

103^D CONGRESS
1ST SESSION

H. R. 268

To provide additional funding for the Resolution Trust Corporation, to reduce the amount of losses of such Corporation through the establishment of the supervisory goodwill buy-back program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. McCOLLUM introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

A BILL

To provide additional funding for the Resolution Trust Corporation, to reduce the amount of losses of such Corporation through the establishment of the supervisory goodwill buy-back program, 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.**

4 This Act may be cited as the “Resolution Trust Cor-
5 poration Loss Reduction and Funding Act of 1993”.

6 **SEC. 2. FUNDING.**

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

1 (1) in paragraph (3), by striking “until April 1,
2 1992”; and

3 (2) by adding at the end the following new
4 paragraphs:

5 “(4) ADDITIONAL FUNDING.—Pursuant to the
6 request of the President and in addition to amounts
7 provided under paragraphs (2) and (3), the Sec-
8 retary of the Treasury shall provide, out of any
9 money in the Treasury not otherwise appropriated,
10 to the Corporation such sums as may be necessary
11 not to exceed \$25,000,000,000 to carry out the pur-
12 poses of this section until April 1, 1994.

13 “(5) REDUCTION IN FUNDING IN AMOUNT
14 EQUAL TO SUPERVISORY GOODWILL BUY-BACK PRO-
15 GRAM SAVINGS.—Of the amounts appropriated
16 under paragraphs (3) and (4), the amount available
17 for obligation shall be reduced by the amount which
18 the Secretary determines is equal to the net reduc-
19 tion in the expenditures of the Corporation due to
20 the supervisory goodwill buy-back program estab-
21 lished under section 15 of the Home Owners’ Loan
22 Act.”.

23 **SEC. 3. REDUCTION OF RTC LOSSES.**

24 (a) PURPOSE.—

1 (1) IN GENERAL.—It is the purpose of this sec-
2 tion to directly reduce the amount of taxpayer funds
3 which would otherwise be required to be appro-
4 priated to the Resolution Trust Corporation by re-
5 moving the threat of large losses which would accrue
6 in connection with the resolution of savings associa-
7 tions which would be healthy associations but for the
8 supervisory goodwill acquired by such associations in
9 transactions with Federal regulatory agencies.

10 (2) NO EFFECT ON SUPERVISORY GOODWILL
11 LITIGATION NOT INVOLVING QUALIFIED SAVINGS AS-
12 SOCIATIONS.—No court may take into account sec-
13 tion 15 of the Home Owners' Loan Act (as added
14 by the amendment made by subsection (b)) or the
15 program established under such section 15 in con-
16 sidering any litigation between any savings associa-
17 tion which is not a qualified savings association (as
18 defined in such section 15) and the United States
19 with regard to supervisory goodwill.

20 (b) ESTABLISHMENT OF SUPERVISORY GOODWILL
21 BUY-BACK PROGRAM.—The Home Owners' Loan Act (12
22 U.S.C. 1461 et seq.) is amended by adding at the end
23 the following new section:

1 **“SEC. 15. SUPERVISORY GOODWILL BUY-BACK PROGRAM.**

2 “(a) SUPERVISORY GOODWILL REPLACED WITH
3 TANGIBLE CAPITAL.—

4 “(1) IN GENERAL.—Upon determining that a
5 conservator or receiver is to be appointed for a sav-
6 ings association on or before the last day on which
7 the Corporation may be appointed as conservator or
8 receiver for a savings association in accordance with
9 section 21A(b)(3)(A)(ii) of the Federal Home Loan
10 Bank Act if no action is taken under this section,
11 the Director shall, in consultation with the Resolu-
12 tion Trust Corporation—

13 “(A) determine whether the savings asso-
14 ciation is a qualified savings association; and

15 “(B) if the association is a qualified sav-
16 ings association, pay the association the re-
17 placement amount from amounts made avail-
18 able pursuant to subsection (f).

19 “(2) REDUCTION IN SUPERVISORY GOOD-
20 WILL.—On receipt of any payment under paragraph
21 (1), a qualified savings association shall reduce its
22 supervisory goodwill by the amount of such payment.

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

24 “(1) QUALIFIED SAVINGS ASSOCIATION.—The
25 term ‘qualified savings association’ means a savings
26 association described in subsection (a)(1) which—

1 “(A) would be, in the determination of the
2 Director, a viable association, and would not be
3 expected to fail, if the association participates
4 in the program; and

5 “(B) has agreed to waive all claims the as-
6 sociation may have against the Federal Govern-
7 ment arising from changes in the statutory
8 treatment of supervisory goodwill as set forth in
9 section 5(t) since the creation of such goodwill
10 on the books of the association.

11 “(2) REPLACEMENT AMOUNT.—The term ‘re-
12 placement amount’ means, with respect to a quali-
13 fied savings association, the lesser of—

14 “(A) the determined amount; and

15 “(B) the least amount that, if paid to the
16 association, would cause the association to be
17 adequately capitalized (as defined in section 38
18 of the Federal Deposit Insurance Act) under all
19 fully phased in capital standards.

20 “(3) DETERMINED AMOUNT.—The term ‘deter-
21 mined amount’ means, with respect to a savings as-
22 sociation, an amount determined appropriate by the
23 Office of Thrift Supervision, taking into account the
24 circumstances of the association, which is—

1 “(A) not less than the amount of the su-
2 pervisory goodwill of the association, as of the
3 date of the determination; and

4 “(B) not more than the amount of the su-
5 pervisory goodwill of the association, as of the
6 date of the enactment of the Financial Institu-
7 tions Reform, Recovery, and Enforcement Act
8 of 1989.

9 “(c) CAPITAL REQUIREMENTS.—

10 “(1) FULLY PHASED IN CAPITAL STAND-
11 ARDS.—If, after receipt of funds pursuant to sub-
12 section (a), a qualified savings association meets all
13 fully phased in capital standards, then such stand-
14 ards shall apply to the association, notwithstanding
15 any other provision of law.

16 “(2) ADDITIONAL REQUIREMENTS.—The Office
17 of Thrift Supervision may set additional capital re-
18 quirements for qualified savings associations to en-
19 sure that such associations will progressively prepare
20 to meet all applicable capital requirements.

21 “(d) ASSESSMENT IMPOSED.—

22 “(1) IN GENERAL.—The Director shall impose
23 an annual assessment on each qualified savings as-
24 sociation which receives the payment of any amount
25 pursuant to subsection (a)(2)—

1 “(A) beginning on or after the date of a
2 determination by the Director that the savings
3 association is sufficiently viable to begin paying
4 such assessment; and

5 “(B) continuing until the aggregate
6 amount of assessments paid under this sub-
7 section by the association equals or exceeds the
8 aggregate amount received under subsection
9 (a)(2) by the association.

10 “(2) AMOUNT OF ASSESSMENT.—The amount
11 of the annual assessment imposed on any savings as-
12 sociation for any year shall be determined by the Di-
13 rector after considering—

14 “(A) the viability and profitability of the
15 association;

16 “(B) the amortization period which was
17 applicable with respect to any supervisory good-
18 will of the association as of the date such good-
19 will was first entered on the books of the asso-
20 ciation; and

21 “(C) the amount received by the associa-
22 tion pursuant to subsection (a)(2).

23 “(3) DEPOSIT OF ASSESSMENTS IN TREAS-
24 URY.—

1 “(A) TRANSFER TO SECRETARY OF THE
2 TREASURY.—All amounts received by the Direc-
3 tor under this subsection shall be transferred to
4 the Secretary of the Treasury.

5 “(B) PUBLIC DEBT REDUCTION.—
6 Amounts received by the Secretary of the
7 Treasury under subparagraph (A) shall be de-
8 posited in the general fund of the Treasury and
9 shall be used for the sole purpose of reducing
10 the national debt.

11 “(e) ADDITIONAL LIMITATIONS AND REQUIRE-
12 MENTS.—

13 “(1) LIMITATION ON DISTRIBUTION OF CAPITAL
14 OR PAYMENT OF DIVIDENDS.—No savings associa-
15 tion may make any capital distribution or pay any
16 dividend until the sum of the amount of the assess-
17 ments imposed under subsection (d) equals or ex-
18 ceeds the replacement amount received by such asso-
19 ciation under subsection (a)(1)(B).

20 “(2) OTHER REQUIREMENTS.—The Office of
21 Thrift Supervision may establish any other require-
22 ments needed to ensure the safe and sound oper-
23 ation of qualified savings associations.

24 “(f) FUNDING PROVIDED BY RTC.—The Resolution
25 Trust Corporation shall provide such funds as may be nec-

1 essary to carry out this section to the Director of the Of-
2 fice of Thrift Supervision from amounts made available
3 to the Corporation under section 21A of the Federal Home
4 Loan Bank Act.”.

5 (c) APPLICABILITY TO CERTAIN ASSOCIATIONS.—
6 Upon the enactment of this Act, the Director of the Office
7 of Thrift Supervision shall promptly make the determina-
8 tion required under section 15(a)(1)(A) of the Home Own-
9 ers’ Loan Act (as added by subsection (a) of this section)
10 for any savings association for which the determination
11 to appoint a conservator or receiver had been made before
12 the date of the enactment of this Act but for which a con-
13 servator or receiver had not been appointed as of such
14 date.

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