

Public Law 102-233
102d Congress

An Act

To provide funding for the resolution of failed savings associations and working capital for the Resolution Trust Corporation, to restructure the Oversight Board and the Resolution Trust Corporation, and for other purposes.

Dec. 12, 1991
[H.R. 3435]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991”.

Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Banks and banking. 12 USC 1421 note.

TITLE I—RESOLUTION TRUST CORPORATION REFINANCING

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended by adding at the end the following new paragraph:

“(3) ADDITIONAL INTERIM FUNDING.—In addition to amounts provided under paragraph (2), the Secretary of the Treasury shall provide to the Corporation such sums as may be necessary not to exceed \$25 billion to carry out the purposes of this section until April 1, 1992.”.

SEC. 102. APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended to read as follows:

“(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owners’ Loan Act for the purpose of liquidation or winding up any savings association’s affairs—

“(i) before October 1, 1993, the Resolution Trust Corporation shall be appointed;

“(ii) after September 30, 1993, the Resolution Trust Corporation shall be appointed if the Resolution Trust Corporation had been placed in control of the depository institution at any time on or before such date; and

“(iii) after September 30, 1993, the Corporation shall be appointed unless the Resolution Trust Corporation is required to be appointed under clause (ii).”.

SEC. 103. EXTENSION OF RESOLUTION TRUST CORPORATION DUTY.

(a) IN GENERAL.—Section 21A(b)(3)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(A)(ii)(II)) is amended to read as follows:

“(ii) for which a conservator or receiver is appointed after December 31, 1988, and before October 1, 1993 (including any institution described in paragraph (6)).”.

(b) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—Section 21A(b)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(6)) is amended to read as follows:

“(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—If the Corporation is appointed as conservator or receiver for any insured depository institution described in paragraph (3)(A) before October 1, 1993, and a conservator or receiver is appointed for such institution on or after such date, the Corporation may be appointed as conservator or receiver for such institution on or after October 1, 1993.”.

SEC. 104. TERMINATION OF FICO BORROWING AUTHORITY.

Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended to read as follows:

“(2) TERMINATION OF BORROWING AUTHORITY.—No obligation of the Financing Corporation shall be issued after the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991.”.

SEC. 105. REQUIREMENT TO PAY RTC WORKING CAPITAL DEBT BEFORE TRANSFERRING FUNDS TO REFCORP.

Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) is amended by inserting after “Thereafter” the following: “, if there are no liabilities of the Corporation outstanding,”.

SEC. 106. RTC REPORTS ON ASSET SALES, LOANS SECURED BY ASSETS, BUDGETS, AND OTHER MATTERS.

(a) QUARTERLY REPORTS.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

“(7) QUARTERLY REPORTS.—Not later than May 31, August 31, November 30, and the last day of February of each year, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information for the quarter ending on the last day of the month ending before the month in which such report is required to be submitted:

“(A) ASSET SALES.—The report shall contain the following information with respect to assets of institutions described in subsection (b)(3)(A) which were disposed of by the Corporation during the quarter covered by the report:

“(i) The total amount of the actual sales of assets during the quarter.

“(ii) The value of the assets as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.

“(iii) The fair market value of the assets as estimated by the Corporation for purposes of securing amounts borrowed from the Federal Financing Bank by the Corporation.

“(iv) The net recovery on asset sales during the quarter.

“(v) A subtotal of the value of the assets disposed of during the quarter in each of the following categories:

- “(I) Cash and securities.
- “(II) Mortgage loans for 1- to 4-family dwellings.
- “(III) Construction and land loans.
- “(IV) Other mortgage loans.
- “(V) Consumer loans.
- “(VI) Commercial loans.
- “(VII) Real estate owned assets.
- “(VIII) Other assets.

“(B) **AUCTION SALES.**—The report shall contain information regarding auction sales of RTC assets, including the following information:

- “(i) The date and location of each auction sale during the quarter.
- “(ii) The total value of the sales of assets sold during an auction during the quarter.
- “(iii) The total value of assets sold at each auction, as determined on the basis of the amount at which each such asset was accounted for on the books of the institution.
- “(iv) The total fair market value of assets sold at each auction, as estimated by the Corporation.
- “(v) The total actual selling price of assets sold during each auction held during the quarter.
- “(vi) The net recovery or loss on assets sold during an auction during the quarter, by category listed in subclauses (I) through (VII) of clause (vii).
- “(vii) A subtotal of the value of the assets sold during an auction during the quarter in each of the following categories:

- “(I) Cash and securities.
- “(II) Mortgage loans for 1- to 4-family dwellings.
- “(III) Construction and land loans.
- “(IV) Other mortgage loans.
- “(V) Consumer loans.
- “(VI) Commercial loans.
- “(VII) Real estate owned assets.
- “(VIII) Other assets.

“(C) **FEDERAL FINANCING BANK LOAN STATUS.**—The report shall contain the following information with respect to loans from the Federal Financing Bank to the Corporation:

- “(i) The total amount of loans outstanding at the beginning of the quarter.
- “(ii) The total amount of loans originated during the quarter.
- “(iii) The total amount of loans repaid during the quarter.
- “(iv) The total amount of loans outstanding at the end of the quarter.

“(D) **SELLER FINANCING.**—The report shall contain information regarding the Corporation's use of seller financing to encourage the sales of assets during the quarter, including the following:

- “(i) A total of the amount of funds used for seller financing purposes during the quarter.
- “(ii) The number of applications received by the Corporation which requested seller financing.

“(iii) A breakdown of the type of assets sold, according to the categories listed in subclauses (I) through (VIII) of subparagraph (B)(vii).

“(iv) Projections of the total amount of seller financing which will be needed during the succeeding 2 quarters.”.

(b) SEMI-ANNUAL REPORT ON NATIONAL AND REGIONAL ADVISORY BOARDS.—Section 21A(k)(4)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(4)(B)) is amended—

(1) by striking “and” at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting “; and”; and

(3) by inserting after clause (iv) the following new clause:

“(v) descriptions of the operations and activities of the national and regional advisory boards established under subsection (d) and financial statements detailing the expenses of such boards.”.

(c) RTC AND OVERSIGHT BOARD BUDGET REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by adding at the end the following new paragraph:

“(10) BUDGET REPORTS.—

“(A) IN GENERAL.—Before the end of each calendar quarter, the Oversight Board and the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the complete annual budget, as approved by the Oversight Board.

“(B) ACTIVITIES RELATING TO PHASING OUT RTC OPERATIONS.—Beginning with the report due in the 1st quarter of 1994, the report shall include information on the Corporation’s activities to phase down its operations and reduce the number of employees and the amount of office space and other overhead as the Corporation completes its duties under this section and approaches termination.”.

(d) EMPLOYEE REPORTS.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended by inserting after paragraph (10) (as added by subsection (c) of this section) the following new paragraph:

“(11) EMPLOYEE REPORTS.—The Corporation shall submit semi-annual reports to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the following information:

“(A) The total number of employees of the Oversight Board and the total number of individuals performing services directly on behalf of the Corporation.

“(B) The total number of individuals performing services for the Corporation as an employee of the Federal Deposit Insurance Corporation or any other agency, including the Government Accounting Office and the number from each such agency.

“(C) The total number of individuals employed in each job classification and employment status, including employment on a temporary basis or for an agreed upon period of time.”.

(e) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—

(1) INTERIM FINANCIAL STATEMENTS.—Section 21A(k)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)) is amended by inserting at the end the following new subparagraph:

“(C) SUPPLEMENTAL UNAUDITED FINANCIAL STATEMENTS.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to the Congress, not later than September 30 of each calendar year, an unaudited financial statement for the 6-month period ending on June 30 of such year.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to annual reports required to be submitted after the end of the 90-day period beginning on the date of the enactment of this Act.

12 USC 1441a
note.

TITLE II—RESTRUCTURING AND IMPROVEMENT OF THE RESOLUTION TRUST CORPORATION

SEC. 201. STAFF OF THE RESOLUTION TRUST CORPORATION; CHIEF EXECUTIVE OFFICER.

Section 21A(b)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) is amended—

(1) in subparagraph (B), by amending clause (i) to read as follows:

“(i) FDIC.—The Corporation shall use employees (selected by the Corporation) of the Federal Deposit Insurance Corporation and the Federal Deposit Insurance Corporation shall provide such personnel to the Corporation for its use. Notwithstanding the foregoing, the Federal Deposit Insurance Corporation need not provide to the Corporation any employee of the Federal Deposit Insurance Corporation who was employed by the Federal Deposit Insurance Corporation on the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 and who had not theretofore been provided to the Corporation by the Federal Deposit Insurance Corporation. In addition to persons otherwise employed by the Federal Deposit Insurance Corporation, the Federal Deposit Insurance Corporation shall employ, and shall provide to the Corporation, such persons as the Corporation may request from time to time. Federal Deposit Insurance Corporation employees provided to the Corporation shall be subject to the direction and control of the Corporation and any of them may be returned to the Federal Deposit Insurance Corporation at any time by the Corporation in the discretion of the Corporation. The Corporation shall reimburse the Federal Deposit Insurance Corporation for the actual costs incurred in providing such employees. Any permanent employee of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Re-

finance Act of 1991 shall continue to be provided to the Corporation after that date unless the Corporation determines the services of any such employee to be unnecessary, in which case such employee shall be returned to a similar position performing services on behalf of the Federal Deposit Insurance Corporation. In any ensuing reduction-in-force or reorganization within the Federal Deposit Insurance Corporation, any such employee shall compete with the same rights as any other Federal Deposit Insurance Corporation employee. The Corporation may use administrative services of the Federal Deposit Insurance Corporation and, if it does so, shall reimburse the Federal Deposit Insurance Corporation for the actual costs of providing such services. Any employee or officer in the executive service of the Federal Deposit Insurance Corporation who was performing services on behalf of the Corporation at level E-4 or above immediately prior to the date of enactment of the Resolution Trust Corporation Thrift Depositor Protection Refinance Act of 1991 shall continue to be assigned to perform substantially similar services on behalf of the Corporation after such date unless the Corporation—

“(I) determines that the services of any such employees are unnecessary, or

“(II) reassigns or substantially alters the responsibilities or duties of any such employees.

If an action described in subclause (I) or (II) occurs, any such employee with at least 20 years of service, as defined by chapter 83 or chapter 84 of title 5, United States Code, shall be entitled to an annuity under section 8336(d) or section 8414(b)(1) of title 5, United States Code, notwithstanding the fact that such employee has not attained the age of 50 years or has declined another position with the Federal Deposit Insurance Corporation, and the annuity of such employee shall not be reduced because of the age of such employee. The Federal Deposit Insurance Corporation shall reimburse the appropriate retirement insurance fund for any increased costs it incurs as a result of the annuities authorized pursuant to this clause.”; and

(2) by adding at the end thereof the following new subparagraph:

“(C) CHIEF EXECUTIVE OFFICER.—There is established the office of chief executive officer of the Corporation. The chief executive officer of the Corporation shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.”.

Establishment.
President.

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TREASURY PAYMENTS TO FUND.—Section 11(a)(6)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(E)) is amended—

(1) by striking “1992” and inserting “1993”; and

(2) by striking “1999” and inserting “2000”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(a)(6)(J) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

(1) by striking “1991” each place it appears and inserting “1992”;

(2) by striking “1992” and inserting “1993”; and

(3) by striking “1999” and inserting “2000”.

(c) FSLIC RESOLUTION FUND.—Section 11A(a)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)(2)(B)) is amended by striking “1991” and inserting “1992”.

(d) SOURCE OF FUNDS.—Section 11A(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(b)(4)) is amended by striking “1991” and inserting “1992”.

TITLE III—REFORM OF THE RTC

SEC. 301. SHORT TITLE.

This title may be cited as the “Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991”.

SEC. 302. THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; AMENDMENTS TO REFERENCES IN THE FEDERAL HOME LOAN BANK ACT.

(a) REDESIGNATION.—The Oversight Board, as established by section 21A(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(1)), is redesignated the Thrift Depositor Protection Oversight Board.

(b) IN GENERAL.—Except as provided in subsection (c), the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking “Oversight Board” each place it appears and inserting “Thrift Depositor Protection Oversight Board”.

(c) EXCEPTION.—Subsection (b) does not apply to section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)).

SEC. 303. ACCOUNTABILITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) is amended—

(1) by striking “be accountable for” and inserting “monitor the operations of”; and

(2) after “(hereinafter referred to in this section as the ‘Corporation’),” by inserting “and shall be accountable for the duties assigned to the Thrift Depositor Protection Oversight Board by this Act.”.

SEC. 304. MEMBERSHIP OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking “5 members” and inserting “7 members”;

(B) by striking clause (iii);

(C) by redesignating clause (iv) as clause (vi); and

(D) by inserting after clause (ii) the following:

“(iii) the Director of the Office of Thrift Supervision;

“(iv) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

“(v) the chief executive officer of the Corporation; and”;

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12 USC 1421 note.

12 USC 1441a note.

(2) in subparagraph (E) by striking “3 members” and inserting “4 members”.

SEC. 305. DUTIES AND AUTHORITIES OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended—

(1) by amending subparagraph (A) to read as follows:

“(A) To review overall strategies, policies, and goals established by the Corporation for its activities, which shall include such items as the Thrift Depositor Protection Oversight Board deems likely to have a material effect upon the financial condition of the Corporation, the results of its operations, or its cash flows, and such items as the Thrift Depositor Protection Oversight Board deems to involve substantial issues of public policy. After consultation with the Corporation, the Thrift Depositor Protection Oversight Board may require the modification of any such overall strategies, policies, and goals and their implementation. Overall strategies, policies, and goals shall include such items as—

“(i) overall strategies, policies, and goals for case resolutions, the management and disposition of assets, the use of private contractors;

“(ii) the use of notes, guarantees, or other obligations by the Corporation;

“(iii) financial goals, plans, and budgets; and

“(iv) restructuring agreements described in subsection (b)(10)(B).”;

(2) in subparagraph (B), by inserting “financial plans, budgets, and” after “implementation”; and

(3) by amending subparagraph (C) to read as follows:

“(C) To review all rules, regulations, standards, principles, procedures, guidelines, and statements that may be adopted or announced by the Corporation. The provisions of this subparagraph shall not apply to internal administrative policies and procedures (including such matters as personnel practices, divisions and organization of staffing, delegations of authority, and practices respecting day-to-day administration of the Corporation’s affairs) and determinations or actions described in paragraph (8) of this subsection:

Provided, That if the Thrift Depositor Protection Oversight Board requires the modification of any overall strategies, policies and goals, it shall, within 30 days of the date at which it directs the RTC make such modification, provide the House and Senate Banking Committees with an explanation that identifies which ground justifies the review and giving reasons why the modification is necessary to satisfy these grounds.”.

SEC. 306. LIMITATION OF AUTHORITY OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

Section 21A(a)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)(A)) is amended—

(1) by striking “(i) involving” and inserting “involving (i)”; and

(2) by striking “provide general policies and procedures” and inserting “review overall strategies, policies, and goals established by the Corporation”.

SEC. 307. OPEN MEETINGS.

Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended—

(1) by striking “4” and inserting “6”; and

(2) by adding a sentence at the end, to read as follows: “The Thrift Depositor Protection Oversight Board shall maintain a transcript of its open meetings.”.

SEC. 308. STRATEGIC PLAN.

Section 21A(a)(14)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(14)(A)) is amended to read as follows:

“(A) IN GENERAL.—The chief executive officer of the Corporation is authorized to implement the strategic plan for conducting the Corporation’s functions and activities submitted by the former Oversight Board to the Congress, dated December 31, 1989.”.

SEC. 309. MANAGEMENT AND DUTIES OF THE RESOLUTION TRUST CORPORATION.

(a) MANAGEMENT.—Section 21A(b)(1)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)(C)) is amended to read as follows:

“(C) MANAGEMENT BY CHIEF EXECUTIVE OFFICER.—The Corporation shall be managed by or under the direction of its chief executive officer.”.

(b) DUTIES.—Section 21A(b)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(3)(B)) is amended to read as follows:

“(B) To develop and establish overall strategies, policies, and goals for the Corporation, subject to review by the Thrift Depositor Protection Oversight Board pursuant to subsection (a)(6)(A) of this section.”.

(c) REAL AND PERSONAL PROPERTY.—Section 21A(b)(10)(E) is amended by adding after “real and personal property,” the following: “using any legally available private sector methods including without limitation, securitization of debt or equity, limited partnerships, mortgage investment conduits, and real estate investment trusts,”.

SEC. 310. ABOLITION OF BOARD OF DIRECTORS OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by striking paragraph (8) and redesignating paragraphs (9), (10), (11), (12), (13), and (14) as paragraphs (8), (9), (10), (11), (12), and (13), respectively.

SEC. 311. POWERS OF CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION; CONSULTATION.

Section 21A(b)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)), as redesignated, is amended—

(1) in subparagraph (A), by striking “Unless the Oversight Board exercises its authority under subsection (m) of this section” and inserting “Except for its chief executive officer”; and

(2) by adding, after subparagraph (C), the following new subparagraph:

“(D) POWERS OF THE CHIEF EXECUTIVE OFFICER.—The chief executive officer may exercise all of the powers of the Corporation and act for and on behalf of the Corporation, and may delegate such authority, as deemed appropriate by the chief executive officer, including the power to subdelegate authority, to persons designated by the chief executive officer who are employees of the Federal Deposit Insurance Corporation utilized by the Corporation or who provide services for the Corporation.”.

SEC. 312. NATIONAL HOUSING ADVISORY BOARD.

Section 21A(d) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

“(2) NATIONAL HOUSING ADVISORY BOARD.—

“(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish a National Housing Advisory Board to advise the Thrift Depositor Protection Oversight Board on policies and programs related to the provision of affordable housing.

“(B) MEMBERSHIP.—The National Housing Advisory Board shall consist of—

“(i) the Secretary of Housing and Urban Development; and

“(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (3).

“(C) MEETINGS.—The National Housing Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board.”.

SEC. 313. RIGHTS OF EMPLOYEES UPON SUNSET.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) in section 404(9)—

(A) by striking “of such Corporation shall be transferred to” and inserting “of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within”; and

(B) by striking “of this subsection” and inserting “of this section”; and

(2) in section 404(2)—

(A) by inserting “grade,” after “status, tenure,”; and

(B) by inserting “or, if the employee is a temporary employee, separated in accordance with the terms of the appointment” after “cause”.

SEC. 314. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking “(b)(12)” and inserting “(b)(11)”;

(B) in paragraph (8)—

- (i) by striking “(A)”;
- (ii) by striking subparagraph (B); and
- (C) in paragraph (10)—
 - (i) by striking “establish and review the general policy of” and inserting “review overall strategies, policies, and goals established by”; and
 - (ii) by striking “standards, policies, and procedures necessary to carry out” and inserting “matters as pertain to”;
- (2) in subsection (b)—
 - (A) in paragraph (3), by striking “and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m))”;
 - (B) in paragraph (9) as redesignated—
 - (i) by striking subparagraph (B) and redesignating subparagraphs (C) through (N) as subparagraphs (B) through (M), respectively;
 - (ii) in subparagraph (M), as redesignated, by striking “on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager”; and
 - (C) in paragraph (11), as redesignated—
 - (i) by amending subparagraph (A) to read as follows:

“(A) STRATEGIES, POLICIES, AND GOALS.—The Corporation shall adopt the rules, regulations, standards, procedures, guidelines, and statements necessary to implement the strategic plan submitted by the former Oversight Board to Congress dated December 31, 1989. The Corporation may establish overall strategies, policies, and goals for its activities and may issue such rules, regulations, standards, principles, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out its duties.”;
 - (ii) by amending subparagraph (B) to read as follows:

“(B) REVIEW, ETC.—Such overall strategies, policies, and goals, and such rules, regulations, standards, principles, procedures, guidelines, and statements—

 - “(i) shall be provided by the Corporation to the Thrift Depositor Protection Oversight Board promptly or prior to publication or announcement to the extent practicable;
 - “(ii) shall be subject to the review of the Thrift Depositor Protection Oversight Board as provided in subsection (a)(6)(A) (with respect to overall strategies, policies, and goals); and
 - “(iii) shall be promulgated pursuant to subchapter II of chapter 5, of title 5 United States Code.”;
 - (iii) in subparagraphs (D) and (E), by striking “Board of Directors” each place it appears and inserting “chief executive officer”;
- (3) by striking subsections (m) and (n) and redesignating subsections (o), (p), (q), and (r) as subsections (m), (n), (o), and (p) respectively;
- (4) in subsection (n), as redesignated, in paragraph (5), by striking “Directors, officers,” and inserting “Officers”; and
- (5) in subsection (o), as redesignated—
 - (A) in paragraph (1) by striking “director,”; and
 - (B) in paragraph (2)—

- (i) by striking “—”;
- (ii) by striking subparagraph (A);
- (iii) by striking the designation “(B)”;
- (iv) by striking “on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager”.

SEC. 315. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) **INSPECTOR GENERAL ACT.**—Section 11(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “the Oversight Board and the Board of Directors of the Resolution Trust Corporation” and inserting “; the Chairperson of the Thrift Depositor Protection Oversight Board and the chief executive officer of the Resolution Trust Corporation”.

(b) **THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.**—Section 5313 of title 5, United States Code, is amended by striking “Oversight Board, Resolution Trust Corporation” and inserting “Thrift Depositor Protection Oversight Board”.

(c) **CHIEF EXECUTIVE OFFICER.**—Section 5314 of title 5, United States Code, is amended by adding at the end the following: “chief executive officer, Resolution Trust Corporation.”

(d) **RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991.**—Section 102(c)(1) of the Resolution Trust Corporation Funding Act of 1991 (12 U.S.C. 1441a note) is amended by striking “Chairman of the Resolution Trust Corporation” and inserting “chief executive officer of the Resolution Trust Corporation”.

SEC. 316. REMOVAL AND REMAND.

Section 21A(1)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(1)(3)) is amended to read as follows:

“(3) REMOVAL AND REMAND.—

“(A) **IN GENERAL.**—The Corporation, in any capacity and without bond or security, may remove any action, suit, or proceeding from a State court to the United States district court with jurisdiction over the place where the action, suit, or proceeding is pending, to the United States district court for the District of Columbia, or to the United States district court with jurisdiction over the principal place of business of any institution for which the Corporation has been appointed conservator or receiver if the action, suit, or proceeding is brought against the institution or the Corporation as conservator or receiver of such institution. The removal of any such suit or proceeding shall be instituted—

“(i) not later than 90 days after the date the Corporation is substituted as a party, or

“(ii) not later than 30 days after service on the Corporation, if the Corporation is named as a party in any capacity and if such suit is filed after August 9, 1989.

“(B) **SUBSTITUTION.**—The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party of the filing of such other pleading informing the court that the Corporation has been appointed conservator or receiver for such party.

“(C) **APPEAL.**—The Corporation may appeal any order of remand entered by a United States district court.”.

SEC. 317. SAVINGS PROVISIONS.

12 USC 1441a
note.

(a) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—

This title shall not affect the validity of any right, duty, or obligation of the United States, the Corporation, the Oversight Board, or any other person, that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board, with respect to any function of the Oversight Board, shall abate by reason of the enactment of this Act, except that the Thrift Depositor Protection Oversight Board shall continue as party to any such action or proceeding, notwithstanding the change of name of the Oversight Board.

(b) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, and regulations that—

(1) have been issued, made, prescribed, or allowed to become effective by the Oversight Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions under the Federal Home Loan Bank Act; and

(2) are in effect on the effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991, shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations, and shall be enforceable by or against the Thrift Depositor Protection Oversight Board, or the Resolution Trust Corporation, by any court of competent jurisdiction, or by operation of law, notwithstanding the change of name of the Oversight Board.

SEC. 318. EFFECTIVE DATE OF THIS TITLE.

12 USC 1441
note.

The effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 shall be February 1, 1992.

TITLE IV—MINORITIES, WOMEN, AND SMALL BUSINESS PROVISIONS

SEC. 401. INCREASED PARTICIPATION OF MINORITIES AND WOMEN IN CONTRACTING PROCESS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (s) (as added by section 227 of this Act) the following new subsection:

“(t) REVIEW AND EVALUATION PROCEDURE FOR CONTRACTS.—

“(1) IN GENERAL.—In the review and evaluation of proposals, the Corporation shall provide additional incentives to minority- or women-owned businesses by awarding any such business an additional 10 percent of the total technical points and an additional 5 percent of the total cost preference points achievable in

the technical and cost rating process applicable with respect to such proposals.

"(2) CERTAIN JOINT VENTURES INCLUDED.—Paragraph (1) shall apply to any proposal submitted by a joint venture in which a minority- or woman-owned business has participation of not less than 25 percent.

"(3) AUTHORITY TO ADJUST TECHNICAL AND COST PREFERENCE POINTS.—The Corporation may adjust the technical and cost preference points applicable in evaluating proposals to the extent necessary to ensure the maximum participation level possible for minority- or women-owned businesses.

"(4) DEFINITIONS.—For purposes of this subsection.—

"(A) MINORITY-OWNED BUSINESS.—The term 'minority-owned business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

"(B) WOMEN-OWNED BUSINESS.—The term 'women's business' means a business—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

"(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

"(iii) a significant percentage of senior management positions of which are held by women."

SEC. 402. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN.

(a) ACQUISITION OF BRANCH FACILITIES FROM THE RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (t) (as added by section 301 of this title) the following new subsection:

"(u) ACQUISITION OF BRANCH FACILITIES IN MINORITY NEIGHBORHOODS.—

"(1) IN GENERAL.—In the case of any savings association for which the Corporation has been appointed conservator or receiver, the Corporation may make available any branch of such association which is located in any predominantly minority neighborhood to any minority depository institution or women's depository institution on the following terms:

"(A) The branch may be made available on a rent-free lease basis for not less than 5 years.

"(B) Of all expenses incurred in maintaining the operation of the facilities in which such branch is located, the institution shall be liable only for the payment of applicable real property taxes, real property insurance, and utilities.

"(C) The lease may provide an option to purchase the branch during the term of the lease.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) MINORITY DEPOSITORY INSTITUTION.—The term 'minority institution' means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(i) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

“(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

“(B) WOMEN’S DEPOSITORY INSTITUTION.—The term ‘women’s depository institution’ means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

“(i) more than 50 percent of the ownership or control of which is held by 1 or more women;

“(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

“(iii) a significant percentage of senior management positions of which are held by women.

“(C) MINORITY.—The term ‘minority’ has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.”.

(b) COMMUNITY REINVESTMENT CREDIT FOR DEPOSITORY INSTITUTIONS PROVIDING ASSISTANCE.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

“SEC. 808. OPERATION OF BRANCH FACILITIES BY MINORITIES AND WOMEN. 12 USC 2907.

“(a) IN GENERAL.—In the case of any depository institution which donates, sells on favorable terms (as determined by the appropriate Federal financial supervisory agency), or makes available on a rent-free basis any branch of such institution which is located in any predominantly minority neighborhood to any minority depository institution or women’s depository institution, the amount of the contribution or the amount of the loss incurred in connection with such activity shall be treated as meeting the credit needs of the institution’s community for purposes of this title.

“(b) DEFINITIONS.—For purposes of this section—

“(1) MINORITY DEPOSITORY INSTITUTION.—The term ‘minority institution’ means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

“(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

“(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

“(2) WOMEN’S DEPOSITORY INSTITUTION.—The term ‘women’s depository institution’ means a depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

“(A) more than 50 percent of the ownership or control of which is held by 1 or more women;

“(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women; and

“(C) a significant percentage of senior management positions of which are held by women.

“(3) MINORITY.—The term ‘minority’ has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.”.

SEC. 403. ACQUISITION OF FAILING MAJORITY ASSOCIATIONS BY MINORITY INSTITUTIONS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (u) (as added by section 302 of this title) the following new subsection:

“(v) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—

“(1) IN GENERAL.—In addition to the assistance provided pursuant to the minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a), the Corporation may provide assistance for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

“(2) ADDITIONAL ASSETS.—In connection with the acquisition of any savings association for which the Corporation provides assistance under paragraph (1), the Corporation may transfer assets of other savings associations for which the Corporation has been appointed conservator or receiver.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) MINORITY.—The term ‘minority’ has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

“(B) ACQUISITION.—The term ‘acquisition’ means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).”

SEC. 404. STATUTORY ESTABLISHMENT OF PROGRAM.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting after subsection (v) (as added by section 303 of this title) the following new subsection:

“(w) MINORITY INTERIM CAPITAL ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a) is hereby established by law.

“(2) ASSISTANCE UNDER CIRCUMSTANCES FOR ACQUISITION OF MAJORITY-OWNED INSTITUTIONS.—In addition to the assistance provided pursuant to the program established under paragraph (1), the Corporation shall provide assistance under such program for minority-owned depository institutions and minority investors for the acquisition of any savings association for which the Corporation has been appointed conservator or receiver and which, before such appointment, was not a minority-owned association, if the Corporation has not received acceptable bids for the acquisition of such association without offering such assistance.

“(3) EXTENSION OF INTERIM FINANCING PERIOD.—The period for repayment of capital assistance provided under the minority interim capital assistance program shall be not less than 2 years.

“(4) **INTEREST RATE.**—The rate of interest imposed by the Corporation in connection with any interim financing provided under the minority interim capital assistance program may not exceed the average cost of funds to the Corporation as of the time such rate is established.

“(5) **DEFINITIONS.**—For purposes of this subsection—

“(A) **MINORITY.**—The term ‘minority’ has the meaning given to such term by section 1204(c)(3) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

“(B) **ACQUISITION.**—The term ‘acquisition’ means any transaction in which a savings association is acquired (as defined in section 13(c)(8) of the Federal Deposit Insurance Act).”.

SEC. 405. GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.

Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended to read as follows:

“(14) **GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.**—

The Corporation shall have an annual goal that presents the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts awarded by the Corporation.”.

TITLE V—MISCELLANEOUS HOUSING PROVISIONS

SEC. 501.

(a) **CREDIT ENHANCEMENT TO PROVIDE HOUSING OPPORTUNITIES FOR LOW-INCOME PERSONS.**—

(1) **IN GENERAL.**—Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K)) is amended to read as follows:

“(K) To make loans and, with respect to eligible residential properties, develop risk sharing structures and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.”.

(2) **CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.**—Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(A) by striking “(B) CREDIT ENHANCEMENT.—With respect to” and inserting the following:

“(B) CREDIT ENHANCEMENT.—

“(i) **IN GENERAL.**—With respect to”; and

(B) by adding at the end the following new clause:

“(ii) **CERTAIN TAX-EXEMPT BONDS.**—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).”.

TITLE VI—RESOLUTION TRUST CORPORATION AFFORDABLE HOUSING PROGRAM

SEC. 601. INCLUSION OF ELIGIBLE RESIDENTIAL PROPERTY UNDER CONSERVATORSHIP.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) is amended—

(1) by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

“(C) CORPORATION.—The term ‘Corporation’ means the Resolution Trust Corporation.

“(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—

“(i) BASIC DEFINITION.—The term ‘eligible multifamily housing property’ means a property consisting of more than 4 dwelling units—

“(I) to which the Corporation acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as an operating conservator; and

“(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

“(ii) EXPANDED DEFINITION.—Notwithstanding clause (i), to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this clause taking effect, the term ‘eligible multifamily housing property’ shall mean a property consisting of more than 4 dwelling units—

“(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

“(II) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).”; and

(2) by striking subparagraph (F) and inserting the following new subparagraph:

“(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term ‘eligible single family property’ means a 1- to 4-family residence (including a manufactured home)—

“(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a

depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

“(II) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).”.

SEC. 602. TIME LIMITATIONS ON SALE OF ELIGIBLE SINGLE FAMILY PROPERTY.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)), as amended by Public Law 102-139, is amended—

(1) in the first sentence, by striking “For” and inserting “Except as provided in the last sentence of this subparagraph for”; and

(2) by adding at the end the following new sentence: “To the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this sentence taking effect, for purposes of this subsection the period referred to in the first and third sentences shall be considered to be the 180-day period following the date on which the Corporation first makes an eligible single family property available for sale.”.

SEC. 603. ACTIVE MARKETING OF ELIGIBLE SINGLE FAMILY PROPERTY TO LOWER-INCOME VETERANS.

Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended—

(1) in clause (i) of the first sentence, by inserting “(including qualifying households with members who are veterans)” after “households”;

(2) in subclause (I) of clause (ii) of the first sentence, by inserting “(including lower-income families with members who are veterans)” after “lower-income families”; and

(3) in the fourth sentence, by inserting “and to lower-income families with members who are veterans” before the period.

SEC. 604. PREVENTION OF SPECULATION ON ELIGIBLE SINGLE FAMILY PROPERTY.

(a) RESIDENCY REQUIREMENTS.—

(1) **QUALIFYING HOUSEHOLDS.**—Section 21A(c)(9)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(K)) is amended by striking “and (ii) whose adjusted income” and inserting the following: “(ii) who agrees to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); (iii) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months (except as provided in paragraph (2)(D)); and (iv) whose income”.

(2) **LOWER-INCOME FAMILIES.**—The first sentence of section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by striking “by such families.” and inserting the following: “by any such family who, except as provided in subparagraph (D), agrees to occupy the property as a principal residence for at least 12 months and who certifies in

writing that the family intends to occupy the property for at least 12 months.”

(b) **RECAPTURE OF PROFITS FROM RESALE.**—Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding at the end the following new subparagraphs:

“(C) **RECAPTURE OF PROFITS FROM RESALE.**—Except as provided in subparagraph (D), if any eligible single family property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (B)(ii)(II), paragraph (12)(C)(i), or paragraph (13)(B), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or lower-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family; (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

“(D) **EXCEPTIONS TO RECAPTURE REQUIREMENT.**—

“(i) **RELOCATION.**—The Corporation (or its successor) may in its discretion waive the applicability (I) to any qualifying household of the requirement under subparagraph (C) and the requirements relating to residency of a qualifying household under paragraphs (9)(L)(ii) and (iii), and (II) to any lower-income family of the requirement under subparagraph (C) and the residency requirements under subparagraph (B)(ii)(II). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

“(ii) **OTHER RECAPTURE PROVISIONS.**—The requirement under subparagraph (C) shall not apply to any eligible single family property for which, upon resale by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.”

SEC. 605. AVOIDANCE OF DISPLACEMENT UNDER SINGLE FAMILY PROPERTY DISPOSITION PROGRAM.

Section 21A(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)) is amended by adding after subparagraph (D) (as added by section 504(b) of this Act) the following new subparagraph:

“(E) **EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.**—Notwithstanding the first sentence of subparagraph (B), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (i) such household was residing in the property at the time notice regarding the property was provided to clearing-

houses under subparagraph (A), (ii) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (iii) the resident household intends to occupy the property as a principal residence for at least 12 months, and (iv) and the resident household certifies in writing that the household intends to occupy the property for at least 12 months.”.

SEC. 606. PERIODS FOR EXPRESSION OF SERIOUS INTEREST AND RESTRICTED BIDS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

(1) in the first sentence of subparagraph (B), by striking the first comma and all that follows through “first”;

(2) in subparagraph (C), by striking “determining that a property is ready for sale” and inserting the following: “the expiration of the period referred to in subparagraph (B) for a property,”; and

(3) in subparagraph (D), by inserting after the period at the end the following new sentence: “If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.”.

SEC. 607. LOWER-INCOME OCCUPANCY REQUIREMENTS FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) is amended to read as follows:

“(E) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

“(i) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property by a qualifying multifamily purchaser under subparagraph (D)—

“(I) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building property structure in which the units are located: *Provided, That*

“(II) not less than 20 percent of all dwelling units purchased shall be made available for occupancy shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

“(ii) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under subparagraph (D) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation—

“(I) the provisions of clause (i) shall apply in the aggregate to the properties so purchased; except that

“(II) to the extent or in such amounts as are provided in appropriations Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, not less than (a) 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for lower-income and very low-income families during the remaining useful life of the building property structure in which the units are located, (b) 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building property structure in which the units are located, and (c) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located.

The requirements of this subparagraph shall be contained in the deed or other recorded instrument.”.

SEC. 608. EXTENSION OF RESTRICTED OFFER PERIOD FOR ELIGIBLE MULTIFAMILY HOUSING PROPERTY.

Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended—

- (1) by redesignating subparagraph (G) as subparagraph (H); and
- (2) by inserting after subparagraph (F) the following new subparagraph:

“(G) EXTENSION OF RESTRICTED OFFER PERIODS.—Notwithstanding subparagraph (F), the Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of subparagraphs (A) through (D), any eligible multifamily housing property—

“(i) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in subparagraph (B), or

“(ii) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in subparagraph (D),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in subparagraphs (B) and (D) in offering any property for sale under this subparagraph.”.

SEC. 609. SALE PRICE.

Section 21A(c)(6)(A)(i) of Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

“(i) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing

property. The Corporation shall sell eligible multifamily housing property at the net realizable market value. The Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraph (3). The Corporation may sell eligible single family property or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.”.

SEC. 610. AUTHORITY FOR RTC TO PARTICIPATE IN MULTIFAMILY FINANCING POOLS.

Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentence: “In providing financing for combinations of eligible multifamily housing properties under this subsection, the Corporation may hold a participating share, including a subordinate participation.”.

SEC. 611. CREDIT ENHANCEMENT FOR CERTAIN TAX-EXEMPT BONDS.

Section 21A(c)(8)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)) is amended—

(1) by striking “(B) CREDIT ENHANCEMENT.—With respect to” and inserting the following:

“(B) CREDIT ENHANCEMENT.—

“(i) IN GENERAL.—With respect to”; and

(2) by adding at the end the following new clause:

“(ii) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in clause (i).”.

SEC. 612. PERMANENT EFFECTIVENESS OF EXEMPTION FOR TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.

12 USC 1441a
note.

Notwithstanding section 203 of the Resolution Trust Corporation Funding Act of 1991, the amendment made by section 201(b) of such Act shall apply on and after the date of the enactment of this Act.

SEC. 613. TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

“(12) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding paragraphs (2), (3), (5), and (6), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose

jurisdiction the property is located. Transfers of eligible residential properties under this paragraph may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

“(A) **INDIVIDUAL OR BULK TRANSFER.**—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

“(B) **ACQUISITION PRICE AND DISCOUNT.**—The acquisition price paid by the State housing finance agency or State or local housing agency to the Corporation for properties transferred under this paragraph shall be an amount agreed to by the Corporation and the transferee agency.

“(C) **LOWER-INCOME USE.**—Any State housing finance agency or State or local housing agency acquiring properties under this paragraph shall offer to sell or transfer the properties only as follows:

“(i) **ELIGIBLE SINGLE FAMILY PROPERTIES.**—For eligible single family properties—

“(I) to purchasers described under clauses (i) and (ii) of paragraph (2)(B);

“(II) if the purchaser is a purchaser described under paragraph (2)(B)(ii)(I), subject to the rent limitations under paragraph (4)(A);

“(III) subject to the requirement in the second sentence of paragraph (2)(B); and

“(IV) subject to recapture by the Corporation of excess proceeds from resale of the properties under subparagraphs (C) and (D) of paragraph (2).

“(ii) **ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.**—For eligible multifamily housing properties—

“(I) to qualifying multifamily purchasers;

“(II) subject to the lower-income occupancy requirements under paragraph (3)(E);

“(III) subject to the provisions of paragraph (3)(H);

“(IV) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term; and

“(V) subject to the rent limitations under paragraph (4)(A).

“(D) **AFFORDABILITY.**—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this paragraph more affordable to lower-income families based upon the extent to which the acquisition price of a property under subparagraph (B) is less than the market value of the property.”

SEC. 614. SUSPENSION OF OFFER PERIODS FOR SALES OF ELIGIBLE RESIDENTIAL PROPERTY TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (12) (as added by section 513 of this Act) the following new paragraph:

“(13) **EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.**—

“(A) **SUSPENSION OF OFFER PERIODS.**—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of subparagraphs (A) and (B) of paragraph (2) and subparagraphs (A) through (D) of paragraph (3), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such paragraphs shall toll for the duration of any suspension under this subparagraph.

“(B) **USE RESTRICTIONS.**—

“(i) **ELIGIBLE SINGLE FAMILY PROPERTY.**—Any eligible single family property sold under this paragraph shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or made available for purchase by such families, (II) subject to the rent limitations under paragraph (4)(A), (III) subject to the requirements relating to residency of a qualifying household under paragraph (9)(L) and to residency of a lower-income family under paragraph (2)(B)(ii), and (IV) subject to recapture by the Corporation of excess proceeds from resale of the property under subparagraphs (C) and (D) of paragraph (2).

“(ii) **ELIGIBLE MULTIFAMILY HOUSING PROPERTY.**—Any eligible multifamily housing property sold under this paragraph shall comply with the lower-income occupancy requirements under paragraph (3)(E) and shall be subject to the rent limitations under paragraph (4)(A).”.

SEC. 615. SALE OF ELIGIBLE CONDOMINIUM PROPERTY.

(a) **IN GENERAL.**—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (13) (as added by section 514 of this Act) the following new paragraph:

“(14) **RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.**—

“(A) **NOTICE TO CLEARINGHOUSES.**—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in clauses (i) through (iv) of subparagraph (B). The Corporation shall allow such purchasers reasonable access

to an eligible condominium property for purposes of inspection.

“(B) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

- “(i) Qualifying households.
- “(ii) Nonprofit organizations.
- “(iii) Public agencies.
- “(iv) For-profit entities.

“(C) LOWER-INCOME OCCUPANCY REQUIREMENTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of the property, or (II) make the property available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

“(ii) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under clause (i) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (I) made available for occupancy by and maintained as affordable for lower-income families for the remaining useful life of the property, or (II) made available for purchase by any such family who, except as provided in subparagraph (E), agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument.

“(iii) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in subparagraph (B), no purchaser described in clauses (i) through (iv) of subparagraph (B) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

“(D) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in subparagraph (E), if any eligible condominium property sold (i) to a qualifying household, or (ii) to a lower-income family pursuant to subparagraph (C)(i)(II) or (C)(ii)(II), is resold by the qualifying household or lower-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corpora-

tion shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (I) the original sale price for the acquisition of the property by the qualifying household or lower-income family, (II) the costs of any improvements to the property made after the date of the acquisition, and (III) any closing costs in connection with the acquisition.

“(E) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or lower-income family of the requirement under subparagraph (D) and the requirements relating to residency of a qualifying household or lower-income family (under paragraph (9)(L) and subparagraph (C) of this paragraph, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or lower-income family.

“(F) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

“(G) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.”.

(b) CONFORMING AMENDMENT.—Section 21A(c)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(11)(B)) is amended by striking “specified under paragraphs (2) and (3)” and inserting “applicable under paragraphs (2), (3), (12)(C), (13)(B), and (14)(C)”.

SEC. 616. REPORTS TO CONGRESS REGARDING AFFORDABLE HOUSING PROGRAM.

Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding after paragraph (14) (as added by section 515 of this Act) the following new paragraph:

“(15) REPORTS TO CONGRESS.—

“(A) IN GENERAL.—The Corporation shall submit to the Congress semiannual reports under this paragraph regarding the disposition of eligible residential properties under this subsection during the most recently concluded reporting period. The first report under this paragraph shall be submitted not later than the expiration of the 4-month period beginning upon the conclusion of the first reporting period under subparagraph (B). Subsequent reports shall be

submitted not less than every 6 months after such expiration.

“(B) REPORTING PERIODS.—For purposes of this paragraph, the term ‘reporting period’ means the 6-month period for which a report under this paragraph is made, except that the first reporting period shall be the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

“(C) INFORMATION REGARDING PROPERTIES SOLD.—Each report under this paragraph shall contain information regarding each eligible residential property sold by the Corporation during the applicable reporting period, as follows:

“(i) A description of the property, the location of the property, and the number of dwelling units in the property.

“(ii) The appraised value of the property.

“(iii) The sale price of the property.

“(iv) For eligible single family properties—

“(I) the income and race of the purchaser of the property, if the property is sold to an occupying household or is sold for resale to an occupying household; and

“(II) whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property.

“(v) For eligible multifamily housing properties, the number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families.

“(vi) The number of eligible single family properties sold after the expiration of the offer period for such properties referred to in paragraph (2)(B).

“(vii) The number of eligible multifamily housing properties sold after the expiration of the periods for such properties referred to in subparagraphs (B) and (D) of paragraph (3).

“(D) NUMBER OF PROPERTIES WITHIN WINDOWS.—Each report under this paragraph shall contain the following information:

“(i) The number of eligible single family properties for which the offer period referred to in paragraph (2)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

“(ii) The number of eligible multifamily housing properties for which the 90-day period referred to in paragraph (3)(B) had not expired before the conclusion of the applicable reporting period (or had not yet commenced).”.

SEC. 617. DEFINITIONS.

Section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)), as amended by sections 501 and 504(a)(1) of this Act, is further amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) **ADJUSTED INCOME AND INCOME.**—The terms ‘adjusted income’ and ‘income’ shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.”;

(2) by redesignating subparagraphs (D) through (P) as subparagraphs (E) through (Q), respectively; and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) **ELIGIBLE CONDOMINIUM PROPERTY.**—The term ‘eligible condominium property’ means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

“(i) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation or a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

“(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).”.

SEC. 618. RISK-WEIGHTING OF HOUSING LOANS FOR PURPOSES OF CAPITAL REQUIREMENTS.

Regulations.
12 USC 1831n
note.

(a) SINGLE FAMILY HOUSING LOANS.—

(1) 50 PERCENT RISK-WEIGHTED CLASSIFICATION.—

(a) **IN GENERAL.**—To provide consistent regulatory treatment of loans made for the construction of single family housing, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any single family residence construction loan described under subparagraph (B) shall be considered as a loan within the 50 percent risk-weighted category.

(B) **REQUIREMENTS.**—Subparagraph (A) shall apply to any construction loan—

(i) made for the construction of a residence consisting of 1 to 4 dwelling units;

(ii) under which the lender has acquired from the lender originating the mortgage loan for purchase of the residence, before the making of the construction loan—

(I) documentation demonstrating that the buyer of the residence intends to purchase the residence and has the ability to obtain a mortgage loan sufficient to purchase the residence; and

(II) any other documentation from the mortgage lender that the appropriate Federal banking agency may consider appropriate to provide assurance of the buyer's intent to purchase the property (including written commitments and letters of intent);

(iii) under which the borrower requires the buyer of the residence to make a nonrefundable deposit to the borrower in an amount (as determined by the appropriate Federal banking agency) of not less than 1 percent of the principal amount of mortgage loan obtained by the borrower for purchase of the residence, for use in defraying costs relating to any cancellation of the purchase contract of the buyer; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) **100 PERCENT RISK-WEIGHTED CLASSIFICATION.**—Not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that—

(A) any single family residence construction loan for a residence for which the purchase contract is canceled shall be considered as a loan within the 100 percent risk-weighted category; and

(B) the lender of any single family residence construction loan shall promptly notify the appropriate Federal banking agency of any such cancellation.

(b) **MULTIFAMILY HOUSING LOANS.**—

(1) **50 PERCENT RISK-WEIGHTED CLASSIFICATION.**—

(A) **IN GENERAL.**—To provide consistent regulatory treatment of loans made for the purchase of multifamily rental and homeowner properties, not later than the expiration of the 120-day period beginning on the date of this Act each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any multifamily housing loan described under subparagraph (B) and any security collateralized by such a loan shall be considered as a loan or security within the 50 percent risk-weighted category.

(B) **REQUIREMENTS.**—Subparagraph (A) shall apply to any loan—

(i) secured by a first lien on a residence consisting of more than 4 dwelling units;

(ii) under which—

(I) the rate of interest does not change over the term of the loan, (b) the principal obligation does not exceed 80 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 120 percent; or

(II) the rate of interest changes over the term of the loan, (b) the principal obligation does not

exceed 75 percent of the appraised value of the property, and (c) the ratio of annual net operating income generated by the property (before payment of any debt service on the loan) to annual debt service on the loan is not less than 115 percent;

(iii) under which—

(I) amortization of principal and interest occurs over a period of not more than 30 years;

(II) the minimum maturity for repayment of principal is not less than 7 years; and

(III) timely payment of all principal and interest, in accordance with the terms of the loan, occurs for a period of not less than 1 year; and

(iv) that meets any other underwriting characteristics that the appropriate Federal banking agency may establish, consistent with the purposes of the minimum acceptable capital requirements to maintain the safety and soundness of financial institutions.

(2) **SALE PURSUANT TO PRO RATA LOSS SHARING ARRANGEMENTS.**—Not later than the expiration of the 120-day period beginning on the date of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to provide that any loan fully secured by a first lien on a multifamily housing property that is sold subject to a pro rata loss sharing arrangement by an institution subject to the jurisdiction of the agency shall be treated as sold to the extent that loss is incurred by the purchaser of the loan. For purposes of this paragraph, the term “pro rata loss sharing arrangement” means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on a pro rata basis.

(3) **SALE PURSUANT TO OTHER ARRANGEMENTS FOR LOSS.**—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each Federal banking agency shall amend the regulations and guidelines of the agency establishing minimum acceptable capital levels to take into account other loss sharing arrangements, in connection with the sale by an institution subject to the jurisdiction of the agency of any loan that is fully secured by a first lien on multifamily housing property, for purposes of determining the extent to which such loans shall be treated as sold. For purposes of this paragraph, the term “other loss sharing arrangement” means an agreement providing that the purchaser of a loan shares in any loss incurred on the loan with the selling institution on other than a pro rata basis.

(c) **APPROPRIATE FEDERAL BANKING AGENCY.**—For purposes of this section, the term “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.

SEC. 619. APPLICABILITY.

The amendments made by this title shall not apply to any eligible residential property or eligible condominium property of the Resolution Trust Corporation, that is subject to an agreement for sale

12 USC 1441a
note.

entered into by the Corporation before the date of the enactment of this Act.

TITLE VII—APPRAISAL AMENDMENTS

SEC. 701. REAL ESTATE APPRAISALS.

(a) **CERTIFICATION AND LICENSING REQUIREMENTS.**—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

“(e) **AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.**—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers. Recommendations of the Subcommittee shall be nonbinding on the States.

(b) **USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.**—

(1) **EFFECTIVE DATE FOR USE.**—Section 1119(a)(1) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking “July 1, 1991” and inserting “December 31, 1992”.

(2) **EXTENSION OF EFFECTIVE DATE.**—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking “leading to inordinate delays” and inserting “, or in any geographical political subdivision of a State, leading to significant delays”; and

(B) in the second sentence, by striking “inordinate” and inserting “significant”.

Approved December 12, 1991.

LEGISLATIVE HISTORY—H.R. 3435:

HOUSE REPORTS: No. 102-358, Pts. 1 and 2 (Comm. on Banking, Finance and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 137 (1991):

Nov. 26, considered and passed House.

Nov. 27, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):

Dec. 12, Presidential statement.