

In the Senate of the United States,

December 21, 1995.

Resolved, That the bill from the House of Representatives (H.R. 2029) entitled “An Act to to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes”, do pass with the following

AMENDMENTS:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2 (a) *SHORT TITLE.*—*This Act may be cited as the*
3 *“Farm Credit System Reform Act of 1996”.*

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

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MORTGAGE SECONDARY MARKET

Sec. 101. Definition of real estate.

Sec. 102. Definition of certified facility.

Sec. 103. Duties of Federal Agricultural Mortgage Corporation.

Sec. 104. Powers of the Corporation.

Sec. 105. Federal reserve banks as depositaries and fiscal agents.

Sec. 106. Certification of agricultural mortgage marketing facilities.

Sec. 107. Guarantee of qualified loans.

Sec. 108. Mandatory reserves and subordinated participation interests eliminated.

- Sec. 109. Standards requiring diversified pools.*
- Sec. 110. Small farms.*
- Sec. 111. Definition of an affiliate.*
- Sec. 112. State usury laws superseded.*
- Sec. 113. Extension of capital transition period.*
- Sec. 114. Minimum capital level.*
- Sec. 115. Critical capital level.*
- Sec. 116. Enforcement levels.*
- Sec. 117. Recapitalization of the Corporation.*
- Sec. 118. Liquidation of the Federal Agricultural Mortgage Corporation.*

TITLE II—REGULATORY RELIEF

- Sec. 201. Compensation of association personnel.*
- Sec. 202. Use of private mortgage insurance.*
- Sec. 203. Removal of certain borrower reporting requirement.*
- Sec. 204. Reform of regulatory limitations on dividend, member business, and voting practices of eligible farmer-owned cooperatives.*
- Sec. 205. Removal of Federal Government certification requirement for certain private sector financings.*
- Sec. 206. Borrower stock.*
- Sec. 207. Disclosure relating to adjustable rate loans.*
- Sec. 208. Borrowers' rights.*
- Sec. 209. Formation of administrative service entities.*
- Sec. 210. Joint management agreements.*
- Sec. 211. Dissemination of quarterly reports.*
- Sec. 212. Regulatory review.*
- Sec. 213. Examination of farm credit system institutions.*
- Sec. 214. Conservatorships and receiverships.*
- Sec. 215. Farm Credit Insurance Fund operations.*
- Sec. 216. Examinations by the Farm Credit System Insurance Corporation.*
- Sec. 217. Powers with respect to troubled insured system banks.*
- Sec. 218. Oversight and regulatory actions by the Farm Credit System Insurance Corporation.*
- Sec. 219. Farm Credit System Insurance Corporation Board of Directors.*
- Sec. 220. Interest rate reduction program.*
- Sec. 221. Liability for making criminal referrals.*

TITLE III—NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION

- Sec. 301. Short title.*
- Sec. 302. Definitions.*
- Sec. 303. National Natural Resources Conservation Foundation.*
- Sec. 304. Composition and operation.*
- Sec. 305. Officers and employees.*
- Sec. 306. Corporate powers and obligations of the Foundation.*
- Sec. 307. Administrative services and support.*
- Sec. 308. Audits and petition of Attorney General for equitable relief.*
- Sec. 309. Release from liability.*
- Sec. 310. Authorization of appropriations.*

TITLE IV—IMPLEMENTATION AND EFFECTIVE DATE

- Sec. 401. Implementation.*
- Sec. 302. Effective Date.*

1 **TITLE I—AGRICULTURAL MORT-**
2 **GAGE SECONDARY MARKET**

3 **SEC. 101. DEFINITION OF REAL ESTATE.**

4 *Section 8.0(1)(B)(ii) of the Farm Credit Act of 1971*
5 *(12 U.S.C. 2279aa(1)(B)(ii)) is amended by striking “with*
6 *a purchase price” and inserting “, excluding the land to*
7 *which the dwelling is affixed, with a value”.*

8 **SEC. 102. DEFINITION OF CERTIFIED FACILITY.**

9 *Section 8.0(3) of the Farm Credit Act of 1971 (12*
10 *U.S.C. 2279aa(3)) is amended—*

11 *(1) in subparagraph (A), by striking “a second-*
12 *ary marketing agricultural loan” and inserting “an*
13 *agricultural mortgage marketing”; and*

14 *(2) in subparagraph (B), by striking “, but*
15 *only” and all that follows through “(9)(B)”.*

16 **SEC. 103. DUTIES OF FEDERAL AGRICULTURAL MORTGAGE**
17 **CORPORATION.**

18 *Section 8.1(b) of the Farm Credit Act of 1971 (12*
19 *U.S.C. 2279aa–1(b)) is amended—*

20 *(1) in paragraph (2), by striking “and” at the*
21 *end;*

22 *(2) in paragraph (3), by striking the period at*
23 *the end and inserting “; and”; and*

24 *(3) by adding at the end the following:*

1 “(4) purchase qualified loans and issue securities
2 representing interests in, or obligations backed by, the
3 qualified loans, guaranteed for the timely repayment
4 of principal and interest.”.

5 **SEC. 104. POWERS OF THE CORPORATION.**

6 Section 8.3(c) of the Farm Credit Act of 1971 (12
7 U.S.C. 2279aa–3(c)) is amended—

8 (1) by redesignating paragraphs (13) and (14)
9 as paragraphs (14) and (15), respectively; and

10 (2) by inserting after paragraph (12) the follow-
11 ing:

12 “(13) To purchase, hold, sell, or assign a quali-
13 fied loan, to issue a guaranteed security, representing
14 an interest in, or an obligation backed by, the quali-
15 fied loan, and to perform all the functions and re-
16 sponsibilities of an agricultural mortgage marketing
17 facility operating as a certified facility under this
18 title.”.

19 **SEC. 105. FEDERAL RESERVE BANKS AS DEPOSITARIES AND**
20 **FISCAL AGENTS.**

21 Section 8.3 of the Farm Credit Act of 1971 (12 U.S.C.
22 2279aa–3) is amended—

23 (1) in subsection (d), by striking “may act as de-
24 positories for, or” and inserting “shall act as deposi-
25 tories for, and”; and

1 (2) in subsection (e), by striking “Secretary of
2 the Treasury may authorize the Corporation to use”
3 and inserting “Corporation shall have access to”.

4 **SEC. 106. CERTIFICATION OF AGRICULTURAL MORTGAGE**
5 **MARKETING FACILITIES.**

6 Section 8.5 of the Farm Credit Act of 1971 (12 U.S.C.
7 2279aa-5) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1), by inserting “(other
10 than the Corporation)” after “agricultural mort-
11 gage marketing facilities”; and

12 (B) in paragraph (2), by inserting “(other
13 than the Corporation)” after “agricultural mort-
14 gage marketing facility”; and

15 (2) in subsection (e)(1), by striking “(other than
16 the Corporation)”.

17 **SEC. 107. GUARANTEE OF QUALIFIED LOANS.**

18 Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C.
19 2279aa-6) is amended—

20 (1) in subsection (a)(1)—

21 (A) by striking “Corporation shall guaran-
22 tee” and inserting the following: “Corporation—
23 “(A) shall guarantee”;

24 (B) by striking the period at the end and
25 inserting “; and”; and

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

2 “(B) may issue a security, guaranteed as to
3 the timely payment of principal and interest,
4 that represents an interest solely in, or an obli-
5 gation fully backed by, a pool consisting of
6 qualified loans that—

7 “(i) meet the standards established
8 under section 8.8; and

9 “(ii) have been purchased and held by
10 the Corporation.”;

11 (2) in subsection (d)—

12 (A) by striking paragraph (4); and

13 (B) by redesignating paragraphs (5), (6),
14 and (7) as paragraphs (4), (5), and (6), respec-
15 tively; and

16 (3) in subsection (g)(2), by striking “section
17 8.0(9)(B))” and inserting “section 8.0(9))”.

18 **SEC. 108. MANDATORY RESERVES AND SUBORDINATED**

19 **PARTICIPATION INTERESTS ELIMINATED.**

20 (a) *GUARANTEE OF QUALIFIED LOANS.*—Section 8.6
21 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–6) is
22 amended by striking subsection (b).

23 (b) *RESERVES AND SUBORDINATED PARTICIPATION*
24 *INTERESTS.*—Section 8.7 of the Farm Credit Act of 1971
25 (12 U.S.C. 2279aa–7) is repealed.

1 (c) *CONFORMING AMENDMENTS.*—

2 (1) *Section 8.0(9)(B)(i) of the Farm Credit Act*
3 *of 1971 (12 U.S.C. 2279aa(9)(B)(i)) is amended by*
4 *striking “8.7, 8.8,” and inserting “8.8”.*

5 (2) *Section 8.6(a)(2) of the Farm Credit Act of*
6 *1971 (12 U.S.C. 2279aa–6(a)(2)) is amended by*
7 *striking “subject to the provisions of subsection (b)”.*

8 ***SEC. 109. STANDARDS REQUIRING DIVERSIFIED POOLS.***

9 (a) *IN GENERAL.*—*Section 8.6 of the Farm Credit Act*
10 *of 1971 (12 U.S.C. 2279aa–6) (as amended by section 108)*
11 *is amended—*

12 (1) *by striking subsection (c); and*

13 (2) *by redesignating subsections (d) through (g)*
14 *as subsections (b) through (e), respectively.*

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) *Section 8.0(9)(B)(i) of the Farm Credit Act*
17 *of 1971 (12 U.S.C. 2279aa(9)(B)(i)) is amended by*
18 *striking “(f)” and inserting “(d)”.*

19 (2) *Section 8.13(a) of the Farm Credit Act of*
20 *1971 (12 U.S.C. 2279aa–13(a)) is amended by strik-*
21 *ing “sections 8.6(b) and” in each place it appears*
22 *and inserting “section”.*

23 (3) *Section 8.32(b)(1)(C) of the Farm Credit Act*
24 *of 1971 (12 U.S.C. 2279bb–1(b)(1)(C)) is amended by*
25 *striking “under section 8.6(b)(2)”.*

1 (4) *Section 8.6(b) of the Farm Credit Act of*
2 *1971 (12 U.S.C. 2279aa–6(b)) (as redesignated by*
3 *subsection (a)(2)) is amended—*

4 (A) *by striking paragraph (4) (as redesign-*
5 *ated by section 107(2)(B)); and*

6 (B) *by redesignating paragraphs (5) and*
7 *(6) (as redesignated by section 107(2)(B)) as*
8 *paragraphs (4) and (5), respectively.*

9 **SEC. 110. SMALL FARMS.**

10 *Section 8.8(e) of the Farm Credit Act of 1971 (12*
11 *U.S.C. 2279aa–8(e)) is amended by adding at the end the*
12 *following: “The Board shall promote and encourage the in-*
13 *clusion of qualified loans for small farms and family farm-*
14 *ers in the agricultural mortgage secondary market.”.*

15 **SEC. 111. DEFINITION OF AN AFFILIATE.**

16 *Section 8.11(e) of the Farm Credit Act of 1971 (21*
17 *U.S.C. 2279aa–11(e)) is amended—*

18 (1) *by striking “a certified facility or”;* and

19 (2) *by striking “paragraphs (3) and (7), respec-*
20 *tively, of section 8.0” and inserting “section 8.0(7)”.*

21 **SEC. 112. STATE USURY LAWS SUPERSEDED.**

22 *Section 8.12 of the Farm Credit Act of 1971 (12 U.S.C.*
23 *2279aa–12) is amended by striking subsection (d) and in-*
24 *serting the following:*

1 “(d) *STATE USURY LAWS SUPERSEDED.*—A provision
2 of the Constitution or law of any State shall not apply to
3 an agricultural loan made by an originator or a certified
4 facility in accordance with this title for sale to the Corpora-
5 tion or to a certified facility for inclusion in a pool for
6 which the Corporation has provided, or has committed to
7 provide, a guarantee, if the loan, not later than 180 days
8 after the date the loan was made, is sold to the Corporation
9 or included in a pool for which the Corporation has pro-
10 vided a guarantee, if the provision—

11 “(1) *limits the rate or amount of interest, dis-*
12 *count points, finance charges, or other charges that*
13 *may be charged, taken, received, or reserved by an ag-*
14 *ricultural lender or a certified facility; or*

15 “(2) *limits or prohibits a prepayment penalty*
16 *(either fixed or declining), yield maintenance, or*
17 *make-whole payment that may be charged, taken, or*
18 *received by an agricultural lender or a certified facil-*
19 *ity in connection with the full or partial payment of*
20 *the principal amount due on a loan by a borrower in*
21 *advance of the scheduled date for the payment under*
22 *the terms of the loan, otherwise known as a prepay-*
23 *ment of the loan principal.”.*

1 **SEC. 113. EXTENSION OF CAPITAL TRANSITION PERIOD.**

2 *Section 8.32 of the Farm Credit Act of 1971 (12 U.S.C.*
3 *2279bb-1) is amended—*

4 *(1) in the first sentence of subsection (a), by*
5 *striking “Not later than the expiration of the 2-year*
6 *period beginning on December 13, 1991,” and insert-*
7 *ing “Not sooner than the expiration of the 3-year pe-*
8 *riod beginning on the date of enactment of the Farm*
9 *Credit System Reform Act of 1996,”;*

10 *(2) in the first sentence of subsection (b)(2), by*
11 *striking “5-year” and inserting “8-year”; and*

12 *(3) in subsection (d)—*

13 *(A) in the first sentence—*

14 *(i) by striking “The regulations estab-*
15 *lishing” and inserting the following:*

16 *“(1) IN GENERAL.—The regulations establish-*
17 *ing”; and*

18 *(ii) by striking “shall contain” and in-*
19 *serting the following: “shall—*

20 *“(A) be issued by the Director for public*
21 *comment in the form of a notice of proposed*
22 *rulemaking, to be first published after the expi-*
23 *ration of the period referred to in subsection (a);*
24 *and*

25 *“(B) contain”; and*

1 (B) in the second sentence, by striking “The
2 regulations shall” and inserting the following:

3 “(2) *SPECIFICITY.*—The regulations referred to
4 in paragraph (1) shall”.

5 **SEC. 114. MINIMUM CAPITAL LEVEL.**

6 Section 8.33 of the Farm Credit Act of 1971 (12 U.S.C.
7 2279bb-2) is amended to read as follows:

8 **“SEC. 8.33. MINIMUM CAPITAL LEVEL.**

9 “(a) *IN GENERAL.*—Except as provided in subsection
10 (b), for purposes of this subtitle, the minimum capital level
11 for the Corporation shall be an amount of core capital equal
12 to the sum of—

13 “(1) 2.75 percent of the aggregate on-balance
14 sheet assets of the Corporation, as determined in ac-
15 cordance with generally accepted accounting prin-
16 ciples; and

17 “(2) 0.75 percent of the aggregate off-balance
18 sheet obligations of the Corporation, which, for the
19 purposes of this subtitle, shall include—

20 “(A) the unpaid principal balance of out-
21 standing securities that are guaranteed by the
22 Corporation and backed by pools of qualified
23 loans;

24 “(B) instruments that are issued or guaran-
25 teed by the Corporation and are substantially

1 *equivalent to instruments described in subpara-*
2 *graph (A); and*

3 *“(C) other off-balance sheet obligations of*
4 *the Corporation.*

5 *“(b) TRANSITION PERIOD.—*

6 *“(1) IN GENERAL.—For purposes of this subtitle,*
7 *the minimum capital level for the Corporation—*

8 *“(A) prior to January 1, 1997, shall be the*
9 *amount of core capital equal to the sum of—*

10 *“(i) 0.45 percent of aggregate off-bal-*
11 *ance sheet obligations of the Corporation;*

12 *“(ii) 0.45 percent of designated on-bal-*
13 *ance sheet assets of the Corporation, as de-*
14 *termined under paragraph (2); and*

15 *“(iii) 2.50 percent of on-balance sheet*
16 *assets of the Corporation other than assets*
17 *designated under paragraph (2);*

18 *“(B) during the 1-year period ending De-*
19 *cember 31, 1997, shall be the amount of core cap-*
20 *ital equal to the sum of—*

21 *“(i) 0.55 percent of aggregate off-bal-*
22 *ance sheet obligations of the Corporation;*

23 *“(ii) 1.20 percent of designated on-bal-*
24 *ance sheet assets of the Corporation, as de-*
25 *termined under paragraph (2); and*

1 “(iii) 2.55 percent of on-balance sheet
2 assets of the Corporation other than assets
3 designated under paragraph (2);

4 “(C) during the 1-year period ending De-
5 cember 31, 1998, shall be the amount of core cap-
6 ital equal to—

7 “(i) if the Corporation’s core capital is
8 not less than \$25,000,000 on January 1,
9 1998, the sum of—

10 “(I) 0.65 percent of aggregate off-
11 balance sheet obligations of the Cor-
12 poration;

13 “(II) 1.95 percent of designated
14 on-balance sheet assets of the Corpora-
15 tion, as determined under paragraph
16 (2); and

17 “(III) 2.65 percent of on-balance
18 sheet assets of the Corporation other
19 than assets designated under para-
20 graph (2); or

21 “(ii) if the Corporation’s core capital
22 is less than \$25,000,000 on January 1,
23 1998, the amount determined under sub-
24 section (a); and

1 “(D) on and after January 1, 1999, shall be
2 the amount determined under subsection (a).

3 “(2) *DESIGNATED ON-BALANCE SHEET AS-*
4 *SETS.—For purposes of this subsection, the designated*
5 *on-balance sheet assets of the Corporation shall be—*

6 “(A) the aggregate on-balance sheet assets of
7 the Corporation acquired under section 8.6(e);
8 and

9 “(B) the aggregate amount of qualified
10 loans purchased and held by the Corporation
11 under section 8.3(c)(13).”.

12 **SEC. 115. CRITICAL CAPITAL LEVEL.**

13 Section 8.34 of the Farm Credit Act of 1971 (12 U.S.C.
14 2279bb–3) is amended to read as follows:

15 **“SEC. 8.34. CRITICAL CAPITAL LEVEL.**

16 “*For purposes of this subtitle, the critical capital level*
17 *for the Corporation shall be an amount of core capital equal*
18 *to 50 percent of the total minimum capital amount deter-*
19 *mined under section 8.33.”.*

20 **SEC. 116. ENFORCEMENT LEVELS.**

21 Section 8.35(e) of the Farm Credit Act of 1971 (12
22 U.S.C. 2279bb–4(e)) is amended by striking “during the 30-
23 month period beginning on the date of enactment of this
24 section,” and inserting “during the period beginning on De-
25 cember 13, 1991, and ending on the effective date of the

1 *risk based capital regulation issued by the Director under*
2 *section 8.32,”.*

3 **SEC. 117. RECAPITALIZATION OF THE CORPORATION.**

4 *Title VIII of the Farm Credit Act of 1971 (12 U.S.C.*
5 *2279aa et seq.) is amended by adding at the end the follow-*
6 *ing:*

7 **“SEC. 8.38. RECAPITALIZATION OF THE CORPORATION.**

8 *“(a) MANDATORY RECAPITALIZATION.—The Corpora-*
9 *tion shall increase the core capital of the Corporation to*
10 *an amount equal to or greater than \$25,000,000, not later*
11 *than the earlier of—*

12 *“(1) the date that is 2 years after the date of en-*
13 *actment of this section; or*

14 *“(2) the date that is 180 days after the end of*
15 *the first calendar quarter that the aggregate on-bal-*
16 *ance sheet assets of the Corporation, plus the out-*
17 *standing principal of the off-balance sheet obligations*
18 *of the Corporation, equal or exceed \$2,000,000,000.*

19 *“(b) RAISING CORE CAPITAL.—In carrying out this*
20 *section, the Corporation may issue stock under section 8.4*
21 *and otherwise employ any recognized and legitimate means*
22 *of raising core capital in the power of the Corporation*
23 *under section 8.3.*

24 *“(c) LIMITATION ON GROWTH OF TOTAL ASSETS.—*
25 *During the 2-year period beginning on the date of enact-*

1 *accordance with a plan of liquidation approved by, the*
2 *Farm Credit Administration Board.*

3 *“(b) INVOLUNTARY LIQUIDATION.—*

4 *“(1) IN GENERAL.—The Farm Credit Adminis-*
5 *tration Board may appoint a conservator or receiver*
6 *for the Corporation under the circumstances specified*
7 *in section 4.12(b).*

8 *“(2) APPLICATION.—In applying section 4.12(b)*
9 *to the Corporation under paragraph (1)—*

10 *“(A) the Corporation shall also be consid-*
11 *ered insolvent if the Corporation is unable to*
12 *pay its debts as they fall due in the ordinary*
13 *course of business;*

14 *“(B) a conservator may also be appointed*
15 *for the Corporation if the authority of the Cor-*
16 *poration to purchase qualified loans or issue or*
17 *guarantee loan-backed securities is suspended;*
18 *and*

19 *“(C) a receiver may also be appointed for*
20 *the Corporation if—*

21 *“(i)(I) the authority of the Corporation*
22 *to purchase qualified loans or issue or guar-*
23 *antee loan-backed securities is suspended; or*

24 *“(II) the Corporation is classified*
25 *under section 8.35 as within level III or IV*

1 *and the alternative actions available under*
2 *subtitle B are not satisfactory; and*

3 “*(ii) the Farm Credit Administration*
4 *determines that the appointment of a con-*
5 *servator would not be appropriate.*

6 “(3) *NO EFFECT ON SUPERVISORY ACTIONS.—*
7 *The grounds for appointment of a conservator for the*
8 *Corporation under this subsection shall be in addition*
9 *to those in section 8.37.*

10 “(c) *APPOINTMENT OF CONSERVATOR OR RECEIVER.—*

11 “(1) *QUALIFICATIONS.—Notwithstanding section*
12 *4.12(b), if a conservator or receiver is appointed for*
13 *the Corporation, the conservator or receiver shall be—*

14 “(A) *the Farm Credit Administration or*
15 *any other governmental entity or employee, in-*
16 *cluding the Farm Credit System Insurance Cor-*
17 *poration; or*

18 “(B) *any person that—*

19 “(i) *has no claim against, or financial*
20 *interest in, the Corporation or other basis*
21 *for a conflict of interest as the conservator*
22 *or receiver; and*

23 “(ii) *has the financial and manage-*
24 *ment expertise necessary to direct the oper-*

1 *ations and affairs of the Corporation and,*
2 *if necessary, to liquidate the Corporation.*

3 “(2) *COMPENSATION.*—

4 “(A) *IN GENERAL.*—*A conservator or re-*
5 *ceiver for the Corporation and professional per-*
6 *sonnel (other than a Federal employee) employed*
7 *to represent or assist the conservator or receiver*
8 *may be compensated for activities conducted as,*
9 *or for, a conservator or receiver.*

10 “(B) *LIMIT ON COMPENSATION.*—*Com-*
11 *penetration may not be provided in amounts*
12 *greater than the compensation paid to employees*
13 *of the Federal Government for similar services,*
14 *except that the Farm Credit Administration may*
15 *provide for compensation at higher rates that are*
16 *not in excess of rates prevailing in the private*
17 *sector if the Farm Credit Administration deter-*
18 *mines that compensation at higher rates is nec-*
19 *essary in order to recruit and retain competent*
20 *personnel.*

21 “(C) *CONTRACTUAL ARRANGEMENTS.*—*The*
22 *conservator or receiver may contract with any*
23 *governmental entity, including the Farm Credit*
24 *System Insurance Corporation, to make person-*
25 *nel, services, and facilities of the entity available*

1 to the conservator or receiver on such terms and
2 compensation arrangements as shall be mutually
3 agreed, and each entity may provide the same to
4 the conservator or receiver.

5 “(3) *EXPENSES.*—A valid claim for expenses of
6 the conservatorship or receivership (including com-
7 pensation under paragraph (2)) and a valid claim
8 with respect to a loan made under subsection (f)
9 shall—

10 “(A) be paid by the conservator or receiver
11 from funds of the Corporation before any other
12 valid claim against the Corporation; and

13 “(B) may be secured by a lien, on such
14 property of the Corporation as the conservator or
15 receiver may determine, that shall have priority
16 over any other lien.

17 “(4) *LIABILITY.*—If the conservator or receiver
18 for the Corporation is not a Federal entity, or an offi-
19 cer or employee of the Federal Government, the con-
20 servator or receiver shall not be personally liable for
21 damages in tort or otherwise for an act or omission
22 performed pursuant to and in the course of the
23 conservatorship or receivership, unless the act or
24 omission constitutes gross negligence or any form of
25 intentional tortious conduct or criminal conduct.

1 “(5) *INDEMNIFICATION.*—*The Farm Credit Ad-*
2 *ministration may allow indemnification of the con-*
3 *servator or receiver from the assets of the*
4 *conservatorship or receivership on such terms as the*
5 *Farm Credit Administration considers appropriate.*

6 “(d) *JUDICIAL REVIEW OF APPOINTMENT.*—

7 “(1) *IN GENERAL.*—*Notwithstanding subsection*
8 *(i)(1), not later than 30 days after a conservator or*
9 *receiver is appointed under subsection (b), the Cor-*
10 *poration may bring an action in the United States*
11 *District Court for the District of Columbia for an*
12 *order requiring the Farm Credit Administration*
13 *Board to remove the conservator or receiver. The court*
14 *shall, on the merits, dismiss the action or direct the*
15 *Farm Credit Administration Board to remove the*
16 *conservator or receiver.*

17 “(2) *STAY OF OTHER ACTIONS.*—*On the com-*
18 *mencement of an action under paragraph (1), any*
19 *court having jurisdiction of any other action or en-*
20 *forcement proceeding authorized under this subtitle to*
21 *which the Corporation is a party shall stay the action*
22 *or proceeding during the pendency of the action for*
23 *removal of the conservator or receiver.*

24 “(e) *GENERAL POWERS OF CONSERVATOR OR RE-*
25 *CEIVER.*—*The conservator or receiver for the Corporation*

1 *shall have powers comparable to the powers available to a*
2 *conservator or receiver appointed pursuant to section*
3 *4.12(b).*

4 “(f) *BORROWINGS FOR WORKING CAPITAL.—*

5 “(1) *IN GENERAL.—If the conservator or receiver*
6 *of the Corporation determines that it is likely that*
7 *there will be insufficient funds to pay the ongoing ad-*
8 *ministrative expenses of the conservatorship or receiv-*
9 *ership or that there will be insufficient liquidity to*
10 *fund maturing obligations of the conservatorship or*
11 *receivership, the conservator or receiver may borrow*
12 *funds in such amounts, from such sources, and at*
13 *such rates of interest as the conservator or receiver*
14 *considers necessary or appropriate to meet the admin-*
15 *istrative expenses or liquidity needs of the*
16 *conservatorship or receivership.*

17 “(2) *WORKING CAPITAL FROM FARM CREDIT*
18 *BANKS.—A Farm Credit bank may loan funds to the*
19 *conservator or receiver for a loan authorized under*
20 *paragraph (1) or, in the event of receivership, a Farm*
21 *Credit bank may purchase assets of the Corporation.*

22 “(g) *AGREEMENTS AGAINST INTERESTS OF CON-*
23 *SERVATOR OR RECEIVER.—No agreement that tends to di-*
24 *minish or defeat the right, title, or interest of the conserva-*
25 *tor or receiver for the Corporation in any asset acquired*

1 *by the conservator or receiver as conservator or receiver for*
2 *the Corporation shall be valid against the conservator or*
3 *receiver unless the agreement—*

4 “(1) *is in writing;*

5 “(2) *is executed by the Corporation and any per-*
6 *son claiming an adverse interest under the agreement,*
7 *including the obligor, contemporaneously with the ac-*
8 *quisition of the asset by the Corporation;*

9 “(3) *is approved by the Board or an appropriate*
10 *committee of the Board, which approval shall be re-*
11 *flected in the minutes of the Board or committee; and*

12 “(4) *has been, continuously, from the time of the*
13 *agreement’s execution, an official record of the Cor-*
14 *poration.*

15 “(h) *REPORT TO THE CONGRESS.—On a determina-*
16 *tion by the receiver for the Corporation that there are insuf-*
17 *ficient assets of the receivership to pay all valid claims*
18 *against the receivership, the receiver shall submit to the Sec-*
19 *retary of the Treasury, the Committee on Agriculture of the*
20 *House of Representatives, and the Committee on Agri-*
21 *culture, Nutrition, and Forestry of the Senate a report on*
22 *the financial condition of the receivership.*

23 “(i) *TERMINATION OF AUTHORITIES.—*

24 “(1) *CORPORATION.—The charter of the Corpora-*
25 *tion shall be canceled, and the authority provided to*

1 *the Corporation by this title shall terminate, on such*
2 *date as the Farm Credit Administration Board deter-*
3 *mines is appropriate following the placement of the*
4 *Corporation in receivership, but not later than the*
5 *conclusion of the receivership and discharge of the re-*
6 *ceiver.*

7 *“(2) OVERSIGHT.—The Office of Secondary Mar-*
8 *ket Oversight established under section 8.11 shall be*
9 *abolished, and section 8.11(a) and subtitle B shall*
10 *have no force or effect, on such date as the Farm*
11 *Credit Administration Board determines is appro-*
12 *priate following the placement of the Corporation in*
13 *receivership, but not later than the conclusion of the*
14 *receivership and discharge of the receiver.”.*

15 **TITLE II—REGULATORY RELIEF**

16 **SEC. 201. COMPENSATION OF ASSOCIATION PERSONNEL.**

17 *Section 1.5(13) of the Farm Credit Act of 1971 (12*
18 *U.S.C. 2013(13)) is amended by striking “, and the ap-*
19 *pointment and compensation of the chief executive officer*
20 *thereof.”.*

21 **SEC. 202. USE OF PRIVATE MORTGAGE INSURANCE.**

22 *(a) IN GENERAL.—Section 1.10(a)(1) of the Farm*
23 *Credit Act of 1971 (12 U.S.C. 2018(a)(1)) is amended by*
24 *adding at the end the following:*

1 “(D) *PRIVATE MORTGAGE INSURANCE.*—A
2 loan on which private mortgage insurance is ob-
3 tained may exceed 85 percent of the appraised
4 value of the real estate security to the extent that
5 the loan amount in excess of 85 percent is cov-
6 ered by the insurance.”.

7 (b) *CONFORMING AMENDMENT.*—Section 1.10(a)(1)(A)
8 of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)(1)(A))
9 is amended by striking “paragraphs (2) and (3)” and in-
10 serting “subparagraphs (B), (C), and (D)”.

11 **SEC. 203. REMOVAL OF CERTAIN BORROWER REPORTING**
12 **REQUIREMENT.**

13 Section 1.10(a) of the Farm Credit Act of 1971 (12
14 U.S.C. 2018(a)) is amended by striking paragraph (5).

15 **SEC. 204. REFORM OF REGULATORY LIMITATIONS ON DIVI-**
16 **DEND, MEMBER BUSINESS, AND VOTING**
17 **PRACTICES OF ELIGIBLE FARMER-OWNED CO-**
18 **OPERATIVES.**

19 (a) *IN GENERAL.*—Section 3.8(a) of the Farm Credit
20 Act of 1971 (12 U.S.C. 2129(a)) is amended by adding at
21 the end the following: “Any such association that has re-
22 ceived a loan from a bank for cooperatives shall, without
23 regard to the requirements of paragraphs (1) through (4),
24 continue to be eligible for so long as more than 50 percent
25 (or such higher percentage as is established by the bank

1 board) of the voting control of the association is held by
 2 farmers, producers or harvesters of aquatic products, or eli-
 3 gible cooperative associations.”.

4 (b) *CONFORMING AMENDMENT.*—Section 3.8(b)(1)(D)
 5 of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)(D))
 6 is amended by striking “and (4) of subsection (a)” and in-
 7 serting “and (4), or under the last sentence, of subsection
 8 (a)”.

9 **SEC. 205. REMOVAL OF FEDERAL GOVERNMENT CERTIFI-**
 10 **CATION REQUIREMENT FOR CERTAIN PRI-**
 11 **VATE SECTOR FINANCINGS.**

12 Section 3.8(b)(1)(A) of the Farm Credit Act of 1971
 13 (12 U.S.C. 2129(b)(1)(A)) is amended—

14 (1) by striking “have been certified by the Ad-
 15 ministrator of the Rural Electrification Administra-
 16 tion to be eligible for such” and inserting “are eligible
 17 under the Rural Electrification Act of 1936 (7 U.S.C.
 18 901 et seq.) for”; and

19 (2) by striking “loan guarantee, and” and in-
 20 serting “loan guarantee from the Administration or
 21 the Bank (or a successor of the Administration or the
 22 Bank), and”.

23 **SEC. 206. BORROWER STOCK.**

24 Section 4.3A of the Farm Credit Act of 1971 (12
 25 U.S.C. 2154a) is amended—

1 (1) *by redesignating subsections (f) and (g) as*
2 *subsections (g) and (h), respectively; and*

3 (2) *by inserting after subsection (e) the following:*

4 “(f) *LOANS DESIGNATED FOR SALE OR SOLD INTO*
5 *THE SECONDARY MARKET.—*

6 “(1) *IN GENERAL.—Subject to paragraph (2)*
7 *and notwithstanding any other provision of this sec-*
8 *tion, the bylaws adopted by a bank or association*
9 *under subsection (b) may provide—*

10 “(A) *in the case of a loan made on or after*
11 *the date of enactment of this paragraph that is*
12 *designated, at the time the loan is made, for sale*
13 *into a secondary market, that no voting stock or*
14 *participation certificate purchase requirement*
15 *shall apply to the borrower for the loan; and*

16 “(B) *in the case of a loan made before the*
17 *date of enactment of this paragraph that is sold*
18 *into a secondary market, that all outstanding*
19 *voting stock or participation certificates held by*
20 *the borrower with respect to the loan shall, sub-*
21 *ject to subsection (d)(1), be retired.*

22 “(2) *APPLICABILITY.—Notwithstanding any*
23 *other provision of this section, in the case of a loan*
24 *sold to a secondary market under title VIII, para-*
25 *graph (1) shall apply regardless of whether the bank*

1 *or association retains a subordinated participation*
2 *interest in a loan or pool of loans or contributes to*
3 *a cash reserve.*

4 “(3) *EXCEPTION.—*

5 “(A) *IN GENERAL.—Subject to subpara-*
6 *graph (B) and notwithstanding any other provi-*
7 *sion of this section, if a loan designated for sale*
8 *under paragraph (1)(A) is not sold into a sec-*
9 *ondary market during the 180-day period that*
10 *begins on the date of the designation, the voting*
11 *stock or participation certificate purchase re-*
12 *quirement that would otherwise apply to the*
13 *loan in the absence of a bylaw provision de-*
14 *scribed in paragraph (1)(A) shall be effective.*

15 “(B) *RETIREMENT.—The bylaws adopted by*
16 *a bank or association under subsection (b) may*
17 *provide that if a loan described in subparagraph*
18 *(A) is sold into a secondary market after the end*
19 *of the 180-day period described in the subpara-*
20 *graph, all outstanding voting stock or participa-*
21 *tion certificates held by the borrower with respect*
22 *to the loan shall, subject to subsection (d)(1), be*
23 *retired.”.*

1 **SEC. 207. DISCLOSURE RELATING TO ADJUSTABLE RATE**
 2 **LOANS.**

3 *Section 4.13(a)(4) of the Farm Credit Act of 1971 (12*
 4 *U.S.C. 2199(a)(4)) is amended by inserting before the semi-*
 5 *colon at the end the following: “, and notice to the borrower*
 6 *of a change in the interest rate applicable to the loan of*
 7 *the borrower may be made within a reasonable time after*
 8 *the effective date of an increase or decrease in the interest*
 9 *rate”.*

10 **SEC. 208. BORROWERS’ RIGHTS.**

11 *(a) DEFINITION OF LOAN.—Section 4.14A(a)(5) of the*
 12 *Farm Credit Act of 1971 (12 U.S.C. 2202a(a)(5)) is amend-*
 13 *ed—*

14 *(1) by striking “(5) LOAN.—The” and inserting*
 15 *the following:*

16 *“(5) LOAN.—*

17 *“(A) IN GENERAL.—Subject to subpara-*
 18 *graph (B), the”;* and

19 *(2) by adding at the end the following:*

20 *“(B) EXCLUSION FOR LOANS DESIGNATED*
 21 *FOR SALE INTO SECONDARY MARKET.—*

22 *“(i) IN GENERAL.—Except as provided*
 23 *in clause (ii), the term ‘loan’ does not in-*
 24 *clude a loan made on or after the date of*
 25 *enactment of this subparagraph that is des-*

1 *ignated, at the time the loan is made, for*
2 *sale into a secondary market.*

3 “(ii) *UNSOLD LOANS.—*

4 “(I) *IN GENERAL.—Except as pro-*
5 *vided in subclause (II), if a loan des-*
6 *ignated for sale under clause (i) is not*
7 *sold into a secondary market during*
8 *the 180-day period that begins on the*
9 *date of the designation, the provisions*
10 *of this section and sections 4.14, 4.14B,*
11 *4.14C, 4.14D, and 4.36 that would oth-*
12 *erwise apply to the loan in the absence*
13 *of the exclusion described in clause (i)*
14 *shall become effective with respect to*
15 *the loan.*

16 “(II) *LATER SALE.—If a loan de-*
17 *scribed in subclause (I) is sold into a*
18 *secondary market after the end of the*
19 *180-day period described in subclause*
20 *(I), subclause (I) shall not apply with*
21 *respect to the loan beginning on the*
22 *date of the sale.”.*

23 (b) *BORROWERS’ RIGHTS FOR POOLED LOANS.—The*
24 *first sentence of section 8.9(b) of the Farm Credit Act of*
25 *1971 (12 U.S.C. 2279aa–9(b)) is amended by inserting “(as*

1 *defined in section 4.14A(a)(5))” after “application for a*
2 *loan”.*

3 **SEC. 209. FORMATION OF ADMINISTRATIVE SERVICE ENTI-**
4 **TIES.**

5 *Part E of title IV of the Farm Credit Act of 1971 is*
6 *amended by inserting after section 4.28 (12 U.S.C. 2214)*
7 *the following:*

8 **“SEC. 4.28A. DEFINITION OF BANK.**

9 *“In this part, the term ‘bank’ includes each association*
10 *operating under title II.”.*

11 **SEC. 210. JOINT MANAGEMENT AGREEMENTS.**

12 *The first sentence of section 5.17(a)(2)(A) of the Farm*
13 *Credit Act of 1971 (12 U.S.C. 2252(a)(2)(A)) is amended*
14 *by striking “or management agreements”.*

15 **SEC. 211. DISSEMINATION OF QUARTERLY REPORTS.**

16 *Section 5.17(a)(8) of the Farm Credit Act of 1971 (12*
17 *U.S.C. 2252(a)(8)) is amended by inserting after “except*
18 *that” the following: “the requirements of the Farm Credit*
19 *Administration governing the dissemination to stockholders*
20 *of quarterly reports of System institutions may not be more*
21 *burdensome or costly than the requirements applicable to*
22 *national banks, and”.*

23 **SEC. 212. REGULATORY REVIEW.**

24 *(a) FINDINGS.—Congress finds that—*

1 (1) *by striking paragraph (5); and*

2 (2) *by redesignating paragraph (6) as para-*
3 *graph (5).*

4 (b) *GENERAL CORPORATE POWERS.—Section 5.58 of*
5 *the Farm Credit Act of 1971 (12 U.S.C. 2277a–7) is amend-*
6 *ed by striking paragraph (9) and inserting the following:*

7 “(9) *CONSERVATOR OR RECEIVER.—The Cor-*
8 *poration may act as a conservator or receiver.”.*

9 **SEC. 215. FARM CREDIT INSURANCE FUND OPERATIONS.**

10 (a) *ADJUSTMENT OF PREMIUMS.—*

11 (1) *IN GENERAL.—Section 5.55(a) of the Farm*
12 *Credit Act of 1971 (12 U.S.C. 2277a–4(a)) is amend-*
13 *ed—*

14 (A) *in paragraph (1), by striking “Until*
15 *the aggregate of amounts in the Farm Credit In-*
16 *surance Fund exceeds the secure base amount,*
17 *the annual premium due from any insured Sys-*
18 *tem bank for any calendar year” and inserting*
19 *the following: “If at the end of any calendar year*
20 *the aggregate of amounts in the Farm Credit In-*
21 *surance Fund does not exceed the secure base*
22 *amount, subject to paragraph (2), the annual*
23 *premium due from any insured System bank for*
24 *the calendar year”;*

1 (B) by redesignating paragraph (2) as
2 paragraph (3); and

3 (C) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) *REDUCED PREMIUMS.*—*The Corporation, in*
6 *the sole discretion of the Corporation, may reduce by*
7 *a percentage uniformly applied to all insured System*
8 *banks the annual premium due from each insured*
9 *System bank during any calendar year, as deter-*
10 *mined under paragraph (1).”.*

11 (2) *CONFORMING AMENDMENTS.*—

12 (A) *Section 5.55(b) of the Farm Credit Act*
13 *of 1971 (12 U.S.C. 2277a–4(b)) is amended—*

14 (i) by striking “*Insurance Fund*” each
15 place it appears and inserting “*Farm Cred-*
16 *it Insurance Fund*”;

17 (ii) by striking “*for the following cal-*
18 *endar year*”; and

19 (iii) by striking “*subsection (a)*” and
20 inserting “*subsection (a)(1)*”.

21 (B) *Section 5.56(a) of the Farm Credit Act*
22 *of 1971 (12 U.S.C. 2277a–5(a)) is amended by*
23 striking “*section 5.55(a)(2)*” each place it ap-
24 pears in paragraphs (2) and (3) and inserting
25 “*section 5.55(a)(3)*”.

1 **(b) ALLOCATION TO INSURED SYSTEM BANKS AND**
2 **OTHER SYSTEM INSTITUTIONS OF EXCESS AMOUNTS IN**
3 **THE FARM CREDIT INSURANCE FUND.**—Section 5.55 of the
4 *Farm Credit Act of 1971 (12 U.S.C. 2277a–4)* is amended
5 *by adding at the end the following:*

6 **“(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EX-**
7 **CESS RESERVES.**—

8 **“(1) ESTABLISHMENT OF ALLOCATED INSURANCE**
9 **RESERVES ACCOUNTS.**—*The Corporation shall estab-*
10 *lish an Allocated Insurance Reserves Account in the*
11 *Farm Credit Insurance Fund—*

12 **“(A) for each insured System bank; and**

13 **“(B) subject to paragraph (6)(C), for all**
14 *holders, in the aggregate, of Financial Assistance*
15 *Corporation stock.*

16 **“(2) TREATMENT.**—*Amounts in any Allocated*
17 *Insurance Reserves Account shall be considered to be*
18 *part of the Farm Credit Insurance Fund.*

19 **“(3) ANNUAL ALLOCATIONS.**—*If, at the end of*
20 *any calendar year, the aggregate of the amounts in*
21 *the Farm Credit Insurance Fund exceeds the average*
22 *secure base amount for the calendar year (as cal-*
23 *culated on an average daily balance basis), the Cor-*
24 *poration shall allocate to the Allocated Insurance Re-*
25 *serves Accounts the excess amount less the amount*

1 *that the Corporation, in its sole discretion, determines*
2 *to be the sum of the estimated operating expenses and*
3 *estimated insurance obligations of the Corporation for*
4 *the immediately succeeding calendar year.*

5 *“(4) ALLOCATION FORMULA.—From the total*
6 *amount required to be allocated at the end of a cal-*
7 *endar year under paragraph (3)—*

8 *“(A) 10 percent of the total amount shall be*
9 *credited to the Allocated Insurance Reserves Ac-*
10 *count established under paragraph (1)(B), sub-*
11 *ject to paragraph (6)(C); and*

12 *“(B) there shall be credited to the Allocated*
13 *Insurance Reserves Account of each insured Sys-*
14 *tem bank an amount that bears the same ratio*
15 *to the total amount (less any amount credited*
16 *under subparagraph (A)) as the average prin-*
17 *cipal outstanding for the 3-year period ending*
18 *on the end of the calendar year on loans made*
19 *by the bank that are in accrual status bears to*
20 *the average principal outstanding for the 3-year*
21 *period ending on the end of the calendar year on*
22 *loans made by all insured System banks that are*
23 *in accrual status (excluding, in each case, the*
24 *guaranteed portions of government-guaranteed*
25 *loans described in subsection (a)(1)(C)).*

1 “(5) *USE OF FUNDS IN ALLOCATED INSURANCE*
2 *RESERVES ACCOUNTS.*—*To the extent that the sum of*
3 *the operating expenses of the Corporation and the in-*
4 *surance obligations of the Corporation for a calendar*
5 *year exceeds the sum of operating expenses and insur-*
6 *ance obligations determined under paragraph (3) for*
7 *the calendar year, the Corporation shall cover the ex-*
8 *penditures and obligations by—*

9 “(A) *reducing each Allocated Insurance Re-*
10 *serves Account by the same proportion; and*

11 “(B) *expending the amounts obtained under*
12 *subparagraph (A) before expending other*
13 *amounts in the Fund.*

14 “(6) *OTHER DISPOSITION OF ACCOUNT FUNDS.*—

15 “(A) *IN GENERAL.*—*As soon as practicable*
16 *during each calendar year beginning more than*
17 *8 years after the date on which the aggregate of*
18 *the amounts in the Farm Credit Insurance Fund*
19 *exceeds the secure base amount, but not earlier*
20 *than January 1, 2005, the Corporation may—*

21 “(i) *subject to subparagraphs (D) and*
22 *(F), pay to each insured System bank, in a*
23 *manner determined by the Corporation, an*
24 *amount equal to the lesser of—*

1 “(I) 20 percent of the balance in
2 the insured System bank’s Allocated
3 Insurance Reserves Account as of the
4 preceding December 31; or

5 “(II) 20 percent of the balance in
6 the bank’s Allocated Insurance Reserves
7 Account on the date of the payment;
8 and

9 “(ii) subject to subparagraphs (C), (E),
10 and (F), pay to each System bank and asso-
11 ciation holding Financial Assistance Cor-
12 poration stock a proportionate share, deter-
13 mined by dividing the number of shares of
14 Financial Assistance Corporation stock held
15 by the institution by the total number of
16 shares of Financial Assistance Corporation
17 stock outstanding, of the lesser of—

18 “(I) 20 percent of the balance in
19 the Allocated Insurance Reserves Ac-
20 count established under paragraph
21 (1)(B) as of the preceding December
22 31; or

23 “(II) 20 percent of the balance in
24 the Allocated Insurance Reserves Ac-

1 *count established under paragraph*
2 *(1)(B) on the date of the payment.*

3 “(B) *AUTHORITY TO ELIMINATE OR REDUCE*
4 *PAYMENTS.—The Corporation may eliminate or*
5 *reduce payments during a calendar year under*
6 *subparagraph (A) if the Corporation determines,*
7 *in its sole discretion, that the payments, or other*
8 *circumstances that might require use of the*
9 *Farm Credit Insurance Fund, could cause the*
10 *amount in the Farm Credit Insurance Fund*
11 *during the calendar year to be less than the se-*
12 *cure base amount.*

13 “(C) *REIMBURSEMENT FOR FINANCIAL AS-*
14 *SISTANCE CORPORATION STOCK.—*

15 “(i) *SUFFICIENT FUNDING.—Notwith-*
16 *standing paragraph (4)(A), on provision by*
17 *the Corporation for the accumulation in the*
18 *Account established under paragraph (1)(B)*
19 *of funds in an amount equal to \$56,000,000*
20 *(in addition to the amounts described in*
21 *subparagraph (F)(ii)), the Corporation*
22 *shall not allocate any further funds to the*
23 *Account except to replenish the Account if*
24 *funds are diminished below \$56,000,000 by*
25 *the Corporation under paragraph (5).*

1 “(ii) *WIND DOWN AND TERMINATION.*—

2 “(I) *FINAL DISBURSEMENTS.*—On
3 disbursement of \$53,000,000 (in addi-
4 tion to the amounts described in sub-
5 paragraph (F)(ii)) from the Allocated
6 Insurance Reserves Account, the Cor-
7 poration shall disburse the remaining
8 amounts in the Account, as determined
9 under subparagraph (A)(ii), without
10 regard to the percentage limitations in
11 subclauses (I) and (II) of subpara-
12 graph (A)(ii).

13 “(II) *TERMINATION OF AC-*
14 *COUNT.*—On disbursement of
15 \$56,000,000 (in addition to the
16 amounts described in subparagraph
17 (F)(ii)) from the Allocated Insurance
18 Reserves Account, the Corporation shall
19 close the Account established under
20 paragraph (1)(B) and transfer any re-
21 maining funds in the Account to the
22 remaining Allocated Insurance Re-
23 serves Accounts in accordance with
24 paragraph (4)(B) for the calendar year
25 in which the transfer occurs.

1 “(D) *DISTRIBUTION OF PAYMENTS RE-*
2 *CEIVED.*—Not later than 60 days after receipt of
3 a payment made under subparagraph (A)(i),
4 each insured System bank, in consultation with
5 affiliated associations of the insured System
6 bank, and taking into account the direct or indi-
7 rect payment of insurance premiums by the asso-
8 ciations, shall develop and implement an equi-
9 table plan to distribute payments received under
10 subparagraph (A)(i) among the bank and asso-
11 ciations of the bank.

12 “(E) *EXCEPTION FOR PREVIOUSLY REIM-*
13 *BURSED ASSOCIATIONS.*—For purposes of sub-
14 paragraph (A)(ii), in any Farm Credit district
15 in which the funding bank has reimbursed 1 or
16 more affiliated associations of the bank for the
17 previously unreimbursed portion of the Finan-
18 cial Assistance Corporation stock held by the as-
19 sociations, the funding bank shall be deemed to
20 be the holder of the shares of Financial Assist-
21 ance Corporation stock for which the funding
22 bank has provided the reimbursement.

23 “(F) *INITIAL PAYMENT.*—Notwithstanding
24 subparagraph (A), the initial payment made to
25 each payee under subparagraph (A) shall be in

1 *such amount determined by the Corporation to*
2 *be equal to the sum of—*

3 “(i) *the total of the amounts that*
4 *would have been paid if payments under*
5 *subparagraph (A) had been authorized to*
6 *begin, under the same terms and conditions,*
7 *in the first calendar year beginning more*
8 *than 5 years after the date on which the ag-*
9 *gregate of the amounts in the Farm Credit*
10 *Insurance Fund exceeds the secure base*
11 *amount and to continue through the 2 im-*
12 *mediately subsequent years;*

13 “(ii) *interest earned on any amounts*
14 *that would have been paid as described in*
15 *clause (i) from the date on which the pay-*
16 *ments would have been paid as described in*
17 *clause (i); and*

18 “(iii) *the payment to be made in the*
19 *initial year described in subparagraph (A),*
20 *based on the amount in each Account after*
21 *subtracting the amounts to be paid under*
22 *clauses (i) and (ii).”.*

23 (c) *TECHNICAL AMENDMENTS.—Section 5.55(d) of the*
24 *Farm Credit Act of 1971 (12 U.S.C. 2277a–4(d)) is amend-*
25 *ed—*

1 (1) *in the matter preceding paragraph (1)—*
 2 (A) *by striking “subsections (a) and (c)”*
 3 *and inserting “subsections (a), (c), and (e)”;* and
 4 (B) *by striking “a Farm Credit Bank” and*
 5 *inserting “an insured System bank”;* and
 6 (2) *in paragraphs (1), (2), and (3), by striking*
 7 *“Farm Credit Bank” each place it appears and in-*
 8 *serting “insured System bank”.*

9 **SEC. 216. EXAMINATIONS BY THE FARM CREDIT SYSTEM IN-**
 10 **SURANCE CORPORATION.**

11 *Section 5.59(b)(1)(A) of the Farm Credit Act of 1971*
 12 *(12 U.S.C. 2277a–8(b)(1)(A)) is amended by adding at the*
 13 *end the following: “Notwithstanding any other provision of*
 14 *this Act, on cancellation of the charter of a System institu-*
 15 *tion, the Corporation shall have authority to examine the*
 16 *system institution in receivership. An examination shall be*
 17 *performed at such intervals as the Corporation shall deter-*
 18 *mine.”.*

19 **SEC. 217. POWERS WITH RESPECT TO TROUBLED INSURED**
 20 **SYSTEM BANKS.**

21 (a) *LEAST-COST RESOLUTION.*—*Section 5.61(a)(3) of*
 22 *the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)) is*
 23 *amended—*
 24 (1) *by redesignating subparagraph (B) as sub-*
 25 *paragraph (F); and*

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

3 “(A) *LEAST-COST RESOLUTION.—Assistance*
4 *may not be provided to an insured System bank*
5 *under this subsection unless the means of provid-*
6 *ing the assistance is the least costly means of*
7 *providing the assistance by the Farm Credit In-*
8 *surance Fund of all possible alternatives avail-*
9 *able to the Corporation, including liquidation of*
10 *the bank (including paying the insured obliga-*
11 *tions issued on behalf of the bank). Before mak-*
12 *ing a least-cost determination under this sub-*
13 *paragraph, the Corporation shall accord such*
14 *other insured System banks as the Corporation*
15 *determines to be appropriate the opportunity to*
16 *submit information relating to the determina-*
17 *tion.*

18 “(B) *DETERMINING LEAST COSTLY AP-*
19 *PROACH.—In determining the least costly alter-*
20 *native under subparagraph (A), the Corporation*
21 *shall—*

22 “(i) *evaluate alternatives on a present-*
23 *value basis, using a realistic discount rate;*

24 “(ii) *document the evaluation and the*
25 *assumptions on which the evaluation is*

1 based, including any assumptions with re-
2 gard to interest rates, asset recovery rates,
3 asset holding costs, and payment of contin-
4 gent liabilities; and

5 “(iii) retain the documentation for not
6 less than 5 years.

7 “(C) *TIME OF DETERMINATION.*—

8 “(i) *GENERAL RULE.*—For purposes of
9 this subsection, the determination of the
10 costs of providing any assistance under any
11 provision of this section with respect to any
12 insured System bank shall be made as of the
13 date on which the Corporation makes the
14 determination to provide the assistance to
15 the institution under this section.

16 “(ii) *RULE FOR LIQUIDATIONS.*—For
17 purposes of this subsection, the determina-
18 tion of the costs of liquidation of any in-
19 sured System bank shall be made as of the
20 earliest of—

21 “(I) the date on which a conserva-
22 tor is appointed for the insured System
23 bank;

1 “(II) the date on which a receiver
2 is appointed for the insured System
3 bank; or

4 “(III) the date on which the Cor-
5 poration makes any determination to
6 provide any assistance under this sec-
7 tion with respect to the insured System
8 bank.

9 “(D) *RULE FOR STAND-ALONE ASSIST-*
10 *ANCE.—Before providing any assistance under*
11 *paragraph (1), the Corporation shall evaluate*
12 *the adequacy of managerial resources of the in-*
13 *sured System bank. The continued service of any*
14 *director or senior ranking officer who serves in*
15 *a policymaking role for the assisted insured Sys-*
16 *tem bank, as determined by the Corporation,*
17 *shall be subject to approval by the Corporation*
18 *as a condition of assistance.*

19 “(E) *DISCRETIONARY DETERMINATIONS.—*
20 *Any determination that the Corporation makes*
21 *under this paragraph shall be in the sole discre-*
22 *tion of the Corporation.”.*

23 (b) *CONFORMING AMENDMENTS.—Section 5.61(a) of*
24 *the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)) is*
25 *amended—*

1 (1) *in paragraph (1) by striking “IN GEN-*
 2 *ERAL.—” and inserting “STAND-ALONE ASSIST-*
 3 *ANCE.—”;* and

4 (2) *in paragraph (2)—*

5 *(A) by striking “ENUMERATED POWERS.—”*
 6 *and inserting “FACILITATION OF MERGERS OR*
 7 *CONSOLIDATION.—”;* and

8 *(B) in subparagraph (A) by striking “FA-*
 9 *CILITATION OF MERGERS OR CONSOLIDATION.—”*
 10 *and inserting “IN GENERAL.—”.*

11 **SEC. 218. OVERSIGHT AND REGULATORY ACTIONS BY THE**
 12 **FARM CREDIT SYSTEM INSURANCE CORPORA-**
 13 **TION.**

14 *The Farm Credit Act of 1971 is amended by inserting*
 15 *after section 5.61 (12 U.S.C. 2279a–10) the following:*

16 **“SEC. 5.61A. OVERSIGHT ACTIONS BY THE CORPORATION.**

17 “(a) *DEFINITIONS.—In this section, the term ‘institu-*
 18 *tion’ means—*

19 “(1) *an insured System bank; and*

20 “(2) *a production credit association or other as-*
 21 *sociation making loans under section 7.6 with a di-*
 22 *rect loan payable to the funding bank of the associa-*
 23 *tion that comprises 20 percent or more of the funding*
 24 *bank’s total loan volume net of nonaccrual loans.*

1 “(b) *CONSULTATION REGARDING PARTICIPATION OF*
2 *UNDERCAPITALIZED BANKS IN ISSUANCE OF INSURED OB-*
3 *LIGATIONS.*—*The Farm Credit Administration shall consult*
4 *with the Corporation prior to approving an insured obliga-*
5 *tion that is to be issued by or on behalf of, or participated*
6 *in by, any insured System bank that fails to meet the mini-*
7 *imum level for any capital requirement established by the*
8 *Farm Credit Administration for the bank.*

9 “(c) *CONSULTATION REGARDING APPLICATIONS FOR*
10 *MERGERS AND RESTRUCTURINGS.*—

11 “(1) *CORPORATION TO RECEIVE COPY OF TRANS-*
12 *ACTION APPLICATIONS.*—*On receiving an application*
13 *for a merger or restructuring of an institution, the*
14 *Farm Credit Administration shall forward a copy of*
15 *the application to the Corporation.*

16 “(2) *CONSULTATION REQUIRED.*—*If the proposed*
17 *merger or restructuring involves an institution that*
18 *fails to meet the minimum level for any capital re-*
19 *quirement established by the Farm Credit Adminis-*
20 *tration applicable to the institution, the Farm Credit*
21 *Administration shall allow 30 days within which the*
22 *Corporation may submit the views and recommenda-*
23 *tions of the Corporation, including any conditions for*
24 *approval. In determining whether to approve or dis-*
25 *approve any proposed merger or restructuring, the*

1 *Farm Credit Administration shall give due consider-*
2 *ation to the views and recommendations of the Cor-*
3 *poration.*

4 ***“SEC. 5.61B. AUTHORITY TO REGULATE GOLDEN PARA-***
5 ***CHUTE AND INDEMNIFICATION PAYMENTS.***

6 “(a) *DEFINITIONS.—In this section:*

7 “(1) *GOLDEN PARACHUTE PAYMENT.—The term*
8 *‘golden parachute payment’—*

9 “(A) *means a payment (or any agreement*
10 *to make a payment) in the nature of compensa-*
11 *tion by any Farm Credit System institution (in-*
12 *cluding the Federal Agricultural Mortgage Cor-*
13 *poration and any conservator or receiver for the*
14 *Federal Agricultural Mortgage Corporation) for*
15 *the benefit of any institution-related party under*
16 *an obligation of the institution that—*

17 “(i) *is contingent on the termination of*
18 *the party’s relationship with the institution;*
19 *and*

20 “(ii) *is received on or after the date on*
21 *which—*

22 “(I) *the institution is insolvent;*

23 “(II) *a conservator or receiver is*
24 *appointed for the institution;*

1 “(III) the institution has been as-
2 signed by the Farm Credit Adminis-
3 tration a composite CAMEL rating of
4 4 or 5 under the Farm Credit Admin-
5 istration Rating System, or an equiva-
6 lent rating; or

7 “(IV) the Corporation otherwise
8 determines that the institution is in a
9 troubled condition (as defined in regu-
10 lations issued by the Corporation); and

11 “(B) includes a payment that would be a
12 golden parachute payment but for the fact that
13 the payment was made before the date referred to
14 in subparagraph (A)(ii) if the payment was
15 made in contemplation of the occurrence of an
16 event described in any subclause of subparagraph
17 (A); but

18 “(C) does not include—

19 “(i) a payment made under a retire-
20 ment plan that is qualified (or is intended
21 to be qualified) under section 401 of the In-
22 ternal Revenue Code of 1986 or other non-
23 discriminatory benefit plan;

24 “(ii) a payment made under a bona
25 fide supplemental executive retirement plan,

1 *deferred compensation plan, or other ar-*
2 *rangement that the Corporation determines,*
3 *by regulation or order, to be permissible; or*
4 *“(iii) a payment made by reason of the*
5 *death or disability of an institution-related*
6 *party.*

7 “(2) *INDEMNIFICATION PAYMENT.*—*The term ‘in-*
8 *demnification payment’ means a payment (or any*
9 *agreement to make a payment) by any Farm Credit*
10 *System institution for the benefit of any person who*
11 *is or was an institution-related party, to pay or re-*
12 *imburse the person for any liability or legal expense*
13 *with regard to any administrative proceeding or civil*
14 *action instituted by the Farm Credit Administration*
15 *that results in a final order under which the person—*

16 *“(A) is assessed a civil money penalty; or*
17 *“(B) is removed or prohibited from partici-*
18 *parting in the conduct of the affairs of the insti-*
19 *tution.*

20 “(3) *INSTITUTION-RELATED PARTY.*—*The term*
21 *‘institution-related party’ means—*

22 *“(A) a director, officer, employee, or agent*
23 *for a Farm Credit System institution;*

24 *“(B) a stockholder (other than another*
25 *Farm Credit System institution), consultant,*

1 *joint venture partner, or any other person deter-*
2 *mined by the Farm Credit Administration to be*
3 *a participant in the conduct of the affairs of a*
4 *Farm Credit System institution; and*

5 *“(C) an independent contractor (including*
6 *any attorney, appraiser, or accountant) that*
7 *knowingly or recklessly participates in any vio-*
8 *lation of any law or regulation, any breach of fi-*
9 *duciary duty, or any unsafe or unsound practice*
10 *that caused or is likely to cause more than a*
11 *minimal financial loss to, or a significant ad-*
12 *verse effect on, the Farm Credit System institu-*
13 *tion.*

14 *“(4) LIABILITY OR LEGAL EXPENSE.—The term*
15 *‘liability or legal expense’ means—*

16 *“(A) a legal or other professional expense*
17 *incurred in connection with any claim, proceed-*
18 *ing, or action;*

19 *“(B) the amount of, and any cost incurred*
20 *in connection with, any settlement of any claim,*
21 *proceeding, or action; and*

22 *“(C) the amount of, and any cost incurred*
23 *in connection with, any judgment or penalty im-*
24 *posed with respect to any claim, proceeding, or*
25 *action.*

1 “(5) *PAYMENT.*—*The term ‘payment’ means—*

2 “(A) *a direct or indirect transfer of any*

3 *funds or any asset; and*

4 “(B) *any segregation of any funds or assets*

5 *for the purpose of making, or under an agree-*

6 *ment to make, any payment after the date on*

7 *which the funds or assets are segregated, without*

8 *regard to whether the obligation to make the*

9 *payment is contingent on—*

10 “(i) *the determination, after that date,*

11 *of the liability for the payment of the*

12 *amount; or*

13 “(ii) *the liquidation, after that date, of*

14 *the amount of the payment.*

15 “(b) *PROHIBITION.*—*The Corporation may prohibit or*

16 *limit, by regulation or order, any golden parachute pay-*

17 *ment or indemnification payment by a Farm Credit Sys-*

18 *tem institution (including the Federal Agricultural Mort-*

19 *gage Corporation) in troubled condition (as defined in regu-*

20 *lations issued by the Corporation).*

21 “(c) *FACTORS TO BE TAKEN INTO ACCOUNT.*—*The*

22 *Corporation shall prescribe, by regulation, the factors to be*

23 *considered by the Corporation in taking any action under*

24 *subsection (b). The factors may include—*

1 “(1) *whether there is a reasonable basis to believe*
2 *that an institution-related party has committed any*
3 *fraudulent act or omission, breach of trust or fidu-*
4 *ciary duty, or insider abuse with regard to the Farm*
5 *Credit System institution involved that has had a*
6 *material effect on the financial condition of the insti-*
7 *tution;*

8 “(2) *whether there is a reasonable basis to believe*
9 *that the institution-related party is substantially re-*
10 *sponsible for the insolvency of the Farm Credit Sys-*
11 *tem institution, the appointment of a conservator or*
12 *receiver for the institution, or the institution’s trou-*
13 *bled condition (as defined in regulations prescribed by*
14 *the Corporation);*

15 “(3) *whether there is a reasonable basis to believe*
16 *that the institution-related party has materially vio-*
17 *lated any applicable law or regulation that has had*
18 *a material effect on the financial condition of the in-*
19 *stitution;*

20 “(4) *whether there is a reasonable basis to believe*
21 *that the institution-related party has violated or con-*
22 *spired to violate—*

23 “(A) *section 215, 657, 1006, 1014, or 1344*
24 *of title 18, United States Code; or*

1 “(B) section 1341 or 1343 of title 18, Unit-
2 ed States Code, affecting a Farm Credit System
3 institution;

4 “(5) whether the institution-related party was in
5 a position of managerial or fiduciary responsibility;
6 and

7 “(6) the length of time that the party was related
8 to the Farm Credit System institution and the degree
9 to which—

10 “(A) the payment reasonably reflects com-
11 pensation earned over the period of employment;
12 and

13 “(B) the compensation represents a reason-
14 able payment for services rendered.

15 “(d) CERTAIN PAYMENTS PROHIBITED.—No Farm
16 Credit System institution may prepay the salary or any
17 liability or legal expense of any institution-related party
18 if the payment is made—

19 “(1) in contemplation of the insolvency of the in-
20 stitution or after the commission of an act of insol-
21 vency; and

22 “(2) with a view to, or with the result of—

23 “(A) preventing the proper application of
24 the assets of the institution to creditors; or

1 “(B) preferring 1 creditor over another
2 creditor.

3 “(e) *RULE OF CONSTRUCTION.*—Nothing in this sec-
4 tion—

5 “(1) prohibits any Farm Credit System institu-
6 tion from purchasing any commercial insurance pol-
7 icy or fidelity bond, so long as the insurance policy
8 or bond does not cover any legal or liability expense
9 of an institution described in subsection (a)(2); or

10 “(2) limits the powers, functions, or responsibil-
11 ities of the Farm Credit Administration.”.

12 **SEC. 219. FARM CREDIT SYSTEM INSURANCE CORPORATION**

13 **BOARD OF DIRECTORS.**

14 Section 201 of the Farm Credit Banks and Associa-
15 tions Safety and Soundness Act of 1992 (106 Stat. 4104)
16 is repealed.

17 **SEC. 220. INTEREST RATE REDUCTION PROGRAM.**

18 Section 351(a) of the Consolidated Farm and Rural
19 Development Act (7 U.S.C. 1999) is amended—

20 (A) by striking “SEC. 351. (a) The” and in-
21 serting the following:

22 **“SEC. 351. INTEREST RATE REDUCTION PROGRAM.**

23 “(a) *ESTABLISHMENT OF PROGRAM.*—

24 “(1) *IN GENERAL.*—The”; and

25 (B) by adding at the end the following:

1 “(2) *TERMINATION OF AUTHORITY.*—*The author-*
2 *ity provided by this subsection shall terminate on*
3 *September 30, 2002.*”.

4 ***SEC. 221. LIABILITY FOR MAKING CRIMINAL REFERRALS.***

5 (a) *IN GENERAL.*—*Any institution of the Farm Credit*
6 *System, or any director, officer, employee, or agent of a*
7 *Farm Credit System institution, that discloses to a Govern-*
8 *ment authority information proffered in good faith that*
9 *may be relevant to a possible violation of any law or regula-*
10 *tion shall not be liable to any person under any law of*
11 *the United States or any State—*

12 (1) *for the disclosure; or*

13 (2) *for any failure to notify the person involved*
14 *in the possible violation.*

15 (b) *NO PROHIBITION ON DISCLOSURE.*—*Any institu-*
16 *tion of the Farm Credit System, or any director, officer,*
17 *employee, or agent of a Farm Credit System institution,*
18 *may disclose information to a Government authority that*
19 *may be relevant to a possible violation of any law or regula-*
20 *tion.*

1 **TITLE III—NATIONAL NATURAL**
2 **RESOURCES CONSERVATION**
3 **FOUNDATION**

4 **SEC. 301. SHORT TITLE.**

5 *This title may be cited as the “National Natural Re-*
6 *sources Conservation Foundation Act”.*

7 **SEC. 302. DEFINITIONS.**

8 *In this title (unless the context otherwise requires):*

9 (1) *BOARD.*—*The term “Board” means the*
10 *Board of Trustees established under section 304.*

11 (2) *DEPARTMENT.*—*The term “Department”*
12 *means the United States Department of Agriculture.*

13 (3) *FOUNDATION.*—*The term “Foundation”*
14 *means the National Natural Resources Conservation*
15 *Foundation established by section 303(a).*

16 (4) *SECRETARY.*—*The term “Secretary” means*
17 *the Secretary of Agriculture.*

18 **SEC. 303. NATIONAL NATURAL RESOURCES CONSERVATION**
19 **FOUNDATION.**

20 (a) *ESTABLISHMENT.*—*A National Natural Resources*
21 *Conservation Foundation is established as a charitable and*
22 *nonprofit corporation for charitable, scientific, and edu-*
23 *cational purposes specified in subsection (b). The Founda-*
24 *tion is not an agency or instrumentality of the United*
25 *States.*

1 (b) *PURPOSES.*—*The purposes of the Foundation are*
2 *to—*

3 (1) *promote innovative solutions to the problems*
4 *associated with the conservation of natural resources*
5 *on private lands, particularly with respect to agri-*
6 *culture and soil and water conservation;*

7 (2) *promote voluntary partnerships between gov-*
8 *ernment and private interests in the conservation of*
9 *natural resources;*

10 (3) *conduct research and undertake educational*
11 *activities, conduct and support demonstration*
12 *projects, and make grants to State and local agencies*
13 *and nonprofit organizations;*

14 (4) *provide such other leadership and support as*
15 *may be necessary to address conservation challenges,*
16 *such as the prevention of excessive soil erosion, en-*
17 *hancement of soil and water quality, and the protec-*
18 *tion of wetlands, wildlife habitat, and strategically*
19 *important farmland subject to urban conversion and*
20 *fragmentation;*

21 (5) *encourage, accept, and administer private*
22 *gifts of money and real and personal property for the*
23 *benefit of, or in connection with, the conservation and*
24 *related activities and services of the Department, par-*
25 *ticularly the Natural Resources Conservation Service;*

1 (6) *undertake, conduct, and encourage edu-*
2 *cational, technical, and other assistance, and other*
3 *activities, that support the conservation and related*
4 *programs administered by the Department (other*
5 *than activities carried out on National Forest System*
6 *lands), particularly the Natural Resources Conserva-*
7 *tion Service, except that the Foundation may not en-*
8 *force or administer a regulation of the Department;*
9 *and*

10 (7) *raise private funds to promote the purposes*
11 *of the Foundation.*

12 (c) *LIMITATIONS AND CONFLICTS OF INTERESTS.—*

13 (1) *POLITICAL ACTIVITIES.—The Foundation*
14 *shall not participate or intervene in a political cam-*
15 *paign on behalf of any candidate for public office.*

16 (2) *CONFLICTS OF INTEREST.—No director, offi-*
17 *cer, or employee of the Foundation shall participate,*
18 *directly or indirectly, in the consideration or deter-*
19 *mination of any question before the Foundation af-*
20 *fecting—*

21 (A) *the financial interests of the director, of-*
22 *ficer, or employee; or*

23 (B) *the interests of any corporation, part-*
24 *nership, entity, organization, or other person in*
25 *which the director, officer, or employee—*

- 1 (i) is an officer, director, or trustee; or
2 (ii) has any direct or indirect finan-
3 cial interest.

4 (3) *LEGISLATION OR GOVERNMENT ACTION OR*
5 *POLICY.*—No funds of the Foundation may be used in
6 any manner for the purpose of influencing legislation
7 or government action or policy.

8 (4) *LITIGATION.*—No funds of the Foundation
9 may be used to bring or join an action against the
10 United States.

11 (d) *TAX EXEMPT STATUS.*—

12 (1) *1996 TAXABLE YEAR.*—In the case of the
13 1996 taxable year, the Foundation shall be treated as
14 organized and operated exclusively for charitable pur-
15 poses for purposes of section 501(c)(3) of the Internal
16 Revenue Code of 1986.

17 (2) *1997 AND SUBSEQUENT TAXABLE YEARS.*—In
18 the case of the 1997 and subsequent taxable years, the
19 Foundation shall be required to maintain the tax ex-
20 empt status of the Foundation in the manner pre-
21 scribed by the Secretary of the Treasury for similar
22 tax exempt organizations.

23 **SEC. 304. COMPOSITION AND OPERATION.**

24 (a) *COMPOSITION.*—The Foundation shall be adminis-
25 tered by a Board of Trustees that shall consist of 9 voting

1 *members, each of whom shall be a United States citizen and*
2 *not a Federal officer. The Board shall be composed of—*

3 *(1) individuals with expertise in agricultural*
4 *conservation policy matters;*

5 *(2) a representative of private sector organiza-*
6 *tions with a demonstrable interest in natural re-*
7 *sources conservation;*

8 *(3) a representative of statewide conservation or-*
9 *ganizations;*

10 *(4) a representative of soil and water conserva-*
11 *tion districts;*

12 *(5) a representative of organizations outside the*
13 *Federal Government that are dedicated to natural re-*
14 *sources conservation education; and*

15 *(6) a farmer or rancher.*

16 *(b) NONGOVERNMENTAL EMPLOYEES.—Service as a*
17 *member of the Board shall not constitute employment by,*
18 *or the holding of, an office of the United States for the pur-*
19 *poses of any Federal law.*

20 *(c) MEMBERSHIP.—*

21 *(1) INITIAL MEMBERS.—The Secretary shall ap-*
22 *point 9 persons who meet the criteria established*
23 *under subsection (a) as the initial members of the*
24 *Board and designate 1 of the members as the initial*
25 *chairperson for a 2-year term.*

1 (2) *TERMS OF OFFICE.*—

2 (A) *IN GENERAL.*—A member of the Board
3 shall serve for a term of 3 years, except that the
4 members appointed to the initial Board shall
5 serve, proportionately, for terms of 1, 2, and 3
6 years, as determined by the Secretary.

7 (B) *LIMITATION ON TERMS.*—No individual
8 may serve more than 2 consecutive 3-year terms
9 as a member.

10 (3) *SUBSEQUENT MEMBERS.*—The initial mem-
11 bers of the Board shall adopt procedures in the con-
12 stitution of the Foundation for the nomination and
13 selection of subsequent members of the Board. The
14 procedures shall require that each member, at a mini-
15 mum, meets the criteria established under subsection
16 (a) and shall provide for the selection of an individ-
17 ual, who is not a Federal officer or a member of the
18 Board, to be provided with the power to select subse-
19 quent members of the Board.

20 (d) *CHAIRPERSON.*—After the appointment of an ini-
21 tial chairperson under subsection (c)(1), each succeeding
22 chairperson of the Board shall be elected by the members
23 of the Board for a 2-year term.

1 (e) *VACANCIES.*—A vacancy on the Board shall be
2 filled by the Board not later than 60 days after the occur-
3 rence of the vacancy.

4 (f) *COMPENSATION.*—A member of the Board shall re-
5 ceive no compensation from the Foundation for the service
6 of the member on the Board.

7 (g) *TRAVEL EXPENSES.*—While away from the home
8 or regular place of business of a member of the Board in
9 the performance of services for the Board, the member shall
10 be allowed travel expenses paid by the Foundation, includ-
11 ing per diem in lieu of subsistence, at the same rate as a
12 person employed intermittently in the Government service
13 would be allowed under section 5703 of title 5, United
14 States Code.

15 **SEC. 305. OFFICERS AND EMPLOYEES.**

16 (a) *IN GENERAL.*—The Board may—

17 (1) appoint, hire, and discharge the officers and
18 employees of the Foundation, other than the appoint-
19 ment of the initial Executive Director of the Founda-
20 tion;

21 (2) adopt a constitution and bylaws for the
22 Foundation that are consistent with the purposes of
23 the Foundation and this title; and

24 (3) undertake any other activities that may be
25 necessary to carry out this title.

1 **(b) OFFICERS AND EMPLOYEES.—**

2 **(1) APPOINTMENT AND HIRING.—***An officer or*
3 *employee of the Foundation—*

4 **(A)** *shall not, by virtue of the appointment*
5 *or employment of the officer or employee, be con-*
6 *sidered a Federal employee for any purpose, in-*
7 *cluding the provisions of title 5, United States*
8 *Code, governing appointments in the competitive*
9 *service, except that such an individual may par-*
10 *ticipate in the Federal employee retirement sys-*
11 *tem as if the individual were a Federal em-*
12 *ployee; and*

13 **(B)** *may not be paid by the Foundation a*
14 *salary in excess of \$125,000 per year.*

15 **(2) EXECUTIVE DIRECTOR.—**

16 **(A) INITIAL DIRECTOR.—***The Secretary*
17 *shall appoint an individual to serve as the ini-*
18 *tial Executive Director of the Foundation who*
19 *shall serve, at the direction of the Board, as the*
20 *chief operating officer of the Foundation.*

21 **(B) SUBSEQUENT DIRECTORS.—***The Board*
22 *shall appoint each subsequent Executive Director*
23 *of the Foundation who shall serve, at the direc-*
24 *tion of the Board, as the chief operating officer*
25 *of the Foundation.*

1 (C) *QUALIFICATIONS.*—*The Executive Di-*
2 *rector shall be knowledgeable and experienced in*
3 *matters relating to natural resources conserva-*
4 *tion.*

5 **SEC. 306. CORPORATE POWERS AND OBLIGATIONS OF THE**
6 **FOUNDATION.**

7 (a) *IN GENERAL.*—*The Foundation—*

8 (1) *may conduct business throughout the United*
9 *States and the territories and possessions of the Unit-*
10 *ed States; and*

11 (2) *shall at all times maintain a designated*
12 *agent who is authorized to accept service of process*
13 *for the Foundation, so that the serving of notice to,*
14 *or service of process on, the agent, or mailed to the*
15 *business address of the agent, shall be considered as*
16 *service on or notice to the Foundation.*

17 (b) *SEAL.*—*The Foundation shall have an official seal*
18 *selected by the Board that shall be judicially noticed.*

19 (c) *POWERS.*—*To carry out the purposes of the Foun-*
20 *ation under section 303(b), the Foundation shall have, in*
21 *addition to the powers otherwise provided under this title,*
22 *the usual powers of a corporation, including the power—*

23 (1) *to accept, receive, solicit, hold, administer,*
24 *and use any gift, devise, or bequest, either absolutely*
25 *or in trust, of real or personal property or any in-*

1 *come from, or other interest in, the gift, devise, or be-*
2 *quest;*

3 (2) *to acquire by purchase or exchange any real*
4 *or personal property or interest in property;*

5 (3) *unless otherwise required by instrument of*
6 *transfer, to sell, donate, lease, invest, reinvest, retain,*
7 *or otherwise dispose of any property or income from*
8 *property;*

9 (4) *to borrow money from private sources and*
10 *issue bonds, debentures, or other debt instruments,*
11 *subject to section 309, except that the aggregate*
12 *amount of the borrowing and debt instruments out-*
13 *standing at any time may not exceed \$1,000,000;*

14 (5) *to sue and be sued, and complain and defend*
15 *itself, in any court of competent jurisdiction, except*
16 *that a member of the Board shall not be personally*
17 *liable for an action in the performance of services for*
18 *the Board, except for gross negligence;*

19 (6) *to enter into a contract or other agreement*
20 *with an agency of State or local government, edu-*
21 *cational institution, or other private organization or*
22 *person and to make such payments as may be nec-*
23 *essary to carry out the functions of the Foundation;*
24 *and*

1 (7) *to do any and all acts that are necessary to*
2 *carry out the purposes of the Foundation.*

3 (d) *INTEREST IN PROPERTY.—*

4 (1) *IN GENERAL.—The Foundation may acquire,*
5 *hold, and dispose of lands, waters, or other interests*
6 *in real property by donation, gift, devise, purchase, or*
7 *exchange.*

8 (2) *INTERESTS IN REAL PROPERTY.—For pur-*
9 *poses of this title, an interest in real property shall*
10 *be treated, among other things, as including an ease-*
11 *ment or other right for the preservation, conservation,*
12 *protection, or enhancement of agricultural, natural,*
13 *scenic, historic, scientific, educational, inspirational,*
14 *or recreational resources.*

15 (3) *GIFTS.—A gift, devise, or bequest may be ac-*
16 *cepted by the Foundation even though the gift, devise,*
17 *or bequest is encumbered, restricted, or subject to a*
18 *beneficial interest of a private person if any current*
19 *or future interest in the gift, devise, or bequest is for*
20 *the benefit of the Foundation.*

21 **SEC. 307. ADMINISTRATIVE SERVICES AND SUPPORT.**

22 *The Secretary may provide, without reimbursement,*
23 *personnel, facilities, and other administrative services of the*
24 *Department to the Foundation.*

1 **SEC. 308. AUDITS AND PETITION OF ATTORNEY GENERAL**
2 **FOR EQUITABLE RELIEF.**

3 (a) *AUDITS.*—

4 (1) *IN GENERAL.*—*The accounts of the Founda-*
5 *tion shall be audited in accordance with Public Law*
6 *88–504 (36 U.S.C. 1101 et seq.), including an audit*
7 *of lobbying and litigation activities carried out by the*
8 *Foundation.*

9 (2) *CONFORMING AMENDMENT.*—*The first section*
10 *of Public Law 88–504 (36 U.S.C. 1101) is amended*
11 *by adding at the end the following:*

12 “(77) *The National Natural Resources Conserva-*
13 *tion Foundation.*”.

14 (b) *RELIEF WITH RESPECT TO CERTAIN FOUNDATION*
15 *ACTS OR FAILURE TO ACT.*—*The Attorney General may pe-*
16 *tition in the United States District Court for the District*
17 *of Columbia for such equitable relief as may be necessary*
18 *or appropriate, if the Foundation—*

19 (1) *engages in, or threatens to engage in, any*
20 *act, practice, or policy that is inconsistent with this*
21 *title; or*

22 (2) *refuses, fails, neglects, or threatens to refuse,*
23 *fail, or neglect, to discharge the obligations of the*
24 *Foundation under this title.*

1 **SEC. 309. RELEASE FROM LIABILITY.**

2 (a) *IN GENERAL.*—*The United States shall not be lia-*
3 *ble for any debt, default, act, or omission of the Foundation.*
4 *The full faith and credit of the United States shall not ex-*
5 *tend to the Foundation.*

6 (b) *STATEMENT.*—*An obligation issued by the Founda-*
7 *tion, and a document offering an obligation, shall include*
8 *a prominent statement that the obligation is not directly*
9 *or indirectly guaranteed, in whole or in part, by the United*
10 *States (or an agency or instrumentality of the United*
11 *States).*

12 **SEC. 310. AUTHORIZATION OF APPROPRIATIONS.**

13 *There are authorized to be appropriated to the Depart-*
14 *ment to be made available to the Foundation such sums*
15 *as are necessary for each of fiscal years 1997 through 1999*
16 *to initially establish and carry out activities of the Founda-*
17 *tion.*

18 **TITLE IV—IMPLEMENTATION**
19 **AND EFFECTIVE DATE**

20 **SEC. 401. IMPLEMENTATION.**

21 *The Secretary of Agriculture and the Farm Credit Ad-*
22 *ministration shall promulgate regulations and take other*
23 *required actions to implement the provisions of this Act not*
24 *later than 90 days after the effective date of this Act.*

1 **SEC. 402. EFFECTIVE DATE.**

2 *Except as otherwise provided in this Act, this Act and*
3 *the amendments made by this Act shall become effective on*
4 *the date of enactment.*

Amend the title so as to read: “An Act to amend the
Farm Credit Act of 1971 to provide regulatory relief, and
for other purposes.”.

Attest:

Secretary.

104TH CONGRESS
1ST SESSION

H. R. 2029

AMENDMENTS

HR 2029 EAS—2

HR 2029 EAS—3

HR 2029 EAS—4

HR 2029 EAS—5