

104TH CONGRESS
1ST SESSION

H. R. 2158

To streamline the regulatory treatment of financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 1995

Mr. VENTO (for himself, Mr. GONZALEZ, Mr. FRANK of Massachusetts, Mr. KENNEDY of Massachusetts, Mr. MFUME, Mrs. MALONEY, Mr. BARRETT of Wisconsin, Mr. HINCHEY, and Mr. BENTSEN) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To streamline the regulatory treatment of financial institutions, 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 “Financial Institutions
5 Streamlined Regulatory Treatment Act of 1995”.

1 **TITLE I—STREAMLINING CON-**
2 **SUMER PROTECTION RE-**
3 **QUIREMENTS**

4 **SEC. 101. JOINT STUDY AND RECOMMENDATIONS REGARD-**
5 **ING LENDING PROCESS WITH RESPECT TO**
6 **HOME FINANCE.**

7 (a) STUDY.—The Board of Governors of the Federal
8 Reserve, the Secretary of Housing and Urban Develop-
9 ment, and the Secretary of the Treasury shall jointly—

10 (1) study the lending process as it relates to
11 home finance; and

12 (2) develop recommendations for appropriate
13 changes in Federal laws, including the Truth in
14 Lending Act and the Real Estate Settlement Proce-
15 dures Act, to—

16 (A) improve, harmonize, and simplify dis-
17 closures to consumers regarding home finance
18 loans, including the timing of such disclosures;

19 (B) to minimize burdens imposed on finan-
20 cial institutions under those laws; and

21 (C) improve requirements under section
22 106 of the Truth in Lending Act relating to de-
23 termination of finance charges, to ensure that
24 finance charges are more reflective of the cost
25 of credit and include costs currently excluded.

1 (b) REPORT.—Not later than 12 months after the
2 date of the enactment of this Act, the Board of Governors
3 and the Secretaries shall submit a report to the Congress
4 containing the findings and recommendations of the study
5 required by this section.

6 **SEC. 102. STUDY AND RECOMMENDATIONS REGARDING EX-**
7 **EMPTION OF TRANSACTIONS FROM TRUTH IN**
8 **LENDING ACT REQUIREMENTS.**

9 (a) STUDY.—The Board of Governors of the Federal
10 Reserve System (hereafter in this section referred to as
11 the “Board”) shall conduct a study and develop rec-
12 ommendations regarding classes of transactions, if any,
13 which should not be subject to the requirements under the
14 Truth in Lending Act because application of those require-
15 ments do not provide a benefit to consumers in the form
16 of useful information or protection. In studying and deter-
17 mining those classes of transactions, the Board shall con-
18 sider, among other factors, loan size, status of the bor-
19 rower (including the sophistication of the borrower relative
20 to the complexity of the transaction), and whether the re-
21 quirements of the Truth in Lending Act make the credit
22 extension process more complicated or expensive for var-
23 ious classes of transactions.

24 (b) REPORT.—Not later than 12 months after the
25 date of the enactment of this Act, the Board shall submit

1 a report to the Congress containing the findings and rec-
2 ommendations of the study required by this section.

3 **SEC. 103. REDUCTION OF RESPA DISCLOSURE REQUIRE-**
4 **MENT BURDEN.**

5 Section 6(a) of the Real Estate Settlement Proce-
6 dures Act (12 U.S.C. 2605), is amended to read as fol-
7 lows:

8 “(a) DISCLOSURE TO APPLICANT RELATING TO AS-
9 SIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—

10 “(1) IN GENERAL.—Each person who makes a
11 federally related mortgage loan shall disclose to each
12 person who applies for any such loan, at the time of
13 application for the loan, whether the servicing of any
14 such loan may be assigned, sold, or transferred to
15 any other person at any time while such loan is out-
16 standing.

17 “(2) SIGNATURE OF APPLICANT.—Any disclo-
18 sure of the information required under paragraph
19 (1) shall not be effective for purposes of this section
20 unless the disclosure is accompanied by a written
21 statement, in such form as the Secretary shall de-
22 velop before the expiration of the 180-day period be-
23 ginning on the date of enactment, that the applicant
24 has read and understood the disclosure and that is
25 evidenced by the signature of the applicant at the

1 place where such statement appears in the applica-
2 tion.”.

3 **SEC. 104. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE**
4 **RATE MORTGAGES.**

5 (a) Section 127A(a)(2)(G) of the Truth in Lending
6 Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting
7 before the semicolon the following: “, or a statement of
8 the maximum periodic payment amount that may be re-
9 quired under the terms of the plan”.

10 (b) Section 128(a) of the Truth in Lending Act (15
11 U.S.C. 1638(a)) is amended by inserting at the end the
12 following new paragraph:

13 “(14) In any variable rate residential mortgage
14 transaction, at the creditors’ option—

15 “(A) an historical example illustrating the
16 effects of interest rate changes implemented ac-
17 cording to the loan program; or

18 “(B) a statement indicating the maximum
19 periodic payment amount that may be required
20 under the terms of the plan.”.

21 **SEC. 105. HOME MORTGAGE DISCLOSURE ACT.**

22 Section 309 of the Home Mortgage Disclosure Act
23 of 1975 (12 U.S.C. 2808) is amended—

24 (1) by inserting “(a) IN GENERAL.—” after the
25 section designation;

1 (2) in the 2d sentence, by inserting before the
2 period at the end the following: “, except that the
3 Board shall adjust the maximum dollar amount limi-
4 tation under this sentence on January 1, 1996, and
5 January 1 of every 5th year thereafter, as provided
6 in subsection (b)”;

7 (3) by adding at the end the following new sub-
8 section:

9 “(b) ADJUSTMENT OF DOLLAR AMOUNT LIMITA-
10 TION.—The adjustment of the dollar amount limitation
11 under subsection (a) made for any year shall be made by
12 adjusting such limitation as then in effect (as it may pre-
13 viously have been adjusted) to reflect the percent change,
14 if any, in the Consumer Price Index prepared by the Bu-
15 reau of Labor Statistics, Department of Labor, as re-
16 ported on June 1 of the year preceding such adjustment
17 over such index as reported on June 1 of the year preced-
18 ing the last such adjustment, except that the adjustment
19 made on January 1, 1996, shall be made by adjusting the
20 dollar amount specified in subsection (a) to reflect the per-
21 cent change in such Consumer Price Index as reported on
22 June 1, 1995, over such index as reported on June 1,
23 1990.”.

1 **SEC. 106. TRUTH IN SAVINGS ACT AMENDMENTS.**

2 (a) EXEMPTION FROM CIVIL LIABILITY FOR CER-
3 TAIN ADVERTISING VIOLATIONS.—Section 271(a) of the
4 Truth and Savings Act (12 U.S.C. 271(a)) is amended
5 in the matter preceding paragraph (1) by inserting after
6 “prescribed under this Act” the following: “, other than
7 a requirement regarding advertisements,”.

8 (b) REPORT ON APPROPRIATENESS OF ANNUAL PER-
9 CENTAGE YIELD DISCLOSURE FORMULA.—Not later than
10 6 months after the date of the enactment of this Act, the
11 Board of Governors of the Federal Reserve System shall
12 submit to the Congress a report on the types of accounts,
13 if any, to which the application of the annual percentage
14 yield formula under section 263 of the Truth in Savings
15 Act is not appropriate. The report shall include for each
16 such type of account specified in the report (if any) rec-
17 ommendations regarding changes in law that are nec-
18 essary to provide for an appropriate calculation of interest
19 for purposes of disclosures under that section.

20 **SEC. 107. ELECTRONIC FUND TRANSFER ACT CLARIFICA-**
21 **TION.**

22 (a) Section 903(1) of the Electronic Fund Transfer
23 Act (15 U.S.C. 1693a(1)) is amended by inserting before
24 the semicolon the following: “, but such term does not in-
25 clude a card, device, or computer that a person may use
26 to pay for transactions through use of value stored on,

1 or assigned to, the card, device, or computer, except for
2 those transactions where such card, device, or computer
3 is actually used to access an account to effect such trans-
4 action”.

5 (b) Section 903(2) of the Electronic Fund Transfer
6 Act (15 U.S.C. 1693a(2)) is amended by inserting before
7 the semicolon the following: “and does not include any
8 value which is stored on, or assigned to, a card, device,
9 or computer that enables a person to pay for transactions
10 through use of that stored value”.

11 **SEC. 108. INCENTIVES FOR SELF-TESTING.**

12 (a) SELF-TESTING PURSUANT TO EQUAL CREDIT
13 OPPORTUNITY ACT.—

14 (1) IN GENERAL.—The Equal Credit Oppor-
15 tunity Act (15 U.S.C. 1691 et seq.) is amended by
16 inserting after section 704 the following new section:

17 **“SEC. 704A. ENCOURAGING SELF-TESTING FOR COMPLI-**
18 **ANCE.**

19 “(a) Except as provided in subsection (b), a creditor
20 that conducts self-testing of its lending operations to
21 measure compliance with this title shall not be required
22 to disclose the results of the self-testing to any department
23 or agency authorized to enforce this title.

1 “(b) Nothing in this section shall prevent a depart-
2 ment or agency from obtaining the results of self-testing
3 by a creditor—

4 “(1) if the creditor conducted the self-testing at
5 the specific request of a department or agency;

6 “(2) if the creditor, or a person acting on its
7 behalf—

8 “(A) voluntarily releases or discloses all or
9 part of such results to the department or agen-
10 cy or to the general public, or

11 “(B) seeks to use the results, in the course
12 of a judicial or administrative proceeding or an
13 investigation of a department or agency, as evi-
14 dence of compliance by the creditor with this
15 title; or

16 “(3) through a discovery request made in the
17 course of a judicial or administrative proceeding that
18 is—

19 “(A) based on evidence obtained independ-
20 ently of the self-testing, and

21 “(B) filed after making a reasonable effort
22 to notify the creditor about the nature of the
23 dispute and attempting to achieve a settlement.

24 “(c) For purposes of this section, the term ‘self-test-
25 ing’ means the practice of hiring or otherwise arranging

1 for individuals to pose as applicants of the creditor to as-
2 certain how the creditor treats applicants.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions at the beginning of that Act is amended by in-
5 serting after the item relating to section 704 the fol-
6 lowing new item:

“704A. Encouraging self-testing for compliance.”.

7 (b) SELF-TESTING PURSUANT TO FAIR HOUSING
8 ACT.—The Fair Housing Act (42 U.S.C. 3601 et seq.)
9 is amended by inserting after section 814 the following
10 new section:

11 “ENCOURAGING SELF-TESTING FOR COMPLIANCE

12 “SEC. 814A. (a) Except as provided in subsection (b),
13 a person that conducts self-testing of its residential real
14 estate transactions described in section 805(b)(1) to meas-
15 ure compliance with this title shall not be required to dis-
16 close the results of the self-testing to any department or
17 agency authorized to enforce this title.

18 “(b) Nothing in this section shall prevent a depart-
19 ment or agency from obtaining the results of self-testing
20 by a person or other entity—

21 “(1) if the creditor conducted the self-testing at
22 the specific request of a department or agency;

23 “(2) if the creditor, or a person acting on its
24 behalf—

1 “(A) voluntarily releases or discloses all or
2 part of such results to the department or agen-
3 cy or to the general public, or

4 “(B) seeks to use the results, in the course
5 of a judicial or administrative proceeding or an
6 investigation of a department of agency, as evi-
7 dence of compliance by the creditor with this
8 title; or

9 “(3) through a discovery request made in the
10 course of a judicial or administrative proceeding that
11 is—

12 “(A) based on evidence obtained independ-
13 ently of the self-testing, and

14 “(B) filed after making a reasonable effort
15 to notify the creditor about the nature of the
16 dispute and attempting to achieve a settlement.

17 “(c) For purposes of this section—

18 “(1) the term ‘creditor’ has the meaning that
19 term has in the Equal Credit Opportunity Act; and

20 “(2) the term ‘self-testing’ means the practice
21 of hiring or otherwise arranging for individuals to
22 pose as applicants of the creditor to ascertain how
23 the creditor treats applicants for credit.”.

1 **SEC. 109. CONSUMER LEASING REQUIREMENTS.**

2 (a) ADJUSTMENT OF DOLLAR AMOUNT IN DEFINI-
3 TION OF CONSUMER LEASE.—Section 181(1) of the Truth
4 in Lending Act (15 U.S.C. 1667(1)) is amended—

5 (1) by striking “\$25,000” and inserting
6 “\$50,000”; and

7 (2) by adding at the end the following: “The
8 dollar amount specified in this paragraph shall be
9 adjusted by the Board on January 1 of every fifth
10 year after the year in which this sentence becomes
11 effective to reflect changes in the Consumer Price
12 Index prepared by the Bureau of Labor Statistics,
13 Department of Labor, as such index is reported on
14 June 1 of the year preceding such adjustment, over
15 such index as reported on June 1 of the year preced-
16 ing the last such adjustment.”.

17 (b) AMENDMENTS TO CONSUMER LEASE DISCLO-
18 SURE REQUIREMENTS.—Section 182 of the Truth in
19 Lending Act (15 U.S.C. 1667a)) is amended—

20 (1) in the 1st sentence by inserting “(a)” before
21 “Each lessor”;

22 (2) in subsection (a) (as designated by para-
23 graph (1) of this subsection), in paragraph (10) by
24 striking “and” after the semicolon, in paragraph
25 (11) by striking the period and inserting a semi-

1 colon, and by adding at the end the following new
2 paragraphs:

3 “(12) Capitalized cost; and

4 “(13) Residual value.”; and

5 (3) by adding at the end the following new sub-
6 sections:

7 “(b)(1) The lessor shall, to the extent applicable, sep-
8 arately disclose in a format described by the Board—

9 “(A) the information specified in subsections
10 (a) (2), (3), (4), (9), (12), and (13);

11 “(B) whether or not the lessee has the option
12 to purchase the leased property (pursuant to sub-
13 section (a)(5)); and

14 “(C) in the case of such an option that must
15 be exercised at the end of the lease term, the price
16 at which the property may be purchased under the
17 option.

18 “(2) The Board shall prescribe the format for disclo-
19 sures under paragraph (1). The Board shall prescribe a
20 format that minimizes lessee confusion about the terms
21 of leases and avoids duplicating disclosures under this sec-
22 tion.

23 “(c) The Board may, by regulation, require the dis-
24 closure of information in addition to information otherwise
25 required to be disclosed under this section, and may mod-

1 ify any disclosure requirement under this subsection, if the
2 Board determines that such regulations are necessary to
3 carry out the purposes of, or prevent evasions of, this
4 chapter.”.

5 **SEC. 110. CERTAIN CHARGES.**

6 (a) **THIRD PARTY FEES.**—Section 106(a) of the
7 Truth in Lending Act (15 U.S.C. 1605(a)) is amended
8 by adding after the 2d sentence the following new sen-
9 tence: “The finance charge shall not include fees and
10 amounts imposed by third party closing agents (including
11 settlement agents, attorneys, and escrow and title compa-
12 nies) if the creditor does not expressly require the imposi-
13 tion of the charges or the services provided and does not
14 retain the charges.”.

15 (b) **MORTGAGE BROKER FEES.**—Section 106(a) of
16 the Truth in Lending Act (15 U.S.C. 1605(a)) is amended
17 by adding at the end the following new paragraph:

18 “(6) Mortgage broker fees.”.

19 (c) **TAXES ON SECURITY INSTRUMENTS OR EVI-**
20 **DENCES OF INDEBTEDNESS.**—Section 106(d) of the
21 Truth in Lending Act (15 U.S.C. 1605(d)) is amended
22 by adding at the end the following new paragraph:

23 “(3) Any tax levied on security instruments or
24 on documents evidencing indebtedness if the pay-
25 ment of such taxes is a precondition for recording

1 the instrument securing the evidence of indebted-
2 ness.”.

3 (d) PREPARATION OF LOAN DOCUMENTS.—Section
4 106(e)(2) of the Truth in Lending Act (15 U.S.C.
5 1605(e)(2)) is amended to read as follows:

6 “(2) Fees for preparation of loan-related docu-
7 ments and for attending or conducting settlement.”.

8 (e) FEES RELATING TO PEST INFESTATIONS, IN-
9 SPECTIONS, AND HAZARDS.—Section 106(e)(5) of the
10 Truth in Lending Act (15 U.S.C. 1605(e)(5)) is amended
11 by inserting “, including fees related to pest infestations,
12 premises and structural inspections, and flood hazards”
13 before the period.

14 (f) ENSURING FINANCE CHARGES REFLECT COST OF
15 CREDIT.—

16 (1) REPORT.—

17 (A) IN GENERAL.—Not later than 6
18 months after the date of the enactment of this
19 Act, the Board of Governors of the Federal Re-
20 serve System shall submit to the Congress a re-
21 port containing recommendations on any regu-
22 latory or statutory changes necessary—

23 (i) to ensure that finance charges im-
24 posed in connection with consumer credit

1 transactions more accurately reflect the
2 cost of providing credit; and

3 (ii) to address abusive refinancing
4 practices engaged in solely for the purpose
5 of avoiding rescission.

6 (B) REPORT REQUIREMENTS.—In prepar-
7 ing the report under this paragraph, the Board
8 shall—

9 (i) consider the extent to which it is
10 feasible to include in finance charges all
11 charges payable directly or indirectly by
12 the consumer to whom credit is extended,
13 and imposed directly or indirectly by the
14 creditor as an incident to the extension of
15 credit (especially those charges currently
16 excluded from finance charges under sec-
17 tion 106 of the Truth in Lending Act), ex-
18 cepting only those charges which are pay-
19 able in a comparable cash transaction; and

20 (ii) consult with and consider the
21 views of affected industries and consumer
22 groups.

23 (2) REGULATIONS.—The Board of Governors of
24 the Federal Reserve System shall prescribe any ap-
25 propriate regulation in order to effect any change in-

1 cluded in the report under paragraph (1), and shall
2 publish the regulation in the Federal Register before
3 the end of the 1-year period beginning on the date
4 of enactment of this Act.

5 **SEC. 111. EXEMPTIONS FROM RESCISSION.**

6 (a) CERTAIN REFINANCING.—Section 125(e) of the
7 Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

8 (1) by striking “or” at the end of paragraph
9 (3);

10 (2) by striking the period at the end of para-
11 graph (4) and inserting “; or”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(5) a transaction, other than a mortgage re-
15 ferred to in section 103(aa), which—

16 “(A) is a refinancing of the principal bal-
17 ance then due and any accrued and unpaid fi-
18 nance charges of a residential mortgage trans-
19 action as defined in section 103(w), or is any
20 subsequent refinancing of such a transaction;
21 and

22 “(B) does not provide any new consolida-
23 tion or new advance.”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
25 Section 125(e)(2) of the Truth in Lending Act (15 U.S.C.

1 1635(e)(2)) is amended by inserting “, other than a trans-
2 action described in subsection (e)(5),” after “a refinancing
3 or consolidation (with no new advances).”.

4 **SEC. 112. TOLERANCES; BASIS OF DISCLOSURES.**

5 (a) TOLERANCES FOR ACCURACY.—Section 106 of
6 the Truth in Lending Act (15 U.S.C. 1605) is amended
7 by adding at the end the following new subsection:

8 “(f) TOLERANCES FOR ACCURACY.—In connection
9 with credit transactions not under an open end credit plan
10 that are secured by real property or a dwelling, the disclo-
11 sure of the finance charge and other disclosures affected
12 by any finance charge—

13 “(1) except as provided in paragraph (2), shall
14 be treated as being accurate for purposes of this
15 title if the amount disclosed as the finance charge—

16 “(A) does not vary from the actual finance
17 charge by more than an amount equal to one-
18 half of the numerical tolerance corresponding
19 to, and generated by, the tolerance provided by
20 section 107(c) with respect to the annual per-
21 centage rate, but in no case may the tolerance
22 under this paragraph be less than \$25 nor
23 greater than \$200; or

24 “(B) is greater than the amount required
25 to be disclosed under this title; and

1 “(2) shall be treated as being accurate for pur-
2 poses of section 125 if the amount disclosed as the
3 finance charge does not vary from the actual finance
4 charge by more than an amount equal to one-half of
5 one percent of the total amount of credit extended.”.

6 (b) BASIS OF DISCLOSURE FOR PER DIEM INTER-
7 EST.—Section 121(c) of the Truth in Lending Act (15
8 U.S.C. 1631(c)) is amended by adding at the end the fol-
9 lowing new sentence: “In the case of any consumer credit
10 transaction a portion of the interest on which is deter-
11 mined on a per diem basis and is to be collected upon
12 the consummation of such transaction, any disclosure with
13 respect to such portion of interest shall be deemed to be
14 accurate for purposes of this title if the disclosure is based
15 on information actually known to the creditor at the time
16 that the disclosure documents are being prepared for the
17 consummation of the transaction.”.

18 **SEC. 113. LIMITATION ON LIABILITY.**

19 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
20 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
21 at the end the following new section:

22 **“SEC. 139. CERTAIN LIMITATIONS ON LIABILITY.**

23 “(a) LIMITATIONS ON LIABILITY.—For any
24 consumer credit transaction subject to this title that is
25 consummated before the date of the enactment of the Fi-

1 nancial Institutions Regulatory Relief Act of 1995, a cred-
2 itor or any assignee of a creditor shall have no civil, ad-
3 ministrative, or criminal liability under this title for, and
4 a consumer shall have no extended rescission rights under
5 section 125(f) with respect to—

6 “(1) the creditor’s treatment, for disclosure
7 purposes, of—

8 “(A) taxes described in section 106(d)(3);

9 “(B) fees and amounts described in section
10 106(e) (2) and (5);

11 “(C) fees and amounts referred to in the
12 3rd sentence of section 106(a); or

13 “(D) mortgage broker fees referred to in
14 section 106(a)(6);

15 “(2) the form of written notice used by the
16 creditor to inform the obligor of the rights of the ob-
17 ligor under section 125 if the creditor provided the
18 obligor with a properly dated form of written notice
19 published and adopted by the Board or a comparable
20 written notice; or

21 “(3) any disclosure relating to the finance
22 charge imposed with respect to the transaction if the
23 amount or percentage actually disclosed—

24 “(A) may be treated as accurate pursuant
25 to section 106(f), or

1 “(B) is greater than the amount or per-
2 centage required to be disclosed under this title.

3 “(b) EXCEPTIONS.—Subsection (a) shall not apply
4 to—

5 “(1) any individual action or counterclaim
6 brought under this title which was filed before June
7 1, 1995;

8 “(2) any class action brought under this title
9 for which a final order certifying a class was entered
10 before January 1, 1995;

11 “(3) the named individual plaintiffs in any class
12 action brought under this title which was filed before
13 June 1, 1995; or

14 “(4) any consumer credit transaction with re-
15 spect to which a timely notice of rescission was sent
16 to the creditor before June 1, 1995.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for chapter 2 of the Truth in Lending Act is amended
19 by inserting after the item relating to section 138 the fol-
20 lowing new item:

“Sec. 139. Certain limitations on liability.”.

21 **SEC. 114. LIMITATION ON RESCISSION LIABILITY.**

22 Section 125 of the Truth in Lending Act (15 U.S.C.
23 1635) is further amended by adding at the end the follow-
24 ing new subsection:

1 “(h) LIMITATION ON RESCISSION.—An obligor shall
2 have no rescission rights arising from the form of written
3 notice used by the creditor to inform the obligor of the
4 rights of the obligor under this section, if the creditor pro-
5 vided the obligor the appropriate form of written notice
6 published and adopted by the Board, or a comparable
7 written notice of the rights of the obligor, that was prop-
8 erly completed by the creditor.”.

9 **SEC. 115. CALCULATION OF DAMAGES.**

10 Section 130(a)(2)(A) of the Truth in Lending Act
11 (15 U.S.C. 1640(a)(2)(A)) is amended—

12 (1) by striking “or (ii)” and inserting “(ii)”;

13 and

14 (2) by inserting before the semicolon at the end
15 the following: “, or in the case of an individual ac-
16 tion relating to a credit transaction not under an
17 open end credit plan that is secured by real property
18 or a dwelling, not less than \$250 nor greater than
19 \$2,500”.

20 **SEC. 116. ASSIGNEE LIABILITY.**

21 (a) VIOLATIONS APPARENT ON THE FACE OF TRANS-
22 ACTION DOCUMENTS.—Section 131 of the Truth in Lend-
23 ing Act (15 U.S.C. 1641) is amended by adding at the
24 end the following new subsection:

1 “(e) LIABILITY OF ASSIGNEE FOR CONSUMER CRED-
2 IT TRANSACTIONS SECURED BY REAL PROPERTY.—

3 “(1) IN GENERAL.—Except as otherwise specifi-
4 cally provided in this title, any civil action against
5 a creditor for a violation of this title, and any pro-
6 ceeding under section 108 against a creditor, with
7 respect to a consumer credit transaction secured by
8 real property may be maintained against any as-
9 signee of such creditor only if—

10 “(A) the violation for which such action or
11 proceeding is brought is apparent on the face of
12 the disclosure statement, any itemization of the
13 amount financed, or any other disclosure of dis-
14 bursement, provided in connection with such
15 transaction pursuant to this title; and

16 “(B) the assignment to the assignee was
17 voluntary.

18 “(2) VIOLATION APPARENT ON THE FACE OF
19 THE DISCLOSURE DESCRIBED.—For the purpose of
20 this section, a violation is apparent on the face of
21 the disclosure statement if—

22 “(A) the disclosure can be determined to
23 be incomplete or inaccurate from the face of the
24 disclosure statement; or

1 “(B) the disclosure does not use the terms
2 or format required to be used by this title.”.

3 (b) SERVICER NOT TREATED AS ASSIGNEE.—Section
4 131 of the Truth in Lending Act (15 U.S.C. 1641) is
5 amended by adding at the end the following new sub-
6 section:

7 “(d) TREATMENT OF SERVICER.—

8 “(1) IN GENERAL.—A servicer of a consumer
9 obligation arising from a consumer credit trans-
10 action shall not be treated as an assignee of such ob-
11 ligation for purposes of this section unless the
12 servicer is the owner of the obligation.

13 “(2) SERVICER NOT TREATED AS OWNER ON
14 BASIS OF ASSIGNMENT FOR ADMINISTRATIVE CON-
15 VENIENCE.—A servicer of a consumer obligation
16 arising from a consumer credit transaction shall not
17 be treated as the owner of the obligation for pur-
18 poses of this section on the basis of an assignment
19 of the obligation from the creditor or another as-
20 signee to the servicer solely for the administrative
21 convenience of the servicer in servicing the obliga-
22 tion. Upon written request by the obligor, the
23 servicer shall provide the obligor, to the best knowl-
24 edge of the servicer, with the name, address, and

1 telephone number of the owner of the obligation or
2 the master servicer of the obligation.

3 “(3) SERVICER DEFINED.—For purposes of this
4 subsection, the term ‘servicer’ has the same meaning
5 as in section 6(i)(2) of the Real Estate Settlement
6 Procedures Act of 1974.”.

7 **SEC. 117. RESCISSION RIGHTS IN FORECLOSURE.**

8 Section 125 of the Truth in Lending Act (15 U.S.C.
9 1635), as amended by section 114, is further amended by
10 adding at the end the following new subsection:

11 “(i) RESCISSION RIGHTS IN FORECLOSURE.—

12 “(1) IN GENERAL.—Notwithstanding section
13 139, and subject to the time period provided in sub-
14 section (f), in addition to any other right of rescis-
15 sion available under this section for a transaction,
16 upon an action of a creditor to execute foreclosure
17 on the primary dwelling of an obligor securing an
18 extension of credit the obligor shall have a right to
19 rescind the transaction equivalent to other rescission
20 rights provided by this section, if—

21 “(A) a mortgage brokers fee is not in-
22 cluded in the finance charge in accordance with
23 the laws and regulations in effect at the time
24 the consumer credit transaction was con-
25 summated; or

1 “(B) the form of notice of rescission for
2 the transaction is not the appropriate form of
3 written notice published and adopted by the
4 Board or a comparable written notice, or was
5 not properly completed by the creditor.

6 “(2) TOLERANCE FOR DISCLOSURES.—Notwith-
7 standing section 106(f), and subject to the time pe-
8 riod provided in subsection (f), for the purposes of
9 exercising any rescission rights following an action
10 by a creditor to foreclose on the principal dwelling
11 of the obligor securing an extension of credit, the
12 disclosure of the finance charge and other disclo-
13 sures affected by any finance charge shall be treated
14 as being accurate for purposes of this section if the
15 amount disclosed as the finance charge does not
16 vary from the actual finance charge by more than
17 \$35.”.

18 **SEC. 118. APPLICABILITY.**

19 The amendments made by subsections (a), (c), (d),
20 and (e) of section 110 and sections 112, 116, and 117
21 shall apply to all consumer credit transactions in existence
22 or consummated after the date of the enactment of this
23 Act.

1 **TITLE II—STREAMLINING MIS-**
2 **CELLANEOUS DEPOSITORY**
3 **INSTITUTION REQUIREMENTS**

4 **SEC. 201. STREAMLINED NONBANKING ACQUISITIONS BY**
5 **WELL CAPITALIZED AND WELL MANAGED**
6 **BANKING ORGANIZATIONS.**

7 (a) NOTICE REQUIREMENTS.—Section 4(j) of the
8 Bank Holding Company Act of 1956 (12 U.S.C. 1843(j))
9 is amended as follows—

10 (1) in paragraph (1), strike “No” and insert in
11 its place “Except as provided in paragraph (3), no”;
12 and

13 (2) add at the end the following new para-
14 graphs:

15 “(3) NO NOTICE REQUIRED FOR CERTAIN
16 TRANSACTIONS.—No notice under paragraph (1) or
17 subsections (c)(8) or (a)(2)(B) is required for a pro-
18 posal by a bank holding company to engage in any
19 activity or acquire the shares or assets of any com-
20 pany if the proposal qualifies under paragraph (4).

21 “(4) CRITERIA FOR STATUTORY APPROVAL.—A
22 proposal qualifies under this paragraph if all of the
23 following criteria are met:

1 “(A) FINANCIAL CRITERIA.—Both before
2 and immediately after the proposed trans-
3 action—

4 “(i) the acquiring bank holding com-
5 pany is well capitalized;

6 “(ii) the lead insured depository insti-
7 tution of such holding company is well cap-
8 italized;

9 “(iii) well capitalized insured deposi-
10 tory institutions control at least 80 percent
11 of the aggregate total risk-weighted assets
12 of insured depository institutions controlled
13 by such holding company; and

14 “(iv) no insured depository institution
15 controlled by such holding company is
16 undercapitalized.

17 “(B) MANAGERIAL CRITERIA.—

18 “(i) WELL MANAGED.—At the time of
19 the transaction, the acquiring bank holding
20 company, its lead insured depository insti-
21 tution, and insured depository institutions
22 that control at least 90 percent of the ag-
23 gregate total risk-weighted assets of in-
24 sured depository institutions controlled by
25 such holding company are well managed.

1 “(ii) LIMITATION ON POORLY MAN-
2 AGED INSTITUTIONS.—

3 “(I) IN GENERAL.—No insured
4 depository institution controlled by
5 the acquiring bank holding company
6 has received one of the lowest two
7 composite ratings at the later of the
8 institution’s most recent examination
9 or subsequent review.

10 “(II) RECENTLY ACQUIRED IN-
11 STITUTIONS.—Insured depository in-
12 stitutions acquired by the bank hold-
13 ing company within the previous
14 twelve months may be excluded for
15 purposes of subclause (I) if—

16 “(aa) the bank holding com-
17 pany has developed a plan ac-
18 ceptable to the appropriate Fed-
19 eral banking agency (as defined
20 in section 3 of the Federal De-
21 posit Insurance Act) for the insti-
22 tution to restore the capital and
23 management of the institution;
24 and

1 “(bb) all such insured depos-
2 itory institutions represent, in
3 the aggregate, less than 10 per-
4 cent of the aggregate total risk-
5 weighted assets of all insured de-
6 pository institutions controlled by
7 the bank holding company.

8 “(C) ACTIVITIES PERMISSIBLE.—Following
9 consummation of the proposal, the bank holding
10 company engages directly or through a subsidi-
11 ary solely in:

12 “(i) activities that are permissible
13 under subsection (c)(8), as determined by
14 the Board by regulation or order there-
15 under, subject to all of the restrictions,
16 terms and conditions of such subsection
17 and such regulation or order; and

18 “(ii) such other activities as are other-
19 wise permissible under this section, subject
20 to the restrictions, terms and conditions,
21 including any prior notice or approval re-
22 quirements, provided in this section.

23 “(D) SIZE OF ACQUISITION.—

24 “(i) ASSET SIZE.—The book value of
25 the total assets acquired does not exceed

1 10 percent of the consolidated total risk-
2 weighted assets of the acquiring bank hold-
3 ing company; and

4 “(ii) CONSIDERATION.—The gross
5 consideration to be paid for the securities
6 or assets does not exceed 15 percent of the
7 consolidated Tier 1 capital of the acquiring
8 bank holding company.

9 “(E) NOTICE NOT OTHERWISE WAR-
10 RANTED.—For proposals described in para-
11 graph (5)(B), the Board has not, prior to the
12 conclusion of the period provided in paragraph
13 (5)(B), advised the bank holding company that
14 a notice under paragraph (1) is required.

15 “(5) NOTIFICATION.—

16 “(A) COMMENCEMENT OF ACTIVITIES AP-
17 PROVED BY RULE.—A bank holding company
18 that qualifies under paragraph (4) and that
19 proposes to engage de novo, directly or through
20 a subsidiary, in any activity that is permissible
21 under subsection (c)(8), as determined by the
22 Board by regulation, may commence that activ-
23 ity without prior notice to the Board and must
24 provide written notification to the Board no

1 later than 10 business days after commencing
2 the activity.

3 “(B) ACTIVITIES PERMITTED BY ORDER
4 AND ACQUISITIONS.—At least twelve business
5 days prior to commencing any activity pursuant
6 to paragraph (3) other than an activity de-
7 scribed in subparagraph (A) or acquiring shares
8 or assets of any company pursuant to para-
9 graph (3), the bank holding company must pro-
10 vide the Board written notification of the pro-
11 posal, unless the Board determines that no no-
12 tice or a shorter notice period is appropriate. A
13 notification under this subparagraph must in-
14 clude a description of the proposed activities
15 and the terms of any proposed acquisition.

16 “(C) ACQUISITIONS OF SAVINGS ASSOCIA-
17 TIONS.—

18 “(i) IN GENERAL.—Notwithstanding
19 subparagraphs (A) and (B), a bank hold-
20 ing company that qualifies under para-
21 graph (4) and that proposes to acquire the
22 shares or assets of a savings association,
23 shall, at least thirty days prior to the ac-
24 quisition—

1 “(I) provide the Board written
2 notification of the proposal, and

3 “(II) publish notice of the pro-
4 posal in a newspaper of general cir-
5 culation in the affected communities
6 for the purpose of soliciting comments
7 on performance under the Community
8 Reinvestment Act of 1977.

9 “(ii) CONTENTS OF NOTICE.—Notifi-
10 cation to the Board under this subpara-
11 graph must include a description of the
12 proposed activities and the terms of any
13 proposed acquisition.

14 “(iii) APPLICATION REQUIRED.—The
15 Board shall require an application under
16 paragraph (1) or subsections (c)(8) or
17 (a)(2)(B) for the purpose of reviewing the
18 application pursuant to the Community
19 Reinvestment Act of 1977 if it receives an
20 adverse public comment during the notice
21 period that raises relevant issues, as deter-
22 mined by the Board, under the Community
23 Reinvestment Act of 1977.”.

24 (b) DEFINITIONS.—Section 2(o) of the Bank Holding
25 Company Act (12 U.S.C. 1841) is amended—

1 (1) by striking paragraph (1) and inserting the
2 following new paragraph:

3 “(1) CAPITAL TERMS.—

4 “(A) INSURED DEPOSITORY INSTITU-
5 TIONS.—With respect to insured depository in-
6 stitutions, the terms ‘well capitalized,’ ‘ade-
7 quately capitalized’ and ‘uncapitalized’ have the
8 meaning given those terms in section 38(b) of
9 the Federal Deposit Insurance Act.

10 “(B) BANK HOLDING COMPANY.—

11 “(i) ADEQUATELY CAPITALIZED.—

12 The term ‘adequately capitalized’ means a
13 level of capitalization which meets or ex-
14 ceeds all applicable Federal regulatory cap-
15 ital standards;

16 “(ii) WELL CAPITALIZED.—A bank

17 holding company is ‘well capitalized’ if it
18 meets the required capital levels for well
19 capitalized bank holding companies estab-
20 lished by the Board.

21 “(C) OTHER CAPITAL TERMS.—The terms

22 ‘Tier 1’ and ‘risk-weighted assets’ have the
23 meaning given those terms in the capital guide-
24 lines or regulations established by the Board for
25 bank holding companies.”; and

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

3 “(8) LEAD INSURED DEPOSITORY INSTITU-
4 TIONS.—

5 “(A) IN GENERAL.—The term ‘lead in-
6 sured depository institution’ means the largest
7 insured depository institution controlled by the
8 bank holding company at any time, based on a
9 comparison of the average total risk-weighted
10 assets controlled by each insured depository in-
11 stitution during the previous 12-month period.

12 “(B) BRANCH OR AGENCY.—For purposes
13 of this paragraph and section 4(j)(4), the term
14 ‘insured depository institution’ shall also in-
15 clude any branch or agency operated in the
16 United States by a foreign bank.

17 “(9) WELL MANAGED.—A company or deposi-
18 tory institution is ‘well managed’ if, at its most re-
19 cent examination or subsequent review, the company
20 or institution received—

21 “(A) one of the highest two composite rat-
22 ings; and

23 “(B) at least a satisfactory rating for man-
24 agement, if such rating is given.”.

1 **SEC. 202. STREAMLINED BANK ACQUISITIONS BY WELL**
2 **CAPITALIZED AND WELL MANAGED BANKING**
3 **ORGANIZATIONS.**

4 (a) BANK HOLDING COMPANY ACT AMENDMENTS.—
5 Section 3 of the Bank Holding Company Act (12 U.S.C.
6 1842) is amended by adding at the end the following new
7 subsection:

8 “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-
9 ACTIONS.—Notwithstanding subsection (a)(3) or (a)(5),
10 an acquisition of shares by a registered bank holding com-
11 pany, or a merger or consolidation between registered
12 bank holding companies, shall be deemed approved at the
13 conclusion of the period specified in paragraph (7) if the
14 following conditions are met:

15 “(1) FINANCIAL AND MANAGERIAL CRITERIA.—

16 “(A) WELL CAPITALIZED BANK HOLDING
17 COMPANY.—Both at the time of and imme-
18 diately after the proposed transaction, the ac-
19 quiring bank holding company is well capital-
20 ized.

21 “(B) WELL CAPITALIZED LEAD INSURED
22 DEPOSITORY INSTITUTION.—Both at the time
23 of and immediately after the proposed trans-
24 action, the lead insured depository institution of
25 the acquiring bank holding company is well cap-
26 italized.

1 “(C) CAPITAL OF OTHER INSURED DEPOSI-
2 TORY INSTITUTIONS.—At the time of the trans-
3 action, well capitalized insured depository insti-
4 tutions control at least 80 percent of the aggre-
5 gate total risk-weighted assets of insured depos-
6 itory institutions controlled by the acquiring
7 bank holding company.

8 “(D) NO UNDERCAPITALIZED INSURED
9 DEPOSITORY INSTITUTIONS.—At the time of the
10 transaction, no insured depository institution
11 controlled by the acquiring bank holding com-
12 pany is undercapitalized.

13 “(E) WELL MANAGED.—

14 “(i) IN GENERAL.—At the time of the
15 transaction, the acquiring bank holding
16 company, its lead insured depository insti-
17 tution, and insured depository institutions
18 that control at least 90 percent of the ag-
19 gregate total risk-weighted assets of in-
20 sured depository institutions controlled by
21 such holding company are well managed.

22 “(ii) NO POORLY MANAGED INSTITU-
23 TIONS.—

24 “(I) IN GENERAL.—No insured
25 depository institution controlled by

1 the acquiring bank holding company
2 has received one of the lowest two
3 composite ratings at the later of the
4 institution's most recent examination
5 or subsequent review.

6 “(II) RECENTLY ACQUIRED IN-
7 STITUTIONS.—Insured depository in-
8 stitutions acquired by the bank hold-
9 ing company within the previous
10 twelve months may be excluded for
11 purposes of subclause (I) if—

12 “(aa) the bank holding com-
13 pany has developed a plan ac-
14 ceptable to the appropriate Fed-
15 eral banking agency (as defined
16 in section 3 of the Federal De-
17 posit Insurance Act) for the insti-
18 tution to restore the capital and
19 management of the institution;
20 and

21 “(bb) all such insured deposi-
22 tory institutions represent, in
23 the aggregate, less than 10 per-
24 cent of the aggregate total risk-
25 weighted assets of all insured de-

1 pository institutions controlled by
2 the holding company.

3 “(2) NO UNSATISFACTORY CRA RATINGS.—

4 “(A) IN GENERAL.—No insured depository
5 institution controlled by the acquiring bank
6 holding company has received a ‘needs to im-
7 prove’ or ‘substantial noncompliance’ composite
8 rating at its most recent examination under the
9 Community Reinvestment Act of 1977.

10 “(B) RECENTLY ACQUIRED INSTITU-
11 TIONS.—Insured depository institutions ac-
12 quired by such bank holding company within
13 the previous twelve months may be excluded for
14 purposes of subparagraph (A) if the bank hold-
15 ing company has developed a plan acceptable to
16 the appropriate Federal banking agency (as de-
17 fined in section 3 of the Federal Deposit Insur-
18 ance Act) to restore the performance of the in-
19 stitution to at least a ‘satisfactory’ rating under
20 the Community Reinvestment Act of 1977.

21 “(3) COMPETITIVE CRITERIA.—Consummation
22 of the proposal complies with guidelines established
23 by the Board by regulation, after consultation with
24 the Attorney General, that identify proposals that

1 are not likely to have a significantly adverse effect
2 on competition in any relevant market.

3 “(4) SIZE OF ACQUISITION.—

4 “(A) LIMITATION ON ASSET SIZE.—The
5 book value of the total assets acquired does not
6 exceed 10 percent of the consolidated total risk
7 weighted assets of the acquiring bank holding
8 company.

9 “(B) ADJUSTMENT TO LIMITATIONS.—The
10 Board may by regulation adjust the limitations
11 established in this paragraph in a manner con-
12 sistent with safety and soundness and the pur-
13 poses of this Act.

14 “(5) INTERSTATE ACQUISITIONS.—Board ap-
15 proval of the transaction is not prohibited under
16 subsection (d).

17 “(6) OTHER CONSIDERATIONS.—Board ap-
18 proval of the transaction is not prohibited under
19 subsection (c)(3).

20 “(7) NOTIFICATION.—

21 “(A) IN GENERAL.—The acquiring bank
22 holding company publishes notice of the appli-
23 cation in a newspaper of general circulation in
24 the affected communities and provides the
25 Board and the Attorney General with written

1 notice of the transaction, including a descrip-
2 tion of the terms of the transaction, at least
3 30 business days before consummation of the
4 transaction, and, prior to the conclusion of that
5 period, the Board has not required an applica-
6 tion under subsection (a) and the Attorney
7 General has not objected to the transaction.

8 “(B) APPLICATION REQUIRED.—The
9 Board shall have the discretion to require an
10 application under subsection (a) as the Board
11 deems appropriate, except that the Board shall
12 require an application under subsection (a) for
13 the purpose of reviewing the application pursu-
14 ant to the Community Reinvestment Act of
15 1977 if the Board receives an adverse public
16 comment during the notice period that raises
17 relevant issues, as determined by the Board,
18 under the Community Reinvestment Act of
19 1977.”

20 **SEC. 203. STREAMLINING BANK MERGERS.**

21 Section 18(c) of the Federal Deposit Insurance Act
22 (12 U.S.C. 1828(c)) is amended—

23 (1) in paragraph (4), by striking all that follows
24 after “report on the competitive factors involved
25 from the Attorney General and” and inserting the

1 following: “give notice to the other agencies that are
2 referred to in paragraph (2) that such a report has
3 been requested. The responsible agency shall not be
4 required to request a report or give notice with re-
5 spect to: (A) a merger with an interim institution or-
6 ganized solely to facilitate a corporate reorganization
7 that does not result in a change in control of an in-
8 stitution; or (B) a merger transaction involving only
9 insured depository institutions that are subsidiaries
10 of the same depository institution holding company.
11 The Attorney General shall furnish the report within
12 30 calendar days of the date on which it is re-
13 quested, or within 10 calendar days if the respon-
14 sible agency advises the Attorney General that an
15 emergency exists requiring expeditious action. If the
16 Attorney General determines that a proposed trans-
17 action raises a significant competitive issue, the At-
18 torney General shall provide all agencies defined in
19 paragraph (2) with a copy of the report. Nothing in
20 this subsection shall prohibit an agency that has re-
21 ceived notice that a report has been requested from
22 the Attorney General from also furnishing a report
23 to the responsible agency within the same time pe-
24 riod as provided for the Attorney General.”; and

1 (2) by striking paragraph (6) and inserting the
2 following new paragraph:

3 “(6) The responsible agency shall immediately
4 notify the Attorney General of any approval by it
5 pursuant to this subsection of a proposed merger
6 transaction, provided that such notification shall not
7 be required with respect to a merger involving an in-
8 terim or affiliated institution as described in sub-
9 paragraph (A) or (B) of paragraph (4). If a report
10 on the competitive factors is not necessary pursuant
11 to any such subparagraph, or if the agency has
12 found that it must act immediately in order to pre-
13 vent the probable failure of one of the banks or sav-
14 ings associations involved and the report has been
15 dispensed with, the transaction may be con-
16 summated immediately upon approval by the agency.
17 If the agency has advised the Attorney General of
18 the existence of an emergency requiring expeditious
19 action and has requested a report on the competitive
20 factors within 10 days and given notice to the other
21 agencies that a report was requested, the transaction
22 may be consummated after the 5th calendar day
23 after the date of approval by the agency. In all other
24 cases, the transaction may not be consummated be-
25 fore the 30th calendar day after the date of approval

1 by the agency, or such shorter period of time as may
2 be prescribed by the agency with the concurrence of
3 the Attorney General, but in no event less than 15
4 calendar days after the date of approval.”.

5 **SEC. 204. ELIMINATE REDUNDANT APPROVAL REQUIRE-**
6 **MENT FOR OAKAR TRANSACTIONS.**

7 Section 5(d)(3) of the Federal Deposit Insurance Act
8 (12 U.S.C. 1815(d)(3)) is amended—

9 (1) in subparagraph (A), by striking “with the
10 prior written approval of the responsible agency
11 under section 18(c)(2)” and inserting “if the trans-
12 action is approved under section 18(c)(2) by the re-
13 sponsible agency (as defined in paragraph (2) of
14 such section)”;

15 (2) in subparagraph (E)—

16 (A) by striking clause (iv) and inserting
17 the following new clause:

18 “(iv) A transaction described in this
19 paragraph shall not be approved unless the
20 acquiring, assuming, or resulting deposi-
21 tory institution will meet all applicable cap-
22 ital requirements upon consummation of
23 the transaction.”;

24 (B) by striking clause (ii); and

1 (C) by redesignating clauses (iii) and (iv)
2 as clauses (ii) and (iii), respectively; and
3 (3) by striking subparagraph (G) and redesignig-
4 nating the subsequent subparagraphs accordingly.

5 **SEC. 205. REGULATION OF HOLDING COMPANIES CON-**
6 **TROLLING BANKS AND SAVINGS ASSOCIA-**
7 **TIONS.**

8 (a) HOME OWNERS' LOAN ACT.—Section 10 of the
9 Home Owners' Loan Act (12 U.S.C. 1467a) is amended
10 by adding the following new subsection:

11 “(t) COORDINATED AND UNIFIED REQUIREMENTS
12 FOR DUAL HOLDING COMPANIES.—Not later than 1 year
13 after the date of the enactment of the Financial Institu-
14 tions Regulatory Relief Act of 1995, the Director and the
15 Board of Governors of the Federal Reserve System shall
16 jointly issue regulations for coordinating and unifying re-
17 quirements that are imposed on companies that are sub-
18 ject both to this section and the Bank Holding Company
19 Act of 1956, consistent with the requirements of existing
20 law, including a system for the coordination of examina-
21 tions and oversight of companies that are subject to both
22 Acts and a unified application requirement that applies
23 to bank holding company acquisitions of savings associa-
24 tions.”.

1 (b) BANK HOLDING COMPANY ACT OF 1956.—Sec-
2 tion 3 of the Bank Holding Company Act of 1956 (12
3 U.S.C. 1842) is amended by adding at the end the follow-
4 ing new subsection:

5 “(h) COORDINATED AND UNIFIED REQUIREMENTS
6 FOR DUAL HOLDING COMPANIES.—Not later than 1 year
7 after the date of the enactment of the Financial Institu-
8 tions Regulatory Relief Act of 1995, the Board and the
9 Director of the Office of Thrift Supervision shall jointly
10 issue regulations for coordinating and unifying require-
11 ments that are imposed on companies that are subject
12 both to this Act and section 10 of the Home Owners’ Loan
13 Act, consistent with the requirements of existing law, in-
14 cluding a system for the coordination of examinations and
15 oversight of companies that are subject to both Acts and
16 a unified application requirement that applies to bank
17 holding company acquisitions of savings associations.”.

18 **SEC. 206. ELIMINATE REQUIREMENT THAT APPROVAL BE**

19 **OBTAINED FOR DIVESTITURES.**

20 Section 2(g) of the Bank Holding Company Act (12
21 U.S.C. 1841(g)) is amended—

22 (1) by striking paragraph (3);

23 (2) by inserting “and” after paragraph (1); and

24 (3) by striking “; and” at the end of paragraph

25 (2) and inserting a period.

1 **SEC. 207. ELIMINATE UNNECESSARY BRANCH APPLICA-**
2 **TIONS.**

3 (a) NATIONAL BANK BRANCH APPLICATIONS.—Sec-
4 tion 5155(i) of the Revised Statutes (12 U.S.C. 36(i)) is
5 amended—

6 (1) by striking “No branch” and inserting the
7 following:

8 “(1) APPROVAL REQUIRED.—Except as pro-
9 vided in paragraph (2), no branch”; and

10 (2) by adding at the end the following new
11 paragraphs:

12 “(2) NO APPROVAL REQUIRED FOR CERTAIN
13 BRANCHES.—Notwithstanding this subsection or
14 subsection (b) or (c) and subject to paragraph (3),
15 the consent and approval of the Comptroller of the
16 Currency shall not be required for a national bank-
17 ing association to establish and operate, or to retain
18 and operate, a branch or seasonal agency if—

19 “(A) the association is well capitalized, as
20 that term is defined in section 38 of the Fed-
21 eral Deposit Insurance Act and regulations pre-
22 scribed by the Comptroller of the Currency
23 under such section;

24 “(B) the association received a composite
25 CAMEL rating of ‘1’ or ‘2’ under the Uniform
26 Financial Institutions Rating System (or an

1 equivalent rating under a comparable rating
2 system) as of its most recent examination;

3 “(C) the association did not receive a
4 ‘needs to improve’ or substantial noncompliance
5 composite rating at its most recent examination
6 under the Community Reinvestment Act of
7 1977;

8 “(D) the association publishes a notice of
9 the proposed branch in a newspaper of general
10 circulation in the affected community, in ac-
11 cordance with the Comptroller of the Currency’s
12 rules governing the establishment of branches,
13 which shall invite interested parties to submit
14 comments to the Comptroller on the perform-
15 ance of the association under the Community
16 Reinvestment Act of 1977; and

17 “(E) the Comptroller of the Currency may
18 grant approval under this section to such asso-
19 ciation to establish and operate, or to retain
20 and operate, a branch or seasonal agency at the
21 proposed location and the Comptroller does not
22 determine, prior to the expiration of the com-
23 ment period provided in subparagraph (D), that
24 the association is not meeting the credit needs

1 of its entire community consistent with the safe
2 and sound operation of such institution.

3 “(3) EXCEPTION.—Paragraph (2) shall not
4 apply if the Comptroller receives an adverse public
5 comment during the notice period provided in (2)(D)
6 that raises relevant issues, as determined by the
7 Comptroller, under the Community Reinvestment
8 Act of 1977.

9 “(4) A branch or seasonal agency established by
10 a national banking association under paragraph (2)
11 shall be deemed to have been established and oper-
12 ated pursuant to an application approved under this
13 section.”.

14 (b) STATE MEMBER BANK BRANCH APPLICA-
15 TIONS.—The 3d undesignated paragraph of section 9 of
16 the Federal Reserve Act (12 U.S.C. 321) is amended by
17 adding at the end the following: “Notwithstanding the pre-
18 vious two sentences, the approval of the Board shall not
19 be required for a State member bank to establish and op-
20 erate a branch or seasonal agency if—

21 “(A) the State member bank is well cap-
22 italized, as that term is defined in section 38 of
23 the Federal Deposit Insurance Act and regula-
24 tions prescribed by the Board under such sec-
25 tion;

1 “(B) the State member bank received a
2 composite CAMEL rating of ‘1’ or ‘2’ under the
3 Uniform Financial Institutions Rating System
4 (or an equivalent rating under a comparable
5 rating system);

6 “(C) the State member bank did not re-
7 ceive a ‘needs to improve’ or substantial non-
8 compliance composite rating at its most recent
9 examination under the Community Reinvest-
10 ment Act of 1977;

11 “(D) the State member bank publishes a
12 notice of the proposed branch in a newspaper of
13 general circulation in the affected community,
14 in accordance with the Board’s rules governing
15 the establishment of branches, which shall in-
16 vite interested parties to submit comments to
17 the Board on the performance of the State
18 member bank under the Community Reinvest-
19 ment Act of 1977; and

20 “(E) the Board is authorized to grant ap-
21 proval under this section to such State member
22 bank to establish and operate a branch or sea-
23 sonal agency at the proposed location and the
24 Board does not determine, before the expiration
25 of the comment period provided in subpara-

1 graph (D), that the State member bank is not
2 meeting the credit needs of its entire commu-
3 nity consistent with its the safe and sound oper-
4 ation.

5 The preceding sentence shall not apply if the Board
6 receives an adverse public comment during the no-
7 tice period referred to in subparagraph (D) that
8 raises relevant substantive issues, as determined by
9 the Board, under the Community Reinvestment Act
10 of 1977. A branch or seasonal agency established by
11 a State member bank under the 2d preceding sen-
12 tence shall be deemed to have been established and
13 operated pursuant to an application approved under
14 this section.”.

15 (c) STATE NONMEMBER BANK BRANCH APPLICA-
16 TIONS.—Section 18(d) of the Federal Deposit Insurance
17 Act (12 U.S.C. 1828(d)) is amended by adding at the end
18 the following new paragraphs:

19 “(5) APPLICATION EXEMPTION FOR CERTAIN
20 BANKS.—Notwithstanding paragraph (1), the con-
21 sent of the Corporation shall not be required for a
22 State nonmember insured bank to establish and op-
23 erate any domestic branch if—

24 “(A) the bank is well capitalized, as that
25 term is defined in section 38 and regulations

1 prescribed by the Corporation under such sec-
2 tion;

3 “(B) the bank received a composite
4 CAMEL rating of ‘1’ or ‘2’ under the Uniform
5 Financial Institutions Rating System (or an
6 equivalent rating under a comparable rating
7 system) as of its most recent examination;

8 “(C) the bank did not receive a ‘needs to
9 improve’ or substantial noncompliance compos-
10 ite rating at its most recent examination under
11 the Community Reinvestment Act of 1977;

12 “(D) the bank publishes a notice of the
13 proposed branch in a newspaper of general cir-
14 culation in the affected community, in accord-
15 ance with the Corporation’s rules governing the
16 establishment of branches, which shall invite in-
17 terested parties to submit comments to the Cor-
18 poration on the performance of the bank under
19 the Community Reinvestment Act of 1977; and

20 “(E) the Corporation is authorized to give
21 consent under this section to such bank to es-
22 tablish and operate a domestic branch at the
23 proposed location and the Corporation does not
24 determine, prior to the expiration of the com-
25 ment period provided in subparagraph (D), that

1 the bank is not meeting the credit needs of its
2 entire community consistent with the safe and
3 sound operation of such institution.

4 “(6) EXCEPTION.—Paragraph (5) shall not
5 apply if the Corporation receives an adverse public
6 comment during the notice period provided in (5)(D)
7 that raises relevant issues, as determined by the
8 Corporation, under the Community Reinvestment
9 Act of 1977.

10 “(7) APPROVAL GRANTED.—A branch estab-
11 lished by a State member bank under paragraph (5)
12 shall be deemed to have been established and oper-
13 ated pursuant to an application approved under this
14 section.”.

15 **SEC. 208. ELIMINATE BRANCH APPLICATIONS AND RE-**
16 **QUIREMENTS FOR ATMs AND SIMILAR FA-**
17 **CILITIES.**

18 (a) DEFINITION OF BRANCH UNDER NATIONAL
19 BANK ACT.—Section 5155(j) of the Revised Statutes (12
20 U.S.C. 36(j)) is amended by adding at the end the follow-
21 ing: “The term ‘branch’ does not include automated teller
22 machines or remote service units.”.

23 (b) DEFINITION OF BRANCH UNDER FEDERAL DE-
24 POSIT INSURANCE ACT.—Section 3(o) of the Federal De-
25 posit Insurance Act (12 U.S.C. 1813(o)) is amended by

1 striking “lent; and the” and inserting “lent. The term ‘do-
2 mestic branch’ does not include automated teller machines
3 or remote service units. The”.

4 **SEC. 209. AGENCY WAIVER AUTHORITY FOR OFFICER AND**
5 **DIRECTOR FILINGS.**

6 Section 32(d) of the Federal Deposit Insurance Act
7 (12 U.S.C. 1831i(d)) is amended to read as follows:

8 “(d) ADDITIONAL INFORMATION.—

9 “(1) IN GENERAL.—Any notice submitted to an
10 appropriate Federal banking agency with respect to
11 an individual by any insured depository institution
12 or depository institution holding company pursuant
13 to subsection (a) shall include—

14 “(A) the information described in section
15 7(j)(6)(A) about the individual; and

16 “(B) such other information as the agency
17 may prescribe by regulation.

18 “(2) WAIVER ON CASE BY CASE BASIS.—An ap-
19 propriate Federal banking agency may waive the re-
20 quirement of this subsection with respect to informa-
21 tion described in paragraph (1) on a case-by-case
22 basis.”.

1 **SEC. 210. ELIMINATE THE PER-BRANCH CAPITAL REQUIRE-**
2 **MENT FOR NATIONAL BANKS AND STATE**
3 **MEMBER BANKS.**

4 Section 5155 of the Revised Statutes (12 U.S.C. 36)
5 is amended by striking subsection (h).

6 **SEC. 211. EXPANDED REGULATORY DISCRETION FOR**
7 **SMALL BANK EXAMINATIONS.**

8 Section 10(d)(8) of the Federal Deposit Insurance
9 Act (12 U.S.C. 1820(d)(8)) is amended by striking
10 “\$175,000,000” and inserting “\$250,000,000”.

11 **SEC. 212. IDENTIFICATION OF FOREIGN NONBANK FINAN-**
12 **CIAL INSTITUTION CUSTOMERS.**

13 (a) IN GENERAL.—Section 5327(a)(1) of title 31,
14 United States Code, is amended to read as follows:

15 “(1) is a financial institution (other than a for-
16 eign bank (as defined in section 101(b) of the Inter-
17 national Banking Act of 1978)) which is a foreign
18 person; and”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
20 The heading for section 5327 of title 31, United States
21 Code, is amended by inserting “**FOREIGN NONBANK**”
22 after “**OF**”.

23 (c) CLERICAL AMENDMENT.—The table of sections
24 for chapter 53 of title 31, United States Code, is amended

1 by striking the item relating to section 5327 and inserting
2 the following new item:

“5327. Identification of foreign nonbank financial institutions.”.

3 **SEC. 213. REQUIRED REGULATORY REVIEW OF REGULA-**
4 **TIONS.**

5 (a) IN GENERAL.—The Financial Institutions Exam-
6 ination Council, each appropriate Federal banking agency,
7 and the National Credit Union Administration Board
8 shall, within every 10-year period, conduct a review of all
9 of the regulations issued pursuant to the Council’s author-
10 ity or the authority of any such agency or the Board to
11 identify outdated or otherwise unnecessary regulatory re-
12 quirements imposed upon insured depository institutions.

13 (b) PROCESS.—In conducting the review required
14 under subsection (a), the Council, each appropriate Fed-
15 eral banking agency, and the National Credit Union Ad-
16 ministration Board shall—

17 (1) categorize such regulations by type (such as
18 consumer regulations, safety and soundness regula-
19 tions, or such other designation as determined by
20 the Council); and

21 (2) at regular intervals, provide notice and so-
22 licit public comment on a particular category or cat-
23 egories of regulations, requesting commentators to
24 identify areas of such regulations considered out-
25 dated, unnecessary, or unduly burdensome.

1 The Council, each appropriate Federal banking agency,
2 and the National Credit Union Administration Board
3 shall, over a 10-year period, ensure that all categories of
4 regulations have been set out for notice and comment.

5 (c) REGULATORY RESPONSE.—The Council, the ap-
6 propriate Federal banking agency, or the National Credit
7 Union Administration Board shall—

8 (1) publish in the Federal Register a summary
9 of the comments received pursuant to this section,
10 identifying significant issues raised and providing
11 comment on such issues; and

12 (2) eliminate unnecessary regulations wherever
13 appropriate.

14 (d) REPORT TO CONGRESS.—The Council shall, with-
15 in 30 days of publishing the summary required under sub-
16 section (c)(1), provide a report to the Congress summariz-
17 ing any significant issues raised during such comment pe-
18 riod, the relative merits of such issues, and whether the
19 appropriate Federal banking agency involved can address
20 the regulatory burdens associated with such issues by reg-
21 ulation, or whether such concerns can only be addressed
22 by legislation.

23 (e) DEFINITIONS.—For purposes of this section, the
24 terms “insured depository institution” and “appropriate

1 Federal banking agency” have the same meanings as in
2 section 3 of the Federal Deposit Insurance Act.

3 **SEC. 214. FOREIGN BANK APPLICATIONS.**

4 (a) IN GENERAL.—Section 7(d) of the International
5 Banking Act of 1978 (12 U.S.C. 3105(d)) is amended—

6 (1) by striking paragraphs (1) and (2) and in-
7 serting the following new paragraphs:

8 “(1) PRIOR REVIEW REQUIRED.—

9 “(A) IN GENERAL.—After the appropriate
10 State Bank supervisor or the Comptroller of the
11 Currency has approved an application of a for-
12 eign bank to establish a branch or an agency,
13 or acquire ownership or control of a commercial
14 lending company, the application shall be re-
15 viewed by the Board for a period of not more
16 than 60 days.

17 “(B) REFERRAL TO THE BOARD.—Upon
18 receiving an application of a foreign bank to es-
19 tablish a State branch or State agency or com-
20 mercial lending company, the appropriate State
21 bank supervisor shall forward a copy of the ap-
22 plication to the Board for review.

23 “(C) REQUIRED STANDARDS FOR AP-
24 PROVAL.—Except as provided by subparagraphs
25 (D) and (E), the Board may not approve or

1 recommend approval of an application of a for-
2 eign bank unless it determines that—

3 “(i) the foreign bank engages directly
4 in the business of banking outside the
5 United States and is subject to comprehen-
6 sive supervision or regulation on a consoli-
7 dated basis by the appropriate authorities
8 in its home country; and

9 “(ii) the foreign bank has furnished to
10 the Board the information it needs to ade-
11 quately assess the application.

12 “(D) LIMITED EXCEPTION FOR FOREIGN
13 BANKS NOT SUBJECT TO COMPREHENSIVE SU-
14 PERVISION.—The Board, in its discretion, may
15 approve or recommend approval of an applica-
16 tion of a foreign bank that the Board deter-
17 mines is not subject to comprehensive super-
18 vision or regulation on a consolidated basis if—

19 “(i) the foreign bank engages directly
20 in the business of banking outside the
21 United States and has, as of the date of
22 the application, established and operated a
23 branch, agency, or commercial lending
24 company in the United States that is not
25 the subject of an ongoing enforcement ac-

1 tion by any State or Federal bank regu-
2 latory agency;

3 “(ii) the Board determines that the
4 foreign bank will make adequate financial
5 resources available to support the proposed
6 operation of the applicant; and

7 “(iii) the Board determines that the
8 foreign bank is subject to substantial su-
9 pervision or regulation on a consolidated
10 basis by the appropriate authorities in its
11 home country, and continues to make de-
12 monstrable progress toward establishing
13 arrangements for comprehensive super-
14 vision or regulation of its banks on a con-
15 solidated basis.

16 “(E) EXEMPTION.—The Board, in its dis-
17 cretion, may approve or recommend approval of
18 an application without applying the criteria in
19 subparagraph (C)(i) which requires the Board
20 to determine that the foreign bank application
21 is subject to comprehensive supervision or regu-
22 lation on a consolidated basis if—

23 “(i) the Board has previously ap-
24 proved or recommended approval of an ap-
25 plication of a foreign bank that is from the

1 same country and is of the same class of
2 banking entities as the current applicant;
3 and

4 “(ii) at the time it approved or rec-
5 ommended approval of the previous appli-
6 cation, the Board made the determination
7 required in subparagraph (C)(i).

8 “(2) AUTHORITY OF THE BOARD.—

9 “(A) DECISION ON APPLICATION.—Based
10 on its review of an application submitted to it
11 pursuant to paragraph (1)(A), the Board
12 may—

13 “(i) with respect to an application
14 submitted to it for review by the appro-
15 priate State bank supervisor, confirm the
16 approval of or deny the application; or

17 “(ii) with respect to an application
18 submitted to it for review by the Comptrol-
19 ler of the Currency, recommend to the
20 Comptroller that the approval be confirmed
21 or denied.

22 “(B) EXTENSION OF REVIEW PERIOD.—
23 The Board is authorized to extend the review
24 period provided in paragraph (1)(A) for an ad-
25 ditional 60 days after providing notice of and

1 the reasons for the extension to the applicant
2 and any appropriate State bank supervisor or
3 the Comptroller of the Currency.

4 “(C) REASONS FOR DISAPPROVAL.—If the
5 Board denies an application or recommends
6 that an application be denied, the Board shall
7 provide an explanation of its reasons to the ap-
8 propriate State bank supervisor or the Comp-
9 troller of the Currency, as appropriate.”.

10 (b) REGULATORY SIMPLIFICATION.—Section 4 of the
11 International Banking Act of 1978 (12 U.S.C. 3102) is
12 amended—

13 (1) in subsection (a)—

14 (A) by amending paragraph (2) to read as
15 follows:

16 “(2) REVIEW BY THE BOARD.—Upon receipt of
17 an application for approval under this subsection,
18 the Comptroller shall forward the application to the
19 Board for its review in accordance with section
20 7(d).”; and

21 (B) by adding at the end the following new
22 paragraph:

23 “(3) BOARD RECOMMENDATIONS REQUIRED TO
24 BE CONSIDERED.—In considering an application for
25 approval under this subsection, the Comptroller of

1 the Currency shall consider any recommendation
2 made by the Board under section 7(d).”;

3 (2) in subsection (c)—

4 (A) by striking “(c) In acting on any appli-
5 cation” and inserting “(c) ADDITIONAL FAC-
6 TORS.—

7 “(1) IN GENERAL.—In acting on any applica-
8 tion”; and

9 (B) by adding at the end the following new
10 paragraph:

11 “(2) ADDITIONAL CRITERIA.—In act-
12 ing on any application to establish a Fed-
13 eral branch or agency, the Comptroller also
14 shall apply the standards that the Board
15 applies under section 7(d).”; and

16 (3) by striking subsection (d) and inserting the
17 following new subsection:

18 “(d) FEDERAL AGENCIES.—

19 “(1) IN GENERAL.—Notwithstanding any other
20 provisions of this section, a foreign bank shall not
21 receive deposits from citizens or residents of the
22 United States or exercise fiduciary powers at any
23 Federal agency.

24 “(2) EXCEPTION.—A foreign bank may main-
25 tain at a Federal agency for the account of others

1 credit balances incidental to, or arising out of, the
2 exercise of its lawful powers.”.

3 (c) CONFORMING AMENDMENT.—Section 7(d)(5) of
4 the International Banking Act of 1978 (12 U.S.C.
5 3105(d)) is amended to read as follows:

6 “(5) ESTABLISHMENT OR RECOMMENDATION
7 OF CONDITIONS.—Consistent with the standards in
8 this section for the approval or recommendations of
9 the Board, the Board may—

10 “(A) with respect to an application submit-
11 ted to the Board for review by the appropriate
12 State bank supervisor, impose any conditions on
13 its approval that the Board considers to be nec-
14 essary; and

15 “(B) with respect to an application submit-
16 ted to the Board for review by the Comptroller
17 of the Currency, recommend to the Comptroller
18 that any condition considered to be necessary
19 by the Board be imposed as a condition of the
20 Comptroller’s approval.”.

21 **SEC. 215. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

22 Section 7(c)(1) of the International Banking Act of
23 1978 (12 U.S.C. 3105(b)(1)) is amended by striking sub-
24 paragraphs (B) and (C) and inserting the following new
25 subparagraphs:

1 “(B) RELIANCE ON PRIMARY SUPER-
2 VISOR.—In order to avoid unnecessary duplica-
3 tion and cost, the Board shall, to the extent
4 practicable, rely upon the reports of examina-
5 tions made by the Comptroller, the Federal De-
6 posit Insurance Corporation, or the appropriate
7 State bank supervisor in achieving the purposes
8 of this subsection.”

9 “(C) ON-SITE EXAMINATION.—Each
10 branch or agency of a foreign bank shall be
11 subject to on-site examination on the same
12 schedule that a comparable national or State
13 nonmember bank would be examined by the
14 Comptroller of the Currency or the Federal De-
15 posit Insurance Corporation.”

16 **SEC. 216. AMENDMENTS TO THE DEPOSITORY INSTITU-**
17 **TIONS MANAGEMENT INTERLOCKS ACT.**

18 (a) DUAL SERVICE OF OUTSIDE COUNSEL AND AC-
19 COUNTANTS ON BOARD OF DIRECTORS PROHIBITED.—
20 The Depository Institution Management Interlocks Act
21 (12 U.S.C. 3201 et seq.) is amended by adding at the end
22 the following new section:

1 **“SEC. 211. DUAL SERVICE OF OUTSIDE COUNSEL AND AC-**
2 **COUNTANTS ON BOARD OF DIRECTORS PRO-**
3 **HIBITED.**

4 “(a) IN GENERAL.—No individual who is an outside
5 counsel or outside accountant of a depository institution
6 or a depository holding company may serve as a member
7 of board of directors of that depository institution or de-
8 pository holding company or of any affiliate of any such
9 institution or company.

10 “(b) EXCEPTION FOR SMALL INSTITUTIONS.—This
11 section shall not apply with respect to any depository insti-
12 tution the total assets of which do not exceed
13 \$250,000,000.”.

14 (b) OWNERSHIP DISCLOSURES TO BOARD OF DIREC-
15 TORS.—The Depository Institution Management Inter-
16 locks Act (12 U.S.C. 3201 et seq.) is amended by inserting
17 after section 211 (as added by subsection (a) of this sec-
18 tion) the following new section:

19 **“SEC. 212. OWNERSHIP DISCLOSURES TO BOARD OF DIREC-**
20 **TORS.**

21 “Not less than once each calendar year, each deposi-
22 tory institution and depository holding company shall pro-
23 vide to each member of its board of directors, and to each
24 member of the board of directors of any depository institu-
25 tion or depository holding company it controls, a list of
26 the names and principal places of business of each individ-

1 ual or company which directly or indirectly owns, controls,
2 or has power to vote 5 percent or more of any class of
3 voting securities of the depository institution or depository
4 holding company, and such other information as the ap-
5 propriate Federal depository institutions regulatory agen-
6 cy shall prescribe by regulation.”.

7 (c) BOARD OF DIRECTORS CONTROL BY OUTSIDE DI-
8 RECTORS.—The Depository Institution Management
9 Interlocks Act (12 U.S.C. 3201 et seq.) is amended by
10 inserting after section 212 (as added by subsection (b) of
11 this section) the following new section:

12 **“SEC. 213. BOARD OF DIRECTORS CONTROL BY OUTSIDE DI-**
13 **RECTORS.**

14 “A majority of the voting members of the board of
15 directors of each depository institution and each deposi-
16 tory holding company shall be outside directors.”.

17 (d) DEFINITIONS.—Section 202 of the Depository In-
18 stitution Management Interlocks Act (12 U.S.C. 3201) is
19 amended—

20 (1) in paragraph (5), by striking “and”;

21 (2) in paragraph (6), by striking the period and
22 inserting “; and”; and

23 (3) by adding at the end the following new
24 paragraphs:

1 “(7) the term ‘outside counsel’ means any indi-
2 vidual who is not a full time employee of the deposi-
3 tory institution or depository holding company and
4 who receives compensation, either directly or
5 through a law firm, partnership, or corporation, for
6 legal services or advice rendered to the depository in-
7 stitution or depository holding company or any of its
8 subsidiaries, affiliates, or holding companies;

9 “(8) the term ‘outside accountant’ means any
10 individual who is not a full time employee of the de-
11 pository institution or depository holding company
12 and who receives compensation, either directly or
13 through an accounting firm, partnership, or corpora-
14 tion, for accounting services or advice rendered to
15 the depository institution or any of its subsidiaries,
16 affiliates, or holding companies;

17 “(9) the term ‘outside director’ means an indi-
18 vidual who is a member of the board of directors
19 who is not an employee or officer with management
20 functions of either the depository institution or de-
21 pository holding company, or any of its subsidiaries,
22 affiliates, or holding companies; and

23 “(10) the term ‘control’ has the meaning given
24 to such term in section 2 of the Bank Holding Com-
25 pany Act of 1956, for bank holding companies and

1 section 10(a)(2) of the Home Owners' Loan Act for
2 savings and loan holding companies.”.

3 **SEC. 217. ELECTRONIC FUND TRANSFER FEE DISCLOSURES**

4 **AT ELECTRONIC TERMINALS.**

5 Section 904 of the Electronic Fund Transfer Act (15
6 U.S.C. 1693b) is amended—

7 (1) by striking “(d) In the event” and inserting
8 “(d) APPLICABILITY TO SERVICE PROVIDERS
9 OTHER THAN CERTAIN FINANCIAL INSTITU-
10 TIONS.—

11 “(1) IN GENERAL.—In the event”; and

12 (2) by adding at the end the following new
13 paragraphs:

14 “(2) FEE DISCLOSURES AT ELECTRONIC TERMI-
15 NALS.—The regulations prescribed under paragraph
16 (1) shall require any person who operates an elec-
17 tronic terminal at which electronic fund transfer
18 services are made available to any consumer to pro-
19 vide notice to the consumer (at the time the service
20 is provided at any such terminal) of the amount of
21 any fee imposed by such person for providing the
22 service.”.

1 **SEC. 218. BRANCH CLOSURES.**

2 (a) IN GENERAL.—Section 42 of the Federal Deposit
3 Insurance Act (12 U.S.C. 1831r-1) is amended by adding
4 at the end the following new subsection:

5 “(e) SCOPE OF APPLICATION.—

6 “(1) IN GENERAL.—This section shall not apply
7 with respect to—

8 “(A) an automated teller machine;

9 “(B) a branch which—

10 “(i) has been acquired through merg-
11 er, consolidation, purchase, assumption, or
12 other method; and

13 “(ii) is located—

14 “(I) within 2.5 miles of another
15 branch of the acquiring institution; or

16 “(II) within a neighborhood cur-
17 rently being served by another branch
18 of the acquiring institution,

19 if such other branch of the acquiring institution
20 is expected to continue to provide banking serv-
21 ices to substantially all of the customers cur-
22 rently served by the branch acquired;

23 “(C) a branch which is closing and reopen-
24 ing at a location which is—

25 “(i) within 2.5 miles of the location of
26 the branch being closed; or

1 “(ii) within the same neighborhood as
2 the branch being closed,
3 if the branch at the new location is expected to
4 continue to provide banking services to substan-
5 tially all of the customers served by the branch
6 at the former location;

7 “(D) a branch that is closed in connection
8 with—

9 “(i) an emergency acquisition under—
10 “(I) section 11(n); or
11 “(II) subsections (f) or (k) of
12 section 13; or

13 “(ii) any assistance provided by the
14 Corporation under section 13(c); and

15 “(E) any other branch closure whose ex-
16 emption from the notice requirements of this
17 section would not produce a result inconsistent
18 with the purposes of this section.

19 “(2) REGULATIONS.—The appropriate Federal
20 banking agency shall, by regulation, determine the
21 circumstances under which any exemption under
22 paragraph(1)(E) may be granted.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply as if such amendment had been
25 included in section 42 of the Federal Deposit Insurance

1 Act as of the date of the enactment of the Federal Deposit
2 Insurance Corporation Improvement Act of 1991.

3 **SEC. 219. ANNUAL STUDY AND REPORT.**

4 Not later than 12 months after the date of the enact-
5 ment of this Act, and annually thereafter, the Board of
6 Governors of the Federal Reserve System, the Director of
7 the Office of Thrift Supervision, the Comptroller of the
8 Currency, and the Board of Directors of the Federal De-
9 posit Insurance Corporation shall jointly conduct a study
10 and submit to the Congress a report on the extent to
11 which this Act and the amendments made by this Act
12 have, through reductions in regulatory burdens, resulted
13 in increased lending to small businesses.

14 **TITLE III—LENDER LIABILITY**

15 **SEC. 301. LENDER LIABILITY.**

16 (a) IN GENERAL.—The Federal Deposit Insurance
17 Act (12 U.S.C. 1811 et seq.) is amended by adding after
18 section 44, the following new section:

19 **“SEC. 45. LENDER, FIDUCIARY AND GOVERNMENT AGENCY**
20 **ENVIRONMENTAL LIABILITIES.**

21 “(a) LENDER ENVIRONMENTAL LIABILITY.—

22 “(1) IN GENERAL.— Notwithstanding any other
23 provision or rule of Federal law, no lender, acting as
24 defined in this section, shall be liable pursuant to a

1 Federal environmental law, except as provided in
2 this section.

3 “(2) ACTUAL PARTICIPATION REQUIRED.—A
4 lender shall only be liable pursuant to a Federal en-
5 vironmental law when the lender actually partici-
6 pates in management of another person’s activities
7 which create liability under the same Federal envi-
8 ronmental law.

9 “(3) DEFINITIONS.—The following definitions
10 shall apply for purposes of this section—

11 “(A) the term ‘participate in management’
12 means actually participating in the management
13 or operational affairs of other persons’ activi-
14 ties, and does not include merely having the ca-
15 pacity to influence, or the unexercised right to
16 control such activities;

17 “(B) a person shall be considered to ‘par-
18 ticipate in management’ while a borrower is still
19 in possession of property, only if such person—

20 “(i) exercises decision-making control
21 over the environmental compliance of a
22 borrower, such that the person has under-
23 taken responsibility for the hazardous sub-
24 stance handling or disposal practices of the
25 borrower; or

1 “(ii) exercises control at a level com-
2 parable to that of a manager of the enter-
3 prise of the borrower, such that the person
4 has assumed or manifested responsibility
5 for the overall management of the enter-
6 prise encompassing day-to-day decision-
7 making with respect to environmental com-
8 pliance, or with respect to substantially all
9 of the operational aspects (as distinguished
10 from financial or administrative aspects) of
11 the enterprise, other than environmental
12 compliance;

13 “(C) the term ‘participate in management’
14 does not include engaging in an act or failing
15 to act before the time that an extension of cred-
16 it is made or a security interest is created in
17 property; and

18 “(D) the term ‘participate in management’
19 does not include, unless such actions rise to the
20 level of participating in management (as de-
21 fined in subparagraphs (A) and (B))—

22 “(i) holding an extension of credit or
23 a security interest or abandoning or releas-
24 ing an extension of credit or a security in-
25 terest;

1 “(ii) including in the terms of an ex-
2 tension of credit, or in a contract or secu-
3 rity agreement relating to such an exten-
4 sion, covenants, warranties, or other terms
5 and conditions that relate to environmental
6 compliance;

7 “(iii) monitoring or enforcing the
8 terms and conditions of an extension of
9 credit or security interest;

10 “(iv) monitoring or undertaking 1 or
11 more inspections of property, except that
12 monitoring or undertaking any such in-
13 spection, although not required by this
14 subsection, shall provide probative evidence
15 that a holder of a security interest is act-
16 ing to preserve and protect the property
17 during the time the holder may have pos-
18 session or control of such property;

19 “(v) requiring or conducting a re-
20 sponse action or other lawful means of ad-
21 dressing the release or threatened release
22 of a hazardous substance in connection
23 with property prior to, during, or upon the
24 expiration of the term of an extension of
25 credit;

1 “(vi) providing financial or other ad-
2 vice or counseling in an effort to mitigate,
3 prevent, or cure default or diminution in
4 the value of the property;

5 “(vii) restructuring, renegotiating, or
6 otherwise agreeing to alter the terms and
7 conditions of an extension of credit or se-
8 curity interest, or exercising forbearance;
9 or

10 “(viii) exercising other remedies that
11 may be available under applicable law for
12 the breach of any term or condition of the
13 extension of credit or security agreement.

14 “(E) When a lender did not participate in
15 management of property prior to foreclosure,
16 then the lender shall not be liable even if such
17 person forecloses on property, sells, releases, or
18 liquidates property, maintains business activi-
19 ties, winds up operations, or undertakes any re-
20 sponse action with respect to property, or takes
21 other measures to preserve, protect, or prepare
22 property prior to sale or disposition, if—

23 “(i) such person seeks to sell, release,
24 or otherwise divest the property at the ear-
25 liest practical, commercially reasonable

1 time, on commercially reasonable terms,
2 taking into account market conditions and
3 legal and regulatory requirements; and

4 “(ii) such person preserves the prop-
5 erty until such sale, release, or divestiture.

6 “(4) A lender shall be liable for the cost of any
7 response action or corrective action only to the ex-
8 tent that the action required is directly attributable
9 to the lender’s activities. A lender shall not be liable
10 for the cost of any response action or corrective ac-
11 tion relating to the release of a hazardous substance
12 which commences before, and continues after the
13 lender’s involvement.

14 “(5) No provision of this subsection shall be
15 construed as exempting from liability any lender
16 whose intentional act or omission causes the release
17 of a hazardous substance, pollutant, or contaminant,
18 or the violation of any environmental law. The liabil-
19 ity of any lender that is liable under any federal en-
20 vironmental law shall be limited to the unpaid bal-
21 ance of any outstanding extension of credit related
22 to the property or activities forming the basis for the
23 liability.

24 “(b) FIDUCIARY ENVIRONMENTAL LIABILITY.—

1 “(1) IN GENERAL.— Notwithstanding any other
2 provision or rule of Federal law, no fiduciary, acting
3 as defined in this section, shall be liable pursuant to
4 any Federal environmental law, except as provided
5 in this section.

6 “(2) LIABILITY OF FIDUCIARY.—

7 “(A) Subject to subparagraphs (B) and
8 (C), a fiduciary holding title to property or oth-
9 erwise affiliated with property solely in a fidu-
10 ciary capacity shall be personally subject to the
11 obligations and liabilities of any person under
12 any Federal environmental law, to the same ex-
13 tent as if the property were held by the fidu-
14 ciary free of trust.

15 “(B) The personal obligations and liabil-
16 ities of a fiduciary referred to in subparagraph
17 (A) shall be limited to the extent to which the
18 assets of the trust or estate are sufficient to in-
19 demnify the fiduciary, unless—

20 “(i) the obligations and liabilities
21 would have arisen even if the person had
22 not served as a fiduciary;

23 “(ii) the fiduciary’s own failure to ex-
24 ercise due care with respect to property
25 caused or contributed to the release of haz-

1 ardous substances following establishment
2 of the trust, estate, or fiduciary relation-
3 ship; or

4 “(iii) the fiduciary had a role in estab-
5 lishing the trust, estate, or fiduciary rela-
6 tionship, and such trust, estate, or fidu-
7 ciary relationship has no objectively rea-
8 sonable or substantial purpose apart from
9 the avoidance or limitation of liability
10 under an environmental law.

11 “(C) A fiduciary shall not be personally
12 liable for undertaking or directing another to
13 undertake a response action.

14 “(3) RULE OF CONSTRUCTION.—No provision
15 of this subsection shall be construed as affecting the
16 liability, if any, of any person who—

17 “(A)(i) acts in a capacity other than a fi-
18 duciary capacity; and

19 “(ii) directly or indirectly benefits from a
20 trust or fiduciary relationship; or

21 “(B)(i) is a beneficiary and a fiduciary
22 with respect to the same fiduciary estate; and

23 “(ii) as a fiduciary, receives benefits that
24 exceed customary or reasonable compensation,

1 and incidental benefits, permitted under other
2 applicable laws.

3 “(c) DEFINITIONS.—For purposes of subsections (a)
4 and (b):

5 “(1) The term ‘Federal environmental law’
6 means any Federal statute or rule of common law
7 with the purpose of protection of the environment
8 and any Federal regulation promulgated thereunder
9 and any State statute or regulation created as a fed-
10 erally approved or delegated program implementing
11 these laws, including the following:

12 “(A) The Federal Insecticide, Fungicide,
13 and Rodenticide Act (7 U.S.C. 136 et seq.).

14 “(B) The Toxic Substances Control Act
15 (15 U.S.C. 2601 et seq.).

16 “(C) The Federal Water Pollution Control
17 Act (33 U.S.C. 1251 et seq.).

18 “(D) The Oil Pollution Act of 1990 (33
19 U.S.C. 2701 et seq.).

20 “(E) The Clean Air Act (42 U.S.C. 7401
21 et seq.).

22 “(F) The Solid Waste Disposal Act (42
23 U.S.C. 6901 et seq.).

1 “(G) The Comprehensive Environmental
2 Response, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9601 et seq.).

4 “(H) The Pollution Prevention Act of
5 1990 (42 U.S.C. 13101 et seq.).

6 “(2) The term ‘extension of credit’ means the
7 making or renewal of any loan, a granting of a line
8 of credit or extending credit in any manner, such as
9 an advance by means of an overdraft or the issuance
10 of a standby letter of credit, and a lease finance
11 transaction—

12 “(A) in which the lessor does not initially
13 select the leased property and does not, during
14 the lease term, control the daily operation or
15 maintenance of the property; or

16 “(B) that conforms with regulations issued
17 by the appropriate Federal banking agency or
18 the appropriate State bank supervisory (as
19 these terms are defined in section 3 of the Fed-
20 eral Deposit Insurance Act or with regulations
21 issued by the National Credit Union Adminis-
22 tration Board, as appropriate.

23 “(3) The term ‘fiduciary’ means a person who
24 acts for the exclusive benefit of another person as a
25 bona fide fiduciary within the meaning of section

1 3(21) of the Employee Retirement Income Security
2 Act of 1974, trustee, executor, administrator, custo-
3 dian, guardian, conservator, receiver, committee of
4 estates of lunatics or other disabled persons, or per-
5 sonal representative; except, that the term ‘fiduciary’
6 does not include any person—

7 “(A) who owns, or controls, is affiliated
8 with or takes any action with respect to prop-
9 erty on behalf of or for the benefit of a lender
10 or takes any action to protect a lender’s exten-
11 sion of credit or security interest (any such per-
12 son shall be treated as a lender under sub-
13 section (a) of this section); or

14 “(B) who is acting as a fiduciary with re-
15 spect to a trust or other fiduciary estate that—

16 “(i) was not created as part of, or to
17 facilitate, one or more estate plans or pur-
18 suant to the incapacity of a natural per-
19 son; and

20 “(ii) was organized for the primary
21 purpose of, or is engaged in, actively carry-
22 ing on a trade or business for profit.

23 “(4) The term ‘financial or administrative as-
24 pect’ means a function such as a credit manager, ac-
25 counts payable officer, accounts receivable officer,

1 personnel manager, comptroller, or chief financial of-
2 ficer, or any similar function.

3 “(5) The terms ‘foreclosure’ and ‘foreclose’
4 means, respectively, acquiring, and to acquire, prop-
5 erty through—

6 “(A) purchase at sale under a judgment or
7 decree, a power of sale, a nonjudicial fore-
8 closure sale, or from a trustee, deed in lieu of
9 foreclosure, or similar conveyance, or through
10 repossession, if such property was security for
11 an extension of credit previously contracted;

12 “(B) conveyance pursuant to an extension
13 of credit previously contracted, including the
14 termination of a lease agreement; or

15 “(C) any other formal or informal manner
16 by which the person acquires, for subsequent
17 disposition, possession of collateral in order to
18 protect the security interest of the person.

19 “(6) The term ‘hazardous substance’ means any
20 chemical, biological, organic, inorganic, or radio-
21 active pollutants, contaminants, materials, waste or
22 other substances regulated under, defined, listed or
23 included in any Federal environmental law.

24 “(7) The term ‘lender’ means—

1 “(A) a person that makes a bona fide ex-
2 tension of credit to or takes a security interest
3 from another person and includes a successor
4 or assign of the person which makes the exten-
5 sion of credit or takes the security interest;

6 “(B) the Federal National Mortgage Asso-
7 ciation, the Federal Home Loan Mortgage Cor-
8 poration, the Federal Agricultural Mortgage
9 Corporation, or other entity that in a bona fide
10 manner is engaged in the business of buying or
11 selling loans on interests therein;

12 “(C) any person engaged in the business of
13 insuring or guaranteeing against a default in
14 the repayment of an extension of credit, or act-
15 ing as a surety with respect to an extension of
16 credit, to other persons; or

17 “(D) any person regularly engaged in the
18 business of providing title insurance who ac-
19 quires property as a result of assignment or
20 conveyance in the course of underwriting claims
21 and claims settlement.

22 “(8) The term ‘operational aspect’ means a
23 function such as a facility or plant manager, oper-
24 ations manager, chief operating officer, or chief ex-
25 ecutive officer.

1 “(9) The term ‘person’ means an individual,
2 firm, corporation, association, partnership, consor-
3 tium, joint venture, commercial entity, United States
4 Government, State, municipality, commission, politi-
5 cal subdivision of a State, or any interstate body.

6 “(10) The term ‘property’ means real, personal
7 and mixed property.

8 “(11) The term ‘response action’ shall have the
9 same meaning as that term is defined in section 101
10 of the Comprehensive Environmental Response,
11 Compensation and Liability Act.

12 “(12) The term ‘security interest’ means a
13 right under a mortgage, deed of trust, assignment,
14 judgment lien, pledge, security agreement, factoring
15 agreement, or lease, or any other right accruing to
16 a person to secure the repayment of money, the per-
17 formance of a duty, or some other obligation.

18 “(d) SAVINGS CLAUSE.—Nothing in subsections (a),
19 (b), or (c), shall—

20 “(1) affect the rights or immunities or other de-
21 fenses that are already available to lenders or fidu-
22 ciaries under any Federal environmental law;

23 “(2) be construed to create any liability for any
24 lender or fiduciary; or

1 “(3) create a private right of action against any
2 lender or fiduciary.

3 “(e) FEDERAL BANKING AND LENDING AGENCY EN-
4 VIRONMENTAL LIABILITY.—

5 “(1) GOVERNMENTAL ENTITIES.—

6 “(A) BANKING AND LENDING AGENCIES.—

7 Except as provided in paragraph (C), a Federal
8 banking or lending agency shall not be liable
9 under any law imposing strict liability for the
10 release or threatened release of petroleum or a
11 hazardous substance at or from property (in-
12 cluding any right or interest therein) ac-
13 quired—

14 “(i) in connection with the exercise of
15 receivership or conservatorship authority,
16 or the liquidation or winding up of the af-
17 fairs of an insured depository institution,
18 including any of its subsidiaries, and
19 bridge bank;

20 “(ii) in connection with the provision
21 of loans, discounts, advances, guarantees,
22 insurance or other financial assistance; or

23 “(iii) in connection with property re-
24 ceived in any civil or criminal proceeding,

1 or administrative enforcement action,
2 whether by settlement or order.

3 “(B) APPLICATION OF STATE LAW.—Noth-
4 ing in paragraph (e) shall be construed as pre-
5 empting, affecting, applying to, or modifying
6 any State law, or any rights, actions, cause of
7 action, or obligations under State law, except
8 that liability under State law shall not exceed
9 the value of the agency’s interest in the asset
10 giving rise to such liability. Nothing in this sec-
11 tion shall be construed to prevent a Federal
12 banking or lending agency from agreeing with
13 a State to transfer property to such State in
14 lieu of any liability that might otherwise be im-
15 posed under State law.

16 “(C) LIMITATION.—Notwithstanding para-
17 graph (A), and subject to section 107(d) of the
18 Comprehensive Environmental Response, Com-
19 pensation, and Liability Act of 1980, a Federal
20 banking or lending agency that directly caused
21 or materially contributed to the release of pe-
22 troleum or a hazardous substance may be liable
23 for removal, remedial, or other response action
24 pertaining to that release.

1 “(D) SUBSEQUENT PURCHASER.—The im-
2 munity provided by paragraphs (A) and (B)
3 shall extend to the first subsequent purchaser
4 of property described in such paragraph from a
5 Federal banking or lending agency, unless such
6 purchaser—

7 “(i) would otherwise be liable or po-
8 tentially liable for all or part of the costs
9 of the removal, remedial, or other response
10 action due to a prior relationship with the
11 property;

12 “(ii) is or was affiliated with or relat-
13 ed to a party described in subparagraph
14 (i);

15 “(iii) fails to agree to take reasonable
16 steps necessary to abate the release or
17 threatened release or to protect public
18 health and safety in a manner consistent
19 with the purposes of applicable Federal en-
20 vironmental laws; or

21 “(iv) directly causes or significantly
22 and materially contributes to any addi-
23 tional release or threatened release on the
24 property.

1 “(E) FEDERAL OR STATE ACTION.—Not-
2 withstanding subparagraph (D), if a Federal
3 agency or State environmental agency is re-
4 quired to take remedial action due to the failure
5 of a subsequent purchaser to carry out, in good
6 faith, the agreement described in subparagraph
7 (D)(iii), such subsequent purchaser shall reim-
8 burse the Federal or State environmental agen-
9 cy for the costs of such remedial action. Any
10 such reimbursement shall not exceed the in-
11 crease in the fair market value of the property
12 attributable to the remedial action.

13 “(2) LIEN EXEMPTION.—Notwithstanding any
14 other provision of law, any property held by a subse-
15 quent purchaser referred to in paragraph (1)(D) or
16 held by a Federal banking or lending agency shall
17 not be subject to any lien for costs or damages asso-
18 ciated with the release or threatened release of pe-
19 troleum or a hazardous substance existing at the
20 time of the transfer.

21 “(3) EXEMPTION FROM COVENANTS TO REME-
22 DIATE.—A Federal banking or lending agency shall
23 be exempt from any law requiring such agency to
24 grant covenants warranting that a removal, reme-
25 dial, or other response action has been, or will in the

1 future be, taken with respect to property acquired in
2 the manner described in paragraph (e)(1)(A).

3 “(4) DEFINITIONS.—For purposes of subsection
4 (e), the following definitions shall apply:

5 “(A) The term ‘Federal banking or lending
6 agency’ means the Corporation, the Resolution
7 Trust Corporation, the Board of Governors of
8 the Federal Reserve System, the Comptroller of
9 the Currency, the Office of Thrift Supervision,
10 a Federal Reserve Bank, a Federal Home Loan
11 Bank, the Department of Housing and Urban
12 Development, the National Credit Union Ad-
13 ministration Board, the Farm Credit Adminis-
14 tration, the Farm Credit System Insurance
15 Corporation, the Farm Credit System Assist-
16 ance Board, the Farmers Home Administration,
17 the Rural Electrification Administration, the
18 Small Business Administration, and any other
19 Federal agency acting in a similar capacity, in
20 any of their capacities, and their agents or ap-
21 pointees.

22 “(B) The term ‘hazardous substance’ has
23 the same meaning as in section 101(14) of the
24 Comprehensive Environmental Response, Com-
25 pensation, and Liability Act of 1980.

1 “(C) The term ‘release’ has the same
2 meaning as in section 101(22) of the Com-
3 prehensive Environmental Response, Compensa-
4 tion, and Liability Act of 1980, and includes
5 the use, storage, disposal, treatment, genera-
6 tion, or transportation of a hazardous sub-
7 stance.

8 “(5) SAVINGS CLAUSE.—Nothing in subsection
9 (e) shall—

10 “(A) affect the rights or immunities or
11 other defenses that are available under this Act
12 or other applicable law to any party, subject to
13 the provisions of this section;

14 “(B) be construed to create any liability
15 for any party; or

16 “(C) create a private right of action
17 against an insured depository institution or
18 lender or against a Federal banking or lending
19 agency.”.

20 (b) EFFECTIVE DATE.—This section shall take effect
21 upon the date of enactment and shall apply to any claim
22 against any lender, fiduciary or government agency under
23 any Federal environmental law that has not been finally
24 resolved by adjudication or settlement prior to enactment.

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