

116TH CONGRESS
1ST SESSION

S. 787

To make housing more affordable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2019

Ms. WARREN (for herself, Mrs. GILLIBRAND, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To make housing more affordable, 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 “American Housing and Economic Mobility Act of 2019”.

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

Sec. 1. Short title; table of contents.

TITLE I—MAKING HOUSING MORE AFFORDABLE

Sec. 101. Local housing innovation grants.

Sec. 102. Investing in affordable housing infrastructure.

Sec. 103. Conditions for the sale of real estate-owned properties and non-per-
forming loans.

TITLE II—TAKING THE FIRST STEPS TO REVERSE THE LEGACY OF HOUSING DISCRIMINATION AND GOVERNMENT NEGLIGENCE

- Sec. 201. Down payment assistance program for communities formerly segregated by law.
- Sec. 202. Formula grant program for communities that have not recovered from the financial crisis.
- Sec. 203. Strengthening the Community Reinvestment Act of 1977.
- Sec. 204. Amendments relating to credit union service to underserved areas.

TITLE III—REMOVING BARRIERS THAT ISOLATE COMMUNITIES

- Sec. 301. Expanding rights under the Fair Housing Act.
- Sec. 302. Improving outcomes in housing assistance programs.

TITLE IV—ESTATE TAX REFORM

- Sec. 401. Amendment to Internal Revenue Code of 1986.
- Sec. 402. Rate adjustment.
- Sec. 403. Required minimum 10-year term, etc., for grantor retained annuity trusts.
- Sec. 404. Certain transfer tax rules applicable to grantor trusts.
- Sec. 405. Elimination of generation-skipping transfer tax exemption for certain trusts.
- Sec. 406. Simplifying gift tax exclusion for annual gifts.

**1 TITLE I—MAKING HOUSING
2 MORE AFFORDABLE**

3 SEC. 101. LOCAL HOUSING INNOVATION GRANTS.

4 (a) DEFINITIONS.—In this section:

**5 (1) ELEMENTARY SCHOOL; SECONDARY
6 SCHOOL.**—The terms “elementary school” and “secondary school” have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

10 (2) ELIGIBLE ENTITY.—The term “eligible entity” means—

- 12 (A) a State;**
- 13 (B) a unit of general local government; or**
- 14 (C) a metropolitan area.**

13 (b) ESTABLISHMENT.—Not later than 1 year after
14 the date of enactment of this Act, the Secretary shall es-
15 tablish a program to make grants to eligible entities
16 that—

17 (1) reform local land use restrictions to bring
18 down the costs of producing affordable housing; and
19 (2) remove unnecessary barriers to building af-
20 fordable units in their communities

(c) ELIGIBLE ACTIVITIES.—An eligible entity receiving a grant under this section may use funds to—

23 (1) carry out any of the activities described in
24 section 105 of the Housing and Community Develop-
25 opment Act of 1974 (42 U.S.C. 5305);

14 (A) promote physical, sensory, and envi-
15 ronmental accessibility; and

16 (B) are consistent with a recognized green
17 building rating system.

18 (d) APPLICATION.—

3 (A) include—

4 (i) establishing “by-right” development
5 ment, which allows jurisdictions to admin-
6 istratively approve new developments that
7 are consistent with their zoning code;

11 (iii) instituting measures that
12 incentivize owners of vacant land to rede-
13 velop the space into affordable housing or
14 other productive uses;

15 (iv) revising minimum lot size require-
16 ments and bans or limits on multifamily
17 construction to allow for denser and more
18 affordable development;

19 (v) instituting incentives to promote
20 dense development, such as density bo-
21 nuses;

22 (vi) passing inclusionary zoning ordi-
23 nances that require a portion of newly de-
24 veloped units to be reserved for low- and
25 moderate-income renters or homebuyers;

1 (vii) streamlining regulatory requirements and shortening processes, reforming
2 zoning codes, or other initiatives that reduce barriers to housing supply elasticity
3 and affordability;

6 (viii) allowing accessory dwelling
7 units;

8 (ix) using local tax incentives to pro-
9 mote development of affordable housing;
10 and

11 (x) implementing measures that pro-
12 tect tenants from harassment and displace-
13 ment, including access to counsel for ten-
14 ants facing eviction, the prohibition of evic-
15 tion except for just cause, and measures
16 intended to prevent or mitigate sudden in-
17 creases in rents, or repealing laws that
18 prevent localities from implementing those
19 measures; and

(B) do not include activities that alter ordinances that govern wage and hour laws, family and medical leave laws, or protections for workers' health and safety, anti-discrimination, and right to organize.

25 (e) LABOR LAWS.—

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to—

16 (B) construction carried out by employees
17 of the eligible entity receiving the grant under
18 this section

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$2,000,000,000 for each of fiscal years 2020 through
22 2024.

1 **SEC. 102. INVESTING IN AFFORDABLE HOUSING INFRA-**
2 **STRUCTURE.**

3 (a) **HOUSING TRUST FUND.**—Section 1338(a) of the
4 Federal Housing Enterprises Financial Safety and Sound-
5 ness Act of 1992 (12 U.S.C. 4568(a)) is amended by add-
6 ing at the end the following:

7 “(3) **AUTHORIZATION OF APPROPRIATIONS.**—
8 There is authorized to be appropriated to the Hous-
9 ing Trust Fund \$44,500,000,000 for each of fiscal
10 years 2020 through 2029.”.

11 (b) **CAPITAL MAGNET FUND.**—Section 1339 of the
12 Federal Housing Enterprises Financial Safety and Sound-
13 ness Act of 1992 (12 U.S.C. 4569) is amended by adding
14 at the end the following:

15 “(k) **AUTHORIZATION OF APPROPRIATIONS.**—There
16 is authorized to be appropriated to the Capital Magnet
17 Fund \$2,500,000,000 for each of fiscal years 2020
18 through 2029.”.

19 (c) **PUBLIC HOUSING CAPITAL FUND.**—Section
20 9(c)(2)(B) of the United States Housing Act of 1937 (42
21 U.S.C. 1437g(c)(2)(B)) is amended to read as follows:

22 “(B) **CAPITAL FUND.**—For allocations of
23 assistance from the Capital Fund,
24 \$3,592,000,000 for fiscal year 2020.”.

25 (d) **INDIAN HOUSING BLOCK GRANT PROGRAM.**—
26 Section 108 of the Native American Housing Assistance

1 and Self-Determination Act of 1996 (25 U.S.C. 4117) is
2 amended—

3 (1) by striking “such sums as may be necessary
4 for each of fiscal years 2009 through 2013” and in-
5 serting “\$2,500,000,000 for fiscal year 2020 and
6 such sums as may be necessary for each of fiscal
7 years 2021 through 2029”; and

8 (2) by striking the second sentence.

9 (e) NATIVE HAWAIIAN HOUSING BLOCK GRANT PRO-
10 GRAM.—Section 824 of the Native American Housing As-
11 sistance and Self-Determination Act of 1996 (25 U.S.C.
12 4243) is amended by striking “such sums as may be nec-
13 essary for each of fiscal years 2001, 2002, 2003, 2004,
14 and 2005” and inserting “\$8,000,000 for fiscal year
15 2020”.

16 (f) RURAL HOUSING PROGRAMS.—Out of funds in
17 the Treasury not otherwise appropriated, there is appro-
18 priated for fiscal year 2020—

19 (1) to provide direct loans under section 502 of
20 the Housing Act of 1949 (42 U.S.C. 1472),
21 \$140,000,000;

22 (2) to provide assistance under section 514 of
23 such Act (42 U.S.C. 1484), \$28,000,000;

24 (3) to provide assistance under section 515 of
25 such Act (42 U.S.C. 1485), \$180,000,000;

5 (g) MIDDLE CLASS HOUSING EMERGENCY FUND.—

22 (A) there is a shortage of affordable rental
23 housing units available to individuals with an
24 income that is at or below the area median in-
25 come and median rents have risen on average

1 over the preceding 3 years substantially faster
2 than the area median income; or

3 (B) there is a shortage of housing units
4 available for sale that are affordable to individ-
5 uals with an income that is at or below the area
6 median income and median home prices have
7 risen on average over the preceding 3 years
8 substantially faster than the area median in-
9 come.

10 (4) USE OF FUNDS.—Grants received under
11 this subsection shall be used to fund—

12 (A) the construction of rental housing
13 units or units for purchase that are affordable
14 to residents making less than 120 percent of
15 the area median income; and

16 (B) measures to prevent tenant displace-
17 ment and harassment, including the provision
18 of legal advice and representation for tenants
19 facing eviction, enforcement of anti-harassment
20 laws, emergency rental assistance, and other
21 measures as specified by the Secretary of Hous-
22 ing and Urban Development.

23 (5) LABOR LAWS.—

24 (A) IN GENERAL.—All laborers and me-
25 chanics employed by contractors or subcontrac-

1 tors in the performance of construction work fi-
2 nanced in whole or in part with a grant received
3 under this subsection shall be paid wages at
4 rates not less than those prevailing on similar
5 construction in the locality as determined by
6 the Secretary of Labor in accordance with sub-
7 chapter IV of chapter 31 of title 40, United
8 States Code (commonly known as the “Davis-
9 Bacon Act”).

10 (B) EXCEPTION.—Subparagraph (A) shall
11 not apply with respect to—

12 (i) the rehabilitation of residential
13 property if the property contains less than
14 8 units; or
15 (ii) construction carried out by em-
16 ployees of the eligible entity receiving the
17 grant under this section.

18 (6) REGULATIONS.—The Secretary of Housing
19 and Urban Development shall promulgate regula-
20 tions to carry out this subsection, including with re-
21 spect to the metrics that the Secretary shall use to
22 determine eligibility for a grant under this sub-
23 section.

24 (7) APPROPRIATIONS.—Out of funds in the
25 Treasury not otherwise appropriated, there is appro-

1 appropriated to the fund established under this subsection
2 \$4,000,000,000 for fiscal year 2020.

3 SEC. 103. CONDITIONS FOR THE SALE OF REAL ESTATE-
4 OWNED PROPERTIES AND NON-PERFORMING
5 LOANS.

6 (a) FINDINGS.—Congress finds that—

12 (2) it is the purpose of this section to—

13 (A) preserve owner-occupied homes with
14 mortgages insured by the Federal Housing Ad-
15 ministration or purchased by the Federal Na-
16 tional Mortgage Association or the Federal
17 Home Loan Mortgage Corporation for contin-
18 ued use as owner-occupied homes; and

19 (B) direct that, upon the sale of those
20 properties or transfer of those mortgages, cer-
21 tain percentages of those properties are sold to
22 low- and moderate-income homeowners.

23 (b) LOANS INSURED BY THE FEDERAL HOUSING AD-
24 MINISTRATION.—Title II of the National Housing Act (12

1 U.S.C. 1707 et seq.) is amended by adding at the end
2 the following:

3 **“SEC. 259. SALE OF REAL ESTATE-OWNED PROPERTIES.**

4 “(a) IN GENERAL.—Not later than 1 year after the
5 date of enactment of this section, the Secretary shall de-
6 velop programs within the Federal Housing Administra-
7 tion to ensure that not less than 75 percent of the single-
8 family residential properties that were acquired by the
9 Federal Housing Administration through foreclosure or
10 other transfer-related mortgages insured under this title
11 on the properties are sold—

12 “(1) directly to an owner-occupant; or
13 “(2) to community partners that will—
14 “(A) rehabilitate or develop the property;
15 and
16 “(B) sell the property to an owner-occu-
17 pant.

18 “(b) ANTI-PREDATORY FEATURE.—Unless the Sec-
19 retary provides prior approval, the Secretary shall prohibit
20 any purchaser of a real estate-owned property of the Fed-
21 eral Housing Administration from re-selling the property
22 within 15 years of purchase using a land installment con-
23 tract or through any other mechanism that does not trans-
24 fer title to the buyer at the time of sale.

1 **“SEC. 260. SALE OF NON-PERFORMING LOANS.**

2 “(a) IN GENERAL.—Except as provided in this sec-
3 tion, the Secretary may not sell or transfer any mortgage
4 insured under this title that is secured by a single-family
5 residential property (in this section referred to as a ‘cov-
6 ered mortgage’).

7 “(b) CONDITIONS FOR SALE OR TRANSFER.—

8 “(1) IN GENERAL.—The Secretary—

9 “(A) may sell or transfer a covered mort-
10 gage only if—

11 “(i) the capital level of the Fund is
12 substantially below the capital ratio re-
13 quired under section 205(f)(4);

14 “(ii) the Secretary certifies that other
15 reasonable measures are not available to
16 restore the Fund to that capital ratio; and

17 “(iii) the Secretary complies with
18 paragraph (2)(C), if applicable; and

19 “(B) shall sell or transfer only such cov-
20 ered mortgages as are necessary to assist in
21 restoration of that capital ratio.

22 “(2) REQUIREMENTS FOR THE SECRETARY.—

23 “(A) IN GENERAL.—If the Secretary in-
24 tends to sell or transfer a covered mortgage, the
25 Secretary shall provide the current borrower
26 and all owners of record of the property secur-

9 “(ii) includes—

24 “(B) JUDICIAL REVIEW.—The determina-
25 tion of the Secretary to authorize the sale of a

1 mortgage insured under this title shall be re-
2 viewable under chapter 7 of title 5, United
3 States Code, for abuse of discretion and arbi-
4 trary and capricious agency action.

5 “(C) AUCTIONS.—The Secretary may not
6 sell any covered mortgage through any type of
7 non-performing loan sale auction program until
8 the Secretary issues rules, through the notice
9 and comment rule making procedures under
10 section 553 of title 5, United States Code, that
11 address essential aspects of any non-performing
12 loan sale program, including—

13 “(i) the method of selection of loans
14 for sale;

15 “(ii) notice to borrowers prior to in-
16 clusion of the loan in a sale; and

17 “(iii) review of loss mitigation status
18 prior to the sale, selection of eligible bid-
19 ders, loss mitigation guidelines applicable
20 to loan purchasers, and reporting require-
21 ments for purchasers.

22 “(3) CERTIFICATION REQUIREMENT FOR LEND-
23 ERS AND SERVICERS.—

24 “(A) CERTIFICATION.—As a condition to
25 payment of an insurance claim under this title

1 in connection with any non-performing loan
2 sale, the lender or servicer of the loan shall pro-
3 vide the Secretary and the borrower with writ-
4 ten certification of the loss mitigation review
5 contained in the FHA Single Family Housing
6 Policy Handbook 4000.1, or any successor
7 handbook.

8 “(B) FALSE STATEMENTS.—

9 “(i) IN GENERAL.—Any false state-
10 ment provided in a certification described
11 in subparagraph (A) shall be a basis for—

12 “(I) recovery by the Secretary of
13 any amounts paid under the insurance
14 claim and any other penalties and
15 sanctions authorized under Federal
16 law; and

17 “(II) a private right of action by
18 the borrower against the lender and
19 servicer, with remedies to include
20 compensatory and punitive damages
21 and an assessment of costs and attor-
22 ney’s fees.

23 “(ii) TRANSFERS.—Unless a bona fide
24 purchaser has acquired title to the prop-
25 erty as a primary residence—

1 “(I) a certification described in
2 subparagraph (A) that contains a
3 false statement shall be a basis for re-
4 voking the transfer of the property;
5 and

6 “(II) the pre-sale lender and
7 servicer of the property shall—

8 “(aa) resume servicing the
9 loan as a loan insured under this
10 title; and

11 “(bb) reimburse the Sec-
12 retary for any insurance claim
13 paid and all costs related to the
14 sale of the property.

15 “(4) REQUIREMENTS FOR PURCHASERS.—

16 “(A) IN GENERAL.—Each purchaser of a
17 covered mortgage shall offer the borrower on
18 the covered mortgage—

19 “(i) appropriate loss mitigation op-
20 tions, including affordable and sustainable
21 loan modifications; and

22 “(ii) the opportunity for a short sale
23 or a deed in lieu of foreclosure.

24 “(B) LOSS MITIGATION OPTIONS.—The
25 specific formula, calculations, waterfall steps,

1 and other terms for appropriate loss mitigation
2 options described in subparagraph (A) shall be
3 published by the Secretary, made available to
4 the public, and included in a written notice
5 given to borrowers before any acceleration or
6 foreclosure is initiated after a loan sale.

7 “(5) REQUIREMENTS FOR TRANSFEREES.—
8 With respect to a transferee, including any subse-
9 quent transferee, of a covered mortgage that is sold
10 under this title—

11 “(A) the transferee shall certify in writing
12 to the Secretary that the transferee will comply
13 with the provisions of this section in the mar-
14 keting and transfer of any property received in
15 the disposition of any transferred loan;

16 “(B) the transferee shall provide to the
17 Secretary records documenting that the trans-
18 fers of those properties are in compliance with
19 this section; and

20 “(C) the failure of the Secretary or the
21 transferee to comply with the requirements
22 under this section for a loan in default shall be
23 a defense to foreclosure, and a transferee shall
24 not execute a foreclosure judgment or order of
25 sale, or conduct a foreclosure sale, until the

1 transferee has complied with all requirements
2 under this section.

3 “(c) LIMITATIONS.—With respect to covered mort-
4 gages that are sold under this title and foreclosed upon
5 by the buyer, not less than 90 percent of the properties
6 that are the subject of the covered mortgages in an auc-
7 tion shall be—

8 “(1) sold to owner-occupants;

9 “(2) operated or transferred to an entity that
10 will operate the property as affordable rental hous-
11 ing for households below 80 percent of the area me-
12 dian income for a period of not less than 15 years;
13 or

14 “(3) transferred or donated to a nonprofit
15 agency that is certified by the Secretary and will re-
16 develop the property for owner occupancy or afford-
17 able rental housing.

18 “(d) PRIORITIZATION OF SALES.—The Secretary
19 shall implement policies, procedures, and controls to—

20 “(1) identify and recruit community partners;

21 “(2) engage in consultations with community
22 partners before the sale of a pool of covered mort-
23 gages under this title to determine whether that sale
24 can be designed to meet the specific needs of the
25 communities served by the community partners; and

1 “(3) prioritize the sale of pools of single-family
2 mortgages to community partners by—

3 “(A) designing pools of covered mortgages
4 for direct sale to a community partner, the
5 price of which shall be set by the Secretary
6 based on a pricing model that considers—

7 “(i) the current fair market value of
8 the properties; and

9 “(ii) the potential impact of fore-
10 closures on those properties to the value of
11 other homes that secure mortgages insured
12 under this title in the same census tract;
13 or

14 “(B) in the case of an auction, if the win-
15 ning bid is not from a community partner, per-
16 mitting any community partner that bid during
17 that same auction to have a final opportunity to
18 enter a higher bid on the pool.”.

19 (c) FANNIE MAE.—Section 302 of the Federal Na-
20 tional Mortgage Association Charter Act (12 U.S.C. 1717)
21 is amended by adding at the end the following:

22 “(d)(1) The corporation may not sell or transfer any
23 mortgage that is secured by a single-family residential
24 property (in this section referred to as a ‘covered mort-

1 gage') under this section unless the requirements of this
2 subsection are met.

3 “(2)(A) If the corporation intends to sell or transfer
4 a covered mortgage, the corporation shall provide the cur-
5 rent borrower and all owners of record of the property se-
6 curing the covered mortgage, or require that the current
7 borrower and owners of record be provided, a separate
8 written notice of the intent to sell the covered mortgage
9 that—

10 “(i) is mailed via certified and first class mail
11 not less than 90 days before the date on which the
12 loan is included in any proposed sale; and

13 “(ii) includes—

14 “(I) a description of the loss mitigation op-
15 tions of the corporation that are available to
16 borrowers in financial distress and the obliga-
17 tion of servicers to consider borrowers in de-
18 fault for those options;

19 “(II) a description of the actions that the
20 servicer of the loan has taken to review and im-
21 plement those options for the borrower; and

22 “(III) a description of the procedures the
23 borrower may use to contest with the corpora-
24 tion the compliance by the servicer with that
25 obligation.

1 “(B) The determination of the corporation to author-
2 ize the sale of a mortgage under this section shall be re-
3 viewable under chapter 7 of title 5, United States Code,
4 for abuse of discretion and arbitrary and capricious agen-
5 cy action.

6 “(C) The corporation may not sell any covered mort-
7 gage through any type of non-performing loan sale auction
8 program until the corporation issues rules, through the no-
9 tice and comment rule making procedures under section
10 553 of title 5, United States Code, that address essential
11 aspects of any non-performing loan sale program, includ-
12 ing—

13 “(i) the method of selection of loans for sale;
14 “(ii) notice to borrowers prior to inclusion of
15 the loan in a sale; and
16 “(iii) review of loss mitigation status prior to
17 the sale, selection of eligible bidders, loss mitigation
18 guidelines applicable to loan purchasers, and report-
19 ing requirements for purchasers.

20 “(3)(A) Each purchaser of a covered mortgage shall
21 offer the borrower on the covered mortgage—

22 “(i) appropriate loss mitigation options, includ-
23 ing affordable and sustainable loan modifications;
24 and

1 “(ii) the opportunity for a short sale or a deed
2 in lieu of foreclosure.

3 “(B) The specific formula, calculations, waterfall
4 steps, and other terms for appropriate loss mitigation op-
5 tions described in subparagraph (A) shall be published by
6 the corporation, made available to the public, and included
7 in a written notice given to borrowers before any accelera-
8 tion or foreclosure is initiated after a loan sale.

9 “(4) With respect to a transferee, including any sub-
10 sequent transferee, of a covered mortgage that is sold by
11 the corporation under this section—

12 “(A) the transferee shall certify in writing to
13 the corporation that the transferee will comply with
14 the provisions of this subsection in the marketing
15 and transfer of any property received in the disposi-
16 tion of any transferred loan;

17 “(B) the transferee shall provide to the corpora-
18 tion records documenting that the transfers of those
19 properties are in compliance with this subsection;
20 and

21 “(C) the failure of the corporation or the trans-
22 feree to comply with the requirements under this
23 subsection for a loan in default shall be a defense to
24 foreclosure, and a transferee shall not execute a
25 foreclosure judgment or order of sale, or conduct a

1 foreclosure sale, until the transferee has complied
2 with all requirements under this subsection.

3 “(5) With respect to covered mortgages that are sold
4 by the corporation under this section and foreclosed upon
5 by the buyer, not less than 90 percent of the properties
6 that are the subject of the covered mortgages in an auc-
7 tion shall be—

8 “(A) sold to owner-occupants;

9 “(B) operated or transferred to an entity that
10 will operate the property as affordable rental hous-
11 ing for households below 80 percent of the area me-
12 dian income for a period of not less than 15 years;
13 or

14 “(C) transferred or donated to a nonprofit
15 agency that is certified by the corporation and will
16 redevelop the property for owner occupancy or af-
17 fordable rental housing.

18 “(6) The corporation shall implement policies, proce-
19 dures, and controls to—

20 “(A) identify and recruit community partners;

21 “(B) engage in consultations with community
22 partners before the sale of a pool of covered mort-
23 gages under this section to determine whether that
24 sale can be designed to meet the specific needs of

1 the communities served by the community partners;
2 and

3 “(C) prioritize the sale of pools of single-family
4 mortgages to community partners by—

5 “(i) designing pools of covered mortgages
6 for direct sale to a community partner, the
7 price of which shall be set by the corporation
8 based on a pricing model that considers—

9 “(I) the current fair market value of
10 the properties; and

11 “(II) the potential impact of fore-
12 closures on those properties to the value of
13 other homes in the same census tract; or

14 “(III) in the case of an auction, if the
15 winning bid is not from a community part-
16 ner, permitting any community partner
17 that bid during that same auction to have
18 a final opportunity to enter a higher bid on
19 the pool.”.

20 (d) FREDDIE MAC.—Section 305 of the Federal
21 Home Loan Mortgage Corporation Act (12 U.S.C. 1454)

22 is amended by adding at the end the following:

23 “(e)(1) The Corporation may not sell or transfer any
24 mortgage that is secured by a single-family residential
25 property (in this section referred to as a ‘covered mort-

1 gage') under this section unless the requirements of this
2 subsection are met.

3 “(2)(A) If the Corporation intends to sell or transfer
4 a covered mortgage, the Corporation shall provide the cur-
5 rent borrower and all owners of record of the property se-
6 curing the covered mortgage, or require that the current
7 borrower and owners of record be provided, a separate
8 written notice of the intent to sell the covered mortgage
9 that—

10 “(i) is mailed via certified and first class mail
11 not less than 90 days before the date on which the
12 loan is included in any proposed sale; and

13 “(ii) includes—

14 “(I) a description of the loss mitigation op-
15 tions of the Corporation that are available to
16 borrowers in financial distress and the obliga-
17 tion of servicers to consider borrowers in de-
18 fault for those options;

19 “(II) a description of the actions that the
20 servicer of the loan has taken to review and im-
21 plement those options for the borrower; and

22 “(III) a description of the procedures the
23 borrower may use to contest with the Corpora-
24 tion the compliance by the servicer with that
25 obligation.

1 “(B) The determination of the Corporation to author-
2 ize the sale of a mortgage under this section shall be re-
3 viewable under chapter 7 of title 5, United States Code,
4 for abuse of discretion and arbitrary and capricious agen-
5 cy action.

6 “(C) The Corporation may not sell any covered mort-
7 gage through any type of non-performing loan sale auction
8 program until the Corporation issues rules, through the
9 notice and comment rule making procedures under section
10 553 of title 5, United States Code, that address essential
11 aspects of any non-performing loan sale program, includ-
12 ing—

13 “(i) the method of selection of loans for sale;
14 “(ii) notice to borrowers prior to inclusion of
15 the loan in a sale; and
16 “(iii) review of loss mitigation status prior to
17 the sale, selection of eligible bidders, loss mitigation
18 guidelines applicable to loan purchasers, and report-
19 ing requirements for purchasers.

20 “(3)(A) Each purchaser of a covered mortgage shall
21 offer the borrower on the covered mortgage—
22 “(i) appropriate loss mitigation options, includ-
23 ing affordable and sustainable loan modifications;
24 and

1 “(ii) the opportunity for a short sale or a deed
2 in lieu of foreclosure.

3 “(B) The specific formula, calculations, waterfall
4 steps, and other terms for appropriate loss mitigation op-
5 tions described in subparagraph (A) shall be published by
6 the Corporation, made available to the public, and in-
7 cluded in a written notice given to borrowers before any
8 acceleration or foreclosure is initiated after a loan sale.

9 “(4) With respect to a transferee, including any sub-
10 sequent transferee, of a covered mortgage that is sold by
11 the Corporation under this section—

12 “(A) the transferee shall certify in writing to
13 the Corporation that the transferee will comply with
14 the provisions of this section in the marketing and
15 transfer of any property received in the disposition
16 of any transferred loan;

17 “(B) the transferee shall provide to the Cor-
18 poration records documenting that the transfers of
19 those properties are in compliance with this sub-
20 section; and

21 “(C) the failure of the Corporation or the trans-
22 feree to comply with the requirements under this
23 subsection for a loan in default shall be a defense to
24 foreclosure, and a transferee shall not execute a
25 foreclosure judgment or order of sale, or conduct a

1 foreclosure sale, until the transferee has complied
2 with all requirements under this subsection.

3 “(5) With respect to covered mortgages that are sold
4 by the Corporation under this section and foreclosed upon
5 by the buyer, not less than 90 percent of the properties
6 that are the subject of the covered mortgages in an auc-
7 tion shall be—

8 “(A) sold to owner-occupants;

9 “(B) operated or transferred to an entity that
10 will operate the property as affordable rental hous-
11 ing for households below 80 percent of the area me-
12 dian income for a period of not less than 15 years;
13 or

14 “(C) transferred or donated to a nonprofit
15 agency that is certified by the Corporation and will
16 redevelop the property for owner occupancy or af-
17 fordable rental housing.

18 “(6) The Corporation shall implement policies, proce-
19 dures, and controls to—

20 “(A) identify and recruit community partners;

21 “(B) engage in consultations with community
22 partners before the sale of a pool of covered mort-
23 gages under this section to determine whether that
24 sale can be designed to meet the specific needs of

1 the communities served by the community partners;
2 and

3 “(C) prioritize the sale of pools of single-family
4 mortgages to community partners by—

5 “(i) designing pools of covered mortgages
6 for direct sale to a community partner, the
7 price of which shall be set by the Corporation
8 based on a pricing model that considers—

9 “(I) the current fair market value of
10 the properties; and

11 “(II) the potential impact of fore-
12 closures on those properties to the value of
13 other homes in the same census tract; or

14 “(III) in the case of an auction, if the
15 winning bid is not from a community part-
16 ner, permitting any community partner
17 that bid during that same auction to have
18 a final opportunity to enter a higher bid on
19 the pool.”.

1 **TITLE II—TAKING THE FIRST**
2 **STEPS TO REVERSE THE LEG-**
3 **ACY OF HOUSING DISCRIMI-**
4 **NATION AND GOVERNMENT**
5 **NEGLIGENCE**

6 **SEC. 201. DOWN PAYMENT ASSISTANCE PROGRAM FOR**
7 **COMMUNITIES FORMERLY SEGREGATED BY**
8 **LAW.**

9 (a) FINDINGS.—Congress finds the following:

10 (1) For generations, buying a home has been
11 the primary way working families build wealth.

12 (2) A home is not only a place to live, but also
13 an asset that may appreciate, help fund a new busi-
14 ness, finance an education, or cover retirement ex-
15 penses. A home provides stability and financial pre-
16 dictability, which are important foundations for
17 prosperity and access to opportunity for a family.

18 (3) For decades, the Federal Government sub-
19 sidized homeownership—for White families. Until
20 the 1960s, the Federal Government systematically
21 denied African Americans and other marginalized
22 groups the ability to obtain mortgage credit, buy
23 homes, and build wealth for their families while sub-
24 sidizing the American dream for White families.

18 (7) The legacy of housing discrimination and
19 regulatory negligence is a contributor to a large and
20 growing gap in wealth and outcomes between Black
21 and White families. The median income White fam-
22 ily in the United States has almost 10 times the
23 wealth of the median income Black family in the
24 United States. The gap between the White home-
25 ownership rate and the Black homeownership rate is

1 bigger today than it was when housing discrimination
2 was legal. Seventy-five percent of formerly red-
3 lined communities are still low-income and 66 per-
4 cent are still minority communities.

5 (8) The purpose of this section is for the Fed-
6 eral Government to take the first step toward ad-
7 dressing the racial wealth gap that it contributed to
8 creating by helping individuals or descendants of in-
9 dividuals who were harmed by housing discrimina-
10 tion or negligence by the Federal Government.

11 (b) DEFINITIONS.—In this section:

12 (1) ELIGIBLE RESIDENT.—The term “eligible
13 resident” means a resident of a geographic area, as
14 defined by the Secretary by regulation under sub-
15 section (g), who—

16 (A) is a first-time homebuyer;

17 (B) has an income that is less than 120
18 percent of the area median income; and

19 (C)(i) resided in that geographic area dur-
20 ing the 4-year period preceding the date of en-
21 actment of this Act;

22 (ii) resided in that geographic area for a
23 period of 4 years before moving out of the geo-
24 graphic area subsequent to a foreclosure, short

1 sale, or deed in lieu of foreclosure on a home
2 that—

3 (I) was the primary residence of the
4 resident; and

5 (II) was purchased or refinanced dur-
6 ing the period beginning on January 1,
7 2001, and ending on December 30, 2008;
8 or

17 (A) has had no ownership in a principal
18 residence during the 3-year period ending on
19 the date of purchase of the property; or

(B) who surrendered an ownership interest in a principal residence during the 3-year period ending on the date of purchase of the property as part of a divorce proceeding.

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of Housing and Urban Development.

1 (c) ESTABLISHMENT.—There is established in the
2 Office of Housing of the Department of Housing and
3 Urban Development a fund, to be administered by the Sec-
4 retary, that shall be used—

5 (1) to provide grants to eligible residents to
6 purchase homes;

7 (2) for outreach to financial institutions in tar-
8 geted areas and eligible residents, including for the
9 administration of that outreach;

10 (3) for counseling or financial education admin-
11 istered by counseling agencies approved by the Sec-
12 retary in order to ensure sustainable homeowner-
13 ship;

14 (4) to create and maintain the database de-
15 scribed in subsection (g)(3); and

16 (5) to maintain any records required to imple-
17 ment this section.

18 (d) GRANT AMOUNT.—Eligible residents may receive
19 a grant from the fund established under subsection (c) in
20 an amount equal to—

21 (1) not more than 3.5 percent of the appraised
22 value of the property to be purchased; or

23 (2) if the appraised value is more than the prin-
24 cipal obligation amount limitation for mortgages in-
25 sured under title II of the National Housing Act (12

1 U.S.C. 1707 et seq.), 3.5 percent of the maximum
2 principal obligation limitation for the property to be
3 purchased.

4 (e) **FHA LOAN.**—An eligible resident is not required
5 to obtain a mortgage that is insured under title II of the
6 National Housing Act (12 U.S.C. 1707 et seq.) as a condi-
7 tion of receiving a grant under this section.

8 (f) **GEOGRAPHIC AREA.**—An eligible resident is not
9 required to purchase a home within the geographic area
10 described in subsection (b)(1)(C) as a condition of receiv-
11 ing a grant under this section.

12 (g) **REGULATIONS AND DATABASE.**—Not later than
13 1 year after the date of enactment of this Act, the Sec-
14 retary shall—

15 (1) in consultation with interested parties, in-
16 cluding housing counseling agencies approved by the
17 Secretary and individuals or groups with expertise in
18 fair housing, finalize regulations relating to the use
19 of the fund established under subsection (c), includ-
20 ing defining the geographic areas in which residents
21 are eligible to receive grants through the fund, which
22 shall include—

23 (A) census tracts graded as “hazardous”
24 or “definitely declining” in maps drawn by the
25 Home Owners’ Loan Corporation that are, as of

8 (C) census tracts that are racially or eth-
9 nically concentrated areas of poverty, which
10 shall mean a census tract—

11 (i) with a non-White population of 50
12 percent or more; and

(II) in which the average tract poverty rate is 3 or more times the average tract poverty tract for the metropolitan or micropolitan area;

1 bursed by the fund established under subsection (c)
2 if the lender—

5 (B) allows eligible residents to be
6 preapproved to receive assistance under this
7 section when arranging financing for their
8 home;

15 (h) APPROPRIATIONS.—Out of funds in the Treasury
16 not otherwise appropriated, there is appropriated to the
17 fund established under subsection (c) such sums as may
18 be necessary for each of fiscal years 2020 through 2029
19 to provide grants under this section and to carry out con-
20 sumer education efforts related to this section.

21 (i) INCLUSION OF PROGRAM IN HOME BUYING IN-
22 FORMATION BOOKLETS.—Section 5(b) of the Real Estate
23 Settlement Procedures Act of 1974 (12 U.S.C. 2604(b))
24 is amended by inserting after paragraph (14) the fol-
25 lowing:

1 “(15) Information relating to the down pay-
2 ment assistance program established under section
3 201 of the American Housing and Economic Mobil-
4 ity Act of 2019.”.

5 (j) INCLUSION OF PROGRAM AS MORTGAGE PROD-
6 UCT.—Section 203(f)(1) of the National Housing Act (12
7 U.S.C. 1709(f)(1)) is amended by inserting “, including
8 the down payment assistance program established under
9 section 201 of the American Housing and Economic Mo-
10 bility Act of 2019,” after “mortgage products”.

11 SEC. 202. FORMULA GRANT PROGRAM FOR COMMUNITIES
12 THAT HAVE NOT RECOVERED FROM THE FI-
13 NANCIAL CRISIS.

14 (a) ESTABLISHMENT.—The Secretary of Housing
15 and Urban Development shall establish a formula grant
16 program to provide funding to States to assist borrowers
17 with negative equity in their primary residence through—
18 (1) measures that provide funds to borrowers
19 to—

20 (A) pay down arrears on an otherwise af-
21 fordable loan;

(B) pay down arrears or principal on a loan in order to qualify for a loan modification that will allow the borrower to keep their home;

1 (C) pay off the entire or pay down part of
2 a second mortgage or home equity line of cred-
3 it;

4 (D) pay off a small-dollar mortgage;

5 (E) pay delinquent taxes and tax liens;

6 (F) pay off delinquent water or sewer bills
7 and liens; and

8 (G) pay for home repairs or maintenance
9 or for modifications to bring the home into
10 compliance with any applicable codes; and

14 (b) FORMULA.—The Secretary of Housing and
15 Urban Development shall distribute amounts under this
16 section based on the number of borrowers in the State
17 with a primary residence with negative equity.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section
20 \$2,000,000,000 for fiscal year 2020.

21 SEC. 203. STRENGTHENING THE COMMUNITY REINVEST-
22 MENT ACT OF 1977.

23 (a) SHORT TITLE.—This section may be cited as the
24 “Community Reinvestment Reform Act of 2019”.

1 (b) AMENDMENTS TO THE COMMUNITY REINVEST-
2 MENT ACT OF 1977.—The Community Reinvestment Act
3 of 1977 (12 U.S.C. 2901 et seq.) is amended—

4 (1) by amending sections 802 and 803 (12
5 U.S.C. 2901, 2902) to read as follows:

6 **“SEC. 802. FINDINGS AND PURPOSE.**

7 “(a) FINDINGS.—Congress finds that—

8 “(1) regulated financial institutions are re-
9 quired by law to demonstrate that they serve the
10 convenience and needs of the communities in which
11 they are chartered or do business, in particular low-
12 and moderate-income communities;

13 “(2) the convenience and needs of communities
14 include the need for credit services, deposit services,
15 transaction services, other financial services, and
16 community development loans and investments; and

17 “(3) regulated financial institutions have a con-
18 tinuing and affirmative obligation to meet the credit
19 or other financial needs of the local communities in
20 which they are chartered or do business.

21 “(b) PURPOSE.—It is the purpose of this title to re-
22 quire each appropriate Federal financial supervisory agen-
23 cy to use its authority when examining regulated financial
24 institutions to ensure that those institutions meet the
25 credit or other financial needs of the local communities

1 in which they are chartered or do business consistent with
2 the safe and sound operation of those institutions.

3 **“SEC. 803. DEFINITIONS.**

4 “In this title:

5 **“(1) APPLICATION FOR A DEPOSIT FACILITY.—**

6 The term ‘application for a deposit facility’ means
7 an application to the appropriate Federal financial
8 supervisory agency otherwise required under Federal
9 law or regulations thereunder for—

10 “(A) a charter for a national bank or Fed-
11 eral savings and loan association;

12 “(B) deposit insurance in connection with
13 a newly chartered State bank, savings bank,
14 savings and loan association, or similar institu-
15 tion;

16 “(C) the establishment of a domestic
17 branch or other facility with the ability to ac-
18 cept deposits of a regulated financial institu-
19 tion;

20 “(D) the relocation of the home office or a
21 branch office of a regulated financial institu-
22 tion;

23 “(E) the merger or consolidation with, the
24 acquisition of the assets of, or the assumption
25 of the liabilities of a regulated financial institu-

4 “(F) the acquisition of shares in, or the as-
5 sets of, a regulated financial institution requir-
6 ing approval under section 3 of the Bank Hold-
7 ing Company Act of 1956 (12 U.S.C. 1842).

8 “(2) APPROPRIATE FEDERAL BANKING AGEN-
9 CY.—The term ‘appropriate Federal banking agency’
10 has the meaning given the term in section 3 of the
11 Federal Deposit Insurance Act (12 U.S.C. 1813).

12 “(3) APPROPRIATE FEDERAL FINANCIAL SU-
13 PERVISORY AGENCY.—The term ‘appropriate Fed-
14 eral financial supervisory agency’ means—

15 “(A) the appropriate Federal banking
16 agency with respect to depository institutions
17 and depository institution holding companies;
18 and

19 “(B) the Bureau of Consumer Financial
20 Protection with respect to any covered person
21 supervised by the Bureau pursuant to section
22 1024 of the Dodd-Frank Wall Street Reform
23 and Consumer Protection Act (12 U.S.C.
24 5514).

1 “(4) ASSESSMENT AREA.—The term ‘assessment
2 area’ means, with respect to a regulated financial
3 institution, each community, including a State,
4 metropolitan area, and urban or rural county, in
5 which the institution—

6 “(A) maintains deposit-taking branches,
7 automated teller machines, or retail offices;

8 “(B) is represented by an agent;

9 “(C) issues a significant number of loans
10 or other products relative to the total number
11 of loans or other products made by the institu-
12 tion;

13 “(D) has issued not less than 75 percent
14 of the loans of the institution; or

15 “(E) has conducted not less than 75 per-
16 cent of the business of the institution.

17 “(5) COMMUNITY BENEFITS PLAN.—The term
18 ‘community benefits plan’ means a plan that pro-
19 vides measurable goals for future amounts of safe
20 and sound loans, investments, services, and other fi-
21 nancial products for low- and moderate-income com-
22 munities and other distressed or underserved com-
23 munities.

24 “(6) COMMUNITY DEVELOPMENT.—The term
25 ‘community development’ means—

1 “(A) affordable housing for low- or mod-
2 erate-income individuals and avoidance of pat-
3 terns of lending resulting in the loss of afford-
4 able housing units;

5 “(B) community development services, in-
6 cluding counseling and successful mortgage or
7 loan modifications of delinquent loans;

8 “(C) activities that promote integration;

9 “(D) activities that promote economic de-
10 velopment by financing small businesses or
11 farms that meet the size eligibility requirements
12 of the development company or small business
13 investment company programs under section
14 121.301 of title 13, Code of Federal Regula-
15 tions, or any successor regulation, with an em-
16 phasis on small businesses that have gross an-
17 nual revenues of not more than \$1,000,000;

18 “(E) activities that revitalize or stabilize—

19 “(i) low- or moderate-income geog-
20 raphies;

21 “(ii) designated disaster areas;

22 “(iii) distressed or underserved non-
23 metropolitan middle-income geographies
24 designated by the Federal Financial Insti-
25 tutions Examination Council, based on—

1 “(I) rates of poverty, unemployment, and population loss; or

2 “(II) population size, density, and dispersion, if those activities help to meet essential community needs, including the needs of low- and moderate-income individuals; or

3 “(iv) other distressed or underserved communities; or

4 “(F) activities that promote physical, environmental, and sensory accessibility in housing stock that is integrated into the community.

5 “(7) DEPOSITORY INSTITUTION; DEPOSITORY INSTITUTION HOLDING COMPANY.—The terms ‘depository institution’ and ‘depository institution holding company’ have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

6 “(8) ENTIRE COMMUNITY.—The term ‘entire community’ means all of the assessment areas of a regulated financial institution.

7 “(9) ENUMERATED CONSUMER LAWS.—The term ‘enumerated consumer laws’ has the meaning given the term in section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

1 “(10) GEOGRAPHY.—The term ‘geography’
2 means a census tract delineated by the Bureau of
3 the Census in the most recent decennial census.

4 “(11) INSURED DEPOSITORY INSTITUTION.—
5 The term ‘insured depository institution’ has the
6 meaning given the term in section 3 of the Federal
7 Deposit Insurance Act (12 U.S.C. 1813).

8 “(12) OTHER DISTRESSED OR UNDERSERVED
9 COMMUNITY.—The term ‘other distressed or under-
10 served community’ means an area that, according to
11 a periodic review and data analysis by the appro-
12 priate Federal financial supervisory agencies on an
13 interagency basis through the Federal Financial In-
14 stitutions Examination Council, is experiencing eco-
15 nomic hardship or is underserved by financial insti-
16 tutions.

17 “(13) REGULATED FINANCIAL INSTITUTION.—
18 The term ‘regulated financial institution’ means—

19 “(A) an insured depository institution;
20 “(B) a depository institution holding com-
21 pany; and
22 “(C) a U.S. nonbank mortgage originator.

23 “(14) U.S. NONBANK MORTGAGE ORIGI-
24 NATOR.—The term ‘U.S. nonbank mortgage origi-
25 nator’ means a covered person subject to section

1 1024 of the Dodd-Frank Wall Street Reform and
2 Consumer Protection Act (12 U.S.C. 5514) that of-
3 fers or provides—

4 “(A) origination of loans secured by real
5 estate for use by consumers primarily for per-
6 sonal, family, or household purposes; or

7 “(B) loan modification or foreclosure relief
8 services in connection with a loan described in
9 subparagraph (A).”;

10 (2) in section 804 (12 U.S.C. 2903)—

11 (A) by redesignating subsections (c) and
12 (d) as subsections (f) and (g), respectively;

13 (B) by striking subsections (a) and (b) and
14 inserting the following:

15 “(a) DEPOSITORY INSTITUTIONS AND BANK HOLD-
16 ING COMPANIES.—In connection with its examination of
17 a regulated financial institution other than a U.S.
18 nonbank mortgage originator, the appropriate Federal fi-
19 nancial supervisory agency shall perform the following:

20 “(1) Assess the record of the institution in
21 meeting the credit or other financial needs of its en-
22 tire community, in particular low- and moderate-in-
23 come people and communities, and other distressed
24 or underserved communities, consistent with the safe
25 and sound operation of the institution.

1 “(2) Assess the effectiveness of the following
2 activities in meeting the credit or other financial
3 needs of the assessment areas of the institution, con-
4 sistent with the safe and sound operation of the in-
5 stitution:

6 “(A) Retail lending, including home, small
7 business, consumer, and other lending and fi-
8 nancial products, that responds to credit needs
9 or other financial needs.

10 “(B) Community development lending and
11 investments, which may include a consideration
12 of—

13 “(i) the origination of loans and other
14 efforts by the institution to assist existing
15 low- and moderate-income residents to re-
16 main in affordable housing in their com-
17 munity; and

18 “(ii) the origination of loans by the
19 institution that result in the construction,
20 rehabilitation, or preservation of affordable
21 housing units.

22 “(C) Retail financial services and commu-
23 nity development services.

24 “(3) With respect to its evaluation of an appli-
25 cation for a deposit facility by the institution—

1 “(A) consider the record described in para-
2 graph (1), the overall rating of the institution
3 under this section, and any improvement plans
4 submitted pursuant to this section;

5 “(B) provide an opportunity for public
6 comment for a period of not less than 60 days;

7 “(C) consider changes in the community
8 reinvestment performance of the institution
9 since the most recent rating under this section
10 by the appropriate Federal financial supervisory
11 agency; and

12 “(D) require—

13 “(i) a demonstration of public benefit,
14 including a community benefits plan with
15 measurable goals regarding increasing re-
16 sponsible lending and other financial prod-
17 ucts;

18 “(ii) that the institution consult with
19 community-based organizations and other
20 community stakeholders in developing the
21 community benefits plan; and

22 “(iii) a public hearing for any institu-
23 tion that has received a ‘need-to-improve’
24 or ‘sufficient’ grade in any individual as-

1 essment area during the most recent ex-
2 amination.

3 “(b) U.S. NONBANK MORTGAGE ORIGINATOR.—In
4 connection with its examination of a U.S. nonbank mort-
5 gage originator, the appropriate Federal financial super-
6 visory agency shall perform the following:

7 “(1) Assess the record of the U.S. nonbank
8 mortgage originator in meeting the credit or other
9 financial needs of its entire community, in particular
10 low-income and moderate-income people and commu-
11 nities and other distressed or underserved commu-
12 nities, consistent with the safe and sound operation
13 of the U.S. nonbank mortgage originator.

14 “(2) Assess, as appropriate, the following activi-
15 ties in the assessment areas of the U.S. nonbank
16 mortgage originator:

17 “(A) Retail lending, including home loans.

18 “(B) Community development services.

19 “(C) Community development lending and
20 investments, which may include a consideration
21 of—

22 “(i) the origination of loans and other
23 efforts by the institution to assist existing
24 low- and moderate-income residents to re-

1 main in affordable housing in their com-
2 munity;

3 “(ii) the origination of loans by the
4 institution that result in the construction,
5 rehabilitation or preservation of affordable
6 housing units; and

7 “(iii) investments in or loans to com-
8 munity development financial institutions
9 (as defined in section 103 of the Commu-
10 nity Development Banking and Financial
11 Institutions Act of 1994 (12 U.S.C.
12 4702)), community development corpora-
13 tions (as defined in section 613 of the
14 Community Economic Development Act of
15 1981 (42 U.S.C. 9802)), and other non-
16 profit organizations serving the housing
17 and development needs of the community.

18 “(3) With respect to its evaluation of an appli-
19 cation for a deposit facility by the U.S. nonbank
20 mortgage originator—

21 “(A) consider the record described in para-
22 graph (1), the overall rating of the U.S.
23 nonbank mortgage originator under this sec-
24 tion, and any improvement plans submitted
25 pursuant to this section;

1 “(B) provide an opportunity for public
2 comment for a period of not less than 60 days;

3 “(C) consider changes in the community
4 reinvestment performance of the U.S. nonbank
5 mortgage originator since the most recent rat-
6 ing under this section by the appropriate Fed-
7 eral financial supervisory agency; and

8 “(D) require—

9 “(i) a demonstration that granting the
10 application for a deposit facility is in the
11 public interest, which shall include a sub-
12 mission of a community benefits plan by
13 the U.S. nonbank mortgage originator to
14 the appropriate Federal financial super-
15 visory agency;

16 “(ii) that the U.S. nonbank mortgage
17 originator consult with community-based
18 organizations and other community stake-
19 holders in developing the community bene-
20 fits plan; and

21 “(iii) a public hearing for any U.S.
22 nonbank mortgage originator that has a
23 received a ‘need-to-improve’ or ‘sufficient’
24 grade in any individual assessment area
25 during the most recent examination.

1 “(c) REQUIREMENTS.—

2 “(1) IN GENERAL.—In connection with its ex-
3 amination of a regulated financial institution under
4 subsection (a) or (b), the appropriate Federal finan-
5 cial supervisory agency shall—

6 “(A) consider public comments received by
7 the appropriate Federal financial supervisory
8 agency regarding the record of the institution in
9 meeting the credit or other financial needs of
10 its entire community, including low- and mod-
11 erate-income communities; and

12 “(B) require an improvement plan for an
13 institution that receives a rating of ‘sufficient’
14 or lower on the written evaluation of the insti-
15 tution, or such a rating in any individual as-
16 sessment area, and require the improvement
17 plan to result in the reasonable likelihood that
18 the institution will obtain a rating of at least
19 ‘satisfactory record of meeting community cred-
20 it or other financial needs’ in the relevant meas-
21 ure on the next examination.

22 “(2) IMPROVEMENT PLAN.—

23 “(A) IN GENERAL.—A regulated financial
24 institution that is required to submit an im-
25 provement plan required under paragraph

1 (1)(B) shall submit the plan in writing to the
2 appropriate Federal financial supervisory agen-
3 cy not later than 90 days after receiving notice
4 that the regulated financial institution is re-
5 quired to submit the plan.

6 “(B) PUBLIC COMMENT.—Upon receipt of
7 an improvement plan of a regulated financial
8 institution required under paragraph (1)(B),
9 the appropriate Federal financial supervisory
10 agency shall—

23 “(3) EXAMINATION OF CERTAIN REGULATED
24 FINANCIAL INSTITUTIONS.—In the case of a regu-
25 lated financial institution whose lending or other

1 business is not clustered in geographical areas and
2 is thinly dispersed across the country, the institution
3 shall—

4 “(A) be evaluated under subsection (a) or
5 (b), as applicable—

6 “(i) by considering the effectiveness of
7 the institution in serving customers or bor-
8 rowers, with a special emphasis on low-
9 and moderate-income individuals across the
10 country regardless of where the individuals
11 reside; and

12 “(ii) based on objective thresholds de-
13 veloped by the appropriate Federal finan-
14 cial supervisory agencies to clarify when
15 lending or other business is dispersed
16 across the country and not clustered in
17 distinct geographical areas, which may in-
18 clude low levels of lending or other finan-
19 cial products across States or other areas;
20 and

21 “(B) meet the needs of other distressed or
22 underserved communities.

23 “(d) CONSIDERATION.—Remediation of consumers
24 pursuant to an order by an court or administrative body
25 or a settlement with a government agency or a private

1 party shall not be considered in an assessment conducted
2 under subsection (a)(2) or (b)(2).

3 “(e) RULE OF CONSTRUCTION.—An evaluation of a
4 bank holding company under this section shall incorporate
5 evaluations of subsidiary regulated financial institutions
6 made by the appropriate Federal financial supervisory
7 agency of each subsidiary, if applicable.”;

8 (C) in subsection (f), as so redesignated—
9 (i) by striking paragraph (2);
10 (ii) by redesignating paragraph (3) as
11 paragraph (2); and

12 (iii) in paragraph (2), as so redesignated,
13 by striking subparagraph (C); and
14 (D) in subsection (g), as so redesignated,
15 by striking “subsection (a)” and inserting “sub-
16 sections (a) and (b)”;

17 (3) in section 807 (12 U.S.C. 2906)—

18 (A) in subsection (a)—
19 (i) by striking “an insured depository
20 institution” and inserting “a regulated fi-
21 nancial institution”; and

22 (ii) by inserting “or financial” after
23 “credit”;

24 (B) in subsection (b)—

25 (i) in paragraph (1)—

13 (II) by striking subparagraph (B)
14 and inserting the following:
15 “(B) METROPOLITAN AREA DISTINCTIONS.—
16 The information required under clauses (i) and (ii)
17 of subparagraph (A) shall be presented separately
18 for each assessment area.

19 “(C) TREATMENT WITH RESPECT TO VIOLA-
20 TIONS OF ENUMERATED CONSUMER LAWS.—If a
21 regulated financial institution has engaged in acts or
22 practices that the appropriate Federal financial su-
23 pervisory agency has determined to be unfair, decep-
24 tive, or abusive or acts or practices that violate enu-
25 merated consumer laws intended to ensure the fair,

1 equitable, and nondiscriminatory access to credit for
2 individuals and communities that are enforced by
3 the Bureau of Consumer Financial Protection or
4 other Federal or State agencies, the written evalua-
5 tion shall be negatively influenced in a manner com-
6 mensurate with the extent of the harm suffered by
7 those individuals and communities.”;

8 (ii) in paragraph (2)—

9 (I) by striking subparagraphs
10 (A), (B), (C), and (D) and inserting
11 the following:

18 “(D) ‘Needs to improve record of meeting
19 community credit or other financial needs’

23 (iii) by inserting after the flush text
24 following paragraph (2) the following:

1 “(3) ADDITIONAL AUTHORITY.—The appropriate Federal financial supervisory agencies may—

2 “(A) alter the ratings under this subsection to change or include additional ratings; and

3 “(B) develop an accompanying point system that includes ranges for each rating category under paragraph (2).”;

4 “(C) by redesignating subsection (e) as subsection (f); and

5 “(D) by inserting after subsection (d) the following:

6 “(e) APPEALS OF RATING.—If a regulated financial institution appeals the assigned rating under this section, the appropriate Federal financial supervisory agency shall post a public notice of the appeal on the website of the appropriate Federal financial supervisory agency.”; and

7 (4) by adding at the end the following:

8 **“SEC. 810. DATA COLLECTION AND REPORTING REQUIREMENTS.”**

9 “(a) DATA COLLECTION.—

10 “(1) SMALL BUSINESS AND SMALL FARM LOANS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial su-

1 pervisory agency, until the completion of the next ex-
2 amination under this title, the following data for
3 each small business or small farm loan originated or
4 purchased by the regulated financial institution:

5 “(A) A unique number or alpha-numeric
6 symbol that can be used to identify the relevant

7 loan.

8 “(B) The loan amount at origination.

9 “(C) The loan location.

10 “(D) An indicator whether the loan was to
11 a business or farm with gross annual revenues
12 of \$1,000,000 or less.

13 “(2) CONSUMER LOANS.—Each regulated finan-
14 cial institution shall collect and maintain in machine
15 readable form, as prescribed by the appropriate Fed-
16 eral financial supervisory agency, data for consumer
17 loans originated or purchased by the regulated fi-
18 nancial institution, including motor vehicle loans,
19 credit cards, home equity loans, and other secured
20 or unsecured loans. The regulated financial institu-
21 tion shall maintain data separately for each category
22 of consumer loan, including the following for each
23 loan:

1 “(A) A unique number or alpha-numeric
2 symbol that can be used to identify the relevant
3 loan.

4 “(B) The loan amount at origination or
5 purchase.

6 “(C) The loan location.

7 “(D) The gross annual income of the bor-
8 rower that the regulated financial institution
9 considered in making its credit decision.

10 “(3) COMMUNITY DEVELOPMENT LOANS AND
11 INVESTMENTS.—Each regulated financial institution
12 shall collect and maintain in machine readable form,
13 as prescribed by the appropriate Federal financial
14 supervisory agency, data on the categories of com-
15 munity development lending and investments, includ-
16 ing data regarding financing affordable housing,
17 small business development, and economic develop-
18 ment.

19 “(4) ASSESSMENT AREA DATA.—Each regu-
20 lated financial institution shall collect and report to
21 the appropriate Federal financial supervisory agency
22 by March 1 of each year a list for each assessment
23 area showing the geographies within the area.

24 “(5) DEPOSITS.—The appropriate Federal Su-
25 pervisory agency shall collect data from regulated fi-

1 nancial institutions that reflects how many of the
2 customers of those institutions are low- and mod-
3 erate-income customers and the services that are
4 used by those customers.

5 “(b) CRA SMALL BUSINESS DISCLOSURE STATE-
6 MENT.—The appropriate Federal financial supervisory
7 agency shall prepare annually for each regulated financial
8 institution that reports data pursuant to this section a
9 statement to be known as the ‘CRA Small Business Dis-
10 closure Statement’ that contains, on a State-by-State
11 basis, the following:

12 “(1) For each county (and for each assessment
13 area smaller than a county) with a population of
14 500,000 persons or fewer in which the regulated fi-
15 nancial institution reported a small business or small
16 farm loan:

17 “(A) The number and amount of small
18 business and small farm loans reported as origi-
19 nated or purchased located in low-, moderate-,
20 middle-, and upper-income geographies.

21 “(B) A list grouping each geography ac-
22 cording to whether the geography is low-, mod-
23 erate-, middle-, or upper-income.

1 “(C) A list showing each geography in
2 which the regulated financial institution re-
3 ported a small business or small farm loan.

4 “(D) The number and amount of small
5 business and small farm loans to businesses
6 and farms with gross annual revenues of
7 \$1,000,000 or less.

8 “(2) For each county (and for each assessment
9 area smaller than a county) with a population in ex-
10 cess of 500,000 in which the regulated financial in-
11 stitution reported a small business or small farm
12 loan:

13 “(A) The number and amount of small
14 business and small farm loans reported as origi-
15 nated or purchased located in geographies with
16 median income relative to the area median in-
17 come of less than 10 percent, 10 or more but
18 less than 20 percent, 20 or more but less than
19 30 percent, 30 or more but less than 40 per-
20 cent, 40 or more but less than 50 percent, 50
21 or more but less than 60 percent, 60 or more
22 but less than 70 percent, 70 or more but less
23 than 80 percent, 80 or more but less than 90
24 percent, 90 or more but less than 100 percent,
25 100 or more but less than 110 percent, 110 or

1 more but less than 120 percent, and 120 per-
2 cent or more.

3 “(B) A list grouping each geography in the
4 county or assessment area according to whether
5 the median income in the geography relative to
6 the area median income is less than 10 percent,
7 10 or more but less than 20 percent, 20 or
8 more but less than 30 percent, 30 or more but
9 less than 40 percent, 40 or more but less than
10 50 percent, 50 or more but less than 60 per-
11 cent, 60 or more but less than 70 percent, 70
12 or more but less than 80 percent, 80 or more
13 but less than 90 percent, 90 or more but less
14 than 100 percent, 100 or more but less than
15 110 percent, 110 or more but less than 120
16 percent, and 120 percent or more.

17 “(C) A list showing each geography in
18 which the regulated financial institution re-
19 ported a small business or small farm loan.

20 “(D) The number and amount of small
21 business and small farm loans to businesses
22 and farms with gross annual revenues of
23 \$1,000,000 or less.

24 “(3) The number and amount of small business
25 and small farm loans located inside each assessment

1 area reported by the regulated financial institution
2 and the number and amount of small business and
3 small farm loans located outside the assessment
4 areas reported by the regulated financial institution.

5 “(4) The number and amount of community de-
6 velopment loans reported as originated or purchased.

7 “(c) AGGREGATE DISCLOSURE STATEMENTS.—

8 “(1) IN GENERAL.—Each appropriate Federal
9 financial supervisory agency shall prepare annually,
10 for each county and for each assessment area smaller
11 than a county, an aggregate disclosure statement
12 of small business, small farm, and consumer lending
13 by all regulated financial institutions subject to re-
14 porting under this section, which shall indicate, for
15 each geography, the number and amount of all small
16 business, small farm, and consumer loans originated
17 or purchased by reporting regulated financial insti-
18 tutions.

19 “(2) ADJUSTED FORM.—An appropriate Fed-
20 eral financial supervisory agency may adjust the
21 form of the disclosure statement prepared under
22 paragraph (1) if necessary, because of special cir-
23 cumstances, to protect the privacy of a borrower or
24 the competitive position of a regulated financial in-
25 stitution.

1 “(d) CENTRAL DATA DEPOSITORIES.—The Federal
2 Financial Institutions Examination Council, in consulta-
3 tion with the appropriate Federal financial supervisory
4 agencies, shall implement a system—

5 “(1) to allow the public to access online and in
6 a searchable format the data maintained under
7 paragraphs (1) through (4) of subsection (a); and

8 “(2) that ensures that personally identifiable fi-
9 nancial information is not disclosed to public.

10 “(e) LIMITATION.—An appropriate Federal financial
11 supervisory agency may not use the authorities of the ap-
12 proprieate Federal financial supervisory agency under this
13 section to obtain a record from a regulated financial insti-
14 tution for the purpose of gathering or analyzing the per-
15 sonally identifiable financial information of a consumer.”.

16 (c) AMENDMENT TO THE BANK HOLDING COMPANY
17 ACT OF 1956.—Section 4(k)(6) of the Bank Holding
18 Company Act of 1956 (12 U.S.C. 1843(k)(6)) is amended
19 to read as follows:

20 “(6) NOTICE AND OPPORTUNITY FOR COMMENT
21 REQUIRED.—

22 “(A) IN GENERAL.—No financial holding
23 company shall directly or indirectly acquire, and
24 no company that becomes a financial holding
25 company shall directly or indirectly acquire con-

20 “(B) FACTORS FOR CONSIDERATION.—In
21 reviewing any prior notice filed under this para-
22 graph, the Board shall—

1 U.S.C. 2901 et seq.) and any improvement
2 plans submitted pursuant to that Act;

3 “(ii) provide opportunity for public
4 comment for a period of not less than 60
5 days;

6 “(iii) consider changes in the commu-
7 nity reinvestment performance of the fi-
8 nancial holding company since the last rat-
9 ing under the Community Reinvestment
10 Act of 1977 (12 U.S.C. 2901 et seq.) by
11 the appropriate Federal financial super-
12 visory agency; and

13 “(iv) require—

14 “(I) a demonstration that grant-
15 ing the application for a deposit facil-
16 ity is in the public interest, which
17 shall include submission to the appro-
18 priate Federal financial supervisory
19 agency of a community benefits plan;

20 “(II) that the institution consult
21 with community-based organizations
22 and other community stakeholders in
23 developing the community benefits
24 plan; and

8 (d) TECHNICAL AND CONFORMING AMENDMENT.—
9 Section 10(c)(2)(H)(i) of the Home Owners' Loan Act (12
10 U.S.C. 1467a(c)(2)(H)(i)) is amended by striking “section
11 804(c) of the Community Reinvestment Act of 1977 (12
12 U.S.C. 2903(c))” and inserting “section 804(f) of the
13 Community Reinvestment Act of 1977 (12 U.S.C.
14 2903(f))”.

15 SEC. 204. AMENDMENTS RELATING TO CREDIT UNION
16 SERVICE TO UNDERSERVED AREAS.

17 (a) IN GENERAL.—The Federal Credit Union Act (12
18 U.S.C. 1751 et seq.) is amended—

19 (1) in section 101 (12 U.S.C. 1752)—

20 (A) in paragraph (8), by striking “and” at
21 the end;

22 (B) in paragraph (9), by striking the pe-
23 riod at the end and inserting “; and”; and

24 (C) by adding at the end the following:

1 “(A) means a local community, neighbor-
2 hood, or rural district that—

3 “(i) is an investment area, as defined
4 in section 103 of the Community Develop-
5 ment Banking and Financial Institutions
6 Act of 1994 (12 U.S.C. 4702), that meets
7 such additional requirements that the
8 Board may impose; and

9 “(ii) is underserved, based on data of
10 the Board and the Federal banking agen-
11 cies (as defined in section 3 of the Federal
12 Deposit Insurance Act (12 U.S.C. 1813)),
13 by other depository institutions (as defined
14 in section 19(b)(1)(A) of the Federal Re-
15 serve Act (12 U.S.C. 461(b)(1)(A)); and

16 “(B) notwithstanding subparagraph (A),
17 includes, with respect to any Federal credit
18 union, any geographic area within which the
19 credit union—

20 “(i) has received approval to provide
21 service before the date of enactment of this
22 paragraph from the Administration; and

23 “(ii) has established a service facility
24 before that date of enactment.”;

8 (3) in section 109 (12 U.S.C. 1759)—

9 (A) in subsection (c), by amending para-
10 graph (2) to read as follows:

11 “(2) EXCEPTION FOR UNDERSERVED AREAS.—

12 “(A) IN GENERAL.—Notwithstanding sub-
13 section (b), the Board may approve an applica-
14 tion by a Federal credit union to allow the
15 membership of the credit union to include any
16 person or organization whose principal resi-
17 dence or place of business is located within a
18 local community, neighborhood, or rural district
19 if—

1 “(II) at the time of the approval,

2 that the credit union is well capital-

3 ized or adequately capitalized (as de-

4 fined in section 216(c)(1)); and

5 “(ii) before the end of the 24-month

6 period beginning on the date of the ap-

7 proval, the credit union has established

8 and maintains an ongoing method to pro-

9 vide services in the local community, neigh-

10 borhood, or rural district.

11 “(B) TERMINATION OF APPROVAL.—

12 “(i) IN GENERAL.—Any failure of a

13 Federal credit union to meet the require-

14 ment of clause (ii) of subparagraph (A) by

15 the end of the 24-month period referred to

16 in that clause shall constitute a termi-

17 nation, as a matter of law, of any approval

18 of an application under this paragraph by

19 the Board with respect to the membership

20 of the credit union.

21 “(ii) SIGNIFICANT UNMET NEEDS

22 PLAN.—The Board may terminate the

23 membership of a Federal credit union upon

24 a finding that the credit union is not meet-

25 ing the terms of the significant unmet

1 needs plan of the credit union submitted
2 under subsection (h)(1).

3 “(C) CREDIT UNION REPORTING REQUIRE-
4 MENT.—Any Federal credit union that has an
5 application approved under this paragraph
6 shall, as part of the ordinary course of the ex-
7 amination cycle and supervision process, submit
8 a report to the Administration that includes—

9 “(i) the number of members of the
10 credit union who are members by reason of
11 the application;

12 “(ii) the number of offices or facilities
13 maintained by the credit union in the local
14 community, neighborhood, or rural district
15 taken into account by the Board in approv-
16 ing the application; and

17 “(iii) evidence, as specified by the
18 Board by regulation, demonstrating com-
19 pliance by the credit union with the signifi-
20 cant unmet needs plan submitted by the
21 credit union under subsection (h)(1), as
22 specified by the Administration.

23 “(D) PUBLICATION BY ADMINISTRA-
24 TION.—The Administration shall publish an an-
25 nual report containing—

1 “(i) a list of all the applications ap-
2 proved under this paragraph before the
3 date on which the report is published;

4 “(ii) the number and locations of the
5 underserved areas taken into account in
6 approving those applications;

7 “(iii) the total number of members of
8 credit unions who are members by reason
9 of the approval of those applications; and

10 “(iv) evidence demonstrating compli-
11 ance by credit unions with significant
12 unmet needs plans submitted by the credit
13 unions under subsection (h)(1), as speci-
14 fied by the Administration.”;

15 (B) in subsection (e)(2), by inserting “sub-
16 section (c)(2) and” after “provided in”; and

17 (C) by adding at the end the following:

18 “(h) ADDITIONAL REQUIREMENTS FOR COMMUNITY
19 CREDIT UNIONS.—

20 “(1) IN GENERAL.—A Federal credit union de-
21 siring membership as a credit union described in
22 subsection (b)(3) shall submit to the Board a busi-
23 ness plan, which shall include, among other issues,
24 a marketing plan that identifies—

1 “(A) the unique needs of the various demo-
2 graphic groups in the proposed community; and

3 “(B) how the credit union will market to
4 each group, particularly underserved groups, to
5 address those needs.

6 “(2) PUBLIC COMMENT AND HEARING.—With
7 respect to a Federal credit union desiring member-
8 ship as a credit union described in subsection (b)(3)
9 for an area with multiple political jurisdictions with
10 a population of not less than 2,500,000, the Admin-
11 istration shall—

12 “(A) publish a notice in the Federal Reg-
13 ister seeking comment from interested parties
14 about the proposed community; and

15 “(B) conduct a public hearing regarding
16 the application of the Federal credit union.”.

17 (b) REGULATIONS.—Not later than 1 year after the
18 date of enactment of this Act, the National Credit Union
19 Administration Board shall issue final regulations to im-
20 plement the amendments made by subsection (a).

1 **TITLE III—MOVING BARRIERS**
2 **THAT ISOLATE COMMUNITIES**

3 **SEC. 301. EXPANDING RIGHTS UNDER THE FAIR HOUSING**
4 **ACT.**

5 (a) PURPOSES.—The purposes of the amendments
6 made under this section are—

7 (1) to expand, as well as clarify, confirm, and
8 create greater consistency in, the protections against
9 discrimination on the basis of all covered character-
10 istics; and

11 (2) to provide guidance and notice to individ-
12 uals, organizations, corporations, and agencies re-
13 garding their obligations under Federal law.

14 (b) AMENDMENTS TO THE FAIR HOUSING ACT.—
15 The Fair Housing Act (42 U.S.C. 3601 et seq.) is amend-
16 ed—

17 (1) in section 802 (42 U.S.C. 3602), by adding
18 at the end the following:

19 “(p) ‘Gender identity’ means the gender-related iden-
20 tity, appearance, or mannerisms or other gender-related
21 characteristics of an individual, with or without regard to
22 the individual’s designated sex at birth.

23 “(q) ‘Marital status’ has the meaning given the term
24 in section 202.2 of title 12, Code of Federal Regulations,
25 or any successor regulation.

1 “(r) ‘Sexual orientation’ means homosexuality, het-
2 erosexuality, or bisexuality.

3 “(s) ‘Source of income’ includes income for which
4 there is a reasonable expectation that the income will con-
5 tinue from—

6 “(1) a profession, occupation or job;

7 “(2) any government or private assistance,
8 grant, loan or rental assistance program, including
9 low-income housing assistance certificates and
10 vouchers issued under the United States Housing
11 Act of 1937 (42 U.S.C. 1437 et seq.);

12 “(3) a gift, an inheritance, a pension, an annu-
13 ity, alimony, child support, or other consideration or
14 benefit; or

15 “(4) the sale or pledge of property or an inter-
16 est in property.

17 “(t) ‘Veteran status’ means—

18 “(1) a member of the uniformed services, as de-
19 fined in section 101 of title 10, United States Code;
20 or

21 “(2) a veteran, as defined in section 101 of title
22 38, United States Code.”;

23 (2) in section 804 (42 U.S.C. 3604)—

24 (A) by inserting “actual or perceived” be-
25 fore “race, color” each place that term appears;

1 (B) by inserting “sexual orientation, gen-
2 der identity, marital status, source of income,
3 veteran status,” after “sex,” each place that
4 term appears; and

5 (C) in subsection (c)—

6 (i) by inserting “(1)” before “To
7 make”; and
8 (ii) by adding at the end the fol-
9 lowing:

10 “(2) Nothing in this title shall be construed to—

11 “(A) prohibit a lender from implementing a
12 loan program for veterans or based upon veteran
13 status; or

14 “(B) prohibit an entity from providing housing
15 assistance under section 8(o)(19) of the United
16 States Housing Act of 1937 (42 U.S.C.
17 1437f(o)(19)), the Homeless Providers Grant and
18 Per Diem program of the Department of Veterans
19 Affairs, or any other Federal housing assistance pro-
20 gram for veterans or based upon veterans status.”;

21 (3) in section 805 (42 U.S.C. 3605)—

22 (A) by inserting “actual or perceived” be-
23 fore “race, color” each place that term appears;
24 and

1 (B) by inserting “sexual orientation, gen-
2 der identity, marital status, source of income,
3 veteran status,” after “sex,” each place that
4 term appears;

5 (4) in section 806 (42 U.S.C. 3606)—

6 (A) by inserting “actual or perceived” be-
7 fore “race, color”; and

11 (5) in section 807 (42 U.S.C. 3607), by adding
12 at the end the following:

13 “(c) Nothing in this title limits the ability of the
14 owner of a dwelling owner to determine, in a commercially
15 reasonable and non-discriminatory manner, the ability of
16 a person to afford to purchase or rent the dwelling.”.

17 (c) PREVENTION OF INTIMIDATION.—Section 901 of
18 the Civil Rights Act of 1968 (42 U.S.C. 3631) is amend-
19 ed—

20 (1) by inserting “actual or perceived” before
21 “race, color” each place that term appears; and

22 (2) by inserting “sexual orientation (as defined
23 in section 802), gender identity (as defined in sec-
24 tion 802), marital status (as defined in section 802),
25 source of income (as defined in section 802), veteran

1 status (as defined in section 802)," after "sex," each
2 place that term appears.

3 (d) RULE OF CONSTRUCTION.—Nothing in the
4 amendments made by this section shall be construed to
5 mean that a particular class of individuals was not pro-
6 tected against discrimination under existing Federal law.

7 **SEC. 302. IMPROVING OUTCOMES IN HOUSING ASSISTANCE**

8 **PROGRAMS.**

9 (a) INDIAN HOUSING ASSISTANCE.—Section 502 of
10 the Native American Housing Assistance and Self-Deter-
11 mination Act of 1996 (25 U.S.C. 4181) is amended by
12 adding at the end the following:

13 "(c) APPLICABILITY.—Subsections (a) and (b) shall
14 not apply with respect to tenant-based assistance provided
15 under section 8(o) of the United States Housing Act of
16 1937 (42 U.S.C. 1437f(o)).".

17 (b) SUPPLEMENTAL ADMINISTRATIVE FEE.—Section
18 8(q)(2)(B) of the United States Housing Act of 1937 (42
19 U.S.C. 1437f(q)(2)(B)) is amended by inserting ", includ-
20 ing the cost of assisting families with children or families
21 with a member with a disability that move to lower pov-
22 erty, higher opportunity neighborhoods (as determined by
23 the Secretary based on objective, evidence-based criteria)"
24 after "programs".

1 (c) REGIONAL PLANNING TO INCREASE ACCESS TO
2 HIGHER OPPORTUNITY AREAS.—Section 8(o) of the
3 United States Housing Act of 1937 (42 U.S.C. 1437f(o))
4 is amended by adding at the end the following:

5 “(21) INCREASE ACCESS TO HIGHER OPPOR-
6 TUNITY AREAS.—

7 “(A) LOCATION ANALYSIS.—

8 “(i) IN GENERAL.—A public housing
9 agency that administers the program
10 under this subsection in a metropolitan
11 area shall—

12 “(I) analyze the locations where
13 the participants of the program of the
14 public housing agency live; and

15 “(II) based on the analysis de-
16 scribed in subclause (I), establish poli-
17 cies and practices to reduce disparities
18 and barriers to access to locations
19 throughout the metropolitan area that
20 evidence indicates are more likely to
21 improve outcomes for children or
22 adults.

23 “(ii) CONSIDERATIONS.—The location
24 analysis required under this subparagraph
25 shall—

1 “(I) consider separately the loca-
2 tions of families with children, house-
3 holds that include a person with dis-
4 abilities, and other groups protected
5 under the Fair Housing Act (42
6 U.S.C. 3601 et seq.); and

7 “(II) include an analysis of the
8 locations in relation to dwelling units
9 with rents that are potentially afford-
10 able to voucher holders and the likely
11 impact of key neighborhood attributes
12 on their well-being and long-term suc-
13 cess, based on Federal and available
14 local data.

15 “(iii) MAPPING TOOLS.—The Sec-
16 retary shall—

17 “(I) provide mapping tools and
18 other information necessary for a pub-
19 lic housing agency to perform the loca-
20 tion analysis under this subparagraph
21 using the demographic data on
22 participating families submitted to the
23 Secretary under part 908 of title 24,
24 Code of Federal Regulations, or any
25 successor regulation;

1 “(II) publish a notice in the Fed-
2 eral Register, subject to public com-
3 ment, that specifies the data sources
4 and definitions that will be incor-
5 porated in each mapping tool required
6 under subclause (I); and

7 “(III) update the notice required
8 under subclause (II) as needed based
9 on changes in the availability of rel-
10 evant data or evidence of neighbor-
11 hood attributes likely to impact the
12 well-being and long-term success of
13 participants in the program under this
14 subsection.

15 “(iv) FREQUENCY AND AVAIL-
16 ABILITY.—The location analysis required
17 under this subparagraph shall—

18 “(I) be performed by each public
19 housing agency described in clause (i)
20 not less frequently than once every 5
21 years;

22 “(II) be performed by all public
23 housing agencies in a metropolitan
24 area in the same year, as determined
25 by the Secretary; and

1 “(III) be made available to the
2 public in a manner that protects the
3 privacy of program participants.

4 “(B) REGIONAL POLICIES TO INCREASE
5 ACCESS TO HIGHER OPPORTUNITY NEIGHBOR-
6 HOODS.—Each public housing agency described
7 in subparagraph (A)(i) shall—

8 “(i) consult with other such public
9 housing agencies in the same metropolitan
10 area, or smaller regional area approved by
11 the Secretary, about the possible barriers
12 and other reasons for the disparities iden-
13 tified in the location analysis required
14 under subparagraph (A);

15 “(ii) identify policies or practices that
16 those public housing agencies could adopt
17 individually or in collaboration, or other
18 strategies that recipients of grants or other
19 funding from the Secretary could adopt, to
20 reduce the barriers and disparities and in-
21 crease the share of families with children
22 and other demographic groups using
23 vouchers in higher-opportunity neighbor-
24 hoods in the metropolitan area or region;
25 and

1 “(iii) include in the administrative
2 plan required under section 982.54 of title
3 24, Code of Federal Regulations, or any
4 successor regulation, the policies that the
5 public housing agency has adopted under
6 this paragraph.

7 “(C) ASSESSMENT.—The Secretary shall
8 include public housing agency performance in
9 achieving the goal described in subparagraph
10 (A)(i)(II) in the periodic assessment of agency
11 performance in managing the program under
12 this subsection required under part 985 of title
13 24, Code of Federal Regulations, or any suc-
14 cessor regulation.”.

15 (d) REQUIRED REGULATORY CHANGES TO PUBLIC
16 HOUSING AGENCY CONSORTIA.—

17 (1) DEFINITIONS.—In this subsection:
18 (A) MOVING TO WORK DEMONSTRATION
19 PROGRAM.—The term “Moving to Work dem-
20 onstration program” means the program estab-
21 lished under section 204 of the Departments of
22 Veterans Affairs and Housing and Urban De-
23 velopment, and Independent Agencies Approp-
24 riations Act, 1996 (Public Law 104–134; 110
25 Stat. 1321–281).

1 (B) PUBLIC HOUSING AGENCY.—The term
2 “public housing agency” has the meaning given
3 the term in section 3(b)(6) of the United States
4 Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

9 (A) enable public housing agencies that
10 elect to operate in consortia under section 13(a)
11 of the United States Housing Act of 1937 (42
12 U.S.C. 1437k(a)), excluding public housing
13 agencies participating in the Moving to Work
14 demonstration program—

15 (i) to consolidate their funding con-
16 tracts for assistance provided under section
17 8(o) of such Act (42 U.S.C. 1437f(o)) into
18 a single contract;

19 (ii) to consolidate their funding con-
20 tracts for assistance provided under sub-
21 sections (d) and (e) of section 9 of such
22 Act (42 U.S.C. 1437g); or

23 (iii) to exercise the consolidation op-
24 tions under each of clauses (i) and (ii); and

1 (B) enable public housing agencies to form
2 partial consortia under such section 13(a) (42
3 U.S.C. 1437k(a)) that consolidate the adminis-
4 tration of certain aspects of their housing pro-
5 grams to increase access to higher-opportunity
6 areas or for other purposes, subject to such re-
7 quirements as the Secretary may establish.

15 TITLE IV—ESTATE TAX REFORM

16 SEC. 401. AMENDMENT TO INTERNAL REVENUE CODE OF
17 1986.

18 Except as otherwise expressly provided, whenever in
19 this title an amendment or repeal is expressed in terms
20 of an amendment to, or repeal of, a section or other provi-
21 sion, the reference shall be considered to be made to a
22 section or other provision of the Internal Revenue Code
23 of 1986.

1 SEC. 402. RATE ADJUSTMENT.

2 (a) INCREASE IN ESTATE TAX RATES.—The table
 3 contained in section 2001(c) is amended to read as follows:

If the amount with respect to which the tentative tax to be computed is:

If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over \$13,000,000	55 percent of such amount.
Over \$13,000,000 but not over \$93,000,000.	\$7,150,000, plus 60 percent of the excess of such amount over \$13,000,000.
Over \$93,000,000	\$55,150,000, plus 65 percent of the excess of such amount over \$93,000,000.

4 (b) REDUCTION OF BASIC EXCLUSION AMOUNT.—

5 Paragraph (3) of section 2010(c) is amended to read as
 6 follows:

7 “(3) BASIC EXCLUSION AMOUNT.—For pur-
 8 poses of this subsection, the basic exclusion amount
 9 is \$3,500,000.”.

10 (c) SURTAX ON BILLION DOLLAR ESTATES.—Section
 11 2001 is amended—

12 (1) in subsection (b), by striking “The tax” and
 13 inserting “Subject to subsection (h), the tax”, and
 14 (2) by adding at the end the following new sub-
 15 section:

16 “(h) SURTAX ON BILLION DOLLAR ESTATES.—

17 “(1) IN GENERAL.—In the case of a taxable es-
 18 tate for which the applicable amount is in excess of
 19 \$1,000,000,000, the tax determined under sub-

1 section (b) shall be increased by an amount equal to
2 10 percent of such applicable amount.

3 “(2) APPLICABLE AMOUNT.—For purposes of
4 this subsection, the applicable amount shall be equal
5 to the sum of the amounts under subparagraphs (A)
6 and (B) of paragraph (1) of subsection (b) for the
7 taxable estate.”.

8 **SEC. 403. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
9 **GRANTOR RETAINED ANNUITY TRUSTS.**

10 (a) IN GENERAL.—Subsection (b) of section 2702 is
11 amended—

12 (1) by redesignating paragraphs (1), (2), and
13 (3) as subparagraphs (A), (B), and (C), respectively,
14 and by moving such subparagraphs (as so redesign-
15 ated) 2 ems to the right;

16 (2) by striking “For purposes of” and inserting
17 the following:

18 “(1) IN GENERAL.—For purposes of”;

19 (3) by striking “paragraph (1) or (2)” in para-
20 graph (1)(C) (as so redesignated) and inserting
21 “subparagraph (A) or (B)”;

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

24 “(2) ADDITIONAL REQUIREMENTS WITH RE-
25 SPECT TO GRANTOR RETAINED ANNUITIES.—For

1 purposes of subsection (a), in the case of an interest
2 described in paragraph (1)(A) (determined without
3 regard to this paragraph) which is retained by the
4 transferor, such interest shall be treated as de-
5 scribed in such paragraph only if—

6 “(A) the right to receive the fixed amounts
7 referred to in such paragraph is for a term of
8 not less than 10 years,

9 “(B) such fixed amounts, when determined
10 on an annual basis, do not decrease relative to
11 any prior year during the first 10 years of the
12 term referred to in subparagraph (A), and

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to transfers made after the date
19 of the enactment of this Act.

20 SEC. 404. CERTAIN TRANSFER TAX RULES APPLICABLE TO
21 GRANTOR TRUSTS.

22 (a) IN GENERAL.—Subtitle B is amended by adding
23 at the end the following new chapter:

1 **“CHAPTER 16—SPECIAL RULES FOR**
2 **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

3 **“SEC. 2901. APPLICATION OF TRANSFER TAXES.**

4 “(a) IN GENERAL.—In the case of any portion of a
5 trust to which this section applies—

6 “(1) the value of the gross estate of the de-
7 ceased deemed owner of such portion shall include
8 all assets attributable to that portion at the time of
9 the death of such owner,

10 “(2) any distribution from such portion to one
11 or more beneficiaries during the life of the deemed
12 owner of such portion shall be treated as a transfer
13 by gift for purposes of chapter 12, and

14 “(3) if at any time during the life of the
15 deemed owner of such portion, such owner ceases to
16 be treated as the owner of such portion under sub-
17 part E of part 1 of subchapter J of chapter 1, all
18 assets attributable to such portion at such time shall
19 be treated for purposes of chapter 12 as a transfer
20 by gift made by the deemed owner.

21 “(b) PORTION OF TRUST TO WHICH SECTION AP-
22 PLIES.—This section shall apply to—

23 “(1) the portion of a trust with respect to
24 which the grantor is the deemed owner, and

1 “(2) the portion of the trust to which a person
2 who is not the grantor is a deemed owner by reason
3 of the rules of subpart E of part 1 of subchapter J
4 of chapter 1, and such deemed owner engages in a
5 sale, exchange, or comparable transaction with the
6 trust that is disregarded for purposes of subtitle A.

7 For purposes of paragraph (2), the portion of the trust
8 described with respect to a transaction is the portion of
9 the trust attributable to the property received by the trust
10 in such transaction, including all retained income there-
11 from, appreciation thereon, and reinvestments thereof, net
12 of the amount of consideration received by the deemed
13 owner in such transaction.

14 “(c) EXCEPTIONS.—This section shall not apply to—

15 “(1) any trust that is includible in the gross es-
16 tate of the deemed owner (without regard to sub-
17 section (a)(1)), and

18 “(2) any other type of trust that the Secretary
19 determines by regulations or other guidance does not
20 have as a significant purpose the avoidance of trans-
21 fer taxes.

22 “(d) DEEMED OWNER DEFINED.—For purposes of
23 this section, the term ‘deemed owner’ means any person
24 who is treated as the owner of a portion of a trust under
25 subpart E of part 1 of subchapter J of chapter 1.

1 “(e) REDUCTION FOR TAXABLE GIFTS TO TRUST
2 MADE BY OWNER.—The amount to which subsection (a)
3 applies shall be reduced by the value of any transfer by
4 gift by the deemed owner to the trust previously taken
5 into account by the deemed owner under chapter 12.

6 “(f) LIABILITY FOR PAYMENT OF TAX.—Any tax im-
7 posed pursuant to subsection (a) shall be a liability of the
8 trust.”.

9 (b) CLERICAL AMENDMENT.—The table of chapters
10 for subtitle B is amended by adding at the end the fol-
11 lowing new item:

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply—

14 (1) to trusts created on or after the date of the
15 enactment of this Act;

16 (2) to any portion of a trust established before
17 the date of the enactment of this Act which is attrib-
18 utable to a contribution made on or after such date;
19 and

20 (3) to any portion of a trust established before
21 the date of the enactment of this Act to which sec-
22 tion 2901(a) of the Internal Revenue Code of 1986
23 (as added by subsection (a)) applies by reason of a
24 transaction described in section 2901(b)(2) of such
25 Code on or after such date.

1 **SEC. 405. ELIMINATION OF GENERATION-SKIPPING TRANS-**2 **FER TAX EXEMPTION FOR CERTAIN TRUSTS.**3 (a) IN GENERAL.—Section 2642 is amended by add-
4 ing at the end the following new subsection:5 “(h) ELIMINATION OF GST EXEMPTION FOR CER-
6 TAIN TRUSTS.—

7 “(1) IN GENERAL.—

8 “(A) TRANSFERS FROM NON-QUALIFYING
9 TRUSTS.—In the case of any generation-skip-
10 ping transfer made from a trust that is not a
11 qualifying trust, the inclusion ratio with respect
12 to any property transferred in such transfer
13 shall be 1.14 “(B) QUALIFYING TRUST.—For purposes
15 of this subsection, the term ‘qualifying trust’
16 means a trust for which the date of termination
17 of such trust is not greater than 50 years after
18 the date on which such trust is created.19 “(2) TRUSTS CREATED BEFORE DATE OF EN-
20 ACTMENT.—In the case of any trust created before
21 the date of the enactment of this subsection, such
22 trust shall be deemed to be a qualifying trust for a
23 period of 50 years after the date of the enactment
24 of this subsection.25 “(3) DATE OF CREATION OF CERTAIN DEEMED
26 SEPARATE TRUSTS.—In the case of any portion of a

1 trust which is treated as a separate trust under sec-
2 tion 2654(b)(1), such separate trust shall be treated
3 as created on the date of the first transfer described
4 in such section with respect to such separate trust.

5 “(4) DATE OF CREATION OF POUR-OVER
6 TRUSTS.—In the case of any generation-skipping
7 transfer of property which involves the transfer of
8 property from 1 trust to another trust, the date of
9 the creation of the transferee trust shall be treated
10 as being the earlier of—

11 “(A) the date of the creation of such trans-
12 feree trust, or

13 “(B) the date of the creation of the trans-
14 feror trust.

15 In the case of multiple transfers to which the pre-
16 ceding sentence applies, the date of the creation of
17 the transferor trust shall be determined under the
18 preceding sentence before the application of the pre-
19 ceding sentence to determine the date of the creation
20 of the transferee trust.

21 “(5) REGULATIONS.—The Secretary may pre-
22 scribe such regulations or other guidance as may be
23 necessary or appropriate to carry out this sub-
24 section.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act.

4 **SEC. 406. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL**
5 **GIFTS.**

6 (a) IN GENERAL.—Paragraph (1) of section 2503(b)
7 is amended to read as follows:

8 “(1) IN GENERAL.—

9 “(A) LIMIT PER DONEE.—In the case of
10 gifts made to any person by the donor during
11 the calendar year, the first \$10,000 of such
12 gifts to such person shall not, for purposes of
13 subsection (a), be included in the total amount
14 of gifts made during such year.

15 “(B) CUMULATIVE LIMIT PER DONOR.—

16 “(i) IN GENERAL.—The aggregate
17 amount excluded under subparagraph (A)
18 with respect to all transfers described in
19 clause (ii) made by the donor during the
20 calendar year shall not exceed twice the
21 dollar amount in effect under such sub-
22 paragraph for such calendar year.

23 “(ii) TRANSFERS SUBJECT TO LIMITA-
24 TION.—The transfers described in this
25 clause are—

1 “(I) a transfer in trust,
2 “(II) a transfer of an interest in
3 a passthrough entity,
4 “(III) a transfer of an interest
5 subject to a prohibition on sale, and
6 “(IV) any other transfer of prop-
7 erty that, without regard to with-
8 drawal, put, or other such rights in
9 the donee, cannot immediately be liq-
10 uidated by the donee.”.

11 (b) CONFORMING AMENDMENT.—Section 2503 is
12 amended by striking subsection (c).

13 (c) REGULATIONS.—The Secretary of the Treasury,
14 or the Secretary of the Treasury’s delegate, may prescribe
15 such regulations or other guidance as may be necessary
16 or appropriate to carry out the amendments made by this
17 section.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any calendar year beginning
20 after the date of the enactment of this Act.

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