

104TH CONGRESS
2D SESSION

H. R. 3567

To fully capitalize the deposit insurance funds, to provide regulatory relief for insured depository institutions and depository institution holding companies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1996

Mr. BEREUTER introduced the following bill; which was referred to the
Committee on Banking and Financial Services

A BILL

To fully capitalize the deposit insurance funds, to provide regulatory relief for insured depository institutions and depository institution holding companies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Federal Deposit Insurance Funds and Regulatory Relief
6 Act of 1996”.

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

Sec. 1. Short title; table of contents.

TITLE I—THRIFT AND BANK CHARTER MERGER

Subtitle A—Recapitalization of Savings Association Insurance Fund

Sec. 101. Special assessment to capitalize SAIF.

Subtitle B—Status of Banks and Savings Associations

Sec. 111. Comprehensive review of charter merger.

Subtitle C—Merger of Insurance Funds

Sec. 121. Merger of BIF and SAIF.

Subtitle D—FICO INTEREST COSTS SHARED

Sec. 131. Financing corporation assessments shared proportionally by all insured depository institutions.

Subtitle E—Refunds of Excess Amounts in Deposit Fund

Sec. 141. Refund of amounts in deposit insurance fund in excess of designated reserve amount.

Subtitle F—Limitation on Assessments

Sec. 151. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.

Subtitle G—Miscellaneous Provisions

Sec. 161. Definitions.

TITLE II—TRANSITIONAL PROVISIONS

Sec. 201. Applicability of FICO assessments to certain SAIF-assessable deposits until merger of BIF and SAIF.

Sec. 202. Deposit insurance fund cross guarantees.

Sec. 203. Savings association insurance fund member assessment rate.

Sec. 204. Deposit shifts between BIF and SAIF member subsidiaries of the same holding company.

Sec. 205. Transfer of Federal reserve surplus funds to meet FICO carrying costs.

TITLE III—REDUCTIONS IN GOVERNMENT OVERREGULATION

Sec. 300. Short title.

Subtitle A—The Home Mortgage Process

Sec. 301. Regulatory authority over disclosures and escrow accounts under RESPA transferred to Federal Reserve Board.

Sec. 302. Simplification and unification of disclosures required under RESPA and TILA for mortgage transactions.

Sec. 303. Increased regulatory flexibility under the Truth in Lending Act.

Sec. 304. Reductions in RESPA regulatory burdens; clarifying amendments.

Sec. 305. Disclosures for adjustable rate mortgages.

Sec. 306. Certain charges.

- Sec. 307. Exemptions from rescission.
- Sec. 308. Recovery of fees.
- Sec. 309. Home ownership debt counseling notification.
- Sec. 310. Home Mortgage Disclosure Act.

Subtitle B—Community Reinvestment Act Amendments

- Sec. 321. Expression of congressional intent.
- Sec. 322. Community Reinvestment Act exemption.
- Sec. 323. Community input and conclusive rating.
- Sec. 324. Special purpose financial institutions.
- Sec. 325. Increased incentives for lending to low- and moderate-income communities.
- Sec. 326. Prohibition on additional reporting under CRA.
- Sec. 327. Technical amendment.
- Sec. 328. Duplicative reporting.
- Sec. 329. CRA congressional oversight.
- Sec. 330. Consultation among examiners.
- Sec. 331. Limitation on regulations.

Subtitle C—Consumer Banking Reforms

- Sec. 341. Truth in Savings.
- Sec. 342. Information sharing.
- Sec. 343. Electronic Fund Transfer Act clarification.
- Sec. 344. Limit on restitution for Truth in Lending violations if safety and soundness of violator would be affected.

Subtitle D—Equal Credit Opportunity Act Amendments

- Sec. 351. Short title.
- Sec. 352. Findings and purpose.
- Sec. 353. Equal Credit Opportunity Act amendments.
- Sec. 354. Fair Credit Reporting Act amendments.
- Sec. 355. Incentives for self-testing.
- Sec. 356. Credit scoring systems.
- Sec. 357. Consultation by Attorney General required in nonreferral cases.
- Sec. 358. Effective date.

Subtitle E—Consumer Leasing Act Amendments

- Sec. 361. Short title.
- Sec. 362. Congressional findings and declaration of purpose.
- Sec. 363. Regulations.
- Sec. 364. Consumer lease advertising.
- Sec. 365. Statutory penalties.

TITLE IV—STREAMLINING GOVERNMENT REGULATIONS

Subtitle A—Regulatory Approval Issues

- Sec. 401. Streamlined nonbanking acquisitions by well capitalized and well managed banking organizations.
- Sec. 402. Streamlined bank acquisitions by well capitalized and well managed banking organizations.
- Sec. 403. Eliminate filing and approval requirements for insured depository institutions already controlled by the same holding company.
- Sec. 404. Eliminate redundant approval requirement for Oakar transactions.

- Sec. 405. Elimination of duplicative requirements imposed upon bank holding companies and other regulatory relief under the Home Owners' Loan Act.
- Sec. 406. Eliminate requirement that approval be obtained for divestitures.
- Sec. 407. Eliminate unnecessary branch applications.
- Sec. 408. Eliminate branch applications and requirements for ATMs and similar facilities.
- Sec. 409. Eliminate requirement for approval of investments in bank premises for well capitalized and well managed banks.
- Sec. 410. Eliminate unnecessary filing for officer and director appointments.
- Sec. 411. Streamlining process for determining new nonbanking activities.
- Sec. 412. Disposition of foreclosed assets.
- Sec. 413. Increase in certain credit union loan ceilings.

Subtitle B—Streamlining of Government Regulations; Miscellaneous Provisions

- Sec. 421. Eliminate the per-branch capital requirement for national banks and State member banks.
- Sec. 422. Branch closures.
- Sec. 423. Amendments to the Depository Institutions Management Interlocks Act.
- Sec. 424. Acceleration of repayment to Treasury.
- Sec. 425. Eliminate unnecessary and duplicative recordkeeping and reporting requirements relating to loans to executive officers and permit participation in employee benefit plans.
- Sec. 426. Expanded regulatory discretion for small bank examinations.
- Sec. 427. Cost reimbursement.
- Sec. 428. Identification of foreign nonbank financial institution customers.
- Sec. 429. Paperwork reduction review.
- Sec. 430. Daily confirmations for hold-in-custody repurchase transactions.
- Sec. 431. Required regulatory review of regulations.
- Sec. 432. Country risk requirements.
- Sec. 433. Audit costs.
- Sec. 434. Standards for director and officer liability.
- Sec. 435. Foreign bank applications.
- Sec. 436. Duplicate examination of foreign banks.
- Sec. 437. Second mortgages.
- Sec. 438. Streamlining FDIC approval of new State bank powers.
- Sec. 439. Repeal of call report attestation requirement.
- Sec. 440. Authorizing bank service companies to organize as limited liability partnerships.
- Sec. 441. Bank investments in Edge Act and agreement corporations.
- Sec. 442. Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.
- Sec. 443. Waivers authorized for residency requirement for national bank directors.

TITLE V—LENDER LIABILITY

- Sec. 501. Lender liability.

TITLE VI—ANNUAL STUDY AND REPORT ON IMPACT ON LENDING TO SMALL BUSINESS

- Sec. 601. Annual study and report.

1 **TITLE I—THRIFT AND BANK**
2 **CHARTER MERGER**
3 **Subtitle A—Recapitalization of**
4 **Savings Association Insurance**
5 **Fund**

6 **SEC. 101. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.**

7 (a) IN GENERAL.—Except as provided in subsection
8 (f), the Board of Directors shall impose a special assess-
9 ment on the SAIF-assessable deposits of each insured de-
10 pository institution at a rate applicable to all such institu-
11 tions that the Board of Directors, in its sole discretion,
12 determines (after taking into account the adjustments de-
13 scribed in subsections (g) through (j)) will cause the Sav-
14 ings Association Insurance Fund to achieve the designated
15 reserve ratio on January 1, 1998.

16 (b) FACTORS TO BE CONSIDERED.—In carrying out
17 subsection (a), the Board of Directors shall base its deter-
18 mination on—

19 (1) the monthly Savings Association Insurance
20 Fund balance most recently calculated;

21 (2) data on insured deposits reported in the
22 most recent reports of condition filed not later than
23 70 days before the date of enactment of this Act by
24 insured depository institutions; and

1 (3) any other factors that the Board of Direc-
2 tors deems appropriate.

3 (c) DATE OF DETERMINATION.—For purposes of
4 subsection (a), the amount of the SAIF-assessable depos-
5 its of an insured depository institution shall be determined
6 as of March 31, 1995.

7 (d) DATE PAYMENT DUE.—The special assessment
8 imposed under this section shall be—

9 (1) due on January 1, 1998; and

10 (2) paid to the Corporation on the later of—

11 (A) January 1, 1998; or

12 (B) such other date as the Corporation
13 shall prescribe, but not later than March 1,
14 1998.

15 (e) ASSESSMENT DEPOSITED IN SAIF.—Notwith-
16 standing any other provision of law, the proceeds of the
17 special assessment imposed under this section shall be de-
18 posited in the Savings Association Insurance Fund.

19 (f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—

20 (1) EXEMPTION FOR WEAK INSTITUTIONS.—

21 The Board of Directors may, by order, in its sole
22 discretion, exempt any insured depository institution
23 that the Board of Directors determines to be weak,
24 from paying the special assessment imposed under
25 this section if the Board of Directors determines

1 that the exemption would reduce risk to the Savings
2 Association Insurance Fund.

3 (2) GUIDELINES REQUIRED.—Not later than 30
4 days after the date of enactment of this Act, the
5 Board of Directors shall prescribe guidelines setting
6 forth the criteria that the Board of Directors will
7 use in exempting institutions under paragraph (1).
8 Such guidelines shall be published in the Federal
9 Register.

10 (3) EXEMPTION FOR CERTAIN NEWLY CHAR-
11 TERED AND OTHER DEFINED INSTITUTIONS.—

12 (A) IN GENERAL.—In addition to the insti-
13 tutions exempted from paying the special as-
14 sessment under paragraph (1), the Board of
15 Directors shall exempt any insured depository
16 institution from payment of the special assess-
17 ment if the institution—

18 (i) was in existence on October 1,
19 1995, and held no SAIF-assessable depos-
20 its before January 1, 1993;

21 (ii) is a Federal savings bank which—

22 (I) was established de novo in
23 April 1994 in order to acquire the de-
24 posits of a savings association which

1 was in default or in danger of default;
2 and

3 (II) received minority interim
4 capital assistance from the Resolution
5 Trust Corporation under section
6 21A(w) of the Federal Home Loan
7 Bank Act in connection with the ac-
8 quisition of any such savings associa-
9 tion; or

10 (iii) is a savings association, the de-
11 posits of which are insured by the Savings
12 Association Insurance Fund, which—

13 (I) before January 1, 1987, was
14 chartered as a Federal savings bank
15 insured by the Federal Savings and
16 Loan Insurance Corporation for the
17 purpose of acquiring all or substan-
18 tially all of the assets and assuming
19 all or substantially all of the deposit
20 liabilities of a national bank in a
21 transaction consummated after July
22 1, 1986; and

23 (II) as of the date of that trans-
24 action, had assets of less than
25 \$150,000,000.

1 (B) DEFINITION.—For purposes of this
2 paragraph, an institution shall be deemed to
3 have held SAIF-assessable deposits before Jan-
4 uary 1, 1993, if—

5 (i) the institution directly held SAIF-
6 assessable insured deposits before that
7 date; or

8 (ii) the institution succeeded to, ac-
9 quired, purchased, or otherwise holds any
10 SAIF-assessable deposits as of the date of
11 enactment of this Act that were SAIF-as-
12 sessable deposits before January 1, 1993.

13 (4) EXEMPT INSTITUTIONS REQUIRED TO PAY
14 ASSESSMENTS AT FORMER RATES.—

15 (A) PAYMENTS TO SAIF AND DIF.—Any in-
16 sured depository institution that the Board of
17 Directors exempts under this subsection from
18 paying the special assessment imposed under
19 this section shall pay semiannual assessments
20 during calendar years 1998, 1999, 2000, and
21 2001—

22 (i) into the Deposit Insurance Fund,
23 based on SAIF-assessable deposits of that
24 institution as of December 31, 1997, at as-
25 sessment rates calculated under the sched-

1 ule in effect for Savings Association Insur-
2 ance Fund members on June 30, 1995; or
3 (ii) into the Savings Association In-
4 surance Fund, based on SAIF-assessable
5 deposits of that institution, at assessment
6 rates calculated under the schedule in ef-
7 fect for Savings Association Insurance
8 Fund members on June 30, 1995, if the
9 Bank Insurance Fund and the Savings As-
10 sociation Insurance Fund are not merged
11 into the Deposit Insurance Fund.

12 (B) OPTIONAL PRO RATA PAYMENT OF
13 SPECIAL ASSESSMENT.—This paragraph shall
14 not apply with respect to any insured depository
15 institution (or successor insured depository in-
16 stitution) that has paid, during any calendar
17 year from 1998 through 2001, upon such terms
18 as the Corporation may announce, an amount
19 equal to the product of—

20 (i) 12.5 percent of the special assess-
21 ment that the institution would have been
22 required to pay under subsection (a), if the
23 Board of Directors had not exempted the
24 institution; and

1 (ii) the number of full semiannual pe-
2 riods remaining between the date of the
3 payment and December 31, 2001.

4 (g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS
5 FACING HARDSHIP AS A RESULT OF THE SPECIAL AS-
6 SESSMENT.—

7 (1) ELECTION AUTHORIZED.—If—

8 (A) an insured depository institution, or
9 any depository institution holding company
10 which, directly or indirectly, controls such insti-
11 tution, is subject to terms or covenants in any
12 debt obligation or preferred stock outstanding
13 on September 13, 1995; and

14 (B) the payment of the special assessment
15 under subsection (a) would pose a significant
16 risk of causing such depository institution or
17 holding company to default or violate any such
18 term or covenant,

19 the depository institution may elect, with the ap-
20 proval of the Corporation, to pay such special as-
21 sessment in accordance with paragraphs (2) and (3)
22 in lieu of paying such assessment in the manner re-
23 quired under subsection (a).

24 (2) 1ST ASSESSMENT.—An insured depository
25 institution which makes an election under paragraph

1 (1) shall pay an assessment of 50 percent of the
2 amount of the special assessment that would other-
3 wise apply under subsection (a), by the date on
4 which such special assessment is otherwise due
5 under subsection (d).

6 (3) 2D ASSESSMENT.—An insured depository
7 institution which makes an election under paragraph
8 (1) shall pay a 2d assessment, by the date estab-
9 lished by the Board of Directors in accordance with
10 paragraph (4), in an amount equal to the product of
11 51 percent of the rate determined by the Board of
12 Directors under subsection (a) for determining the
13 amount of the special assessment and the SAIF-as-
14 sessable deposits of the institution on March 31,
15 1999, or such other date in calendar year 1999 as
16 the Board of Directors determines to be appropriate.

17 (4) DUE DATE OF 2D ASSESSMENT.—The date
18 established by the Board of Directors for the pay-
19 ment of the assessment under paragraph (3) by a
20 depository institution shall be the earliest practicable
21 date which the Board of Directors determines to be
22 appropriate, which is at least 15 days after the date
23 used by the Board of Directors under paragraph (3).

24 (5) SUPPLEMENTAL SPECIAL ASSESSMENT.—
25 An insured depository institution which makes an

1 election under paragraph (1) shall pay a supple-
2 mental special assessment, at the same time the pay-
3 ment under paragraph (3) is made, in an amount
4 equal to the product of—

5 (A) 50 percent of the rate determined by
6 the Board of Directors under subsection (a) for
7 determining the amount of the special assess-
8 ment; and

9 (B) 95 percent of the amount by which the
10 SAIF-assessable deposits used by the Board of
11 Directors for determining the amount of the 1st
12 assessment under paragraph (2) exceeds, if any,
13 the SAIF-assessable deposits used by the Board
14 for determining the amount of the 2d assess-
15 ment under paragraph (3).

16 (h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
17 CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

18 (1) IN GENERAL.—For purposes of computing
19 the special assessment imposed under this section
20 with respect to an institution which, as of June 30,
21 1995, is a Bank Insurance Fund member, the
22 amount of any deposits of any insured depository in-
23 stitution which section 5(d)(3) of the Federal De-
24 posit Insurance Act treats as insured by the Savings

1 Association Insurance Fund shall be reduced by 20
2 percent—

3 (A) if the adjusted attributable deposit
4 amount of the Bank Insurance Fund member
5 bank is less than 50 percent of the total domes-
6 tic deposits of that member bank as of June 30,
7 1995; or

8 (B) if, as of June 30, 1995, the Bank In-
9 surance Fund member—

10 (i) had an adjusted attributable de-
11 posit amount equal to less than 75 percent
12 of the total assessable deposits of that
13 member bank;

14 (ii) had total assessable deposits
15 greater than \$5,000,000,000; and

16 (iii) was owned or controlled by a
17 bank holding company that owned or con-
18 trolled insured depository institutions hav-
19 ing an aggregate amount of deposits in-
20 sured or treated as insured by the Bank
21 Insurance Fund greater than the aggre-
22 gate amount of deposits insured or treated
23 as insured by the Savings Association In-
24 surance Fund.

1 (2) ADJUSTED ATTRIBUTABLE DEPOSIT
2 AMOUNT.—For purposes of this subsection, the “ad-
3 justed attributable deposit amount” shall be deter-
4 mined in accordance with section 5(d)(3)(C) of the
5 Federal Deposit Insurance Act.

6 (i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE
7 DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND
8 MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit
9 Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

10 (1) in subparagraph (C), by striking “The ad-
11 justed attributable deposit amount” and inserting
12 “Except as provided in subparagraph (K), the ad-
13 justed attributable deposit amount”; and

14 (2) by adding at the end the following new sub-
15 paragraph:

16 “(K) ADJUSTMENT OF ADJUSTED ATTRIB-
17 UTABLE DEPOSIT AMOUNT.—The amount deter-
18 mined under subparagraph (C)(i) for deposits
19 acquired by March 31, 1995, shall be reduced
20 by 20 percent for purposes of computing the
21 adjusted attributable deposit amount for the
22 payment of any assessment for any semiannual
23 period after the date of the enactment of the
24 Federal Deposit Insurance Funds and Regu-
25 latory Relief Act of 1996 (other than the spe-

1 cial assessment imposed under section 101(a) of
2 such Act), for a Bank Insurance Fund member
3 bank that, as of June 30, 1995—

4 “(i) had an adjusted attributable de-
5 posit amount that was less than 50 percent
6 of the total deposits of that member bank;
7 or

8 “(ii)(I) had an adjusted attributable
9 deposit amount equal to less than 75 per-
10 cent of the total assessable deposits of that
11 member bank;

12 “(II) had total assessable deposits
13 greater than \$5,000,000,000; and

14 “(III) was owned or controlled by a
15 bank holding company that owned or con-
16 trolled insured depository institutions hav-
17 ing an aggregate amount of deposits in-
18 sured or treated as insured by the Bank
19 Insurance Fund greater than the aggre-
20 gate amount of deposits insured or treated
21 as insured by the Savings Association In-
22 surance Fund.”.

23 (j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
24 CERTAIN SAVINGS ASSOCIATIONS.—

1 (1) SPECIAL ASSESSMENT REDUCTION.—For
2 purposes of computing the special assessment im-
3 posed under this section, in the case of any con-
4 verted association, the amount of any deposits of
5 such association which were insured by the Savings
6 Association Insurance Fund as of March 31, 1995,
7 shall be reduced by 20 percent.

8 (2) CONVERTED ASSOCIATION.—For purposes
9 of this subsection, the term “converted association”
10 means—

11 (A) any Federal savings association—

12 (i) that is a member of the Savings
13 Association Insurance Fund and that has
14 deposits subject to assessment by that
15 fund which did not exceed \$4,000,000,000,
16 as of March 31, 1995; and

17 (ii) that had been, or is a successor by
18 merger, acquisition, or otherwise to an in-
19 stitution that had been, a State savings
20 bank, the deposits of which were insured
21 by the Federal Deposit Insurance Corpora-
22 tion before August 9, 1989, that converted
23 to a Federal savings association pursuant
24 to section 5(i) of the Home Owners’ Loan
25 Act before January 1, 1985;

1 (B) a State depository institution that is a
2 member of the Savings Association Insurance
3 Fund that had been a State savings bank be-
4 fore October 15, 1982, and was a Federal sav-
5 ings association on August 9, 1989;

6 (C) an insured bank that—

7 (i) was established de novo in order to
8 acquire the deposits of a savings associa-
9 tion in default or in danger of default;

10 (ii) did not open for business before
11 acquiring the deposits of such savings as-
12 sociation; and

13 (iii) was a Savings Association Insur-
14 ance Fund member as of the date of enact-
15 ment of this Act; and

16 (D) an insured bank that—

17 (i) resulted from a savings association
18 before December 19, 1991, in accordance
19 with section 5(d)(2)(G) of the Federal De-
20 posit Insurance Act; and

21 (ii) had an increase in its capital in
22 conjunction with the conversion in an
23 amount equal to more than 75 percent of
24 the capital of the institution on the day be-
25 fore the date of the conversion.

1 (k) DEPOSIT OF FEES INTO SAIF.—

2 (1) IN GENERAL.—Section 5(d)(2)(E)(i) of the
3 Federal Deposit Insurance Act (12 U.S.C.
4 1815(d)(2)(E)(i)) is amended by striking “subpara-
5 graph (F)) which—” and all that follows through
6 the semicolon at the end and inserting “subpara-
7 graph (F)) which shall be deposited in the Savings
8 Association Insurance Fund;”.

9 (2) TREATMENT OF PRIOR FEES.—All fees col-
10 lected by the Federal Deposit Insurance Corporation
11 pursuant to section 5(d)(2)(E)(i) of the Federal De-
12 posit Insurance Act before the date of the enactment
13 of this Act which are held by the Corporation as of
14 such date shall be deposited in the Savings Associa-
15 tion Insurance Fund in accordance with such sec-
16 tion, as amended by paragraph (1) of this sub-
17 section.

18 **Subtitle B—Status of Banks and**
19 **Savings Associations**

20 **SEC. 111. COMPREHENSIVE REVIEW OF CHARTER MERGER.**

21 It is the intent of the Congress—

22 (1) acting through the Committee on Banking
23 and Financial Services of the House of Representa-
24 tives and the Committee on Banking, Housing, and
25 Urban Affairs of the Senate, to make a comprehen-

1 sive review of all issues relating to the merger of the
2 charters of banks and savings associations;

3 (2) to pass out of each House of the Congress,
4 by no later than September 30, 1997, appropriate
5 legislation to provide for such merger; and

6 (3) to enact such legislation before the effective
7 date of subtitle C.

8 **Subtitle C—Merger of Insurance** 9 **Funds**

10 **SEC. 121. MERGER OF BIF AND SAIF.**

11 (a) IN GENERAL.—

12 (1) MERGER.—The Bank Insurance Fund and
13 the Savings Association Insurance Fund shall be
14 merged into the Deposit Insurance Fund established
15 by section 11(a)(4) of the Federal Deposit Insurance
16 Act, as amended by this section.

17 (2) DISPOSITION OF ASSETS AND LIABIL-
18 ITIES.—All assets and liabilities of the Bank Insur-
19 ance Fund and the Savings Association Insurance
20 Fund shall be transferred to the Deposit Insurance
21 Fund.

22 (3) NO SEPARATE EXISTENCE.—The separate
23 existence of the Bank Insurance Fund and the Sav-
24 ings Association Insurance Fund shall cease.

1 (b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE
2 FUND.—

3 (1) IN GENERAL.—Immediately before the
4 merger of the Bank Insurance Fund and the Sav-
5 ings Association Insurance Fund, if the reserve ratio
6 of the Savings Association Insurance Fund exceeds
7 the designated reserve ratio, the amount by which
8 that reserve ratio exceeds the designated reserve
9 ratio shall be placed in the Special Reserve of the
10 Deposit Insurance Fund, established under section
11 11(a)(5) of the Federal Deposit Insurance Act, as
12 amended by this section.

13 (2) DEFINITION.—For purposes of this sub-
14 section, the term “reserve ratio” means the ratio of
15 the net worth of the Savings Association Insurance
16 Fund to the aggregate estimated amount of deposits
17 insured by the Savings Association Insurance Fund.

18 (c) EFFECTIVE DATE.—This section and the amend-
19 ments made by this section shall take effect on January
20 1, 1998, if no insured depository institution is a savings
21 association on such date.

22 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

23 (1) DEPOSIT INSURANCE FUND.—Section
24 11(a)(4) of the Federal Deposit Insurance Act (12
25 U.S.C. 1821(a)(4)) is amended—

1 (A) by redesignating subparagraph (B) as
2 subparagraph (C);

3 (B) by striking subparagraph (A) and in-
4 serting the following:

5 “(A) ESTABLISHMENT.—There is estab-
6 lished the Deposit Insurance Fund, which the
7 Corporation shall—

8 “(i) maintain and administer;

9 “(ii) use to carry out its insurance
10 purposes in the manner provided by this
11 subsection; and

12 “(iii) invest in accordance with section
13 13(a).

14 “(B) USES.—The Deposit Insurance Fund
15 shall be available to the Corporation for use
16 with respect to Deposit Insurance Fund mem-
17 bers.”; and

18 (C) by striking “(4) GENERAL PROVISIONS
19 RELATING TO FUNDS.—” and inserting the fol-
20 lowing:

21 “(4) ESTABLISHMENT OF THE DEPOSIT INSUR-
22 ANCE FUND.—”.

23 (2) OTHER REFERENCES.—Section 11(a)(4)(C)
24 of the Federal Deposit Insurance Act (12 U.S.C.
25 1821(a)(4)(C), as redesignated by paragraph (1) of

1 this subsection) is amended by striking “Bank In-
2 surance Fund and the Savings Association Insur-
3 ance Fund” and inserting “Deposit Insurance
4 Fund”.

5 (3) DEPOSITS INTO FUND.—Section 11(a)(4) of
6 the Federal Deposit Insurance Act (12 U.S.C.
7 1821(a)(4)) is amended by adding at the end the
8 following new subparagraph:

9 “(D) DEPOSITS.—All amounts assessed
10 against insured depository institutions by the
11 Corporation shall be deposited in the Deposit
12 Insurance Fund.”.

13 (4) SPECIAL RESERVE OF DEPOSITS.—Section
14 11(a)(5) of the Federal Deposit Insurance Act (12
15 U.S.C. 1821(a)(5)) is amended to read as follows:

16 “(5) SPECIAL RESERVE OF DEPOSIT INSUR-
17 ANCE FUND.—

18 “(A) ESTABLISHMENT.—

19 “(i) IN GENERAL.—There is estab-
20 lished a Special Reserve of the Deposit In-
21 surance Fund, which shall be administered
22 by the Corporation and shall be invested in
23 accordance with section 13(a).

24 “(ii) LIMITATION.—The Corporation
25 shall not provide any assessment credit, re-

1 fund, or other payment from any amount
2 in the Special Reserve.

3 “(B) EMERGENCY USE OF SPECIAL RE-
4 SERVE.—Notwithstanding subparagraph (A)(ii),
5 the Corporation may, in its sole discretion,
6 transfer amounts from the Special Reserve to
7 the Deposit Insurance Fund, for the purposes
8 set forth in paragraph (4), only if—

9 “(i) the reserve ratio of the Deposit
10 Insurance Fund is less than 50 percent of
11 the designated reserve ratio; and

12 “(ii) the Corporation expects the re-
13 serve ratio of the Deposit Insurance Fund
14 to remain at less than 50 percent of the
15 designated reserve ratio for each of the
16 next 4 calendar quarters.

17 “(C) EXCLUSION OF SPECIAL RESERVE IN
18 CALCULATING RESERVE RATIO.—Notwithstand-
19 ing any other provision of law, any amounts in
20 the Special Reserve shall be excluded in cal-
21 culating the reserve ratio of the Deposit Insur-
22 ance Fund under section 7.”.

23 (5) FEDERAL HOME LOAN BANK ACT.—Section
24 21B(f)(2)(C)(ii) of the Federal Home Loan Bank
25 Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

1 (A) in subclause (I), by striking “to Sav-
2 ings Associations Insurance Fund members”
3 and inserting “to insured depository institu-
4 tions, and their successors, which were Savings
5 Association Insurance Fund members on Sep-
6 tember 1, 1995”; and

7 (B) in subclause (II), by striking “to Sav-
8 ings Associations Insurance Fund members”
9 and inserting “to insured depository institu-
10 tions, and their successors, which were Savings
11 Association Insurance Fund members on Sep-
12 tember 1, 1995”.

13 (6) REPEALS.—

14 (A) SECTION 3.—Section 3(y) of the Fed-
15 eral Deposit Insurance Act (12 U.S.C. 1813(y))
16 is amended to read as follows:

17 “(y) DEFINITIONS RELATING TO THE DEPOSIT IN-
18 SURANCE FUND.—

19 “(1) DEPOSIT INSURANCE FUND.—The term
20 ‘Deposit Insurance Fund’ means the fund estab-
21 lished under section 11(a)(4).

22 “(2) RESERVE RATIO.—The term ‘reserve ratio’
23 means the ratio of the net worth of the Deposit In-
24 surance Fund to aggregate estimated insured depos-
25 its held in all insured depository institutions.

1 “(3) DESIGNATED RESERVE RATIO.—The des-
2 ignated reserve ratio of the Deposit Insurance Fund
3 for each year shall be—

4 “(A) 1.25 percent of estimated insured de-
5 posits; or

6 “(B) a higher percentage of estimated in-
7 sured deposits that the Board of Directors de-
8 termines to be justified for that year by cir-
9 cumstances raising a significant risk of sub-
10 stantial future losses to the fund.

11 (B) SECTION 7.—Section 7 of the Federal
12 Deposit Insurance Act (12 U.S.C. 1817) is
13 amended—

14 (i) by striking subsection (*l*);

15 (ii) by redesignating subsections (*m*)
16 and (*n*) as subsections (*l*) and (*m*), respec-
17 tively;

18 (iii) in subsection (b)(2), by striking
19 subparagraphs (B) and (F), and by redesi-
20 gnating subparagraphs (C), (E), (G), and
21 (H) as subparagraphs (B) through (E), re-
22 spectively.

23 (C) SECTION 11.—Section 11(a) of the
24 Federal Deposit Insurance Act (12 U.S.C.
25 1821(a)) is amended—

1 (i) by striking paragraphs (6) and (7);

2 and

3 (ii) by redesignating paragraph (8) as
4 paragraph (6).

5 (7) SECTION 5136 OF THE REVISED STAT-
6 UTES.—The paragraph designated the “Eleventh” of
7 section 5136 of the Revised Statutes (12 U.S.C. 24)
8 is amended in the 5th sentence, by striking “affected
9 deposit insurance fund” and inserting “Deposit In-
10 surance Fund”.

11 (8) INVESTMENTS PROMOTING PUBLIC WEL-
12 FARE; LIMITATIONS ON AGGREGATE INVEST-
13 MENTS.—The 23d undesignated paragraph of sec-
14 tion 9 of the Federal Reserve Act (12 U.S.C. 338a)
15 is amended in the 4th sentence, by striking “affected
16 deposit insurance fund” and inserting “Deposit In-
17 surance Fund”.

18 (9) ADVANCES TO CRITICALLY UNDERCAPITAL-
19 IZED DEPOSITORY INSTITUTIONS.—Section
20 10B(b)(3)(A)(ii) of the Federal Reserve Act (12
21 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking
22 “any deposit insurance fund in” and inserting “the
23 Deposit Insurance Fund of”.

24 (10) AMENDMENTS TO THE BALANCED BUDGET
25 AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—

1 Section 255(g)(1)(A) of the Balanced Budget and
2 Emergency Deficit Control Act of 1985 (2 U.S.C.
3 905(g)(1)(A)) is amended—

4 (A) by striking “Bank Insurance Fund”
5 and inserting “Deposit Insurance Fund”; and

6 (B) by striking “Federal Deposit Insur-
7 ance Corporation, Savings Association Insur-
8 ance Fund;”.

9 (11) FURTHER AMENDMENTS TO THE FEDERAL
10 HOME LOAN BANK ACT.—The Federal Home Loan
11 Bank Act (12 U.S.C. 1421 et seq.) is amended—

12 (A) in section 11(k) (12 U.S.C.
13 1431(k))—

14 (i) in the subsection heading, by strik-
15 ing “SAIF” and inserting “THE DEPOSIT
16 INSURANCE FUND”; and

17 (ii) by striking “Savings Association
18 Insurance Fund” each place such term ap-
19 pears and inserting “Deposit Insurance
20 Fund”;

21 (B) in section 21A(b)(4)(B) (12 U.S.C.
22 1441a(b)(4)(B)), by striking “affected deposit
23 insurance fund” and inserting “Deposit Insur-
24 ance Fund”;

1 (C) in section 21A(b)(6)(B) (12 U.S.C.
2 1441a(b)(6)(B))—

3 (i) in the subparagraph heading, by
4 striking “SAIF-INSURED BANKS” and in-
5 serting “CHARTER CONVERSIONS”; and

6 (ii) by striking “Savings Association
7 Insurance Fund member” and inserting
8 “savings association”;

9 (D) in section 21A(b)(10)(A)(iv)(II) (12
10 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking
11 “Savings Association Insurance Fund” and in-
12 serting “Deposit Insurance Fund”;

13 (E) in section 21B(e) (12 U.S.C.
14 1441b(e))—

15 (i) in paragraph (5), by inserting “as
16 of the date of funding” after “Savings As-
17 sociation Insurance Fund members” each
18 place such term appears;

19 (ii) by striking paragraph (7); and

20 (iii) by redesignating paragraph (8) as
21 paragraph (7); and

22 (F) in section 21B(k) (12 U.S.C.
23 1441b(k))—

24 (i) by striking paragraph (8); and

1 (ii) by redesignating paragraphs (9)
2 and (10) as paragraphs (8) and (9), re-
3 spectively.

4 (12) AMENDMENTS TO THE HOME OWNERS'
5 LOAN ACT.—The Home Owners' Loan Act (12
6 U.S.C. 1461 et seq.) is amended—

7 (A) in section 5 (12 U.S.C. 1464)—

8 (i) in subsection (c)(5)(A), by striking
9 “that is a member of the Bank Insurance
10 Fund”;

11 (ii) in subsection (c)(6), by striking
12 “As used in this subsection—” and insert-
13 ing “For purposes of this subsection, the
14 following definitions shall apply.”;

15 (iii) in subsection (o)(1), by striking
16 “that is a Bank Insurance Fund member”;

17 (iv) in subsection (o)(2)(A), by strik-
18 ing “a Bank Insurance Fund member until
19 such time as it changes its status to a Sav-
20 ings Association Insurance Fund member”
21 and inserting “insured by the Deposit In-
22 surance Fund”;

23 (v) in subsection (t)(5)(D)(iii)(II), by
24 striking “affected deposit insurance fund”
25 and inserting “Deposit Insurance Fund”;

1 (vi) in subsection (t)(7)(C)(i)(I), by
2 striking “affected deposit insurance fund”
3 and inserting “Deposit Insurance Fund”;
4 and

5 (vii) in subsection (v)(2)(A)(i), by
6 striking “, the Savings Association Insur-
7 ance Fund” and inserting “or the Deposit
8 Insurance Fund”; and

9 (B) in section 10 (12 U.S.C. 1467a)—

10 (i) in subsection (e)(1)(A)(iii)(VII), by
11 adding “or” at the end;

12 (ii) in subsection (e)(1)(A)(iv), by
13 adding “and” at the end;

14 (iii) in subsection (e)(1)(B), by strik-
15 ing “Savings Association Insurance Fund
16 or Bank Insurance Fund” and inserting
17 “Deposit Insurance Fund”;

18 (iv) in subsection (e)(2), by striking
19 “Savings Association Insurance Fund or
20 the Bank Insurance Fund” and inserting
21 “Deposit Insurance Fund”; and

22 (v) in subsection (m)(3), by striking
23 subparagraph (E), and by redesignating
24 subparagraphs (F), (G), and (H) as sub-
25 paragraphs (E), (F), and (G), respectively.

1 (13) AMENDMENTS TO THE NATIONAL HOUSING
2 ACT.—The National Housing Act (12 U.S.C. 1701
3 et seq.) is amended—

4 (A) in section 317(b)(1)(B) (12 U.S.C.
5 1723i(b)(1)(B)), by striking “Bank Insurance
6 Fund for banks or through the Savings Asso-
7 ciation Insurance Fund for savings associa-
8 tions” and inserting “Deposit Insurance Fund”;
9 and

10 (B) in section 526(b)(1)(B)(ii) (12 U.S.C.
11 1735f–14(b)(1)(B)(ii)), by striking “Bank In-
12 surance Fund for banks and through the Sav-
13 ings Association Insurance Fund for savings as-
14 sociations” and inserting “Deposit Insurance
15 Fund”.

16 (14) FURTHER AMENDMENTS TO THE FEDERAL
17 DEPOSIT INSURANCE ACT.—The Federal Deposit In-
18 surance Act (12 U.S.C. 1811 et seq.) is amended—

19 (A) in section 3(a)(1) (12 U.S.C.
20 1813(a)(1)), by striking subparagraph (B) and
21 inserting the following:

22 “(B) includes any former savings associa-
23 tion.”;

24 (B) in section 5(b)(5) (12 U.S.C.
25 1815(b)(5)), by striking “the Bank Insurance

1 Fund or the Savings Association Insurance
2 Fund;” and inserting “Deposit Insurance
3 Fund,”;

4 (C) in section 5(d) (12 U.S.C. 1815(d)),
5 by striking paragraphs (2) and (3);

6 (D) in section 5(d)(1) (12 U.S.C.
7 1815(d)(1))—

8 (i) in subparagraph (A), by striking
9 “reserve ratios in the Bank Insurance
10 Fund and the Savings Association Insur-
11 ance Fund” and inserting “the reserve
12 ratio of the Deposit Insurance Fund”;

13 (ii) by striking subparagraph (B) and
14 inserting the following:

15 “(2) FEE CREDITED TO THE DEPOSIT INSUR-
16 ANCE FUND.—The fee paid by the depository insti-
17 tution under paragraph (1) shall be credited to the
18 Deposit Insurance Fund.”;

19 (iii) by striking “(1) UNINSURED IN-
20 STITUTIONS.—”; and

21 (iv) by redesignating subparagraphs
22 (A) and (C) as paragraphs (1) and (3), re-
23 spectively, and moving the margins 2 ems
24 to the left;

25 (E) in section 5(e) (12 U.S.C. 1815(e))—

1 (i) in paragraph (5)(A), by striking
2 “Bank Insurance Fund or the Savings As-
3 sociation Insurance Fund” and inserting
4 “Deposit Insurance Fund”;

5 (ii) by striking paragraph (6); and

6 (iii) by redesignating paragraphs (7),
7 (8), and (9) as paragraphs (6), (7), and
8 (8), respectively;

9 (F) in section 6(5) (12 U.S.C. 1816(5)),
10 by striking “Bank Insurance Fund or the Sav-
11 ings Association Insurance Fund” and inserting
12 “Deposit Insurance Fund”;

13 (G) in section 7(b) (12 U.S.C. 1817(b))—

14 (i) in paragraph (1)(D), by striking
15 “each deposit insurance fund” and insert-
16 ing “the Deposit Insurance Fund”;

17 (ii) in clauses (i)(I) and (iv) of para-
18 graph (2)(A), by striking “each deposit in-
19 surance fund” each place such term ap-
20 pears and inserting “the Deposit Insurance
21 Fund”;

22 (iii) in paragraph (2)(A)(iii), by strik-
23 ing “a deposit insurance fund” and insert-
24 ing “the Deposit Insurance Fund”;

1 (iv) by striking clause (iv) of para-
2 graph (2)(A);

3 (v) in paragraph (2)(C) (as redesign-
4 nated by paragraph (6)(B) of this sub-
5 section)—

6 (I) by striking “any deposit in-
7 surance fund” and inserting “the De-
8 posit Insurance Fund”; and

9 (II) by striking “that fund” each
10 place such term appears and inserting
11 “the Deposit Insurance Fund”;

12 (vi) in paragraph (2)(D) (as redesign-
13 nated by paragraph (6)(B) of this sub-
14 section)—

15 (I) in the subparagraph heading,
16 by striking “FUNDS ACHIEVE” and in-
17 serting “FUND ACHIEVES”; and

18 (II) by striking “a deposit insur-
19 ance fund” and inserting “the Deposit
20 Insurance Fund”;

21 (vii) in paragraph (3)—

22 (I) in the paragraph heading, by
23 striking “FUNDS” and inserting
24 “FUND”;

1 (II) by striking “that fund” each
2 place such term appears and inserting
3 “the Deposit Insurance Fund”;

4 (III) in subparagraph (A), by
5 striking “Except as provided in para-
6 graph (2)(F), if” and inserting “If”;

7 (IV) in subparagraph (A), by
8 striking “any deposit insurance fund”
9 and inserting “the Deposit Insurance
10 Fund”; and

11 (V) by striking subparagraphs
12 (C) and (D) and inserting the follow-
13 ing:

14 “(C) AMENDING SCHEDULE.—The Cor-
15 poration may, by regulation, amend a schedule
16 promulgated under subparagraph (B).”; and

17 (viii) in paragraph (6)—

18 (I) by striking “any such assess-
19 ment” and inserting “any such assess-
20 ment is necessary”;

21 (II) by striking “(A) is nec-
22 essary—”;

23 (III) by striking subparagraph
24 (B);

1 (IV) by redesignating clauses (i),
2 (ii), and (iii) as subparagraphs (A),
3 (B), and (C), respectively, and moving
4 the margins 2 ems to the left; and

5 (V) in subparagraph (C) (as re-
6 designated), by striking “; and” and
7 inserting a period;

8 (H) in section 11(f)(1) (12 U.S.C.
9 1821(f)(1)), by striking “, except that—” and
10 all that follows through the end of the para-
11 graph and inserting a period;

12 (I) in section 11(i)(3) (12 U.S.C.
13 1821(i)(3))—

14 (i) by striking subparagraph (B);

15 (ii) by redesignating subparagraph
16 (C) as subparagraph (B); and

17 (iii) in subparagraph (B) (as redesign-
18 dated), by striking “subparagraphs (A)
19 and (B)” and inserting “subparagraph
20 (A)”;

21 (J) in section 11A(a) (12 U.S.C.
22 1821a(a))—

23 (i) in paragraph (2), by striking “LI-
24 ABILITIES.—” and all that follows through

1 “Except” and inserting “LIABILITIES.—
2 Except”;

3 (ii) by striking paragraph (2)(B); and

4 (iii) in paragraph (3), by striking “the
5 Bank Insurance Fund, the Savings Asso-
6 ciation Insurance Fund,” and inserting
7 “the Deposit Insurance Fund”;

8 (K) in section 11A(b) (12 U.S.C.
9 1821a(b)), by striking paragraph (4);

10 (L) in section 11A(f) (12 U.S.C.
11 1821a(f)), by striking “Savings Association In-
12 surance Fund” and inserting “Deposit Insur-
13 ance Fund”;

14 (M) in section 13 (12 U.S.C. 1823)—

15 (i) in subsection (a)(1), by striking
16 “Bank Insurance Fund, the Savings Asso-
17 ciation Insurance Fund,” and inserting
18 “Deposit Insurance Fund, the Special Re-
19 serve of the Deposit Insurance Fund,”;

20 (ii) in subsection (c)(4)(E)—

21 (I) in the subparagraph heading,
22 by striking “FUNDS” and inserting
23 “FUND”; and

1 (II) in clause (i), by striking
2 “any insurance fund” and inserting
3 “the Deposit Insurance Fund”;

4 (iii) in subsection (c)(4)(G)(ii)—

5 (I) by striking “appropriate in-
6 surance fund” and inserting “Deposit
7 Insurance Fund”;

8 (II) by striking “the members of
9 the insurance fund (of which such in-
10 stitution is a member)” and inserting
11 “insured depository institutions”;

12 (III) by striking “each mem-
13 ber’s” and inserting “each insured de-
14 pository institution’s”; and

15 (IV) by striking “the member’s”
16 each place such term appears and in-
17 serting “the institution’s”;

18 (iv) in subsection (c), by striking
19 paragraph (11);

20 (v) in subsection (h), by striking
21 “Bank Insurance Fund” and inserting
22 “Deposit Insurance Fund”;

23 (vi) in subsection (k)(4)(B)(i), by
24 striking “Savings Association Insurance

1 Fund” and inserting “Deposit Insurance
2 Fund”; and

3 (vii) in subsection (k)(5)(A), by strik-
4 ing “Savings Association Insurance Fund”
5 and inserting “Deposit Insurance Fund”;

6 (N) in section 14(a) (12 U.S.C. 1824(a))
7 in the 5th sentence—

8 (i) by striking “Bank Insurance Fund
9 or the Savings Association Insurance
10 Fund” and inserting “Deposit Insurance
11 Fund”; and

12 (ii) by striking “each such fund” and
13 inserting “the Deposit Insurance Fund”;

14 (O) in section 14(b) (12 U.S.C. 1824(b)),
15 by striking “Bank Insurance Fund or Savings
16 Association Insurance Fund” and inserting
17 “Deposit Insurance Fund”;

18 (P) in section 14(c) (12 U.S.C. 1824(c)),
19 by striking paragraph (3);

20 (Q) in section 14(d) (12 U.S.C.
21 1824(d))—

22 (i) by striking “BIF” each place such
23 term appears and inserting “DIF”; and

1 (ii) by striking “Bank Insurance
2 Fund” each place such term appears and
3 inserting “Deposit Insurance Fund”;

4 (R) in section 15(c)(5) (12 U.S.C.
5 1825(c)(5))—

6 (i) by striking “the Bank Insurance
7 Fund or Savings Association Insurance
8 Fund, respectively” each place such term
9 appears and inserting “the Deposit Insur-
10 ance Fund”; and

11 (ii) in subparagraph (B), by striking
12 “the Bank Insurance Fund or the Savings
13 Association Insurance Fund, respectively”
14 and inserting “the Deposit Insurance
15 Fund”;

16 (S) in section 17(a) (12 U.S.C. 1827(a))—

17 (i) in the subsection heading, by strik-
18 ing “BIF, SAIF,” and inserting “THE DE-
19 POSIT INSURANCE FUND”; and

20 (ii) in paragraph (1), by striking “the
21 Bank Insurance Fund, the Savings Asso-
22 ciation Insurance Fund,” each place such
23 term appears and inserting “the Deposit
24 Insurance Fund”;

1 (T) in section 17(d) (12 U.S.C. 1827(d)),
2 by striking “the Bank Insurance Fund, the
3 Savings Association Insurance Fund,” each
4 place such term appears and inserting “the De-
5 posit Insurance Fund”;

6 (U) in section 18(m)(3) (12 U.S.C.
7 1828(m)(3))—

8 (i) by striking “Savings Association
9 Insurance Fund” each place such term ap-
10 pears and inserting “Deposit Insurance
11 Fund”; and

12 (ii) in subparagraph (C), by striking
13 “or the Bank Insurance Fund”;

14 (V) in section 18(p) (12 U.S.C. 1828(p)),
15 by striking “deposit insurance funds” and in-
16 serting “Deposit Insurance Fund”;

17 (W) in section 24 (12 U.S.C. 1831a) in
18 subsections (a)(1) and (d)(1)(A), by striking
19 “appropriate deposit insurance fund” each
20 place such term appears and inserting “Deposit
21 Insurance Fund”;

22 (X) in section 28 (12 U.S.C. 1831e), by
23 striking “affected deposit insurance fund” each
24 place such term appears and inserting “Deposit
25 Insurance Fund”;

1 (Y) by striking section 31 (12 U.S.C.
2 1831h);

3 (Z) in section 36(i)(3) (12 U.S.C.
4 1831m(i)(3)) by striking “affected deposit in-
5 surance fund” and inserting “Deposit Insur-
6 ance Fund”;

7 (AA) in section 38(a) (12 U.S.C.
8 1831o(a)) in the subsection heading, by striking
9 “FUNDS” and inserting “FUND”;

10 (BB) in section 38(k) (12 U.S.C.
11 1831o(k))—

12 (i) in paragraph (1), by striking “a
13 deposit insurance fund” and inserting “the
14 Deposit Insurance Fund”; and

15 (ii) in paragraph (2)(A)—

16 (I) by striking “A deposit insur-
17 ance fund” and inserting “The De-
18 posit Insurance Fund”; and

19 (II) by striking “the deposit in-
20 surance fund’s outlays” and inserting
21 “the outlays of the Deposit Insurance
22 Fund”; and

23 (CC) in section 38(o) (12 U.S.C.
24 1831o(o))—

1 (i) by striking “ASSOCIATIONS.—”
2 and all that follows through “Subsections
3 (e)(2)” and inserting “ASSOCIATIONS.—
4 Subsections (e)(2)”;

5 (ii) by redesignating subparagraphs
6 (A), (B), and (C) as paragraphs (1), (2),
7 and (3), respectively, and moving the mar-
8 gins 2 ems to the left; and

9 (iii) in paragraph (1) (as redesign-
10 nated), by redesignating clauses (i) and (ii)
11 as subparagraphs (A) and (B), respec-
12 tively, and moving the margins 2 ems to
13 the left.

14 (15) AMENDMENTS TO THE FINANCIAL INSTI-
15 TUTIONS REFORM, RECOVERY, AND ENFORCEMENT
16 ACT OF 1989.—The Financial Institutions Reform,
17 Recovery, and Enforcement Act is amended—

18 (A) in section 951(b)(3)(B) (12 U.S.C.
19 1833a(b)(3)(B)), by striking “Bank Insurance
20 Fund, the Savings Association Insurance
21 Fund,” and inserting “Deposit Insurance
22 Fund”; and

23 (B) in section 1112(c)(1)(B) (12 U.S.C.
24 3341(c)(1)(B)), by striking “Bank Insurance
25 Fund, the Savings Association Insurance

1 Fund,” and inserting “Deposit Insurance
2 Fund”.

3 (16) AMENDMENT TO THE BANK ENTERPRISE
4 ACT OF 1991.—Section 232(a)(1) of the Bank Enter-
5 prise Act of 1991 (12 U.S.C. 1834(a)(1)) is amend-
6 ed by striking “section 7(b)(2)(H)” and inserting
7 “section 7(b)(2)(G)”.

8 (17) AMENDMENT TO THE BANK HOLDING
9 COMPANY ACT.—Section 2(j)(2) of the Bank Hold-
10 ing Company Act of 1956 (12 U.S.C. 1841(j)(2)) is
11 amended by striking “Savings Association Insurance
12 Fund” and inserting “Deposit Insurance Fund”.

13 **Subtitle D—FICO INTEREST**
14 **COSTS SHARED**

15 **SEC. 131. FINANCING CORPORATION ASSESSMENTS**
16 **SHARED PROPORTIONALLY BY ALL INSURED**
17 **DEPOSITORY INSTITUTIONS.**

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

20 (1) in subsection (f)(2)—

21 (A) in the matter immediately preceding
22 subparagraph (A)—

23 (i) by striking “Savings Association
24 Insurance Fund member” and inserting
25 “insured depository institution”; and

1 (ii) by striking “members” and insert-
2 ing “institutions”; and

3 (B) by striking “, except that—” and all
4 that follows through the end of the paragraph
5 and inserting “, except that—

6 “(A) the Financing Corporation shall have
7 first priority to make the assessment; and

8 “(B) no limitation under clause (i) or (iii)
9 of section 7(b)(2)(A) of the Federal Deposit In-
10 surance Act shall apply for purposes of this
11 paragraph.”; and

12 (2) in subsection (k)—

13 (A) by striking “section—” and inserting
14 “section, the following definitions shall apply:”;

15 (B) by striking paragraph (1);

16 (C) by redesignating paragraphs (2) and
17 (3) as paragraphs (1) and (2), respectively; and

18 (D) by adding at the end the following new
19 paragraph:

20 “(3) INSURED DEPOSITORY INSTITUTION.—The
21 term ‘insured depository institution’ has the same
22 meaning as in section 3 of the Federal Deposit In-
23 surance Act.”.

1 (b) CONFORMING AMENDMENT.—Section 7(b)(2) of
 2 the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2))
 3 is amended by striking subparagraph (D).

4 (c) EFFECTIVE DATE.—This section and the amend-
 5 ments made by this section shall take effect on January
 6 1, 1998.

7 **Subtitle E—Refunds of Excess**
 8 **Amounts in Deposit Fund**

9 **SEC. 141. REFUND OF AMOUNTS IN DEPOSIT INSURANCE**
 10 **FUND IN EXCESS OF DESIGNATED RESERVE**
 11 **AMOUNT.**

12 (a) IN GENERAL.—Subsection (e) of section 7 of the
 13 Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is
 14 amended to read as follows:

15 “(e) REFUNDS.—

16 “(1) OVERPAYMENTS.—In the case of any pay-
 17 ment of an assessment by an insured depository in-
 18 stitution in excess of the amount due to the Cor-
 19 poration, the Corporation may—

20 “(A) refund the amount of the excess pay-
 21 ment to the insured depository institution; or

22 “(B) credit such excess amount toward the
 23 payment of subsequent semiannual assessments
 24 until such credit is exhausted.

1 “(2) BALANCE IN INSURANCE FUND IN EXCESS
2 OF DESIGNATED RESERVE.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graphs (B) and (C), if, as of the end of any
5 semiannual assessment period, the amount of
6 the actual reserves in—

7 “(i) the Bank Insurance Fund (until
8 the merger of such fund into the Deposit
9 Insurance Fund pursuant to section 121 of
10 the Federal Deposit Insurance Funds and
11 Regulatory Relief Act of 1996); or

12 “(ii) the Deposit Insurance Fund
13 (after the establishment of such fund),
14 exceeds the balance required to meet the des-
15 ignated reserve ratio applicable with respect to
16 such fund, such excess amount shall be re-
17 funded to insured depository institutions by the
18 Corporation on such basis as the Board of Di-
19 rectors determines to be appropriate, taking
20 into account the factors considered under the
21 risk-based assessment system.

22 “(B) REFUND NOT TO EXCEED PREVIOUS
23 SEMIANNUAL ASSESSMENT.—The amount of
24 any refund under this paragraph to any mem-
25 ber of a deposit insurance fund for any semi-

1 annual assessment period may not exceed the
2 total amount of assessments paid by such mem-
3 ber to the insurance fund with respect to such
4 period.

5 “(C) REFUND LIMITATION FOR CERTAIN
6 INSTITUTIONS.—No refund may be made under
7 this paragraph with respect to the amount of
8 any assessment paid for any semiannual assess-
9 ment period by any insured depository institu-
10 tion described in clause (v) of subsection
11 (b)(2)(A).”.

12 (b) EFFECTIVE DATE.—Paragraph (2) of section
13 7(e) of the Federal Deposit Insurance Act (as amended
14 by subsection (a) of this section) shall apply with respect
15 to semiannual assessment periods ending on or after De-
16 cember 31, 1995.

17 **Subtitle F—Limitation on** 18 **Assessments**

19 **SEC. 151. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO** 20 **MAINTAIN THE RESERVE RATIO OF A DE-** 21 **POSIT INSURANCE FUND.**

22 (a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Fed-
23 eral Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i))
24 is amended in the matter preceding subclause (I) by in-

1 sserting “when necessary, and only to the extent nec-
 2 essary” after “insured depository institutions”.

3 (b) LIMITATION ON ASSESSMENT.—Section
 4 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12
 5 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

6 “(iii) LIMITATION ON ASSESSMENT.—
 7 Except as provided in clause (v), the Board
 8 of Directors shall not set semiannual as-
 9 sessments with respect to a deposit insur-
 10 ance fund in excess of the amount need-
 11 ed—

12 “(I) to maintain the reserve ratio
 13 of the fund at the designated reserve
 14 ratio; or

15 “(II) if the reserve ratio is less
 16 than the designated reserve ratio, to
 17 increase the reserve ratio to the des-
 18 ignated reserve ratio.”.

19 (c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—
 20 Section 7(b)(2)(A) of the Federal Deposit Insurance Act
 21 (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the
 22 end the following new clause:

23 “(v) EXCEPTION TO LIMITATION ON
 24 ASSESSMENTS.—The Board of Directors
 25 may set semiannual assessments in excess

1 of the amount permitted under clauses (i)
2 and (iii) with respect to insured depository
3 institutions that exhibit financial, oper-
4 ational, or compliance weaknesses ranging
5 from moderately severe to unsatisfactory,
6 or are not well capitalized, as that term is
7 defined in section 38.”.

8 **Subtitle G—Miscellaneous** 9 **Provisions**

10 **SEC. 161. DEFINITIONS.**

11 The following definitions shall apply for purposes of
12 this title and title II:

13 (1) **BANK INSURANCE FUND.**—The term
14 “Bank Insurance Fund” means the fund established
15 pursuant to section (11)(a)(5)(A) of the Federal De-
16 posit Insurance Act, as that section existed on the
17 day before the date of enactment of this Act.

18 (2) **MEMBER OF BIF AND SAIF.**—The terms
19 “Bank Insurance Fund member” and “Savings As-
20 sociation Insurance Fund member” have the same
21 meanings as in section 7(*l*) of the Federal Deposit
22 Insurance Act.

23 (3) **DEFINITIONS FROM FEDERAL DEPOSIT IN-**
24 **SURANCE ACT.**—The terms “bank”, “Board of Di-
25 rectors”, “Corporation”, “insured depository institu-

1 tion”, “Federal savings association”, “savings asso-
2 ciation”, “State savings bank”, and “State deposi-
3 tory institution” have the same meanings as in sec-
4 tion 3 of the Federal Deposit Insurance Act.

5 (4) DEPOSIT INSURANCE FUND.—The term
6 “Deposit Insurance Fund” means the fund estab-
7 lished under section 11(a)(4) of the Federal Deposit
8 Insurance Act (as amended by section 121(d) of this
9 Act).

10 (5) DEPOSITORY INSTITUTION HOLDING COM-
11 PANY.—The term “depository institution holding
12 company” has the same meaning as in section 3 of
13 the Federal Deposit Insurance Act.

14 (6) DESIGNATED RESERVE RATIO.—The term
15 “designated reserve ratio” has the same meaning as
16 in section 7(b)(2)(A)(iv) of the Federal Deposit In-
17 surance Act.

18 (7) SAIF.—The term “Savings Association In-
19 surance Fund” means the fund established pursuant
20 to section 11(a)(6)(A) of the Federal Deposit Insur-
21 ance Act, as that section existed on the day before
22 the date of enactment of this Act.

23 (8) SAIF-ASSESSABLE DEPOSIT.—The term
24 “SAIF-assessable deposit”—

25 (A) means—

1 (i) a deposit that is subject to assess-
2 ment for purposes of the Savings Associa-
3 tion Insurance Fund under the Federal
4 Deposit Insurance Act; and

5 (ii) a deposit that section 5(d)(3) of
6 the Federal Deposit Insurance Act treats
7 as insured by the Savings Association In-
8 surance Fund; and

9 (B) includes any deposit assumed after
10 March 31, 1995, if the insured depository insti-
11 tution, the deposits of which are assumed, is
12 not an insured depository institution when the
13 special assessment is imposed under section
14 101(a).

15 **TITLE II—TRANSITIONAL** 16 **PROVISIONS**

17 **SEC. 201. APPLICABILITY OF FICO ASSESSMENTS TO CER-**
18 **TAIN SAIF-ASSESSABLE DEPOSITS UNTIL**
19 **MERGER OF BIF AND SAIF.**

20 Notwithstanding the definition in section 21(k)(1) of
21 the Federal Home Loan Bank Act, during the period be-
22 ginning on the 1st day of the 1st quarter which begins
23 after the date of the enactment of this Act and ending
24 on the date on which subtitle C of title I takes effect, any
25 Bank Insurance Fund member which has SAIF-assessable

1 deposits shall be treated as a Savings Association Insur-
2 ance Fund member to the extent of such SAIF-assessable
3 deposits for purposes of section 21(f)(2) of such Act and
4 shall be subject to assessments under such section with
5 respect to such deposits.

6 **SEC. 202. DEPOSIT INSURANCE FUND CROSS GUARANTEES.**

7 (a) IN GENERAL.—Notwithstanding paragraphs
8 (4)(A), (5)(C), and (6)(B) of section 11(a) of the Federal
9 Deposit Insurance Act or any other provision of law, dur-
10 ing the period beginning on the date of the enactment of
11 this Act and ending on the earlier of the date the balance
12 in the Savings Association Insurance Fund first equals or
13 exceeds the designated reserve ratio applicable to such
14 fund or the date on which subtitle C takes effect—

15 (1) the balance in the Bank Insurance Fund
16 shall be available to cover, to the extent provided in
17 subsection (b), losses incurred by the Savings Asso-
18 ciation Insurance Fund if the balance in the Savings
19 Association Insurance Fund is insufficient to cover
20 such losses; and

21 (2) the balance in the Savings Association In-
22 surance Fund shall be available to cover losses in-
23 curred by the Bank Insurance Fund if the balance
24 in the Bank Insurance Fund is insufficient to cover
25 such losses.

1 (b) MAXIMUM AMOUNT OF GUARANTEE.—The total
2 amount of funds available for transfer from the Bank In-
3 surance Fund to the Savings Association Insurance Fund
4 pursuant to subsection (a)(1) shall not exceed the amount
5 equal to—

6 (1) the amount which would be in the Savings
7 Association Insurance Fund, as of the date of the
8 enactment of this Act, if the reserve ratio of fund
9 were equal to the designated reserve ratio as of such
10 date; minus

11 (2) the amount in the Savings Association In-
12 surance Fund as of such date.

13 (c) NO INCREASE IN PREMIUMS AUTHORIZED BE-
14 CAUSE OF THE GUARANTEE.—Notwithstanding any provi-
15 sion of section 7 of the Federal Deposit Insurance Act,
16 the rate of any assessment applicable to any Bank Insur-
17 ance Fund member or Savings Association Insurance
18 Fund member under such section may not be increased
19 by the Federal Deposit Insurance Corporation by reason
20 of the guarantee established under subsection (a) unless
21 a transfer of funds has been made from any such fund
22 pursuant to such subsection which has caused the balance
23 in the fund to decrease below the designated reserve ratio
24 applicable to such fund.

1 **SEC. 203. SAVINGS ASSOCIATION INSURANCE FUND MEM-**
2 **BER ASSESSMENT RATE.**

3 (a) IN GENERAL.—Notwithstanding any provision of
4 section 7 of the Federal Deposit Insurance Act, during
5 the period beginning on the 1st day of the 1st quarter
6 which begins after the date of the enactment of this Act
7 and ending on the date on which subtitle C of title I takes
8 effect, the semiannual assessments with respect to Savings
9 Association Insurance Fund members under section 7 may
10 not exceed the projected costs and expenses of the Savings
11 Association Insurance Fund for the semiannual period.

12 (b) EXCEPTION TO LIMITATION ON ASSESSMENTS.—
13 The Board of Directors of the Federal Deposit Insurance
14 Corporation may set semiannual assessments in excess of
15 the amount permitted under subsection (a) with respect
16 to Savings Association Insurance Fund members which
17 have a CAMEL rating of 3, 4, or 5 (or an equivalent rat-
18 ing under a comparable rating system) to the extent ap-
19 propriate to effectuate the risk-based assessment system
20 established under section 7 of the Federal Deposit Insur-
21 ance Act.

22 (c) FICO ASSESSMENTS NOT INCLUDED IN LIMITA-
23 TION.—Subsection (a) shall not be construed as limiting
24 the amount of any assessment imposed under section
25 21(f)(2) with respect to any Savings Association Insur-
26 ance Fund member or SAIF-assessable deposits.

1 **SEC. 204. DEPOSIT SHIFTS BETWEEN BIF AND SAIF MEM-**
2 **BER SUBSIDIARIES OF THE SAME HOLDING**
3 **COMPANY.**

4 Notwithstanding any provision of section 7 of the
5 Federal Deposit Insurance Act, during the period begin-
6 ning on the 1st day of the 1st quarter which begins after
7 the date of the enactment of this Act and ending on the
8 date on which subtitle C of title I takes effect, the Federal
9 Deposit Insurance Corporation—

10 (1) may take into account any deposits which
11 have been shifted from a Savings Association Insur-
12 ance Fund member subsidiary of a depository insti-
13 tution holding company to a Bank Insurance Fund
14 member subsidiary of the same holding company
15 after the date of the enactment of this Act in deter-
16 mining the amount of the assessment rate applicable
17 to Savings Association Insurance Fund members for
18 any semiannual period which begins during such pe-
19 riod; and

20 (2) may, if the Corporation determines that the
21 aggregate amount of deposits of Savings Association
22 Insurance Fund member subsidiaries of a depository
23 institution holding company which have been shifted
24 from such subsidiaries to Bank Insurance Fund
25 member subsidiaries of the same depository institu-
26 tion holding company after the date of the enact-

1 ment of this Act exceeds 15 percent of the aggregate
 2 amount of the deposits of such Savings Association
 3 Insurance Fund members as of such date, treat the
 4 amount of such deposits as SAIF-assessable deposits
 5 for purposes of—

6 (A) determining the amount and rate of
 7 the assessment imposed on insured depository
 8 institutions with respect to SAIF-assessable de-
 9 posits pursuant to section 7 of the Federal De-
 10 posit Insurance Act for any semiannual period
 11 which begins during such period; and

12 (B) determining the amount of any assess-
 13 ment imposed by the Financing Corporation on
 14 insured depository institutions with respect to
 15 SAIF-assessable deposits pursuant to section
 16 21(f)(2) of the Federal Home Loan Bank Act.

17 **SEC. 205. TRANSFER OF FEDERAL RESERVE SURPLUS**
 18 **FUNDS TO MEET FICO CARRYING COSTS.**

19 (a) IN GENERAL.—Section 7(a) of the Federal Re-
 20 serve Act (12 U.S.C. 289) is amended by adding at the
 21 end the following new paragraph:

22 “(4) FICO PAYMENTS.—

23 “(A) IN GENERAL.—During the period be-
 24 ginning on the date of the enactment of the
 25 Federal Deposit Insurance Funds and Regu-

1 latory Relief Act of 1996 and ending on the
2 date the Financing Corporation ceases to have
3 any obligations outstanding under section 21(e)
4 of the Federal Home Loan Bank Act, the
5 Board shall annually transfer (in addition to
6 the transfers of funds required under paragraph
7 (3)) to the Financing Corporation, from
8 amounts in the surplus funds of the Federal re-
9 serve banks, an amount equal to
10 \$2,000,000,000 divided by the number of cal-
11 endar years any portion of which falls within
12 such period for use in accordance with section
13 21(f)(1) of the Federal Home Loan Bank Act.

14 “(B) ALLOCATION.—The Board shall an-
15 nually determine, on the basis of such factors
16 as the Board considers appropriate, the manner
17 in which the amount of the obligation of the
18 Board under subparagraph (A) shall be allo-
19 cated among the surplus funds of the Federal
20 reserve banks.

21 “(C) REPLENISHMENT OF SURPLUS FUND
22 PROHIBITED.—No Federal reserve bank may
23 replenish such bank’s surplus fund by the
24 amount of any transfer by such bank pursuant
25 to this paragraph.”.

1 (b) CONFORMING AMENDMENT.—Paragraph (1) of
2 section 21(f) of the Federal Home Loan Bank Act (12
3 U.S.C. 1441(f)) is amended to read as follows:

4 “(1) FEDERAL RESERVE SURPLUS.—

5 “(A) IN GENERAL.—Amounts transferred
6 to the Financing Corporation by the Board of
7 Governors of the Federal Reserve System from
8 the surplus funds of the Federal reserve banks
9 in accordance with section 7(a)(4) of the Fed-
10 eral Reserve Act.

11 “(B) TREATMENT IN CASE OF BANK IN-
12 SURANCE FUND MEMBER ASSESSMENTS.—To
13 the extent Bank Insurance Fund members (as
14 defined in section 7(l)(4) of the Federal Deposit
15 Insurance Act) are subject to any assessments
16 under this subsection, the total amount of such
17 assessments which, but for this subparagraph,
18 would be imposed on all such members for any
19 year shall be reduced by the transferred amount
20 referred to in subparagraph (A) with respect to
21 such year.”.

1 **TITLE III—REDUCTIONS IN GOV-**
2 **ERNMENT OVERREGULATION**

3 **SEC. 300. SHORT TITLE.**

4 Titles III and IV may be cited as the “Financial In-
5 stitutions Regulatory Relief Act of 1996”.

6 **Subtitle A—The Home Mortgage**
7 **Process**

8 **SEC. 301. REGULATORY AUTHORITY OVER DISCLOSURES**
9 **AND ESCROW ACCOUNTS UNDER RESPA**
10 **TRANSFERRED TO FEDERAL RESERVE**
11 **BOARD.**

12 (a) IN GENERAL.—Sections 4, 5, 6, and 10(d) of the
13 Real Estate Settlement Procedures Act of 1974 (12
14 U.S.C. 2601 et seq.) are amended by striking “Secretary”
15 each place such term appears and inserting “Board”.

16 (b) CLARIFICATION OF PURPOSE.—Section 2(b)(2) of
17 the Real Estate Settlement Procedures Act of 1974 (12
18 U.S.C. 2601(b)(2)) is amended by inserting the following
19 before the semicolon at the end: “without—

20 “(A) directly regulating settlement services
21 prices; or

22 “(B) directly regulating wages to bona fide
23 employees that are not designed as a subterfuge
24 to facilitate kickbacks among affiliated compa-
25 nies”.

1 (c) BOARD DEFINED.—Section 3 of the Real Estate
2 Settlement Procedures Act of 1974 (12 U.S.C. 2602) is
3 amended—

4 (1) by striking “and” at the end of paragraph
5 (7);

6 (2) by striking the period at the end of para-
7 graph (8) and inserting “; and”; and

8 (3) by adding at the end the following new
9 paragraph:

10 “(9) the term ‘Board’ means the Board of Gov-
11 ernors of the Federal Reserve System.”.

12 (d) NEGOTIATED REGULATIONS UNDER SECTIONS 8
13 AND 9.—Section 8 of the Real Estate Settlement Proce-
14 dures Act of 1974 (12 U.S.C. 2607) is amended by adding
15 at the end the following new subsection:

16 “(e) NEGOTIATED REGULATIONS.—

17 “(1) IN GENERAL.—The Secretary may not
18 publish a proposed or final regulation under this sec-
19 tion and section 9 after the date of the enactment
20 of the Financial Institutions Regulatory Relief Act
21 of 1996 unless the Secretary has used the negotiated
22 rulemaking procedure established under subchapter
23 III of chapter 5 of title 5, United States Code, to
24 attempt to negotiate and develop the rule.

1 “(2) CONSISTENCY WITH PURPOSE.—Any regu-
2 lation prescribed in accordance with paragraph (1)
3 shall be consistent with the purposes of this title as
4 set forth in section 2.”.

5 (e) ADMINISTRATIVE ENFORCEMENT OF PROHIBI-
6 TION AGAINST KICKBACKS AND UNEARNED FEES.—Sec-
7 tion 8 of the Real Estate Settlement Procedures Act of
8 1974 (12 U.S.C. 2607) is amended by adding after sub-
9 section (e) (as added by subsection (d) of this section) the
10 following new subsection:

11 “(f) ADMINISTRATIVE ENFORCEMENT.—

12 “(1) IN GENERAL.—Compliance with the re-
13 quirements of this section and sections 9 and 12
14 shall be enforced under this Act—

15 “(A) in the case of an insured depository
16 institution (as defined in section 3 of the Fed-
17 eral Deposit Insurance Act), by the appropriate
18 Federal banking agency (as defined in such sec-
19 tion);

20 “(B) in the case of an insured credit union
21 (as defined in section 101(7) of the Federal
22 Credit Union Act), by the National Credit
23 Union Administration;

24 “(C) in the case of a bank holding com-
25 pany (as defined in section 2 of the Bank Hold-

1 ing Company Act of 1956) and any affiliate of
2 any such holding company (other than an in-
3 sured depository institution), by the Board;

4 “(D) in the case of a savings and loan
5 holding company (as defined in section 10 of
6 the Home Owners’ Loan Act) and any affiliate
7 of any such holding company (other than an in-
8 sured depository institution), by the Director of
9 the Office of Thrift Supervision; and

10 “(E) in the case of any other person, by
11 the Secretary.

12 “(2) SPECIAL RULES RELATING TO DETER-
13 MINATION OF APPROPRIATE REGULATOR.—

14 “(A) CASES OF MORE THAN 1 APPRO-
15 PRIATE REGULATOR.—If, under paragraph (1),
16 a company may be regulated by more than 1
17 agency, the Board shall determine which agency
18 shall be the responsible agency, notwithstanding
19 paragraph (1).

20 “(B) CASES INVOLVING JOINT VENTURES,
21 PARTNERSHIPS, AND OTHER AFFILIATED BUSI-
22 NESS ARRANGEMENTS.—If any insured deposi-
23 tory institution is involved in a joint venture,
24 partnership, or other affiliated business ar-
25 rangement with any person who is not an in-

1 sured depository institution, the agency respon-
2 sible for enforcing this section and sections 9
3 and 12 with respect to such insured depository
4 institution shall be the agency with such re-
5 sponsibility with respect to such joint venture,
6 partnership, or other affiliated business ar-
7 rangement.

8 “(3) INTERAGENCY COOPERATION AND EN-
9 FORCEMENT GUIDELINES.—All the agencies referred
10 to in any subparagraph of paragraph (1) shall co-
11 operate with each other to develop enforcement
12 guidelines and other means for achieving effective
13 compliance with this section and sections 9 and 12.

14 “(4) PREFERENCE FOR CIVIL ENFORCEMENT
15 OVER CRIMINAL ENFORCEMENT.—As part of the co-
16 operative efforts required under paragraph (3), the
17 agencies referred to in paragraph (1) shall consider
18 means for achieving compliance with this section and
19 section 9 through the exercise of administrative en-
20 forcement authority under this subsection without
21 resorting to criminal enforcement actions under sub-
22 section (d) except in appropriate cases.

23 “(5) EFFECTIVE DATE.—Paragraphs (1) and
24 (2) shall not take effect until joint interagency co-
25 operation and enforcement guidelines are adopted by

1 all the agencies to which paragraphs (1) and (2)
2 apply and the enforcement authority of the Sec-
3 retary with respect to this section and sections 9 and
4 12 shall continue until such paragraphs take ef-
5 fect.”.

6 (f) INCREASED SCIENTER REQUIREMENT FOR CRIMI-
7 NAL PENALTY.—Section 8(d) of the Real Estate Settle-
8 ment Procedures Act of 1974 (12 U.S.C. 2607(d)) is
9 amended—

10 (1) in paragraph (1), by inserting “willfully”
11 after “persons who”; and

12 (2) in paragraph (3), by striking “was not in-
13 tentional and”.

14 (g) REDESIGNATION OF CONTROLLED BUSINESS AR-
15 RANGEMENTS AS AFFILIATED BUSINESS ARRANGE-
16 MENTS.—The Real Estate Settlement Procedures Act of
17 1974 (12 U.S.C. 2601 et seq.) is amended—

18 (1) in section 3(7), by striking “controlled busi-
19 ness arrangement” and inserting “affiliated business
20 arrangement”; and

21 (2) in subsections (c)(4) and (d)(6) of section
22 8, by striking “controlled business arrangements”
23 and inserting “affiliated business arrangements”.

24 (h) TECHNICAL AND CONFORMING AMENDMENTS.—

1 (1) Section 4(a) of the Real Estate Settlement
2 Procedures Act of 1974 (12 U.S.C. 2603(a)) is
3 amended by striking “Federal Home Loan Bank
4 Board” and inserting “Director of the Office of
5 Thrift Supervision”.

6 (2) Section 8(d)(4) of the Real Estate Settle-
7 ment Procedures Act of 1974 (12 U.S.C.
8 2607(d)(4)) is amended by inserting “any other
9 agency described in subsection (f)(1),” after “the
10 Secretary,”.

11 (3) Section 10(e)(1)(C) of the Real Estate Set-
12 tlement Procedures Act of 1974 (12 U.S.C.
13 2609(e)(1)(C)) is amended by striking “Not later
14 than the expiration of the 90-day period beginning
15 on the date of the enactment of the Cranston-Gon-
16 zalez National Affordable Housing Act, the” and in-
17 serting “The”.

18 (4) Section 16 of the Real Estate Settlement
19 Procedures Act of 1974 (12 U.S.C. 2614) is amend-
20 ed by striking “Secretary,” and inserting “Board, an
21 agency referred to in any subparagraph of section
22 8(f)(1),”.

23 (5) Section 18 of the Real Estate Settlement
24 Procedures Act of 1974 (12 U.S.C. 2616) is amend-
25 ed—

1 (A) by striking “Secretary is authorized
2 to” and inserting “Board and Secretary may
3 jointly”;

4 (B) by striking “Secretary” each place
5 such term appears other than the 1st place and
6 inserting “Board and Secretary”; and

7 (C) by striking “determines that such
8 laws” and inserting “determine that such
9 laws”.

10 (6) Section 19(a) of the Real Estate Settlement
11 Procedures Act of 1974 (12 U.S.C. 2617(a)) is
12 amended to read as follows:

13 “(a) REGULATIONS.—

14 “(1) IN GENERAL.—Subject to paragraph (2),
15 the Secretary and the Board may prescribe such
16 regulations, make such interpretations, and grant
17 such reasonable exemptions for classes of trans-
18 actions, as may be necessary to achieve the purposes
19 of this Act.

20 “(2) APPLICATION.—

21 “(A) BOARD.—The authority of the Board
22 under paragraph (1) shall apply with respect
23 to—

24 “(i) sections 4, 5, 6, 10, and 12; and

1 “(ii) sections 3, 7, 17, and 18 to the
2 extent such sections are applicable with re-
3 spect to the sections described in clause (i).

4 “(B) SECRETARY.—The authority of the
5 Secretary under paragraph (1) shall apply with
6 respect to—

7 “(i) sections 8 and 9; and

8 “(ii) sections 3, 7, 17, and 18 to the
9 extent such sections are applicable with re-
10 spect to the sections described in clause
11 (i).”.

12 (7) Section 19(b) of the Real Estate Settlement
13 Procedures Act of 1974 (12 U.S.C. 2617(b)) is
14 amended by inserting “, the Board,” after “the Sec-
15 retary”.

16 (8) Section 19(c) of the Real Estate Settlement
17 Procedures Act of 1974 (12 U.S.C. 2617(c)) is
18 amended—

19 (A) in paragraph (1)—

20 (i) by striking “Secretary” the 1st
21 place such term appears and inserting
22 “Board, with respect to any action to en-
23 force section 4, 5, 6, or 10, and each agen-
24 cy referred to in any subparagraph of sec-

1 the Board of Governors of the Federal Reserve System
2 shall take such action as may be necessary before the end
3 of the 3-month period beginning on the date of the enact-
4 ment of this Act—

5 (1) to simplify the disclosures applicable to such
6 transactions under such Acts, including the timing
7 of the disclosures; and

8 (2) to provide a single format for such disclo-
9 sures which will satisfy the requirements of each
10 such Act with respect to such transactions.

11 (b) REGULATIONS.—To the extent that it is nec-
12 essary to prescribe any regulation in order to effect any
13 changes required to be made under subsection (a), the pro-
14 posed regulation shall be published in the Federal Register
15 before the end of the 3-month period referred to in sub-
16 section (a).

17 (c) RECOMMENDATIONS FOR LEGISLATION.—If the
18 Board of Governors of the Federal Reserve System finds
19 that legislative action may be necessary or appropriate in
20 order to simplify and unify the disclosure requirements
21 under the Real Estate Settlement Procedures Act of 1974
22 and the Truth in Lending Act, the Board shall submit
23 a report containing recommendations to the Congress con-
24 cerning such action.

1 **SEC. 303. INCREASED REGULATORY FLEXIBILITY UNDER**
2 **THE TRUTH IN LENDING ACT.**

3 (a) **REGULATORY FLEXIBILITY.**—Section 104 of the
4 Truth in Lending Act (15 U.S.C. 1603) is amended by
5 adding at the end the following new paragraph:

6 “(7) Transactions for which the Board, by reg-
7 ulation, determines that coverage under the Act is
8 not needed to carry out the purposes of the Act.”.

9 (b) **EXEMPTIVE AUTHORITY.**—Section 105 of the
10 Truth in Lending Act (15 U.S.C. 1604) is amended—

11 (1) by redesignating subsections (b), (c), and
12 (d) as subsections (c), (d), and (e), respectively; and

13 (2) by inserting after subsection (a) the follow-
14 ing new subsection:

15 “(b) **EXEMPTIVE AUTHORITY.**—

16 “(1) **IN GENERAL.**—The Board shall exempt
17 from all or parts of this title any class of trans-
18 actions for which, in the Board’s judgment, coverage
19 under all or part of this title does not provide a
20 measurable benefit to consumers in the form of use-
21 ful information or protection.

22 “(2) **FACTORS TO BE CONSIDERED.**—In deter-
23 mining which classes of transactions to exempt in
24 whole or in part, the Board shall consider, among
25 other factors, the following:

1 “(A) The amount of the loan or closing
2 costs and whether the disclosures, right of re-
3 scission, and other provisions are necessary,
4 particularly for small loans.

5 “(B) Whether the requirements of this title
6 complicate, hinder, or make more expensive the
7 credit process for the class of transactions.

8 “(C) The status of the borrower, including,
9 the borrowers’ related financial arrangements,
10 the financial sophistication of the borrower re-
11 lative to the type of transaction, and the impor-
12 tance of the credit and related supporting prop-
13 erty to the borrower.”.

14 **SEC. 304. REDUCTIONS IN RESPA REGULATORY BURDENS;**
15 **CLARIFYING AMENDMENTS.**

16 (a) **UNNECESSARY DISCLOSURE.**—Section 6(a) of the
17 Real Estate Settlement Procedures Act of 1974 (12
18 U.S.C. 2605) is amended to read as follows:

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

21 “(1) **IN GENERAL.**—Each person who makes a
22 federally related mortgage loan shall disclose to each
23 person who applies for any such loan, at the time of
24 application for the loan, whether the servicing of any
25 such loan may be assigned, sold, or transferred to

1 any other person at any time while such loan is out-
2 standing.

3 “(2) SIGNATURE OF APPLICANT.—Any disclo-
4 sure of the information required under paragraph
5 (1) shall not be effective for purposes of this section
6 unless the disclosure is accompanied by a written
7 statement, in such form as the Secretary shall de-
8 velop before the expiration of the 180-day period be-
9 ginning on the date of the enactment of the Finan-
10 cial Institutions Regulatory Relief Act of 1996, that
11 the applicant has read and understood the disclosure
12 and that is evidenced by the signature of the appli-
13 cant at the place where such statement appears in
14 the application.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall take effect 180 days after the date
17 of the enactment of this Act.

18 (c) SECOND MORTGAGES.—Section 3(1)(A) of the
19 Real Estate Settlement Procedures Act of 1974 (12
20 U.S.C. 2602(1)(A)) is amended by striking “or subordi-
21 nate”.

22 (d) CONSISTENCY OF RESPA AND TRUTH IN LEND-
23 ING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of
24 the Real Estate Settlement Procedures Act of 1974 (12
25 U.S.C. 2606) is amended—

1 (c) ALTERNATIVE TO HISTORICAL EXAMPLE.—Sec-
2 tion 128(a) of the Truth in Lending Act (15 U.S.C.
3 1638(a)) is amended by inserting at the end the following
4 new paragraph:

5 “(14) In any variable rate transaction secured
6 by the consumer’s principal dwelling with a term
7 greater than 1 year, at the creditors’ option, a state-
8 ment that the monthly payment may increase or de-
9 crease substantially, or a historical example illustrat-
10 ing the effects of interest rate changes implemented
11 according to the loan program.”.

12 (d) ENSURING HONORING OF LOCK-IN PROMISES.—
13 Section 128(b) of the Truth in Lending Act (15 U.S.C.
14 1638(b)) is amended by adding at the end the following
15 new paragraph:

16 “(3) In the case of a residential mortgage trans-
17 action, the disclosures under subsection (a) shall include
18 the following:

19 “(A) The note rate and points, and a state-
20 ment, if applicable, that these terms are subject to
21 change.

22 “(B) A statement that the creditor must in-
23 clude the disclosed note rate and points in the credit
24 agreement unless, in relation to either or both of
25 those terms—

1 “(i) the disclosure clearly and conspicu-
2 ously indicates that the term is subject to
3 change, or

4 “(ii) in the case of any term to which
5 clause (i) does not apply—

6 “(I) the creditor has clearly and con-
7 spicuously indicated that the term is condi-
8 tioned on closing the transaction within a
9 prescribed time;

10 “(II) the creditor has promptly and
11 clearly communicated to the consumer the
12 information and documentation that the
13 consumer is required to provide to the
14 creditor; and

15 “(III) the consumer has failed to pro-
16 vide such information and documentation
17 within a reasonable time after receiving
18 that communication.”.

19 **SEC. 306. CERTAIN CHARGES.**

20 Section 106(c) of the Truth in Lending Act (15
21 U.S.C. 1605(c)) is amended to read as follows:

22 “(c) TREATMENT OF CERTAIN DEBT CANCELLATION
23 AND DEFICIENCY WAIVER CONTRACTS.—Charges or pre-
24 miums for any insurance or for any voluntary noninsur-
25 ance product, written in connection with any consumer

1 credit transaction, that provides protections against loss
2 of or damage to property or against part or all of the debt-
3 or's liability for amounts in excess of the value of the col-
4 lateral securing the debtor's obligation, or against liability
5 arising out of the ownership or use of property, shall be
6 included in the finance charge unless a clear and specific
7 statement in writing is furnished by the creditor to the
8 person to whom the credit is extended, setting forth the
9 cost of the insurance or product if obtained from or
10 through the creditor, and stating that the person to whom
11 credit is extended may choose the person through which
12 the insurance or product is to be obtained.”.

13 **SEC. 307. EXEMPTIONS FROM RESCISSION.**

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

16 (1) by striking “or” at the end of paragraph
17 (3);

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

20 (3) by adding at the end the following new
21 paragraph:

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

24 “(A) is a refinancing of the principal bal-
25 ance then due and any accrued and unpaid fi-

1 nance charges of a residential mortgage trans-
2 action as defined in section 103(w), or is any
3 subsequent refinancing of such a transaction;
4 and

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

7 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
8 Section 125(e)(2) of the Truth in Lending Act (15 U.S.C.
9 1635(e)(2)) is amended by inserting “, other than a trans-
10 action described in subsection (e)(5),” after “a refinancing
11 or consolidation (with no new advances)”.

12 **SEC. 308. RECOVERY OF FEES.**

13 Section 125(b) of the Truth in Lending Act (15
14 U.S.C. 1635) is amended—

15 (1) in the 1st sentence, by inserting “, except
16 any charge for an appraisal report or credit report”
17 after “other charge”; and

18 (2) in the 2d sentence, by striking “otherwise”
19 and inserting “as otherwise required under this sub-
20 section”.

21 **SEC. 309. HOME OWNERSHIP DEBT COUNSELING NOTIFICA-**
22 **TION.**

23 Section 106(c) of the Housing and Urban Develop-
24 ment Act of 1968 (12 U.S.C. 1701x(c)) is amended by
25 striking paragraph (5).

1 **SEC. 310. HOME MORTGAGE DISCLOSURE ACT.**

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

4 (1) in the 2d sentence, by striking
5 “\$10,000,000” and inserting “\$50,000,000”; and

6 (2) by inserting at the end the following new
7 sentences: “The Board may also, by regulation, ex-
8 empt from the provisions of this Act institutions
9 specified in section 303(2)(A) which have total as-
10 sets as of their last full fiscal year of \$50,000,000
11 or greater where the burden of complying with this
12 Act on such institutions outweighs the usefulness of
13 the information required to be disclosed. The exemp-
14 tions provided under this section shall not be appli-
15 cable to an institution which the Board, by order,
16 has found a reasonable basis to believe is not fulfill-
17 ing its obligations to serve the housing needs of the
18 communities and neighborhoods in which it located.
19 An institution subject to such an order shall be re-
20 quired to comply with the requirements of this Act
21 for loans made after the time that the order is is-
22 sued at such time and for such period as the Board
23 deems appropriate. The dollar amount in this section
24 shall be adjusted annually after December 31, 1994,
25 by the annual percentage increase in the Consumer
26 Price Index for Urban Wage Earners and Clerical

1 Workers published by the Bureau of Labor Statis-
2 tics.”.

3 (b) Section 304 of the Home Mortgage Disclosure
4 Act of 1975 (12 U.S.C. 2803) is amended by adding at
5 the end the following new subsection:

6 “(m) OPPORTUNITY TO REDUCE COMPLIANCE BUR-
7 DEN.—

8 “(1) A depository institution shall be considered
9 to have satisfied the public availability requirements
10 of subsection (a) if such institution keeps the infor-
11 mation required under that subsection at its home
12 office and provides notice at the branch locations
13 specified in such subsection that such information is
14 available upon request from the home office of the
15 institution. A home office of the depository institu-
16 tion receiving a request for such information pursu-
17 ant to this subsection shall provide the information
18 pertinent to the location of the branch in question
19 within fifteen days of the receipt of the written re-
20 quest.

21 “(2) In complying with paragraph (1), a deposi-
22 tory institution may provide the individual request-
23 ing such information, at the institution’s choice,
24 with—

1 “(A) a paper copy of the information re-
2 quested; or

3 “(B) if acceptable to the individual, the in-
4 formation through a form of electronic medium,
5 such as computer disc.”.

6 **Subtitle B—Community**
7 **Reinvestment Act Amendments**

8 **SEC. 321. EXPRESSION OF CONGRESSIONAL INTENT.**

9 Subsection (b) of section 802 of the Community Rein-
10 vestment Act of 1977 (12 U.S.C. 2901) is amended to
11 read as follows:

12 “(b) It is the purpose of this title to require each ap-
13 propriate Federal financial supervisory agency to use its
14 authority, when examining financial institutions, to en-
15 courage such institutions to help meet the credit needs of
16 the local communities in which they are chartered consist-
17 ent with the safe and sound operation of such institutions.
18 When examining financial institutions, a supervisory agen-
19 cy shall not impose additional burden, recordkeeping, or
20 reporting upon such institutions.”.

21 **SEC. 322. COMMUNITY REINVESTMENT ACT EXEMPTION.**

22 The Community Reinvestment Act of 1977 (12
23 U.S.C. 2901 et seq.) is amended by adding at the end
24 the following new section:

1 **“SEC. 809. EXAMINATION EXEMPTION.**

2 “(a) IN GENERAL.—A regulated financial institution
3 shall not be subject to the examination requirements of
4 this title or any regulations issued under this section if

5 “(1) the main office (and each branch of such
6 institution) is located in a town, political subdivision,
7 or other unit of general local government no part of
8 which falls within any metropolitan statistical area;
9 and

10 “(2) the aggregate assets of such institution
11 and any depository institution holding company
12 which controls such institution is not greater than
13 \$100,000,000.

14 “(b) ANNUAL ADJUSTMENT.—The dollar amount in
15 subsection (a)(2) shall be adjusted annually after Decem-
16 ber 31, 1994, by the annual percentage increase in the
17 Consumer Price Index for Urban Wage Earners and Cleri-
18 cal Workers published by the Bureau of Labor Statis-
19 tics.”.

20 **SEC. 323. COMMUNITY INPUT AND CONCLUSIVE RATING.**

21 (a) CONFORMING AMENDMENT.—Section 804(a) of
22 the Community Reinvestment Act of 1977 (12 U.S.C.
23 2903) is amended by inserting “conducted in accordance
24 with section 806A,” after “financial institution,”.

25 (b) COMMUNITY INPUT AND CONCLUSIVE RATING.—
26 The Community Reinvestment Act of 1977 (12 U.S.C.

1 2901 et seq.) is amended by inserting after section 806
2 the following new section:

3 **“SEC. 806A. COMMUNITY INPUT AND CONCLUSIVE RATING.**

4 “(a) PUBLICATION OF EXAM SCHEDULE AND OPPOR-
5 TUNITY FOR COMMENT.—

6 “(1) PUBLICATION OF NOTICE.—Each appro-
7 priate Federal financial supervisory agency shall—

8 “(A) publish in the Federal Register, 30
9 days before the beginning of a calendar quarter,
10 a listing of institutions scheduled for evaluation
11 for compliance with this title during such cal-
12 endar quarter; and

13 “(B) provide opportunity for written com-
14 ments from the community on the performance,
15 under this title, of each institution scheduled
16 for evaluation.

17 “(2) COMMENT PERIOD.—Written comments
18 may not be submitted to an appropriate Federal fi-
19 nancial supervisory agency pursuant to paragraph
20 (1) after the end of the 30-day period beginning on
21 the first day of the calendar quarter.

22 “(3) COPY OF COMMENTS.—The agency shall
23 provide a copy of such comments to the institution.

24 “(b) EVALUATION.—The appropriate Federal finan-
25 cial supervisory agency shall—

1 “(1) evaluate the institution in accordance with
2 the standards contained in section 804; and

3 “(2) prepare and publish a written evaluation of
4 the institution as required under section 807.

5 “(c) RECONSIDERATION OF RATING.—

6 “(1) REQUEST FOR RECONSIDERATION.—A re-
7 consideration of an institution’s rating referred to in
8 section 807(b)(1)(C), may be requested within 30
9 days of the rating’s disclosure to the public.

10 “(2) PROCEDURES FOR REQUEST.—Any such
11 request shall be made in writing and filed with the
12 appropriate Federal financial supervisory agency,
13 and may be filed by the institution or a member of
14 the community.

15 “(3) BASIS FOR REQUEST.—Any request for re-
16 consideration under this subsection shall be based on
17 significant issues of a substantive nature which are
18 relevant to the delineated community of the institu-
19 tion and, in the case of a request by a member of
20 the community, shall be limited to issues previously
21 raised in comments submitted pursuant to sub-
22 section (a).

23 “(4) COMPLETION OF REVIEW.—The appro-
24 priate Federal financial supervisory agency shall

1 complete any requested reconsideration within 30
2 days of the filing of the request.

3 “(d) CONCLUSIVE RATING.—

4 “(1) IN GENERAL.—An institution’s rating shall
5 become conclusive on the later of—

6 “(A) 30 days after the rating is disclosed
7 to the public; or

8 “(B) the completion of any requested re-
9 consideration by the Federal financial super-
10 visory agency.

11 “(2) RATING CONCLUSIVE OF MEETING COMMU-
12 NITY CREDIT NEEDS.—An institution’s rating shall
13 be the conclusive assessment of the institution’s
14 record of meeting the credit needs of its community
15 for purposes of section 804 until the institution’s
16 next rating, developed pursuant to an examination,
17 becomes conclusive.

18 “(3) SAFE HARBOR.—Institutions which have
19 received a ‘satisfactory’ or ‘outstanding’ rating shall
20 be deemed to have met the purposes of section 804.

21 “(4) RULE OF CONSTRUCTION.—Notwithstand-
22 ing any other provision of law, no provision of this
23 section shall be construed as granting a cause of ac-
24 tion to any person.”.

1 (c) OVERALL EVALUATION OF INSTITUTION.—Para-
2 graph (2) of section 804(a) of the Community Reinvest-
3 ment Act of 1977 (12 U.S.C. 2903(a)) is amended to read
4 as follows:

5 “(2) take such record into account in the over-
6 all evaluation of the condition of the institution by
7 the appropriate Federal financial supervisory agen-
8 cy.”.

9 **SEC. 324. SPECIAL PURPOSE FINANCIAL INSTITUTIONS.**

10 (a) IN GENERAL.—Section 804 of the Community
11 Reinvestment Act of 1977 (12 U.S.C. 2903) is amended
12 by adding at the end the following new subsection:

13 “(c) SPECIAL PURPOSE INSTITUTIONS.—

14 “(1) IN GENERAL.—In conducting assessments
15 pursuant to this section at any special purpose insti-
16 tution, the appropriate Federal financial supervisory
17 agency shall—

18 “(A) consider the nature of business such
19 institution is involved in; and

20 “(B) assess and take into account the
21 record of the institution commensurate with the
22 amount of deposits (as defined in section 3(1)
23 of the Federal Deposit Insurance Act) received
24 by such institution.

1 “(2) STANDARDS.—Each appropriate Federal
2 financial supervisory agency shall develop standards
3 under which special purpose institutions may be
4 deemed to have complied with the requirements of
5 this title which are consistent with the specific na-
6 ture of such businesses.”.

7 (b) SPECIAL PURPOSE INSTITUTION DEFINED.—
8 Section 803 of the Community Reinvestment Act of 1977
9 (12 U.S.C. 2902) is amended by adding at the end the
10 following new paragraph:

11 “(5) SPECIAL PURPOSE INSTITUTIONS.—The
12 term ‘special purpose institution’ means a financial
13 institution that does not generally accept deposits
14 from the public in amounts of less than \$100,000,
15 such as wholesale, credit card, and trust institu-
16 tions.”.

17 **SEC. 325. INCREASED INCENTIVES FOR LENDING TO LOW-**
18 **AND MODERATE-INCOME COMMUNITIES.**

19 (a) IN GENERAL.—Section 804(b) of the Community
20 Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amend-
21 ed to read as follows:

22 “(b) POSITIVE CONSIDERATION OF CERTAIN LOANS
23 AND INVESTMENTS.—In assessing and taking into ac-
24 count the records of a regulated financial institution under

1 subsection (a), the appropriate Federal financial super-
2 visory agency shall—

3 “(1) consider as a positive factor, consistent
4 with the safe and sound operation of the institution,
5 the institution’s investment in or loan to—

6 “(A) any minority depository institution or
7 women’s depository institution (as such terms
8 are defined in section 808(b)) or any low-in-
9 come credit union;

10 “(B) any joint venture or other entity or
11 project which promotes the public welfare in
12 any distressed community (as defined by such
13 agency) whether or not the distressed commu-
14 nity is located in the local community in which
15 the regulated financial institution is chartered
16 to do business; and

17 “(C) targeted low- and moderate-income
18 communities, including real property loans to
19 such communities; and

20 “(2) consider equally with other factors capital
21 investment, loan participation, and other ventures
22 undertaken by the institution in cooperation with—

23 “(A) minority- and women-owned financial
24 institutions and low-income credit unions to the
25 extent that these activities help meet the credit

1 needs of the local communities in which such
2 institutions are chartered; and

3 “(B) community development corporations
4 in extending credit and other financial services
5 principally to low- and moderate-income persons
6 and small businesses to the extent that such
7 community development corporations help meet
8 the credit needs of the local communities served
9 by the majority-owned institution.”.

10 (b) AMENDMENT TO DEFINITIONS.—Section 803 of
11 the Community Reinvestment Act of 1977 (12 U.S.C.
12 2902) is amended by inserting after paragraph (5) (as
13 added by section 324(b) of this subtitle) the following new
14 paragraph:

15 “(6) STATE BANK SUPERVISOR.—The term
16 ‘State bank supervisor’ has the same meaning as in
17 section 3(r) of the Federal Deposit Insurance Act.”.

18 (c) TECHNICAL CORRECTION.—The 1st of the 2
19 paragraphs designated as paragraph (2) of section 803 of
20 the Community Reinvestment Act of 1977 (12 U.S.C.
21 2902) is amended to read as follows:

22 “(D) the Director of the Office of Thrift
23 Supervision with respect to any savings associa-
24 tion (the deposits of which are insured by the
25 Federal Deposit Insurance Corporation) and

1 any savings and loan holding company (other
2 than a company which is a bank holding com-
3 pany);”.

4 **SEC. 326. PROHIBITION ON ADDITIONAL REPORTING**
5 **UNDER CRA.**

6 Section 806 of the Community Reinvestment Act of
7 1977 (12 U.S.C. 2905) is amended to read as follows:

8 **“SEC. 806. REGULATIONS.**

9 “(a) IN GENERAL.—

10 “(1) PUBLICATION REQUIREMENT.—Regula-
11 tions to carry out the purposes of this title shall be
12 published by each appropriate Federal financial su-
13 pervisory agency.

14 “(2) PROHIBITION ON ADDITIONAL RECORD-
15 KEEPING.—Regulations prescribed and policy state-
16 ments, commentary, examiner guidance, or other su-
17 pervisory material issued under this title shall not
18 impose any additional recordkeeping on a financial
19 institution.

20 “(3) PROHIBITION ON LOAN DATA COLLEC-
21 TION.—No loan data may be required to be collected
22 and reported by a financial institution and no such
23 data may be made public by any Federal financial
24 supervisory agency under this title.”.

1 **SEC. 327. TECHNICAL AMENDMENT.**

2 Section 807(b)(1)(B) of the Community Reinvest-
3 ment Act (12 U.S.C. 2906) is amended by striking “The
4 information” and inserting “In the case of a regulated fi-
5 nancial institution that maintains domestic branches in 2
6 or more States, the information”.

7 **SEC. 328. DUPLICATIVE REPORTING.**

8 Section 10(g) of the Federal Home Loan Bank Act
9 (12 U.S.C. 1430(g)) is amended by adding at the end the
10 following new paragraph (3):

11 “(3) SPECIAL RULE.—This subsection shall not
12 apply to members receiving a grade of ‘outstanding’
13 or ‘satisfactory’ under section 807 of the Community
14 Reinvestment Act of 1977.”.

15 **SEC. 329. CRA CONGRESSIONAL OVERSIGHT.**

16 (a) SENSE OF CONGRESS RELATING TO AGGRESSIVE
17 OVERSIGHT.—It is the sense of the Congress that the ap-
18 propriate committees of the House of Representatives and
19 the Senate should exercise aggressive oversight of the
20 adoption and implementation of any regulation by any ap-
21 propriate Federal financial supervisory agency under the
22 Community Reinvestment Act of 1977 after the date of
23 the enactment of this Act.

24 (b) AGENCY REPORTS REQUIRED.—

25 (1) IN GENERAL.—Each appropriate Federal fi-
26 nancial supervisory agency shall submit a report to

1 the Congress by December 31, 1996, and by Decem-
2 ber 31, 1997, on the implementation of all regula-
3 tions prescribed by such agency under the Commu-
4 nity Reinvestment Act of 1977 after the date of the
5 enactment of this Act.

6 (2) REQUIREMENTS RELATING TO PREPARA-
7 TION OF REPORTS.—In preparing each report re-
8 quired under paragraph (1), each appropriate Fed-
9 eral financial supervisory agency shall—

10 (A) solicit and include comments from reg-
11 ulated financial institutions with respect to the
12 regulations which are the subject of the report;
13 and

14 (B) include quantifiable measures of the
15 cost savings achieved under the regulations
16 which are the subject of the report and the ef-
17 fectiveness of such regulations in achieving the
18 purposes of the Community Reinvestment Act
19 of 1977.

20 (3) DEFINITIONS.—For purposes of this sec-
21 tion, the terms “appropriate Federal financial super-
22 visory agency” and “regulated financial institution”
23 have the same meanings as in section 803 of the
24 Community Reinvestment Act of 1977.

1 **SEC. 330. CONSULTATION AMONG EXAMINERS.**

2 Section 10 of the Federal Deposit Insurance Act (12
3 U.S.C. 1820) is amended by adding at the end the follow-
4 ing new subsection:

5 “(j) CONSULTATION AMONG EXAMINERS.—

6 “(1) IN GENERAL.—Each appropriate Federal
7 banking agency shall take such action as may be
8 necessary to ensure that examiners employed by the
9 agency—

10 “(A) consult on examination activities with
11 respect to any depository institution; and

12 “(B) achieve an agreement and resolve any
13 inconsistencies on the recommendations to be
14 given to such institution as a consequence of
15 any examinations.

16 “(2) EXAMINER-IN-CHARGE.—Each agency
17 shall consider appointing an examiner-in-charge with
18 respect to a depository institution to ensure con-
19 sultation on examination activities among all of the
20 agency’s examiners involved in examinations of such
21 institution.”.

22 **SEC. 331. LIMITATION ON REGULATIONS.**

23 Section 806 of the Community Reinvestment Act of
24 1977 (12 U.S.C. 2905) (as amended by section 326 of
25 this subtitle) is amended by adding at the end the follow-
26 ing new subsections:

1 “(b) LIMITATION ON REGULATIONS.—No regulation
2 may be prescribed under this title by any Federal agency
3 which would—

4 “(1) require any regulated financial institution
5 to—

6 “(A) make any loan or enter into any
7 other agreement on the basis of any discrimina-
8 tory criteria prohibited under any law of the
9 United States; or

10 “(B) make any loan to, or enter into any
11 other agreement with, any uncreditworthy per-
12 son that would jeopardize the safety and sound-
13 ness of such institution; or

14 “(2) prevent or hinder in any way a financial
15 institution’s full responsibility to provide credit to all
16 segments of the community.

17 “(c) ENCOURAGE LOANS TO CREDITWORTHY BOR-
18 ROWERS.—Regulations prescribed under this title shall en-
19 courage regulated financial institutions to make loans and
20 extend credit to all creditworthy persons, consistent with
21 safety and soundness.”.

1 (c) ACCOUNT INFORMATION UPON OPENING AN AC-
2 COUNT.—Section 264 of the Truth in Savings Act (12
3 U.S.C. 4304) is amended to read as follows:

4 **“SEC. 264. ACCOUNT INFORMATION.**

5 “(a) IN GENERAL.—Each depository institution shall
6 disclose fees, charges, penalties, and interest rates applica-
7 ble to each class of accounts offered by the institution in
8 accordance with this section.

9 “(b) INFORMATION ON FEES AND CHARGES.—Each
10 depository institution shall disclose the following informa-
11 tion with respect to any account to a consumer at the time
12 the account is opened, or at such earlier time as a
13 consumer may request (and no additional information may
14 be required to be disclosed under this subtitle by regula-
15 tion or otherwise with respect to such account):

16 “(1) A description of all fees, periodic service
17 charges, penalties, and interest rates which may be
18 charged or assessed against the account (or against
19 the account holder in connection with such account),
20 the amount of any such fees, charges, or penalties
21 (or the method by which such amount will be cal-
22 culated), and the conditions under which any such
23 amount will be assessed.

24 “(2) All minimum balance requirements that af-
25 fect fees, charges, and penalties, including a clear

1 description of how each such minimum balance is
2 calculated.

3 “(3) Any minimum amount required with re-
4 spect to the initial deposit in order to open the ac-
5 count.

6 “(c) INFORMATION ON INTEREST RATES.—The dis-
7 closures required under subsections (a) and (b) with re-
8 spect to any account shall include the following informa-
9 tion:

10 “(1) Any annual rate of simple interest.

11 “(2) The frequency with which interest will be
12 compounded and credited.

13 “(d) NO REGULATIONS AUTHORIZED.—No regula-
14 tions may be prescribed with respect to this section by the
15 Board or any agency referred to in this title, including
16 any regulation to define any terms used in this section.”.

17 (d) DISCLOSURE OF CHANGE IN TERMS.—Section
18 265 of the Truth in Savings Act (12 U.S.C. 4304) is
19 amended to read as follows:

20 **“SEC. 265. DISCLOSURE OF CHANGE IN TERMS.**

21 “If any change is made in any item required to be
22 disclosed under section 264, all account holders who may
23 be affected by such change shall be notified by mail and
24 provided with a description of such change at least 30
25 days before the effective date of the change.”.

1 (e) REPEAL OF SECTIONS.—Sections 266, 268, 271,
2 and 273 of the Truth in Savings Act (12 U.S.C. 4304,
3 4305, 4307, 4310, and 4312, respectively) are hereby re-
4 pealed.

5 (f) REDESIGNATION OF SECTIONS.—Section 267,
6 270, 272 of the Truth in Savings Act (12 U.S.C. 4306,
7 4309, and 4311) are redesignated as sections 266, 268,
8 and 269, respectively.

9 (g) REDESIGNATION AND AMENDMENT OF SECTION
10 269.—Section 269 of the Truth in Savings Act (12 U.S.C.
11 4308) (as determined before the redesignation made by
12 subsection (f) of this section) is amended to read as fol-
13 lows:

14 **“SEC. 267. REGULATIONS.**

15 “(a) IN GENERAL.—The Board, after consultation
16 with each agency referred to in section 268(a) and public
17 notice and opportunity for comment, shall prescribe regu-
18 lations to carry out the purpose and provisions of this sub-
19 title.

20 “(b) EFFECTIVE DATE OF REGULATIONS.—The pro-
21 visions of this subtitle shall not apply with respect to any
22 depository institution before the effective date of regula-
23 tions prescribed by the Board under this subsection.”.

1 (h) REDESIGNATION AND AMENDMENT OF SECTION
2 274.—Section 274 of the Truth in Savings Act (12 U.S.C.
3 4313) is amended to read as follows:

4 **“SEC. 270. DEFINITIONS.**

5 “For the purposes of this subtitle, the following defi-
6 nitions shall apply:

7 “(1) ACCOUNTS.—The term ‘account’ means
8 any account intended for use by and generally used
9 by a consumer primarily for personal, family, or
10 household purposes that is offered by a depository
11 institution.

12 “(2) DEPOSIT BROKER.—The term ‘deposit
13 broker’—

14 “(A) has the meaning given to such term
15 in section 29(f)(1) of the Federal Deposit In-
16 surance Act; and

17 “(B) includes any person who solicits any
18 amount from any other person for deposit in an
19 insured depository institution.

20 “(3) DEPOSITORY INSTITUTION.—The term ‘de-
21 pository institution’—

22 “(A) means an institution described in
23 clause (i), (ii), (iii), (iv), (v), or (vi) of section
24 19(b)(1)(A) of the Federal Reserve Act; and

1 “(B) does not include nonautomated credit
2 unions which were not required to comply with
3 the requirements of this title as of the date of
4 the enactment of the Financial Institutions
5 Regulatory Relief Act of 1996 pursuant to the
6 determination of the National Credit Union Ad-
7 ministration Board.

8 “(4) INTEREST.—The term ‘interest’ includes
9 dividends paid with respect to share accounts which
10 are accounts within the meaning of paragraph (1).

11 “(5) BOARD.—The term ‘Board’ means the
12 Board of Governors of the Federal Reserve Sys-
13 tem.”.

14 (i) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendments made by
16 this section shall take effect on the effective date of
17 regulations prescribed by the Board of Governors of
18 the Federal Reserve System to implement such
19 amendments.

20 (2) AUTHORITY TO ISSUE REGULATIONS.—Not-
21 withstanding paragraph (1), the Board of Governors
22 of the Federal Reserve System shall prescribe regu-
23 lations in accordance with the amendment made by
24 subsection (g).

1 (3) CONTINUED APPLICABILITY OF PROVISIONS
2 UNTIL EFFECTIVE DATE OF NEW REGULATIONS.—
3 The Truth in Savings Act, as in effect on the day
4 before the date of the enactment of this Act, shall
5 continue to apply on and after such date until the
6 effective date of the amendments to such Act under
7 this section.

8 **SEC. 342. INFORMATION SHARING.**

9 Section 18 of the Federal Deposit Insurance Act (12
10 U.S.C. 1828) is amended by adding at the end the follow-
11 ing new subsection:

12 “(s) CUSTOMER ACCESS TO PRODUCTS.—

13 “(1) IN GENERAL.—Notwithstanding any other
14 provision of law, any depository institution, or any
15 affiliate or subsidiary of any depository institution,
16 may share or exchange information or otherwise
17 transfer information between or among themselves
18 without any restriction or limitation if it is clearly
19 and conspicuously disclosed that the information
20 may be communicated among such persons and the
21 consumer is given the opportunity, before the time
22 that the information is initially communicated, to di-
23 rect that such information not be communicated
24 among such persons.

1 “(2) DEFINITION.—For purposes of this sub-
2 section, the term ‘information’ means any and all
3 data, records, or other information and material ob-
4 tained or maintained by any depository institution or
5 any affiliate or subsidiary thereof in the ordinary
6 course of its business that relates in any way to a
7 person (as such term is defined in section 603(b) of
8 the Fair Credit Reporting Act) who applies for,
9 maintains, or has maintained an account or credit
10 relationship with or applied for, purchased or ob-
11 tained other products or services from any deposi-
12 tory institution or any affiliate or subsidiary of any
13 depository institution, regardless of the source of
14 manner in which the information is obtained or fur-
15 nished.

16 “(3) RULE OF CONSTRUCTION.—Any depository
17 institution, or any affiliate or subsidiary of any de-
18 pository institution, relying on this subsection shall
19 not be deemed to be a consumer reporting agency,
20 user, or third party, and the information itself shall
21 not constitute a consumer report, within the mean-
22 ing of the Fair Credit Reporting Act or other similar
23 law.”.

1 **SEC. 343. ELECTRONIC FUND TRANSFER ACT CLARIFICA-**
2 **TION.**

3 (a) DEFINITION OF ACCEPTED CARD OR OTHER
4 MEANS OF ACCESS.—Section 903(1) of the Electronic
5 Fund Transfer Act (15 U.S.C. 1693a(1)) is amended by
6 inserting before the semicolon at the end the following:
7 “, but such term does not include a card, device, or com-
8 puter that a person may use to pay for transactions
9 through use of value stored on, or assigned to, the card,
10 device, or computer itself, except for those transactions
11 where such card, device, or computer is actually used to
12 access an account to effect such transaction”.

13 (b) DEFINITION OF ACCOUNT.—Section 903(2) of
14 the Electronic Fund Transfer Act (15 U.S.C. 1693a(2))
15 is amended by inserting before the semicolon at the end
16 the following: “and does not include any value which is
17 stored on, or assigned to, a card, device, or computer itself
18 that enables a person to pay for transactions through use
19 of that stored value”.

20 **SEC. 344. LIMIT ON RESTITUTION FOR TRUTH IN LENDING**
21 **VIOLATIONS IF SAFETY AND SOUNDNESS OF**
22 **VIOLATOR WOULD BE AFFECTED.**

23 Section 108(e)(3)(A) of the Truth in Lending Act (15
24 U.S.C. 1607(e)(3)(A)) is amended—

1 (1) by striking “in any such case, the agency
2 may require” and inserting “in any such case, the
3 agency may (i) require”;

4 (2) by striking “, except that with respect to
5 any transaction consummated after the effective
6 date of section 608 of the Truth in Lending Sim-
7 plification and Reform Act, the agency shall” and
8 inserting “; or (ii)”;

9 (3) by striking “reasonable,” and inserting
10 “reasonable if, in the case of an agency referred to
11 in paragraph (1), (2), or (3) of subsection (a), the
12 agency determines that a partial adjustment or the
13 making of partial payments over an extended period
14 is necessary to avoid causing the creditor to become
15 undercapitalized (as determined in accordance with
16 regulations prescribed by such agency under section
17 38 of the Federal Deposit Insurance Act);”.

18 **Subtitle D—Equal Credit** 19 **Opportunity Act Amendments**

20 **SEC. 351. SHORT TITLE.**

21 This subtitle may be cited as the “Equal Credit Op-
22 portunity Act Amendments of 1995”.

23 **SEC. 352. FINDINGS AND PURPOSE.**

24 (a) **FINDINGS.**—The Congress finds that both the
25 Equal Credit Opportunity Act (15 U.S.C. 1691, et seq.)

1 and the Fair Credit Reporting Act (15 U.S.C. 1681, et
2 seq.) contain requirements that applicants for consumer
3 credit be given certain information in the event that ad-
4 verse action is taken on the application. These require-
5 ments differ in both scope and content and for that reason
6 are confusing to both the consumer who receives the infor-
7 mation and the party required to furnish the information.

8 (b) PURPOSE.—It is the purpose of this subtitle to
9 combine and simplify the adverse action notification re-
10 quirements of the Equal Credit Opportunity Act and the
11 Fair Credit Reporting Act regarding applications for
12 consumer credit and to make the information that is re-
13 quired to be furnished more understandable.

14 **SEC. 353. EQUAL CREDIT OPPORTUNITY ACT AMEND-**
15 **MENTS.**

16 (a) NOTICE OF ADVERSE ACTION.—Section
17 701(d)(2)(B) of the Equal Credit Opportunity Act (15
18 U.S.C. 1691(d)(2)(B)) is amended to read as follows:

19 “(B) giving written notification of adverse
20 action which discloses—

21 “(i) the applicant’s right to a state-
22 ment of reasons within 30 days after re-
23 ceipt by the creditor of a request made
24 within 60 days after such notification;

1 “(ii) if credit is denied or the charge
2 for such credit is increased either wholly or
3 partly because of information contained in
4 a consumer report from a consumer re-
5 porting agency—

6 “(I) that fact and the name, ad-
7 dress, and telephone number of the
8 consumer reporting agency making
9 the report;

10 “(II) the consumer’s right to ob-
11 tain, under section 612, a free copy of
12 a consumer report on the consumer,
13 from the consumer reporting agency
14 referred to in subclause (I) within the
15 30-day period provided under such
16 section; and

17 “(III) the consumer’s right to
18 dispute, under section 611, with a
19 consumer reporting agency the accu-
20 racy or completeness of any informa-
21 tion in a consumer report furnished
22 by the agency.

23 “(iii) if credit is denied or the charge
24 for credit is increased either wholly or
25 partly because of information obtained

1 from a person other than a consumer re-
2 porting agency bearing upon the consum-
3 er's credit worthiness, credit standing,
4 credit capacity, character, general reputa-
5 tion, personal characteristics or mode of
6 living, that fact and the right to receive
7 disclosure of the nature of the information
8 so received, within a reasonable period of
9 time, upon the consumer's written request
10 for information within 60 days after learn-
11 ing of such adverse action; and

12 “(iv) the identity of the person or of-
13 fice from which such notification may be
14 obtained.

15 Such statement of reasons may be given orally
16 if the written notification advises the applicant
17 of his right to have the statement of reasons
18 confirmed in writing on written request.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
20 Section 701(d)(3) of the Equal Credit Opportunity Act
21 (15 U.S.C. 1691(d)(3)) is amended by striking the period
22 at the end and adding the following: “and, to the extent
23 applicable, the name, address, and telephone number of
24 the consumer reporting agency identified in accordance
25 with the requirements of subsection (d)(3)(ii) and a state-

1 ment of the right to obtain disclosure of the nature of the
2 information upon which adverse action was taken as re-
3 quired by such subsection.”.

4 (c) REASONABLE PROCEDURES TO ASSURE COMPLI-
5 ANCE.—Section 706 of the Equal Credit Opportunity Act
6 (15 U.S.C. 1691e) is amended by adding at the end the
7 following new subsection:

8 “(1) REASONABLE PROCEDURES TO ASSURE COM-
9 PLIANCE.—No person shall be held liable for any violation
10 of subsection 701(d) if such person shows by a preponder-
11 ance of the evidence that at the time of the alleged viola-
12 tion the person maintained reasonable procedures to as-
13 sure compliance with the provisions of the subsection.”.

14 **SEC. 354. FAIR CREDIT REPORTING ACT AMENDMENTS.**

15 (a) Section 615(a) of the Fair Credit Reporting Act
16 (15 U.S.C. 1681m(a)) is amended by striking “credit or”
17 each place such term appears.

18 (b) Section 615 of the Fair Credit Reporting Act (15
19 U.S.C. 1681m) is amended by striking subsection (b) and
20 redesignating subsection (c) as subsection (b).

21 (c) Section 615(b) (as redesignated by this section)
22 of the Fair Credit Reporting Act (15 U.S.C. 1681m(b))
23 is amended by striking “subsections (a) and (b)” and in-
24 serting “subsection (a)”.

1 **SEC. 355. INCENTIVES FOR SELF-TESTING.**

2 (a) EQUAL CREDIT OPPORTUNITY.—

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

6 **“SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-
7 CORRECTION.**

8 “(a) IN GENERAL.—If a creditor—

9 “(1) conducts, or authorizes an independent
10 third party to conduct, a self-test of the creditor’s
11 lending or any part of the creditor’s lending oper-
12 ations in order to determine the level or effectiveness
13 of compliance with this title by the creditor; and

14 “(2) has identified discriminatory practices and
15 has taken or is taking appropriate corrective actions
16 to address the discrimination,

17 any report or results of such a self-test may not be ob-
18 tained or used by any applicant, department, or agency
19 in any proceeding or civil action brought under this title.

20 “(b) RESULTS OF SELF-TESTING.—No provision of
21 this section shall be construed as preventing an applicant,
22 department, or agency from obtaining and using the re-
23 sults of any self-testing in any proceeding or civil action
24 brought under this title if—

1 “(1) the creditor or any other entity conducted
2 such activity at the request of a department or agen-
3 cy;

4 “(2) the creditor or any other entity, or any
5 person acting on behalf of the creditor or other en-
6 tity—

7 “(A) voluntarily releases or discloses all, or
8 any part of, such results; or

9 “(B) refers to or describes such results as
10 a defense to charges of unlawful discrimination
11 against such creditor, person, or entity; or

12 “(3) the results are sought by the applicant, de-
13 partment, or agency by means of a discovery request
14 for the purposes of determining an appropriate pen-
15 alty or remedy for a violation of this title.

16 “(c) REGULATIONS.—The appropriate Federal de-
17 partment or agency shall prescribe regulations, after no-
18 tice and opportunity for comment, which determine what
19 types of ‘self-tests’ are sufficiently extensive so as to con-
20 stitute a determination of the level or effectiveness of a
21 creditor’s compliance with this title.”.

22 (2) REFERRALS TO THE ATTORNEY GEN-
23 ERAL.—Section 706(g) of the Equal Credit Oppor-
24 tunity Act (15 U.S.C. 1691e(g)) is amended—

1 (A) by striking “(g) The agencies” and in-
2 serting “(g) REFERRALS TO THE ATTORNEY
3 GENERAL.—

4 “(1) IN GENERAL.—The agencies”; and

5 (B) by adding at the end the following new
6 paragraphs:

7 “(2) LIMITATION ON REFERRALS OF SELF-
8 TESTING RESULTS.—

9 “(A) IN GENERAL.—No agency shall be re-
10 quired to refer any report or results of a self-
11 test relating to any creditor to the Attorney
12 General if the creditor—

13 “(i) has already identified discrimina-
14 tory practices as the result of self-testing
15 instituted by the creditor to determine
16 compliance with this title; and

17 “(ii) has taken or is taking appro-
18 priate corrective actions to address the dis-
19 crimination.

20 “(3) ENFORCEMENT UNDER OTHER LAWS.—No
21 provision of this section shall be construed as limit-
22 ing the authority of the agency to enforce the provi-
23 sions of this title under any other provision of law.”.

24 (3) REFERRALS TO HUD.—Section 706(k) of
25 the Equal Credit Opportunity Act (15 U.S.C.

1 1691e(k)) is amended by adding at the end the fol-
2 lowing: “No such agency shall be required to notify
3 the Secretary of Housing and Urban Development or
4 the applicant that the agency has reason to believe
5 that a violation of this title or the Fair Housing Act
6 occurred if the reason is based on a result of self-
7 testing instituted by the creditor to determine com-
8 pliance with this title, and the creditor has already
9 identified the possible violation and has taken or is
10 taking appropriate corrective actions to address the
11 possible violation. No provisions of this section shall
12 be construed as limiting the authority of the agency
13 to enforce the provisions of this title under any other
14 provision of law.”.

15 (4) CLERICAL AMENDMENT.—The table of sec-
16 tions for title VII of the Consumer Credit Protection
17 Act is amended by inserting after the item relating
18 to section 704 the following new item:

“704A. Incentives for self-testing and self-correction.”.

19 (b) FAIR HOUSING.—The Fair Housing Act (42
20 U.S.C. 3601 et seq.) is amended by inserting after section
21 814 the following new section:

22 **“SEC. 814A. SELF-TESTING ENHANCEMENT.**

23 “(a) IN GENERAL.—If any person—

24 “(1) conducts, or authorizes an independent
25 third party to conduct, a self-test of that person’s

1 residential real estate related lending activities, or
2 any part of such activities, in order to determine the
3 level or effectiveness of compliance with this title by
4 the person; and

5 “(2) has identified discriminatory practices and
6 has taken or is taking appropriate corrective actions
7 to address the discrimination,

8 any report or results of such a self-test may not be ob-
9 tained or used by any aggrieved person, complainant, de-
10 partment, or agency in any proceeding or civil action
11 brought under this title.

12 “(b) RESULTS OF SELF-TESTING.—No provision of
13 this section shall be construed as preventing an aggrieved
14 person, complainant, department, or agency from obtain-
15 ing and using the results of any self-testing as described
16 in subsection (a) in any proceeding or civil action brought
17 under this title if—

18 “(1) the creditor or any other entity conducted
19 such activity at the request of a department or agen-
20 cy;

21 “(2) the creditor or any other entity, or any
22 person acting on behalf of the creditor or other en-
23 tity—

24 “(A) voluntarily releases or discloses all, or
25 any part of, such results; or

1 “(B) refers to or describes such results as
2 a defense to charges of unlawful discrimination
3 against such creditor, person, or entity; or

4 “(3) the results are sought by the aggrieved
5 person, complainant, department, or agency by
6 means of a discovery request for the purposes of de-
7 termining an appropriate penalty or remedy for a
8 violation of this title.

9 “(c) REGULATIONS.—The appropriate Federal de-
10 partment or agency shall prescribe regulations, after no-
11 tice and opportunity for comment, which determine what
12 types of ‘self-tests’ are sufficiently extensive so as to con-
13 stitute a determination of the level or effectiveness of a
14 creditor’s compliance with this title.”.

15 **SEC. 356. CREDIT SCORING SYSTEMS.**

16 Section 701 of the Equal Credit Opportunity Act (15
17 U.S.C. 1691) is amended by adding at the end the follow-
18 ing new subsection:

19 “(f) CREDIT SCORING SYSTEM.—

20 “(1) IN GENERAL.—A creditor shall be deemed
21 to be in compliance with subsection (a) with respect
22 to any credit decision made by the creditor which is
23 based solely on the use of an empirically derived, de-
24 monstrably and statistically sound, credit scoring

1 system (as defined by the Board in regulations pre-
2 scribed under this title) if such system—

3 “(A) does not utilize any category pro-
4 tected under subsection (a);

5 “(B) does not use as a factor in such sys-
6 tem any criterion which is so directly associated
7 with such a category as to be the functional
8 equivalent of such a category; and

9 “(C) does not use as a factor in such sys-
10 tem any criterion that has a disparate impact
11 on a category protected under subsection (a)
12 unless use of the criterion is justified by busi-
13 ness necessity and there is no less discrimina-
14 tory alternative available.

15 “(2) AGE AS A FACTOR.—No provision of this
16 subsection shall be construed as precluding a credi-
17 tor from using age as a factor in a credit scoring
18 system under paragraph (1) to the extent otherwise
19 permitted under this title.”.

20 **SEC. 357. CONSULTATION BY ATTORNEY GENERAL RE-**
21 **QUIRED IN NONREFERRAL CASES.**

22 (a) EQUAL CREDIT OPPORTUNITY.—Section 706(h)
23 of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h))
24 is amended by adding at the end the following new sen-
25 tence: “Before bringing a civil action against any creditor

1 described in paragraph (1), (2), or (3) of section 704(a),
2 the Attorney General shall consult with the appropriate
3 agency under such paragraph.”.

4 (b) FAIR HOUSING ACT.—Section 814(a) of the Fair
5 Housing Act (42 U.S.C. 3614(a)) is amended by adding
6 at the end the following new sentence: “Before bringing
7 a civil action under the preceding sentence against any
8 person or group of persons described in paragraph (1),
9 (2), or (3) of section 704(a) of the Equal Credit Oppor-
10 tunity Act with respect to a violation of 805(a) of this
11 title, the Attorney General shall consult with the appro-
12 priate agency under such paragraph.”.

13 **SEC. 358. EFFECTIVE DATE.**

14 (a) IN GENERAL.—Except with respect to the re-
15 quirements of subsection (b), this Act shall take effect at
16 the end of the 270-day period beginning on the date of
17 the enactment of this Act.

18 (b) IMPLEMENTING REGULATIONS.—The Board of
19 Governors of the Federal Reserve System shall prescribe
20 regulations to implement this Act and such regulations
21 shall be published in final form before the end of the 180-
22 day period beginning on the date of the enactment of this
23 Act.

1 **Subtitle E—Consumer Leasing Act**
2 **Amendments**

3 **SEC. 361. SHORT TITLE.**

4 This subtitle may be cited as the “Consumer Leasing
5 Act Amendments of 1995”.

6 **SEC. 362. CONGRESSIONAL FINDINGS AND DECLARATION**
7 **OF PURPOSE.**

8 (a) FINDINGS.—The Congress finds the following:

9 (1) Competition among the various financial in-
10 stitutions and other firms engaged in the business of
11 consumer leasing is greatest when there is informed
12 use of leasing. The informed use of leasing results
13 from an awareness of the cost of leasing by consum-
14 ers.

15 (2) There has been a continued trend toward
16 leasing automobiles and other durable goods for
17 consumer use as an alternative to installment credit
18 sales and that leasing product advances have oc-
19 curred such that lessors have been unable to provide
20 consistent industry-wide disclosures to fully account
21 for the competitive progress that has occurred.

22 (b) PURPOSES.—

23 (1) It is the purpose of this subtitle to assure
24 a simple, meaningful disclosure of leasing terms so
25 that the consumer will be able to compare more

1 readily the various leasing terms available to the
2 consumer and avoid the uninformed use of leasing,
3 and to protect the consumer against inaccurate and
4 unfair leasing practices.

5 (2) To provide for adequate cost disclosures
6 that reflect the marketplace without impairing com-
7 petition and the development of new leasing prod-
8 ucts, it is the purpose of this subtitle to provide the
9 Board with the regulatory authority to assure a sim-
10 plified, meaningful definition and disclosure of the
11 terms of certain leases of personal property for per-
12 sonal, family, or household purposes so as to enable
13 the lessee to compare more readily the various lease
14 terms available to the lessee, enable comparison of
15 lease terms with credit terms where appropriate and
16 to assure meaningful and accurate disclosures of
17 lease terms in advertisements.

18 **SEC. 363. REGULATIONS.**

19 (a) IN GENERAL.—Chapter 5 of title I of the
20 Consumer Credit Protection Act (15 U.S.C. 1601 et seq.)
21 is amended by adding at the end the following new section:

22 **“SEC. 187. REGULATIONS.**

23 **“(a) REGULATIONS AUTHORIZED.—**

24 **“(1) IN GENERAL.—**The Board shall write reg-
25 ulations or staff commentary, if appropriate, to up-

1 date and clarify the requirements and definitions for
2 lease disclosures, contracts, and any other specific
3 issues related to consumer leasing which would carry
4 out the purposes of this chapter, to prevent any cir-
5 cumvention of the chapter, and to facilitate compli-
6 ance with the requirements of the chapter.

7 “(2) CLASSIFICATIONS, ADJUSTMENTS.—The
8 regulations prescribed under paragraph (1) may con-
9 tain classifications and differentiations and may pro-
10 vide for adjustments and exceptions for any class of
11 transaction.

12 “(b) MODEL DISCLOSURES.—The Board shall pub-
13 lish model disclosure forms and clauses to facilitate com-
14 pliance with the disclosure requirements and to aid the
15 consumer in understanding the transaction. In designing
16 forms, the Board shall consider the use by lessors of data
17 processing or similar automated equipment. Use of the
18 models shall be optional. A lessor who properly uses the
19 material aspects of the models shall be deemed to be in
20 compliance with the disclosure requirements.

21 “(c) EFFECTIVE DATES.—

22 “(1) IN GENERAL.—Any regulation of the
23 Board, or any amendment or interpretation of any
24 regulation of the Board, that requires a disclosure
25 different from the disclosures previously required

1 shall have an effective date of the October 1 that
2 follows the date of promulgation by at least 6
3 months.

4 “(2) LONGER PERIOD.—The Board may, in the
5 Board’s discretion, lengthen the period of time re-
6 ferred to in paragraph (1) to permit lessors to ad-
7 just their forms to accommodate new requirements.

8 “(3) SHORTER PERIOD.—The Board may also
9 shorten the period of time referred to in paragraph
10 (1) if the Board makes a specific finding that such
11 action is necessary to comply with the findings of a
12 court or to prevent unfair or deceptive practices.

13 “(4) COMPLIANCE BEFORE EFFECTIVE DATE.—
14 Lessors may comply with any newly promulgated
15 disclosure requirement before the effective date of
16 such requirement.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 for chapter 5 of title I of the Consumer Credit Protection
19 Act (15 U.S.C. 1601 et seq.) is amended by inserting after
20 the item relating to section 186 the following new item:

“187. Regulations.”.

21 **SEC. 364. CONSUMER LEASE ADVERTISING.**

22 Section 184 of the Consumer Credit Protection Act
23 (15 U.S.C. 1667c) is amended to read as follows:

1 **“SEC. 184. CONSUMER LEASE ADVERTISING.**

2 “(a) IN GENERAL.—If an advertisement for a
3 consumer lease states the amount of any payment or
4 states that any or no initial payment is required, the ad-
5 vertisement must also clearly and conspicuously state the
6 following terms, as applicable:

7 “(1) That the transaction advertised is a lease.

8 “(2) The total of initial payments required at
9 or before consummation of the lease or delivery of
10 the property, whichever is later.

11 “(3) That a security deposit is required.

12 “(4) The number, amounts, and timing of
13 scheduled payments.

14 “(5) For a lease in which the consumer’s liabil-
15 ity at the end of the lease term is based on the an-
16 ticipated residual value of the property, that an
17 extra charge may be imposed at the end of the lease
18 term.

19 “(b) ADVERTISING MEDIUM NOT LIABLE.—Any
20 owner or personnel of any medium in which an advertise-
21 ment appears or through which it is disseminated shall
22 not be liable under this section.”.

23 **SEC. 365. STATUTORY PENALTIES.**

24 Section 185(a) of the Consumer Credit Protection
25 Act (15 U.S.C. 1667d(a)) is amended by adding at the
26 end the following new sentence: “Notwithstanding the pre-

1 ceding sentence, a creditor shall only have liability deter-
 2 mined under section 130(a)(2) for failing to comply with
 3 the requirements of paragraph (2), (8), (9), or (10) of sec-
 4 tion 182 or for failing to comply with disclosure require-
 5 ments under State law for any term which the Board has
 6 determined to be substantially the same in meaning under
 7 section 186 as any of the terms referred to in section
 8 182.”.

9 **TITLE IV—STREAMLINING**
 10 **GOVERNMENT REGULATIONS**
 11 **Subtitle A—Regulatory Approval**
 12 **Issues**

13 **SEC. 401. STREAMLINED NONBANKING ACQUISITIONS BY**
 14 **WELL CAPITALIZED AND WELL MANAGED**
 15 **BANKING ORGANIZATIONS.**

16 (a) NOTICE REQUIREMENTS.—Section 4(j) of the
 17 Bank Holding Company Act of 1956 (12 U.S.C. 1843(j))
 18 is amended—

19 (1) in paragraph (1)(A), by striking “No” and
 20 inserting “Except as provided in paragraph (3), no”;
 21 and

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

24 “(3) NO NOTICE REQUIRED FOR CERTAIN
 25 TRANSACTIONS.—No notice under paragraph (1) or

1 subsections (c)(8) or (a)(2)(B) is required for a pro-
2 posal by a bank holding company to engage in any
3 activity or acquire the shares or assets of any com-
4 pany if the proposal qualifies under paragraph (4).

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

8 “(A) FINANCIAL CRITERIA.—Both before
9 and immediately after the proposed trans-
10 action—

11 “(i) the acquiring bank holding com-
12 pany is well capitalized;

13 “(ii) the lead insured depository insti-
14 tution of such holding company is well cap-
15 italized;

16 “(iii) well capitalized insured deposi-
17 tory institutions control at least 80 percent
18 of the aggregate total risk-weighted assets
19 of insured depository institutions controlled
20 by such holding company; and

21 “(iv) no insured depository institution
22 controlled by such holding company is
23 undercapitalized.

24 “(B) MANAGERIAL CRITERIA.—

1 “(i) WELL MANAGED.—At the time of
2 the transaction, the acquiring bank holding
3 company, its lead insured depository insti-
4 tution, and insured depository institutions
5 that control at least 90 percent of the ag-
6 gregate total risk-weighted assets of in-
7 sured depository institutions controlled by
8 such holding company are well managed.

9 “(ii) LIMITATION ON POORLY MAN-
10 AGED INSTITUTIONS.—Except with respect
11 to insured depository institutions described
12 in paragraph (6), no insured depository in-
13 stitution controlled by the acquiring bank
14 holding company has received 1 of the 2
15 lowest composite ratings at the later of the
16 institution’s most recent examination or
17 subsequent review.

18 “(C) ACTIVITIES PERMISSIBLE.—Following
19 consummation of the proposal, the bank holding
20 company engages directly or through a subsidi-
21 ary solely in—

22 “(i) activities that are permissible
23 under subsection (c)(8), as determined by
24 the Board by regulation or order there-
25 under, subject to all of the restrictions,

1 terms and conditions of such subsection
2 and such regulation or order; and

3 “(ii) such other activities as are other-
4 wise permissible under this section, subject
5 to the restrictions, terms and conditions,
6 including any prior notice or approval re-
7 quirements, provided in this section.

8 “(D) SIZE OF ACQUISITION.—

9 “(i) ASSET SIZE.—The book value of
10 the total assets to be acquired does not ex-
11 ceed 10 percent of the consolidated total
12 risk-weighted assets of the acquiring bank
13 holding company; and

14 “(ii) CONSIDERATION.—The gross
15 consideration to be paid for the securities
16 or assets does not exceed 15 percent of the
17 consolidated Tier 1 capital of the acquiring
18 bank holding company.

19 “(E) NOTICE NOT OTHERWISE WAR-
20 RANTED.—For proposals described in para-
21 graph (5)(B), the Board has not, before the
22 conclusion of the period provided in paragraph
23 (5)(B), advised the bank holding company that
24 a notice under paragraph (1) is required.

1 “(F) COMPLIANCE CRITERION.—During
2 the 12-month period ending on the date on
3 which the bank holding company proposes to
4 commence an activity or acquisition, no admin-
5 istrative enforcement action has been com-
6 menced, and no cease and desist order has been
7 issued pursuant to section 8 of the Federal De-
8 posit Insurance Act, against the bank holding
9 company or any depository institution subsidi-
10 ary of the holding company and no such en-
11 forcement action, order, or other administrative
12 enforcement proceeding is pending as of such
13 date.

14 “(5) NOTIFICATION.—

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

1 “(B) ACTIVITIES PERMITTED BY ORDER
2 AND ACQUISITIONS.—

3 “(i) IN GENERAL.—At least 12 busi-
4 ness days before commencing any activity
5 pursuant to paragraph (3) (other than an
6 activity described in subparagraph (A)) or
7 acquiring shares or assets of any company
8 pursuant to paragraph (3), the bank hold-
9 ing company shall provide written notice of
10 the proposal to the Board, unless the
11 Board determines that no notice or a
12 shorter notice period is appropriate.

13 “(ii) DESCRIPTION OF ACTIVITIES
14 AND TERMS.—A notification under this
15 subparagraph shall include a description of
16 the proposed activities and the terms of
17 any proposed acquisition.

18 “(6) RECENTLY ACQUIRED INSTITUTIONS.—In-
19 sured depository institutions which have been ac-
20 quired by a bank holding company during the 12-
21 month period preceding the date on which the com-
22 pany proposes to commence an activity or acquisi-
23 tion pursuant to paragraph (3) may be excluded for
24 purposes of paragraph (4)(B)(ii) if—

1 “(A) the bank holding company has devel-
2 oped a plan for the institution to restore the
3 capital and management of the institution
4 which is acceptable to the appropriate Federal
5 banking agency; and

6 “(B) all such insured depository institu-
7 tions represent, in the aggregate, less than 10
8 percent of the aggregate total risk-weighted as-
9 sets of all insured depository institutions con-
10 trolled by the bank holding company.

11 “(7) ADJUSTMENT OF PERCENTAGES.—The
12 Board may, by regulation, adjust the percentages
13 and the manner in which the percentages of insured
14 depository institutions are calculated under para-
15 graph (4)(B)(i), (4)(D), or paragraph (6)(B) if the
16 Board determines that any such adjustment is con-
17 sistent with safety and soundness and the purposes
18 of this Act.”.

19 (b) DEFINITIONS.—Section 2(o) of the Bank Holding
20 Company Act of 1956 (12 U.S.C. 1841(o)) is amended—

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

23 “(1) CAPITAL TERMS.—

24 “(A) INSURED DEPOSITORY INSTITU-
25 TIONS.—With respect to insured depository in-

1 stitutions, the terms ‘well-capitalized’, ‘ade-
2 quately capitalized’, and ‘uncapitalized’ have
3 the meaning given those terms in section 38(b)
4 of the Federal Deposit Insurance Act.

5 “(B) BANK HOLDING COMPANY.—

6 “(i) ADEQUATELY CAPITALIZED.—

7 The term ‘adequately capitalized’ means a
8 level of capitalization which meets or ex-
9 ceeds all applicable Federal regulatory cap-
10 ital standards.

11 “(ii) WELL CAPITALIZED.—A bank

12 holding company is ‘well capitalized’ if it
13 meets the required capital levels for well
14 capitalized bank holding companies estab-
15 lished by the Board.

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

17 ‘Tier 1’ and ‘risk-weighted assets’ have the
18 meaning given those terms in the capital guide-
19 lines or regulations established by the Board for
20 bank holding companies.”; and

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

23 “(8) LEAD INSURED DEPOSITORY INSTITU-
24 TIONS.—

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

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

13 “(9) WELL MANAGED.—The term ‘well man-
14 aged’ means—

15 “(A) in the case of any company or deposi-
16 tory institution which receives examinations, the
17 achievement of—

18 “(i) a CAMEL composite rating of 1
19 or 2 (or an equivalent rating under an
20 equivalent rating system) in connection
21 with the most recent examination or subse-
22 quent review of such company or institu-
23 tion; and

24 “(ii) at least a satisfactory rating for
25 management, if such rating is given; or

1 “(B) in the case of a company or deposi-
 2 tory institution that has not received an exam-
 3 ination rating, the existence and use of manage-
 4 rial resources which the Board determines are
 5 satisfactory.”.

6 **SEC. 402. STREAMLINED BANK ACQUISITIONS BY WELL**
 7 **CAPITALIZED AND WELL MANAGED BANKING**
 8 **ORGANIZATIONS.**

9 Section 3 of the Bank Holding Company Act (12
 10 U.S.C. 1842) is amended by adding at the end the follow-
 11 ing new subsection:

12 “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-
 13 ACTIONS.—

14 “(1) IN GENERAL.—Notwithstanding paragraph
 15 (3) or (5) of subsection (a) and subject to para-
 16 graphs (5) and (6), an acquisition of shares by a
 17 registered bank holding company, or a merger or
 18 consolidation between registered bank holding com-
 19 panies, shall be deemed approved at the conclusion
 20 of the period specified in subparagraph (G) if all of
 21 the following conditions have been met:

22 “(A) FINANCIAL AND MANAGERIAL CRI-
 23 TERIA.—

24 “(i) WELL CAPITALIZED BANK HOLD-
 25 ING COMPANY.—Both at the time of and

1 immediately after the proposed trans-
2 action, the acquiring bank holding com-
3 pany is well capitalized.

4 “(ii) WELL CAPITALIZED LEAD IN-
5 SURED DEPOSITORY INSTITUTION.—Both
6 at the time of and immediately after the
7 proposed transaction, the lead insured de-
8 pository institution of the acquiring bank
9 holding company is well capitalized.

10 “(iii) CAPITAL OF OTHER INSURED
11 DEPOSITORY INSTITUTIONS.—At the time
12 of the transaction, well capitalized insured
13 depository institutions control at least 80
14 percent of the aggregate total risk-weight-
15 ed assets of insured depository institutions
16 controlled by the acquiring bank holding
17 company.

18 “(iv) NO UNDERCAPITALIZED IN-
19 SURED DEPOSITORY INSTITUTIONS.—At
20 the time of the transaction, no insured de-
21 pository institution controlled by the ac-
22 quiring bank holding company is under-
23 capitalized.

24 “(v) WELL MANAGED.—

1 “(I) IN GENERAL.—At the time
2 of the transaction, the acquiring bank
3 holding company, its lead insured de-
4 pository institution, and insured de-
5 pository institutions that control at
6 least 90 percent of the aggregate total
7 risk-weighted assets of insured depository
8 institutions controlled by such
9 holding company are well managed.

10 “(II) NO POORLY MANAGED IN-
11 STITUTIONS.—Except with respect to
12 insured depository institutions de-
13 scribed in paragraph (2), no insured
14 depository institution controlled by
15 the acquiring bank holding company
16 has received 1 of the 2 lowest compos-
17 ite ratings at the later of the institu-
18 tion’s most recent examination or sub-
19 sequent review.

20 “(B) NO UNSATISFACTORY CRA RAT-
21 INGS.—Except with respect to insured depository
22 institutions described in paragraph (3), no
23 insured depository institution controlled by the
24 acquiring bank holding company has received a
25 ‘needs to improve’ or ‘substantial noncompli-

1 ance’ composite rating as a result of the institu-
2 tion’s most recent examination under the Com-
3 munity Reinvestment Act of 1977.

4 “(C) COMPETITIVE CRITERIA.—Con-
5 summation of the proposal complies with guide-
6 lines established by the Board by regulation,
7 after consultation with the Attorney General,
8 that identify proposals that are not likely to
9 have a significantly adverse effect on competi-
10 tion in any relevant market.

11 “(D) SIZE OF ACQUISITION.—

12 “(i) ASSET SIZE.—The book value of
13 the total assets to be acquired does not ex-
14 ceed 10 percent of the consolidated total
15 risk weighted assets of the acquiring bank
16 holding company.

17 “(ii) CONSIDERATION.—The gross
18 consideration to be paid for the securities
19 or assets does not exceed 15 percent of the
20 consolidated Tier 1 capital of the acquiring
21 bank holding company.

22 “(E) INTERSTATE ACQUISITIONS.—Board
23 approval of the transaction is not prohibited
24 under subsection (d).

1 “(F) COMPLIANCE CRITERION.—During
2 the 12-month period ending on the date of the
3 transaction, no administrative enforcement ac-
4 tion has been commenced, and no cease and de-
5 sist order has been issued pursuant to section
6 8 of the Federal Deposit Insurance Act, against
7 any bank holding company involved in the
8 transaction or any depository institution sub-
9 sidiary of any such holding company and no
10 such enforcement action, order, or other admin-
11 istrative enforcement proceeding is pending as
12 of such date.

13 “(G) OTHER CONSIDERATIONS.—Board
14 approval of the transaction is not prohibited
15 under subsection (c)(3).

16 “(H) NOTIFICATION.—The acquiring bank
17 holding company provides written notice of the
18 transaction, including a description of the terms
19 of the transaction, to the Board and the Attor-
20 ney General, simultaneously, at least 15 busi-
21 ness days (or such shorter period as permitted
22 by the Board) before the transaction is con-
23 summated.

24 “(I) NO BOARD DISAPPROVAL.—Before the
25 end of the 15-day period (or the shorter period)

1 referred to in subparagraph (H), the Board has
2 not required an application under subsection
3 (a).

4 “(2) SPECIAL RULE RELATING TO THE RE-
5 QUIREMENT FOR WELL MANAGED INSTITUTIONS.—
6 Insured depository institutions which have been ac-
7 quired by a bank holding company during the 12-
8 month period preceding the date of the transaction
9 may be excluded for purposes of paragraph
10 (1)(A)(v)(II) if—

11 “(A) the bank holding company has devel-
12 oped a plan for the institution to restore the
13 capital and management of the institution
14 which is acceptable to the appropriate Federal
15 banking agency; and

16 “(B) all such insured depository institu-
17 tions represent, in the aggregate, less than 10
18 percent of the aggregate total risk-weighted as-
19 sets of all insured depository institutions con-
20 trolled by the holding company.

21 “(3) SPECIAL RULE RELATING TO THE RE-
22 QUIREMENT FOR COMMUNITY INVESTMENT.—In-
23 sured depository institutions acquired during the 12-
24 month period preceding the date of the transaction
25 may be excluded for purposes of paragraph (1)(B)

1 if the bank holding company has developed a plan to
2 restore the performance of the institution to at least
3 a ‘satisfactory’ rating under the Community Rein-
4 vestment Act of 1977 which is acceptable to the ap-
5 propriate Federal banking agency.

6 “(4) ADJUSTMENT OF PERCENTAGES.—The
7 Board may by regulation adjust the percentages and
8 the manner in which the percentages of insured de-
9 pository institutions are calculated under subpara-
10 graph (A)(v)(I) or (D) of paragraph (1) or para-
11 graph (2)(B) if the Board determines that such ad-
12 justment is consistent with safety and soundness
13 and the purposes of this Act.

14 “(5) ADVICE OF ATTORNEY GENERAL.—The
15 Attorney General shall advise the Board during the
16 period referred to in paragraph (1)(H) in writing if
17 any competitive concerns exist with respect to the
18 transaction.

19 “(6) WAIVER OF POSTAPPROVAL WAITING PE-
20 RIOD.—If the Attorney General advises the Board
21 that no competitive concerns exist with respect to
22 the transaction, the provisions of section 11(b) relat-
23 ing to a postapproval waiting shall not apply with
24 respect to such transaction.”.

1 **SEC. 403. ELIMINATE FILING AND APPROVAL REQUIRE-**
2 **MENTS FOR INSURED DEPOSITORY INSTITU-**
3 **TIONS ALREADY CONTROLLED BY THE SAME**
4 **HOLDING COMPANY.**

5 (a) **BANK MERGER ACT.**—Section 18(c) of the Fed-
6 eral Deposit Insurance Act (12 U.S.C. 1828(c)) is amend-
7 ed by adding at the end the following new paragraph:

8 “(12) The provisions of this subsection shall
9 not apply to any merger, consolidation, acquisition
10 of assets or assumption of liabilities involving only
11 insured depository institutions that are subsidiaries
12 of the same depository institution holding company
13 if—

14 “(A) the responsible agency would not be
15 prohibited from approving the transaction
16 under section 44, if applicable;

17 “(B) the acquiring, assuming, or resulting
18 institution complies with all applicable provi-
19 sions of section 44, if any, as if the merger,
20 consolidation, or acquisition were approved
21 under this subsection;

22 “(C) the acquiring, assuming, or resulting
23 institution provides written notification of the
24 transaction to the appropriate Federal banking
25 agency for the institution at least 10 days prior
26 to consummation of the transaction; and

1 “(D) after receiving such notice, the agen-
2 cy does not require the institution to submit an
3 application with respect to such transaction and
4 so notifies the institution.”.

5 (b) NATIONAL BANK CONSOLIDATION AND MERGER
6 ACT.—

7 (1) CONSOLIDATIONS.—Section 2 of the Na-
8 tional Bank Consolidation and Merger Act (12
9 U.S.C. 215) is amended—

10 (A) in subsection (a), by adding at the end
11 the following new sentence:

12 “No approval by the Comptroller of the Currency is re-
13 quired under this subsection for a transaction which in-
14 volves the consolidation of banks that, at the time of the
15 consolidation, are all subsidiaries (as defined in section 3
16 of the Federal Deposit Insurance Act) of the same com-
17 pany.”; and

18 (B) in subsection (b)—

19 (i) by striking “, and thereafter the
20 consolidation shall be approved by the
21 Comptroller”; and

22 (ii) by striking “when such consolida-
23 tion is approved by the Comptroller”.

1 (2) MERGERS.—Section 3 of the National Bank
2 Consolidation and Merger Act (12 U.S.C. 215a) is
3 amended—

4 (A) in subsection (a), by adding at the end
5 the following new sentence:

6 “No approval by the Comptroller of the Currency is re-
7 quired under this subsection for a transaction which in-
8 volves the merger of banks that, at the time of the merger,
9 are all subsidiaries (as defined in section 3 of the Federal
10 Deposit Insurance Act) of the same company.”; and

11 (B) in subsection (b)—

12 (i) by striking “, and thereafter the
13 merger shall be approved by the Comptrol-
14 ler”; and

15 (ii) by striking “when such merger
16 shall be approved by the Comptroller”.

17 **SEC. 404. ELIMINATE REDUNDANT APPROVAL REQUIRE-**
18 **MENT FOR OAKAR TRANSACTIONS.**

19 (a) IN GENERAL.—Section 5(d)(3) of the Federal
20 Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amend-
21 ed—

22 (1) in subparagraph (A), by striking “with the
23 prior written approval of the responsible agency
24 under section 18(c)(2)”;

25 (2) in subparagraph (E)—

1 (A) by striking clause (iv) and inserting
2 the following new clause:

3 “(iv) A transaction shall not be au-
4 thorized under this paragraph unless the
5 acquiring, assuming, or resulting deposi-
6 tory institution will meet all applicable cap-
7 ital requirements upon consummation of
8 the transaction.”;

9 (B) by striking clauses (i) and (ii); and

10 (C) by redesignating clauses (iii) and (iv)
11 (as amended by subparagraph (A) of this para-
12 graph) as clauses (i) and (ii), respectively; and
13 (3) by striking subparagraph (G) and redesign-
14 ating the subsequent subparagraphs accordingly.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 Section 5156A(b)(1) of the Revised Statutes of the United
17 States (12 U.S.C. 215c(b)(1)) is amended by striking
18 “section 5(d)(3) of the Federal Deposit Insurance Act or”.

19 (c) CLERICAL AMENDMENT.—The heading for sec-
20 tion 5(d)(3)(E) of the Federal Deposit Insurance Act (12
21 U.S.C. 1815(d)(3)(E)) is amended by striking “FOR AP-
22 PROVAL, GENERALLY”.

1 **SEC. 405. ELIMINATION OF DUPLICATIVE REQUIREMENTS**
2 **IMPOSED UPON BANK HOLDING COMPANIES**
3 **AND OTHER REGULATORY RELIEF UNDER**
4 **THE HOME OWNERS' LOAN ACT.**

5 (a) EXEMPTION FOR BANK HOLDING COMPANIES.—
6 Section 10 of the Home Owners' Loan Act (12 U.S.C.
7 1467a) is amended by adding at the end the following new
8 subsection:

9 “(t) EXEMPTION FOR BANK HOLDING COMPA-
10 NIES.—This section shall not apply to a bank holding com-
11 pany that is subject to the Bank Holding Company Act
12 of 1956 or any company controlled by such bank holding
13 company (other than a savings association).”.

14 (b) DEFINITION OF SAVINGS AND LOAN HOLDING
15 COMPANY.—Section 10(a)(1)(D) of the Home Owners'
16 Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read
17 as follows:

18 “(D) SAVINGS AND LOAN HOLDING COM-
19 PANY.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), the term ‘savings and
22 loan holding company’ means any company
23 which directly or indirectly controls a sav-
24 ings association or controls any other com-
25 pany which is a savings and loan holding
26 company.

1 “(ii) EXCEPTION FOR BANK HOLDING
2 COMPANY.—The term ‘savings and loan
3 holding company’ does not include any
4 company which is registered under, and
5 subject to, the provisions of the Bank
6 Holding Company Act of 1956, or any
7 company directly or indirectly controlled by
8 such company.”.

9 (c) AMENDMENTS TO THE BANK HOLDING COMPANY
10 ACT OF 1956.—Section 4(i) of the Bank Holding Com-
11 pany Act of 1956 (12 U.S.C. 1843(i)) is amended by add-
12 ing at the end the following new paragraphs:

13 “(4) SOLICITATION OF VIEWS.—

14 “(A) NOTICE TO DIRECTOR.—Upon receiv-
15 ing any application or notice by a bank holding
16 company to acquire directly or indirectly a sav-
17 ings association under subsection (c)(8), the
18 Board shall solicit the Director’s comments and
19 recommendations with respect to such acquisi-
20 tion.

21 “(B) COMMENT PERIOD.—The comments
22 and views of the Director under subparagraph
23 (A) with respect to any acquisition subject to
24 such subparagraph shall be transmitted to the
25 Board within 30 days of the receipt by the Di-

1 rector of the notice relating to such acquisition
2 (or such shorter period as the Board may speci-
3 fy if the Board advises the Director that an
4 emergency exists which requires expeditious ac-
5 tion).

6 “(5) EXAMINATION.—

7 “(A) SCOPE.—The Board shall consult
8 with the Director, as appropriate, in establish-
9 ing the scope of an examination by the Board
10 of a bank holding company that controls di-
11 rectly or indirectly a savings association.

12 “(B) ACCESS TO INSPECTION REPORTS.—

13 Upon the request of the Director, the Board
14 shall furnish the Director with a copy of any in-
15 spection report, additional examination mate-
16 rials, or supervisory information relating to any
17 bank holding company which directly or indi-
18 rectly controls a savings association.

19 “(6) COORDINATION OF ENFORCEMENT EF-

20 FORTS.—The Board and the Director shall cooper-
21 ate in any enforcement action against any bank
22 holding company which controls a savings associa-
23 tion, if the relevant conduct involves such associa-
24 tion.

1 “(7) DIRECTOR DEFINED.—For purposes of
2 this section, the term ‘Director’ means the Director
3 of the Office of Thrift Supervision.”.

4 (d) ALTERNATIVE TEST.—Section 10(m) of the
5 Home Owners’ Loan Act (12 U.S.C. 1467a(m)) is amend-
6 ed—

7 (1) in paragraph (1), by striking “(2) and (7)”
8 and inserting “(2), (7), and (8)”; and

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

11 “(8) ALTERNATIVE TEST.—Any savings asso-
12 ciation which meets the requirements set forth in
13 section 7701(a)(19)(C) of the Internal Revenue
14 Code of 1986 shall be deemed to be a qualified thrift
15 lender and any qualified thrift lender shall be
16 deemed to meet the requirements of such section.”.

17 **SEC. 406. ELIMINATE REQUIREMENT THAT APPROVAL BE**
18 **OBTAINED FOR DIVESTITURES.**

19 Section 2(g) of the Bank Holding Company Act of
20 1956 (12 U.S.C. 1841(g)) is amended—

21 (1) by striking paragraph (3);

22 (2) by inserting “and” after the semicolon at
23 the end of paragraph (1); and

24 (3) by striking “; and” at the end of paragraph
25 (2) and inserting a period.

1 **SEC. 407. 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 “(i) No branch” and inserting
7 “(i) RELOCATION.—

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), the consent and approval of
15 the Comptroller of the Currency shall not be re-
16 quired for a national bank to establish and operate,
17 or to retain and operate, a branch or seasonal agen-
18 cy if—

19 “(A) the bank is well capitalized (as de-
20 fined in section 38 of the Federal Deposit In-
21 surance Act and regulations prescribed by the
22 Comptroller of the Currency under such sec-
23 tion);

24 “(B) the bank 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 bank did not receive a ‘needs to
4 improve’ or ‘substantial noncompliance’ compos-
5 ite rating at its most recent examination under
6 the Community Reinvestment Act of 1977; and

7 “(D) the Comptroller of the Currency is
8 otherwise authorized to grant approval under
9 this section to such bank to establish and oper-
10 ate, or to retain and operate, a branch or sea-
11 sonal agency at the proposed location.

12 “(3) CERTAIN BRANCHES DEEMED TO HAVE
13 APPROVED APPLICATIONS.—A branch or seasonal
14 agency established by a national bank under para-
15 graph (2) shall be deemed to have been established
16 and operated pursuant to an application approved
17 under this section.”.

18 (b) STATE MEMBER BANK BRANCH APPLICA-
19 TIONS.—The 3d undesignated paragraph of section 9 of
20 the Federal Reserve Act (12 U.S.C. 321) is amended by
21 adding at the end the following: “Notwithstanding the pre-
22 ceding 2 sentences, the approval of the Board shall not
23 be required for a State member bank to establish and op-
24 erate a branch or seasonal agency if—

1 “(A) the State member bank is well-capitalized
2 (as defined in section 38 of the Federal Deposit In-
3 surance Act and regulations prescribed by the Board
4 under such section);

5 “(B) the State member bank received a com-
6 posite CAMEL rating of ‘1’ or ‘2’ under the Uni-
7 form Financial Institutions Rating System (or an
8 equivalent rating under a comparable rating sys-
9 tem);

10 “(C) the State member bank did not receive a
11 ‘needs to improve’ or ‘substantial noncompliance’
12 composite rating at its most recent examination
13 under the Community Reinvestment Act of 1977;
14 and

15 “(D) the Board is otherwise authorized to grant
16 approval under this section to such State member
17 bank to establish and operate a branch or seasonal
18 agency at the proposed location.

19 A branch or seasonal agency established by a State mem-
20 ber bank under the previous sentence shall be deemed to
21 have been established and operated pursuant to an appli-
22 cation approved under this section.”.

23 (c) STATE NONMEMBER BANK BRANCH APPLICA-
24 TIONS.—Section 18(d) of the Federal Deposit Insurance

1 Act (12 U.S.C. 1828(d)) is amended by adding at the end
2 the following new paragraphs:

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

8 “(A) the bank is well-capitalized (as de-
9 fined in section 38 and regulations prescribed
10 by the Corporation under such section);

11 “(B) the bank received a composite
12 CAMEL rating of ‘1’ or ‘2’ under the Uniform
13 Financial Institutions Rating System (or an
14 equivalent rating under a comparable rating
15 system) as of its most recent examination;

16 “(C) the bank did not receive a ‘needs to
17 improve’ or ‘substantial noncompliance’ compos-
18 ite rating as result of the bank’s most recent
19 examination under the Community Reinvest-
20 ment Act of 1977; and

21 “(D) the Corporation is otherwise author-
22 ized to give consent under this section to such
23 bank to establish and operate a domestic
24 branch at the proposed location.

1 “(6) APPROVAL GRANTED.—A branch estab-
2 lished by a State member bank under paragraph (5)
3 shall be deemed to have been established and oper-
4 ated pursuant to an application approved under this
5 section.”.

6 **SEC. 408. ELIMINATE BRANCH APPLICATIONS AND RE-**
7 **QUIREMENTS FOR ATMs AND SIMILAR FA-**
8 **CILITIES.**

9 (a) DEFINITION OF BRANCH UNDER NATIONAL
10 BANK ACT.—Section 5155(j) of the Revised Statutes (12
11 U.S.C. 36(j)) is amended—

12 (1) by striking “(j) The term” and inserting
13 “(j) BRANCH.—

14 “(1) IN GENERAL.—The term”; and

15 (2) by adding at the end the following new
16 paragraph:

17 “(2) CERTAIN PROPRIETARY ATMS AND RE-
18 MOTE SERVICING UNITS.—The term ‘branch’ does
19 not include any automated teller machine or remote
20 service unit which is owned and operated by a depos-
21 itory institution—

22 “(A) primarily for the benefit of the insti-
23 tution and the affiliates of the institution; and

24 “(B) which could operate a branch at the
25 location of such machine or unit.”.

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

4 (1) by striking “(o) The term” and inserting
5 “(o) DEFINITIONS RELATING TO BRANCHES.—

6 “(1) DOMESTIC BRANCH.—

7 “(A) IN GENERAL.—The term”; and

8 (2) by striking “lent; and the term” and insert-
9 ing “lent.

10 “(B) CERTAIN PROPRIETARY ATMS AND
11 REMOTE SERVICING UNITS.—The term ‘domes-
12 tic branch’ does not include any automated tell-
13 er machine or remote service unit which is
14 owned and operated by a depository institu-
15 tion—

16 “(i) primarily for the benefit of the in-
17 stitution and the affiliates of the institu-
18 tion; and

19 “(ii) which could operate a branch at
20 the location of such machine or unit.

21 “(2) FOREIGN BRANCH.—The term”.

1 **SEC. 409. ELIMINATE REQUIREMENT FOR APPROVAL OF IN-**
2 **VESTMENTS IN BANK PREMISES FOR WELL**
3 **CAPITALIZED AND WELL MANAGED BANKS.**

4 Section 24A of the Federal Reserve Act (12 U.S.C.
5 371d) is amended by inserting before the period in that
6 section the following: “or, in the case of a bank which re-
7 ceived a composite CAMEL rating of ‘1’ or ‘2’ under the
8 Uniform Financial Institutions Rating System (or an
9 equivalent rating under a comparable rating system) as
10 of its most recent examination and, both before and imme-
11 diately following the investment or loan, is well capitalized
12 (as defined under section 38 of the Federal Deposit Insur-
13 ance Act), the amount which is equal to 150 percent of
14 the capital stock and surplus of such bank”.

15 **SEC. 410. ELIMINATE UNNECESSARY FILING FOR OFFICER**
16 **AND DIRECTOR APPOINTMENTS.**

17 Section 32(d) of the Federal Deposit Insurance Act
18 (12 U.S.C. 1831i(d)) is amended to read as follows:

19 “(d) ADDITIONAL INFORMATION.—

20 “(1) IN GENERAL.—Any notice submitted to an
21 appropriate Federal banking agency with respect to
22 an individual by any insured depository institution
23 or depository institution holding company pursuant
24 to subsection (a) shall include—

25 “(A) the information described in section
26 7(j)(6)(A) about the individual; and

1 “(B) such other information as the agency
2 may prescribe by regulation.

3 “(2) WAIVER.—An appropriate Federal bank-
4 ing agency may waive the requirement of this section
5 by regulation or on a case-by-case basis consistent
6 with safety and soundness.”.

7 **SEC. 411. STREAMLINING PROCESS FOR DETERMINING**
8 **NEW NONBANKING ACTIVITIES.**

9 Section 4(c)(8) of the Bank Holding Company Act
10 of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking
11 “and opportunity for hearing”.

12 **SEC. 412. DISPOSITION OF FORECLOSED ASSETS.**

13 Section 4(c)(2) of the Bank Holding Company Act
14 of 1956 (12 U.S.C. 1843(c)(2)) is amended—

15 (1) by striking “for not more than one year at
16 a time”; and

17 (2) by striking “but no such extensions shall ex-
18 tend beyond a date five years” and inserting “and,
19 in the case of a bank holding company which has
20 not disposed of such shares within 5 years of the
21 date such shares were acquired, the Board may,
22 upon the application of such company, grant addi-
23 tional exemptions if, in the Board’s judgment, such
24 extension would not be detrimental to the public in-
25 terest and either the bank holding company has

1 made a good faith attempt to dispose of such shares
2 during such 5-year period or the disposal of such
3 shares during such 5-year period would have been
4 detrimental to the company, but the aggregate dura-
5 tion of such extensions shall not extend 10 years”.

6 **SEC. 413. INCREASE IN CERTAIN CREDIT UNION LOAN**
7 **CEILINGS.**

8 Section 107(5)(A) of the Federal Credit Union Act
9 (12 U.S.C. 1757(5)(A)) is amended—

10 (1) in clause (iv), by striking “\$10,000” and in-
11 serting “\$50,000”; and

12 (2) in clause (v), by striking “\$10,000” and in-
13 serting “\$50,000”.

14 **Subtitle B—Streamlining of Gov-**
15 **ernment Regulations; Mis-**
16 **cellaneous Provisions**

17 **SEC. 421. ELIMINATE THE PER-BRANCH CAPITAL REQUIRE-**
18 **MENT FOR NATIONAL BANKS AND STATE**
19 **MEMBER BANKS.**

20 Section 5155 of the Revised Statutes (12 U.S.C. 36)
21 is amended—

22 (1) by striking subsection (h); and

23 (2) by redesignating subsections (i) (as amend-
24 ed by section 407(a) of this title), (j) (as amended

1 by section 408(a) of this title), (k), and (l) as sub-
2 sections (h), (i), (j), and (k), respectively.

3 **SEC. 422. BRANCH CLOSURES.**

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

7 “(e) SCOPE OF APPLICATION.—

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

10 “(A) an automated teller machine;

11 “(B) a branch which—

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

15 “(ii) is located—

16 “(I) within 2.5 miles of another
17 branch of the acquiring institution; or

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

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

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

3 “(i) within 2.5 miles of the location of
4 the branch being closed; or

5 “(ii) within the same neighborhood as
6 the branch being closed,

7 if the branch at the new location is expected to
8 continue to provide banking services to substan-
9 tially all of the customers served by the branch
10 at the former location;

11 “(D) a branch that is closed in connection
12 with—

13 “(i) an emergency acquisition under—

14 “(I) section 11(n); or

15 “(II) subsections (f) or (k) of
16 section 13; or

17 “(ii) any assistance provided by the
18 Corporation under section 13(e); and

19 “(E) any other branch closure whose ex-
20 emption from the notice requirements of this
21 section would not produce a result inconsistent
22 with the purposes of this section.

23 “(2) REGULATIONS.—The appropriate Federal
24 banking agency shall, by regulation, determine the

1 circumstances under which any exemption under
2 paragraph(1)(E) may be granted.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply as if such amendment had been
5 included in section 42 of the Federal Deposit Insurance
6 Act as of the date of the enactment of the Federal Deposit
7 Insurance Corporation Improvement Act of 1991.

8 **SEC. 423. AMENDMENTS TO THE DEPOSITORY INSTITU-**
9 **TIONS MANAGEMENT INTERLOCKS ACT.**

10 (a) DUAL SERVICE IN SAME AREA, TOWN, OR VIL-
11 LAGE.—Section 203 of the Depository Institution Man-
12 agement Interlocks Act (12 U.S.C. 3202) is amended—

13 (1) by inserting “(a) PROHIBITIONS.—” before
14 “A management official”; and

15 (2) by adding after subsection (a) the following
16 new subsection:

17 “(b) SMALL MARKET SHARE EXEMPTION.—

18 “(1) IN GENERAL.—This section shall not be
19 construed as prohibiting a management official of a
20 depository institution or depository holding company
21 from serving as a management official of another de-
22 pository institution or depository holding company
23 not affiliated with such institution or holding com-
24 pany if the depository institutions or depository
25 holding companies with which the management offi-

1 cial serves hold, together with all the affiliates of
2 such institutions or holding companies, in the aggre-
3 gate no more than 20 percent of the deposits in each
4 relevant geographic banking market where offices of
5 the depository institutions or depository holding
6 companies or their affiliates are located.

7 “(2) RELEVANT GEOGRAPHIC BANKING MARKET
8 DEFINED.—For purposes of paragraph (1), the term
9 ‘relevant geographic banking market’ means—

10 “(A) the area defined by the boundaries
11 identified by the Board of Governors of the
12 Federal Reserve System;

13 “(B) if the Board has not defined such
14 boundaries, the area defined by the boundaries
15 of the Ranally Metropolitan Area in which the
16 office of the depository institution or the depos-
17 itory institution holding company is located;
18 and

19 “(C) if the office of such institution or
20 company is not located within a Ranally Metro-
21 politan Area, the area defined by the county (or
22 an equivalent area of general local government)
23 in which such office is located.”.

24 (b) DUAL SERVICE AMONG LARGER ORGANIZA-
25 TIONS.—Section 204 of the Depository Institution Man-

1 agement Interlocks Act (12 U.S.C. 3203) is amended to
2 read as follows:

3 **“SEC. 204. DUAL SERVICE AMONG LARGER ORGANIZA-**
4 **TIONS.**

5 “(a) IN GENERAL.—If a depository institution, de-
6 pository institution holding company, or depository insti-
7 tution affiliate of any such institution or company has
8 total assets exceeding \$2,500,000,000, a management offi-
9 cial of such institution, company, or affiliate may not serve
10 as a management official of any other depository institu-
11 tion, depository institution holding company, or depository
12 institution affiliate of any such institution or company
13 which—

14 “(1) is not an affiliate of the institution, com-
15 pany, or affiliate of which such person is a manage-
16 ment official; and

17 “(2) has total assets exceeding \$1,500,000,000.

18 “(b) CPI ADJUSTMENTS.—The dollar amounts in
19 this section shall be adjusted annually after December 31,
20 1994, by the annual percentage increase in the Consumer
21 Price Index for Urban Wage Earners and Clerical Work-
22 ers published by the Bureau of Labor Statistics.”.

23 (c) EXTENSION OF GRANDFATHER EXEMPTION.—
24 Section 206 of the Depository Institution Management
25 Interlocks Act (12 U.S.C. 3205) is amended—

1 (1) in subsection (a), by striking “for a period
2 of, subject to the requirements of subsection (c), 20
3 years after the date of enactment of this title”;

4 (2) in subsection (b), by striking the 2d sen-
5 tence; and

6 (3) by striking subsection (c).

7 (d) **RULES OR REGULATIONS.**—Section 209 of the
8 Depository Institution Management Interlocks Act (12
9 U.S.C. 3207) is amended—

10 (1) by striking “(a) **IN GENERAL.**—Rules” and
11 inserting “Rules”;

12 (2) by inserting “, including rules or regula-
13 tions which permit service by a management official
14 which would otherwise be prohibited by section 203
15 or section 204,” after “title”; and

16 (3) by striking subsections (b) and (c).

17 **SEC. 424. ACCELERATION OF REPAYMENT TO TREASURY.**

18 The Appraisal Subcommittee of the Financial Institu-
19 tions Examination Council shall repay to the Secretary of
20 the Treasury the funds specified in section 1108 of Finan-
21 cial Institutions Reform, Recovery, and Enforcement Act
22 of 1989 by not later than September 30, 1998, and the
23 Secretary shall deposit such funds in the general fund of
24 the Treasury.

1 **SEC. 425. ELIMINATE UNNECESSARY AND DUPLICATIVE**
2 **RECORDKEEPING AND REPORTING REQUIRE-**
3 **MENTS RELATING TO LOANS TO EXECUTIVE**
4 **OFFICERS AND PERMIT PARTICIPATION IN**
5 **EMPLOYEE BENEFIT PLANS.**

6 (a) AMENDMENTS TO SECTION 22(h) OF THE FED-
7 ERAL RESERVE ACT.—

8 (1) EMPLOYEE BENEFIT PLANS.—Section
9 22(h)(2) of the Federal Reserve Act (12 U.S.C.
10 375b(2)) is amended—

11 (A) by redesignating subparagraphs (A),
12 (B), and (C) as clauses (i), (ii), and (iii), re-
13 spectively, and moving the left margins of such
14 clauses 2 ems to the right;

15 (B) by striking “(2) PREFERENTIAL
16 TERMS PROHIBITED.—A member bank” and in-
17 serting “(2) PREFERENTIAL TERMS PROHIB-
18 ITED.—

19 “(A) IN GENERAL.—A member bank”; and
20 (C) by adding at the end the following new
21 subparagraph:

22 “(B) EXCEPTION.—No provision of this
23 paragraph shall be construed as prohibiting ex-
24 tensions of credit that constitute a benefit or
25 compensation program that is widely available
26 to and used by employees of the member bank,

1 including employees who are not executive offi-
2 cers of the bank.”.

3 (2) EXCEPTION FOR EXTENSIONS OF CREDIT
4 TO EXECUTIVE OFFICERS AND DIRECTORS OF
5 NONBANK AFFILIATES.—Section 22(h)(8)(B) of the
6 Federal Reserve Act (12 U.S.C. 375b(8)(B)) is
7 amended to read as follows:

8 “(B) EXCEPTION.—The Board may, by
9 regulation, make exceptions to subparagraph
10 (A) for an executive officer or director of a sub-
11 sidiary of a company that controls the member
12 bank if—

13 “(i) the executive officer or director
14 does not have authority to participate, and
15 does not participate, in major policymaking
16 functions of the member bank; and

17 “(ii) the assets of such subsidiary do
18 not exceed 10 percent of the consolidated
19 assets of a company that controls the
20 member bank and such subsidiary (and is
21 not controlled by any other company).”.

22 (3) RECORDKEEPING REQUIREMENTS.—Section
23 22(h)(10) of the Federal Reserve Act (12 U.S.C.
24 375b(10)) is amended by adding at the end the fol-
25 lowing: “The Board shall specify by regulation the

1 recordkeeping required of member banks to ensure
2 compliance with this section.”.

3 (b) REPORTING REQUIREMENTS.—

4 (1) UNNECESSARY REPORTS.—Section 22(g) of
5 the Federal Reserve Act (12 U.S.C. 375a) is amend-
6 ed—

7 (A) by striking paragraphs (6) and (9);

8 and

9 (B) by redesignating paragraphs (7), (8),
10 and (10) as paragraphs (8), (9), and (10), re-
11 spectively.

12 (2) UNNECESSARY REPORTS.—Section 7 of the
13 Federal Deposit Insurance Act (12 U.S.C. 1817) is
14 amended by striking subsection (k).

15 (3) UNNECESSARY REPORTS REGARDING LOANS
16 FROM CORRESPONDENT BANKS.—Section 106(b)(2)
17 of the Bank Holding Company Act Amendments of
18 1970 (12 U.S.C. 1972(2)) is amended—

19 (A) by striking subparagraph (G); and

20 (B) by redesignating subparagraphs (H)

21 and (I) as subparagraphs (G) and (H), respec-
22 tively.

23 (c) AMENDMENTS RELATING TO LOANS TO EXECU-
24 TIVE OFFICERS.—Section 22(g) of the Federal Reserve

1 Act (12 U.S.C. 375a) (as amended by subsection (a) of
2 this section) is amended—

3 (1) in paragraph (1)(D), by striking “of any
4 one of the three categories respectively referred to in
5 paragraphs (2), (3), and (4)” and inserting “of any
6 category referred to in paragraph (2), (3), (4), (5),
7 or (6)”;

8 (2) by redesignating paragraphs (4) and (5) as
9 paragraphs (6) and (7), respectively;

10 (3) by inserting after paragraph (3) the follow-
11 ing new paragraph:

12 “(4) HOME EQUITY LINES OF CREDIT.—A
13 member bank may make a revolving open-end exten-
14 sion of credit to any executive officer of the bank if
15 the credit—

16 “(A) does not exceed \$100,000; and

17 “(B) is secured by a dwelling that is owned
18 by such officer and used by the officer as a res-
19 idence.

20 “(5) LOANS SECURED BY MARKETABLE AS-
21 SETS.—A member bank may extend credit to any
22 executive officer of the bank if the credit is secured
23 by readily marketable assets of a value not exceeding
24 such amount as the Board may establish by regula-
25 tion.”; and

1 (4) in paragraph (7) (as so redesignated by
2 paragraph (2) of this subsection) by striking “(4)”
3 each place such term appears and inserting “(6)”.

4 **SEC. 426. EXPANDED REGULATORY DISCRETION FOR**
5 **SMALL BANK EXAMINATIONS.**

6 (a) **SMALL BANK SIZE DISCRETION.**—Section 10(d)
7 of the Federal Deposit Insurance Act (12 U.S.C. 1820(d))
8 is amended—

9 (1) by redesignating paragraph (9) as para-
10 graph (10);

11 (2) by redesignating the 2d of the 2 paragraphs
12 designated as paragraph (8) as paragraph (9); and

13 (3) in paragraph (9) (as so redesignated), by
14 striking “\$175,000,000” and inserting
15 “\$250,000,000”.

16 (b) **INFLATION ADJUSTMENT.**—Section 10(d) of the
17 Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is
18 amended by inserting after paragraph (10) (as so redesign-
19 nated in subsection (a)(1) of this section) the following
20 new paragraph:

21 “(11) **ANNUAL CPI ADJUSTMENT.**—The dollar
22 amount in this section shall be adjusted annually
23 after December 31, 1994, by the annual percentage
24 increase in the Consumer Price Index for Urban

1 Wage Earners and Clerical Workers published by
2 the Bureau of Labor Statistics.”.

3 (c) COORDINATED FEDERAL AND STATE EXAMINA-
4 TIONS.—The Federal banking agencies (as defined in sec-
5 tion 3 of the Federal Deposit Insurance Act) shall submit
6 semiannual reports to the Congress on the progress made
7 by such agencies in implementing the requirements of sec-
8 tion 10(d)(6) of the Federal Deposit Insurance Act until
9 such agencies submit a final report that—

10 (1) the examination system provided for in such
11 section is in place; and

12 (2) such system provides for full coordination of
13 examinations of State depository institutions with
14 State bank supervisors.

15 **SEC. 427. COST REIMBURSEMENT.**

16 Section 1115 of the Right to Financial Privacy Act
17 (12 U.S.C. 3415) is amended by inserting “(including cor-
18 porate customers)” after “pertaining to a customer”.

19 **SEC. 428. IDENTIFICATION OF FOREIGN NONBANK FINAN-**
20 **CIAL INSTITUTION CUSTOMERS.**

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

23 “(1) is a financial institution (other than a for-
24 eign bank (as defined in section 101(b) of the Inter-

1 national Banking Act of 1978)) which is a foreign
2 person; and”.

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

7 (c) CLERICAL AMENDMENT.—The table of sections
8 for chapter 53 of title 31, United States Code, is amended
9 by striking the item relating to section 5327 and inserting
10 the following new item:

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

11 **SEC. 429. PAPERWORK REDUCTION REVIEW.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this Act, each appropriate Federal
14 banking agency and the National Credit Union Adminis-
15 tration, in consultation with insured depository institu-
16 tions, insured credit unions, and other interested parties,
17 shall—

18 (1) review the extent to which current regula-
19 tions require insured depository institutions and in-
20 sured credit unions to produce unnecessary internal
21 written policies; and

22 (2) eliminate such requirements, where appro-
23 priate.

24 (b) DEFINITIONS.—For purposes of this section, the fol-
25 lowing definitions shall apply:

1 ceived a clear and conspicuous disclosure before entering
2 into any side agreement, in a form prescribed by the Sec-
3 retary, that adequately informs the counterparty of the
4 benefits of receiving such daily written confirmations.

5 **SEC. 431. REQUIRED REGULATORY REVIEW OF REGULA-**
6 **TIONS.**

7 (a) IN GENERAL.—Not less frequently than once
8 every 10 years, the Financial Institutions Examination
9 Council (hereafter in this section referred to as the “Coun-
10 cil”) and each appropriate Federal banking agency (as de-
11 fined in section 3(q) of the Federal Deposit Insurance
12 Act) represented on the Council shall conduct a review of
13 all regulations prescribed by the Council or by any such
14 agency, respectively, in order to identify outdated or other-
15 wise unnecessary regulatory requirements imposed upon
16 insured depository institutions.

17 (b) PROCESS.—In conducting the review under sub-
18 section (a), the Council or the appropriate Federal bank-
19 ing agency shall—

20 (1) categorize the regulations by type (such as
21 consumer regulations, safety and soundness regula-
22 tions, or such other designations as determined by
23 the Council); and

24 (2) at regular intervals, provide notice and so-
25 licit public comment on a particular category or cat-

1 egories of regulations, requesting commentators to
2 identify areas of the regulations that are outdated,
3 unnecessary, or unduly burdensome.

4 (c) COMPLETE REVIEW.—The Council or the appro-
5 priate Federal banking agency shall ensure that the notice
6 and comment period described in subsection (b)(2) is con-
7 ducted with respect to all regulations described in sub-
8 section (a) not less frequently than once every 10 years.

9 (d) REGULATORY RESPONSE.—The Council or the
10 appropriate Federal banking agency shall—

11 (1) publish in the Federal Register a summary
12 of the comments received under this section, identi-
13 fying significant issues raised and providing com-
14 ment on such issues; and

15 (2) eliminate unnecessary regulations to the ex-
16 tent that such action is appropriate.

17 (e) REPORT TO CONGRESS.—Not later than 30 days
18 after carrying out subsection (d)(1), the Council shall pro-
19 vide to the Congress a report, which shall include—

20 (1) a summary of any significant issues raised
21 by public comments received by the Council and the
22 appropriate Federal banking agencies under this sec-
23 tion and the relative merits of such issues; and

24 (2) an analysis of whether the appropriate Fed-
25 eral banking agency involved is able to address the

1 regulatory burdens associated with such issues by
2 regulation, or whether such burdens must be ad-
3 dressed by legislative action.

4 **SEC. 432. COUNTRY RISK REQUIREMENTS.**

5 Subsections (a)(1) and (b) of section 905 of the
6 International Lending Supervision Act of 1983 (12 U.S.C.
7 3904) are amended by striking “shall” and inserting
8 “may”.

9 **SEC. 433. AUDIT COSTS.**

10 (a) IN GENERAL.—

11 (1) AUDITOR ATTESTATIONS.—Section 36 of
12 the Federal Deposit Insurance Act (12 U.S.C.
13 1831m) is amended—

14 (A) in subsection (a)(2)(A)(ii), by striking
15 “subsections (c) and (d)” and inserting “sub-
16 section (c)”;

17 (B) by striking subsections (c) and (e);
18 and

19 (C) by redesignating subsections (d), (f),
20 (g), (h), (i), and (j) as subsections (c), (d), (e),
21 (f), (g), and (h), respectively.

22 (2) PUBLIC AVAILABILITY.—Section 36(a)(3) of
23 the Federal Deposit Insurance Act (12 U.S.C.
24 1831m(a)(3)) is amended by inserting at the end the
25 following new sentence: “Notwithstanding the pre-

1 ceding sentence, the Corporation and the appro-
2 priate Federal banking agencies may designate cer-
3 tain information as privileged and confidential and
4 not available to the public.”.

5 (b) EXEMPTION FOR WELL-CAPITALIZED AND
6 WELL-MANAGED INSURED DEPOSITORY INSTITU-
7 TIONS.—Section 36 of the Federal Deposit Insurance Act
8 (12 U.S.C. 1831m) (as amended by subsection (a) of this
9 section) is amended by adding at the end the following
10 new subsection:

11 “(i) EXEMPTION FOR WELL-CAPITALIZED AND
12 WELL-MANAGED INSURED DEPOSITORY INSTITU-
13 TIONS.—No provision of this section other than subsection
14 (c) shall apply with respect to any insured depository insti-
15 tution which is well-capitalized and well-managed.”.

16 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) Paragraph (1)(B) of section 36(e) of the
18 Federal Deposit Insurance Act (as so redesignated
19 by subsection (a)(1)(C) of this section) is amended
20 by striking “(b)(2), (c), and (d)” and inserting
21 “(b)(2) and (c)”.

22 (2) Paragraph (1) of section 36(g) of the Fed-
23 eral Deposit Insurance Act (as so redesignated by
24 subsection (a)(1)(C) of this section) is amended by
25 striking “(d)” and inserting “(c)”.

1 **SEC. 434. STANDARDS FOR DIRECTOR AND OFFICER LI-**
2 **ABILITY.**

3 Section 3(u) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1813(u)) is amended—

5 (1) in paragraph (1), by inserting “(other than
6 an outside director)” after “director”;

7 (2) in paragraph (3), by inserting “(other than
8 an outside director)” after “any other person”; and

9 (3) in paragraph (4), by inserting “or outside
10 director” after “or accountant”).

11 **SEC. 435. FOREIGN BANK APPLICATIONS.**

12 (a) PROVISIONS RELATING TO ESTABLISHMENT OF
13 BANK OFFICES.—Section 7(d) of the International Bank-
14 ing Act of 1978 (12 U.S.C. 3105(d)) is amended—

15 (1) in paragraph (2), by striking “The” and in-
16 serting “Except as provided in paragraph (6), the”;

17 (2) in paragraph (5), by striking “Consistent
18 with the standards for approval in paragraph (2),
19 the” and inserting “The”; and

20 (3) by adding at the end the following new
21 paragraphs:

22 “(6) EXCEPTION.—

23 “(A) IN GENERAL.—If the Board is unable
24 to find under paragraph (2) that a foreign bank
25 is subject to comprehensive supervision or regu-
26 lation on a consolidated basis by the appro-

1 appropriate authorities in its home country, the
2 Board may nevertheless approve an application
3 under paragraph (1) by such foreign bank if—

4 “(i) the appropriate authorities in the
5 home country of such foreign bank are
6 working to establish arrangements for the
7 consolidated supervision of such bank; and

8 “(ii) all other factors are consistent
9 with approval.

10 “(B) ADDITIONAL CONDITIONS.—The
11 Board, after requesting and considering the
12 views of the appropriate State bank supervisor
13 or the Comptroller of the Currency, as the case
14 may be, may impose such conditions or restric-
15 tions relating to activities or business oper-
16 ations of the proposed branch, agency, or com-
17 mercial lending company subsidiary, including
18 restrictions on sources of funding, as are con-
19 sidered appropriate in the public interest.

20 “(C) MODIFICATION OF CONDITIONS.—
21 Any condition or restriction imposed by the
22 Board under this subsection in connection with
23 the approval of an application may be varied or
24 withdrawn where such modification is consistent
25 with the public interest.

1 “(7) TIME PERIOD FOR BOARD ACTION.—

2 “(A) FINAL ACTION.—The Board shall
3 take final action on any application under para-
4 graph (1) within 180 days of receipt of the ap-
5 plication, except that the Board may extend for
6 an additional 180 days the period within which
7 to take final action on such application, after
8 providing notice of, and the reasons for, the ex-
9 tension to the applicant foreign bank and any
10 appropriate State bank supervisor or the Comp-
11 troller of the Currency, as the case may be.

12 “(B) FAILURE TO SUBMIT INFORMA-
13 TION.—The Board may deny any application if
14 it has not received information requested from
15 the applicant foreign bank or appropriate au-
16 thorities in the home country in sufficient time
17 to permit the Board to evaluate such informa-
18 tion adequately within the time periods for final
19 action set forth in subparagraph (A).

20 “(C) WAIVER.—A foreign bank may waive
21 the applicability of subparagraph (A) with re-
22 spect to any such application.”.

23 (b) PROVISION RELATING TO TERMINATION OF
24 BANK OFFICES.—Section 7(e)(1)(A) of the International

1 Banking Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amend-
2 ed—

3 (1) by striking “(A)” and inserting “(A)(i)”;

4 (2) by striking “; or” and inserting “; and”;

5 and

6 (3) by inserting at the end the following new
7 clause:

8 “(ii) the appropriate authorities in the
9 home country are not making progress in estab-
10 lishing arrangements for the comprehensive su-
11 pervision or regulation of such foreign bank on
12 a consolidated basis; or”.

13 (c) UNIFORM TERMINATIONS OF FOREIGN BANK OF-
14 FICES, AGENCIES, BRANCHES, AND SUBSIDIARIES BY THE
15 FEDERAL RESERVE SYSTEM.—

16 (1) IN GENERAL.—Section 7(e)(1) of the Inter-
17 national Banking Act of 1978 (12 U.S.C.
18 3105(e)(1)) is amended—

19 (A) by inserting “or the Comptroller of the
20 Currency” after “State bank supervisor”;

21 (B) by inserting “or a Federal branch or
22 agency” after “commercial lending company
23 subsidiary” the 1st place such term appears;

24 and

1 (C) in the last sentence, by inserting “or
2 a Federal branch or agency” after “commercial
3 lending company subsidiary”.

4 (2) TECHNICAL AND CONFORMING AMEND-
5 MENT.—Section 7(e) of the International Banking
6 Act of 1978 (12 U.S.C. 3105(e)) is amended—

7 (A) by striking paragraph (5); and

8 (B) by redesignating paragraphs (6) and
9 (7) as paragraphs (5) and (6), respectively.

10 **SEC. 436. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

11 Section 7(c)(1) of the International Banking Act of
12 1978 (12 U.S.C. 3105(c)(1)) is amended—

13 (1) by adding after clause (ii) of subparagraph
14 (B) the following new clause:

15 “(iii) AVOIDANCE OF DUPLICATION.—

16 In exercising its authority under this para-
17 graph, the Board shall take all reasonable
18 measures to reduce burden and avoid un-
19 necessary duplication of examinations.”;

20 (2) by striking subparagraph (C) and inserting
21 the following:

22 “(C) ON-SITE EXAMINATION.—Each Fed-
23 eral branch or agency, and each State branch
24 or agency, of a foreign bank shall be subject to
25 on-site examination by a Federal banking agen-

1 cy or State bank supervisor as frequently as
2 would a national bank or State bank, respec-
3 tively, by its appropriate Federal banking agen-
4 cy.”; and

5 (3) by amending subparagraph (D) to read as
6 follows:

7 “(D) COST OF EXAMINATIONS.—The cost
8 of any examination undertaken pursuant to
9 subparagraph (A) shall be assessed against and
10 collected from the foreign bank or the foreign
11 company that controls the foreign bank, as the
12 case may be, but only to the same extent that
13 fees are collected by the Board for examination
14 of any State member insured bank.”.

15 **SEC. 437. SECOND MORTGAGES.**

16 (a) IN GENERAL.—Section 103(aa)(1) of the Truth
17 in Lending Act (15 U.S.C. 1602(aa)(1)) is amended—

18 (1) by inserting “a subordinate mortgage on”
19 after “secured by”; and

20 (2) by striking “a residential mortgage trans-
21 action”.

22 (b) EFFECT ON PENDING CASES.—Any administra-
23 tive enforcement proceeding or other action which—

24 (1) is pending on the date of the enactment of
25 this Act; and

1 “(2) EXTENSION OF PERIOD.—The Corporation
2 may extend the 60-day period referred to in para-
3 graph (1) for issuing a notice of disapproval with re-
4 spect to any activity for an additional 30 days.

5 “(3) CONTENTS OF NOTICE.—Any notice sub-
6 mitted by a State bank under paragraph (1)(A) shall
7 contain such information as the Corporation may re-
8 quire.

9 “(4) BASIS FOR DISAPPROVAL.—The Corpora-
10 tion may disapprove an activity for a State bank
11 under this subsection unless the Corporation deter-
12 mines that the activity would pose no significant risk
13 to the appropriate insurance fund.”.

14 (b) SUBSIDIARIES OF INSURED STATE BANKS.—Sec-
15 tion 24(d)(1) of the Federal Deposit Insurance Act (12
16 U.S.C. 1831a(d)(1)) is amended to read as follows:

17 “(1) ACTIVITIES GENERALLY.—

18 “(A) IN GENERAL.—A subsidiary of an in-
19 sured State bank may not engage as principal
20 in any type of activity that is not permissible
21 for a subsidiary of a national bank unless—

22 “(i) the subsidiary has given the Cor-
23 poration written notice of the subsidiary’s
24 intention to engage in such activity at least
25 60 days before commencing to engage in

1 the activity and within such 60-day period
2 (or within the extended period provided
3 under paragraph (2)) the Corporation has
4 not disapproved the activity; and

5 “(ii) the bank is, and continues to be,
6 in compliance with applicable capital
7 standards prescribed by the appropriate
8 Federal banking agency.

9 “(B) EXTENSION OF PERIOD.—The Cor-
10 poration may extend the 60-day period referred
11 to in subparagraph (A) for issuing a notice of
12 disapproval with respect to any activity for an
13 additional 30 days.

14 “(C) CONTENTS OF NOTICE.—Any notice
15 submitted by a subsidiary of an insured State
16 bank under subparagraph (A)(i) shall contain
17 such information as the Corporation may re-
18 quire.

19 “(D) BASIS FOR DISAPPROVAL.—The Cor-
20 poration may disapprove an activity for a sub-
21 sidiary of an insured State bank under this
22 paragraph unless the Corporation determines
23 that the activity would pose no significant risk
24 to the appropriate insurance fund.”

1 **SEC. 439. REPEAL OF CALL REPORT ATTESTATION RE-**
2 **QUIREMENT.**

3 Section 5211(a) of the Revised Statutes (12 U.S.C.
4 161(a)) is amended by striking the 4th sentence.

5 **SEC. 440. AUTHORIZING BANK SERVICE COMPANIES TO OR-**
6 **GANIZE AS LIMITED LIABILITY PARTNER-**
7 **SHIPS.**

8 (a) AMENDMENT TO SHORT TITLE.—Section 1 of the
9 Bank Service Corporation Act (12 U.S.C. 1861(a)) is
10 amended by striking subsection (a) and inserting the fol-
11 lowing new subsection:

12 “(a) SHORT TITLE.—This Act may be cited as the
13 ‘Bank Service Company Act.’”;

14 (b) AMENDMENTS TO DEFINITIONS.—Section 1(b) of
15 the Bank Service Corporation Act (12 U.S.C. 1861(b)) is
16 amended—

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

19 “(2) the term ‘bank service company’ means—

20 “(A) any corporation—

21 “(i) which is organized to perform
22 services authorized by this Act; and

23 “(ii) all of the capital stock of which
24 is owned by 1 or more insured banks; and

25 “(B) any limited liability company—

1 “(i) which is organized to perform
2 services authorized by this Act; and

3 “(ii) all of the members of which are
4 1 or more insured banks.”;

5 (2) in paragraph (6)—

6 (A) by striking “corporation” and inserting
7 “company”; and

8 (B) by striking “and” after the semicolon;

9 (3) by redesignating paragraph (7) as para-
10 graph (8) and inserting after paragraph (6) the fol-
11 lowing new paragraph:

12 “(7) the term ‘limited liability company’ means
13 any company organized under the law of a State (as
14 defined in section 3 of the Federal Deposit Insur-
15 ance Act) which provides that a member or manager
16 of such company is not personally liable for a debt,
17 obligation, or liability of the company solely by rea-
18 son of being, or acting as, a member or manager of
19 such company; and”;

20 (4) in paragraph (8) (as so redesignated)—

21 (A) by striking “corporation” each place
22 such term appears and inserting “company”;
23 and

24 (B) by striking “capital stock” and insert-
25 ing “equity”.

1 (c) AMENDMENTS TO SECTION 2.—Section 2 of the
2 Bank Service Corporation Act (12 U.S.C. 1862) is amend-
3 ed—

4 (1) by striking “corporation” and inserting
5 “company”;

6 (2) by striking “corporations” and inserting
7 “companies”; and

8 (3) in the heading for such section, by striking
9 “CORPORATION” and inserting “COMPANY”.

10 (d) AMENDMENTS TO SECTION 3.—Section 3 of the
11 Bank Service Corporation Act (12 U.S.C. 1863) is amend-
12 ed—

13 (1) by striking “corporation” each place such
14 term appears and inserting “company”; and

15 (2) in the heading for such section, by striking
16 “CORPORATION” and inserting “COMPANY”.

17 (e) AMENDMENTS TO SECTION 4.—Section 4 of the
18 Bank Service Corporation Act (12 U.S.C. 1864) is amend-
19 ed—

20 (1) by striking “corporation” each place such
21 term appears and inserting “company”;

22 (2) in subsection (b), by inserting “or mem-
23 bers” after “shareholders” each place such term ap-
24 pears;

1 (3) in subsections (c) and (d), by inserting “or
2 member” after “shareholder” each place such term
3 appears;

4 (4) in subsection (e)—

5 (A) by inserting “or members” after “na-
6 tional bank and State bank shareholders”;

7 (B) by striking “its national bank share-
8 holder or shareholders” and inserting “any
9 shareholder or member of the company which is
10 a national bank”;

11 (C) by striking “its State bank shareholder
12 or shareholders” and inserting “any share-
13 holder or member of the company which is a
14 State bank”;

15 (D) by striking “such State bank or
16 banks” and inserting “any such State bank”;
17 and

18 (E) by inserting “or members” after
19 “State bank and national bank shareholders”;

20 (5) in subsection (f), by inserting “or providing
21 insurance as principal, agent, or broker (except to
22 the extent permitted under subparagraph (A) or (E)
23 of section 4(c)(8) of the Bank Holding Company Act
24 of 1956)” after “or deposit taking”; and

1 (6) in the heading for such section, by striking
2 “CORPORATION” and inserting “COMPANY”.

3 (f) AMENDMENTS TO SECTION 5.—Section 5 of the
4 Bank Service Corporation Act (12 U.S.C. 1865) is amend-
5 ed—

6 (1) by striking “corporation” each place such
7 term appears and inserting “company”; and

8 (2) in the heading for such section, by striking
9 “CORPORATIONS” and inserting “COMPANIES”.

10 (g) AMENDMENTS TO SECTION 6.—Section 6 of the
11 Bank Service Corporation Act (12 U.S.C. 1866) is amend-
12 ed—

13 (1) by striking “corporation” each place such
14 term appears and inserting “company”;

15 (2) by inserting “or is not a member of” after
16 “does not own stock in”;

17 (3) by striking “the nonstockholding institu-
18 tion” and inserting “such depository institution”;

19 (4) by inserting “or is a member of” after “that
20 owns stock in”;

21 (5) in paragraphs (1) and (2), by inserting “or
22 nonmember” after “nonstockholding”; and

23 (6) in the heading for such section by inserting
24 “OR NONMEMBERS” after “NONSTOCKHOLDERS”.

1 (h) AMENDMENTS TO SECTION 7.—Section 7 of the
2 Bank Service Corporation Act (12 U.S.C. 1867) is amend-
3 ed—

4 (1) by striking “corporation” each place such
5 term appears and inserting “company”;

6 (2) in subsection (a)—

7 (A) by inserting “or principal member”
8 after “principal shareholder”; and

9 (B) by inserting “or member” after “other
10 shareholder”; and

11 (3) in the heading for such section, by striking
12 “CORPORATIONS” and inserting “COMPANIES”.

13 **SEC. 441. BANK INVESTMENTS IN EDGE ACT AND AGREE-**
14 **MENT CORPORATIONS.**

15 The 10th undesignated paragraph of section 25A of
16 the Federal Reserve Act (12 U.S.C. 618) is amended by
17 striking the last sentence and inserting the following:
18 “Any national bank may invest in the stock of any cor-
19 poration organized under this section. The aggregate
20 amount of stock held by any national bank in all corpora-
21 tions engaged in business of the kind described in this sec-
22 tion or section 25 shall not exceed an amount equal to
23 10 percent of the capital and surplus of such bank unless
24 the Board determines that the investment of an additional
25 amount by the bank would not be unsafe or unsound and,

1 in any case, shall not exceed an amount equal to 25 per-
2 cent of the capital and surplus of such bank.”.

3 **SEC. 442. REPORT ON THE RECONCILIATION OF DIF-**
4 **FERENCES BETWEEN REGULATORY AC-**
5 **COUNTING PRINCIPLES AND GENERALLY AC-**
6 **CEPTED ACCOUNTING PRINCIPLES.**

7 Before the end of the 180-day period beginning on
8 the date of the enactment of this Act, each appropriate
9 Federal banking agency (as defined in section 3 of the
10 Federal Deposit Insurance Act) shall submit to the Com-
11 mittee on Banking and Financial Services of the House
12 of Representatives and the Committee on Banking, Hous-
13 ing, and Urban Affairs of the Senate a report on the ac-
14 tions taken and to be taken by the agency to eliminate
15 or conform inconsistent or duplicative accounting and re-
16 porting requirements applicable to reports or statements
17 filed with any such agency by insured depository institu-
18 tions, as required by section 121 of the Federal Deposit
19 Insurance Corporation Improvement Act of 1991.

20 **SEC. 443. WAIVERS AUTHORIZED FOR RESIDENCY RE-**
21 **QUIREMENTS FOR NATIONAL BANK DIREC-**
22 **TORS.**

23 The 1st sentence of section 5146 of the Revised Stat-
24 utes of the United States (12 U.S.C. 72) is amended by
25 inserting “(1) the Comptroller of the Currency may, in

1 the Comptroller’s discretion, waive the residency require-
2 ments in the case of any director or a national bank to
3 whom the requirement would otherwise apply, and (2)”
4 after “except that”.

5 **TITLE V—LENDER LIABILITY**

6 **SEC. 501. LENDER LIABILITY.**

7 (a) PARTICIPATION IN MANAGEMENT.—

8 (1) IN GENERAL.—It is the sense of Congress
9 that a person who holds indicia of ownership pri-
10 marily to protect the person’s security interest in a
11 vessel or facility should not be considered to have
12 participated in management, as that term is used in
13 section 101(20) of the Comprehensive Environ-
14 mental Response, Compensation, and Liability Act
15 of 1980 (42 U.S.C. 9601(20)), unless the person—

16 (A) exercises decisionmaking control over
17 the borrower’s environmental compliance such
18 that the person has undertaken responsibility
19 for the hazardous substance handling or dis-
20 posal practices of the vessel or facility; or

21 (B) exercises control at a level comparable
22 to that of a manager of the borrower’s vessel or
23 facility such that the person has assumed or
24 manifested responsibility for the overall man-
25 agement of the vessel or facility encompassing

1 day-to-day decisionmaking over either environ-
2 mental compliance or over the operational, as
3 opposed to financial and administrative, aspects
4 of the vessel or facility.

5 (2) OPERATIONAL ASPECTS DEFINED.—In
6 paragraph (1)(B), the term “operational aspects”
7 includes functions such as those of a facility or plant
8 manager, operations manager, chief operating offi-
9 cer, or chief executive officer.

10 (b) EXCLUSIONS.—If is further the sense of Congress
11 that the term “participation in management” as used in
12 such section 101(20) should not include any of the follow-
13 ing:

14 (1) The mere capacity to influence, or ability to
15 influence, or the unexercised right to control vessel
16 or facility operations.

17 (2) Any act of a security interest holder to re-
18 quire another person to comply with applicable laws
19 or to respond lawfully to disposal of any hazardous
20 substance.

21 (3) Conducting an act or failing to act prior to
22 the time that a security interest is created in a ves-
23 sel or facility.

1 (4) Holding a security interest in a vessel or fa-
2 cility or abandoning or releasing such a security in-
3 terest.

4 (5) Including in the terms of an extension of
5 credit, or in a contract or security agreement relat-
6 ing to such an extension, covenants, warranties, or
7 other terms and conditions that relate to environ-
8 mental compliance.

9 (6) Monitoring or enforcing the terms and con-
10 ditions of the extension of credit or security interest.

11 (7) Monitoring or undertaking 1 or more in-
12 spections of the vessel or facility.

13 (8) Under section 107(d) of the Comprehensive
14 Environmental Response, Compensation, and Liabil-
15 ity Act of 1980, or under the direction of an on-
16 scene coordinator, conducting a response action or
17 other lawful means of addressing the release or
18 threatened release of a hazardous substance in con-
19 nection with the vessel or facility prior to, during, or
20 upon the expiration of the term of the extension of
21 credit.

22 (9) Providing financial or other advice or coun-
23 seling in an effort to mitigate, prevent, or cure de-
24 fault or diminution in the value of the vessel or facil-
25 ity.

1 (10) Restructuring, renegotiating, or otherwise
2 agreeing to alter the terms and conditions of the ex-
3 tension of credit or security interest or exercising
4 forbearance.

5 (11) Exercising other remedies that may be
6 available under applicable law for the breach of any
7 term or condition of the extension of credit or secu-
8 rity agreement.

9 (12) Holding legal or equitable title acquired by
10 a security interest holder through foreclosure or its
11 equivalent primarily to protect a security interest
12 provided that the holder undertakes to sell, re-lease,
13 or otherwise divest the property in a reasonably ex-
14 peditious manner on commercially reasonable terms,
15 taking into account market conditions and legal and
16 regulatory requirements.

17 (c) SECURITY INTEREST.—It is further the sense of
18 Congress that the term “security interest” as used in such
19 section 101(20) should include rights under a mortgage,
20 deed of trust, assignment, judgment, lien, pledge, security
21 agreement, factoring agreement, lease, or any other right
22 accruing to person to secure the repayment of money, the
23 performance of a duty, or some other obligation.

24 (d) MISCELLANEOUS.—It is further the sense of the
25 Congress that the potential Superfund liability of fidu-

1 ciaries and the potential Resource Conservation and Re-
2 covery Act liability of lenders and fiduciaries should be
3 addressed by the Congress.

4 **TITLE VI—ANNUAL STUDY AND**
5 **REPORT ON IMPACT ON**
6 **LENDING TO SMALL BUSI-**
7 **NESS**

8 **SEC. 601. ANNUAL STUDY AND REPORT.**

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

○