11 the applicable covered bond regulator or as oth-
12 erwise provided in this subparagraph or sub-
13 paragraph (J), no court may take any action to
14 restrain or affect the resolution of an estate
15 under this subtitle. No person (including the
16 applicable indenture trustee and any applicable
17 covered bondholder) may commence or continue
18 any judicial, administrative, or other action
19 against the estate, the trustee, or any servicer
20 or administrator or take any other act to affect
21 the estate, the trustee, or any servicer or ad-
22 ministrator that is not expressly permitted by
23 this subtitle, the oversight program, and the re-
24 lated transaction documents, except for a judi-

1 cial or administrative action to compel the re-
2 lease of funds that—

3 (i) are available to the estate;

4 (ii) are permitted to be distributed
5 under this subtitle and the oversight pro-
6 gram; and

7 (iii) are permitted and required to be
8 distributed under the related transaction
9 documents and any contracts executed by
10 or on behalf of the estate.

11 (L) SOVEREIGN IMMUNITY.—Except in
12 connection with a guarantee provided under
13 paragraph (4) or any other contract executed
14 by the applicable covered bond regulator under
15 this section 343, the Secretary and the covered
16 bond regulator shall be entitled to sovereign im-
17 munity in carrying out the provisions of this
18 subtitle.

19 (2) BORROWINGS AND CREDIT.—

20 (A) IN GENERAL.—Any servicer or admin-
21 istrator for an estate created under subsection
22 (b)(1) or (c)(2) may borrow funds or otherwise
23 obtain credit, on behalf of and for the benefit
24 of the estate, from any person in compliance
25 with this paragraph (2) solely for the purpose

1 of providing liquidity in the case of timing
2 mismatches among the assets and the liabilities
3 of the estate. Except with respect to an under-
4 writer, section 5 of the Securities Act of 1933,
5 the Trust Indenture Act of 1939, and any State
6 or local law requiring registration for an offer
7 or sale of a security or registration or licensing
8 of an issuer of, underwriter of, or broker or
9 dealer in a security does not apply to the offer
10 or sale under this paragraph (2) of a security
11 that is not an equity security.

12 (B) CONDITIONS.—A servicer or adminis-
13 trator may borrow funds or otherwise obtain
14 credit under subparagraph (A)—

15 (i) on terms affording the lender only
16 claims or liens that are fully subordinated
17 to the claims and interests of the applica-
18 ble indenture trustee and the applicable
19 covered bondholders and all other claims
20 against and interests in the estate, except
21 for the residual interest, if the servicer or
22 administrator certifies to the applicable
23 covered bond regulator that, in the busi-
24 ness judgment of the servicer or adminis-
25 trator, the borrowing or credit is in the

1 best interests of the estate and is expected
2 to maximize the value and the proceeds of
3 the cover pool held by the estate; or

4 (ii) on terms affording the lender
5 claims or liens that have priority over or
6 are pari passu with the claims or interests
7 of the applicable indenture trustee or the
8 applicable covered bondholders or other
9 claims against or interests in the estate,
10 if—

11 (I) the servicer or administrator
12 certifies to the applicable covered
13 bond regulator that, in the business
14 judgment of the servicer or adminis-
15 trator, the borrowing or credit is in
16 the best interests of the estate and is
17 expected to maximize the value and
18 the proceeds of the cover pool held by
19 the estate; and

20 (II) the applicable covered bond
21 regulator authorizes the borrowing or
22 credit.

23 (C) LIMITED LIABILITY.—A servicer or ad-
24 ministrator shall not be liable for any error in
25 business judgment when borrowing funds or

1 otherwise obtaining credit under this paragraph
2 (2) unless the servicer or administrator acted in
3 bad faith or in willful disregard of its duties.

4 (D) LIMITS ON BORROWINGS AND CRED-
5 IT.—Funds may not be borrowed or credit oth-
6 erwise obtained under subparagraph (A)—

7 (i) for the purpose of investing in ad-
8 ditional portfolios of eligible assets through
9 the issuance of new covered bonds; or

10 (ii) otherwise for a purpose other than
11 winding down the related covered bond
12 program in compliance with this Act, the
13 oversight program, and the related trans-
14 action documents.

15 (E) STUDY ON BORROWINGS AND CRED-
16 IT.—The Comptroller General of the United
17 States shall conduct a study on whether the
18 Federal reserve banks should be authorized to
19 lend funds or otherwise extend credit to an es-
20 tate under this paragraph (2) and, if so, what
21 conditions and limits should be established to
22 mitigate any risk that the United States Gov-
23 ernment could absorb credit losses on the cover
24 pool held by the estate. The Comptroller Gen-
25 eral shall submit a report to the Committee on

1 Banking, Housing, and Urban Affairs of the
2 Senate and the Committee on Financial Serv-
3 ices of the House of Representatives on the re-
4 sults of the study not later than 6 months after
5 the date of enactment of this Act.

6 (3) DISTRIBUTIONS BY ESTATE.—All payments
7 or other distributions by an estate shall be made at
8 the times, in the amounts, and in the manner set
9 forth in the covered bonds, the related transaction
10 documents, and any contracts executed by or on be-
11 half of the estate in compliance with this subtitle
12 and the oversight program. To the extent that the
13 relative priority of the liabilities of the estate are not
14 specified in or otherwise ascertainable from their
15 terms, distributions shall be made on each distribu-
16 tion date under the covered bonds, the related trans-
17 action documents, or any contracts executed by or
18 on behalf of the estate—

19 (A) first, to pay accrued and unpaid super-
20 priority claims under paragraph (2)(B)(ii);

21 (B) second, to pay accrued and unpaid ad-
22 ministrative expense claims under paragraph
23 (1)(I), paragraph (2)(B)(ii), section
24 343(b)(5)(A), or section 343(c)(6)(A);

25 (C) third, to pay—

1 (i) accrued and unpaid claims under
2 the covered bonds and the related trans-
3 action documents according to their terms;
4 and

5 (ii) accrued and unpaid *pari passu*
6 claims under paragraph (2)(B)(ii); and

7 (D) fourth, to pay accrued and unpaid
8 subordinated claims under paragraph (2)(B)(i).

9 (4) DISTRIBUTIONS ON RESIDUAL INTEREST.—

10 After all other claims against and interests in an es-
11 tate have been fully and irrevocably paid or
12 defeased, the trustee shall or shall cause a servicer
13 or administrator to distribute the remainder of the
14 estate to or at the direction of the owner of the re-
15 sidual interest. No interim distribution on the resid-
16 ual interest may be made before that time, unless
17 the applicable covered bond regulator—

18 (A) approves the distribution after deter-
19 mining that all other claims against and inter-
20 ests in the estate will be fully, timely, and irrev-
21 ocably paid according to their terms; and

22 (B) provides an indemnity, for the benefit
23 of the estate, assuring that all other claims
24 against and interests in the estate will be fully,

1 timely, and irrevocably paid according to their
2 terms.

3 (5) CLOSING OF ESTATE.—After an estate has
4 been fully administered, the trustee shall close the
5 estate and, except as otherwise directed by the appli-
6 cable covered bond regulator, shall destroy all
7 records of the estate.

8 (6) NO LOSS TO TAXPAYERS.—Taxpayers shall
9 bear no losses from the resolution of an estate under
10 this subtitle. To the extent that the Secretary and
11 the Corporation jointly determine that the Deposit
12 Insurance Fund incurred actual losses that are high-
13 er because the covered bond program of an insured
14 depository institution was subject to resolution
15 under this subtitle rather than as part of the receiv-
16 ership of the institution under the Federal Deposit
17 Insurance Act (12 U.S.C. 1811 et seq.), the Cor-
18 poration may exercise the powers available under
19 section 7(b) of the Federal Deposit Insurance Act
20 (12 U.S.C. 1817(b)) to recover an amount equal to
21 those losses after consulting with the Secretary.

22 **SEC. 344. SECURITIES LAW PROVISIONS.**

23 (a) EXISTING EXEMPTIONS APPLICABLE TO COV-
24 ERED BONDS.—

1 (1) TREATMENT OF CERTAIN BANKS AND
2 OTHER ENTITIES.—Any covered bond issued or
3 guaranteed by a bank or by an eligible issuer de-
4 scribed in section 341(9)(D) and sponsored solely by
5 1 or more banks for the sole purpose of issuing cov-
6 ered bonds is and shall be treated as a security
7 issued or guaranteed by a bank under section
8 3(a)(2) of the Securities Act of 1933 (15 U.S.C.
9 77c(a)(2)), section 3(c)(3) of the Investment Com-
10 pany Act of 1940 (15 U.S.C. 80a-3(c)(3)), and sec-
11 tion 304(a)(4)(A) of the Trust Indenture Act of
12 1939 (15 U.S.C. 77ddd(a)(4)(A)). No covered bond
13 issued or guaranteed by a bank or by an eligible
14 issuer described in section 341(9)(D) and sponsored
15 solely by 1 or more banks for the sole purpose of
16 issuing covered bonds shall be treated as an asset-
17 backed security (as defined in section 3 of the Secu-
18 rities and Exchange Act of 1934 (15 U.S.C. 78c)).
19 Each covered bond regulator for 1 or more banks
20 shall adopt disclosure and reporting regulations for
21 offers or sales of covered bonds by a bank or an eli-
22 gible issuer described in this paragraph. Such regu-
23 lations shall provide for uniform and consistent
24 standards for such covered bond issuers, to the ex-
25 tent possible, and shall be consistent with existing

1 regulations governing offers or sales of nonconvert-
2 ible debt.

3 (2) TREATMENT OF CERTAIN ASSOCIATIONS
4 AND COOPERATIVE BANKS.—Any covered bond
5 issued by an entity described in section 3(a)(5)(A)
6 of the Securities Act of 1933 (15 U.S.C.
7 77c(a)(5)(A)) or by an eligible issuer described in
8 section 341(9)(D) and sponsored solely by 1 or more
9 such entities for the sole purpose of issuing covered
10 bonds is and shall be treated as a security issued by
11 such an entity under section 3(a)(5)(A) of the Secu-
12 rities Act of 1933 (15 U.S.C. 77c(a)(5)(A)), section
13 3(c)(3) of the Investment Company Act of 1940 (15
14 U.S.C. 80a-3(c)(3)), and section 304(a)(4)(A) of the
15 Trust Indenture Act of 1939 (15 U.S.C.
16 77ddd(a)(4)(A)). No covered bond issued by an enti-
17 ty described in section 3(a)(5)(A) of the Securities
18 Act of 1933 (15 U.S.C. 77c(a)(5)(A)) or by an eligi-
19 ble issuer described in section 341(9)(D) and spon-
20 sored solely by 1 or more such entities for the sole
21 purpose of issuing covered bonds shall be treated as
22 an asset-backed security (as defined in section 3 of
23 the Securities and Exchange Act of 1934 (15 U.S.C.
24 78c)). Each covered bond regulator for 1 or more
25 entities described in section 3(a)(5)(A) of the Securi-

1 ties Act of 1933 (15 U.S.C. 77c(a)(5)(A)) shall
2 adopt, as part of the securities regulations of the
3 covered bond regulator, a separate scheme of reg-
4 istration, disclosure, and reporting obligations and
5 exemptions for offers or sales of covered bonds that
6 are described in this paragraph. Such regulations
7 shall provide for uniform and consistent standards
8 for such covered bond issuers, to the extent possible,
9 and shall be consistent with regulations governing
10 offers or sales of similar securities.

11 (3) CONSTRUCTION.—No provision of this sub-
12 title, including paragraph (1) or (2), may be con-
13 strued or applied in a manner that impairs or limits
14 any other exemption that is available under applica-
15 ble securities laws.

16 (b) EXEMPTIONS FOR ESTATES.—Any estate that is
17 or may be created under section 343(b)(1) or 343(c)(2)
18 shall be exempt from all securities laws but—

19 (1) shall be subject to the reporting require-
20 ments established by the applicable covered bond
21 regulator under section 343(d)(1)(E)(iii); and

22 (2) shall succeed to any requirement of the
23 issuer to file such periodic information, documents,
24 and reports in respect of the covered bonds as speci-
25 fied in section 13(a) of the Securities and Exchange

1 Act of 1934 (15 U.S.C. 78m(a)) or rules established
2 by an appropriate Federal banking agency.

3 (c) EXEMPTIONS FOR RESIDUAL INTERESTS.—Any
4 residual interest in an estate that is or may be created
5 under section 343(b)(1) or 343(c)(2) shall be exempt from
6 all securities laws.

7 **SEC. 345. MISCELLANEOUS PROVISIONS.**

8 (a) DOMESTIC SECURITIES.—Section 106(a)(1) of
9 the Secondary Mortgage Market Enhancement Act of
10 1984 (15 U.S.C. 77r–1(a)(1)) is amended—

11 (1) in subparagraph (C), by striking “or” at
12 the end;

13 (2) in subparagraph (D), by adding “or” at the
14 end; and

15 (3) by inserting after subparagraph (D) the fol-
16 lowing:

17 “(E) covered bonds (as defined in section 341
18 of the Protecting American Taxpayers and Home-
19 owners Act of 2018),”.

20 (b) TAX TREATMENT OF COVERED BOND PRO-
21 GRAMS.—

22 (1) TREATMENT OF ESTATES CREATED UNDER
23 COVERED BOND PROGRAMS.—Section 7701 of the
24 Internal Revenue Code of 1986 is amended by redesi-
25 gnating subsection (p) as subsection (q) and by in-

1 serting after subsection (o) the following new sub-
2 section:

3 “(p) TREATMENT OF ESTATES CREATED UNDER
4 COVERED BOND PROGRAMS.—For purposes of this title—

5 “(1) TREATMENT AS DISREGARDED ENTITY.—
6 Any estate created with respect to a covered bond
7 program—

8 “(A) shall not be treated as an entity sub-
9 ject to taxation separate from the owner of the
10 residual interest with respect to such estate,
11 and

12 “(B) shall be treated as a disregarded enti-
13 ty that is owned by the owner of such residual
14 interest.

15 “(2) LIMITATIONS ON TREATMENT AS DIS-
16 REGARDED ENTITY.—

17 “(A) MAXIMUM DURATION.—Paragraph
18 (1) shall not apply with respect to an estate
19 after the earlier of—

20 “(i) the end of the 30-year period be-
21 ginning on the date of the creation of such
22 estate, or

23 “(ii) the end of the 180-day period be-
24 ginning on the date of the final payment
25 on the last outstanding covered bond that

1 is secured by the cover pool held by such
2 estate.

3 “(B) RESTRICTIONS ON OWNER OF RESID-
4 UAL INTEREST.—Paragraph (1) shall apply
5 with respect to an estate for any period only
6 if—

7 “(i) at no time during such period
8 does more than one person hold a residual
9 interest with respect to such estate,

10 “(ii) such person is—

11 “(I) subject to tax under subtitle
12 A on the net income of such estate for
13 the taxable year of such person which
14 includes such period, or

15 “(II) a conservator, receiver, liq-
16 uidating agent, or trustee in bank-
17 ruptcy with respect to the issuer for
18 such period, and

19 “(iii) such person is not a regulated
20 investment company (as defined in section
21 851) or real estate investment trust (as de-
22 fined in section 856) for the taxable year
23 which includes such period.

24 “(3) TREATMENT AS CORPORATION.—With re-
25 spect to any period for which paragraph (1) does not

1 apply to an estate created with respect to a covered
2 bond program, such estate shall be treated as a cor-
3 poration.

4 “(4) COORDINATION WITH RULES FOR TAX-
5 ABLE MORTGAGE POOLS.—No portion of any estate
6 created with respect to a covered bond program shall
7 be treated as a taxable mortgage pool for purposes
8 of subsection (i) during any period for which para-
9 graph (1) applies to such estate.

10 “(5) DEFINITIONS.—For purposes of this sub-
11 section, the terms ‘covered bond program’, ‘cover
12 pool’, ‘estate’, and ‘residual interest’ shall each have
13 the same respective meanings as when used for pur-
14 poses of subtitle D of title III of the Protecting
15 American Taxpayers and Homeowners Act of 2018.

16 “(6) CROSS REFERENCES.—

17 “(A) For nonrecognition with respect to
18 certain transfers under covered bond programs,
19 see section 1001(f).

20 “(B) For excise tax on estates created
21 under covered bond programs by reason of de-
22 fault, see section 4475.”

23 (2) TREATMENT OF CERTAIN TRANSFERS
24 UNDER COVERED BOND PROGRAMS.—Section 1001

1 of such Code is amended by adding at the end the
2 following new subsection:

3 “(f) CERTAIN TRANSFERS UNDER COVERED BOND
4 PROGRAMS.—

5 “(1) IN GENERAL.—With respect to any cov-
6 ered bond program, none of the following shall be
7 treated as a taxable exchange of a covered bond to
8 a covered bond holder or to a notional principal con-
9 tract counterparty:

10 “(A) The transfer of all of the assets and
11 liabilities of such program.

12 “(B) The creation of an estate with respect
13 to such program.

14 “(C) The transfer of the residual interest
15 in such estate.

16 “(2) DEFINITIONS.—For purposes of this sub-
17 section, the terms ‘covered bond program’, ‘estate’,
18 and ‘residual interest’ shall each have the same re-
19 spective meanings as when used for purposes of sub-
20 title D of title III of the Protecting American Tax-
21 payers and Homeowners Act of 2018.”.

22 (3) EXCISE TAX ON ESTATES CREATED UNDER
23 COVERED BOND PROGRAMS BY REASON OF DE-
24 FAULT.—

1 (A) IN GENERAL.—Chapter 36 of such
2 Code is amended by inserting after subchapter
3 B the following new subchapter:

4 **“Subchapter C—Tax on Certain Estates**
5 **Created Under Covered Bond Programs**

“Sec. 4475. Tax on estates created under covered bond programs by reason of
default.

6 **“SEC. 4475. TAX ON ESTATES CREATED UNDER COVERED**
7 **BOND PROGRAMS BY REASON OF DEFAULT.**

8 “(a) IMPOSITION OF TAX.—A tax is hereby imposed
9 on the creation of an estate by operation of section
10 343(b)(1) of the Protecting American Taxpayers and
11 Homeowners Act of 2018.

12 “(b) AMOUNT OF TAX.—The tax imposed under sub-
13 section (a) with respect to the creation of any estate shall
14 be equal to 1 percent of the principal amount of the cov-
15 ered bonds secured by the cover pool with respect to such
16 estate determined as of the close of the day before the
17 creation of such estate.

18 “(c) BY WHOM PAID.—The tax imposed under sub-
19 section (a) shall be paid by the issuer of the covered bonds
20 with respect to the covered bond program with respect to
21 which the estate referred to in subsection (a) is created.

22 “(d) NO EFFECT ON COVER POOL.—The tax im-
23 posed under subsection (a) shall not reduce the assets of

1 the cover pool and no liability for such tax shall attach
2 to the estate or to the assets of the cover pool.

3 “(e) REFUND IN CASE OF BANKRUPTCY, ETC.—If an
4 issuer liable for the tax imposed under subsection (a) en-
5 ters conservatorship, receivership, liquidation, or bank-
6 ruptcy during the 5-year period beginning on the date of
7 the creation of the estate referred to in subsection (a),
8 such liability shall be extinguished and any such tax paid
9 shall refunded to the issuer immediately upon such event.

10 “(f) DEFINITIONS.—For purposes of this section, the
11 terms ‘covered bond program’, ‘cover pool’, and ‘estate’
12 shall each have the same respective meanings as when
13 used for purposes of subtitle D of title III of the Pro-
14 tecting American Taxpayers and Homeowners Act of
15 2018.”.

16 (B) CLERICAL AMENDMENT.—The table of
17 subchapters for chapter 36 of such Code is
18 amended by inserting after the item relating to
19 subchapter B the following new item:

“SUBCHAPTER C—TAX ON CERTAIN ESTATES CREATED UNDER COVERED
BOND PROGRAMS”.

20 (4) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to estates created, and
22 transfers made, after the date of the enactment of
23 this Act.

1 (c) STATE AND LOCAL TAXES.—The Secretary may
2 promulgate regulations under this subtitle that are similar
3 to the provisions of section 346 of title 11, United States
4 Code, including regulations to provide that—

5 (1) if an estate created under section 343(b)(1)
6 or 343(c)(2) is not treated as an entity subject to
7 taxation separate from the owner of the residual in-
8 terest for purposes of the Internal Revenue Code of
9 1986 (26 U.S.C. 1 et seq.), no separate taxable enti-
10 ty shall be created with respect to the estate for pur-
11 poses of any State or local law imposing a tax on
12 or measured by income; and

13 (2) if a transfer or assumption of an asset or
14 liability to or by an estate or an eligible issuer under
15 section 343(b) or 343(c) does not cause or constitute
16 an event in which gain or loss is recognized under
17 section 1001 of the Internal Revenue Code of 1986
18 (26 U.S.C. 1001), the transfer or assumption shall
19 not cause or constitute a disposition for purposes of
20 any provision assigning tax consequences to a dis-
21 position in connection with any State or local law
22 imposing a tax on or measured by income.

23 (d) NO CONFLICT.—The provisions of this subtitle
24 shall apply, notwithstanding any provision of the Federal
25 Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11,

1 United States Code, title II of the Dodd-Frank Wall
2 Street Reform and Consumer Protection Act (12 U.S.C.
3 5381 et seq.), or any other provision of Federal law with
4 respect to conservatorship, receivership, liquidation, or
5 bankruptcy. No provision of the Federal Deposit Insur-
6 ance Act (12 U.S.C. 1811 et seq.), title 11, United States
7 Code, title II of the Dodd-Frank Wall Street Reform and
8 Consumer Protection Act (12 U.S.C. 5381 et seq.), or any
9 other provision of Federal law with respect to conservator-
10 ship, receivership, liquidation, or bankruptcy may be con-
11 strued or applied in a manner that defeats or interferes
12 with the purpose or operation of this subtitle.

13 (e) ANNUAL REPORT TO CONGRESS.—The covered
14 bond regulators shall, annually—

15 (1) submit a joint report to the Congress de-
16 scribing the current state of the covered bond mar-
17 ket in the United States; and

18 (2) testify on the current state of the covered
19 bond market in the United States before the Com-
20 mittee on Financial Services of the House of Rep-
21 resentatives and the Committee on Banking, Hous-
22 ing, and Urban Affairs of the Senate.

1 **TITLE IV—REMOVING BARRIERS**
2 **TO NEW INVESTMENT**

3 **SEC. 401. BASEL III LIQUIDITY COVERAGE RATIO AMEND-**
4 **MENTS.**

5 (a) IN GENERAL.—In implementing the Basel III Li-
6 quidity Coverage Ratio amendments, the Board of Gov-
7 ernors of the Federal Reserve System, the Federal Deposit
8 Insurance Corporation, and the Office of the Comptroller
9 of the Currency may not require, as a condition for status
10 as a high quality liquid asset, that residential mortgage-
11 backed securities be collateralized only by (or be
12 collateralized by a certain percentage of) full recourse
13 mortgage loans.

14 (b) DEFINITION.—The term “Basel III Liquidity
15 Coverage Ratio amendments” means the final rule issued
16 by the Comptroller of the Currency, the Board of Gov-
17 ernors of the Federal Reserve System, and the Federal
18 Deposit Insurance Corporation titled “Liquidity Coverage
19 Ratio: Liquidity Risk Measurement Standards”, published
20 October 10, 2014 (79 Fed. Reg. 61439).

21 **SEC. 402. DEFINITION OF POINTS AND FEES.**

22 (a) AMENDMENT TO SECTION 103 OF TILA.—Sec-
23 tion 103(bb)(4) of the Truth in Lending Act (15 U.S.C.
24 1602(bb)(4)) is amended—

1 (1) by striking “paragraph (1)(B)” and insert-
2 ing “paragraph (1)(A) and section 129C”;

3 (2) in subparagraph (C)—

4 (A) by inserting “and insurance” after
5 “taxes”;

6 (B) in clause (ii), by inserting “, except as
7 retained by a creditor or its affiliate as a result
8 of their participation in an affiliated business
9 arrangement (as defined in section 2(7) of the
10 Real Estate Settlement Procedures Act of 1974
11 (12 U.S.C. 2602(7))” after “compensation”;
12 and

13 (C) by striking clause (iii) and inserting
14 the following:

15 “(iii) the charge is—

16 “(I) a bona fide third-party charge
17 not retained by the mortgage originator,
18 creditor, or an affiliate of the creditor or
19 mortgage originator; or

20 “(II) a charge set forth in section
21 106(e)(1);” and

22 (3) in subparagraph (D)—

23 (A) by striking “accident,”; and

24 (B) by striking “or any payments” and in-
25 serting “and any payments”.

1 (b) AMENDMENT TO SECTION 129C OF TILA.—Sec-
2 tion 129C of the Truth in Lending Act (15 U.S.C. 1639c)
3 is amended—

4 (1) in subsection (a)(5)(C), by striking “103”
5 and all that follows through “or mortgage origi-
6 nator” and inserting “103(bb)(4)”; and

7 (2) in subsection (b)(2)(C)(i), by striking “103”
8 and all that follows through “or mortgage origi-
9 nator)” and inserting “103(bb)(4)”.

10 (c) RULEMAKING.—Not later than the end of the 90-
11 day period beginning on the date of the enactment of this
12 Act, the Bureau of Consumer Financial Protection shall
13 issue final regulations to carry out the amendments made
14 by this section, and such regulations shall be effective
15 upon issuance.

16 **SEC. 403. EXCLUSION OF ISSUERS OF ASSET-BACKED SECURITIES FROM COVERED FUNDS.**

17 Section 13(h)(2) of the Bank Holding Company Act
18 of 1956 (12 U.S.C. 1851(h)(2)) is amended—

19 (1) by striking “‘private equity fund’ mean an
20 issuer” and inserting the following: “‘private equity
21 fund’—

22 “(A) mean an issuer”;

23 (2) by striking the period and inserting “;
24 and”;

1 (3) by adding at the end the following:

2 “(B) does not include an issuer, if such
3 issuer is described under subparagraph (A)
4 solely because such issuer issues asset-backed
5 securities (as such term is defined under section
6 3(a) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78c(a)).”.

8 **SEC. 404. MORTGAGES IN QUALIFIED SECURITIES.**

9 Section 129C of the Truth in Lending Act (15 U.S.C.
10 1639c) is amended by adding at the end the following:

11 “(j) MORTGAGES IN QUALIFIED SECURITIES.—This
12 section and any regulations promulgated under this sec-
13 tion do not apply to a mortgage serving as collateral for
14 a qualified security, as such term is defined under section
15 321 of the Protecting American Taxpayers and Home-
16 owners Act of 2018.”.

17 **SEC. 405. MORTGAGE LOANS HELD IN PORTFOLIO.**

18 (a) HOME MORTGAGE DISCLOSURE ACT OF 1975.—
19 Section 304(g) of the Home Mortgage Disclosure Act of
20 1975 (12 U.S.C. 2803(g)) is amended—

21 (1) in paragraph (1), by striking “and” at the
22 end;

23 (2) in paragraph (2), by striking the period and
24 inserting “; and”; and

25 (3) by adding at the end the following:

1 amended or repealed by such sections are restored or re-
2 vived as if such sections had not been enacted.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Dodd-Frank Wall Street Reform and Consumer
5 Protection Act is amended by striking the items relating
6 to sections 1413, 1431, and 1432.

7 **SEC. 407. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

8 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
9 is amended—

10 (1) in section 129 (15 U.S.C. 1639)—

11 (A) in subsection (b)(3), by adding at the
12 end the following: “The Bureau may not, by
13 regulation or otherwise, prohibit a consumer
14 from modifying or waiving the rights provided
15 to the consumer under this subsection.”; and

16 (B) in subsection (u), by adding at the end
17 the following:

18 “(4) ENSURING ACCESS TO COUNSELING SERV-
19 ICES FOR RURAL COMMUNITIES.—Certification de-
20 scribed under paragraph (1) may be provided by a
21 person who operates an online or telephone-operated
22 counseling service approved by the Secretary of
23 Housing and Urban Development or by an online or
24 telephone-operated counseling service operated by

1 the Department of Housing and Urban Develop-
2 ment.

3 “(5) EFFECTIVE DATE.—Notwithstanding sec-
4 tion 1400(c) of the Mortgage Reform and Anti-Pred-
5 atory Lending Act, this subsection shall take effect
6 after the end of the 1-year period beginning on the
7 earlier of—

8 “(A) the date on which the first online or
9 telephone-operated counseling service is ap-
10 proved under paragraph (4); and

11 “(B) the date on which the Department of
12 Housing and Urban Development begins pro-
13 viding online or telephone-operated counseling
14 services described under paragraph (4).”;

15 (2) in section 129C (15 U.S.C. 1639c)—

16 (A) in subsection (b)(2)(A)(viii), by strik-
17 ing “30” and inserting “40”;

18 (B) by striking subsections (c), (d), and
19 (e); and

20 (C) by redesignating subsections (f), (g),
21 (h), and (i) as subsections (c), (d), (e), and (f),
22 respectively; and

23 (3) in section 129E(k)(1) (15 U.S.C.
24 1639e(k)(1)) by inserting after “this section” the
25 following: “, other than subsection (e),”.

1 **SEC. 408. FINANCIAL INSTITUTIONS EXAMINATION FAIR-**
2 **NESS AND REFORM.**

3 (a) AMENDMENT TO DEFINITION OF FINANCIAL IN-
4 STITUTION.—Section 1003(3) of the Federal Financial In-
5 stitutions Examination Council Act of 1978 (12 U.S.C.
6 3302(3)) is amended to read as follows:

7 “(3) the term ‘financial institution’—

8 “(A) means a commercial bank, a savings
9 bank, a trust company, a savings association, a
10 building and loan association, a homestead as-
11 sociation, a cooperative bank, or a credit union;
12 and

13 “(B) for purposes of sections 1012, 1013,
14 and 1014, includes a nondepository covered per-
15 son subject to supervision by the Bureau of
16 Consumer Financial Protection under section
17 1024 of the Consumer Financial Protection Act
18 of 2010 (12 U.S.C. 5514).”.

19 (b) TIMELINESS OF EXAMINATION REPORTS.—The
20 Federal Financial Institutions Examination Council Act of
21 1978 (12 U.S.C. 3301 et seq.) is amended by adding at
22 the end the following:

23 **“SEC. 1012. TIMELINESS OF EXAMINATION REPORTS.**

24 “(a) IN GENERAL.—

25 “(1) FINAL EXAMINATION REPORT.—A Federal
26 financial institutions regulatory agency shall provide

1 a final examination report to a financial institution
2 not later than 60 days after the later of—

3 “(A) the exit interview for an examination
4 of the institution; or

5 “(B) the provision of additional informa-
6 tion by the institution relating to the examina-
7 tion.

8 “(2) EXIT INTERVIEW.—If a financial institu-
9 tion is not subject to a resident examiner program,
10 the exit interview shall occur not later than the end
11 of the 9-month period beginning on the commence-
12 ment of the examination, except that such period
13 may be extended by the Federal financial institu-
14 tions regulatory agency by providing written notice
15 to the institution and the Independent Examination
16 Review Director describing with particularity the
17 reasons that a longer period is needed to complete
18 the examination.

19 “(b) EXAMINATION MATERIALS.—Upon the request
20 of a financial institution, the Federal financial institutions
21 regulatory agency shall include with the final report an
22 appendix listing all examination or other factual informa-
23 tion relied upon by the agency in support of a material
24 supervisory determination.”.

1 (c) INDEPENDENT EXAMINATION REVIEW DIREC-
2 TOR.—The Federal Financial Institutions Examination
3 Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended
4 by subsection (b) of this section, is further amended by
5 adding at the end the following:

6 **“SEC. 1013. OFFICE OF INDEPENDENT EXAMINATION RE-**
7 **VIEW.**

8 “(a) ESTABLISHMENT.—There is established in the
9 Council an Office of Independent Examination Review
10 (the ‘Office’).

11 “(b) HEAD OF OFFICE.—There is established the po-
12 sition of the Independent Examination Review Director
13 (the ‘Director’), as the head of the Office. The Director
14 shall be appointed by the Council and shall be independent
15 from any member agency of the Council.

16 “(c) TERM.—The Director shall serve for a term of
17 5 years, and may be appointed to serve a subsequent 5-
18 year term.

19 “(d) STAFFING.—The Director is authorized to hire
20 staff to support the activities of the Office.

21 “(e) DUTIES.—The Director shall—

22 “(1) receive and, at the Director’s discretion,
23 investigate complaints from financial institutions,
24 their representatives, or another entity acting on be-

1 half of such institutions, concerning examinations,
2 examination practices, or examination reports;

3 “(2) hold meetings, at least once every three
4 months and in locations designed to encourage par-
5 ticipation from all sections of the United States,
6 with financial institutions, their representatives, or
7 another entity acting on behalf of such institutions,
8 to discuss examination procedures, examination
9 practices, or examination policies;

10 “(3) in accordance with subsection (f), review
11 examination procedures of the Federal financial in-
12 stitutions regulatory agencies to ensure that the
13 written examination policies of those agencies are
14 being followed in practice and adhere to the stand-
15 ards for consistency established by the Council;

16 “(4) conduct a continuing and regular review of
17 examination quality assurance for all examination
18 types conducted by the Federal financial institutions
19 regulatory agencies;

20 “(5) adjudicate any supervisory appeal initiated
21 under section 1014; and

22 “(6) report annually to the Committee on Fi-
23 nancial Services of the House of Representatives, the
24 Committee on Banking, Housing, and Urban Affairs
25 of the Senate, and the Council, on the reviews car-

1 ried out pursuant to paragraphs (3) and (4), includ-
2 ing compliance with the requirements set forth in
3 section 1012 regarding timeliness of examination re-
4 ports, and the Council’s recommendations for im-
5 provements in examination procedures, practices,
6 and policies.

7 “(f) STANDARD FOR REVIEWING EXAMINATION PRO-
8 CEDURES.—In conducting reviews pursuant to subsection
9 (e)(4), the Director shall prioritize factors relating to the
10 safety and soundness of the financial system of the United
11 States.

12 “(g) REMOVAL.—If the Director is removed from of-
13 fice, the Council shall communicate in writing the reasons
14 for any such removal to the Committee on Financial Serv-
15 ices of the House of Representatives and the Committee
16 on Banking, Housing, and Urban Affairs of the Senate
17 not later than 30 days before the removal.

18 “(h) CONFIDENTIALITY.—The Director shall keep
19 confidential all meetings with, discussions with, and infor-
20 mation provided by financial institutions.”.

21 (d) RIGHT TO INDEPENDENT REVIEW OF MATERIAL
22 SUPERVISORY DETERMINATIONS.—The Federal Financial
23 Institutions Examination Council Act of 1978 (12 U.S.C.
24 3301 et seq.), as amended by subsection (c) of this section,
25 is further amended by adding at the end the following:

1 **“SEC. 1014. RIGHT TO INDEPENDENT REVIEW OF MATERIAL**
2 **SUPERVISORY DETERMINATIONS.**

3 “(a) IN GENERAL.—A financial institution shall have
4 the right to obtain an independent review of a material
5 supervisory determination contained in a final report of
6 examination.

7 “(b) NOTICE.—

8 “(1) TIMING.—A financial institution seeking
9 review of a material supervisory determination under
10 this section shall file a written notice with the Inde-
11 pendent Examination Review Director (the ‘Direc-
12 tor’) within 60 days after receiving the final report
13 of examination that is the subject of such review.

14 “(2) IDENTIFICATION OF DETERMINATION.—
15 The written notice shall identify the material super-
16 visory determination that is the subject of the inde-
17 pendent examination review, and a statement of the
18 reasons why the institution believes that the deter-
19 mination is incorrect or should otherwise be modi-
20 fied.

21 “(3) INFORMATION TO BE PROVIDED TO INSTI-
22 TUTION.—Any information relied upon by the agen-
23 cy in the final report that is not in the possession
24 of the financial institution may be requested by the
25 financial institution and shall be delivered promptly
26 by the agency to the financial institution.

1 “(c) RIGHT TO HEARING.—

2 “(1) IN GENERAL.—The Director shall deter-
3 mine the merits of the appeal on the record or, at
4 the financial institution’s election, shall refer the ap-
5 peal to an Administrative Law Judge to conduct a
6 confidential hearing pursuant to the procedures set
7 forth under sections 556 and 557 of title 5, United
8 States Code, which hearing shall take place not later
9 than 60 days after the petition for review was re-
10 ceived by the Director, and to issue a proposed deci-
11 sion to the Director based upon the record estab-
12 lished at such hearing.

13 “(2) STANDARD OF REVIEW.—In rendering a
14 determination or recommendation under this sub-
15 section, neither the Administrative Law Judge nor
16 the Director shall defer to the opinions of the exam-
17 iner or agency, but shall conduct a de novo review
18 to independently determine the appropriateness of
19 the agency’s decision based upon the relevant stat-
20 utes, regulations, and other appropriate guidance, as
21 well as evidence adduced at any hearing.

22 “(d) FINAL DECISION.—A decision by the Director
23 on an independent review under this section shall—

24 “(1) be made not later than 60 days after the
25 record has been closed; and

1 “(2) subject to subsection (e), be deemed a final
2 agency action and shall bind the agency whose su-
3 pervisory determination was the subject of the re-
4 view and the financial institution requesting the re-
5 view.

6 “(e) LIMITED REVIEW BY FFIEC.—

7 “(1) IN GENERAL.—If the agency whose super-
8 visory determination was the subject of the review
9 believes that the Director’s decision under subsection
10 (d) would pose an imminent threat to the safety and
11 soundness of the financial institution, such agency
12 may file a written notice seeking review of the Direc-
13 tor’s decision with the Council within 10 days of re-
14 ceiving the Director’s decision.

15 “(2) STANDARD OF REVIEW.—In making a de-
16 termination under this subsection, the Council shall
17 conduct a review to determine whether there is sub-
18 stantial evidence that the Director’s decision would
19 pose an imminent threat to the safety and soundness
20 of the financial institution.

21 “(3) FINAL DETERMINATION.—A determination
22 by the Council shall—

23 “(A) be made not later than 30 days after
24 the filing of the notice pursuant to paragraph
25 (1); and

1 “(B) be deemed a final agency action and
2 shall bind the agency whose supervisory deter-
3 mination was the subject of the review and the
4 financial institution requesting the review.

5 “(f) RIGHT TO JUDICIAL REVIEW.—A financial insti-
6 tution shall have the right to petition for review of final
7 agency action under this section by filing a Petition for
8 Review within 60 days of the Director’s decision or the
9 Council’s decision in the United States Court of Appeals
10 for the District of Columbia Circuit or the Circuit in which
11 the financial institution is located.

12 “(g) REPORT.—The Director shall report annually to
13 the Committee on Financial Services of the House of Rep-
14 resentatives and the Committee on Banking, Housing, and
15 Urban Affairs of the Senate on actions taken under this
16 section, including the types of issues that the Director has
17 reviewed and the results of those reviews. In no case shall
18 such a report contain information about individual finan-
19 cial institutions or any confidential or privileged informa-
20 tion shared by financial institutions.

21 “(h) RETALIATION PROHIBITED.—A Federal finan-
22 cial institutions regulatory agency may not—

23 “(1) retaliate against a financial institution, in-
24 cluding service providers, or any institution-affiliated
25 party (as defined under section 3 of the Federal De-

1 posit Insurance Act), for exercising appellate rights
2 under this section; or

3 “(2) delay or deny any agency action that
4 would benefit a financial institution or any institu-
5 tion-affiliated party on the basis that an appeal
6 under this section is pending under this section.

7 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion may be construed—

9 “(1) to affect the right of a Federal financial
10 institutions regulatory agency to take enforcement
11 or other supervisory actions related to a material su-
12 pervisory determination under review under this sec-
13 tion; or

14 “(2) to prohibit the review under this section of
15 a material supervisory determination with respect to
16 which there is an ongoing enforcement or other su-
17 pervisory action.”.

18 (e) ADDITIONAL AMENDMENTS.—

19 (1) RIEGLE COMMUNITY DEVELOPMENT AND
20 REGULATORY IMPROVEMENT ACT OF 1994.—Section
21 309 of the Riegle Community Development and Reg-
22 ulatory Improvement Act of 1994 (12 U.S.C. 4806)
23 is amended—

24 (A) in subsection (a), by inserting after
25 “appropriate Federal banking agency” the fol-

1 lowing: “, the Bureau of Consumer Financial
2 Protection,”;

3 (B) in subsection (b)—

4 (i) in paragraph (2), by striking “the
5 appellant from retaliation by agency exam-
6 iners” and inserting “the insured deposi-
7 tory institution or insured credit union
8 from retaliation by the agencies referred to
9 in subsection (a)”;

10 (ii) by adding at the end the following
11 flush-left text:

12 “For purposes of this subsection and subsection (e), retal-
13 iation includes delaying consideration of, or withholding
14 approval of, any request, notice, or application that other-
15 wise would have been approved, but for the exercise of the
16 institution’s or credit union’s rights under this section.”;

17 (C) in subsection (e)(2)—

18 (i) in subparagraph (B), by striking
19 “and” at the end;

20 (ii) in subparagraph (C), by striking
21 the period and inserting “; and”;

22 (iii) by adding at the end the fol-
23 lowing:

24 “(D) ensure that appropriate safeguards
25 exist for protecting the insured depository insti-

1 tution or insured credit union from retaliation
2 by any agency referred to in subsection (a) for
3 exercising its rights under this subsection.”;
4 and

5 (D) in subsection (f)(1)(A)—

6 (i) in clause (ii), by striking “and” at
7 the end;

8 (ii) in clause (iii), by striking “and”
9 at the end; and

10 (iii) by adding at the end the fol-
11 lowing:

12 “(iv) any issue specifically listed in an
13 exam report as a matter requiring atten-
14 tion by the institution’s management or
15 board of directors; and

16 “(v) any suspension or removal of an
17 institution’s status as eligible for expedited
18 processing of applications, requests, no-
19 tices, or filings on the grounds of a super-
20 visory or compliance concern, regardless of
21 whether that concern has been cited as a
22 basis for another material supervisory de-
23 termination or matter requiring attention
24 in an examination report, provided that the

1 conduct at issue did not involve violation of
2 any criminal law; and”.

3 (2) FEDERAL CREDIT UNION ACT.—Section
4 205(j) of the Federal Credit Union Act (12 U.S.C.
5 1785(j)) is amended by inserting “the Bureau of
6 Consumer Financial Protection,” before “the Ad-
7 ministration” each place such term appears.

8 (3) FEDERAL FINANCIAL INSTITUTIONS EXAM-
9 INATION COUNCIL ACT OF 1978.—The Federal Fi-
10 nancial Institutions Examination Council Act of
11 1978 (12 U.S.C. 3301 et seq.) is amended—

12 (A) in section 1003, by amending para-
13 graph (1) to read as follows:

14 “(1) the term ‘Federal financial institutions
15 regulatory agencies’—

16 “(A) means the Office of the Comptroller
17 of the Currency, the Board of Governors of the
18 Federal Reserve System, the Federal Deposit
19 Insurance Corporation, and the National Credit
20 Union Administration; and

21 “(B) for purposes of sections 1012, 1013,
22 and 1014, includes the Bureau of Consumer Fi-
23 nancial Protection;”;

24 (B) in section 1005, by striking “One-
25 fifth” and inserting “One-fourth”.

1 (f) REDUCTION OF SURPLUS FUNDS OF FEDERAL
2 RESERVE BANKS.—

3 (1) IN GENERAL.—Section 7(a)(3)(A) of the
4 Federal Reserve Act (12 U.S.C. 289(a)(3)(A)) is
5 amended by striking “\$7,500,000,000” and insert-
6 ing “\$7,324,285,000”.

7 (2) EFFECTIVE DATE.—Paragraph (1) shall
8 take effect on June 1, 2018.

9 **SEC. 409. NOTICE OF JUNIOR MORTGAGE OR LIEN.**

10 With respect to the dwelling of a borrower that serves
11 as security for a securitized senior mortgage loan, if the
12 borrower enters into any credit transaction that would re-
13 sult in the creation of a new mortgage or other lien on
14 such dwelling, the creditor of such new mortgage or other
15 lien shall notify the servicer of the senior mortgage loan
16 of the existence of the new mortgage or other lien.

17 **SEC. 410. LIMITATION ON MORTGAGES HELD BY LOAN**
18 **SERVICERS.**

19 (a) LIMITATION.—Neither the servicer of a residen-
20 tial mortgage loan, nor any affiliate of such servicer, may
21 own, or hold any interest in, any other residential mort-
22 gage loan that is secured by a mortgage, deed of trust,
23 or other equivalent consensual security interest on the
24 same dwelling or residential real property that is subject
25 to the mortgage, deed of trust, or other security interest

1 that secures the residential mortgage loan serviced by the
2 servicer.

3 (b) DEFINITIONS.—For purposes of this section, the
4 following definitions shall apply:

5 (1) AFFILIATE.—The term “affiliate” has the
6 meaning given such term under section 104(g) of
7 the Gramm-Leach-Bliley Act (15 U.S.C. 6701(g)).

8 (2) RESIDENTIAL MORTGAGE LOAN.—The term
9 “residential mortgage loan” means any consumer
10 credit transaction that is secured by a mortgage,
11 deed of trust, or other equivalent consensual security
12 interest on a dwelling or on residential real property
13 that includes a dwelling, other than a consumer
14 credit transaction under an open end credit plan or
15 an extension of credit relating to a plan described in
16 section 101(53D) of title 11, United States Code.

17 (3) SERVICER.—The term “servicer” has the
18 meaning provided such term in section 129A of the
19 Truth in Lending Act, except that such term in-
20 cludes a person who makes or holds a residential
21 mortgage loan (including a pool of residential mort-
22 gage loans) if such person also services the loan.

23 (c) INTERESTS.—For purposes of subsection (a),
24 ownership of, or holding an interest in, a residential mort-

1 gage loan includes ownership of, or holding an interest
2 in—

3 (1) a pool of residential mortgage loans that
4 contains such residential mortgage loan; or

5 (2) any security based on or backed by a pool
6 of residential mortgage loans that contains such res-
7 idential mortgage loan.

8 (d) EFFECTIVE DATE.—This section shall apply—

9 (1) with respect to the servicer (or affiliate of
10 the servicer) of a residential mortgage loan that is
11 originated after the date of the enactment of this
12 Act, on such date of enactment; and

13 (2) with respect to the servicer (or affiliate of
14 the servicer) of a residential mortgage loan that is
15 originated on or before the date of the enactment of
16 this Act, upon the expiration of the 12-month period
17 beginning upon such date of enactment.

18 **TITLE V—REGULATORY**

19 **STRUCTURE**

20 **Subtitle A—Ginnie Mae**

21 **SEC. 501. REMOVAL FROM HUD; ESTABLISHMENT AS INDE-**
22 **PENDENT ENTITY.**

23 (a) IN GENERAL.—Paragraph (2) of section 302(a)
24 of the National Housing Act (12 U.S.C. 1717(a)(2)) is
25 amended by striking “in the Department of Housing and

1 Urban Development” and inserting “independent of any
2 other agency or office in the Federal Government”.

3 (b) CONFORMING AMENDMENTS.—Title III of the
4 National Housing Act (12 U.S.C. 1716 et seq.) is amend-
5 ed—

6 (1) in section 306(g)(3)(D) (12 U.S.C.
7 1721(g)(3)(D)), by striking “Secretary” and insert-
8 ing “Association”;

9 (2) in section 307 (12 U.S.C. 1722), by striking
10 “Secretary of Housing and Urban Development”
11 and inserting “Association”; and

12 (3) in section 317 (12 U.S.C. 1723i)—

13 (A) in subsection (a)(1), by striking “Sec-
14 retary of Housing and Urban Development”
15 and inserting “Administrator of the Associa-
16 tion”;

17 (B) in subsection (c)(4), by striking “Sec-
18 retary’s” and inserting “Administrator of the
19 Association’s”;

20 (C) in subsection (d)(1), by striking “Sec-
21 retary’s” and inserting “Administrator of the
22 Association’s”;

23 (D) in the heading for subsection (f), by
24 striking “BY SECRETARY”; and

1 (E) by striking “Secretary” each place
2 such term appears and inserting “Adminis-
3 trator of the Association”.

4 (c) MANAGEMENT; BOARD OF DIRECTORS.—

5 (1) IN GENERAL.—Section 308 of the National
6 Housing Act (12 U.S.C. 1723(a)) is amended by
7 striking subsection (a) and inserting the following
8 new subsection:

9 “(a) MANAGEMENT.—

10 “(1) BOARD OF DIRECTORS.—

11 “(A) NUMBER AND APPOINTMENT.—The
12 Association shall be governed by a Board of Di-
13 rectors consisting of 5 members, who shall be
14 appointed by the President, by and with the ad-
15 vice and consent of the Senate, from among in-
16 dividuals who—

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

18 and

19 “(ii) have demonstrated technical ex-
20 pertise in the mortgage market and one of
21 whom has technical expertise in the sec-
22 ondary mortgage market.

23 “(B) POLITICAL AFFILIATION.—Not more
24 than 3 members of the Board of Directors may
25 be members of the same political party.

1 “(C) TERMS.—

2 “(i) IN GENERAL.—Each member of
3 the Board of Directors shall be appointed
4 for a term of 5 years, except as provided
5 in clauses (ii) and (iii).

6 “(ii) TERMS OF INITIAL AP-
7 POINTEES.—As designated by the Presi-
8 dent at the time of appointment, of the
9 members first appointed to the Board of
10 Directors pursuant to subparagraph (A)—

11 “(I) 1 shall be appointed for a
12 term of 1 year;

13 “(II) 1 shall be appointed for a
14 term of 2 years;

15 “(III) 1 shall be appointed for a
16 term of 3 years; and

17 “(IV) 1 shall be appointed for a
18 term of 4 years.

19 “(iii) INTERIM APPOINTMENTS.—Any
20 member appointed to fill a vacancy occur-
21 ring before the expiration of the term for
22 which such member’s predecessor was ap-
23 pointed shall be appointed only for the re-
24 mainder of such term.

1 “(iv) CONTINUATION OF SERVICE.—

2 The Director and each member may con-
3 tinue to serve after the expiration of the
4 term of office to which such member was
5 appointed until a successor has been ap-
6 pointed and qualified.

7 “(2) ADMINISTRATOR; CHAIRPERSON.—

8 “(A) DESIGNATION; TERM.—One of the
9 members of the Board of Directors shall be des-
10 ignated by the President, at the time of ap-
11 pointment, to serve as Chairperson of the
12 Board of Directors and Administrator of the
13 Association for a term of 5 years, unless re-
14 moved before the end of such term pursuant to
15 subparagraph (C).

16 “(B) ADVICE.—The Board of Directors
17 shall advise the Administrator regarding overall
18 strategies and policies to carry out the duties
19 and purposes of this Act.

20 “(C) REMOVAL.—The President may re-
21 move the Administrator for inefficiency, neglect
22 of duty, or malfeasance in office.

23 “(3) OPERATIONS.—

24 “(A) BYLAWS.—Within the limitations of
25 law, the Board of Directors shall determine the

1 general policies which shall govern the oper-
2 ations of the Association, and shall have power
3 to adopt, amend and repeal bylaws governing
4 the performance of the powers and duties
5 granted to or imposed upon it by law.

6 “(B) REQUIRED VOTES.—At the first
7 meeting of the Board of Directors, the Board
8 shall determine by majority vote which actions
9 of the Association shall require a majority vote
10 of the Board.

11 “(4) OFFICERS.—The Director shall select and
12 effect the appointment of qualified persons to fill
13 such offices of the Association as may be provided
14 for in the bylaws. Persons appointed under the pre-
15 ceding sentence shall perform such executive func-
16 tions, powers, and duties as may be prescribed by
17 the bylaws or by the Board of Directors, and such
18 persons shall be executive officers of the Association
19 and shall discharge all such executive functions,
20 powers, and duties.”.

21 (2) COMPENSATION.—

22 (A) ADMINISTRATOR.—Section 5314 of
23 title 5, United States Code, is amended by add-
24 ing at the end the following new item:

1 “Administrator, Government National Mortgage As-
2 sociation.”.

3 (B) MEMBERS OF BOARD OF DIREC-
4 TORS.—Section 5314 of title 5, United States
5 Code, is amended—

6 (i) by striking the item relating to the
7 President of the Government National
8 Mortgage Association, Department of
9 Housing and Urban Development; and

10 (ii) by adding at the end the following
11 new item:

12 “Members, Board of Directors of the Government
13 National Mortgage Association.”.

14 (d) PERSONNEL.—Subsection (d) of section 309 of
15 the National Housing Act (12 U.S.C. 1723a(d)) is amend-
16 ed by striking “(d)(1)” and all that follows through the
17 end of paragraph (1) and inserting the following:

18 “(d) PERSONNEL.—

19 “(1) GINNIE MAE.—

20 “(A) IN GENERAL.—The Administrator of
21 the Association may appoint and fix the com-
22 pensation of such officers and employees of the
23 Association as the Administrator considers nec-
24 essary to carry out the functions of the Associa-
25 tion. Officers and employees may be paid with-

1 out regard to the provisions of chapter 51 and
2 subchapter III of chapter 53 of title 5, United
3 States Code, relating to classification and Gen-
4 eral Schedule pay rates.

5 “(B) COMPARABILITY OF COMPENSATION
6 WITH FEDERAL BANKING AGENCIES.—In fixing
7 and directing compensation under subpara-
8 graph (A), the Administrator of the Association
9 shall consult with, and maintain comparability
10 with, compensation of officers and employees of
11 the Office of the Comptroller of the Currency,
12 the Board of Governors of the Federal Reserve
13 System, and the Federal Deposit Insurance
14 Corporation.

15 “(C) PERSONNEL OF OTHER FEDERAL
16 AGENCIES.—In carrying out the duties of the
17 Association, the Administrator of the Associa-
18 tion may use information, services, staff, and
19 facilities of any executive agency, independent
20 agency, or department on a reimbursable basis,
21 with the consent of such agency or depart-
22 ment.”.

23 (e) TRANSITIONAL PROVISION.—Notwithstanding
24 this section and the amendments made by this section,
25 during the period beginning on the date of the enactment

1 of this Act, and ending on the date on which the Adminis-
2 trator of the Government National Mortgage Association
3 is appointed and confirmed pursuant to section 308 of the
4 National Housing Act, as amended by this section, the
5 person serving as the President of the Government Na-
6 tional Mortgage Association on that effective date shall act
7 for all purposes as, and with the full powers of, the Admin-
8 istrator of the Association.

9 (f) REFERENCES.—On and after the date of the en-
10 actment of this Act, any reference in Federal law to the
11 President of the Government National Mortgage Associa-
12 tion or to such Association shall be deemed to be a ref-
13 erence to such Administrator of such Association or to
14 such Association, as appropriate, as organized pursuant
15 to this subsection and the amendments made by this sec-
16 tion.

17 **SEC. 502. GUARANTEE FEES.**

18 Paragraph (3) of section 306(g) of the National
19 Housing Act (12 U.S.C. 1721(g)(3)) is amended—

20 (1) by striking “(3)(A) No fee or charge in ex-
21 cess of 6 basis points” and inserting “(3)(A)(i) Ex-
22 cept as provided in clause (ii), no fee or charge”;

23 (2) in subparagraph (A), by adding at the end
24 the following new clause:

1 “(ii) The Association shall establish a fee of not less
2 than 6 basis points for the guaranty of the timely payment
3 of principal or interest on securities or notes based on or
4 backed by mortgages described in clause (i), which shall
5 be based on risks associated with issuer counterparties,
6 market risks, and risk and cost of administering the pro-
7 gram. The Association may adjust such fee annually but
8 only to the extent necessary to conform such fee with such
9 risks and costs and, before any such adjustment takes ef-
10 fect, shall submit to the Congress a report describing the
11 justifications for the adjustment.”;

12 (3) in subparagraph (B), by adding after the
13 period at the end the following: “‘The Association
14 may adjust such fee annually but only to the extent
15 necessary to conform such fee with such anticipated
16 claims.’”;

17 (4) in subparagraph (C)—

18 (A) by striking “shall remain at the level
19 set for such fees or charges as of September 30,
20 1985, except that”;

21 (B) by striking “increased” and inserting
22 “adjusted pursuant subparagraph (D)”

23 (C) by inserting “risk and” before “cost of
24 administering”; and

1 (D) by inserting “or to the conditions of
2 the market,” after “the program,”; and

3 (5) in subparagraph (D)—

4 (A) by striking “increasing” and inserting
5 “adjusting”; and

6 (B) by striking “increase” and inserting
7 “adjustment;”.

8 **Subtitle B—FHA**

9 **SEC. 511. DEFINITIONS.**

10 For purposes of this title, the following definitions
11 shall apply:

12 (1) BOARD.—The term “Board” means the
13 Board of Directors of the FHA established under
14 section 524.

15 (2) DIRECTOR.—The term “Director” means
16 the Director of the Federal Housing Finance Agen-
17 cy.

18 (3) FHA.—The term “FHA” means the Fed-
19 eral Housing Administration established under this
20 title.

21 (4) FIRST-TIME HOMEBUYER.—The term “first-
22 time homebuyer” means an individual who meets
23 any of the following criteria:

24 (A) An individual, and his or her spouse,
25 who has never had ownership in a principal res-

1 idence, as evidenced by inclusion of such indi-
2 vidual's name on a mortgage, title, or deed in
3 connection with such ownership.

4 (B) A single parent (as such term is de-
5 fined in section 956 of the Cranston-Gonzalez
6 National Affordable Housing Act (42 U.S.C.
7 12713)) who has only owned a principal resi-
8 dence with a former spouse while married.

9 (C) An individual who is divorced, whose
10 only ownership in a principal residence was to-
11 gether with a previous spouse, as evidenced by
12 inclusion of such individual's name on a mort-
13 gage, title, or deed in connection with such
14 ownership.

15 (D) An individual who is a displaced home-
16 maker (as such term is defined in such section
17 956 of the Cranston-Gonzalez National Afford-
18 able Housing Act) and has only owned a prin-
19 cipal residence with a spouse.

20 (E) An individual who has only owned a
21 principal residence not permanently affixed to a
22 permanent foundation in accordance with appli-
23 cable regulations.

24 (F) An individual who has only owned a
25 property that was not in compliance with state,

1 local or model building codes and which cannot
2 be brought into compliance for less than the
3 cost of constructing a permanent structure.

4 (5) UNITED STATES.—The term “United
5 States” includes the States, the District of Colum-
6 bia, the Commonwealth of Puerto Rico, the Com-
7 monwealth of the Northern Mariana Islands, Guam,
8 the Virgin Islands, American Samoa, and Native
9 American governments.

10 **PART 1—ORGANIZATION**

11 **SEC. 521. ESTABLISHMENT.**

12 (a) IN GENERAL.—There is hereby established the
13 Federal Housing Administration, which shall be a body
14 corporate without capital stock and shall have succession
15 until dissolved by Act of Congress.

16 (b) GOVERNMENT CORPORATION.—The FHA shall
17 be established as a wholly owned Government corporation
18 subject to chapter 91 of title 31, United States Code (com-
19 monly referred to as the Government Corporation Control
20 Act), except as otherwise provided in this subtitle.

21 (c) FEDERAL AGENCY.—

22 (1) IN GENERAL.—The FHA shall be an agency
23 of the United States, except that the FHA shall not
24 be considered an agency for purposes of holding,
25 managing, and disposing of assets acquired by the

1 FHA under the provisions of this title or the Na-
2 tional Housing Act.

3 (2) HOLDING, MANAGEMENT, AND DISPOSAL
4 AUTHORITY.—For purposes of this subsection, the
5 term “holding, managing, and disposing of assets”
6 includes the powers to—

7 (A) deal with, complete, reconstruct, rent,
8 renovate, modernize, insure, make contracts for
9 the management of, establish suitable agencies
10 for the management of, or exercise discretion to
11 sell for cash or credit or lease, any acquired
12 property;

13 (B) pursue collection by way of com-
14 promise or otherwise all assigned and trans-
15 ferred claims; and

16 (C) at any time, upon default, foreclose on
17 any property secured by any assigned or trans-
18 ferred mortgage.

19 (d) SELF-SUFFICIENT ENTITY.—The FHA shall op-
20 erate and conduct its business as a self-sufficient self-suf-
21 ficient entity in accordance with section 204(d).

22 (e) CORPORATE OFFICES AND RESIDENCY.—The
23 FHA shall maintain its principal office in the District of
24 Columbia and shall be deemed, for purposes of venue in
25 civil actions, to be a resident of the District of Columbia.

1 The FHA may establish other offices in such other places
2 as the FHA considers appropriate in the conduct of its
3 business.

4 (f) TAX STATUS.—The FHA, including its franchise,
5 activities, income, and assets, shall be exempt from all tax-
6 ation now or hereafter imposed by any taxing authority
7 in the United States, except that any real property of the
8 FHA (other than real property that the FHA uses as an
9 office) shall be subject to taxation to the same extent ac-
10 cording to its value as any taxing authority taxes other
11 real property.

12 (g) PROTECTION OF NAME.—

13 (1) PROHIBITION.—No person shall, except the
14 body corporate established under this section, after
15 the date of the enactment of this Act, use the words
16 “Federal Housing Administration” or the initials
17 “FHA” as the name or part thereof under which
18 such person shall do business.

19 (2) ENFORCEMENT.—Violations of paragraph
20 (1) may be enjoined by any court of general jurisdic-
21 tion at the suit of the FHA. In any such suit, the
22 FHA may recover any actual damages resulting
23 from such violation, and, in addition, shall be enti-
24 tled to punitive damages (regardless of the existence
25 or nonexistence of actual damages) of not more than

1 \$100 for each day during which such violation is
2 committed or repeated.

3 **SEC. 522. PURPOSES.**

4 The FHA is established for the following purposes:

5 (1) To provide mortgage insurance and other
6 credit enhancement and related activities, for—

7 (A) single family homeownership to first-
8 time homebuyers, low- and moderate-income
9 homebuyers, homebuyers in areas subject to
10 counter-cyclical markets or Presidentially-de-
11 clared disasters;

12 (B) the financing of affordable rental
13 housing; and

14 (C) the provision of residential health care
15 facilities.

16 (2) To supplement private sector activity by
17 serving hard-to-serve markets, developing new mort-
18 gage products, and filling gaps in the provision and
19 delivery of mortgage credit.

20 (3) To deliver housing mortgage insurance and
21 credit enhancement and provide other services in a
22 non-discriminatory manner.

23 (4) To promote liquidity and provide stability to
24 the single family and multifamily housing finance
25 market, by continuing to provide mortgage insurance

1 and credit enhancement on a sound basis during
2 times of regional and national economic downturn.

3 (5) To engage in research, development, and
4 testing of new products designed to make single
5 family and multifamily housing and residential
6 health care facility credit available to hard-to-serve
7 markets.

8 (6) To establish uniformity in operations and
9 risk management and loss mitigation in housing
10 mortgage insurance and rural housing loan pro-
11 grams.

12 (7) To administer the rural housing programs
13 of the Rural Housing Service of the Department of
14 Agriculture.

15 **SEC. 523. GENERAL POWERS.**

16 To further the purposes of this subtitle, in accordance
17 with chapter 91 of title 31 of the United States Code (re-
18 lating to government corporations), the FHA—

19 (1) may adopt, amend, and repeal by-laws, and
20 other written administrative guidance;

21 (2) may adopt, alter, and use a corporate seal,
22 which shall be judicially noted;

23 (3) may insure, and make commitments to in-
24 sure mortgages, to the extent authorized under this
25 title, and enhance and make commitments to other-

1 wise enhance credit, and in providing such insurance
2 may reinsure, advance, incur liabilities, pool loans,
3 and risk share;

4 (4) shall provide, among other mortgage insur-
5 ance products, for the availability of a 30-year fixed-
6 rate mortgage;

7 (5) may acquire, hold, use, improve, deal in, or
8 dispose of, by any means, any interests in any real
9 property or any personal property;

10 (6) may execute contracts, and make other
11 agreements in its own name, with any agency, public
12 or private entity, or other person, and carry out any
13 lawful requirement of such contracts, grants, or
14 other agreements;

15 (7) may take any actions, including the restruc-
16 turing of debt, that the FHA determines are nec-
17 essary to manage any portfolio (including the port-
18 folio of the FHA and the Rural Housing Service) of
19 property, assets, and obligations;

20 (8) may—

21 (A) create and supply, alone or in coopera-
22 tion with public or private entities or persons,
23 any product or service consistent with its cor-
24 porate purposes; and

1 (B) assess fees and charges for such prod-
2 ucts, information, and services in amounts, as
3 determined by the FHA, that—

4 (i) do not exceed their value in the
5 market;

6 (ii) permit the FHA to recover its
7 fully allocated long-term costs; and

8 (iii) permit the FHA to maintain the
9 level of capital determined by the FHA to
10 be necessary and sufficient to carry out the
11 public purposes of the FHA and as re-
12 quired under subtitle C;

13 (9) may create distinct insurance funds or other
14 devices to segregate or permit limitations on liability
15 for business activities or accounts;

16 (10) may qualify any person or entity to engage
17 in business with the FHA and may enforce and im-
18 pose penalties for the breach of any duties, obliga-
19 tions, and other commitments made by such persons
20 or entities;

21 (11) shall take actions necessary to administer
22 its business in a nondiscriminatory manner;

23 (12) may use the services or obtain the goods
24 of any Federal agency, including the Department of
25 Housing and Urban Development and the Rural

1 Housing Service of the Department of Agriculture,
2 under working or cooperation agreements or con-
3 tracts with such agencies and make or receive pay-
4 ment for the cost of such activities;

5 (13) shall have the power, in its corporate
6 name, to sue and be sued, and to complain and de-
7 fend, in any court of competent jurisdiction, State or
8 Federal, but no attachment, garnishment, injunc-
9 tion, or other similar process, mesne or final, shall
10 be issued against the property of the FHA or
11 against the FHA with respect to its property, and
12 the FHA shall not be liable for interest prior to
13 judgment, for punitive or exemplary damages, for
14 penalties, or for claims based upon unjust enrich-
15 ment, quasi-contract, or contracts implied-in-law,
16 nor shall the FHA be subject to trial by jury;

17 (14) notwithstanding any other provision of
18 law—

19 (A) shall be an agency of the United
20 States Government and the officers and employ-
21 ees of the FHA shall be officers and employees
22 of the United States Government for purposes
23 of part IV of title 28, United States Code;

1 (B) shall have all civil actions to which the
2 FHA is a party deemed to arise under the laws
3 of the United States; and

4 (C) may, at any time before trial and with-
5 out bond or security, remove any civil or crimi-
6 nal action or proceeding in a State court to
7 which the FHA is a party to the United States
8 district court for the District of Columbia or to
9 the United States district court with jurisdic-
10 tion over the place where the civil action or pro-
11 ceeding is pending, by following any procedure
12 for removal of actions in effect at the time of
13 such removal;

14 (15) may—

15 (A) accept and use voluntary and uncom-
16 pensated services and accept, hold, administer,
17 and use gifts and bequests of property, both
18 real and personal, for the purpose of aiding or
19 facilitating the work of the FHA, and

20 (B) hold gifts and bequests of money and
21 the proceeds from sales of other property re-
22 ceived as gifts or bequests in a separate ac-
23 count, and such amounts shall be disbursed as
24 provided by the FHA;

1 except that property accepted pursuant to this para-
2 graph, and the proceeds thereof, shall be used as
3 nearly as possible in accordance with the terms of
4 the gift or bequest and, for the purpose of Federal
5 income, estate, and gift taxes, property accepted
6 under this paragraph shall be considered as a gift or
7 bequest to or for the use of the United States;

8 (16) shall have any transaction in which it par-
9 ticipates be exempt from the terms of any State or
10 other law or prohibition against payment of usurious
11 interest;

12 (17) may act as a fiduciary in connection with
13 any of its undertakings;

14 (18) may foreclose any single family mortgages
15 held by the FHA pursuant to the same procedures
16 and authority applicable to the Secretary of Housing
17 and Urban Development under the Single Family
18 Mortgage Foreclosure Act of 1994;

19 (19) may foreclose any multifamily housing
20 mortgages held by the FHA pursuant to the same
21 procedures and authority applicable to the Secretary
22 of Housing and Urban Development under the Mul-
23 tifamily Mortgage Foreclosure Act of 1981;

24 (20) may foreclose mortgages pursuant to the
25 same procedures and authority applicable to the Sec-

1 retary of Agriculture under the Housing Act of
2 1949;

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

6 (22) may invest in the development of acquisi-
7 tion of systems, technology, or other capital re-
8 sources, to enhance its ability to carry out the pur-
9 poses of this title; and

10 (23) shall have and exercise all powers nec-
11 essary or appropriate to effect any of the purposes
12 of this title and title II.

13 **SEC. 524. BOARD OF DIRECTORS.**

14 (a) IN GENERAL.—The powers of the FHA, including
15 direction over policy and operations, shall be vested in the
16 Board of Directors of the FHA.

17 (b) MEMBERS AND APPOINTMENT.—The Board of
18 Directors shall consist of 7 members, as follows:

19 (1) VOTING MEMBERS.—5 voting members ap-
20 pointed by the President, by and with the advice and
21 consent of the Senate, who shall include—

22 (A) not less than one individual who has
23 experience in mortgage finance; and

1 (B) not less than one individual who has
2 experience in affordable housing serving low-
3 and moderate-income populations.

4 (2) NON-VOTING MEMBERS.—Two non-voting
5 members, who shall be—

6 (A) a representative of Department of
7 Housing and Urban Development, appointed by
8 the Secretary of Housing and Urban Develop-
9 ment; and

10 (B) a representative of the Rural Housing
11 Service, appointed by the Secretary of Agri-
12 culture

13 (c) CHAIRPERSON.—The Board shall elect a chair-
14 person from among its members.

15 (d) TERMS.—

16 (1) IN GENERAL.—Each member of the Board
17 appointed under subsection (b)(1) shall be appointed
18 for a term of 3 years, except as provided in para-
19 graphs (2) and (3) of this subsection.

20 (2) TERMS OF INITIAL APPOINTEES.—As des-
21 ignated by the President at the time of appointment,
22 of the members first appointed to the Board pursu-
23 ant to paragraphs (3) and (4) of subsection (b)—

24 (A) 1 shall be appointed for a term of 1
25 year; and

1 (B) 2 shall be appointed for terms of 2
2 years.

3 (3) VACANCIES.—Any member appointed to fill
4 a vacancy on the Board occurring before the expira-
5 tion of the term for which the member’s predecessor
6 was appointed shall be appointed only for the re-
7 mainder of that term. A member may serve after the
8 expiration of that member’s term until a successor
9 has taken office. A vacancy on the Board shall be
10 filled in the manner in which the original appoint-
11 ment was made.

12 (e) MEETINGS AND QUORUM.—The Board shall meet
13 at any time pursuant to the call of the Chairperson or
14 a majority of its members and as provided by the bylaws
15 of the FHA, but not less than quarterly. A majority of
16 the members of the Board shall constitute a quorum.

17 (f) POWERS.—The Board shall be responsible for the
18 general management of the FHA and shall have the same
19 authority, privileges, and responsibilities as the board of
20 directors of a private corporation incorporated under the
21 District of Columbia Business Corporation Act.

22 (g) DUTIES.—In performing its duties, the Board
23 shall—

24 (1) obtain guidance from participants in the
25 mortgage markets served by the FHA;

1 (2) assess the housing and mortgage insurance
2 needs of consumers and providers of single family
3 and multifamily housing and communities, and the
4 mortgage insurance needs of providers of residential
5 health care facilities;

6 (3) obtain information concerning housing fi-
7 nance markets in order to better assess how the
8 FHA can complement the roles of public and private
9 participants in such markets; and

10 (4) assist the Secretary of Housing and Urban
11 Development and the Secretary of Agriculture in co-
12 ordinating the roles of Federal housing, banking,
13 and credit agencies generally, and particularly in the
14 delivery of housing credit enhancement to families,
15 communities, and hard-to-serve markets.

16 (h) COMPENSATION.—Members of the Board shall
17 serve on a part-time basis and shall serve without pay.

18 (i) TRAVEL EXPENSES.—Each member shall receive
19 travel expenses, including per diem in lieu of subsistence,
20 in accordance with sections 5702 and 5703 of title 5,
21 United States Code.

22 **SEC. 525. OFFICERS AND PERSONNEL.**

23 (a) ADMINISTRATOR; DEPUTY ADMINISTRATOR.—

24 (1) APPOINTMENT.—The Board shall appoint a
25 Administrator and Deputy Administrator of the

1 FHA, and, except as provided in subsections (b) and
2 (c), such other officers as are provided for in the by-
3 laws of the FHA.

4 (2) EXECUTIVE OFFICERS.—The Administrator
5 and Deputy Administrator of the FHA shall be execu-
6 tive officers of the FHA and shall discharge and
7 perform all such executive functions, powers, and
8 duties as may be prescribed by the bylaws of the
9 FHA or by the Board of Directors.

10 (b) CHIEF RISK OFFICER.—There shall be in the
11 FHA a Chief Risk Officer, who—

12 (1) shall be appointed by the Board of Direc-
13 tors of the FHA;

14 (2) shall be selected from among individuals
15 who possess demonstrated ability in the general
16 management of, and knowledge of and extensive
17 practical experience in, risk evaluation practices in
18 large governmental or business entities;

19 (3) shall be—

20 (A) responsible for all matters relating to
21 managing and mitigating risk to the mortgage
22 insurance programs of the FHA and ensuring
23 the performance of mortgages insured by the
24 FHA; and

1 (B) responsible for all matters relating to
2 managing and mitigating risk to the housing
3 loans made, insured, or guaranteed under title
4 V of the Housing Act of 1949 (42 U.S.C. 1471
5 et seq.) and ensuring the performance of such
6 housing loans;

7 (4) shall not be subject to the review or ap-
8 proval of the Board of Directors of the FHA or the
9 Secretary of Agriculture with respect to the exercise
10 of the responsibilities under subparagraph (A) or
11 (B), respectively, of paragraph (3); and

12 (5) shall not be required to obtain the prior ap-
13 proval, comment, or review of any officer or agency
14 of the United States before submitting to the Con-
15 gress, or any committee or subcommittee thereof,
16 any reports, recommendations, testimony, or com-
17 ments if such submissions include a statement indi-
18 cating that the views expressed therein are those of
19 the Chief Risk Officer of the FHA and do not nec-
20 essarily represent the views of the Board of Direc-
21 tors of the FHA or the Secretary of Agriculture.

22 (c) CHIEF TECHNOLOGY OFFICER.—There shall be
23 in the FHA a Chief Technology Officer, who—

24 (1) shall be appointed by the Board of Direc-
25 tors of the FHA;

1 (2) shall be selected from among individuals
2 who possess demonstrated ability in the general
3 management of, and knowledge of and extensive
4 practical experience in, information technology man-
5 agement practices in, large governmental or business
6 entities;

7 (3) shall be—

8 (A) responsible for all matters relating to
9 information technology management relating to
10 the mortgage insurance programs of the FHA;
11 and

12 (B) responsible for all matters relating to
13 information technology management relating to
14 the programs for making, insuring, and guaran-
15 teeing housing loans under title V of the Hous-
16 ing Act of 1949 (42 U.S.C. 1471 et seq.);

17 including analysis and assessment of the information
18 technology infrastructures, information technology
19 strategy, and use of information technology, ensur-
20 ing the security and privacy of information tech-
21 nology infrastructure and networks, and promoting
22 technological innovation;

23 (4) shall not be subject to the review or ap-
24 proval of the Board of Directors of the FHA or the
25 Secretary of Agriculture with respect to the exercise

1 of the responsibilities under subparagraph (A) or
2 (B), respectively, of paragraph (3); and

3 (5) shall not be required to obtain the prior ap-
4 proval, comment, or review of any officer or agency
5 of the United States before submitting to the Con-
6 gress, or any committee or subcommittee thereof,
7 any reports, recommendations, testimony, or com-
8 ments if such submissions include a statement indi-
9 cating that the views expressed therein are those of
10 the Chief Technology Officer of the FHA and do not
11 necessarily represent the views of the Board of Di-
12 rectors of the FHA, the Secretary of Housing and
13 Urban Development, or the Secretary of Agriculture.

14 (d) APPOINTMENT OF EMPLOYEES.—Subject to sub-
15 title D, the Board shall appoint such other employees of
16 the FHA as the Board considers necessary for the trans-
17 action of the FHA's business.

18 (e) COMPENSATION, DUTIES, AND REMOVAL.—

19 (1) IN GENERAL.—The Board shall fix the com-
20 pensation of all officers and employees of the FHA
21 and define their duties. Officers and employees shall
22 be appointed, promoted, assigned, and removed on
23 the basis of qualifications, and any such actions
24 taken shall be consistent with the principles of fair-
25 ness, nondiscrimination, and due process.

1 (2) CONSIDERATIONS IN FIXING COMPENSA-
2 TION.—In fixing and directing compensation for offi-
3 cers and employees of the FHA, the Board shall
4 consult and maintain comparability with the com-
5 pensation provided by the Government National
6 Mortgage Association, the Federal Housing Finance
7 Agency, the Comptroller of Currency, the Board of
8 Governors of the Federal Reserve System, and the
9 Federal Deposit Insurance Corporation to officers
10 and employees of such entities.

11 (f) APPLICABILITY OF CERTAIN CIVIL SERVICE
12 LAWS.—The officers and employees of the FHA shall be
13 appointed without regard to the provisions of title 5,
14 United States Code, governing appointments in the com-
15 petitive service, and may be paid without regard to the
16 provisions of chapter 51 and subchapter III of chapter 53
17 of that title relating to classification and General Schedule
18 pay rates.

19 (g) USE OF FEDERAL AGENCIES.—In carrying out
20 its purposes, the FHA may use information, services,
21 staff, and facilities of any executive agency, independent
22 agency, department (including the Department of Housing
23 and Urban Development and the Department of Agri-
24 culture), or enterprise (as such term is defined in section
25 101 of the Protecting American Taxpayers and Home-

1 owners Act of 2018) with the consent of the agency, de-
2 partment, or enterprise and shall reimburse the agency,
3 department, or enterprise for the cost of such information,
4 services, staff, and facilities.

5 (h) INDEMNIFICATION.—The FHA may provide for
6 the indemnification of any officer, employee, contractor,
7 or agent of the FHA on such terms as the FHA deter-
8 mines proper, except that, to the extent that the FHA self-
9 insures for any indemnification—

10 (1) the aggregate maximum amount of indem-
11 nification outstanding at any time shall not exceed
12 5 percent of the amount of capital required under
13 section 216 to be maintained by the Mutual Mort-
14 gage Insurance Fund; and

15 (2) not more than \$1,000,000 may be paid as
16 an indemnity for any single event.

17 (i) AMENDMENTS TO HOUSING ACT OF 1949.—Sec-
18 tion 501 of the Housing Act of 1949 (42 U.S.C. 1471)
19 is amended by adding at the end the following new sub-
20 sections:

21 “(k) AUTHORITY OF CHIEF RISK OFFICER OF
22 FHA.—The Chief Risk Officer of the FHA appointed pur-
23 suant to section 525(b) of the Protecting American Tax-
24 payers and Homeowners Act of 2018 shall be solely re-
25 sponsible for all matters relating to evaluating, managing,

1 and mitigating risk to the programs under this title for
2 making, insuring, and guaranteeing housing loans and en-
3 suring the performance of such housing loans.

4 “(1) **AUTHORITY OF CHIEF TECHNOLOGY OFFICER**
5 **OF FHA.**—The Chief Technology Officer of the FHA ap-
6 pointed pursuant to section 525(c) of the Protecting
7 American Taxpayers and Homeowners Act of 2018 shall
8 be solely responsible for all matters relating to information
9 technology management relating to the programs under
10 this title for making, insuring, and guaranteeing housing
11 loans.”.

12 **SEC. 526. FINANCIAL, UNDERWRITING, AND OPERATIONS**
13 **SYSTEMS.**

14 (a) **IN GENERAL.**—The FHA shall develop, maintain,
15 lease, or acquire such financial, underwriting, and oper-
16 ations systems as may be necessary to carry out the re-
17 sponsibilities of the FHA. Such systems shall be designed
18 and developed in a manner so that such systems shall also
19 be used for the financial, underwriting, and operations
20 systems, respectively, of the programs under title V of the
21 Housing Act of 1949 for making, guaranteeing, and insur-
22 ing rural housing loan programs.

23 (b) **USE BY RURAL HOUSING SERVICE PROGRAMS.**—

24 (1) **AVAILABILITY.**—All financial, underwriting,
25 and operations systems of the FHA shall be avail-

1 able for use by the FHA to the extent necessary to
2 ensure compliance with section 501(m) of the Hous-
3 ing Act of 1949 (42 U.S.C. 1471(l)).

4 (2) USE.—Section 501 of the Housing Act of
5 1949 (42 U.S.C. 1471), as amended by the pre-
6 ceding provisions of this title, is further amended by
7 adding at the end the following new subsection:

8 “(m) USE OF FHA SYSTEMS.—The Administrator
9 and Deputy Administrator of the FHA, the Chief Risk Of-
10 ficer of the FHA, and the Chief Technology Officer of the
11 FHA shall utilize the financial, underwriting, and oper-
12 ations systems of the FHA in carrying out all financial,
13 underwriting, and operations functions with respect to the
14 programs under this title for making, insuring, or guaran-
15 teeing housing loans.”.

16 **SEC. 527. PROCUREMENT.**

17 (a) IN GENERAL.—The FHA shall establish an eco-
18 nomical and results-oriented system for the procurement,
19 supply, and disposition by the FHA of personal property
20 and services, which shall include performance measures
21 and standards for determining the extent to which the
22 FHA’s procurement of property and services satisfies the
23 objective for which the procurement was undertaken. The
24 system shall be consistent with the principles of impar-
25 tiality and competitiveness.

1 (b) EXEMPTION FROM FEDERAL PROPERTY AND AD-
2 MINISTRATIVE SERVICE ACT REQUIREMENTS.—Section
3 113(e) of title 40, United States Code, is amended—

4 (1) in paragraph (19), by striking “or” at the
5 end;

6 (2) in paragraph (20), by striking the period at
7 the end and inserting “; or”; and

8 (3) by adding at the end the following new
9 paragraph:

10 “(21) The Federal Housing Administration.”.

11 (c) EXEMPTION FROM PROCUREMENT PROTEST SYS-
12 TEM.—Subchapter V of chapter 35 of title 31, United
13 States Code, relating to the procurement protest system,
14 shall not apply to the FHA.

15 **SEC. 528. APPLICABILITY OF LAWS.**

16 (a) SUBSIDY LAYERING.—For purposes of section
17 102(d) of the Department of Housing and Urban Develop-
18 ment Reform Act of 1989, mortgage insurance and other
19 credit enhancement provided under this title shall not be
20 considered assistance within the jurisdiction of the De-
21 partment.

22 (b) GOVERNMENT CORPORATION CONTROL ACT.—
23 Section 9101(3) of title 31, United States Code, is amend-
24 ed by adding at the end the following new subparagraph:

1 “(S) the Federal Housing Administra-
2 tion.”.

3 (c) TAX EXEMPT STATUS OF FHA.—Section 501(l)
4 of the Internal Revenue Code of 1986 (26 U.S.C. 501(l))
5 is amended by adding at the end the following new para-
6 graph:

7 “(5) The Federal Housing Administration es-
8 tablished under subtitle C of title V of the Pro-
9 tecting American Taxpayers and Homeowners Act of
10 2018.”.

11 **SEC. 529. EVALUATION.**

12 (a) IN GENERAL.—The Director shall conduct a
13 study and submit a report to the President and the Con-
14 gress on—

15 (1) whether this title provides sufficient author-
16 ity to permit the FHA to accomplish its public pur-
17 poses efficiently and effectively, and in a safe and
18 sound manner;

19 (2) the impact of the limitations on business ac-
20 tivities as to mortgage amounts and aggregate com-
21 mitments, and any other statutory limitations, on
22 the current and anticipated business activity of the
23 FHA; and

24 (3) whether the provisions of subtitle C appro-
25 priately provide that the FHA will be operated in a

1 safe and sound manner and will fulfill the public
2 purposes of its establishment.

3 (b) TIMING.—The report required by this section
4 shall be submitted on the third January 1st occurring
5 after the conclusion of the transition period under section
6 551.

7 **SEC. 530. FUNDING.**

8 (a) FUNDING OF SALARIES AND EXPENSES.—There
9 is authorized to be appropriated for each fiscal year to
10 the FHA, for salaries, expenses, and technology for the
11 management and operations of the FHA an amount not
12 exceeding the amount of the negative subsidy credited to
13 the negative subsidy receipt account not needed for re-
14 serves of the funds of the FHA pursuant to sections 216
15 and 219.

16 (b) FUNDING OF CLAIMS.—

17 (1) AVAILABILITY OF FUNDS.—Amounts cred-
18 ited to the financing account of the FHA, estab-
19 lished pursuant to title V of the Congressional
20 Budget Act of 1974, shall be permanently and in-
21 definitely available for payment of any claim that
22 the FHA approves under a contract of insurance or
23 other credit enhancement instrument pursuant to
24 this title.

25 (2) BORROWING AUTHORITY.—

1 (A) IN GENERAL.—To the extent that such
2 amounts are insufficient for such purpose, the
3 FHA may borrow from the Treasury pursuant
4 to title V of the Congressional Budget Act of
5 1974.

6 (B) NOTICE TO CONGRESS.—Upon exer-
7 cising the authority referred to in subparagraph
8 (A), the FHA shall submit to the Congress—

9 (i) notice of such exercise of authority
10 and the extent of the borrowing under-
11 taken;

12 (ii) a plan for repayment to the
13 Treasury of the amounts borrowed, speci-
14 fying the time and amounts of such pay-
15 ments; and

16 (iii) if such borrowing is for the Mu-
17 tual Mortgage Insurance Fund, how the
18 FHA will comply with the capital restora-
19 tion plan required under section 217(c).

20 **PART 2—AUTHORITY OVER RURAL HOUSING**

21 **PROGRAMS OF DEPARTMENT OF AGRICULTURE**

22 **SEC. 541. AUTHORITY OVER RURAL HOUSING SERVICE**

23 **PROGRAMS.**

24 After the expiration of the transition period under
25 section 551—

1 (1) the FHA shall exercise (in addition to pow-
2 ers set forth in section 552) all authority and under-
3 take all responsibilities of the Secretary of Agri-
4 culture under title V of the Housing Act of 1949 (as
5 amended by this title), except as otherwise provided
6 in this title and except that any authority that re-
7 quires an appropriation may be conducted only to
8 the extent that amounts are so appropriated; and

9 (2) such authority shall not be subject to the
10 review or approval of the Secretary of Agriculture.

11 **SEC. 542. TERMINATION OF SECRETARY OF AGRICULTURE'S RURAL HOUSING AUTHORITY.**
12

13 After the expiration of the transition period under
14 section 551, the Secretary of Agriculture may not exercise
15 any authority under title V of the Housing Act of 1949
16 and any reference to the Secretary in such title shall be
17 construed to refer to the FHA.

18 **SEC. 543. CONTINUATION OF OBLIGATIONS.**

19 This subtitle and section 552(4) may not be con-
20 strued to affect the validity of any right, duty, or obliga-
21 tion of the United States or other person arising under
22 or pursuant to any commitment or agreement lawfully en-
23 tered into with the Secretary of Agriculture under title V
24 of the Housing Act of 1949.

1 **SEC. 544. STATUS OF EMPLOYEES.**

2 This subtitle may not be construed to transfer or oth-
3 erwise affect the status of any employee of the Depart-
4 ment of Agriculture.

5 **PART 3—TRANSITION**

6 **SEC. 551. TRANSITION PERIOD.**

7 (a) IN GENERAL.—For purposes of this subtitle, the
8 term “transition period” means the period that—

9 (1) begins on the date of the enactment of this
10 Act; and

11 (2) ends upon the earlier of—

12 (A) the date that the Director publishes
13 notice in the Federal Register that the Director
14 has determined that all of the requirements
15 under subsection (b) have been completed, ex-
16 cept that the Director may not publish such no-
17 tice before the expiration of the 2-year period
18 beginning on the date of the enactment of this
19 Act; or

20 (B) the expiration of the 5-year period be-
21 ginning on the date of the enactment of this
22 Act.

23 (b) REQUIREMENTS FOR ENDING TRANSITION PE-
24 RIOD.—The requirements under this subsection are the
25 following:

1 (1) APPROVAL OF INITIAL ANNUAL BUDGET
2 AND BUSINESS PLAN.—The FHA has submitted to
3 the Director of the Federal Housing Finance Agency
4 an initial annual budget and business plan and the
5 Director has approved the budget and plan.

6 (2) DETERMINATION OF CORPORATE CAPAC-
7 ITY.—The Director of the Office of Management
8 and Budget has determined, and notified the Direc-
9 tor, that the staff, systems, and administrative infra-
10 structure of the FHA are sufficient to permit the
11 FHA to fully conduct the operation of its business.

12 **SEC. 552. AUTHORITY DURING TRANSITION PERIOD.**

13 During the transition period the FHA may—

14 (1) carry out any power or responsibility of the
15 Secretary of the Housing and Urban Development
16 relating to mortgage insurance programs under the
17 National Housing Act that the Secretary delegates
18 to the FHA, using the staff, systems, and adminis-
19 trative infrastructure that the FHA engages or ac-
20 quires during the transition period, or the personnel
21 and other resources of the Secretary;

22 (2) incur any obligation consistent with—

23 (A) the carrying out of a power or respon-
24 sibility delegated under paragraph (1); or

1 (B) the acquisition, engagement, or devel-
2 opment of staff, systems (including technology
3 to enhance the ability of the FHA to engage in
4 the business authorized by the title), and ad-
5 ministrative structure;

6 (3) engage in any activity or undertake any re-
7 sponsibility (not including entering into, or making
8 any commitment to enter into, any contract of insur-
9 ance under this title) that the FHA determines to
10 be consistent with the establishment of the FHA;
11 and

12 (4) carry out any power or responsibility of the
13 Secretary of Agriculture under title V of the Hous-
14 ing Act of 1949 that the Secretary delegates to the
15 FHA, using the staff, systems, and administrative
16 infrastructure that the FHA engages or acquires
17 during the transition period, and the personnel and
18 other resources of the Rural Housing Service.

19 **SEC. 553. ADVISORY BOARD.**

20 (a) ESTABLISHMENT.—The Secretary of Housing
21 and Urban Development and the Secretary of Agriculture
22 shall jointly establish an advisory board to provide advice
23 to the Board of Directors of the FHA regarding estab-
24 lishing and organizing the FHA and creating the business
25 plan, premium structure, and product lines of the FHA.

1 (b) FUNCTIONS.—In carrying out its responsibilities
2 under subsection (a) the advisory board may—

3 (1) obtain guidance from participants in the
4 mortgage markets to be served by the FHA;

5 (2) assess the housing and mortgage credit
6 needs;

7 (3) obtain information concerning single family
8 housing finance markets to assess how the FHA can
9 complement the roles of public and private partici-
10 pants in such markets; and

11 (4) consult with the relevant Federal agencies
12 generally regarding how the FHA can improve the
13 delivery of single family housing credit enhancement
14 to families, communities, and hard-to-serve markets.

15 (c) MEMBERSHIP.—The advisory board shall consist
16 of—

17 (1) the Assistant Secretary of Housing and
18 Urban Development who is the Federal Housing
19 Commissioner;

20 (2) the Administrator of the Rural Housing
21 Service of the Department of Agriculture;

22 (3) not less than 5 individuals appointed by the
23 Secretary of Housing and Urban Development who
24 are representatives of the mortgage finance industry;
25 and

1 (4) not less than 2 individuals who have exper-
2 tise in affordable housing serving low- and mod-
3 erate-income populations.

4 Members of the advisory board shall serve at the joint
5 pleasure of the Secretary of Housing and Urban Develop-
6 ment and the Secretary of Agriculture.

7 (d) TERMINATION.—The advisory board shall termi-
8 nate upon the expiration of the transition period under
9 section 551.

10 **SEC. 554. TRANSFER OF HUD AUTHORITY.**

11 (a) TRANSFER.—Except as provided in subsections
12 (c) and (d), effective upon the expiration of the transition
13 period, the functions of, authority provided to, and the re-
14 sponsibilities of the Secretary of Housing and Urban De-
15 velopment and the Department of Housing and Urban De-
16 velopment under the following provisions of law are trans-
17 ferred to the FHA:

18 (1) Titles II and V of the National Housing Act
19 (12 U.S.C. 1707 et seq., 1735a et seq.).

20 (2) Section 3 of Public Law 99–289 (12 U.S.C.
21 1721 note; relating to estimates of use of insuring
22 authority), except that this paragraph shall not ter-
23 minate or transfer any authority of the Secretary
24 under such section relating to section 306(g) of the
25 National Housing Act (12 U.S.C. 1721(g)).

1 (3) Section 801 of the Housing Act of 1954 (12
2 U.S.C. 1701j–1; relating to builders warranties).

3 (4) Section 424 of the Housing and Community
4 Development Act of 1987 (12 U.S.C. 1715z–1c; re-
5 lating to residential water treatment).

6 (5) Section 328 of the Cranston-Gonzalez Na-
7 tional Affordable Housing Act (12 U.S.C. 1713
8 note; relating to delegation of processing).

9 (6) Section 106 of the Energy Policy Act of
10 1992 (12 U.S.C. 1701z–16; relating to energy effi-
11 cient mortgages pilot program).

12 (7) Section 542 of the Housing and Community
13 Development Act of 1992 (12 U.S.C. 1715z–22; re-
14 lating to multifamily mortgage credit programs).

15 (8) Section 103(h) of the Multifamily Housing
16 Property Disposition Reform Act of 1994 (12 U.S.C.
17 1715z–1a note; relating to alternative uses of multi-
18 family projects to prevent default).

19 (b) REPEAL OF ASSIGNMENT PROVISIONS.—Effec-
20 tive upon the date of the enactment of this Act, section
21 204(a)(1)(B) of the National Housing Act (12 U.S.C.
22 1710(a)) is amended by striking the last sentence.

23 (c) APPLICABILITY.—The repeals under subsections
24 (a) and (b) shall not affect any legally binding obligations
25 entered into pursuant to the provisions repealed before the

1 applicable effective date under such subsections. Any
2 mortgage insurance, funds, or activities subject, before re-
3 peal, to a provision of law repealed by such subsections
4 shall continue to be governed by the provision as it existed
5 immediately before repeal, except that the FHA may exer-
6 cise any authority under such provision otherwise trans-
7 ferred to the FHA by this title.

8 (d) REFERENCES.—After the expiration of the tran-
9 sition period, any reference in Federal law to the Secretary
10 of Housing and Urban Development, in connection with
11 any function of the Secretary transferred under subsection
12 (a) or any other provision of this subtitle, shall be deemed
13 to be a reference to the FHA.

14 **SEC. 555. WIND-UP OF HUD AFFAIRS.**

15 (a) ABOLISHMENT OF POSITIONS.—Effective upon
16 the expiration of the transition period, any offices of the
17 Department of Housing and Urban Development respon-
18 sible for functions transferred pursuant to section 554(a),
19 to the extent of such functions, and the position of the
20 Federal Housing Commissioner in the Department of
21 Housing and Urban Development, are abolished.

22 (b) DISPOSITION OF AFFAIRS.—During the transi-
23 tion period, the Secretary of Housing and Urban Develop-
24 ment, solely for the purpose of winding up the affairs of

1 the Department relating to the functions transferred
2 under section 554—

3 (1) shall manage the employees of the Depart-
4 ment responsible for such functions and provide for
5 the payment of the compensation and benefits of any
6 such employee which accrue before the effective date
7 of the transfer of such employee under section 557;
8 and

9 (2) may take any other action necessary for the
10 purpose of winding up the affairs of the Department
11 relating to such functions.

12 (c) STATUS OF EMPLOYEES BEFORE TRANSFER.—

13 The provisions of and amendments made by this title and
14 the abolishments under subsection (a) of this section may
15 not be construed to affect the status of any employee of
16 the Department as an employee of an agency of the United
17 States for purposes of any other provision of law before
18 the effective date of the transfer of any such employee
19 under section 557.

20 (d) USE OF PROPERTY AND SERVICES.—

21 (1) PROPERTY.—The FHA may use the prop-
22 erty of the Department of Housing and Urban De-
23 velopment to perform functions which have been
24 transferred to the FHA for such time as is reason-
25 able to facilitate the orderly transfer of functions

1 transferred under any other provision of this title or
2 any amendment made by this title to any other pro-
3 vision of law.

4 (2) AGENCY SERVICES.—Any agency, depart-
5 ment, or other instrumentality of the United States,
6 and any successor to any such agency, department,
7 or instrumentality, which was providing supporting
8 services to the Department of Housing and Urban
9 Development before the expiration of the transition
10 period under subsection (a) in connection with func-
11 tions that are transferred under 554 to the FHA
12 shall—

13 (A) continue to provide such services, on a
14 reimbursable basis, until the transfer of such
15 functions is complete; and

16 (B) consult with the FHA to coordinate
17 and facilitate a prompt and reasonable transi-
18 tion.

19 (e) CONTINUATION OF SERVICES.—The FHA may
20 use the services of employees and other personnel of the
21 Department of Housing and Urban Development relating
22 to the functions transferred under section 554, on a reim-
23 bursable basis, to perform functions which have been
24 transferred to the FHA for such time as is reasonable to
25 facilitate the orderly transfer of functions pursuant to any

1 other provision of this title or any amendment made by
2 this title to any other provision of law.

3 (f) SAVINGS PROVISIONS.—

4 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
5 TIONS NOT AFFECTED.—Subsection (a) shall not af-
6 fect the validity of any right, duty, or obligation of
7 the United States, the Secretary of Housing and
8 Urban Development, or any other person, which—

9 (A) arises under—

10 (i) the National Housing Act; or

11 (ii) any other provision of law applica-
12 ble with respect to the functions of the De-
13 partment of Housing and Urban Develop-
14 ment transferred under section 554; and

15 (B) existed on the day before the date of
16 abolishment under subsection (a).

17 (2) CONTINUATION OF SUITS.—No action or
18 other proceeding commenced by or against the Sec-
19 retary of Housing and Urban Development in con-
20 nection with functions transferred to the FHA under
21 section 554 shall abate by reason of the enactment
22 of this title, except that the FHA shall be sub-
23 stituted for the Secretary as a party to any such ac-
24 tion or proceeding.

1 **SEC. 556. CONTINUATION AND COORDINATION OF CERTAIN**
2 **ACTIONS.**

3 (a) IN GENERAL.—All regulations, orders, and deter-
4 minations described in subsection (b) shall remain in ef-
5 fect according to the terms of such regulations, orders,
6 and determinations, and shall be enforceable by or against
7 the FHA, until modified, terminated, set aside, or super-
8 seded in accordance with applicable law by the FHA, as
9 the case may be, any court of competent jurisdiction, or
10 operation of law.

11 (b) APPLICABILITY.—A regulation, order, or deter-
12 mination is described in this subsection if it—

13 (1) was issued, made, prescribed, or allowed to
14 become effective by—

15 (A) the Secretary of Housing and Urban
16 Development and relates to a function of the
17 Secretary transferred under section 554; or

18 (B) a court of competent jurisdiction, and
19 relates to functions transferred under section
20 554; and

21 (2) is in effect upon the expiration of the tran-
22 sition period.

23 **SEC. 557. TRANSFER AND RIGHTS OF HUD EMPLOYEES.**

24 (a) TRANSFER.—Each employee of the Department
25 of Housing and Urban Development who performs func-
26 tions transferred under section 554 shall be transferred

1 to the FHA for employment, not later than the date of
2 the expiration of the transition period, and such transfer
3 shall be deemed a transfer of function for purposes of sec-
4 tion 3503 of title 5, United States Code.

5 (b) GUARANTEED POSITIONS.—

6 (1) IN GENERAL.—Each employee transferred
7 under subsection (a) shall be guaranteed a position
8 with the same status, tenure, grade, and pay as the
9 position held by such employee on the day imme-
10 diately preceding the transfer.

11 (2) NO INVOLUNTARY SEPARATION OR REDUC-
12 TION.—An employee transferred under subsection
13 (a) holding a permanent position on the day imme-
14 diately preceding the transfer may not be involun-
15 tarily separated or reduced in grade or compensation
16 during the 12-month period beginning on the date of
17 transfer, except for cause, or, in the case of a tem-
18 porary employee, separated in accordance with the
19 terms of the appointment of the employee.

20 (c) APPOINTMENT AUTHORITY FOR EXCEPTED AND
21 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

22 (1) IN GENERAL.—In the case of an employee
23 occupying a position in the excepted service or the
24 Senior Executive Service, any appointment authority
25 established under law or by regulations of the Office

1 of Personnel Management for filling such position
2 shall be transferred, subject to paragraph (2).

3 (2) DECLINE OF TRANSFER.—The FHA may
4 decline a transfer of authority under paragraph (1)
5 to the extent that such authority relates to—

6 (A) a position excepted from the competi-
7 tive service because of its confidential, policy-
8 making, policy-determining, or policy-advocating
9 character; or

10 (B) a noncareer position in the Senior Ex-
11 ecutive Service (within the meaning of section
12 3132(a)(7) of title 5, United States Code).

13 (d) REORGANIZATION.—If the FHA determines, after
14 the end of the 1-year period beginning on the expiration
15 of the transition period, that a reorganization of the com-
16 bined workforce is required, that reorganization shall be
17 deemed a major reorganization for purposes of affording
18 affected employee retirement under section 8336(d)(2) or
19 8414(b)(1)(B) of title 5, United States Code.

20 (e) EMPLOYEE BENEFIT PROGRAMS.—

21 (1) IN GENERAL.—Any employee of the Depart-
22 ment of Housing and Urban Development accepting
23 employment with the FHA as a result of a transfer
24 under subsection (a) may retain, for 12 months after
25 the date on which such transfer occurs, membership

1 in any employee benefit program of the FHA or the
2 Department of Housing and Urban Development, as
3 applicable, including insurance, to which such em-
4 ployee belongs on the date of the expiration of the
5 transition period, if—

6 (A) the employee does not elect to give up
7 the benefit or membership in the program; and

8 (B) the benefit or program is continued by
9 the FHA.

10 (2) COST DIFFERENTIAL.—

11 (A) IN GENERAL.—The difference in the
12 costs between the benefits which would have
13 been provided by the Department of Housing
14 and Urban Development and those provided by
15 this section shall be paid by the FHA.

16 (B) HEALTH INSURANCE.—If any em-
17 ployee elects to give up membership in a health
18 insurance program or the health insurance pro-
19 gram is not continued by the FHA, the em-
20 ployee shall be permitted to select an alternate
21 Federal health insurance program not later
22 than 30 days after the date of such election or
23 notice, without regard to any other regularly
24 scheduled open season.

1 **SEC. 558. TRANSFER OF PROPERTY AND FACILITIES.**

2 Upon the expiration of the transition period, all prop-
3 erty of the Department of Housing and Urban Develop-
4 ment relating to the functions transferred under section
5 554 shall transfer to the FHA.

6 **SEC. 559. EFFECTIVE DATE.**

7 This subtitle shall take effect on the date of the en-
8 actment of this Act.

9 **TITLE VI—MISCELLANEOUS**
10 **PROVISIONS**

11 **SEC. 601. PRESERVATION OF ATTORNEY-CLIENT PRIVI-**
12 **LEGE FOR INFORMATION PROVIDED TO**
13 **FHFA.**

14 Section 1317 of the Federal Housing Enterprises Fi-
15 nancial Safety and Soundness Act of 1992 (12
16 U.S.C.4517) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO
19 AGENCY.—

20 “(1) IN GENERAL.—The submission by any per-
21 son of any information to the Agency for any pur-
22 pose in the course of any supervisory or regulatory
23 process of the Agency shall not be construed as
24 waiving, destroying, or otherwise affecting any privi-
25 lege such person may claim with respect to such in-

1 information under Federal or State law as to any per-
2 son or entity other than such Agency.

3 “(2) RULE OF CONSTRUCTION.—No provision
4 of paragraph (1) may be construed as implying or
5 establishing that—

6 “(A) any person waives any privilege appli-
7 cable to information that is submitted or trans-
8 ferred under any circumstance to which para-
9 graph (1) does not apply; or

10 “(B) any person would waive any privilege
11 applicable to any information by submitting the
12 information to the Agency, but for this sub-
13 section.”.

14 **SEC. 602. FHFA LIAISON MEMBERSHIP IN FEDERAL FINAN-**
15 **CIAL INSTITUTIONS EXAMINATION COUNCIL.**

16 Section 1007 of the Federal Financial Institutions
17 Examination Council Act of 1978 (12 U.S.C. 3306) is
18 amended—

19 (1) in the section heading, by inserting after
20 “STATE” the following: “AND FEDERAL HOUSING
21 FINANCE AGENCY”;

22 (2) in the first sentence, by inserting after “fi-
23 nancial institutions” the following: “, and one rep-
24 resentative of the Federal Housing Finance Agen-
25 cy,”; and

1 (3) in the last sentence, by inserting “State”
2 after “among the”.

3 **SEC. 603. RECOGNITION OF FHFA ENFORCEMENT AUTHOR-**
4 **ITY WITH REGARD TO REGULATED ENTITIES.**

5 Section 1125(c) of the Financial Institution Reform,
6 Recovery and Enforcement Act of 1989 (12 U.S.C.
7 3354(c); as added by section 1473(q) of the Dodd Frank
8 Wall Street Reform and Consumer Protection Act) is
9 amended—

10 (1) in paragraph (1), by striking “and” at the
11 end;

12 (2) by redesignating paragraph (2) as para-
13 graph (3); and

14 (3) by inserting after paragraph (1) the fol-
15 lowing new paragraph:

16 “(2) with respect to any regulated entity (as
17 such term is defined in section 1303 of the Federal
18 Housing Enterprises Financial Safety and Sound-
19 ness Act of 1992 (12 U.S.C. 4502)), the Federal
20 Housing Finance Agency; and”.

21 **SEC. 604. EXCEPTION FROM RIGHT TO FINANCIAL PRIVACY**
22 **ACT FOR FHFA AS CONSERVATOR OR RE-**
23 **CEIVER.**

24 Section 1113(o) of the Right to Financial Privacy Act
25 of 1978 (12 U.S.C. 3413(o)) is amended—

1 (1) by striking “(o)” and inserting “(o)(1)”;
2 and

3 (2) by adding at the end the following new
4 paragraph:

5 “(2) This title shall not apply to the examination by
6 or disclosure to the Federal Housing Finance Agency or
7 its employees or agents of financial records or information
8 in the exercise of its supervisory or regulatory functions,
9 including conservatorship and receivership functions, with
10 respect to any regulated entity or other person partici-
11 pating in the conduct of the affairs thereof.”.

12 **SEC. 605. TECHNICAL AMENDMENT TO FEDERAL HOUSING**
13 **ENTERPRISES FINANCIAL SAFETY AND**
14 **SOUNDNESS ACT OF 1992.**

15 Section 1368(d) of the Federal Housing Enterprises
16 Financial Safety and Soundness Act of 1992 (12 U.S.C.
17 4618(d)) is amended by striking “Committee on Banking,
18 Finance and Urban Affairs” and inserting “Committee on
19 Financial Services”.

20 **SEC. 606. APPLICATION OF PRESUMPTION TO ENTERPRISE**
21 **STREAMLINED REFINANCINGS.**

22 Section 129C(b)(3)(B)(ii) of the Truth in Lending
23 Act (15 U.S.C. 1639e(b)(3)(B)(ii); as added by section
24 1412 of the Dodd Frank Wall Street Reform and Con-
25 sumer Protection Act) is amended—

1 izing statute or the Federal Housing Enterprises Fi-
2 nancial Safety and Soundness Act of 1992—

3 “(A) such performance shall be subject to
4 regulation and examination by the Federal
5 Housing Finance Agency to the same extent as
6 if such services were being performed by the
7 regulated entity or the Office of Finance itself
8 on its own premises, and

9 “(B) the regulated entity or the Office of
10 Finance shall notify the Director of the exist-
11 ence of the service relationship within thirty
12 days after the making of such service contract
13 or the performance of the service, whichever oc-
14 curs first.

15 “(2) REGULATIONS AND ORDERS.—The Direc-
16 tor may issue such regulations and orders as may be
17 necessary to enable the Agency to administer and to
18 carry out the purposes of this subsection and to pre-
19 vent evasions thereof.”.

20 **SEC. 608. ELECTION OF DIRECTORS OF A MERGED FED-**
21 **ERAL HOME LOAN BANK.**

22 Section 7 of the Federal Home Loan Bank Act (12
23 U.S.C. 1427) is amended—

24 (1) in subsection (a)(1), by inserting “and sub-
25 section (d)” after “paragraphs (2) through (4)”;

1 (2) in subsection (b)—

2 (A) in the matter preceding paragraph

3 (2)—

4 (i) by striking “Each” and inserting
5 “(1)(A) Except as provided in subsection
6 (d), each”;

7 (ii) by inserting “(B)” before “No
8 person”;

9 (iii) by inserting “(C)” before “As
10 used”; and

11 (iv) in the third sentence—

12 (I) by striking “this subsection”
13 and inserting “subparagraph (A)”;
14 and

15 (II) by striking “home loan
16 bank” and inserting “Home Loan
17 Bank”; and

18 (B) in paragraph (2)(A)(ii), by inserting
19 “or subsection (d)(4), if applicable,” after
20 “paragraph (1)”;

21 (3) by striking subsections (c), (d), and (h);

22 (4) by redesignating subsections (d), (e), (f),
23 and (g) as subsections (e), (f), (g), and (h), respec-
24 tively; and

1 (5) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) ALLOCATION OF MEMBER DIRECTORSHIPS
4 AMONG STATES IN BANK DISTRICT.—

5 “(1) DESIGNATION OF MEMBER LOCATION.—

6 The Director shall designate the State in which each
7 member of each Federal Home Loan Bank shall be
8 deemed to be located for the purposes of this sub-
9 section and subsections (b) and (d), and may from
10 time to time change any such designation. If the
11 principal place of business of any Bank member is
12 located in a State within the district of the Bank of
13 which it is a member, the Director shall designate
14 that State as the State in which the member shall
15 be deemed to be located for those purposes.

16 “(2) STOCK-BASED ALLOCATION OF DES-
17 IGNATED MEMBER DIRECTORSHIPS.—The number of
18 member directorships designated as representing the
19 members located in each separate State in a Federal
20 Home Loan Bank district shall be determined by the
21 Director in the approximate ratio of the percentage
22 of the required stock, as prescribed by regulation of
23 the Director, of the members located in that State
24 at the end of the calendar year next preceding the
25 date of the election to the total required stock, as so

1 determined, of all members of the Bank as of that
2 same date.

3 “(3) LIMITATIONS ON STOCK-BASED ALLOCA-
4 TIONS.—Except as provided in subsection (d), the
5 following provisions shall apply to the allocation of
6 member directorships among the States of a Bank
7 district, notwithstanding the requirements of para-
8 graph (2):

9 “(A) In the case of each State, the number
10 of member directorships designated as rep-
11 resenting the members located in that State
12 shall not be less than one and shall not be more
13 than six.

14 “(B) If at any time the number of member
15 directorships designated as representing the
16 members located in any State would not be at
17 least equal to the total number of member di-
18 rectorships which, on December 31, 1960, were
19 filled by officers or directors of members whose
20 principal places of business were located in that
21 State, the Director shall add to the board of di-
22 rectors of the Bank of the district in which that
23 State is located such number of member direc-
24 torships, and shall so designate the directorship
25 or directorships thus added, that the number of

1 member directorships designated as rep-
2 resenting the members located in that State will
3 equal said total number. Any member director-
4 ship so added shall exist only until the expira-
5 tion of its first term.

6 “(d) BOARD SIZE, COMPOSITION, AND ELECTIONS
7 FOR COMBINED BANKS.—Notwithstanding any other pro-
8 vision of this section, the following requirements shall
9 apply to the size and composition of, and the election of
10 directors to, the board of any Bank created as result of
11 the combination of two or more Banks under section 26:

12 “(1) BOARD SIZE.—The management of a com-
13 bined Bank shall be vested in a board of 15 direc-
14 tors, or such lesser number as the Director deter-
15 mines appropriate, consistent with the safe and
16 sound operation of the combined Bank.

17 “(2) BOARD MAKEUP.—The Director shall es-
18 tablish the respective number of member director-
19 ships and independent directorships for the board of
20 the combined Bank such that—

21 “(A) member directors shall comprise at
22 least the majority of the members of the board
23 of directors; and

1 “(B) independent directors shall comprise
2 not fewer than $\frac{2}{5}$ of the members of the board
3 of directors.

4 “(3) ALLOCATION OF MEMBER DIRECTOR-
5 SHIPS.—The Director shall allocate the member di-
6 rectorships of the board of a combined Bank among
7 the States of the Bank district in accordance with
8 the requirements of subsection (c)(2), except that—

9 “(A) no State shall be allocated more than
10 two member directorships until every state has
11 been allocated at least one member directorship;
12 and

13 “(B) if, after the Director has allocated all
14 but one of the member directorships, there re-
15 main any States to which no member director-
16 ship has yet been allocated, then the Director
17 shall allocate the remaining member director-
18 ship to represent the members located in all of
19 the States that have not otherwise been allo-
20 cated a member directorship.

21 “(4) ELECTION OF DIRECTORS.—The directors
22 of a combined Bank shall be nominated and elected
23 as provided in subsection (b), except that, in the
24 case of a member directorship that has been des-
25 ignated as representing the members of two or more

1 States pursuant to paragraph (3)(B), the following
2 requirements shall apply in lieu of those set forth in
3 subsection (b)(1)(A):

4 “(A) The directorship shall be filled by a
5 person who is an officer or director of a mem-
6 ber located in one of the States represented.

7 “(B) Each member located in each State
8 represented shall be entitled to nominate an eli-
9 gible person to fill the directorship, and the
10 member director shall be elected from persons
11 so nominated by a plurality of the votes that
12 those members may cast under subparagraph
13 (C).

14 “(C) Each member located in each State
15 represented may cast a number of votes equal
16 to the number of shares of stock in the Bank
17 required to be held by the member at the end
18 of the calendar year next preceding the election,
19 but not in excess of the average number of
20 shares of stock in the Bank required to be held
21 at the end of that year by the respective mem-
22 bers of the Bank located in those States.

23 “(5) INITIAL DIRECTORS FOR NEWLY COM-
24 BINED BANKS.—The following requirements shall
25 apply to the selection of the individuals to serve as

1 the initial directors of a combined Bank as of the ef-
2 fective date of the combination:

3 “(A) The terms of office of any directors
4 of the combining Banks who do not become di-
5 rectors of the combined Bank shall terminate as
6 of the effective date of the combination.

7 “(B) The individuals to serve as the initial
8 directors of a newly combined Bank shall be
9 chosen from among the incumbent directors of
10 the predecessor Banks serving immediately
11 prior to the effective date of the combination of
12 those Banks and shall be—

13 “(i) as designated by the Director in
14 the case of a Bank created from a com-
15 bination of two or more Banks pursuant to
16 a reorganization under section 26(a); and

17 “(ii) as agreed upon among the merg-
18 ing Banks and approved by the Director in
19 the case of a Bank created from a vol-
20 untary merger of two or more Banks pur-
21 suant to section 26(b).

22 “(C) Each initial director of the combined
23 Bank shall be entitled to serve for the remain-
24 der of the term of office that the director had
25 with the predecessor Bank. Terms served as a

1 director of a predecessor Bank shall be counted
2 as being served as a director of the combined
3 Bank for purposes of determining term limits
4 under subsection (e)(3).

5 “(D) Beginning with the first election of
6 directors occurring after the combination of the
7 predecessor Banks, the Director shall adjust the
8 term of any directorship of the combined Bank
9 as necessary to achieve and maintain the stag-
10 gering of terms that is required under sub-
11 section (e)(2).

12 “(e) TERMS; RULES AND REGULATIONS GOVERNING
13 NOMINATIONS AND ELECTIONS.—

14 “(1) TERMS.—Except as provided in paragraph
15 (2), the term of each Federal Home Loan Bank di-
16 rector shall be 4 years.

17 “(2) ADJUSTMENT OF TERMS.—The Director
18 shall adjust the terms of members from time to time
19 as necessary to ensure that the terms of the mem-
20 bers of the board of directors are staggered with ap-
21 proximately $\frac{1}{4}$ of the terms expiring each year.

22 “(3) TERM LIMITS.—If any person has been
23 elected to each of three consecutive full terms as a
24 director of a Federal Home Loan Bank and has
25 served for all or part of each of those terms, that

1 person shall not be eligible for election to a director-
2 ship of that Bank for a term which begins earlier
3 than two years after the expiration of the last expir-
4 ing of the three terms.

5 “(4) RULES AND REGULATIONS GOVERNING
6 NOMINATIONS AND ELECTIONS.—The Director is
7 hereby authorized to prescribe such rules and regu-
8 lations as the Director may deem necessary or ap-
9 propriate for the nomination and election of direc-
10 tors of Federal Home Loan Banks, including, with-
11 out limitation on the generality of the foregoing,
12 rules and regulations with respect to the breaking of
13 ties and with respect to the inclusion of more than
14 one directorship on a single ballot and the methods
15 of voting and of determining the results of voting in
16 such cases.”;

17 (6) in subsection (f), as so redesignated, by
18 striking the first and second sentences;

19 (7) in subsection (h), as so redesignated—

20 (A) by striking “home loan bank” each
21 place such term appears and inserting “Home
22 Loan Bank”; and

23 (B) in paragraph (1), by striking “such
24 bank” and “the bank” and inserting “such
25 Bank” and “the Bank”, respectively;

1 (8) in subsection (i)(1)—

2 (A) by striking “bank” and inserting
3 “Bank”; and

4 (B) by striking “board” and inserting “Di-
5 rector”;

6 (9) in subsection (j), by striking “bank” and in-
7 serting “Bank”; and

8 (10) by striking the second subsection (l), as
9 added by section 1202(8) of the Housing and Eco-
10 nomic Recovery Act of 2008.

11 **SEC. 609. HOME EQUITY CONVERSION MORTGAGE PRO-**
12 **GRAM.**

13 (a) ESTABLISHMENT OF SEPARATE MORTGAGE IN-
14 SURANCE FUND.—Section 255 of the National Housing
15 Act (12 U.S.C. 1715–20) is amended by adding at the
16 end the following new subsection:

17 “(s) HOME EQUITY CONVERSION MORTGAGE INSUR-
18 ANCE FUND.—

19 “(1) ESTABLISHMENT.—There is hereby cre-
20 ated a Home Equity Conversion Mortgage Insurance
21 Fund (in this section referred to as the ‘Fund’),
22 which shall be used by the Secretary as a revolving
23 fund for carrying out the mortgage insurance obliga-
24 tions of this section and for mortgages and commit-
25 ments transferred pursuant to paragraph (2).

1 “(2) TRANSFER OF INSURANCE AND COMMIT-
2 MENTS.—The Secretary shall transfer to the Fund
3 all commitments for insurance issued under this sec-
4 tion before the date of the enactment of this sub-
5 section and the insurance of any mortgage insured
6 under this section before such date of enactment.

7 “(3) TRANSFER OF AMOUNTS.—The Secretary
8 shall transfer to the Fund from the Mutual Mort-
9 gage Insurance Fund an amount equal to the total
10 of the premium payments previously made with re-
11 spect to the insurance of mortgages transferred to
12 the Fund pursuant to paragraph (2) minus the total
13 of any administrative expenses previously incurred in
14 connection with such mortgages, plus such other
15 amounts as the Secretary determines to be necessary
16 and appropriate.

17 “(4) CREDITS.—Premium charges, adjusted
18 premium charges, inspection and other fees, service
19 charges, and any other income received by the Sec-
20 retary under this section, together with all earnings
21 on the assets of the Fund, shall be credited to the
22 Fund.

23 “(5) PAYMENTS.—All payments made pursuant
24 to claims of mortgagees with respect to mortgages
25 insured under this section, cash adjustments, the

1 principal of and interest paid on debentures which
2 are the obligation of the Fund, expenses incurred in
3 connection with or as a consequence of the acquisi-
4 tion and disposal of property acquired under such
5 this section, and all administrative expenses in con-
6 nection with the mortgage insurance operations
7 under this section shall be paid out of the Fund.

8 “(6) INVESTMENTS.—Moneys in the Fund not
9 needed for current operations of the Fund shall be
10 deposited with the Treasurer of the United States to
11 the credit of the Fund or invested in bonds or other
12 obligations of, or in bonds or other obligations guar-
13 anteed by, the United States or any agency of the
14 United States, except that such moneys shall to the
15 maximum extent feasible be invested in such bonds
16 or other obligations the proceeds of which will be
17 used to directly support the residential mortgage
18 market. The Secretary, with the approval of the Sec-
19 retary of the Treasury, may purchase in the open
20 market debentures which are the obligation of the
21 Fund. Such purchases shall be made at a price
22 which will provide an investment yield of not less
23 than the yield obtained from other investments au-
24 thorized by this subsection. Debentures so purchased
25 shall be canceled and not reissued.”.

1 (b) DISBURSEMENT OF FUNDS TO PROTECT HOME-
2 OWNER AND LENDER.—Subparagraph (A) of section
3 255(i)(2) of the National Housing Act (12 U.S.C. 1715z–
4 20(i)(2)(A)) is amended by striking “Mutual Mortgage In-
5 surance Fund” and inserting “Home Equity Conversion
6 Mortgage Insurance Fund established under subsection
7 (s)”.

8 **SEC. 610. FHA-RELATED CONFORMING AMENDMENTS.**

9 (a) PENALTIES FOR EQUITY SKIMMING.—Paragraph
10 (1) of section 912 of the Housing and Urban Development
11 Act of 1970 (12 U.S.C. 1709–2(1)) is amended by insert-
12 ing “or Federal Housing Administration” after “Housing
13 and Urban Development”.

14 (b) FRAUDULENTLY MISAPPROPRIATED MORTGAGE
15 PROCEEDS.—Section 819 of the Housing and Community
16 Development Act of 1974 (12 U.S.C. 1701l–1) is amend-
17 ed—

18 (1) by inserting “or the Federal Housing Ad-
19 ministration” after “Secretary of Housing and
20 Urban Development”; and

21 (2) by inserting “or such Administration, as ap-
22 propriate,” before “has reason”.

23 (c) UNAUTHORIZED USE OF MULTIFAMILY HOUSING
24 ASSETS AND INCOME.—Section 421 of the Housing and

1 Community Development Act of 1987 (12 U.S.C. 1715z–
2 4a) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (1)—

5 (i) by inserting “or the FHA, as ap-
6 plicable,” after “Secretary”);

7 (ii) by inserting “or by the FHA pur-
8 suant to title II of the Protecting Amer-
9 ican Taxpayers and Homeowners Act of
10 2018” after “National Housing Act”; and

11 (iii) in the last sentence, by inserting
12 “or the FHA” after “Secretary” each
13 place such term appears;

14 (B) in paragraph (2), by inserting “or title
15 II of the Protecting American Taxpayers and
16 Homeowners Act of 2018” before the first
17 comma; and

18 (2) in subsections (b) through (e)—

19 (A) by inserting “or the FHA, as applica-
20 ble,” after “Secretary,” each place such term
21 appears; and

22 (B) by inserting “or the FHA, as applica-
23 ble,” after “Secretary” each place such term
24 appears (except the penultimate occurrence in
25 subsection (c)).

1 (d) SINGLE FAMILY MORTGAGE FORECLOSURE.—
2 The Single Family Mortgage Foreclosure Act of 1994 (12
3 U.S.C. 3751 et seq.) is amended—

4 (1) in section 802(b)(1) (12 U.S.C.
5 3751(b)(1)), by inserting “or by the FHA pursuant
6 to subtitle B of title V of the Protecting American
7 Taxpayers and Homeowners Act of 2018” before the
8 semicolon;

9 (2) in section 803(10)(A) (12 U.S.C.
10 3752(10)(A))—

11 (A) in subparagraph (A), by striking “or”
12 at the end;

13 (B) by redesignating subparagraph (B) as
14 subparagraph (C); and

15 (C) by inserting after subparagraph (A)
16 the following new subparagraph:

17 “(B) is held by the FHA pursuant to sub-
18 title B of title V of the Protecting American
19 Taxpayers and Homeowners Act of 2018; or”;
20 and

21 (3) by adding at the end the following new sec-
22 tion:

23 **“SEC. 820. AUTHORITY OF FHA.**

24 “After the expiration of the transition period under
25 section 551 of the Protecting American Taxpayers and

1 Homeowners Act of 2018, any reference in sections 804
2 through 819 of this Act to the Secretary shall be consid-
3 ered to also refer to the FHA (as established pursuant
4 to subtitle B of title V of such Act), but only with respect
5 to single family mortgages described in section
6 803(10)(B).”.

7 (e) MULTIFAMILY MORTGAGE FORECLOSURE.—The
8 Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C.
9 3701 et seq.) is amended—

10 (1) in section 363(2) (12 U.S.C. 3702(2)), by
11 adding after and below subparagraph (E) the fol-
12 lowing:

13 “Such term includes a mortgage on a property consisting
14 of 5 or more dwelling units that is held by the FHA pursu-
15 ant to subtitle B of title V of the Protecting American
16 Taxpayers and Homeowners Act of 2018.”.

17 (2) by adding at the end the following new sec-
18 tion:

19 “AUTHORITY OF FHA

20 “SEC. 369J. After the expiration of the transition pe-
21 riod under section 551 of the Protecting American Tax-
22 payers and Homeowners Act of 2018, any reference in sec-
23 tions 364 through 369I of this Act to the Secretary shall
24 be considered to also refer to the FHA (as established pur-
25 suant to subtitle B of such Act), but only with respect

1 to multifamily mortgages described in the last sentence
2 of section 363(2).”.

3 (f) EFFECTIVE DATE.—The amendment made by
4 this section shall be made, and shall apply beginning on,
5 the expiration of the transition period under section 551.

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