Calendar No. 272

104TH CONGRESS
1ST SESSION

S. 650

[Report No. 104–185]

A BILL

To increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

DECEMBER 14, 1995

Reported with an amendment

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Calendar No. 272

104TH CONGRESS
1ST SESSION

S. 650

[Report No. 104–185]

To increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, MARCH 27), 1995

Mr. SHELBY (for himself, Mr. MACK, Mr. D'AMATO, Mr. BRYAN, Mr. BENNETT, Mr. FAIRCLOTH, Mr. BOND, Mr. GRAMM, Mr. DOLE, Mr. GRAMS, Mr. FRIST, Mr. HOLLINGS, Mr. KYL, Mr. BURNS, Mr. THOMAS, Mr. HELMS, Mr. PRESSLER, Mr. CRAIG, Mr. HEFLIN, Mr. GREGG, Mr. COATS, Mr. LOTT, Mr. COCHRAN, Mr. NICKLES, Mr. ASHCROFT, Mr. KEMPTHORNE, Mr. NUNN, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

DECEMBER 14, 1995

Reported by Mr. D'AMATO, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Regulatory Paperwork Reduction Act of 1995".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—REDUCTIONS IN GOVERNMENT OVERREGULATION

Subtitle A—The Home Mortgage Process

PART I—REGULATORY SIMPLIFICATION AND UNIFORMITY

Sec. 101. Coordination of the Truth in Lending Act and the Real Estate Settlement Procedures Act.
Sec. 102. Elimination of redundant regulators.
Sec. 103. General exemption authority for loans.
Sec. 104. Reductions in Real Estate Settlement Procedures Act regulatory burdens.

PART II—CLARIFICATIONS TO REDUCE COSTS AND REGULATORY BURDENS

Sec. 111. Exemption for certain borrowers.
Sec. 112. Alternative disclosures for adjustable rate mortgages.
Sec. 113. Treatment of certain charges.
Sec. 114. Exemptions from rescission.
Sec. 115. Tolerances; basis of disclosures.
Sec. 116. Limitation on liability.
Sec. 117. Limitation on rescission period.
Sec. 118. Assignee liability.
Sec. 119. Modification of waiver of right of rescission.
Sec. 120. Applicability.

Subtitle B—Amendments to the Community Reinvestment Act of 1977

Sec. 131. Expression of congressional intention.
Sec. 132. Small bank exemption.
Sec. 133. Community input and conclusive rating.
Sec. 134. Special purpose banks.
Sec. 135. Increased incentives to lending to low- and moderate-income communities.

Subtitle C—Payment of Interest Act

~~Sec. 141. Payment of Interest Act.~~

~~TITLE II—STREAMLINING GOVERNMENT REGULATION~~

~~Subtitle A—Eliminating Unnecessary Regulatory Requirements and Procedures~~

~~Sec. 201. Streamlining of prior approval requirement for certain acquisitions.~~
~~Sec. 202. Elimination of certain filing and approval requirements for certain insured depository institutions.~~
~~Sec. 203. Elimination of redundant approval requirement for OAKAR transactions.~~
~~Sec. 204. Elimination of unnecessary branch applications.~~
~~Sec. 205. Elimination of duplicative requirements imposed upon bank holding companies under the Home Owners' Loan Act.~~
~~Sec. 206. Elimination of the per branch capital requirement for national banks and State member banks.~~
~~Sec. 207. Elimination of branch application requirements for automatic teller machines.~~
~~Sec. 208. Elimination of requirement for approval of investments in bank premises for well capitalized and well managed banks.~~
~~Sec. 209. Elimination of approval requirement for divestitures.~~
~~Sec. 210. Elimination of unnecessary filing for officer and director appointments.~~
~~Sec. 211. Amendments to the Depository Institutions Management Interlocks Act.~~
~~Sec. 212. Elimination of recordkeeping and reporting requirements for officers.~~
~~Sec. 213. Abolition of Appraisal Subcommittee; transfer of functions.~~
~~Sec. 214. Branch closures.~~
~~Sec. 215. Foreign banks.~~

~~Subtitle B—Eliminating Unnecessary Costs and Paperwork Burdens~~

~~Sec. 221. Small bank examination cycle.~~
~~Sec. 222. Reimbursement for corporate records.~~
~~Sec. 223. Required regulatory review of regulations.~~

~~Subtitle C—Eliminating Unnecessary Reporting Requirements~~

~~Sec. 231. Prohibition on additional reporting under Community Reinvestment Act of 1977.~~
~~Sec. 232. Exemption from community support requirements of the Federal Home Loan Bank Act for institutions meeting certain criteria.~~
~~Sec. 233. Recording requirements.~~
~~Sec. 234. Identification of nonbank financial institution customers.~~
~~Sec. 235. Repeal of commercial loan reporting requirements.~~
~~Sec. 236. Increase in Home Mortgage Disclosure Act; disclosure exemption.~~
~~Sec. 237. Elimination of stock loan reporting requirement.~~

~~Subtitle D—Regulatory Micromanagement~~

~~Sec. 241. National bank directors.~~
~~Sec. 242. Paperwork reduction review.~~
~~Sec. 243. State bank representation on Board of Directors of the FDIC.~~

~~TITLE III—REGULATORY IMPACT ON COST OF CREDIT AND CREDIT AVAILABILITY~~

~~Subtitle A—Lowering Compliance Costs To Promote Credit Availability~~

~~Sec. 301. Audit costs.~~
~~Sec. 302. Incentives for self-testing.~~
~~Sec. 303. Exemption for savings institutions serving military personnel.~~
~~Sec. 304. Qualified thrift investment amendments.~~
~~Sec. 305. Daylight overdrafts incurred by Federal home loan banks.~~
~~Sec. 306. Application for membership in the Federal home loan bank system.~~
~~Sec. 307. Authority for Federal home loan banks to select external auditors.~~
~~Sec. 308. Limited purpose bank growth cap relief.~~

~~Subtitle B—Disincentives to Risk-Taking~~

~~Sec. 311. Due process protections.~~

~~Subtitle C—Miscellaneous Nonsupervisory Reforms~~

~~Sec. 321. Liability for unauthorized use of credit cards.~~
~~Sec. 322. Unauthorized electronic fund transfers.~~

~~SEC. 2. DEFINITIONS.~~

~~For purposes of this Act—~~

~~(1) the term "Appraisal Subcommittee" means the Appraisal Subcommittee established under section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (as in existence prior to the date of enactment of this Act);~~

~~(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;~~

~~(3) the term "Council" means the Federal Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978;~~

~~(4) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act; and~~

~~(5) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.~~

~~TITLE I—REDUCTIONS IN GOVERNMENT OVERREGULATION~~

~~Subtitle A—The Home Mortgage Process~~

~~PART I—REGULATORY SIMPLIFICATION AND UNIFORMITY~~

~~SEC. 101. COORDINATION OF THE TRUTH IN LENDING ACT AND THE REAL ESTATE SETTLEMENT PROCEDURES ACT.~~

~~(a) AMENDMENTS TO TRUTH IN LENDING ACT.—Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:~~

~~"(e) AUTHORITY TO ELIMINATE, MODIFY, OR SIMPLIFY DISCLOSURE REQUIREMENTS.—The Board shall, by regulation, eliminate, modify, or simplify any disclosure required by this title, including the content and timing of the disclosure, if such action would make disclosures and timing of disclosures required by this title uniform with other laws relating to the disclosure of information in connection with credit transactions, including the Real Estate Settlement Procedures Act. No disclosure requirement~~

~~may be imposed under this subsection unless such requirement would have the effect of eliminating, modifying, or simplifying any disclosure required under this title.''.~~

~~(b) AMENDMENTS TO REAL ESTATE SETTLEMENT PROCEDURES ACT.—Section 19 of the Real Estate Settlement Procedures Act (12 U.S.C. 2617) is amended by adding at the end the following new subsection:~~

~~''(d) AUTHORITY TO ELIMINATE, MODIFY, OR SIMPLIFY DISCLOSURE REQUIREMENTS.—The Board shall, by regulation, eliminate, modify, or simplify any disclosure required by this title, including the content and timing of the disclosure, if such action would make disclosures and timing of disclosures required by this title uniform with other laws relating to the disclosure of information in connection with credit transactions, including the Truth in Lending Act. No disclosure requirement may be imposed under this subsection unless such requirement would have the effect of eliminating, modifying, or simplifying any disclosure required under this title.''.~~

~~SEC. 102. ELIMINATION OF REDUNDANT REGULATORS.~~

~~(a) DEFINITION.—Section 3 of the Real Estate Settlement Procedures Act (12 U.S.C. 2602) is amended—~~

~~(1) in paragraph (7), by striking ''and'' at the end;~~

~~(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and~~

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

~~''(9) the term 'Board' means the Board of Governors of the Federal Reserve System.''.~~

~~(b) CONFORMING AMENDMENTS.—The Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) is amended—~~

~~(1) in section 4, by striking ''Secretary'' each place such term appears and inserting ''Board'';~~

~~(2) in section 5, by striking ''Secretary'' each place such term appears and inserting ''Board'';~~

~~(3) in section 6, by striking ''Secretary'' each place such term appears and inserting ''Board'';~~

~~(4) in section 8—~~

~~(A) in subsection (c), by striking ''the Secretary,'' and inserting ''the Board,''; and~~

~~(B) in subsection (d), by striking ''Secretary'' each place such term appears and inserting ''Board'';~~

~~(5) in section 10, by striking ''Secretary'' each place such term appears and inserting ''Board'';~~

~~(6) in section 13, by striking ''Secretary'' and inserting ''Board'';~~

~~(7) in section 15—~~

~~(A) by striking "Secretary" each place such term appears and inserting "Board"; and~~

~~(B) by striking "the Secretary's assessment" and inserting "the assessment of the Board";~~

~~(8) in section 16, by striking "Secretary" each place such term appears and inserting "Board"; and~~

~~(9) in section 18, by striking "Secretary" each place such term appears and inserting "Board".~~

~~(c) REGULATIONS.—Section 19(a) of the Real Estate Settlement Procedures Act (12 U.S.C. 2617) is amended to read as follows:~~

~~"(a) REGULATIONS.—~~

~~"(1) IN GENERAL.—The Board shall prescribe such regulations as may be necessary to carry out this title.~~

~~"(2) SPECIFICATIONS.—The regulations promulgated under paragraph (1)—~~

~~"(A) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines to be necessary or proper to—~~

~~"(i) effectuate the purposes of this title;~~

~~"(ii) prevent circumvention or evasion of this title; or~~

~~"(iii) facilitate compliance with this title; and~~

~~"(B) shall minimize the burdens and cost imposed upon creditors and shall ensure that costs, burdens, and complexities to consumers are reduced.".~~

~~(d) ADMINISTRATIVE ENFORCEMENT.—The Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:~~

~~"SEC. 20. ADMINISTRATIVE ENFORCEMENT.~~

~~"(a) IN GENERAL.—Compliance with the requirements imposed under this title shall be enforced under—~~

~~"(1) section 8 of the Federal Deposit Insurance Act, with respect to—~~

~~"(A) any national bank or any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;~~

~~"(B) any member bank of the Federal Reserve System (other than a national bank), any branch or agency of a foreign bank (other than a Federal branch or Federal agency, or insured~~

~~State branch of a foreign bank), any commercial lending company owned or controlled by one or more foreign banks, or any organization operating under section 25 or 25A of the Federal Reserve Act, by the Board;~~

~~"(C) any bank insured under the Federal Deposit Insurance Act (other than a member of the Federal Reserve System) or any insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation; and~~

~~"(D) any savings association the deposits of which are insured under the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision;~~

~~"(2) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;~~

~~"(3) the Packers and Stockyards Act, 1921 (except as provided in section 406 of such Act), by the Secretary of Agriculture with respect to any activities subject to such Act; and~~

~~"(4) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any institution referred to in section 1.2(a) of that Act.~~

~~"(b) DEFINITIONS.—Each term in subsection (a)(1) that is not defined in this title shall have the same meaning as in section 1(b) of the International Banking Act of 1978.~~

~~"(c) ADDITIONAL ENFORCEMENT POWERS.—~~

~~"(1) VIOLATIONS.—For the purpose of the exercise by any agency referred to in subsection (a) of the powers of the agency under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.~~

~~"(2) POWERS.—In addition to the powers of the agency under any provision of law specifically referred to in subsection (a), each agency referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on the agency by law.~~

~~"(3) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to promulgate regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding the procedures of the Board in enforcing compliance with the requirements imposed under this title.~~

~~"(d) FTC ENFORCEMENT.—~~

~~"(1) IN GENERAL.—Except to the extent that the enforcement of the requirements imposed under this title is specifically committed to another agency of the Federal Government under subsection (a), the Federal Trade Commission shall enforce such requirements.~~

~~"(2) VIOLATIONS.—For the purpose of the exercise by the Federal Trade Commission of the functions and powers of the Commission under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.~~

~~"(3) FUNCTIONS AND POWERS.—All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements imposed under this title, regardless of whether or not the person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.".~~

~~SEC. 103. GENERAL EXEMPTION AUTHORITY FOR LOANS.~~

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

~~"(7) Transactions for which the Board, by rule, determines that coverage under this title is not necessary to carry out the purposes of this title.".~~

~~(b) EXEMPTION AUTHORITY.—Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:~~

~~"(f) EXEMPTION AUTHORITY.—~~

~~"(1) IN GENERAL.—The Board shall exempt from all or part of this title any class of transactions for which, in the determination of the Board, coverage under all or part of this title does not provide a measurable benefit to consumers in the form of useful information or protection.~~

~~"(2) FACTORS FOR CONSIDERATION.—In determining which classes of transactions to exempt in whole or in part under paragraph (1), the Board shall consider, among other factors—~~

~~"(A) the amount of the loan or closing costs and whether the disclosures, right of rescission, and other provisions are necessary, particularly for small loans, as determined by the Board;~~

~~"(B) whether the requirements of this title complicate, hinder, or make more expensive the credit process for the class of transactions; and~~

~~"(C) the status of the borrower, including—~~

~~"(i) the related financial arrangements of the borrower, as determined by the Board;~~

~~"(ii) the financial sophistication of the borrower relative to the type of transaction; and~~

~~"(iii) the importance to the borrower of the credit and related supporting property, as determined by the Board.".~~

~~SEC. 104. REDUCTIONS IN REAL ESTATE SETTLEMENT PROCEDURES ACT REGULATORY BURDENS.~~

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

~~"(a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for the loan, at the time of application for the loan, whether the servicing~~

~~of the loan may be assigned, sold, or transferred to any other person at any time while the loan is outstanding.''.~~

~~(b) SECOND MORTGAGES.—Section 3(1)(A) of the Real Estate Settlement Procedures Act (12 U.S.C. 2602(1)(A)) is amended by striking ''or subordinate''.~~

~~(c) CONSISTENCY OF REAL ESTATE SETTLEMENT PROCEDURES ACT AND TRUTH IN LENDING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of the Real Estate Settlement Procedures Act (12 U.S.C. 2606) is amended—~~

~~(1) by striking ''This Act'' and inserting the following:~~

~~''(a) IN GENERAL.—This Act''; and~~

~~(2) by adding at the end the following new subsection:~~

~~''(b) INTERPRETATION.—In promulgating regulations under section 19(a), the Board shall ensure that, with respect to subsection (a), the exemption for business credit includes all 'business credit' exempted from the Truth in Lending Act, as such term is interpreted by the Board.''.~~

~~PART II—CLARIFICATIONS TO REDUCE COSTS AND REGULATORY BURDENS~~

~~SEC. 111. EXEMPTION FOR CERTAIN BORROWERS.~~

~~Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end the following new paragraph:~~

~~"(8) Credit transactions involving consumers with an annual earned income of more than $200,000 or having net assets in excess of $1,000,000 at the time of the transaction.".~~

~~SEC. 112. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE RATE MORTGAGES.~~

~~(a) OPEN END CONSUMER CREDIT PLANS.—Section 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting before the semicolon the following: ", or a statement that the monthly payment may increase or decrease significantly due to increases in the annual percentage rate".~~

~~(b) TECHNICAL AMENDMENT.—Section 127A(b)(3) of the Truth in Lending Act (15 U.S.C. 1637a(b)(3)) is amended by striking "required under" and inserting "referred to in".~~

~~(c) CONSUMER CREDIT NOT UNDER OPEN END CREDIT PLAN.—Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)) is amended by adding at the end the following new paragraph:~~

~~"(14) In any variable interest rate residential mortgage transaction, at the option of the creditors, a statement that the monthly payment may increase or decrease substantially, or an historical example illustrating the effects of interest rate changes implemented according to the loan program.".~~

~~SEC. 113. TREATMENT OF CERTAIN CHARGES.~~

~~(a) THIRD PARTY FEES.—Section 106(a) of the Truth in Lending Act (15 U.S.C. 1605(a)) is amended by inserting after the second sentence the following new sentence: "The finance charge shall not include fees and amounts imposed by third party closing agents (including settlement agents, attorneys, and escrow and title companies) if the creditor does not expressly require the imposition of the charges and does not retain the charges.".~~

~~(b) TAXES ON SECURITY INSTRUMENTS OR EVIDENCES OF INDEBTEDNESS.—Section 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended by adding at the end the following new paragraph:~~

~~"(3) Any tax levied on security instruments or on documents evidencing indebtedness, if the payment of such tax is a precondition for recording the instrument securing the evidence of indebtedness.".~~

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

~~"(2) Fees for preparation of loan-related documents and attending or conducting settlement.".~~

~~(d) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to all extensions of credit with respect to which rescission rights have not been asserted as of January 4, 1995.~~

~~SEC. 114. EXEMPTIONS FROM RESCISSION.~~

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

~~(1) in paragraph (3), by striking "or" at the end;~~

~~(2) in paragraph (4), by striking the period at the end and inserting "; or"; and~~

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

~~"(5) a consumer credit transaction, other than a mortgage referred to in section 103(aa), that—~~

~~"(A) is secured by a first lien, in any amount; and~~

~~"(B) constitutes a refinancing or consolidation of an existing extension of credit.".~~

~~(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 125(e)(2) of the Truth in Lending Act (15 U.S.C. 1635(e)(2)) is amended by inserting ", other than a transaction described in subsection (e)(5),'' after ''a refinancing or consolidation (with no new advances)''.~~

~~SEC. 115. TOLERANCES; BASIS OF DISCLOSURES.~~

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

~~''(f) TOLERANCE FOR ACCURACY.—In connection with any consumer credit transaction not under an open end credit plan that is secured by real property or a dwelling, the disclosure of the finance charge and other disclosures affected by any finance charge shall be treated as being accurate for purposes of this title if the amount disclosed as the finance charge does not vary from the actual finance charge by more than $100.''.~~

~~(b) BASIS OF DISCLOSURE FOR PER DIEM INTEREST.—Section 121(c) of the Truth in Lending Act (15 U.S.C. 1631(c)) is amended by adding at the end the following new sentence: ''In the case of any consumer credit transaction, a portion of the interest on which is determined on a per diem basis and is to be collected upon the consummation of such transaction, any disclosure with respect to such portion of interest shall be deemed to be~~

~~accurate for purposes of this title if the disclosure is based on reasonably available information known to such person at the time that the disclosure documents are being prepared for the consummation of the transaction.''.~~

~~SEC. 116. LIMITATION ON LIABILITY.~~

~~(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:~~

~~''SEC. 139. CERTAIN LIMITATIONS ON LIABILITY.~~

~~''(a) LIMITATIONS ON LIABILITY FOR DISCLOSURES RELATING TO CERTAIN FEES AND CHARGES OTHER THAN FINANCE CHARGES.—~~

~~''(1) IN GENERAL.—In the case of any consumer credit transaction subject to this title consummated before the date of enactment of the Truth in Lending Act Amendments of 1995, no creditor or assignee with respect to such transaction shall have any civil, administrative, or criminal liability under this title for, and no consumer shall have any extended rescission rights under section 125(f) by reason of, the treatment by the creditor, for disclosure purposes, of any—~~

~~''(A) tax described in section 106(d)(3);~~

~~''(B) fees and amounts described in paragraph (2) or (5) of section 106(e) and third~~

~~party fees and amounts described in section 106(a); and~~

~~"(C) delivery charge imposed by a creditor.~~

~~"(2) EXCEPTIONS.—Subsection (a) shall not apply to—~~

~~"(A) any individual action or counterclaim brought under this title—~~

~~"(i) that was filed before October 1, 1994; and~~

~~"(ii) the pleadings in which (as filed before such date) allege improper disclosure of charges described in subparagraph (A), (B), or (C) of paragraph (1);~~

~~"(B) any class action brought under this title—~~

~~"(i) for which a class was certified before October 1, 1994; and~~

~~"(ii) the pleadings in which (as filed before such date) allege improper disclosure of charges described in subparagraph (A), (B), or (C) of paragraph (1);~~

~~"(C) the named individual plaintiffs in any class action brought under this title—~~

~~"(i) that was filed before October 1, 1994; and~~

~~"(ii) the pleadings in which (as filed before such date) allege improper disclosure of charges described in subparagraph (A), (B), or (C) of paragraph (1); or~~

~~"(D) any consumer credit transaction with respect to which a timely notice of rescission was sent to the creditor before October 1, 1994.~~

~~"(b) EXEMPTION FROM LIABILITY FOR FINANCE CHARGE DISCLOSURES WITHIN TOLERANCE LIMITS.—~~

~~"(1) IN GENERAL.—In the case of any consumer credit transaction subject to this title, including a transaction consummated before the date of enactment of the Truth in Lending Act Amendments of 1995, no creditor or assignee with respect to such transaction shall have any civil, administrative, or criminal liability under this title for, and no consumer shall have any extended rescission rights under section 125 by reason of, any disclosure relating to the finance charge imposed with respect to such transaction, if the amount or percentage actually disclosed—~~

~~"(A) may be treated as accurate pursuant to section 106(f); or~~

~~"(B) is greater than the amount or percentage required to be disclosed under this title.~~

~~"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—~~

~~"(A) any individual action or counterclaim brought under this title that was filed before October 1, 1994;~~

~~"(B) any class action brought under this title for which a class was certified before October 1, 1994;~~

~~"(C) the named individual plaintiffs in any class action brought under this title that was filed before October 1, 1994; or~~

~~"(D) any consumer credit transaction with respect to which a timely notice of rescission was sent to the creditor before October 1, 1994.".~~

~~(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 138 the following new item:~~

~~"Sec. 139. Certain limitations on liability.".~~

~~SEC. 117. LIMITATION ON RESCISSION PERIOD.~~

~~Section 125(f) of the Truth in Lending Act (15 U.S.C. 1635(f)) is amended—~~

~~(1) by striking "(f) An obligor's right of rescission" and inserting the following:~~

~~"(f) LIMITATION ON RESCISSION PERIOD.—~~

~~"(1) IN GENERAL.—The right of rescission of an obligor";~~

~~(2) by striking "except that if (1) any agency" and inserting the following: "except that if—~~

~~"(A) any agency";~~

~~(3) by striking "transaction, (2) such agency" and inserting the following: "transaction;~~

~~"(B) such agency";~~

~~(4) by striking "section 125, and (3) the obligor's" and inserting the following: "this section; and~~

~~"(C) the obligor's"; and~~

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

~~"(2) ACTIONS AFFECTED.—Except as otherwise provided in paragraph (1), the expiration of the right of rescission pursuant to this subsection shall be absolute and no consumer may assert rescission, affirmatively or as a defense, in any action brought under this title in any State or Federal court after the earlier of—~~

~~"(A) the expiration of the 3-year period beginning on the date on which the transaction is consummated; or~~

~~"(B) the date of the sale of the property securing the loan or other extension of credit.~~

~~"(3) PREEMPTION OF STATE LAW.—This subsection shall supersede any State law that is inconsistent with any provision of this subsection.".~~

~~SEC. 118. ASSIGNEE LIABILITY.~~

~~(a) VIOLATIONS APPARENT ON THE FACE OF TRANSACTION DOCUMENTS.—Section 131(a) of the Truth in Lending Act (15 U.S.C. 1641(a)) is amended to read as follows:~~

~~"(a) LIABILITY OF ASSIGNEE FOR APPARENT VIOLATIONS.—~~

~~"(1) IN GENERAL.—Except as otherwise specifically provided in this title, any civil action against a creditor for a violation of this title, and any proceeding under section 108 against a creditor, with respect to a consumer credit transaction may be maintained against any assignee of such creditor only if—~~

~~"(A) the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement provided in connection with such transaction pursuant to this title; and~~

~~"(B) the assignment to the assignee was voluntary.~~

~~"(2) VIOLATION APPARENT ON THE FACE OF THE DISCLOSURE DESCRIBED.—For purposes of this~~

~~section, a violation is apparent on the face of the disclosure statement if—~~

~~"(A) the disclosure can be determined to be incomplete or inaccurate from the face of the disclosure statement; or~~

~~"(B) the disclosure does not use the terms or format required to be used by this title.".~~

~~(b) SERVICER NOT TREATED AS ASSIGNEE.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following new subsection:~~

~~"(d) TREATMENT OF SERVICER.—~~

~~"(1) IN GENERAL.—A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as an assignee of such obligation for purposes of this section unless the servicer is the owner of the obligation.~~

~~"(2) SERVICER NOT TREATED AS OWNER ON BASIS OF ASSIGNMENT FOR ADMINISTRATIVE CONVENIENCE.—A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as the owner of the obligation for purposes of this section on the basis of an assignment of the obligation from the creditor or another assignee to the servicer solely for the administrative~~

~~convenience of the servicer in servicing the obligation.~~

~~"(3) SERVICER DEFINED.—For purposes of this subsection, the term 'servicer' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974.".~~

~~SEC. 119. MODIFICATION OF WAIVER OF RIGHT OF RESCISSION.~~

~~Section 125(d) of the Truth in Lending Act (15 U.S.C. 1635(d)) is amended by striking ", if it finds that such action is necessary in order to permit homeowners to meet bona fide personal financial emergencies,".~~

~~SEC. 120. APPLICABILITY.~~

~~Except as provided in section 113(d), the amendments made by this part shall apply to all consumer credit transactions consummated on or after the date of enactment of this Act.~~

~~Subtitle B—Amendments to the Community Reinvestment Act of 1977~~

~~SEC. 131. EXPRESSION OF CONGRESSIONAL INTENTION.~~

~~Section 802(b) of the Community Reinvestment Act of 1977 (12 U.S.C. 2901(b)) is amended to read as follows:~~

~~"(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use the authority of such agency, in examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered, consistent with the safe and sound operation of such institutions. In examining financial institutions under this title, a supervisory agency shall not impose any recordkeeping or reporting requirements that do not have the effect of eliminating, streamlining, or reducing regulatory burdens upon such institutions.".~~

~~SEC. 132. SMALL BANK EXEMPTION.~~

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

~~"SEC. 809. EXEMPT INSTITUTIONS.~~

~~"This title does not apply to a regulated financial institution for a calendar year if, as of the close of the immediately preceding calendar year, the total assets of the institution were not more than $250,000,000.".~~

~~SEC. 133. COMMUNITY INPUT AND CONCLUSIVE RATING.~~

~~(a) COMMUNITY INPUT AND CONCLUSIVE RATING.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by inserting after section 806 the following new section:~~

~~"SEC. 806A. COMMUNITY INPUT AND CONCLUSIVE RATING.~~

~~"(a) PUBLICATION OF EXAMINATION SCHEDULE AND OPPORTUNITY FOR COMMENT.—~~

~~"(1) PUBLICATION OF LIST; PUBLIC COMMENTS.—Thirty days prior to the beginning of each calendar quarter, each appropriate Federal financial supervisory agency shall—~~

~~"(A) publish in the Federal Register a list of institutions scheduled for examination pursuant to this title during that calendar quarter; and~~

~~"(B) provide an opportunity for comments from the community on the performance, under this title, of each institution scheduled for examination.~~

~~"(2) RECEIPT OF COMMENTS.—Any comments submitted under paragraph (1) shall be received by the appropriate Federal financial supervisory agency not later than 30 days after the commencement of the relevant calendar quarter.~~

~~"(b) RECONSIDERATION OF RATING.—~~

~~"(1) IN GENERAL.—Upon the filing of a request in accordance with this subsection, the rating of an institution made available to the public in accordance with section 807(b)(1)(C) may be reconsid-~~

~~ered by the appropriate Federal financial supervisory agency.~~

~~"(2) SPECIFIC REQUIREMENTS.—Each request under paragraph (1)—~~

~~"(A) shall be made in writing;~~

~~"(B) shall be filed with the appropriate Federal financial supervisory agency not later than 30 days after the date on which the rating of the institution is made available to the public in accordance with section 807(b)(1)(C);~~

~~"(C) may be filed by the institution or by a member of the community; and~~

~~"(D) shall be based on significant issues of a substantive nature that are relevant to the delineated community of the institution and, in the case of a request made by a member of the community, shall be limited to issues previously raised in comments submitted pursuant to subsection (a).~~

~~"(3) COMPLETION OF REQUESTED RECONSIDERATION.—Not later than 30 days after receiving a request for reconsideration filed in accordance with this subsection, the appropriate Federal financial supervisory agency shall complete the requested reconsideration.~~

~~"(c) CONCLUSIVE RATING.—~~

~~"(1) IN GENERAL.—The rating of an institution under section 807(b)(1)(C) shall become conclusive on the later of—~~

~~"(A) 30 days after the date on which the rating is made available to the public under that section; or~~

~~"(B) the completion of any requested reconsideration by the appropriate Federal financial supervisory agency in accordance with subsection (b).~~

~~"(2) EFFECT.—The rating of an institution shall be the conclusive assessment of the record of the institution in meeting the credit needs of the community of the institution for purposes of section 804 until the next rating of the institution, developed pursuant to an examination, becomes conclusive. Each institution that receives a 'satisfactory' or 'outstanding' rating shall be deemed to have met the purposes of section 804. Notwithstanding any other provision of law, nothing in this subsection shall be construed to grant a cause of action to any person.".~~

~~(b) CONFORMING AMENDMENT.—Section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C.~~

~~2903(a)) is amended by inserting "conducted in accordance with section 806A," after "financial institution,".~~

~~SEC. 134. SPECIAL PURPOSE BANKS.~~

~~(a) DEFINITION.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended—~~

~~(1) by redesignating the first paragraph designated as paragraph (2) as subparagraph (D) and indenting accordingly;~~

~~(2) in paragraph (2), by striking "and" at the end;~~

~~(3) in paragraph (3), by striking the period at the end and inserting a semicolon;~~

~~(4) in paragraph (4)—~~

~~(A) by striking "A financial" and inserting "a financial"; and~~

~~(B) by striking the period at the end and inserting "; and"; and~~

~~(5) by adding at the end the following new paragraph:~~

~~"(5) the term 'special purpose bank' means a bank that does not generally accept deposits from the public in amounts that are less than $100,000, such as a credit card bank or a trust bank.".~~

~~(b) ASSESSMENT OF RECORD OF MEETING COMMUNITY CREDIT NEEDS.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—~~

~~(1) by striking the section designation and all that follows through "In connection with" and inserting the following:~~

~~"SEC. 804. ASSESSMENT OF RECORD OF MEETING COMMUNITY CREDIT NEEDS.~~

~~"(a) IN GENERAL.—In connection with"; and~~

~~(2) by adding at the end the following new subsection:~~

~~"(c) SPECIAL PURPOSE BANKS.—In conducting assessments under subsection (a) at special purpose banks, each appropriate Federal financial supervisory agency shall—~~

~~"(1) take into consideration the nature of the businesses in which such banks are involved; and~~

~~"(2) develop standards under which such banks may be deemed to have complied with the requirements of this title that are consistent with the specific nature of such businesses.".~~

~~SEC. 135. INCREASED INCENTIVES TO LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.~~

~~Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection:~~

~~"(d) LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.—In assessing and taking into account the record of a financial institution under subsection (a), the appropriate Federal financial supervisory agency shall give positive consideration to any investments in and loans to joint ventures or entities or projects that provide benefits to distressed communities (as such term is defined by the appropriate Federal financial supervisory agency) made by the institution, regardless of whether or not the communities are located within the service area of the financial institution.".~~

~~Subtitle C—Payment of Interest Act~~

~~SEC. 141. PAYMENT OF INTEREST ACT.~~

~~Subtitle F of title H of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4301 et seq.) is amended to read as follows:~~

~~"Subtitle F—Payment of Interest Act~~

~~"SEC. 261. SHORT TITLE.~~

~~"This subtitle may be cited as the 'Payment of Interest Act'.~~

~~"SEC. 262. FINDINGS AND PURPOSE.~~

~~"(a) FINDINGS.—The Congress finds that the Truth in Savings Act created unnecessary paperwork, administrative and compliance burdens, and liability for depository institutions without enhancing the ability of consumers to make informed decisions regarding deposit accounts.~~

~~"(b) PURPOSE.—It is the purpose of this subtitle—~~

~~"(1) to repeal the unnecessary disclosure requirements of the Truth in Savings Act; and~~

~~"(2) to retain the provisions of the Truth in Savings Act that require that interest be paid on the full amount of the principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed.~~

~~"SEC. 263. PAYMENT OF INTEREST.~~

~~"(a) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by the institution on the full amount of principal in the account for each~~

~~day of the stated calculation period at the rate or rates of interest disclosed by the depository institution.~~

~~"(b) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (a) shall not be construed to prohibit or require the use of any particular method of compounding or crediting of interest.~~

~~"(c) DATE BY WHICH INTEREST SHALL ACCRUE.—Interest on accounts that are subject to this subtitle shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of that section.~~

~~"SEC. 264. REGULATIONS.~~

~~"(a) IN GENERAL.—~~

~~"(1) BY THE BOARD.—The Board, after consultation with each agency referred to in section 265(a) and public notice and opportunity for comment, shall promulgate regulations to carry out this subtitle.~~

~~"(2) APPLICABILITY.—This subtitle does not apply with respect to any depository institution before the effective date of regulations promulgated by the Board under paragraph (1).~~

~~"SEC. 265. ADMINISTRATIVE ENFORCEMENT.~~

~~"(a) IN GENERAL.—Compliance with the requirements imposed under this subtitle shall be enforced under—~~

~~"(1) section 8 of the Federal Deposit Insurance Act—~~

~~"(A) by the appropriate Federal banking agency with respect to any insured depository institution;~~

~~"(B) by the Federal Deposit Insurance Corporation with respect to any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that is not an insured depository institution; and~~

~~"(C) by the Director of the Office of Thrift Supervision with respect to any depository institution described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that is not an insured depository institution; and~~

~~"(2) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act.~~

~~"(b) ADDITIONAL ENFORCEMENT POWERS.—~~

~~"(1) VIOLATIONS.—For purposes of the exercise by any agency referred to in subsection (a) of the powers of such agency under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.~~

~~"(2) POWERS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this subtitle, any other authority conferred on such agency by law.~~

~~"(3) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to promulgate regulations under this subtitle does not impair the authority of any other agency referred to in subsection (a) to make rules regarding the procedures of the Board in enforcing compliance with the requirements imposed under this subtitle.~~

~~"SEC. 266. CIVIL LIABILITY.~~

~~"(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution that fails to comply with any requirement imposed under this subtitle or any regulation promulgated under this subtitle with re-~~

~~spect to any person who is an account holder at that institution shall be liable to such person in an amount equal to the sum of—~~

~~"(1) any actual damage sustained by such person as a result of the failure;~~

~~"(2) such additional amount as the court may allow, except that liability under this subparagraph shall not be less than $100 nor greater than $1,000; and~~

~~"(3) in the case of any successful action to enforce any liability under paragraph (1), the costs of the action, together with a reasonable attorney's fee, as determined by the court.~~

~~"(b) BONA FIDE ERRORS.—~~

~~"(1) IN GENERAL.—A depository institution may not be held liable in any action brought under this section for a violation of this subtitle if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.~~

~~"(2) EXAMPLES.—For purposes of paragraph (1), examples of a bona fide error include clerical, calculation, computer malfunction and programming,~~

~~and printing errors, except that an error of legal judgment with respect to an obligation of a depository institution under this subtitle is not a bona fide error.~~

~~"(c) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, not later than 1 year after the date of the occurrence of the violation involved.~~

~~"(d) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.~~

~~"(e) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 265 for any failure to comply with~~

~~any requirement imposed under this subtitle with respect to any account if—~~

~~"(1) the depository institution notifies the affected account holder of the failure of such institution to comply with such requirement before—~~

~~"(A) the expiration of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;~~

~~"(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and~~

~~"(C) any written notice of such failure to comply is received by the depository institution from the account holder; and~~

~~"(2) the depository institution makes such adjustments as may be necessary with respect to the account to ensure that interest is paid on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed by the depository institution.~~

~~"(f) MULTIPLE INTEREST IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—~~

~~"(1) the minimum and maximum amounts of liability under subsection (a)(2) for any failure to~~

~~comply with the requirements of this subtitle shall apply with respect to such account; and~~

~~"(2) the court shall determine the manner in which the amount shall be distributed among such persons.~~

~~"(g) CONTINUING FAILURE TO COMPLY.—~~

~~"(1) SINGLE VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to pay interest in accordance with section 263 with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.~~

~~"(2) SUBSEQUENT VIOLATION.—The continuing failure of any depository institution to pay interest in accordance with section 263 with respect to a particular account after judgment is rendered in favor of the account holder in connection with a prior failure to pay interest in accordance with section 263 with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).~~

~~"(3) EFFECT ON ENFORCEMENT POWER.—This subsection does not limit or otherwise affect the en-~~

~~forcement power under section 265 of any agency referred to in section 265(a).~~

~~"SEC. 267. DEFINITIONS.~~

~~"For purposes of this subtitle, the following definitions shall apply:~~

~~"(1) ACCOUNT.—The term 'account' means any account intended for use by and generally used by a consumer primarily for personal, family, or household purposes that is offered by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.~~

~~"(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.~~

~~"(3) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.~~

~~"(4) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.~~

"(5) INTEREST.—The term 'interest' includes dividends paid with respect to share draft accounts that are accounts within the meaning of paragraph (1).".

TITLE II—STREAMLINING GOVERNMENT REGULATION

Subtitle A—Eliminating Unnecessary Regulatory Requirements and Procedures

SEC. 201. STREAMLINING OF PRIOR APPROVAL REQUIREMENT FOR CERTAIN ACQUISITIONS.

(a) BANK HOLDING COMPANY ACT OF 1956 AMENDMENTS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

"(h) NO APPROVAL REQUIRED FOR CERTAIN TRANSACTIONS.—Notwithstanding paragraph (3) or (5) of subsection (a), an acquisition of shares by a registered bank holding company, or a merger or consolidation between registered bank holding companies, shall be deemed to be approved at the conclusion of the period specified in paragraph (7) if each of the following criteria is met:

"(1) FINANCIAL AND MANAGERIAL CRITERIA.—

"(A) WELL CAPITALIZED BANK HOLDING COMPANY.—Both at the time of and imme-

diately after the proposed transaction, the acquiring bank holding company is well capitalized.

"(B) WELL CAPITALIZED LEAD INSURED DEPOSITORY INSTITUTION.—Both at the time of and immediately after the proposed transaction, the lead insured depository institution of the acquiring bank holding company is well capitalized.

"(C) CAPITAL OF OTHER INSURED DEPOSITORY INSTITUTIONS.—At the time of the transaction, well capitalized insured depository institutions control not less than 80 percent of the aggregate total risk-weighted assets of all insured depository institutions controlled by the acquiring bank holding company.

"(D) NO UNDERCAPITALIZED INSURED DEPOSITORY INSTITUTIONS.—At the time of the transaction, no insured depository institution controlled by the acquiring bank holding company is undercapitalized.

"(E) WELL MANAGED.—

"(i) IN GENERAL.—At the time of the transaction, the acquiring bank holding company, the lead insured depository insti-

~~tution of that bank holding company, and insured depository institutions that control not less than 90 percent of the aggregate total risk-weighted assets of all insured depository institutions controlled by that bank holding company are well managed.~~

~~"(ii) NO POORLY MANAGED INSTITUTIONS.—~~

~~"(I) IN GENERAL.—No insured depository institution controlled by the acquiring bank holding company has 1 of the lowest 2 CAMEL composite ratings under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination or most recent review of the institution by the appropriate Federal banking agency.~~

~~"(II) RECENTLY ACQUIRED INSTITUTIONS.—Subclause (I) does not apply to an insured depository institution acquired by the acquiring bank holding company during the 12-month~~

~~period preceding the date of the proposed transaction, if—~~

~~"(aa) the bank holding company has developed a plan acceptable to the appropriate Federal banking agency for the institution to restore the capital and management of the institution; and~~

~~"(bb) all such insured depository institutions represent, in the aggregate, less than 10 percent of the aggregate total risk-weighted assets of all of the insured depository institutions controlled by the bank holding company.~~

~~"(iii) ADJUSTMENT OF AMOUNTS.—The Board may, by regulation, adjust the amounts and the manner in which the percentage of insured depository institutions is calculated under clauses (i) and (ii)(II)(bb) if the Board determines that such adjustment is consistent with the~~

~~principles of safety and soundness and the purposes of this Act.~~

~~"(2) NO UNSATISFACTORY CRA RATINGS.—~~

~~"(A) IN GENERAL.—No insured depository institution controlled by the acquiring bank holding company has a 'needs to improve' or 'substantial noncompliance' composite rating as of the most recent examination of such institution under the Community Reinvestment Act of 1977.~~

~~"(B) RECENTLY ACQUIRED INSTITUTIONS.—An insured depository institution acquired by the acquiring bank holding company during the 12-month period preceding the proposed transaction may be excluded for purposes of subparagraph (A) if the bank holding company has developed a plan acceptable to the appropriate Federal banking agency to restore the performance of the institution to at least a 'satisfactory' composite rating under the Community Reinvestment Act of 1977.~~

~~"(3) COMPETITIVE CRITERIA.—The consummation of the proposal complies with guidelines established by the Board, by regulation, after consultation with the Attorney General of the United States, that~~

~~identify proposals that are not likely to have a significantly adverse effect on competition in any relevant financial services market.~~

~~"(4) SIZE OF ACQUISITION.—~~

~~"(A) LIMITATIONS.—~~

~~"(i) ASSET SIZE.—The book value of the total assets acquired does not exceed 10 percent of the consolidated total risk-weighted assets of the acquiring bank holding company.~~

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

~~"(B) ADJUSTMENT TO LIMITATIONS.—The Board may, by regulation, adjust the limitations established in this paragraph in a manner consistent with the principles of safety and soundness and the purposes of this Act.~~

~~"(5) INTERSTATE ACQUISITIONS.—Approval by the Board of the transaction is not prohibited under subsection (d).~~

~~"(6) OTHER CONSIDERATIONS.—Approval by the Board of the transaction is not prohibited under subsection (c)(3).~~

~~"(7) NOTIFICATION.—The acquiring bank holding company provides written notice to the Board of the transaction, including a description of the terms of the transaction, not later than 15 business days (or such shorter period as established by the Board) prior to consummation of the transaction, and, prior to the conclusion of that period, the Board has not required an application under subsection (a).~~

~~"(i) DEFINITIONS.—For purposes of subsection (h), the following definitions shall apply:~~

~~"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.~~

~~"(2) CAPITAL TERMS.—~~

~~"(A) INSURED DEPOSITORY INSTITUTION.—With respect to an insured depository institution, the terms 'well capitalized', 'adequately capitalized', and 'undercapitalized' have the same meanings as in section 38(b) of the Federal Deposit Insurance Act.~~

~~"(B) BANK HOLDING COMPANY.—~~

~~"(i) ADEQUATELY CAPITALIZED.—A bank holding company is 'adequately capitalized' if the company meets the required minimum level for each relevant capital measure established by the Board for bank holding companies.~~

~~"(ii) WELL CAPITALIZED.—A bank holding company is 'well capitalized' if the company meets the required capital levels for well capitalized bank holding companies established by the Board.~~

~~"(C) OTHER CAPITAL TERMS.—The terms 'Tier 1' and 'risk-weighted assets' have the same meanings as in the capital guidelines or regulations established by the Board for bank holding companies.~~

~~"(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' includes any branch or agency operated in the United States by a foreign bank, as those terms are defined in section 1(b)(7) of the International Banking Act of 1978.~~

~~"(4) LEAD INSURED DEPOSITORY INSTITUTION.—The term 'lead insured depository institution' of a bank holding company means the largest insured depository institution controlled by the bank~~

holding company, based on a comparison of the average total risk-weighted assets of each insured depository institution controlled by that bank holding company during the most recent fiscal year of that bank holding company.

"(5) WELL MANAGED.—A bank holding company or depository institution is 'well managed' if, as of the most recent examination or most recent review of the company or institution by the appropriate Federal banking agency, the company or institution has—

"(A) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system); and

"(B) at least a 'satisfactory' rating for management.".

SEC. 202. ELIMINATION OF CERTAIN FILING AND APPROVAL REQUIREMENTS FOR CERTAIN INSURED DEPOSITORY INSTITUTIONS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) EXCEPTIONS.—No prior approval is required under paragraph (2) for any merger, consoli-

~~dation, acquisition of assets, or assumption of liabilities involving only insured depository institutions that are subsidiaries of the same depository institution holding company if—~~

~~"(A) the responsible agency would not be prohibited from approving the transaction under section 44;~~

~~"(B) the acquiring, assuming, or resulting institution complies with all applicable provisions of section 44 as if the merger, consolidation, or acquisition were approved under this subsection; and~~

~~"(C) the acquiring, assuming, or resulting institution provides written notification of the transaction to the appropriate Federal banking agency for the institution not later than 10 days prior to consummation of the transaction.".~~

~~SEC. 203. ELIMINATION OF REDUNDANT APPROVAL REQUIREMENT FOR OAKAR TRANSACTIONS.~~

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

~~(1) in subparagraph (A), by striking "with the prior written approval of the responsible agency under section 18(c)(2)";~~

~~(2) by striking subparagraph (E) and inserting the following:~~

~~"(E) CONDITIONS FOR APPROVAL, GENERALLY.—A transaction is not authorized under this paragraph unless the acquiring, assuming, or resulting depository institution will meet all applicable capital requirements upon consummation of the transaction."; and~~

~~(3) by striking subparagraph (G) and redesignating subparagraphs (H) through (J) as subparagraphs (G) through (I), respectively.~~

~~SEC. 204. ELIMINATION OF UNNECESSARY BRANCH APPLICATIONS.~~

~~(a) NATIONAL BANK BRANCH APPLICATIONS.—Section 5155(i) of the Revised Statutes (12 U.S.C. 36(i)) is amended—~~

~~(1) by striking "No branch" and inserting the following:~~

~~"(1) APPROVAL REQUIRED.—Except as provided in paragraph (2), no branch"; and~~

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

~~"(2) NO APPROVAL REQUIRED FOR CERTAIN BRANCHES.—Notwithstanding paragraph (1) of this subsection, subsection (b), or subsection (c), the con-~~

~~sent and approval of the Comptroller of the Currency shall not be required for a national banking association to establish and operate, or to retain and operate, a branch or seasonal agency if—~~

~~"(A) the association is well capitalized, as such term is defined in section 38(b) of the Federal Deposit Insurance Act and rules adopted by the Comptroller of the Currency thereunder;~~

~~"(B) the association has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such association;~~

~~"(C) the association does not have a 'needs to improve' or 'substantial noncompliance' composite rating as of the most recent examination of the association under the Community Reinvestment Act of 1977; and~~

~~"(D) the Comptroller of the Currency is otherwise authorized to grant approval under this section for such action at the proposed location.~~

~~"(3) ESTABLISHMENT BY NATIONAL BANKING ASSOCIATION.—A branch or seasonal agency established by a national banking association under paragraph (2) shall be deemed to have been established and operated pursuant to an application approved under this section.".~~

~~(b) STATE MEMBER BANK BRANCH APPLICATIONS.—The third undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end the following: "Notwithstanding the 2 preceding sentences, the approval of the Board shall not be required for a State member bank to establish and operate a branch or seasonal agency if—~~

~~"(1) the State member bank is well capitalized, as such term is defined in section 38(b) of the Federal Deposit Insurance Act and rules adopted by the Board thereunder;~~

~~"(2) the State member bank has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such State member bank;~~

~~"(3) the State member bank does not have a 'needs to improve' or 'substantial noncompliance'~~

~~composite rating as of the most recent examination of the member bank under the Community Reinvestment Act of 1977; and~~

~~"(4) the Board is authorized to grant approval under this section to such State member bank to establish and operate a branch or seasonal agency at the proposed location.~~

~~A branch or seasonal agency established by a State member bank under the preceding sentence shall be deemed to have been established and operated pursuant to an application approved under this section.".~~

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

~~"(5) APPLICATION EXEMPTION FOR CERTAIN BANKS.—Notwithstanding paragraph (1), the consent of the Corporation shall not be required for a State nonmember insured bank to establish and operate any domestic branch if—~~

~~"(A) the bank is well capitalized, as such term is defined in section 38(b) and rules adopted by the Corporation thereunder;~~

~~"(B) the bank has a CAMEL composite rating of 1 or 2 under the Uniform Financial~~

~~Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such bank;~~

~~"(C) the bank does not have a 'needs to improve' or 'substantial noncompliance' composite rating as of the most recent examination of such bank under the Community Reinvestment Act of 1977; and~~

~~"(D) the Corporation is authorized to give consent under this section to such bank to establish and operate a domestic branch at the proposed location.~~

~~"(6) APPROVAL GRANTED.—A branch established by a State member bank under paragraph (5) shall be deemed to have been established and operated pursuant to an application approved under this section.".~~

~~SEC. 205. ELIMINATION OF DUPLICATIVE REQUIREMENTS IMPOSED UPON BANK HOLDING COMPANIES UNDER THE HOME OWNERS' LOAN ACT.~~

~~(a) EXEMPTION FOR BANK HOLDING COMPANIES.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:~~

~~"(t) EXEMPTION FOR BANK HOLDING COMPANIES.—This section does not apply to a bank holding company that is subject to the Bank Holding Company Act of 1956, or any company controlled by such bank holding company.".~~

~~(b) DEFINITION.—Section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read as follows:~~

~~"(D) SAVINGS AND LOAN HOLDING COMPANY.—~~

~~"(i) IN GENERAL.—Except as provided in clause (ii), the term 'savings and loan holding company' means any company that directly or indirectly controls a savings association or controls any other company that is a savings and loan holding company.~~

~~"(ii) EXCLUSION.—The term 'savings and loan holding company' does not include a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or to any company directly or indirectly controlled by such company (other than a savings association).".~~

~~(c) ACQUISITIONS.—Section 10(c)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(1)(B)) is amended in the first sentence—~~

~~(1) by striking "or (ii)" and inserting "(ii)"; and~~

~~(2) by inserting after "group of persons" the following: ", or (iii) acquired by a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or any company controlled by such bank holding company".~~

~~SEC. 206. ELIMINATION OF THE PER BRANCH CAPITAL REQUIREMENT FOR NATIONAL BANKS AND STATE MEMBER BANKS.~~

~~Section 5155(h) of the Revised Statutes (12 U.S.C. 36(h)) is amended to read as follows:~~

~~"(h) [Reserved.]".~~

~~SEC. 207. ELIMINATION OF BRANCH APPLICATION REQUIREMENTS FOR AUTOMATIC TELLER MACHINES.~~

~~(a) "BRANCH" UNDER NATIONAL BANK ACT.—Section 5155(j) of the Revised Statutes (12 U.S.C. 36(j)) is amended by adding at the end the following: "The term 'branch' does not include an automated teller machine or a remote service unit.".~~

~~(b) "BRANCH" UNDER FEDERAL DEPOSIT INSURANCE ACT.—Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended by striking "lent; and the" and inserting "lent. The term 'domestic branch' does not include an automated teller machine or a remote service unit. The".~~

~~SEC. 208. ELIMINATION OF REQUIREMENT FOR APPROVAL OF INVESTMENTS IN BANK PREMISES FOR WELL CAPITALIZED AND WELL MANAGED BANKS.~~

~~Section 24A of the Federal Reserve Act (12 U.S.C. 371d) is amended by inserting before the period at the end the following: ", or if such bank has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such bank and, both before and immediately following the investment or loan, is well capitalized (as such term is defined in section 38(b) of the Federal Deposit Insurance Act) and the amount of such investment or loan would be equal to or less than 150 percent of the capital and surplus of such bank".~~

~~SEC. 209. ELIMINATION OF APPROVAL REQUIREMENT FOR DIVESTITURES.~~

~~Section 2(g) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)) is amended—~~

~~(1) in paragraph (1), by adding "and" at the end;~~

~~(2) in paragraph (2), by striking "; and" and inserting a period; and~~

~~(3) by striking paragraph (3).~~

~~SEC. 210. ELIMINATION OF UNNECESSARY FILING FOR OFFICER AND DIRECTOR APPOINTMENTS.~~

~~Section 32 of the Federal Deposit Insurance Act (12 U.S.C. 1831i) is amended—~~

~~(1) in subsection (a)—~~

~~(A) by inserting "(or such other period, as determined by the appropriate Federal banking agency)" after "30 days";~~

~~(B) by striking "if the insured depository institution or depository institution holding company" and inserting "if";~~

~~(C) by striking paragraphs (1) and (2);~~

~~(D) by redesignating paragraph (3) as paragraph (1);~~

~~(E) in paragraph (1), as redesignated—~~

~~(i) by inserting "the insured depository institution or depository institution~~

holding company'' before ''is not in compliance''; and

(ii) by striking the period at the end and inserting ''; and''; and

(F) by adding at the end the following new paragraph:

''(G) the agency determines, in connection with the review by the agency of the plan required under section 38 or otherwise, that such prior notice is appropriate.''; and

(2) in subsection (b), by striking ''30-day period'' and inserting ''notice period, not to exceed 90 days.''.

SEC. 211. AMENDMENTS TO THE DEPOSITORY INSTITUTIONS MANAGEMENT INTERLOCKS ACT.

(a) DUAL SERVICE AMONG LARGER ORGANIZATIONS.—Section 204 of the Depository Institution Management Interlocks Act (12 U.S.C. 3203) is amended—

(1) by striking ''$1,000,000,000'' and inserting ''$2,500,000,000'';

(2) by striking ''$500,000,000'' and inserting ''$1,500,000,000''; and

(3) by adding at the end the following: ''In order to allow for inflation or market changes, the appropriate Federal depository institutions regu-

~~latory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institutions or depository holding companies under this section.''.~~

~~(b) EXTENSION OF GRANDFATHER EXEMPTION.—Section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) is amended—~~

~~(1) in subsection (a), by striking ''for a period of, subject to the requirements of subsection (c), 20 years after the date of enactment of this title'';~~

~~(2) in subsection (b), by striking the second sentence; and~~

~~(3) by striking subsection (c).~~

~~(c) RULES OR REGULATIONS.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended—~~

~~(1) by striking ''(a) IN GENERAL.—Rules'' and inserting ''Rules'';~~

~~(2) by inserting '', including rules or regulations that permit service by a management official that would otherwise be prohibited by section 203 or section 204,'' after ''title''; and~~

~~(3) by striking subsections (b) and (c).~~

~~SEC. 212. ELIMINATION OF RECORDKEEPING AND REPORTING REQUIREMENTS FOR OFFICERS.~~

~~(a) PERMISSIBILITY OF EMPLOYEE-WIDE BENEFIT PLANS.—~~

~~(1) EMPLOYEE BENEFIT PLANS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended—~~

~~(A) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting accordingly;~~

~~(B) by striking "(2) PREFERENTIAL TERMS PROHIBITED.—" and inserting the following:~~

~~"(2) PREFERENTIAL TERMS PROHIBITED.—~~

~~"(A) IN GENERAL.—"; and~~

~~(C) by adding at the end the following new subparagraph:~~

~~"(B) EXCEPTION.—Nothing in this paragraph shall prohibit extensions of credit made pursuant to a benefit or compensation program widely available to employees of the member bank.".~~

~~(2) EXCEPTION FOR EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS AND DIRECTORS OF NONBANK AFFILIATES.—Section 22(h)(8)(B) of the Federal Reserve Act (12 U.S.C. 375b(8)(B)) is~~

~~amended by striking ", except as that subparagraph makes applicable paragraph (2),".~~

~~(b) RECORDKEEPING REQUIREMENTS.—Section 22(h)(10) of the Federal Reserve Act (12 U.S.C. 375b(10)) is amended—~~

~~(1) by striking "The Board" and inserting the following:~~

~~"(A) IN GENERAL.—The Board"; and~~

~~(2) by adding at the end the following new paragraph:~~

~~"(B) RECORDKEEPING REQUIREMENTS.—The regulations prescribed by the Board under subparagraph (A) shall—~~

~~"(i) specify the recordkeeping required of member banks to ensure compliance with this section; and~~

~~"(ii) provide that if a member bank is determined to be in compliance with such recordkeeping requirements, such member bank shall also be determined to be in compliance with the audit requirement of section 36(e) of the Federal Deposit Insurance Act.".~~

~~(c) REPORTING REQUIREMENTS.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended by~~

~~striking paragraphs (6) and (9) and redesignating paragraphs (7), (8), and (10) as paragraphs (6), (7), and (8), respectively.~~

~~(d) UNNECESSARY REPORTS.—Section 7(k) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)) is amended to read as follows:~~

~~"(k) [Reserved.]".~~

~~(e) REPORTS REGARDING LOANS FROM CORRESPONDENT BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—~~

~~(1) by striking subparagraph (G); and~~

~~(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.~~

~~SEC. 213. ABOLITION OF APPRAISAL SUBCOMMITTEE; TRANSFER OF FUNCTIONS.~~

~~(a) ABOLITION OF APPRAISAL SUBCOMMITTEE.—~~

~~(1) AMENDMENT TO FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.—Section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) is repealed.~~

~~(2) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—~~

~~(A) REPEALS.—The following sections of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 are repealed:~~

~~(i) Section 1102 (12 U.S.C. 3310).~~

~~(ii) Section 1104 (12 U.S.C. 3333).~~

~~(iii) Section 1105 (12 U.S.C. 3334).~~

~~(iv) Section 1106 (12 U.S.C. 3335).~~

~~(v) Section 1108 (12 U.S.C. 3337).~~

~~(B) DEFINITIONS.—Section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350) is amended—~~

~~(i) by striking paragraphs (2) and (8);~~

~~(ii) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively; and~~

~~(iii) by redesignating paragraphs (9) and (10) as paragraphs (7) and (8), respectively.~~

~~(3) CONFORMING AMENDMENT TO THE NATIONAL HOUSING ACT.—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended—~~

~~(A) by striking paragraph (2); and~~

~~(B) by redesignating paragraphs (3) and (4) and paragraphs (2) and (3), respectively.~~

~~(b) TRANSFER OF FUNCTIONS.—~~

~~(1) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—~~

~~(A) TRANSFER OF FUNCTIONS.—Section 1103 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332) is amended—~~

~~(i) by striking "**SEC. 1103.**" and inserting "**SEC. 1102.**";~~

~~(ii) by striking "Appraisal Subcommittee" each place such term appears and inserting "Federal Financial Institutions Examination Council"; and~~

~~(iii) in subsection (a)—~~

~~(I) in paragraph (3), by inserting before the semicolon the following: ", if the Council determines that maintaining a national registry under this paragraph will further the purposes of this title (as described in section 1101)"; and~~

(II) by striking paragraph (4) and inserting the following:

"(4) include in its annual report to the Congress a description of the manner in which the Council has performed the functions assigned to the Council under this title.".

(B) ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS.—Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338) is amended to read as follows:

"SEC. 1104. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS.

"(a) IN GENERAL.—Each State that has an appraiser certifying and licensing agency with a certification or license that meets the requirements of this title shall—

"(1) upon request of the Federal Financial Institutions Examination Council, transmit to the Council annually (or at a less frequent interval specified by the Council) a roster listing individuals who have received a State certification or license in accordance with this title;

"(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee, in an amount

~~determined by the Council, but not to exceed $10 per year, to support the activities of the State under this title; and~~

~~"(3) transmit all registry fees to the Council on an annual basis.~~

~~"(b) STATUS OF FEES.—Fees collected and transmitted to the Council under subsection (a) shall not be considered to be appropriated funds.".~~

~~(C) CONFORMING AMENDMENTS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended—~~

~~(i) in section 1116(c)—~~

~~(I) by striking "Appraisal Subcommittee" and inserting "Federal Financial Institutions Examination Council"; and~~

~~(II) by striking "the Subcommittee" and inserting "the Federal Financial Institutions Examination Council";~~

~~(ii) in section 1118—~~

~~(I) in the subsection heading, by striking "BY APPRAISAL SUBCOMMITTEE"; and~~

~~(II) by striking "Appraisal Subcommittee" each place such term appears and inserting "Federal Financial Institutions Examination Council";~~

~~(iii) in section 1119—~~

~~(I) by striking "Subject to the approval of the Council, the Appraisal Subcommittee" each place such term appears and inserting "The Council"; and~~

~~(II) by striking "Appraisal Subcommittee" each place such term appears and inserting "Federal Financial Institutions Examination Council";~~

~~(iv) in section 1120, by striking "Appraisal Subcommittee" and inserting "Federal Financial Institutions Examination Council";~~

~~(v) in section 1122, by striking subsection (f); and~~

~~(vi) by redesignating—~~

~~(I) section 1107 as section 1103; and~~

~~(II) sections 1109 through 1121 as sections 1104 through 1116, respectively.~~

~~(2) ADMINISTRATIVE PROVISIONS.—~~

~~(A) REMISSION OF FUNDS TO THE TREASURY.—On the date that is 90 days after the date of enactment of this Act, all funds held by, and the right to collect all funds owed to, the Appraisal Subcommittee on the date that is 90 days after the date of enactment of this Act shall be transferred to the Treasury of the United States.~~

~~(B) REPAYMENT OF PREPAID REGISTRY FEES.—Not later than 90 days after the date of enactment of this Act, the Appraisal Subcommittee shall refund to the States any registry fees prepaid to the Appraisal Subcommittee after the date of enactment of this Act.~~

~~(C) TRANSFER OF EMPLOYEES.—~~

~~(i) IDENTIFYING EMPLOYEES FOR TRANSFER.—Not later than 30 days after the date of enactment of this Act, the Council shall identify for transfer to the Council the employees of the Appraisal Subcommittee that the Council determines~~

~~to be necessary to perform the functions transferred to the Council under this subsection.~~

~~(ii) TRANSFER DATE.—On the date that is 90 days after the date of enactment of this Act, each employee identified for transfer under clause (i) shall be transferred to the Council.~~

~~(D) RIGHTS OF TRANSFERRED EMPLOYEES.—~~

~~(i) COMPARABLE POSITIONS.—Each employee transferred to the Council under subparagraph (C) shall, on the transfer date specified in subparagraph (C)(ii), be appointed to a position under the compensation system and performance evaluation system of the Council that is comparable in tenure and grade to the position held by the employee on the day before the transfer date specified in subparagraph (C)(ii).~~

~~(ii) PAY.—~~

~~(I) IN GENERAL.—Except as provided in subclause (II), each employee transferred to the Council under sub-~~

~~paragraph (C) shall, during the 12-month period beginning on the transfer date specified in subparagraph (C)(ii), receive pay at a rate not less than the basic rate of pay that the employee received during the 12-month period immediately preceding the transfer date specified in subparagraph (C)(ii).~~

~~(II) EXCEPTIONS.—Subclause (I) does not limit the right of the Council to reduce a transferred rate of basic pay of an employer for cause or unacceptable performance, or with the consent of the employee.~~

~~(III) PROTECTION ONLY WHILE EMPLOYED.—Subclause (I) shall apply to an employee only during the period that the employee is employed by the Council.~~

~~(iii) RETIREMENT BENEFITS.—~~

~~(I) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as otherwise permitted by law, each employee transferred to the Council under sub-~~

~~paragraph (C) shall remain enrolled in the retirement plan (and any associated thrift savings plan) in which the employee was enrolled on the day before the transfer date specified in subparagraph (C)(ii) during the period that the employee is employed by the Council.~~

~~(II) EMPLOYER CONTRIBUTION.—The Council shall pay any employer contributions to the retirement plan in which each employee transferred to the Council under subparagraph (C) is subject during the period that the employee is employed by the Council, in accordance with such retirement plan.~~

~~(iv) NO PRIVATE RIGHT OF ACTION.—This subparagraph does not provide any employee with any right of action to require the Council or any officer, employee, agent, or administrator of the Council to take any action under this subparagraph.~~

~~(v) PRIORITY OF THIS ACT.—If any protection provided under this subpara-~~

~~graph conflicts with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this subparagraph shall control.~~

~~SEC. 214. BRANCH CLOSURES.~~

~~(a) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1) is amended by adding at the end the following new subsection:~~

~~"(e) DEFINITIONS.—For purposes of this section, the term 'branch' does not include—~~

~~"(1) an automated teller machine;~~

~~"(2) a branch acquired through merger, consolidation, purchase, assumption or other method that is located in a local market area currently served by another branch of the acquiring institution;~~

~~"(3) a branch that is closed and reopened in another location within the same local market area that would continue to provide banking services to substantially all of the customers currently served by the branch that is closed;~~

~~"(4) a branch that is closed in connection with—~~

~~"(A) an emergency acquisition under—~~

~~"(i) section 11(n); or~~

~~"(ii) subsection (f) or (k) of section 13; or~~

~~"(B) any assistance provided by the Corporation under section 13(c); or~~

~~"(5) any other branch closure the exemption of which from the notice requirements of this section would not produce a result inconsistent with the purposes of this section, as determined, by regulation, by the appropriate Federal banking agency.".~~

~~(b) EFFECTIVE DATE.—The amendment made by this section shall be construed to have become effective on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.~~

~~SEC. 215. FOREIGN BANKS.~~

~~(a) TERMINATION OF FOREIGN BRANCHES.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(c)) is amended—~~

~~(1) by striking the subsection designation and the subsection heading;~~

~~(2) by striking paragraphs (1) through (6);~~

~~(3) by redesignating paragraph (7) as paragraph (5); and~~

~~(4) by inserting before paragraph (5), as redesignated, the following:~~

~~"(c) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—~~

~~"(1) RECOMMENDATION FOR TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—~~ ~~The Board may transmit to the Comptroller of the Currency or to any appropriate State bank supervisor a recommendation that the license of any branch, agency, or commercial bank lending company subsidiary of a foreign bank in the United States be terminated if the Board finds that—~~

~~"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the home country of the foreign bank; or~~

~~"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and~~

~~"(ii) as a result of such violation or practice, the continued operation of the branch, agency, or commercial lending company subsidiary of the foreign bank in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank~~

~~Holding Company Act of 1956, or the Federal Deposit Insurance Act.~~

~~"(2) NOTICE AND HEARING.—~~

~~"(A) IN GENERAL.—The Board shall provide notice and opportunity for a hearing to a foreign bank before transmitting to the Comptroller of the Currency or to any appropriate State bank supervisor a recommendation described in paragraph (1).~~

~~"(B) DISCRETION TO DENY HEARING.—The Board may transmit a recommendation under subparagraph (A) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.~~

~~"(3) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank that is required to terminate activities conducted at offices of subsidiaries in the United States as a result of a recommendation made under this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.~~

~~"(4) ENFORCEMENT OF ORDERS.—~~

~~"(A) IN GENERAL.—The Comptroller of the Currency or the appropriate State bank supervisor may invoke the aid of the district court of the United States within the jurisdiction in which the office or subsidiary is located in case of contumacy of any office or subsidiary of the foreign bank against which—~~

~~"(i) the Comptroller of the Currency has issued an order under section 4(i); or~~

~~"(ii) any appropriate State bank supervisor has issued—~~

~~"(I) an order in response to a recommendation under paragraph (1); or~~

~~"(II) a refusal by such office or subsidiary to comply with such order.~~

~~"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).".~~

~~(b) ELIMINATION OF DUPLICATE EXAMINATIONS OF FOREIGN BANKS.—Section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(1)) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:~~

~~"(B) RELIANCE ON PRIMARY SUPERVISOR.—In order to avoid unnecessary duplication and cost, the Board shall, to the maximum extent practicable, rely upon the reports of examinations made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisor in achieving the purposes of this subsection.~~

~~"(C) ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be subject to on-site examination on the same schedule that a comparable national or State nonmember bank would be examined by the Comptroller of the Currency or the Federal Deposit Insurance Corporation.~~

~~"(D) COST OF EXAMINATIONS.—The cost of any examination undertaken under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as applicable, but only to the same extent that fees are collected by the Board for examination of any State member insured bank.".~~

~~(c) STREAMLINING REVIEW OF FOREIGN BANK APPLICATIONS BY THE BOARD.—Section 7(d) of the International Banking Act of 1978 (12 U.S.C. 3105(d)) is amended—~~

~~(1) by striking paragraphs (1) and (2) and inserting the following:~~

~~"(1) PRIOR REVIEW REQUIRED.—~~

~~"(A) IN GENERAL.—Before any foreign bank application to establish a branch or an agency, or acquire ownership or control of a commercial lending company may be approved by any appropriate State bank supervisor or the Comptroller of the Currency, the application shall be submitted for review to the Board for a period of not more than 60 days.~~

~~"(B) PURPOSE.—The purpose of the review conducted under subparagraph (A) shall be to determine whether approval of any application would place at risk the safe and sound operation of the United States banking system.~~

~~"(2) AUTHORITY OF THE BOARD.—Based on the determination described in paragraph (1), the Board may—~~

~~"(A) deny the application;~~

~~"(B) extend for 60 days the period for review of any application, after providing notice of and the reasons for the extension to the applicant and any appropriate State bank supervisor or the Comptroller of the Currency; or~~

~~"(C) approve the application, either by affirmative action or by taking no action during the 60-day period described in paragraph (1)."; and~~

~~(2) in paragraph (3)—~~

~~(A) by redesignating subparagraphs (A) through (D) as subparagraphs (C) through (F); and~~

~~(B) by striking "In" and all that follows through "account—" and inserting the following: "In making any determination under paragraph (1), the Board may consider—~~

~~"(A) whether the foreign bank engages directly in the business of banking outside of the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the home country of the foreign bank;~~

~~"(B) whether the foreign bank has furnished to the Board the information it needs to adequately assess the application;".~~

~~Subtitle B—Eliminating Unnecessary Costs and Paperwork Burdens~~

~~SEC. 221. SMALL BANK EXAMINATION CYCLE.~~

~~(a) TIME PERIOD DISCRETION.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—~~

~~(1) in the section heading, by striking "**18-MONTH RULE**" and inserting "**24-MONTH RULE**"; and~~

~~(2) in the first sentence, by striking "18-month" and inserting "24-month".~~

~~(b) SMALL BANK SIZE DISCRETION.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended—~~

~~(1) by redesignating the second paragraph designated as paragraph (8) as paragraph (9); and~~

~~(2) in paragraph (9), as redesignated, by striking "$175,000,000" and inserting "$250,000,000".~~

~~SEC. 222. REIMBURSEMENT FOR CORPORATE RECORDS.~~

~~Section 1115(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3415) is amended by inserting "(in-~~

~~cluding any corporate customer)'' after ''pertaining to a customer''.~~

~~SEC. 223. REQUIRED REGULATORY REVIEW OF REGULATIONS.~~

~~(a) IN GENERAL.—Not less frequently than once every 10 years, the Council and each appropriate Federal banking agency represented on the Council shall conduct a review of all regulations promulgated by the Council or by any such appropriate Federal banking agency, respectively, in order to identify outdated or otherwise unnecessary regulatory requirements imposed upon insured depository institutions.~~

~~(b) PROCESS.—In conducting the review under subsection (a), the Council or the appropriate Federal banking agency shall—~~

~~(1) categorize the regulations by type (such as consumer regulations, safety and soundness regulations, or such other designations as determined by the Council), and~~

~~(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.~~

~~(c) COMPLETE REVIEW.—The Council or the appropriate Federal banking agency shall ensure that the notice and comment period described in subsection (b)(2) is conducted with respect to all regulations described in subsection (a) not less frequently than once every 10 years.~~

~~(d) REGULATORY RESPONSE.—The Council or the appropriate Federal banking agency shall—~~

~~(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and~~

~~(2) eliminate unnecessary regulations to the extent that such action is appropriate.~~

~~(e) REPORT TO CONGRESS.—Not later than 30 days after carrying out subsection (d)(1), the Council shall provide to the Congress a report, which shall include—~~

~~(1) a summary of any significant issues raised by public comments received by the Council and the appropriate Federal banking agencies under this section and the relative merits of such issues; and~~

~~(2) an analysis of whether the appropriate Federal banking agency involved is able to address the regulatory burdens associated with such issues by regulation, or whether such burdens must be addressed by legislative action.~~

~~Subtitle C—Eliminating Unnecessary Reporting Requirements~~

~~SEC. 231. PROHIBITION ON ADDITIONAL REPORTING UNDER COMMUNITY REINVESTMENT ACT OF 1977.~~

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

~~"SEC. 806. REGULATIONS.~~

~~"(a) IN GENERAL.—Each appropriate Federal financial supervisory agency shall promulgate such regulations as may be necessary to carry out this title.~~

~~"(b) NO ADDITIONAL RECORDKEEPING REQUIREMENTS.—The regulations promulgated under subsection (a) and any accompanying policy statements, commentary, examiner guidances, or other supervisory material shall not impose any recordkeeping requirements on financial institutions that do not have the effect of eliminating, streamlining, or reducing regulatory burdens upon such institutions.~~

~~"(c) LOAN DATA.—No loan data may be required to be collected and reported by a financial institution and no such data may be made public by any Federal financial supervisory agency under this title.".~~

~~SEC. 232. EXEMPTION FROM COMMUNITY SUPPORT REQUIREMENTS OF THE FEDERAL HOME LOAN BANK ACT FOR INSTITUTIONS MEETING CERTAIN CRITERIA.~~

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

~~"(3) MEMBERS EXCLUDED.—~~

~~"(A) IN GENERAL.—No rule or regulation promulgated under this subsection that establishes community support requirements shall apply to a member if such member—~~

~~"(i) is a regulated financial institution (as such term is defined in section 803 of the Community Reinvestment Act of 1977); and~~

~~"(ii)(I) has not received a composite rating of 'needs to improve' or 'substantial noncompliance' from the primary regulator of the member as of the most recent examination of the member under the Community Reinvestment Act of 1977; or~~

~~"(II) has been in operation for less than 2 years and has not received a rating from the primary regulator of the member~~

~~under the Community Reinvestment Act of 1977.~~

~~"(B) ADDITIONAL REQUIREMENTS.—If a member does not qualify for an exemption under subparagraph (A), the record of the member of lending to first-time homebuyers shall be taken into account in determining compliance with the rules and regulations described in subparagraph (A).".~~

~~SEC. 233. RECORDING REQUIREMENTS.~~

~~Section 5325 of title 31, United States Code, is amended—~~

~~(1) in subsection (a)—~~

~~(A) by striking "unless—" and all that follows through the end of paragraph (1) and inserting "unless the individual has a transaction account with such financial institution and the financial institution verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual."; and~~

~~(B) by striking paragraph (2); and~~

~~(2) in subsection (b), by striking "paragraph (1) or (2)".~~

~~SEC. 234. IDENTIFICATION OF NONBANK FINANCIAL INSTITUTION CUSTOMERS.~~

~~(a) IN GENERAL.—Section 5327 of title 31, United States Code, is repealed.~~

~~(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5321(a)(7) of title 31, United States Code, is repealed.~~

~~SEC. 235. REPEAL OF COMMERCIAL LOAN REPORTING REQUIREMENTS.~~

~~The following sections of the Federal Deposit Insurance Corporation Improvement Act of 1991 are repealed:~~

~~(1) Section 122 (12 U.S.C. 1817 note).~~

~~(2) Section 477 (12 U.S.C. 251).~~

~~SEC. 236. INCREASE IN HOME MORTGAGE DISCLOSURE ACT; DISCLOSURE EXEMPTION.~~

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

~~(1) in the second sentence, by striking "$10,000,000" and inserting "$50,000,000"; and~~

~~(2) by adding at the end the following: "The Board may also exempt from the provisions of this title any institution described in section 303(2)(A) that has total assets of not less than $50,000,000 as of the last complete fiscal year of the institution, if the burden on the institution of complying with this~~

title outweighs the usefulness of the information required to be disclosed.''.

(b) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsection:

''(m) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—

''(1) IN GENERAL.—

''(A) SATISFACTION OF PUBLIC AVAILABILITY REQUIREMENTS.—A depository institution shall be deemed to have satisfied the public availability requirements of subsection (a) if the institution compiles the information required under that subsection at the home office of the institution and provides notice at the branch locations specified in subsection (a) that such information is available from the home office of the institution upon written request.

''(B) PROVISION OF INFORMATION UPON REQUEST.—Not later than 15 days after the receipt of the written request for any information required to be compiled under subsection (a), the home office of the depository institution receiving the request shall provide the information

~~pertinent to the location of the branch in question to the person requesting the information.~~

~~"(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall, in the sole discretion of the institution, provide the person requesting such information with—~~

~~"(A) a paper copy of the information requested; or~~

~~"(B) if acceptable to the person, the information through a form of electronic medium, such as a computer disk.".~~

~~SEC. 237. ELIMINATION OF STOCK LOAN REPORTING REQUIREMENT.~~

~~Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—~~

~~(1) by striking paragraphs (9) and (10);~~

~~(2) by redesignating paragraphs (11) through (18) as paragraphs (9) through (16), respectively; and~~

~~(3) in paragraph (9), as redesignated, by striking "or (9)".~~

~~Subtitle D—Regulatory Micromanagement~~

~~SEC. 241. NATIONAL BANK DIRECTORS.~~

~~Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "except" and all that follows through the end of the sentence and inserting the following: "except that the Comptroller may, in the discretion of the Comptroller, waive the requirement of citizenship (in the case of not more than a minority of the total number of directors) and the requirement of residency.".~~

~~SEC. 242. PAPERWORK REDUCTION REVIEW.~~

~~Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board, in consultation with insured depository institutions, insured credit unions, and other interested parties, shall—~~

~~(1) review the extent to which existing regulations require insured depository institutions and insured credit unions to produce unnecessary internal written policies; and~~

~~(2) eliminate such requirements, where appropriate.~~

~~SEC. 243. STATE BANK REPRESENTATION ON BOARD OF DIRECTORS OF THE FDIC.~~

~~(a) IN GENERAL.—Section 2(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amended—~~

~~(1) by striking "5 members" and inserting "6 members";~~

~~(2) in subparagraph (B), by striking "and" at the end;~~

~~(3) in subparagraph (C), by striking the period at the end and inserting "; and"; and~~

~~(4) by adding at the end the following new subparagraph:~~

~~"(D) 1 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals serving as State bank commissioners or supervisors (or the functional equivalent thereof) as of the date on which the appointment is made.".~~

~~(b) CHAIRPERSON AND VICE CHAIRPERSON.—Section 2(b) of the Federal Deposit Insurance Act (12 U.S.C. 1812(b)) is amended—~~

~~(1) in paragraph (1), by striking "appointed members" and inserting "members appointed pursuant to subsection (a)(1)(C)"; and~~

~~(2) in paragraph (2), by striking "appointed members" and inserting "members appointed pursuant to subsection (a)(1)(C)".~~

~~(c) TERMS.—Section 2(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(c)(1)) is amended—~~

~~(1) by striking "Each appointed member" and inserting the following:~~

~~"(A) IN GENERAL.—Each member appointed pursuant to subsection (a)(1)(C)"; and~~

~~(2) by adding at the end the following:~~

~~"(B) STATE BANK REPRESENTATIVES.—~~

~~"(i) IN GENERAL.—Except as provided in clause (ii), each member appointed pursuant to subsection (a)(1)(D) shall be appointed for a single term of 2 years.~~

~~"(ii) EXCEPTION.—If a member appointed pursuant to subsection (a)(1)(D) ceases to be a State banking commissioner or supervisor (or functional equivalent thereof) on a date prior to the expiration of the 2-year period described in clause (i), such member's membership on the Board of Directors shall terminate on that date.".~~

~~(d) VACANCIES.—Section 2(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(d)(1)) is amended—~~

~~(1) by striking "Any vacancy" and inserting the following:~~

~~"(A) IN GENERAL.—Subject to the restrictions contained in subparagraph (B), any vacancy"; and~~

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

~~"(B) RESTRICTIONS.—~~

~~"(i) SAME INDIVIDUAL.—In filling a vacancy on the Board of Directors pursuant to subsection (a)(1)(D), the President may not appoint an individual who has previously served as a member of the Board of Directors pursuant to subsection (a)(1)(D).~~

~~"(ii) SAME STATE.—In filling a vacancy on the Board of Directors pursuant to subsection (a)(1)(D) (other than a vacancy occurring under subsection (c)(1)(B)(ii)), the President may not appoint an individual who is serving as the State bank commissioner or supervisor (or functional equivalent thereof) of the same State as the member most recently appointed pursuant to subsection (a)(1)(D).".~~

~~(c) NONCOMPENSATION; TRAVEL EXPENSES.—Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by adding at the end the following new subsection:~~

~~"(g) PERSONNEL MATTERS RELATING TO STATE BANK REPRESENTATIVES.—Members of the Board of Directors appointed pursuant to subsection (a)(1)(D)—~~

~~"(1) shall serve without compensation; and~~

~~"(2) shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board of Directors.".~~

~~TITLE III—REGULATORY IMPACT ON COST OF CREDIT AND CREDIT AVAILABILITY~~

~~Subtitle A—Lowering Compliance Costs To Promote Credit Availability~~

~~SEC. 301. AUDIT COSTS.~~

~~(a) IN GENERAL.—~~

~~(1) AUDITOR ATTESTATIONS.—Section 36 of the Federal Deposit Insurance Act (12 U.S.C.~~

~~1831m) is amended by striking subsection (e) and inserting the following:~~

~~"(e) [Reserved.]".~~

~~(2) INDEPENDENT AUDIT COMMITTEES.—Section 36(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(1)) is amended—~~

~~(A) in subparagraph (A), by striking "entirely" and inserting "the majority of which is"; and~~

~~(B) by adding at the end the following new subparagraph:~~

~~"(D) EXEMPTION AUTHORITY.—~~

~~"(i) IN GENERAL.—Each appropriate Federal banking agency shall, by regulation, exempt from the requirements of this subsection each insured depository institution that has, in the determination of the agency, encountered hardships in retaining competent directors on the internal audit committee of the institution as a result of this subsection.~~

~~"(ii) FACTORS CONSIDERED.—In determining whether to exempt an insured depository institution under clause (i), each appropriate Federal banking agency~~

~~shall take into consideration such factors as the size of the institution and the availability of competent outside directors from the community of the institution.''.~~

~~(3) PUBLIC AVAILABILITY.—Section 36(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(a)(3)) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, the Corporation and the appropriate Federal banking agencies may designate certain information as privileged and confidential and not available to the public.''.~~

~~SEC. 302. INCENTIVES FOR SELF-TESTING.~~

~~(a) EQUAL CREDIT OPPORTUNITY.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended—~~

~~(1) by inserting after section 704 the following new section:~~

~~''SEC. 704A. ENCOURAGEMENT OF CREDITORS TO SELF-TEST FOR EQUAL CREDIT OPPORTUNITY ACT COMPLIANCE.~~

~~''If a creditor conducts, or authorizes an independent third party to conduct, a test or review of the lending operations of the creditor or any part of the lending operations of the creditor in order to determine the level or effective-~~

~~ness of compliance with this title by the creditor, any report or results of such a test or review may not be reviewed, obtained, examined, or otherwise acquired or used by any department or agency authorized to enforce this title.";~~

~~(2) in section 706(g), by adding at the end the following: "An agency may refer a matter to the Attorney General under this subsection if the creditor has already identified the matter as a possible violation of this title as the result of internal review, self-testing, compliance review, or other audit or review procedure instituted by the creditor to determine compliance with this title. Nothing in this subsection shall limit the authority of the agency to enforce this title under any other provision of law."; and~~

~~(3) in section 706(k)—~~

~~(A) by redesignating subparagraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting appropriately;~~

~~(B) by striking "Whenever" and inserting the following:~~

~~"(1) IN GENERAL.—Whenever"; and~~

~~(C) by adding at the end the following new paragraph:~~

"(2) LIMITATION.—An agency referred to in paragraph (1), (2), or (3) of section 704(a) may notify the Secretary of Housing and Urban Development or the applicant of a violation of this title or of the Fair Housing Act if the creditor has already identified the matter as a possible violation of either this title or the Fair Housing Act as a result of internal review, self-testing, compliance review, or other audit or review procedure instituted by the creditor to determine compliance with this title. Nothing in this subsection shall limit the authority of the agency to enforce this title under any other provision of law.".

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

"SEC. 814A. ENCOURAGEMENT TO SELF-TEST FOR FAIR HOUSING ACT COMPLIANCE.

"If any person conducts, or authorizes an independent third party to conduct, a test or review of the residential real estate or real estate-related activities of the person, or any part thereof, in order to determine the level or effectiveness of compliance with this Act by that person, any report or results of such a test or review may not be reviewed, obtained, examined, or otherwise acquired or

~~used by any department or agency authorized to enforce this Act.''.~~

~~SEC. 303. EXEMPTION FOR SAVINGS INSTITUTIONS SERVING MILITARY PERSONNEL.~~

~~Section 10(m)(3)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(3)(F)) is amended to read as follows:~~

~~''(F) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATIONS SERVING CERTAIN MILITARY PERSONNEL.—Subparagraph (A) does not apply to a savings association subsidiary of a savings and loan holding company if not less than 90 percent of the customers of the savings and loan holding company and the subsidiaries and affiliates of such company are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.''.~~

~~SEC. 304. QUALIFIED THRIFT INVESTMENT AMENDMENTS.~~

~~(a) CREDIT CARDS.—Section 5(b) of the Home Owners' Loan Act (12 U.S.C. 1464(b)) is amended—~~

~~(1) by striking paragraph (4); and~~

~~(2) by redesignating paragraph (5) as paragraph (4).~~

~~(b) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraphs:~~

~~"(T) CREDIT CARD LOANS.—Loans made through credit cards or credit card accounts.~~

~~"(U) EDUCATION LOANS.—Loans made for the payment of educational expenses.".~~

~~(c) COMMERCIAL AND OTHER LOANS.—Section 5(c)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by adding at the end the following: "No loan may be made under this subparagraph in an amount that exceeds 20 percent of the total assets of the Federal savings association, and any loan amount in excess of 10 percent of the total assets of the Federal savings association may be invested only in small business loans, as such term is defined by the Director.".~~

~~(d) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT OF ASSETS.—Section 5(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)) is amended—~~

~~(1) by striking subparagraph (A); and~~

~~(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.~~

~~(c) QUALIFIED THRIFT LENDER TEST.—Section 10(m)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)) is amended—~~

~~(1) by redesignating subparagraph (B) as clause (ii);~~

~~(2) in subparagraph (A), by striking "(A) the savings" and inserting "(B)(i) the savings"; and~~

~~(3) by inserting after "if—" the following new subparagraph:~~

~~"(A) the savings association qualifies as a domestic building and loan association, as such term is defined in section 7701(a)(19) of the Internal Revenue Code of 1986; or".~~

~~(f) DEFINITION.—Section 10(m)(4) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)) is amended—~~

~~(1) in subparagraph (C)—~~

~~(A) in clause (ii), by adding at the end the following new subclause:~~

~~"(VII) Loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts.";~~

~~(B) in clause (iii), by striking subclause (VI) and inserting the following:~~

~~"(VI) Loans for personal, family, or household purposes (other than loans for personal, family, or household purposes covered by clause (ii)(VII)).";~~ ~~and~~

~~(2) by adding at the end the following new subparagraphs:~~

~~"(D) CREDIT CARD.—The Director shall issue such regulations as may be necessary to define the term 'credit card'.~~

~~"(E) SMALL BUSINESS.—The Director shall issue such regulations a may be necessary to define the term 'small business'.".~~

~~SEC. 305. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.~~

~~The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following new section:~~

~~SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.~~

~~"Any policy or regulation adopted by the Board of Governors of the Federal Reserve System governing payment system risk or intraday credit shall—~~

~~"(1) include—~~

~~"(A) the establishment of net debit caps appropriate to the credit quality of each Federal Home Loan Bank; and~~

~~"(B) the imposition of normal fees for daylight overdrafts, calculated in the same manner as fees for other users; or~~

~~"(2) exempt Federal Home Loan Banks from such policy or regulation.".~~

~~SEC. 306. APPLICATION FOR MEMBERSHIP IN THE FEDERAL HOME LOAN BANK SYSTEM.~~

~~Section 4(b) of the Federal Home Loan Bank Act (12 U.S.C. 1424(b)) is amended to read as follows:~~

~~"(b) MEMBERSHIP BASED ON CONVENIENCE.—~~

~~"(1) APPLICATION PROCESS.—An institution eligible to become a member under this section may become a member by submitting an application for membership—~~

~~"(A) to the Bank in the district in which the principal place of business of the institution is located; or~~

~~"(B) if the Board determines that such action is necessary for the convenience of the institution, to the Bank in any district that is adjacent to the district in which the principal place of business of the institution is located.~~

~~"(2) APPROVAL OF APPLICATION.—An application for membership submitted under this subsection shall be approved by the Bank if, in the judgment of the Bank, the applicant meets the criteria for eligibility contained in this section.".~~

~~SEC. 307. AUTHORITY FOR FEDERAL HOME LOAN BANKS TO SELECT EXTERNAL AUDITORS.~~

~~Section 11(j) of the Federal Home Loan Bank Act (12 U.S.C. 1431(j)) is amended—~~

~~(1) by striking "(j) Notwithstanding" and inserting the following:~~

~~"(j) AUDITS.—~~

~~"(1) IN GENERAL.—Notwithstanding"; and~~

~~(2) by adding at the end the following new paragraph:~~

~~"(2) SELECTION OF EXTERNAL AUDITORS.—~~

~~"(A) IN GENERAL.—The Federal Home Loan Banks shall, on an annual basis, contract for an annual audit with a single auditor.~~

~~"(B) ROLE OF THE BOARD.—Notwithstanding any other provision of law, the Board shall not participate in any audit or audit contracting process under this paragraph, except that the Board may establish requirements for audit contracts and accounting standards used~~

~~in connection with any audit under this paragraph.''.~~

~~SEC. 308. LIMITED PURPOSE BANK GROWTH CAP RELIEF.~~

~~Section 4(f)(3)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended—~~

~~(1) in clause (ii), by adding ''or'' at the end;~~

~~(2) in clause (iii), by striking ''; or'' at the end and inserting a period; and~~

~~(3) by striking clause (iv).~~

~~Subtitle B—Disincentives to Risk-Taking~~

~~SEC. 311. DUE PROCESS PROTECTIONS.~~

~~(a) ATTACHMENT OF ASSETS.—Section 11(d)(19) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(19)) is amended—~~

~~(1) in subparagraph (A), by striking ''without regard'' and all that follows through ''immediate''; and~~

~~(2) in subparagraph (B), by striking ''(as modified with respect to such proceeding by subparagraph (A))''.~~

~~(b) CEASE-AND-DESIST PROCEEDINGS.—Section 8(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(6)) is amended—~~

~~(1) in subparagraph (D), by striking "and" at the end;~~

~~(2) in subparagraph (E), by striking "and" at the end;~~

~~(3) by redesignating subparagraph (F) as subparagraph (G); and~~

~~(4) by inserting after subparagraph (E) the following new subparagraph:~~

~~"(F) prohibit such party from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property if injury, loss, or damage to such property is irreparable and immediate; and".~~

~~(c) PREJUDGMENT ATTACHMENT.—~~

~~(1) INSURED DEPOSITORY INSTITUTIONS.—Section 8(i)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended to read as follows:~~

~~"(B) STANDARD.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under this paragraph.".~~

~~(2) INSURED CREDIT UNIONS.—~~

~~(A) POWERS AND DUTIES OF BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—Section 207(b)(2)(H) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)(H)) is amended—~~

~~(i) in clause (i), by striking "without regard" and all that follows through "immediate"; and~~

~~(ii) in clause (ii), by striking "(as modified with respect to such proceeding by clause (i))".~~

~~(B) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—Section 206(e)(3) of the Federal Credit Union Act (12 U.S.C. 1786(e)(3)) is amended—~~

~~(i) in subparagraph (D), by striking "and" at the end;~~

~~(ii) in subparagraph (E), by striking "and" at the end;~~

~~(iii) by redesignating subparagraph (F) as subparagraph (G); and~~

~~(iv) by inserting after subparagraph (E) the following new subparagraph:~~

~~"(F) refrain from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property if injury, loss, or damage to such property is irreparable and immediate; and".~~

~~Subtitle C—Miscellaneous Nonsupervisory Reforms~~

~~SEC. 321. LIABILITY FOR UNAUTHORIZED USE OF CREDIT CARDS.~~

~~Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended by adding at the end the following new paragraph:~~

~~"(3)(A) Notwithstanding paragraph (1), a cardholder shall be liable for the unauthorized use of a credit card if—~~

~~"(i) the liability is in excess of $50; and~~

~~"(ii) the cardholder fails to notify the card issuer of any unauthorized transaction that appears on the statement of the account of the cardholder in connection with an extension of consumer credit prior to the expiration of the 60-day period beginning on the date on which such statement is received by the cardholder.~~

~~"(B) The liability described in subparagraph (A) does not apply if the cardholder demonstrates that the failure to notify the card issuer in a timely manner of the unauthorized use was due to extenuating circumstances such as extended travel or hospitalization, and notice was provided at the earliest possible time thereafter.~~

~~"(C) The liability described in subparagraph (A) shall only apply if the card issuer has provided prior notice to the cardholder of such liability.".~~

~~SEC. 322. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.~~

~~Section 909(a)(1) of Electronic Fund Transfer Act (15 U.S.C. 1693g(a)(1)) is amended by inserting "(or in cases in which the cardholder has substantially contributed to the unauthorized electronic fund transfer, including writing on or keeping with the card or other means of access a personal identification or other security code, $500)" after "$50".~~

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Regulatory Paperwork Reduction Act of 1995".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—STREAMLINING THE HOME MORTGAGE LENDING PROCESS

Sec. 101. Coordination of the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974.
Sec. 102. Elimination of redundant regulators.
Sec. 103. General exemption authority for loans.
Sec. 104. Reductions in Real Estate Settlement Procedures Act of 1974 regulatory burdens.
Sec. 105. Co-branding and affinity group endorsements.
Sec. 106. Waiver for certain borrowers.
Sec. 107. Alternative disclosures for adjustable rate mortgages.
Sec. 108. Restitution for violations of the Truth in Lending Act.

TITLE II—STREAMLINING GOVERNMENT REGULATION

Subtitle A—Eliminating Unnecessary Regulatory Requirements and Procedures

Sec. 201. Elimination of certain filing and approval requirements for certain insured depository institutions.
Sec. 202. Elimination of redundant approval requirement for Oakar transactions.
Sec. 203. Elimination of duplicative requirements imposed upon bank holding companies.
Sec. 204. Elimination of the per branch capital requirement for national banks and State member banks.
Sec. 205. Elimination of branch application requirements for automatic teller machines.
Sec. 206. Elimination of requirement for approval of investments in bank premises for well capitalized and well managed banks.
Sec. 207. Elimination of approval requirement for divestitures.
Sec. 208. Streamlined nonbanking acquisitions by well capitalized and well managed banking organizations.
Sec. 209. Elimination of unnecessary filing for officer and director appointments.
Sec. 210. Amendments to the Depository Institution Management Interlocks Act.
Sec. 211. Elimination of recordkeeping and reporting requirements for officers.
Sec. 212. Consolidation of appraisal subcommittee; transfer of functions.
Sec. 213. Branch closures.
Sec. 214. Foreign banks.
Sec. 215. Disposition of foreclosed assets.

Subtitle B—Eliminating Unnecessary Regulatory Burdens

Sec. 221. Small bank examination cycle.
Sec. 222. Required review of regulations.
Sec. 223. Repeal of identification of nonbank financial institution customers.
Sec. 224. Repeal of commercial loan reporting requirements.
Sec. 225. Increase in home mortgage disclosure exemption threshold.
Sec. 226. Elimination of stock loan reporting requirement.
Sec. 227. Credit availability assessment.

Subtitle C—Regulatory Micromanagement

Sec. 241. National bank directors.
Sec. 242. Paperwork reduction review.
Sec. 243. State bank representation on board of directors of the FDIC.
Sec. 244. Consultation among examiners.

TITLE III—REGULATORY IMPACT ON COST OF CREDIT AND CREDIT AVAILABILITY

Sec. 301. Audit costs.
Sec. 302. Incentives for self-testing.
Sec. 303. Exemption for savings institutions serving military personnel.
Sec. 304. Qualified thrift investment amendments.
Sec. 305. Daylight overdrafts incurred by Federal Home Loan Banks.
Sec. 306. Application for membership in the Federal Home Loan Bank system.
Sec. 307. Authority for Federal Home Loan Banks to select external auditors.
Sec. 308. Limited purpose banks.
Sec. 309. Collateralization of advances to members.
Sec. 310. Increasing limit on total advances by the FHLB system to non-QTL institutions.

Sec. 311. Fair debt collection practices.

TITLE IV—FAIR CREDIT REPORTING

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Furnishing consumer reports; use for employment purposes.
Sec. 404. Use of consumer reports for prescreening and direct marketing; prohibition on unauthorized or uncertified use of information.
Sec. 405. Consumer consent required to furnish consumer report containing medical information; furnishing consumer reports for commercial transactions.
Sec. 406. Obsolete information and information contained in consumer reports.
Sec. 407. Compliance procedures.
Sec. 408. Consumer disclosures.
Sec. 409. Procedures in case of the disputed accuracy of any information in a consumer's file.
Sec. 410. Charges for certain disclosures.
Sec. 411. Duties of users of consumer reports.
Sec. 412. Civil liability.
Sec. 413. Responsibilities of persons who furnish information to consumer reporting agencies.
Sec. 414. Investigative consumer reports.
Sec. 415. Increased criminal penalties for obtaining information under false pretenses.
Sec. 416. Administrative enforcement.
Sec. 417. State enforcement of Fair Credit Reporting Act.
Sec. 418. Federal Reserve Board authority.
Sec. 419. Preemption of State law.
Sec. 420. Action by FTC and Federal Reserve Board.
Sec. 421. Amendment to Fair Debt Collection Practices Act.
Sec. 422. Furnishing consumer reports for certain purposes relating to child support.
Sec. 423. Disclosure of information and consumer reports to FBI for counterintelligence purposes.
Sec. 424. Effective date.
Sec. 425. Relationship to other law.

TITLE V—ASSET CONSERVATION, LENDER LIABILITY, AND DEPOSIT INSURANCE PROTECTION

Sec. 501. Short title.
Sec. 502. Federal Deposit Insurance Act amendment.
Sec. 503. CERCLA amendments.
Sec. 504. Solid Waste Disposal Act amendments.
Sec. 505. Effective date.

TITLE VI—STUDIES AND REPORTS; MISCELLANEOUS

Sec. 601. Electronic Fund Transfer Act clarification.
Sec. 602. Treatment of claims arising from breach of post-appointment agreements.
Sec. 603. Fictitious financial instruments.
Sec. 604. Amendments to the Truth in Savings Act.
Sec. 605. Consumer Leasing Act amendments.
Sec. 606. Credit union study.

Sec. 607. Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.
Sec. 608. State-by-state and metropolitan area-by-metropolitan area study of bank fees.
Sec. 609. Prospective application of gold clauses in contracts.

SEC. 2. DEFINITIONS.

Unless otherwise specified in this Act, for purposes of this Act—

(1) the term "Appraisal Subcommittee" means the Appraisal Subcommittee established under section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (as in existence on the day before the date of enactment of this Act);

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "Board" means the Board of Governors of the Federal Reserve System;

(4) the term "Corporation" means the Federal Deposit Insurance Corporation;

(5) the term "Council" means the Federal Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978;

(6) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act; and

(7) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

TITLE I—STREAMLINING THE HOME MORTGAGE LENDING PROCESS

SEC. 101. COORDINATION OF THE TRUTH IN LENDING ACT AND THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.

(a) AMENDMENTS TO TRUTH IN LENDING ACT.—Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:

"(e) AUTHORITY TO ELIMINATE, MODIFY, OR SIMPLIFY AND IMPROVE DISCLOSURE REQUIREMENTS.—

"(1) IN GENERAL.—The Board shall, by regulation, eliminate, modify or simplify, and improve any disclosure required by this title, including the content and timing of the disclosure, if such action would make disclosures and timing of disclosures required by this title uniform with other laws relating to the disclosure of information in connection with credit transactions, including the Real Estate Settlement Procedures Act of 1974, while furthering the purposes of this title.

"(2) LIMITATION.—No disclosure requirement may be imposed under this subsection unless such requirement would have the effect of eliminating, modifying or simplifying, and improving any disclosure required under this title.".

(b) AMENDMENTS TO REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.—Section 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617) is amended by adding at the end the following new subsection:

"(d) AUTHORITY TO ELIMINATE, MODIFY, OR SIMPLIFY AND IMPROVE DISCLOSURE REQUIREMENTS.—

"(1) IN GENERAL.—The Board shall, by regulation, eliminate, modify or simplify, and improve any disclosure required by this Act, including the content and timing of the disclosure, if such action would—

"(A) make disclosures and timing of disclosures required by this title uniform with other laws relating to the disclosure of information in connection with credit transactions, including the Truth in Lending Act; or

"(B) further the purposes of this Act.

"(2) LIMITATION.—No disclosure requirement may be imposed under this subsection unless such requirement would have the effect of eliminating, modi-

fying or simplifying, and improving any disclosure required under this Act.".

SEC. 102. ELIMINATION OF REDUNDANT REGULATORS.

(a) DEFINITION.—Section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

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

"(9) the term 'Board' means the Board of Governors of the Federal Reserve System; and

"(10) the term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) CONFORMING AMENDMENTS.—The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended—

(1) in section 4, by striking "Secretary" each place such term appears and inserting "Board";

(2) in section 5, by striking "Secretary" each place such term appears and inserting "Board";

(3) in section 6, by striking "Secretary" each place such term appears and inserting "Board";

(4) in section 8(d)(4), by striking "Secretary" and inserting "Secretary or the appropriate Federal banking agency, as provided in section 20,";

(5) in section 10(c)(1)(C), by striking "Not later" and all that follows through "Act, the Secretary", and inserting "The Board";

(6) in section 16, by striking "the Secretary" and inserting "the Secretary or the appropriate Federal banking agency";

(7) in section 18—

(A) by striking "Secretary is authorized to" and inserting "Board or Secretary, as applicable, may"; and

(B) by striking "Secretary" each place such term appears and inserting "Secretary or the Board"; and

(8) in section 19, by amending the section heading to read as follows:

"SEC. 19. AUTHORITY OF THE SECRETARY AND THE BOARD.".

(c) REGULATIONS.—

(1) IN GENERAL.—Section 19(a) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617(a)) is amended to read as follows:

"(a) REGULATIONS.—

"(1) IN GENERAL.—The Board or the Secretary shall prescribe such regulations as may be necessary to carry out this title, as set forth in paragraph (3).

"(2) SPECIFICATIONS.—The regulations promulgated under paragraph (1)—

"(A) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board or the Secretary, as appropriate, determines to be necessary or proper to—

"(i) effectuate the purposes of this title;

"(ii) prevent circumvention or evasion of this title; or

"(iii) facilitate compliance with this title; and

"(B) shall minimize the burdens and cost imposed upon creditors and shall ensure that costs, burdens, and complexities to consumers are reduced, while necessary information regarding the cost of financing to consumers is provided.

"(3) APPLICATION.—

"(A) BOARD.—The authority of the Board under paragraph (1) shall apply with respect to—

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

"(ii) sections 3, 7, 17, 18, and 19, to the extent that such sections are applicable with respect to the sections described in clause (i).

"(B) SECRETARY.—The authority of the Secretary under paragraph (1) shall apply with respect to—

"(i) sections 8 and 9; and

"(ii) sections 3, 7, 17, 18, and 19, to the extent such sections are applicable with respect to the sections described in clause (i).".

(2) CONFORMING AMENDMENTS.—Section 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2617) is amended—

(A) in subsection (b), by inserting ", the Board," after "the Secretary";

(B) in subsection (c)(1)—

(i) by striking "Secretary may" and inserting "Secretary and the appropriate Federal banking agency may";

(ii) by striking "Secretary is" and inserting "Secretary and the appropriate Federal banking agency are"; and

(iii) by striking "Secretary deems" and inserting "Secretary or the appropriate Federal banking agency deems"; and

(C) in subsection (c)(2), by striking "Secretary" and inserting "Secretary or the appropriate Federal banking agency".

(d) ADMINISTRATIVE ENFORCEMENT.—The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:

"SEC. 20. ADMINISTRATIVE ENFORCEMENT.

"(a) IN GENERAL.—Compliance with the requirements imposed under this title shall be enforced—

"(1) with respect to—

"(A) any national bank or any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

"(B) any member bank of the Federal Reserve System (other than a national bank), any

branch or agency of a foreign bank (other than a Federal branch or Federal agency, or insured State branch of a foreign bank), any commercial lending company owned or controlled by one or more foreign banks, or any organization operating under section 25 or 25A of the Federal Reserve Act, by the Board;

"(C) any bank insured under the Federal Deposit Insurance Act (other than a member of the Federal Reserve System) or any insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation; and

"(D) any savings association the deposits of which are insured under the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision;

"(2) under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

"(3) under the Packers and Stockyards Act, 1921 (except as provided in section 406 of such Act), by the Secretary of Agriculture with respect to any activities subject to such Act; and

"(4) under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any institution referred to in section 1.2(a) of that Act.

"(b) LIMITATIONS.—In exercising their powers under subsection (a), the appropriate Federal banking agencies shall not impose any penalties that exceed those provided for in this title.

"(c) HUD ENFORCEMENT.—Except to the extent that the enforcement of the requirements imposed under this title is specifically committed to another agency of the Federal Government under subsection (a), the Secretary of Housing and Urban Development shall enforce such requirements.".

(e) TRANSFER OF AUTHORITY.—Authority to carry out the Real Estate Settlement Procedures Act of 1974 shall be transferred to the Board, as provided in the amendments made by subsections (b) and (c) of this section, 180 days after the enactment of this Act. Upon transfer of authority, all existing regulations shall remain in effect until such time as the Board modifies them. Not later than 180 days after the date of transfer, the Board shall publish any proposed changes to the regulations required by this Act. During the 180-day period beginning on the date of enactment of this Act, the Secretary of the Treasury shall not modify, repeal, or add any regulations that will be transferred to the Board, as appropriate.

SEC. 103. GENERAL EXEMPTION AUTHORITY FOR LOANS.

(a) REGULATORY FLEXIBILITY.—Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) Transactions for which the Board, by rule, determines that coverage under this title is not necessary to carry out the purposes of this title.".

(b) EXEMPTION AUTHORITY.—Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:

"(f) EXEMPTION AUTHORITY.—

"(1) IN GENERAL.—The Board may exempt from all or part of this title any class of transactions for which, in the determination of the Board, coverage under all or part of this title does not provide a meaningful benefit to consumers in the form of useful information or protection.

"(2) FACTORS FOR CONSIDERATION.—In determining which classes of transactions to exempt in whole or in part under paragraph (1), the Board shall consider, among other factors—

"(A) the amount of the loan or closing costs and whether the disclosures, right of rescission,

and other provisions are necessary, particularly for small loans, as determined by the Board;

"(B) whether the requirements of this title complicate, hinder, or make more expensive the credit process for the class of transactions;

"(C) the status of the borrower, including—

"(i) any related financial arrangements of the borrower, as determined by the Board;

"(ii) the financial sophistication of the borrower relative to the type of transaction; and

"(iii) the importance to the borrower of the credit and related supporting property, as determined by the Board;

"(D) whether the loan is secured by the principal residence of the consumer; and

"(E) whether the goal of consumer protection would be undermined by such an exemption.".

SEC. 104. REDUCTIONS IN REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974 REGULATORY BURDENS.

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

"(a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for the loan, at the time of application for the loan, whether the servicing of the loan may be assigned, sold, or transferred to any other person at any time while the loan is outstanding.".

(b) SECOND MORTGAGES.—Section 8 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607) is amended by inserting "(other than a subordinate lien)" after "federally related mortgages" each place such term appears.

(c) CONSISTENCY OF REAL ESTATE SETTLEMENT PROCEDURES ACT AND TRUTH IN LENDING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2606) is amended—

(1) by striking "This Act" and inserting the following:

"(a) IN GENERAL.—This Act"; and

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

"(b) INTERPRETATION.—In promulgating regulations under section 19(a), the Board shall ensure that, with respect to subsection (a) of this section, the exemption for credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, as provided in section 7(1) of the Real Estate Settlement Procedures Act of 1974 shall be the same as the exemption for such credit transactions under section 104(1) of the Truth in Lending Act.".

SEC. 105. CO-BRANDING AND AFFINITY GROUP ENDORSEMENTS.

(a) COMPLIANCE WITH OTHER REQUIREMENTS.—Section 3(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(3)) is amended by inserting before the semicolon ", but does not include an endorsement which does not violate the provisions of section 8(c)(4)".

(b) PAYMENTS.—Section 8(c) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607(c)) is amended—

(1) by striking "(4) controlled" and inserting "(5) controlled";

(2) by striking "or (5)" and inserting "or (6)"; and

(3) by inserting after paragraph (3), the following new paragraph: "(4) a payment to a person or affinity group for or in connection with an endorsement (written or oral), either through an advertisement or through a communication addressed to a person by name or mailing address, of the products or services of a settlement service provider, if the person or affinity group making the endorsement is not itself providing settlement services in connection with the real estate settlement involving the person to whom such endorsement was addressed;".

SEC. 106. WAIVER FOR CERTAIN BORROWERS.

Section 105 of the Truth in Lending Act (15 U.S.C. 1604) is amended by adding at the end the following new subsection:

"(g) WAIVER FOR CERTAIN BORROWERS.—

"(1) IN GENERAL.—The Board, by regulation, may exempt from the requirements of this title certain credit transactions if—

"(A) the transaction involves a consumer—

"(i) with an annual earned income of more than $200,000; or

"(ii) having net assets in excess of $1,000,000 at the time of the transaction; and

"(B) a waiver that is handwritten, signed, and dated by the consumer is first obtained from the consumer.

"(2) ADJUSTMENTS BY THE BOARD.—The Board, at its discretion, may adjust the annual earned income and net asset requirements of paragraph (1) for inflation.".

SEC. 107. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE RATE MORTGAGES.

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

"(14) In any variable interest rate residential mortgage transaction, at the option of the creditor, a statement that the periodic payments may increase or decrease substantially, and the maximum interest rate and payment for a $10,000 loan originated at a recent interest rate, as determined by the Board, assuming the maximum periodic increases in rates and payments under the program, or a historical example illustrating the effects of interest rate changes implemented according to the loan program.".

SEC. 108. RESTITUTION FOR VIOLATIONS OF THE TRUTH IN LENDING ACT.

Section 108(e)(3) of the Truth in Lending Act (15 U.S.C. 2602(3)) is amended—

(1) by striking "ordered (A) if" and inserting the following: "ordered—

"(A) if";

(2) by striking "may require a partial" and inserting "may—

"(i) require a partial";

(3) by striking ", except that with respect" and all that follows through "Act, the agency shall require" and inserting "; or

"(ii) require";

(4) by striking "reasonable, (B) the" and inserting the following: "reasonable, if (in the case of an agency referred to in paragraph (1), (2), or (3) of subsection (a)), the agency determines that a partial adjustment or making partial payments over an extended period is necessary to avoid causing the creditor to become undercapitalized pursuant to section 38 of the Federal Deposit Insurance Act;

"(B) the"; and

(5) by striking "(C) except" and inserting the following:

"(C) except".

TITLE II—STREAMLINING GOVERNMENT REGULATION

Subtitle A—Eliminating Unnecessary Regulatory Requirements and Procedures

SEC. 201. ELIMINATION OF CERTAIN FILING AND APPROVAL REQUIREMENTS FOR CERTAIN INSURED DEPOSITORY INSTITUTIONS.

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) EXCEPTIONS.—No prior approval is required under paragraph (2) for any merger, consolidation, acquisition of assets, or assumption of liabilities involving only insured depository institutions that are subsidiaries of the same depository institution holding company, if—

"(A) the responsible agency would not be prohibited from approving the transaction under section 44;

"(B) the acquiring, assuming, or resulting institution complies with all applicable provisions of section 44 as if the merger, consolidation, or acquisition were approved under this subsection;

"(C) the acquiring, assuming, or resulting institution provides written notification of the transaction to the appropriate Federal banking agency for the in-

stitution not later than 10 days prior to consummation of the transaction; and

"(D) during the 10-day period beginning on the date on which the notification required by subparagraph (C) was received, the agency does not require the institution to submit an application with respect to such transaction.".

SEC. 202. ELIMINATION OF REDUNDANT APPROVAL REQUIREMENT FOR OAKAR TRANSACTIONS.

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

(1) in subparagraph (A), by striking "with the prior written approval of" and inserting "if the transaction is approved by";

(2) in subparagraph (E)—

(A) by striking clauses (i) and (iv);

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

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

"(iii) CAPITAL REQUIREMENTS.—A transaction described in this paragraph shall not be approved under section 18(c)(2) unless the acquiring, assuming, or resulting depository institution will meet all applica-

ble capital requirements upon consummation of the transaction.";

(3) by striking subparagraph (G); and

(4) by redesignating subparagraphs (H) through (J) as subparagraphs (G) through (I), respectively.

(b) CONFORMING AMENDMENTS.—

(1) REVISED STATUTES.—Section 5156A(b)(1) of the Revised Statutes (12 U.S.C. 215c(b)(1)) is amended by striking "by section 5(d)(3) of the Federal Deposit Insurance Act or any other" and inserting "under any".

(2) HOME OWNERS' LOAN ACT.—Section 10(s)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(s)(2)(A)) is amended by striking "under section 5(d)(3) of the Federal Deposit Insurance Act or any other" and inserting "under any".

SEC. 203. ELIMINATION OF DUPLICATIVE REQUIREMENTS IMPOSED UPON BANK HOLDING COMPANIES.

(a) EXEMPTION FOR BANK HOLDING COMPANIES.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) EXEMPTION FOR BANK HOLDING COMPANIES.—This section does not apply to a bank holding company that

is subject to the Bank Holding Company Act of 1956, or any company controlled by such bank holding company.".

(b) DEFINITION.—Section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read as follows:

"(D) SAVINGS AND LOAN HOLDING COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'savings and loan holding company' means any company that directly or indirectly controls a savings association or that controls any other company that is a savings and loan holding company.

"(ii) EXCLUSION.—The term 'savings and loan holding company' does not include a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or to any company directly or indirectly controlled by such company (other than a savings association).".

(c) ACQUISITIONS.—Section 10(e)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(1)) is amended—

(1) in subparagraph (A)(iii)(VII), by inserting "or" at the end;

(2) in subparagraph (A)(iv), by inserting "and" at the end; and

(3) in subparagraph (B)—

(A) by striking "or (ii)" and inserting "(ii)"; and

(B) by inserting before the first period ", or (iii) acquired by a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or any company controlled by such bank holding company".

(d) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 4(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(i)) is amended by adding at the end the following new paragraphs:

"(4) SOLICITATION OF VIEWS.—

"(A) NOTICE TO DIRECTOR.—Upon receiving any application or notice by a bank holding company to acquire, directly or indirectly, a savings association under subsection (c)(8), the Board shall solicit comments and recommendations from the Director with respect to such acquisition.

"(B) COMMENT PERIOD.—The comments and recommendations of the Director under subparagraph (A) with respect to any acquisition subject to such subparagraph shall be transmitted to the Board not later than 30 days after the receipt by the Director of the notice relating to such acquisition (or such shorter period as the Board may specify if the Board advises the Director that an emergency exists that requires expeditious action).

"(5) EXAMINATION.—

"(A) SCOPE.—The Board shall consult with the Director, as appropriate, in establishing the scope of an examination by the Board of a bank holding company that directly or indirectly controls a savings association.

"(B) ACCESS TO INSPECTION REPORTS.—Upon the request of the Director, the Board shall furnish the Director with a copy of any inspection report, additional examination materials, or supervisory information relating to any bank holding company that directly or indirectly controls a savings association.

"(6) COORDINATION OF ENFORCEMENT EFFORTS.—The Board and the Director shall cooperate

in any enforcement action against any bank holding company that controls a savings association, if the relevant conduct involves such association.

"(7) DIRECTOR DEFINED.—For purposes of this section, the term 'Director' means the Director of the Office of Thrift Supervision.".

SEC. 204. ELIMINATION OF THE PER BRANCH CAPITAL REQUIREMENT FOR NATIONAL BANKS AND STATE MEMBER BANKS.

Section 5155(h) of the Revised Statutes (12 U.S.C. 36(h)) is amended to read as follows:

"(h) [Reserved.]".

SEC. 205. ELIMINATION OF BRANCH APPLICATION REQUIREMENTS FOR AUTOMATIC TELLER MACHINES.

(a) "BRANCH" UNDER NATIONAL BANK ACT.—Section 5155(j) of the Revised Statutes (12 U.S.C. 36(j)) is amended by adding at the end the following: "The term 'branch', as used in this section, does not include an automated teller machine or a remote service unit.".

(b) "DOMESTIC BRANCH" UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended by striking "lent; and the" and inserting "lent. The term 'do-

mestic branch' does not include an automated teller machine or a remote service unit. The".

SEC. 206. ELIMINATION OF REQUIREMENT FOR APPROVAL OF INVESTMENTS IN BANK PREMISES FOR WELL CAPITALIZED AND WELL MANAGED BANKS.

Section 24A of the Federal Reserve Act (12 U.S.C. 371d) is amended to read as follows:

"SEC. 24A. INVESTMENT IN BANK PREMISES OR STOCK OF CORPORATION HOLDING PREMISES.

"(a) CONDITIONS OF INVESTMENT.—No national bank or State member bank shall invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or make loans to or upon the security of any such corporation—

"(1) unless the bank receives the prior approval of the Comptroller of the Currency (with respect to a national bank) or the Board (with respect to a State member bank);

"(2) unless the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to the amount of the capital stock of such bank; or

"(3) unless—

"(A) the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation that is an affiliate of the bank, is less than or equal to 150 percent of the capital and surplus of the bank; and

"(B) the bank—

"(i) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable rating system) as of the most recent examination of such bank;

"(ii) is well capitalized and will continue to be well capitalized after the investment or loan; and

"(iii) provides notification to the Comptroller of the Currency (with respect to a national bank) or to the Board (with respect to a State member bank) not later than 30 days after making the investment or loan.

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

"(1) the term 'affiliate' has the same meaning as in section 2 of the Banking Act of 1933; and

"(2) the term 'well capitalized' has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.".

SEC. 207. ELIMINATION OF APPROVAL REQUIREMENT FOR DIVESTITURES.

Section 2(g) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)) is amended—

(1) in paragraph (1), by adding "and" at the end;

(2) in paragraph (2), by striking "; and" and inserting a period; and

(3) by striking paragraph (3).

SEC. 208. STREAMLINED NONBANKING ACQUISITIONS BY WELL CAPITALIZED AND WELL MANAGED BANKING ORGANIZATIONS.

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

(1) in paragraph (1)(A), by striking "No" and inserting "Except as provided in paragraph (3), no"; and

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

"(3) NO NOTICE REQUIRED FOR CERTAIN TRANSACTIONS.—No notice under paragraph (1) of this sub-

section or under subsection (c)(8) or (a)(2)(B) is required for a proposal by a bank holding company to engage in any activity or acquire the shares or assets of any company, other than an insured depository institution, if the proposal qualifies under paragraph (4).

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

"(A) FINANCIAL CRITERIA.—Both before and immediately after the proposed transaction—

"(i) the acquiring bank holding company is well capitalized;

"(ii) the lead insured depository institution of such holding company is well capitalized;

"(iii) well capitalized insured depository institutions control at least 80 percent of the aggregate total risk-weighted assets of insured depository institutions controlled by such holding company; and

"(iv) no insured depository institution controlled by such holding company is undercapitalized.

"(B) MANAGERIAL CRITERIA.—

"(i) WELL MANAGED.—At the time of the transaction, the acquiring bank holding company, its lead insured depository institution, and insured depository institutions that control at least 90 percent of the aggregate total risk-weighted assets of insured depository institutions controlled by such holding company are well managed.

"(ii) LIMITATION ON POORLY MANAGED INSTITUTIONS.—Except as provided in paragraph (6), no insured depository institution controlled by the acquiring bank holding company has received 1 of the 2 lowest composite ratings at the later of the institution's most recent examination or subsequent review.

"(C) ACTIVITIES PERMISSIBLE.—Following consummation of the proposal, the bank holding company engages directly or through a subsidiary solely in—

"(i) activities that are permissible under subsection (c)(8), as determined by the Board by regulation or order thereunder, subject to all of the restrictions,

terms, and conditions of such subsection and such regulation or order; and

"(ii) such other activities as are otherwise permissible under this section, subject to the restrictions, terms and conditions, including any prior notice or approval requirements, provided in this section.

"(D) SIZE OF ACQUISITION.—

"(i) ASSET SIZE.—The book value of the total assets to be acquired does not exceed 10 percent of the consolidated total risk-weighted assets of the acquiring bank holding company.

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

"(E) NOTICE NOT OTHERWISE WARRANTED.—For proposals described in paragraph (5)(B), the Board has not, before the conclusion of the period provided in paragraph (5)(B), advised the bank holding company that a notice under paragraph (1) is required.

"(F) COMPLIANCE CRITERION.—During the 12-month period ending on the date on which the bank holding company proposes to commence an activity or acquisition, no administrative enforcement action has been commenced, and no cease and desist order has been issued pursuant to section 8 of the Federal Deposit Insurance Act, against the bank holding company or any depository institution subsidiary of the holding company, and no such enforcement action, order, or other administrative enforcement proceeding is pending as of such date.

"(5) NOTIFICATION.—

"(A) COMMENCEMENT OF ACTIVITIES APPROVED BY RULE.—A bank holding company that qualifies under paragraph (4) and that proposes to engage de novo, directly or through a subsidiary, in any activity that is permissible under subsection (c)(8), as determined by the Board by regulation, may commence that activity without prior notice to the Board and must provide written notification to the Board not later than 10 business days after commencing the activity.

"(B) ACTIVITIES PERMITTED BY ORDER AND ACQUISITIONS.—

"(i) IN GENERAL.—At least 12 business days before commencing any activity pursuant to paragraph (3) (other than an activity described in subparagraph (A) of this paragraph) or acquiring shares or assets of any company pursuant to paragraph (3), the bank holding company shall provide written notice of the proposal to the Board, unless the Board determines that no notice or a shorter notice period is appropriate.

"(ii) DESCRIPTION OF ACTIVITIES AND TERMS.—A notification under this subparagraph shall include a description of the proposed activities and the terms of any proposed acquisition.

"(6) RECENTLY ACQUIRED INSTITUTIONS.—Any insured depository institution which has been acquired by a bank holding company during the 12-month period preceding the date on which the company proposes to commence an activity or acquisition pursuant to paragraph (3) may be excluded for purposes of paragraph (4)(B)(ii) if—

"(A) the bank holding company has developed a plan for the institution to restore the capital and management of the institution which is acceptable to the appropriate Federal banking agency; and

"(B) all such insured depository institutions represent, in the aggregate, less than 10 percent of the aggregate total risk-weighted assets of all insured depository institutions controlled by the bank holding company.

"(7) ADJUSTMENT OF PERCENTAGES.—The Board may, by regulation, adjust the percentages and the manner in which the percentages of insured depository institutions are calculated under paragraph (4)(B)(i), (4)(D), or (6)(B) if the Board determines that any such adjustment is consistent with safety and soundness and the purposes of this Act.".

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

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

"(1) CAPITAL TERMS.—

"(A) INSURED DEPOSITORY INSTITUTIONS.—With respect to insured depository institutions, the terms 'well capitalized', 'adequately

capitalized', and 'undercapitalized' have the same meanings as in section 38(b) of the Federal Deposit Insurance Act.

"(B) BANK HOLDING COMPANY.—

"(i) ADEQUATELY CAPITALIZED.—With respect to a bank holding company, the term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

"(ii) WELL CAPITALIZED.—A bank holding company is 'well capitalized' if it meets the required capital levels for well capitalized bank holding companies established by the Board.

"(C) OTHER CAPITAL TERMS.—The terms 'Tier 1' and 'risk-weighted assets' have the meanings given those terms in the capital guidelines or regulations established by the Board for bank holding companies."; and

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

"(8) LEAD INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—The term 'lead insured depository institution' means the largest insured depository institution controlled by the subject bank holding company at any time, based on a comparison of the average total risk-weighted assets controlled by each insured depository institution during the previous 12-month period.

"(B) BRANCH OR AGENCY.—For purposes of this paragraph and section 4(j)(4), the term 'insured depository institution' includes any branch or agency operated in the United States by a foreign bank.

"(9) WELL MANAGED.—The term 'well managed' means—

"(A) in the case of any company or depository institution which receives examinations, the achievement of—

"(i) a CAMEL composite rating of 1 or 2 (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of such company or institution; and

"(ii) at least a satisfactory rating for management, if such rating is given; or

"(B) in the case of a company or depository institution that has not received an examination rating, the existence and use of managerial resources which the Board determines are satisfactory.".

SEC. 209. ELIMINATION OF UNNECESSARY FILING FOR OFFICER AND DIRECTOR APPOINTMENTS.

Section 32 of the Federal Deposit Insurance Act (12 U.S.C. 1831i) is amended—

(1) in subsection (a)—

(A) by inserting "(or such other period, as determined by the appropriate Federal banking agency)" after "30 days";

(B) by striking "if the insured depository institution or depository institution holding company" and inserting "if";

(C) by striking paragraphs (1) and (2);

(D) by redesignating paragraph (3) as paragraph (1);

(E) in paragraph (1), as redesignated—

(i) by inserting "the insured depository institution or depository institution holding company" before "is not in compliance"; and

(ii) by striking the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(2) the agency determines, in connection with the review by the agency of the plan required under section 38 or otherwise, that such prior notice is appropriate."; and

(2) in subsection (b), by striking "30-day period" and inserting "notice period, not to exceed 90 days,".

SEC. 210. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) DUAL SERVICE AMONG LARGER ORGANIZATIONS.—Section 204 of the Depository Institution Management Interlocks Act (12 U.S.C. 3203) is amended—

(1) by striking "$1,000,000,000" and inserting "$2,500,000,000";

(2) by striking "$500,000,000" and inserting "$1,500,000,000"; and

(3) by adding at the end the following: "In order to allow for inflation or market changes, the appropriate Federal depository institutions regulatory agencies may, by regulation, adjust, as necessary, the amount of total assets required for depository institu-

tions or depository holding companies under this section.".

(b) EXTENSION OF GRANDFATHER EXEMPTION.—Section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) is amended—

(1) in subsection (a), by striking "for a period of, subject to the requirements of subsection (c), 20 years after the date of enactment of this title";

(2) in subsection (b), by striking the second sentence; and

(3) by striking subsection (c).

(c) RULES OR REGULATIONS.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—Rules" and inserting "Rules";

(B) by inserting ", including rules or regulations that permit service by a management official that would otherwise be prohibited by section 203 or section 204, if such service would not result in a monopoly or substantial lessening of competition," after "title";

(C) in paragraph (4)—

(i) by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision"; and

(ii) by striking "Savings and Loan" and inserting "Deposit"; and

(2) by striking subsections (b) and (c).

SEC. 211. ELIMINATION OF RECORDKEEPING AND REPORTING REQUIREMENTS FOR OFFICERS.

(a) EMPLOYEE BENEFIT PLANS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(2) by striking "(2) PREFERENTIAL TERMS PROHIBITED.—" and inserting the following:

"(2) PREFERENTIAL TERMS PROHIBITED.—

"(A) IN GENERAL.—"; and

(3) by adding at the end the following new subparagraph:

"(B) EXCEPTION.—Nothing in this paragraph shall prohibit any extension of credit made pursuant to a benefit or compensation program—

"(i) that is widely available to employees of the member bank; and

"(ii) that does not give preference to any officer, director, or principal shareholder of the member bank, or to any related interest of such person, over other employees of the member bank.".

(b) EXCEPTION FOR EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS AND DIRECTORS OF AFFILIATES.—Section 22(h)(8)(B) of the Federal Reserve Act (12 U.S.C. 375b(8)(B)) is amended to read as follows:

"(B) EXCEPTION.—The Board may, by regulation, make exceptions to subparagraph (A) for any executive officer or director of a subsidiary of a company that controls the member bank if—

"(i) the executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank; and

"(ii) the assets of such subsidiary do not exceed 10 percent of the consolidated assets of a company that controls the member bank and such subsidiary (and is not controlled by any other company).".

SEC. 212. CONSOLIDATION OF APPRAISAL SUBCOMMITTEE; TRANSFER OF FUNCTIONS.

(a) PURPOSES.—Consistent with the original purposes of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the purposes of this section are—

(1) to clarify that Federal oversight of appraisal practices and standards is the responsibility of the Council; and

(2) to consolidate the functions of the Appraisal Subcommittee into the Council in order to reduce the costs incurred by maintaining a separate organization to carry out that responsibility.

(b) CONSOLIDATION OF APPRAISAL SUBCOMMITTEE.—

(1) AMENDMENT TO FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.—Section 1011 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3310) is repealed.

(2) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—

(A) REPEALS.—The following sections of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 et seq.) are repealed:

(i) Section 1102 (Public Law 101–73; 103 Stat. 511).

(ii) Section 1104 (12 U.S.C. 3333).

(iii) Section 1105 (12 U.S.C. 3334).

(iv) Section 1106 (12 U.S.C. 3335).

(v) Section 1108 (12 U.S.C. 3337).

(B) DEFINITIONS.—Section 1121 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350) is amended—

(i) by striking paragraphs (2) and (8);

(ii) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively; and

(iii) by redesignating paragraphs (9) and (10) as paragraphs (7) and (8), respectively.

(3) CONFORMING AMENDMENT TO THE NATIONAL HOUSING ACT.—Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) and paragraphs (2) and (3), respectively.

(c) TRANSFER OF FUNCTIONS.—

(1) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—

(A) TRANSFER OF FUNCTIONS.—Section 1103 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3332) is amended—

*(i) by striking "**SEC. 1103.**" and inserting "**SEC. 1102.**";*

(ii) by striking "Appraisal Subcommittee" each place such term appears and inserting "Federal Financial Institutions Examination Council"; and

(iii) in subsection (a)—

(I) in paragraph (3), by inserting before the semicolon the following: ", if the Council determines that maintaining a national registry under this paragraph will further the purposes of this title (as described in section 1101)"; and

(II) by striking paragraph (4) and inserting the following:

"(4) include in its annual report to the Congress a description of the manner in which the Council has

performed the functions assigned to the Council under this title.".

(B) ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS.—Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3338) is redesignated and amended to read as follows:

"SEC. 1104. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS.

"(a) IN GENERAL.—Each State that has an appraiser certifying and licensing agency with a certification or license that meets the requirements of this title shall—

"(1) not less frequently than annually (unless a less frequent interval is specified by the Council), transmit to the Council a roster listing individuals who have received a State certification or license in accordance with this title;

"(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee, in an amount equal to $25 (or a lesser amount determined by the Council) to support the activities of the Council under this title; and

"(3) transmit all registry fees to the Council on an annual basis.

"(b) STATUS OF FEES.—Any registry fees collected and transmitted to the Council under subsection (a), and any funds of the Appraisal Subcommittee transferred to the Council pursuant to section 213 of the Economic Growth and Regulatory Paperwork Reduction Act of 1995, shall not constitute appropriated funds.".

(C) CONFORMING AMENDMENTS.—Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended—

(i) in section 1116(e)—

(I) by striking "Appraisal Subcommittee" and inserting "Federal Financial Institutions Examination Council"; and

(II) by striking "the Subcommittee" and inserting "the Federal Financial Institutions Examination Council";

(ii) in section 1118—

(I) in the subsection heading for subsection (b), by striking "BY APPRAISAL SUBCOMMITTEE"; and

(II) by striking "Appraisal Subcommittee" each place such term ap-

pears and inserting "Federal Financial Institutions Examination Council";

(iii) in section 1119—

(I) by striking "Subject to the approval of the Council, the Appraisal Subcommittee" each place such term appears and inserting "The Council"; and

(II) by striking "Appraisal Subcommittee" each place such term appears and inserting "Federal Financial Institutions Examination Council";

(iv) in section 1120, by striking "Appraisal Subcommittee" and inserting "Federal Financial Institutions Examination Council";

(v) in section 1122—

(I) by striking "Appraisal Subcommittee" each place such term appears and inserting "Council"; and

(II) by striking subsection (f); and

(vi) by redesignating—

(I) section 1107 as section 1103; and

(II) sections 1110 through 1123 as sections 1105 through 1118, respectively.

(2) ADMINISTRATIVE PROVISIONS.—

(A) TRANSFER OF FINANCIAL ASSETS AND LIABILITIES.—All funds held by, the right to collect all funds owed to, and all obligations of the Appraisal Subcommittee on the effective date of this section shall be transferred to the Council.

(B) APPRAISAL FOUNDATION GRANTS.—The Council may make grants in such amounts as it deems appropriate to the Appraisal Foundation to help defray costs of the Foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards, but shall discontinue such grants not later than December 31, 1998.

(C) REPAYMENT OF TREASURY LOAN.—Not later than September 30, 1998, the Council shall repay to the Secretary of the Treasury the funds specified in section 1108 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (as that section existed on the day before

the effective date of this section), and the Secretary shall deposit such funds into the General Fund of the Treasury of the United States.

(D) PROPERTY TRANSFERRED.—All property of the Appraisal Subcommittee shall be transferred to the Council.

(E) TRANSFER OF EMPLOYEES.—

(i) IDENTIFYING EMPLOYEES FOR TRANSFER.—Not later than 30 days after the date of enactment of this Act, the Council shall identify for transfer to the Council the employees of the Appraisal Subcommittee that the Council determines to be necessary to perform the functions transferred to the Council under this subsection.

(ii) TRANSFER.—Each employee identified for transfer under clause (i) shall be transferred to the Council in accordance with this subparagraph.

(F) RIGHTS OF TRANSFERRED EMPLOYEES.—

(i) COMPARABLE POSITIONS.—Each employee transferred to the Council under subparagraph (E) shall be appointed to a position under the compensation system and

performance evaluation system of the Council that is comparable in tenure and grade to the position held by the employee on the day before the date of such transfer.

(ii) PAY.—

(I) IN GENERAL.—Except as provided in subclause (II), each employee transferred to the Council under subparagraph (E) shall, during the 12-month period beginning on the date of such transfer, receive pay at a rate not less than the basic rate of pay that the employee received during the 12-month period immediately preceding that transfer date.

(II) EXCEPTIONS.—Subclause (I) does not limit the right of the Council to reduce a transferred rate of basic pay of an employer for cause or unacceptable performance, or with the consent of the employee.

(III) PROTECTION ONLY WHILE EMPLOYED.—Subclause (I) shall apply to an employee only during the period

that the employee is employed by the Council.

(iii) RETIREMENT BENEFITS.—

(I) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as otherwise permitted by law, each employee transferred to the Council under subparagraph (E) shall remain enrolled in the retirement plan (and any associated thrift savings plan) in which the employee was enrolled on the day before the date of such transfer during the period that the employee is employed by the Council.

(II) EMPLOYER CONTRIBUTION.—The Council shall pay any employer contributions to the retirement plan in which each employee transferred to the Council under subparagraph (E) is subject during the period that the employee is employed by the Council, in accordance with such retirement plan.

(iv) NO PRIVATE RIGHT OF ACTION.—This subparagraph does not provide any employee with any right of action to require

the Council or any officer, employee, agent, or administrator of the Council to take any action under this subparagraph.

(v) PRIORITY OF THIS SECTION.—If any protection provided under this subparagraph conflicts with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this subparagraph shall control.

(d) EFFECTIVE DATE.—Except as otherwise provided in this section, this section and the amendments made by this section shall become effective 90 days after the date of enactment of this Act.

(e) STUDY OF OVERSIGHT FUNCTIONS.—

(1) STUDY.—The Council shall conduct a study of the progress made in meeting the purposes of this section and the continuing need for Federal oversight of appraisal functions pursuant to title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Council shall report to the appropriate committees of the Congress on the results of the study conducted under paragraph (1),

along with any appropriate recommendations for legislation to enhance and encourage State or self-regulation of appraisal practices in lieu of Federal oversight.

SEC. 213. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1) is amended by adding at the end the following new subsection:

"(e) SCOPE OF APPLICATION.—This section shall not apply with respect to—

"(1) an automated teller machine;

"(2) the relocation of a branch or consolidation of one or more branches into another branch, if the relocation or consolidation—

"(A) occurs within the immediate neighborhood; and

"(B) does not substantially affect the nature of the business or customers served; or

"(3) a branch that is closed in connection with—

"(A) an emergency acquisition under—

"(i) section 11(n); or

"(ii) subsection (f) or (k) of section 13; or

"(B) any assistance provided by the Corporation under section 13(c).".

SEC. 214. FOREIGN BANKS.

(a) EXAMINATION OF BRANCHES AND AGENCIES BY BOARD.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(c)) is amended—

(1) by striking "(c)" and inserting the following: "(c) FOREIGN BANK EXAMINATIONS AND REPORTING.—";

(2) in paragraph (1)(B), by adding at the end the following new clause:

"(iii) AVOIDANCE OF DUPLICATION.—In exercising its authority under this paragraph, the Board shall take all reasonable measures to reduce burden and avoid unnecessary duplication of examinations.";

(3) by striking subparagraph (C) of paragraph (1) and inserting the following:

"(C) ON-SITE EXAMINATION.—Each Federal branch or agency, and each State branch or agency, of a foreign bank shall be subject to on-site examination by an appropriate Federal banking agency or State bank supervisor as frequently as would a national bank or a State bank, respectively, by the appropriate Federal banking agency."; and

(4) in paragraph (1)(D), by inserting before the period at the end the following: ", only to the same

extent that fees are collected by the Board for examination of any State member bank".

(b) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7(d) of the International Banking Act of 1978 (12 U.S.C. 3105(d)) is amended—

(1) in paragraph (2), by striking "The Board" and inserting "Except as provided in paragraph (6), the Board";

(2) in paragraph (5), by striking "Consistent with the standards for approval in paragraph (2), the"; and inserting "The"; and

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

"(6) EXCEPTION.—

"(A) IN GENERAL.—If the Board is unable to find, under paragraph (2), that a foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country, the Board may nevertheless approve an application by such foreign bank under paragraph (1) if—

"(i) the appropriate authorities in the home country of the foreign bank are actively working to establish arrangements for

the consolidated supervision of such bank; and

"(ii) all other factors are consistent with approval.

"(B) OTHER CONSIDERATIONS.—In deciding whether to use its discretion under subparagraph (A), the Board shall also consider whether the foreign bank has adopted and implements procedures to combat money laundering. The Board may also take into account whether the home country of the foreign bank is developing a legal regime to address money laundering or is participating in multilateral efforts to combat money laundering.

"(C) ADDITIONAL CONDITIONS.—In approving an application under this paragraph, the Board, after requesting and taking into consideration the views of the appropriate State bank supervisor or the Comptroller of the Currency, as the case may be, may impose such conditions or restrictions relating to the activities or business operations of the proposed branch, agency, or commercial lending company subsidiary, including restrictions on sources of funding, as are considered appropriate. The Board shall coordi-

nate with the appropriate State bank supervisor or the Comptroller of the Currency, as appropriate, in the implementation of such conditions or restrictions.

"(D) MODIFICATION OF CONDITIONS.—Any condition or restriction imposed by the Board in connection with the approval of an application under authority of this paragraph may be modified or withdrawn.

"(7) TIME PERIOD FOR BOARD ACTION.—

"(A) FINAL ACTION.—The Board shall take final action on any application under paragraph (1) not later than 180 days after receipt of the application, except that the Board may extend for an additional 180 days the period within which to take final action on such application after providing notice of, and the reasons for, the extension to the applicant foreign bank and any appropriate State bank supervisor or the Comptroller of the Currency, as appropriate.

"(B) FAILURE TO SUBMIT INFORMATION.—The Board may deny any application if it does not receive information requested from the applicant foreign bank or appropriate authorities in the home country of the foreign bank in suffi-

cient time to permit the Board to evaluate such information adequately within the time periods for final action set forth in subparagraph (A).

"(C) WAIVER.—A foreign bank may waive the applicability of this paragraph with respect to any application under paragraph (1).".

(c) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7(e)(1)(A) of the International Banking Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)";

(2) by striking "or" at the end and inserting "and"; and

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

"(ii) the appropriate authorities in the home country of the foreign bank are not making demonstrable progress in establishing arrangements for the comprehensive supervision or regulation of such foreign bank on a consolidated basis; or".

SEC. 215. DISPOSITION OF FORECLOSED ASSETS.

Section 4(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(2)) is amended—

(1) by striking "for not more than one year at a time"; and

(2) by striking "but no such extensions shall extend beyond a date five years" and inserting "and, in the case of a bank holding company which has not disposed of such shares within 5 years after the date on which such shares were acquired, the Board may, upon the application of such company, grant additional exemptions if, in the judgment of the Board, such extension would not be detrimental to the public interest and, either the bank holding company has made a good faith attempt to dispose of such shares during such 5-year period, or the disposal of such shares during such 5-year period would have been detrimental to the company, except that the aggregate duration of such extensions shall not extend beyond 10 years".

Subtitle B—Eliminating Unnecessary Regulatory Burdens

SEC. 221. SMALL BANK EXAMINATION CYCLE.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended—

(1) by redesignating the second paragraph designated as paragraph (8) as paragraph (10), and by

inserting that paragraph, as redesignated, immediately after paragraph (9); and

(2) in paragraph (10), as redesignated, by striking "$175,000,000" and inserting "$250,000,000".

SEC. 222. REQUIRED REVIEW OF REGULATIONS.

(a) IN GENERAL.—Not less frequently than once every 10 years, the Council and each appropriate Federal banking agency represented on the Council shall conduct a review of all regulations promulgated by the Council or by any such appropriate Federal banking agency, respectively, in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions.

(b) PROCESS.—In conducting the review under subsection (a), the Council or the appropriate Federal banking agency shall—

(1) categorize the regulations described in subsection (a) by type (such as consumer regulations, safety and soundness regulations, or such other designations as determined by the Council, or the appropriate Federal banking agency); and

(2) at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to

identify areas of the regulations that are outdated, unnecessary, or unduly burdensome.

(c) COMPLETE REVIEW.—The Council or the appropriate Federal banking agency shall ensure that the notice and comment period described in subsection (b)(2) is conducted with respect to all regulations described in subsection (a) not less frequently than once every 10 years.

(d) REGULATORY RESPONSE.—The Council or the appropriate Federal banking agency shall—

(1) publish in the Federal Register a summary of the comments received under this section, identifying significant issues raised and providing comment on such issues; and

(2) eliminate unnecessary regulations to the extent that such action is appropriate.

(e) REPORT TO CONGRESS.—Not later than 30 days after carrying out subsection (d)(1), the Council shall submit to the Congress a report, which shall include—

(1) a summary of any significant issues raised by public comments received by the Council and the appropriate Federal banking agencies under this section and the relative merits of such issues; and

(2) an analysis of whether the appropriate Federal banking agency involved is able to address the regulatory burdens associated with such issues by reg-

ulation, or whether such burdens must be addressed by legislative action.

SEC. 223. REPEAL OF IDENTIFICATION OF NONBANK FINANCIAL INSTITUTION CUSTOMERS.

Subchapter II of chapter 53 of title 31, United States Code, is amended—

(1) by striking section 5327;

(2) in the chapter analysis, by striking the item relating to section 5327; and

(3) in section 5321(a), by striking paragraph (7).

SEC. 224. REPEAL OF COMMERCIAL LOAN REPORTING REQUIREMENTS.

Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 251) is repealed.

SEC. 225. INCREASE IN HOME MORTGAGE DISCLOSURE EXEMPTION THRESHOLD.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2808) is amended in the second sentence, by striking "$10,000,000" and inserting "$50,000,000".

(b) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsection:

"(m) OPPORTUNITY TO REDUCE COMPLIANCE BURDEN.—

"(1) IN GENERAL.—

"(A) SATISFACTION OF PUBLIC AVAILABILITY REQUIREMENTS.—A depository institution shall be deemed to have satisfied the public availability requirements of subsection (a) if the institution compiles the information required under that subsection at the home office of the institution and provides notice at the branch locations specified in subsection (a) that such information is available from the home office of the institution upon written request.

"(B) PROVISION OF INFORMATION UPON REQUEST.—Not later than 15 days after the receipt of a written request for any information required to be compiled under subsection (a), the home office of the depository institution receiving the request shall provide the information pertinent to the location of the branch in question to the person requesting the information.

"(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall, in the sole discretion of the institution, provide the person requesting the information with—

"(A) a paper copy of the information requested; or

"(B) if acceptable to the person, the information through a form of electronic medium, such as a computer disk.".

SEC. 226. ELIMINATION OF STOCK LOAN REPORTING REQUIREMENT.

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (9)(A)—

(A) by striking "financial institution and any affiliate of any financial institution" and inserting "foreign bank, or any affiliate thereof,"; and

(B) by striking "by the financial institution and such institution's affiliates" and inserting "by the foreign bank or any affiliate thereof";

(2) in paragraph (9)(B)—

(A) by striking "paragraph—" and inserting "paragraph, the following definitions shall apply:";

(B) by striking clause (i) and inserting the following:

"(i) FOREIGN BANK.—The terms 'foreign bank' and 'affiliate' have the same

meanings as in section 1 of the International Banking Act of 1978.''; and

(C) in clause (iii), by striking ''financial institution'' and inserting ''foreign bank or any affiliate thereof'';

(3) in paragraph (9)(C)—

(A) by striking ''financial institution or any of its affiliates'' and inserting ''foreign bank or any affiliate thereof''; and

(B) by striking ''financial institution or its affiliates'' and inserting ''foreign bank or any affiliate thereof'';

(4) in paragraph (9)(D)—

(A) in clause (i)—

(i) by striking ''the financial institution and all affiliates of the institution'' and inserting ''the foreign bank and all affiliates thereof''; and

(ii) by striking ''financial institution or any such affiliate'' and inserting ''foreign bank or affiliate thereof'';

(B) in clause (ii), by striking ''financial institution and any affiliate of such institution'' and inserting ''foreign bank and any affiliate thereof''; and

(C) in clause (iii), by striking "financial institution" and inserting "foreign bank or any affiliate thereof"; and

(5) in paragraph (9)(E)—

(A) in clause (i)—

(i) by striking "a financial institution and the affiliates of such institution" and inserting "a foreign bank or any affiliate thereof"; and

(ii) by striking "institution or affiliate" each place such term appears and inserting "foreign bank or any affiliate thereof"; and

(B) in clause (ii), by striking "financial institution and any affiliate of such institution" and inserting "foreign bank and any affiliate thereof".

SEC. 227. CREDIT AVAILABILITY ASSESSMENT.

(a) STUDY.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and once every 60 months thereafter, the Board, in consultation with the Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Board of Directors of the Corporation, the Administrator of the National

Credit Union Administration, the Administrator of the Small Business Administration, and the Secretary of Commerce, shall conduct a study and submit a report to the Congress detailing the extent of small business lending by all creditors.

(2) CONTENTS OF STUDY.—The study required under paragraph (1) shall identify, to the extent practicable, those factors which provide policymakers with insights into the small business credit market, including—

(A) the demand for small business credit, including consideration of the impact of economic cycles on the levels of such demand;

(B) the availability of credit to small businesses;

(C) the range of credit options available to small businesses, such as those available from insured depository institutions and other providers of credit;

(D) the types of credit products used to finance small business operations, including the use of traditional loans, leases, lines of credit, home equity loans, credit cards, and other sources of financing;

(E) the credit needs of small businesses, including, if appropriate, the extent to which such needs differ, based upon product type, size of business, cash flow requirements, characteristics of ownership or investors, or other aspects of such business;

(F) the types of risks to creditors in providing credit to small businesses; and

(G) such other factors as the Board deems appropriate.

(b) USE OF EXISTING DATA.—The studies required by this section shall not increase the regulatory or paperwork burden on regulated financial institutions, other sources of small business credit, or small businesses.

Subtitle C—Regulatory Micromanagement

SEC. 241. NATIONAL BANK DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "except" and all that follows through the end of the sentence and inserting the following: "except that the Comptroller may, in the discretion of the Comptroller, waive the requirement of residency.".

SEC. 242. PAPERWORK REDUCTION REVIEW.

Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4803(a)) is amended—

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

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

"(2) review the extent to which existing regulations require insured depository institutions and insured credit unions to produce unnecessary internal written policies and eliminate such requirements, where appropriate;".

SEC. 243. STATE BANK REPRESENTATION ON BOARD OF DIRECTORS OF THE FDIC.

Section 2(a)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)(C)) is amended by inserting before the period ", 1 of whom shall have State bank supervisory experience".

SEC. 244. CONSULTATION AMONG EXAMINERS.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(j) CONSULTATION AMONG EXAMINERS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall take such action as may be nec-

essary to ensure that examiners employed by the agency—

"(A) consult on examination activities with respect to any depository institution; and

"(B) achieve an agreement and resolve any inconsistencies in the recommendations to be given to such institution as a consequence of any examinations.

"(2) EXAMINER-IN-CHARGE.—Each appropriate Federal banking agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the examiners of that agency involved in examinations of the institution.".

TITLE III—REGULATORY IMPACT ON COST OF CREDIT AND CREDIT AVAILABILITY

SEC. 301. AUDIT COSTS.

(a) AUDITOR ATTESTATIONS.—Section 36 of the Federal Deposit Insurance Act (12 U.S.C. 1831m) is amended by striking subsection (e) and inserting the following:

"(e) [Reserved.]".

(b) INDEPENDENT AUDIT COMMITTEES.—Section 36(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(1)) is amended—

(1) in subparagraph (A), by inserting ", except as provided in subparagraph (D)" after "management of the institution"; and

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

"(D) EXEMPTION AUTHORITY.—

"(i) IN GENERAL.—An appropriate Federal banking agency may, by order or regulation, permit the independent audit committee of an insured depository institution to be made up of less than all, but no fewer than a majority of, outside directors, if the agency determines that the institution has encountered hardships in retaining and recruiting a sufficient number of competent outside directors to serve on the internal audit committee of the institution.

"(ii) FACTORS TO BE CONSIDERED.—In determining whether an insured depository institution has encountered hardships referred to in clause (i), the appropriate Federal banking agency shall consider factors such as the size of the institution, and whether the institution has made a good faith effort to elect or name additional com-

petent outside directors to the board of directors of the institution who may serve on the internal audit committee.".

(c) PUBLIC AVAILABILITY.—Section 36(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(a)(3)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, the Corporation and the appropriate Federal banking agencies may designate certain information as privileged and confidential and not available to the public.".

SEC. 302. INCENTIVES FOR SELF-TESTING.

(a) EQUAL CREDIT OPPORTUNITY.—

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

"SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION.

"(a) PRIVILEGED INFORMATION.—

"(1) CONDITIONS FOR PRIVILEGE.—A report or result of a self-test (as that term is defined by regulations of the Board) shall be considered to be privileged under paragraph (2) if a creditor—

"(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a credit transaction by a creditor, in order to

determine the level or effectiveness of compliance with this title by the creditor; and

"(B) has identified any possible violation of this title by the creditor and has taken, or is taking, appropriate corrective action to address any such possible violation.

"(2) PRIVILEGED SELF-TEST.—If a creditor meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

"(A) shall be privileged; and

"(B) may not be obtained or used by any applicant, department, or agency in any—

"(i) proceeding or civil action in which one or more violations of this title are alleged; or

"(ii) examination or investigation relating to compliance with this title.

"(b) RESULTS OF SELF-TESTING.—

"(1) IN GENERAL.—No provision of this section may be construed to prevent an applicant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or

in any examination or investigation of compliance with this title if—

"(A) the creditor or any person with lawful access to the report or results—

"(i) voluntarily releases or discloses all, or any part of, the report or results to the applicant, department, or agency, or to the general public; or

"(ii) refers to or describes the report or results as a defense to charges of violations of this title against the creditor to whom the self-test relates; or

"(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

"(2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

"(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

"(B) may not be used in any other action or proceeding.

"(c) ADJUDICATION.—An applicant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

"(1) a court of competent jurisdiction; or

"(2) an administrative law proceeding with appropriate jurisdiction.".

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, in consultation with the Secretary of Housing and Urban Development and the agencies referred to in section 704 of the Equal Credit Opportunity Act, and after providing notice and an opportunity for public comment, the Board shall promulgate final regulations to implement section 704A of the Equal Credit Opportunity Act, as added by this section.

(B) SELF-TEST.—

(i) DEFINITION.—The regulations promulgated under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 704A of the Equal Cred-

it Opportunity Act, as added by this section.

(ii) REQUIREMENT FOR SELF-TEST.—The regulations promulgated under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of compliance by a creditor with the Equal Credit Opportunity Act.

(iii) SUBSTANTIAL SIMILARITY TO CERTAIN FAIR HOUSING ACT REGULATIONS.—The regulations promulgated under subparagraph (A) shall be substantially similar to the regulations promulgated by the Secretary of Housing and Urban Development to carry out section 814A(d) of the Fair Housing Act, as added by this section.

(3) CLERICAL AMENDMENT.—The table of sections for title VII of the Consumer Credit Protection Act is amended by inserting after the item relating to section 704 the following new item:

"704A. Incentives for self-testing and self-correction.".

(b) FAIR HOUSING.—

(1) IN GENERAL.—The Fair Housing Act (42 U.S.C. 3601 et seq.) is amended by inserting after section 814 the following new section:

"SEC. 814A. INCENTIVES FOR SELF-TESTING AND SELF-CORRECTION.

"(a) PRIVILEGED INFORMATION.—

"(1) CONDITIONS FOR PRIVILEGE.—A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person—

"(A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and

"(B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.

"(2) PRIVILEGED SELF-TEST.—If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test—

"(A) shall be privileged; and

"(B) may not be obtained or used by any applicant, department, or agency in any—

"(i) proceeding or civil action in which one or more violations of this title are alleged; or

"(ii) examination or investigation relating to compliance with this title.

"(b) RESULTS OF SELF-TESTING.—

"(1) IN GENERAL.—No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if—

"(A) the person to whom the self-test relates or any person with lawful access to the report or the results—

"(i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or

"(ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or

"(B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.

"(2) DISCLOSURE FOR DETERMINATION OF PENALTY OR REMEDY.—Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B)—

"(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

"(B) may not be used in any other action or proceeding.

"(c) ADJUDICATION.—An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in—

"(1) a court of competent jurisdiction; or

"(2) an administrative law proceeding with appropriate jurisdiction.".

(2) REGULATIONS.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing no-

tice and an opportunity for public comment, the Secretary of Housing and Urban Development shall promulgate final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) SELF-TEST.—

(i) DEFINITION.—The regulations promulgated by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) REQUIREMENT FOR SELF-TEST.—The regulations promulgated by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) SUBSTANTIAL SIMILARITY TO CERTAIN EQUAL CREDIT OPPORTUNITY ACT REGULATIONS.—The regulations promulgated under subparagraph (A) shall be sub-

stantially similar to the regulations promulgated by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the privilege provided for in section 704A of the Equal Credit Opportunity Act or section 814A of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations promulgated under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations promulgated under subsection (a)(2) or (b)(2), as appropriate.

(2) EXCEPTION.—The privilege referred to in paragraph (1) does not apply to such a self-test conducted prior to the effective date of the regulations promulgated under subsection (a) or (b), as appropriate, if—

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was—

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704A of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814A of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

SEC. 303. EXEMPTION FOR SAVINGS INSTITUTIONS SERVING MILITARY PERSONNEL.

Section 10(m)(3)(F) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(3)(F)) is amended to read as follows:

"(F) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATIONS SERVING CERTAIN MILITARY PERSONNEL.—Subparagraph (A) does not apply to a savings association subsidiary of a savings and loan holding company if not less than 90 percent of the customers of the savings and loan holding company and the subsidiaries and affiliates of such company are active or former offi-

cers in the Armed Forces of the United States or the widows, widowers, divorced spouses, or current or former dependents of such officers.''.

SEC. 304. QUALIFIED THRIFT INVESTMENT AMENDMENTS.

(a) CREDIT CARDS.—Section 5(b) of the Home Owners' Loan Act (12 U.S.C. 1464(b)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

(b) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraphs:

''(T) CREDIT CARD LOANS.—Loans made through credit cards or credit card accounts.

''(U) EDUCATIONAL LOANS.—Loans made for the payment of educational expenses.''.

(c) COMMERCIAL AND OTHER LOANS.—Section 5(c)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by adding at the end the following: ''No loan may be made under this subparagraph in an amount that exceeds 20 percent of the total assets of the Federal savings association, and any loan amount in excess of 10 percent of the total assets of the Federal savings asso-

ciation may be invested only in small business loans, as such term is defined by the Director.".

(d) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT OF ASSETS.—Section 5(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(e) QUALIFIED THRIFT LENDER TEST.—Section 10(m)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)) is amended—

(1) by redesignating subparagraph (B) as clause (ii);

(2) in subparagraph (A), by striking "(A) the savings" and inserting "(B)(i) the savings"; and

(3) by inserting after "if—" the following new subparagraph:

"(A) the savings association qualifies as a domestic building and loan association, as such term is defined in section 7701(a)(19) of the Internal Revenue Code of 1986; or".

(f) DEFINITION.—Section 10(m)(4) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)) is amended—

(1) by striking "subsection—" and inserting "subsection, the following definitions shall apply:";

(2) in subparagraph (C)—

(A) in clause (ii), by adding at the end the following new subclause:

"(VII) Loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts."; and

(B) in clause (iii), by striking subclause (VI) and inserting the following:

"(VI) Loans for personal, family, or household purposes (other than loans for personal, family, or household purposes described in clause (ii)(VII)).";

and

(3) by adding at the end the following new subparagraphs:

"(D) CREDIT CARD.—The Director shall issue such regulations as may be necessary to define the term 'credit card'.

"(E) SMALL BUSINESS.—The Director shall issue such regulations as may be necessary to define the term 'small business'.".

SEC. 305. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.

The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following new section:

"SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL HOME LOAN BANKS.

"(a) IN GENERAL.—Any policy or regulation adopted by the Board governing payment system risk or intraday credit shall—

"(1) include—

"(A) the establishment of net debit caps appropriate to the credit quality of each Federal Home Loan Bank; and

"(B) the imposition of normal fees for daylight overdrafts, calculated in the same manner as fees for other users; or

"(2) exempt Federal Home Loan Banks from such policy or regulation.

"(b) DEFINITION.—For purposes of this section, the term 'Federal Home Loan Bank' has the same meaning as in section 2 of the Federal Home Loan Bank Act.".

SEC. 306. APPLICATION FOR MEMBERSHIP IN THE FEDERAL HOME LOAN BANK SYSTEM.

Section 4(b) of the Federal Home Loan Bank Act (12 U.S.C. 1424(b)) is amended to read as follows:

"(b) MEMBERSHIP BASED ON CONVENIENCE.—

"(1) APPLICATION PROCESS.—An institution that is eligible to become a member under this section may become a member by submitting an application for membership—

"(A) to the Bank in the district in which the principal place of business of the institution is located; or

"(B) if the Board determines that such action is necessary for the convenience of the institution, to the Bank in any district that is adjacent to the district in which the principal place of business of the institution is located.

"(2) APPROVAL OF APPLICATION.—An application for membership submitted under this subsection shall be approved by the Bank—

"(A) if—

"(i) in the judgment of the Bank, the applicant meets the criteria for eligibility contained in this section; and

"(ii) the applicant has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under a comparable

rating system) as of the most recent rating of that applicant; or

"(B) in the case of an applicant not described in subparagraph (A), the bank provides notice to the Board prior to the approval of the application.".

SEC. 307. AUTHORITY FOR FEDERAL HOME LOAN BANKS TO SELECT EXTERNAL AUDITORS.

Section 11(j) of the Federal Home Loan Bank Act (12 U.S.C. 1431(j)) is amended—

(1) by striking "(j) Notwithstanding" and inserting the following:

"(j) AUDITS.—

"(1) IN GENERAL.—Notwithstanding"; and

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

"(2) SELECTION OF EXTERNAL AUDITORS.—

"(A) IN GENERAL.—The Federal Home Loan Banks shall, on an annual basis, contract jointly for an annual independent audit.

"(B) ROLE OF THE BOARD.—Notwithstanding any other provision of law, the Board shall not participate in the independent audit contracting process under this paragraph, except that the Board may establish requirements for

independent audit contracts and requirements to ensure consistency in financial reporting.".

SEC. 308. LIMITED PURPOSE BANKS.

(a) GROWTH CAP RELIEF.—Section 4(f)(3)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended—

(1) in clause (ii), by adding "or" at the end;

(2) in clause (iii), by striking "; or" at the end and inserting a period; and

(3) by striking clause (iv).

(b) LIMITED PURPOSE BANK EXCEPTION.—Section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F)) is amended by inserting ", including an institution that accepts collateral for extensions of credit by holding deposits under $100,000, and by other means" after "An institution".

SEC. 309. COLLATERALIZATION OF ADVANCES TO MEMBERS.

Section 10(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)(1)) is amended to read as follows:

"(1) Fully disbursed, whole first mortgages on improved residential property that are not more than 90 days delinquent, mortgages on improved residential property insured or guaranteed by the United

States Government or any agency thereof, or securities representing a whole interest in such mortgages.".

SEC. 310. INCREASING LIMIT ON TOTAL ADVANCES BY THE FHLB SYSTEM TO NON-QTL INSTITUTIONS.

Section 10(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking "30 percent" and inserting "40 percent".

SEC. 311. FAIR DEBT COLLECTION PRACTICES.

(a) FALSE OR MISLEADING REPRESENTATIONS.—Section 807(11) of the Fair Debt Collection Practices Act (15 U.S.C. 1692e(11)) is amended by striking "all communications made to collect" and inserting "the initial written communication with the consumer in connection with the collection of".

(b) COLLECTION ACTIVITY DURING VALIDATION PERIOD.—Section 809(a) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

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

"(6) a statement that, except as provided in subsection (b), a debt collector may—

"(A) demand that the debt be paid during the 30-day period described in paragraph (3); and

"(B) collect payment on the debt during such period.".

TITLE IV—FAIR CREDIT REPORTING

SEC. 401. SHORT TITLE.

This title may be cited as the "Consumer Reporting Reform Act of 1995".

SEC. 402. DEFINITIONS.

(a) ADVERSE ACTION.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(k) ADVERSE ACTION.—

"(1) ACTIONS INCLUDED.—The term 'adverse action'—

"(A) has the same meaning as in section 701(d)(6) of the Equal Credit Opportunity Act; and

"(B) means—

"(i) a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insur-

ance, existing or applied for, in connection with the underwriting of insurance;

"(ii) a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee;

"(iii) a denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 604(a)(3)(D); and

"(iv) an action taken or determination that is—

"(I) made in connection with an application that was made by, or a transaction that was initiated by, any consumer, or in connection with a review of an account under section 604(a)(3)(E)(ii); and

"(II) adverse to the interests of the consumer.

"(2) APPLICABLE FINDINGS, DECISIONS, COMMENTARY, AND ORDERS.—For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final find-

ings, decisions, commentary, and orders issued under section 701(d)(6) of the Equal Credit Opportunity Act by the Board of Governors of the Federal Reserve System or any court shall apply.".

(b) FIRM OFFER OF CREDIT OR INSURANCE.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(l) FIRM OFFER OF CREDIT OR INSURANCE.—The term 'firm offer of credit or insurance' means any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

"(1) The consumer being determined, based on information in the consumer's application for the credit or insurance, to meet specific criteria bearing on creditworthiness or insurability, as applicable, that are established—

"(A) before selection of the consumer for the offer; and

"(B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.

"(2) Verification—

"(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit or insurance, or other information bearing on the creditworthiness or insurability of the consumer; or

"(B) of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on creditworthiness or insurability.

"(3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was—

"(A) established before selection of the consumer for the offer of credit or insurance; and

"(B) disclosed to the consumer in the offer of credit or insurance.".

(c) CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended

by subsection (b) of this section) is amended by adding at the end the following new subsection:

"(m) CREDIT OR INSURANCE TRANSACTION THAT IS NOT INITIATED BY THE CONSUMER.—The term 'credit or insurance transaction that is not initiated by the consumer' does not include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of—

"(1) reviewing the account or insurance policy; or

"(2) collecting the account.".

(d) STATE.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (c) of this section) is amended by adding at the end the following new subsection:

"(n) STATE.—The term 'State' means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.".

(e) DEFINITION OF CONSUMER REPORT.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) by striking "(d) The term" and inserting the following:

"(d) CONSUMER REPORT.—

"(1) IN GENERAL.—The term";

(2) by striking "for (1) credit" and inserting the following: "for—

"(A) credit";

(3) by striking "purposes, or (2)" and all that follows through "section 604." and inserting the following: "purposes;

"(B) employment purposes; or

"(C) any other purpose authorized under section 604."; and

(4) by striking the second sentence and inserting the following:

"(2) EXCLUSIONS.—The term 'consumer report' does not include—

"(A) any—

"(i) report containing information solely as to transactions or experiences between the consumer and the person making the report;

"(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

"(iii) any communication of other information among persons related by common ownership or affiliated by corporate

control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, prior to the time that the information is initially communicated, to direct that such information not be communicated among such persons;

"(B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

"(C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures to the consumer required under section 615;

"(D) any report furnished for use in connection with a transaction that is primarily for a commercial purpose, regardless of the purpose for which information in the report was originally collected or is otherwise used; or

"(E) a communication described in subsection (o).".

(f) EXCLUSION OF CERTAIN COMMUNICATIONS BY EMPLOYMENT AGENCIES FROM DEFINITION OF CONSUMER REPORT.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681(a)) is amended by adding at the end the following new subsection:

"(o) EXCLUDED COMMUNICATIONS.—A communication is described in this subsection if it is a communication—

"(1) that, but for subsection (d)(2)(E), would be an investigative consumer report;

"(2) that is made to a prospective employer for the purpose of—

"(A) procuring an employee for the employer; or

"(B) procuring an opportunity for a natural person to work for the employer;

"(3) that is made by a person who regularly performs such procurement;

"(4) that is not used by any person for any purpose other than a purpose described in subparagraph (A) or (B) of paragraph (2); or

"(5) with respect to which—

"(A) the consumer who is the subject of the communication—

"(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

"(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

"(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, not later than 3 business days after the receipt of the consent by that person;

"(B) the person who makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

"(C) the person who makes the communication—

"(i) discloses in writing to the consumer who is the subject of the communication, not later than 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of any information that is acquired solely for use in making the communication and is actually used for no other purpose, need not be disclosed other than under appropriate discovery procedures in any court of competent jurisdiction in which an action is brought; and

"(ii) notifies the consumer who is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).".

(g) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON A NATIONWIDE BASIS.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended by subsection (f) of this section) is amended by adding at the end the following new subsection:

"(p) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE

BASIS.—The term 'consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

"(1) Public record information.

"(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.".

SEC. 403. FURNISHING CONSUMER REPORTS; USE FOR EMPLOYMENT PURPOSES.

(a) FURNISHING CONSUMER REPORTS FOR BUSINESS TRANSACTIONS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended—

(1) by inserting "(a) IN GENERAL.—" before "A consumer reporting agency"; and

(2) in subsection (a)(3) (as so designated by paragraph (1) of this subsection), by striking subparagraph (E) and inserting the following:

"(E) otherwise has a legitimate business need for the information—

"(i) in connection with a business transaction that—

"(I) is initiated by the consumer; or

"(II) is a direct marketing transaction for which the furnishing of information from a consumer's file by the agency is not prohibited under subsection (d); or

"(ii) to review an account to determine whether the consumer continues to meet the terms of the account.".

(b) FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new subsection:

"(b) CONDITIONS FOR FURNISHING AND USING CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.—

"(1) CERTIFICATION FROM USER.—A consumer reporting agency may furnish a consumer report for employment purposes only if—

"(A) the person who obtains such report from the agency certifies to the agency that—

"(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer

report if paragraph (3) becomes applicable; and

"(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

"(B) the consumer reporting agency provides with the report a summary of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(2) DISCLOSURE TO CONSUMER.—A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

"(A) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(B) the consumer has authorized in writing the procurement of the report by that person.

"(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

"(i) a copy of the report;

"(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3); and

"(iii) a period of not longer than 5 business days following receipt of the report by the consumer under clause (i) to respond to any information in the report that is disputed by the consumer and notice in writing of the opportunity for the consumer to respond during that period.

"(B) EXCEPTION.—The opportunity to respond and notice described in subparagraph (A)(iii) shall not be required with respect to any person who takes an adverse action described in subparagraph (A) based on a reasonable belief that the consumer has engaged in fraudulent or

criminal activity that is related to, or that could affect, the consumer's employment.".

SEC. 404. USE OF CONSUMER REPORTS FOR PRESCREENING AND DIRECT MARKETING; PROHIBITION ON UNAUTHORIZED OR UNCERTIFIED USE OF INFORMATION.

(a) IN GENERAL.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) (as amended by section 403 of this Act) is amended—

(1) in subsection (a), by striking "A consumer reporting agency" and inserting "Subject to subsections (c) and (d), any consumer reporting agency"; and

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

"(c) FURNISHING REPORTS IN CONNECTION WITH CREDIT OR INSURANCE TRANSACTIONS THAT ARE NOT INITIATED BY THE CONSUMER.—

"(1) IN GENERAL.—A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subsection (a)(3)(A) in connection with any credit or insurance transaction that is not initiated by the consumer only if—

"(A) the consumer authorizes the agency to provide such report to such person; or

"(B)(i) the transaction consists of a firm offer of credit or insurance;

"(ii) the consumer reporting agency has complied with subsection (e); and

"(iii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.

"(2) LIMITS ON INFORMATION RECEIVED UNDER PARAGRAPH (1)(B).—A person may receive pursuant to paragraph (1)(B) only—

"(A) the name and address of a consumer;

"(B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and

"(C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

"(3) INFORMATION REGARDING INQUIRIES.—Except as provided in section 609(a)(5), a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or in-

surance transaction that is not initiated by a consumer.

"(d) FURNISHING INFORMATION FROM CONSUMER FILES IN CONNECTION WITH DIRECT MARKETING TRANSACTIONS THAT ARE NOT INITIATED BY THE CONSUMER.—

"(1) IN GENERAL.—A consumer reporting agency may furnish information from a file relating to a consumer pursuant to subsection (a)(3)(E) in connection with a direct marketing transaction that is not initiated by the consumer only if—

"(A) the consumer authorizes the agency to provide such information to such person; or

"(B)(i) the consumer reporting agency has complied with subsection (e); and

"(ii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the name and address of the consumer excluded from lists of names provided by the agency pursuant to this paragraph.

"(2) LIMITS ON FURNISHING INFORMATION UNDER PARAGRAPH (1)(B).—A consumer reporting agency may furnish, pursuant to paragraph (1)(B), only the name and address of a consumer and other information that would not disclose the credit pay-

ment history, credit limit, credit balance, or any negative information pertaining to the consumer.

"(3) INFORMATION REGARDING INQUIRIES.—Except as provided in section 609(a)(5), a consumer reporting agency shall not furnish to any person a record of inquiries made in connection with a direct marketing transaction that is not initiated by a consumer.

"(e) ELECTION OF CONSUMER TO BE EXCLUDED FROM LISTS.—

"(1) IN GENERAL.—A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency under subsection (c)(1)(B) in connection with a credit or insurance transaction that is not initiated by the consumer or under subsection (d)(1)(B) in connection with a direct marketing transaction that is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of a consumer report relating to the consumer in connection with any credit or insurance transaction that is not initiated by the consumer or any direct marketing transaction that is not initiated by the consumer.

"(2) MANNER OF NOTIFICATION.—A consumer shall notify a consumer reporting agency under paragraph (1)—

"(A) through the notification system maintained by the agency under paragraph (5); or

"(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

"(3) RESPONSE OF AGENCY AFTER NOTIFICATION THROUGH SYSTEM.—Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall—

"(A) inform the consumer that the election is effective only for the 2-year period following the election if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

"(B) provide to the consumer a notice of election form, if requested by the consumer, not later than 5 business days after receipt of the notification of the election through the system established under paragraph (5), in the case of a

request made at the time the consumer provides notification through the system.

"(4) EFFECTIVENESS OF ELECTION.—An election of a consumer under paragraph (1)—

"(A) shall be effective with respect to a consumer reporting agency beginning on the date on which the consumer notifies the agency in accordance with paragraph (2);

"(B) shall be effective with respect to a consumer reporting agency—

"(i) subject to subparagraph (C), during the 2-year period beginning on the date on which the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

"(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

"(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency

under paragraph (5), that the election is no longer effective; and

"(D) shall be effective with respect to each affiliate of the agency.

"(5) NOTIFICATION SYSTEM.—

"(A) IN GENERAL.—Each consumer reporting agency that, under subsection (c)(1)(B), furnishes a consumer report in connection with a credit or insurance transaction that is not initiated by a consumer or, under subsection (d)(1)(B), furnishes a consumer report in connection with a direct marketing transaction that is not initiated by a consumer, shall—

"(i) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any such list of names and addresses provided by the agency for such a transaction; and

"(ii) publish by not later than 365 days after the date of enactment of the

Consumer Reporting Reform Act of 1995, and not less than annually thereafter, in a publication of general circulation in the area served by the agency—

"(I) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

"(II) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under clause (i).

"(B) ESTABLISHMENT AND MAINTENANCE AS COMPLIANCE.—Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on the agency's own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

"(6) NOTIFICATION SYSTEM BY AGENCIES THAT OPERATE NATIONWIDE.—Each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall establish and main-

tain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.".

(b) USE OF INFORMATION OBTAINED FROM REPORTS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) (as amended by subsection (a) of this section) is amended by adding at the end the following new subsection:

"(f) CERTAIN USE OR OBTAINING OF INFORMATION PROHIBITED.—A person shall not use or obtain a consumer report for any purpose unless—

"(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

"(2) the purpose is certified in accordance with section 607 by a prospective user of the report through a general or specific certification.".

SEC. 405. CONSUMER CONSENT REQUIRED TO FURNISH CONSUMER REPORT CONTAINING MEDICAL INFORMATION; FURNISHING CONSUMER REPORTS FOR COMMERCIAL TRANSACTIONS.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) (as amended by this Act) is amended by adding at the end the following new subsection:

"(g) FURNISHING REPORTS CONTAINING MEDICAL INFORMATION.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction or a direct marketing transaction, a consumer report that contains medical information about a consumer, unless the consumer consents to the furnishing of the report.".

SEC. 406. OBSOLETE INFORMATION AND INFORMATION CONTAINED IN CONSUMER REPORTS.

(a) REPEAL LARGE-DOLLAR EXCEPTIONS.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended—

(1) in subsection (a), by striking "(a) Except as authorized under subsection (b), no" and inserting the following new subsection:

"(a) INFORMATION EXCLUDED FROM CONSUMER REPORTS.—No"; and

(2) by striking subsection (b).

(b) CLARIFICATION OF REPORTING PERIOD.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) (as amended by subsection (a) of this section) is amended by adding at the end the following:

"(b) RUNNING OF REPORTING PERIOD.—

"(1) IN GENERAL.—The 7-year period referred to in paragraphs (4) and (6) of subsection (a) shall

begin, with respect to any delinquent account that is placed for collection (internally or by referral to a third party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply only to items of information added to a consumer report on or after the date that is 455 days after the date of enactment of the Consumer Reporting Reform Act of 1995.".

(c) ADDITIONAL INFORMATION ON BANKRUPTCY FILINGS REQUIRED.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding after subsection (b) (as added by subsection (b) of this section) the following new subsection:

"(c) INFORMATION REQUIRED TO BE DISCLOSED.—Any consumer reporting agency that furnishes a consumer report that contains information regarding any case involving the consumer that arises under title 11, United States Code, shall include in the report an identification of the chapter of such title 11 under which such case arises if provided by the source of the information. If any case arising

or filed under title 11, United States Code, is withdrawn by the consumer prior to a final judgment, the consumer reporting agency shall include in the report that such case or filing was withdrawn upon receipt of documentation certifying such withdrawal.".

(d) INDICATION OF CLOSURE OF ACCOUNT; INDICATION OF DISPUTE BY CONSUMER.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) (as amended by subsection (c) of this section) is amended by adding at the end the following new subsections:

"(d) INDICATION OF CLOSURE OF ACCOUNT BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 623(a)(4) that a credit account of a consumer was voluntarily closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.

"(e) INDICATION OF DISPUTE BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 623(a)(3) that information regarding a consumer who was furnished to the agency is disputed by the consumer, the agency shall indicate that fact in each consumer report that includes the disputed information.".

(e) CONFORMING AMENDMENTS.—

(1) Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended in the section heading,

*by striking "**OBSOLETE INFORMATION**" and inserting "**REQUIREMENTS RELATING TO INFORMATION CONTAINED IN CONSUMER REPORTS**".*

(2) The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 605 and inserting the following:

"605. Requirements relating to information contained in consumer reports.".

SEC. 407. COMPLIANCE PROCEDURES.

(a) DISCLOSURE OF CONSUMER REPORTS BY USERS.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding at the end the following new subsection:

"(c) DISCLOSURE OF CONSUMER REPORTS BY USERS ALLOWED.—A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.".

(b) NOTICE TO USERS AND PROVIDERS OF INFORMATION TO ENSURE COMPLIANCE.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding after subsection (c) (as added by subsection (a) of this section) the following new subsection:

"(d) NOTICE TO USERS AND FURNISHERS OF INFORMATION.—

"(1) NOTICE REQUIREMENT.—A consumer reporting agency shall provide to any person—

"(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

"(B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this title.

"(2) CONTENT OF NOTICE.—The Federal Trade Commission shall prescribe the content of notices under paragraph (1).".

(c) RECORD OF IDENTITY OF USERS AND PURPOSES CERTIFIED BY USERS OF REPORTS.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding after subsection (d) (as added by subsection (b) of this section) the following new subsection:

"(e) PROCUREMENT OF CONSUMER REPORT FOR RESALE.—

"(1) DISCLOSURE.—A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency that originally furnishes the report—

"(A) the identity of the end-user of the report (or information); and

"(B) each permissible purpose under section 604 for which the report is furnished to the end-user of the report (or information).

"(2) RESPONSIBILITIES OF PROCURERS FOR RESALE.—A person who procures a consumer report for purposes of reselling the report (or any information in the report) shall—

"(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 604, including by requiring that each person to which the report (or information) is resold and that resells or provides the report (or information) to any other person—

"(i) identifies each end user of the resold report (or information);

"(ii) certifies each purpose for which the report (or information) will be used; and

"(iii) certifies that the report (or information) will be used for no other purpose; and

"(B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).".

SEC. 408. CONSUMER DISCLOSURES.

(a) ALL INFORMATION IN CONSUMER'S FILE REQUIRED TO BE DISCLOSED.—Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended to read as follows:

"(1) All information in the consumer's file at the time of the request, except that nothing in this paragraph shall be construed to require a consumer reporting agency to disclose to a consumer any information concerning credit scores or any other risk scores or predictors relating to the consumer.".

(b) MORE INFORMATION CONCERNING RECIPIENTS OF REPORTS REQUIRED.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended to read as follows:

"(3)(A) Identification of each person (including each end-user identified under section 607(e)(1)) that procured a consumer report—

"(i) for employment purposes, during the 2-year period preceding the date on which the request is made; or

"(ii) for any other purpose, during the 1-year period preceding the date on which the request is made.

"(B) An identification of a person under subparagraph (A) shall include—

"(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

"(ii) upon request of the consumer, the address and telephone number of the person.".

(c) INFORMATION REGARDING INQUIRIES.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:

"(5) A record of all inquiries received by the agency during the 1-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.".

(d) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURE.—

(1) IN GENERAL.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following new subsection:

"(c) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH DISCLOSURE.—

"(1) SUMMARY OF RIGHTS.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

"(A) a written summary of all rights the consumer has under this title; and

"(B) in the case of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number established by the agency at which personnel are accessible to consumers during normal business hours.

"(2) SPECIFIC ITEMS REQUIRED TO BE INCLUDED.—The summary of rights required under paragraph (1) shall include—

"(A) a brief description of this title and all rights of consumers under this title;

"(B) an explanation of how the consumer may exercise the rights of the consumer under this title;

"(C) a list of all Federal agencies responsible for enforcing any provision of this title and the address and any appropriate phone number

of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

"(D) a statement that the consumer may have additional rights under State law and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general to learn of those rights; and

"(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from a consumer's file, unless the information is outdated under section 605 or cannot be verified.

"(3) FORM OF SUMMARY OF RIGHTS.—For purposes of this subsection and any disclosure by a consumer reporting agency required under this title with respect to consumers' rights, the Federal Trade Commission (after consultation with each Federal agency referred to in section 621(b)) shall prescribe the form and content of any such disclosure of the rights of consumers required under this title.".

(2) TECHNICAL AMENDMENT.—Section 606(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681d(a)(1)(B)) is amended by inserting "and the written summary of the rights of the consumer

prepared pursuant to section 609(c)" before the semicolon.

(e) FORM OF DISCLOSURES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) are amended to read as follows:

"(a) IN GENERAL.—

"(1) PROPER IDENTIFICATION.—A consumer reporting agency shall require, as a condition of making the disclosures required under section 609, that the consumer furnish proper identification.

"(2) DISCLOSURE IN WRITING.—Except as provided in subsection (b), the disclosures required to be made under section 609 shall be provided under that section in writing.

"(b) OTHER FORMS OF DISCLOSURE.—

"(1) IN GENERAL.—If authorized by a consumer, a consumer reporting agency may make the disclosures required under 609—

"(A) other than in writing; and

"(B) in such form as may be—

"(i) specified by the consumer in accordance with paragraph (2); and

"(ii) available from the agency.

"(2) FORM.—A consumer may specify pursuant to paragraph (1) that disclosures under section 609 shall be made—

"(A) in person, upon the appearance of the consumer at the place of business of the consumer reporting agency where disclosures are regularly provided, during normal business hours, and on reasonable notice;

"(B) by telephone, if the consumer has made a written request for disclosure by telephone;

"(C) by electronic means, if available from the agency; or

"(D) by any other reasonable means that is available from the agency.".

(2) SIMPLIFIED DISCLOSURE.—Not later than 90 days after the date of enactment of this Act, each consumer reporting agency shall develop a form on which such consumer reporting agency shall make the disclosures required under section 609(a) of the Fair Credit Reporting Act, for the purpose of maximizing the comprehensibility and standardization of such disclosures.

(3) GOALS.—The Federal Trade Commission shall take appropriate action to assure that the goals

of comprehensibility and standardization are achieved in accordance with paragraph (2).

(4) CONFORMING AMENDMENTS.—

(A) Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681h(a)) is amended in the matter preceding paragraph (1) by striking "and proper identification of any consumer" and inserting "and subject to section 610(a)(1)".

*(B) Section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) is amended in the section heading by inserting "**AND FORM**" after "**CONDITIONS**".*

(C) The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended in the item relating to section 610 by inserting "and form" after "Conditions".

SEC. 409. PROCEDURES IN CASE OF THE DISPUTED ACCURACY OF ANY INFORMATION IN A CONSUMER'S FILE.

(a) IN GENERAL.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)) is amended to read as follows:

"(a) REINVESTIGATIONS OF DISPUTED INFORMATION.—

"(1) REINVESTIGATION REQUIRED.—

"(A) IN GENERAL.—If the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer.

"(B) EXTENSION OF PERIOD TO REINVESTIGATE.—Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.

"(C) LIMITATIONS ON EXTENSION OF PERIOD TO REINVESTIGATE.—Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subpara-

graph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

"(2) PROMPT NOTICE OF DISPUTE TO FURNISHER OF INFORMATION.—

"(A) IN GENERAL.—Prior to the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer.

"(B) PROVISION OF OTHER INFORMATION FROM CONSUMER.—The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer after the period referred to in subparagraph (A) and be-

fore the end of the period referred to in paragraph (1)(A).

"(3) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

"(B) NOTICE OF DETERMINATION.—Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

"(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

"(i) the reasons for the determination under subparagraph (A); and

"(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

"(4) CONSIDERATION OF CONSUMER INFORMATION.—In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

"(5) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

"(A) IN GENERAL.—If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's file. The information deleted shall consist solely of the informa-

tion that was disputed by the consumer and shall not include any portion of the same item that was not disputed.

"(B) REQUIREMENTS RELATING TO REINSERTION OF PREVIOUSLY DELETED MATERIAL.—

"(i) CERTIFICATION OF ACCURACY OF INFORMATION.—If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

"(ii) NOTICE TO CONSUMER.—If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.

"(iii) ADDITIONAL INFORMATION.—As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion—

"(I) a statement that the disputed information has been reinserted;

"(II) the name, business address, and telephone number of any furnisher of information contacted, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and

"(III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

"(C) PROCEDURES TO PREVENT REAPPEARANCE.—A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of infor-

mation that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

"(D) AUTOMATED REINVESTIGATION SYSTEM.—Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

"(6) NOTICE OF RESULTS OF REINVESTIGATION.—

"(A) IN GENERAL.—A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

"(B) CONTENTS.—As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing prior to the expiration of

the 5-day period referred to in subparagraph (A)—

"(i) a statement that the reinvestigation is completed;

"(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

"(iii) a description or indication of any changes made in the consumer report as a result of those revisions to the consumer's file;

"(iv) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the name, business address, and telephone number of any furnisher of information contacted in connection with such information;

"(v) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

"(vi) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.

"(7) DESCRIPTION OF REINVESTIGATION PROCEDURE.—A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iv) by not later than 15 days after receiving a request from the consumer for that description.

"(8) EXPEDITED DISPUTE RESOLUTION.—If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency—

"(A) provides prompt notice of the deletion to the consumer by telephone;

"(B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with

subparagraph (C), a statement of the consumer's right to request under subsection (d) that the agency furnish notifications under that subsection; and

"(C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.".

(b) CONFORMING AMENDMENT.—Section 611(d) of the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is amended by striking "The consumer reporting agency shall clearly" and all that follows through the end of the subsection.

SEC. 410. CHARGES FOR CERTAIN DISCLOSURES.

Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended to read as follows:

"SEC. 612. CHARGES FOR CERTAIN DISCLOSURES.

"(a) REASONABLE CHARGES ALLOWED FOR CERTAIN DISCLOSURES.—Except as provided in subsections (b), (c), and (d), a consumer reporting agency may impose a reasonable charge on a consumer—

"(1) for making a disclosure to the consumer pursuant to section 609, which charge—

"(A) shall not exceed $8; and

"(B) shall be indicated to the consumer prior to making disclosure; and

"(2) for furnishing pursuant to section 611(d), following a reinvestigation under section 611(a), a statement, codification, or summary to a person designated by the consumer under that section after the 30-day period beginning on the date of notification of the consumer under paragraph (6) or (8) of section 611(a) with respect to the reinvestigation, which charge—

"(A) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and

"(B) shall be indicated to the consumer prior to furnishing such information.

"(b) FREE CONSUMER REPORT AFTER ADVERSE NOTICE TO CONSUMER.—Each consumer reporting agency that maintains a file on a consumer shall make all disclosures pursuant to section 609 without charge to the consumer if, not later than 60 days after receipt by such consumer of a notification pursuant to section 615, or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609.

"(c) FREE CONSUMER REPORT UNDER CERTAIN OTHER CIRCUMSTANCES.—Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer—

"(1) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the certification is made;

"(2) is a recipient of public welfare assistance; or

"(3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.

"(d) OTHER CHARGES PROHIBITED.—A consumer reporting agency shall not impose any charge on a consumer for providing any notification required by this Act or making any disclosure required by this Act, except as authorized by subsection (a).".

SEC. 411. DUTIES OF USERS OF CONSUMER REPORTS.

(a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—Section 615(a) of the Fair Credit Reporting Act (15 U.S.C. 1681m(a)) is amended to read as follows:

"(a) DUTIES OF USERS TAKING ADVERSE ACTIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER

REPORTS.—If any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report, the person shall—

"(1) provide written or electronic notice of the adverse action to the consumer;

"(2) provide to the consumer in writing or electronically—

"(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; and

"(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

"(3) provide to the consumer a written or electronic notice of the consumer's right—

"(A) to obtain, under section 612, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an in-

dication of the 60-day period under that section for obtaining such a copy; and

"(B) to dispute, under section 611, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.".

(b) DUTIES OF USERS MAKING CERTAIN CREDIT SOLICITATIONS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following new subsection:

"(d) DUTIES OF USERS MAKING WRITTEN CREDIT OR INSURANCE SOLICITATIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER FILES.—

"(1) IN GENERAL.—Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, that is provided to that person under section 604(c)(1)(B), shall provide with each written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

"(A) information contained in the consumer's consumer report was used in connection with the transaction;

"(B) the consumer received the offer of credit or insurance because the consumer satisfied the criteria for creditworthiness or insurability under which the consumer was selected for the offer;

"(C) if applicable, the credit or insurance may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on creditworthiness or insurability or does not furnish any required collateral;

"(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit or insurance transaction that is not initiated by the consumer; and

"(E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(e).

"(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER.—A statement under paragraph (1) shall include the address and toll-free telephone number of the

appropriate notification system established under section 604(e).

"(3) MAINTAINING CRITERIA ON FILE.—A person who makes an offer of credit or insurance to a consumer under a credit or insurance transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on creditworthiness or insurability, as applicable, that are the basis for determining whether or not to extend credit or insurance pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit or insurance, until the expiration of the 3-year period beginning on the date on which the offer is made to the consumer.

"(4) AUTHORITY OF FEDERAL AGENCIES REGARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES NOT AFFECTED.—This section is not intended to affect the authority of any Federal agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a credit or insurance transaction that is not initiated by the consumer.".

(c) DUTIES OF USERS MAKING OTHER SOLICITATIONS.—Section 615 of the Fair Credit Reporting Act (15

U.S.C. 1681m) is amended by adding at the end the following new subsection:

"(e) DUTIES OF USERS MAKING OTHER WRITTEN SOLICITATIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER FILES.—

"(1) IN GENERAL.—A person who, in connection with any direct marketing transaction that is not initiated by a consumer, uses a consumer report on that consumer that is provided to that person under section 604(a)(3)(E)(i)(II), shall provide with the initial written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

"(A) information contained in the consumer's consumer report was used in connection with the transaction;

"(B) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any direct marketing transaction that is not initiated by the consumer; and

"(C) the consumer may exercise the right referred to in subparagraph (B) by notifying a no-

tification system established under section 604(e).

"(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER.—A statement under paragraph (1) shall include the address and toll-free telephone number of the appropriate notification system established under section 604(e).

"(3) AUTHORITY OF FEDERAL AGENCIES REGARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES NOT AFFECTED.—This section is not intended to affect the authority of any Federal agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with a direct marketing transaction that is not initiated by the consumer.".

(d) CONFORMING AMENDMENT.—Section 615(c) of the Fair Credit Reporting Act (15 U.S.C. 1681m(c)) is amended by striking "subsections (a) and (b)" and inserting "this section".

SEC. 412. CIVIL LIABILITY.

(a) CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by striking "Any consumer reporting agency or user of information which" and inserting "(a) IN GENERAL.—Any person who".

(b) MINIMUM CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE.—Section 616(1) of the Fair Credit Reporting Act (15 U.S.C. 1681n(1)) is amended to read as follows:

"(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000; or

"(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or $1,000, whichever is greater;".

(c) CIVIL LIABILITY FOR KNOWING NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following:

"(c) CIVIL LIABILITY FOR KNOWING NONCOMPLIANCE.—Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or $1,000, whichever is greater.".

(d) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLIANCE.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by striking "Any consumer re-

porting agency or user of information which" and inserting "(a) IN GENERAL.—Any person who".

(e) ATTORNEY'S FEES.—

(1) WILLFUL NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following new subsection:

"(b) ATTORNEY'S FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.".

(2) NEGLIGENT NONCOMPLIANCE.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by adding at the end the following new subsection:

"(b) ATTORNEY'S FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.".

SEC. 413. RESPONSIBILITIES OF PERSONS WHO FURNISH INFORMATION TO CONSUMER REPORTING AGENCIES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) by redesignating section 623 as section 624; and

(2) by inserting after section 622 the following:

"SEC. 623. RESPONSIBILITIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES.

"(a) DUTY OF FURNISHERS OF INFORMATION TO PROVIDE COMPLETE AND ACCURATE INFORMATION.—

"(1) PROHIBITIONS.—A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows that the information is incomplete or inaccurate.

"(2) DUTY TO CORRECT AND UPDATE INFORMATION.—A person who—

"(A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person's transactions or experiences with any consumer; and

"(B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate;

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.

"(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

"(4) DUTY TO PROVIDE NOTICE OF CLOSED ACCOUNTS.—A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the

consumer, in information regularly furnished for the period in which the account is closed.

"(5) DUTY TO PROVIDE NOTICE OF DELINQUENCY OF ACCOUNTS.—A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall, not later than 90 days after furnishing the information, notify the agency of the month and year of the commencement of the delinquency that immediately preceded the action.

"(b) DUTIES OF FURNISHERS OF INFORMATION UPON NOTICE OF DISPUTE.—

"(1) IN GENERAL.—After receiving notice pursuant to section 611(a)(2) of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—

"(A) conduct an investigation with respect to the disputed information;

"(B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2);

"(C) report the results of the investigation to the consumer reporting agency; and

"(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis.

"(2) DEADLINE.—A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, prior to the expiration of the period under section 611(a)(1) within which the consumer reporting agency is required to complete actions required by that section regarding that information.

"(c) LIMITATION ON LIABILITY.—Sections 616 and 617 do not apply to any failure to comply with subsection (a), except as provided in section 621(c)(1)(B).

"(d) LIMITATION ON ENFORCEMENT.—Subsection (a) shall be enforced exclusively under section 621 by the Federal agencies and officials and the State officials identified in that section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 623 and inserting the following:

"623. Responsibilities of furnishers of information to consumer reporting agencies.
"624. Relation to State laws.".

SEC. 414. INVESTIGATIVE CONSUMER REPORTS.

Section 606 of the Fair Credit Reporting Act (15 U.S.C. 1681d) is amended—

(1) in subsection (a)(1), by striking "or" after the semicolon at the end and inserting "and";

(2) by striking subsection (a)(2) and inserting the following:

"(2) the person certifies or has certified to the consumer reporting agency that—

"(A) the person has made the disclosures to the consumer required by paragraph (1); and

"(B) the person will comply with subsection (b).";

(3) in subsection (b), by striking "shall" the second place such term appears; and

(4) by adding at the end the following new subsection:

"(d) PROHIBITIONS.—

"(1) CERTIFICATION.—A consumer reporting agency shall not prepare or furnish an investigative consumer report unless the agency has received a certification under subsection (a)(2) from the person who requested the report.

"(2) INQUIRIES.—A consumer reporting agency shall not make an inquiry for the purpose of preparing an investigative consumer report on a consumer for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any applicable Federal or State equal employment opportunity law or regulation.

"(3) CERTAIN PUBLIC RECORD INFORMATION.—Except as otherwise provided in section 613, a consumer reporting agency shall not furnish an investigative consumer report that includes information that is a matter of public record and that relates to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless the agency has verified the accuracy of the information during the 30-day period ending on the date on which the report is furnished.

"(4) CERTAIN ADVERSE INFORMATION.—A consumer reporting agency shall not prepare or furnish an investigative consumer report on a consumer that contains information that is adverse to the interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with

whom the consumer is acquainted or who has knowledge of such item of information, unless—

"(A) the agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information; or

"(B) the person interviewed is the best possible source of the information.".

SEC. 415. INCREASED CRIMINAL PENALTIES FOR OBTAINING INFORMATION UNDER FALSE PRETENSES.

(a) OBTAINING INFORMATION UNDER FALSE PRETENSES.—Section 619 of the Fair Credit Reporting Act (15 U.S.C. 1681q) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".

(b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES.—Section 620 of the Fair Credit Reporting Act (15 U.S.C. 1681r) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".

SEC. 416. ADMINISTRATIVE ENFORCEMENT.

(a) AVAILABLE ENFORCEMENT POWERS.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a))—

(1) is amended in the second sentence, by striking "Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective" and inserting "Act. All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this title by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection and not subject to enforcement pursuant to section 8 of the Federal Deposit Insurance Act, irrespective";

(2) as amended by paragraph (1) of this subsection, is amended by inserting before the third period the following: ", including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule"; and

(3) as amended by paragraph (1) of this subsection, is amended by adding after the third period

the following: "Notwithstanding the preceding sentence, a court may not impose any civil penalty on a person for a violation of section 623(a)(1) unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.".

(b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (a), by inserting "ENFORCEMENT BY FEDERAL TRADE COMMISSION.—" before "Compliance with the requirements"; and

(2) in subsection (b), by striking the matter preceding paragraph (1) and inserting the following:

"(b) ENFORCEMENT BY OTHER AGENCIES.—Compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to subsection (d) or (e) of section 615 shall be enforced under—".

SEC. 417. STATE ENFORCEMENT OF FAIR CREDIT REPORTING ACT.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) STATE ACTION FOR VIOLATIONS.—

"(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

"(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

"(B) subject to paragraph (5), may bring an action on behalf of the residents of the State to recover—

"(i) damages for which the person is liable to such residents under sections 616 and 617 as a result of the violation;

"(ii) in the case of a violation of section 623(a), damages for which the person would, but for section 623(c), be liable to such residents as a result of the violation; or

"(iii) damages of not more than $1,000 for each willful or negligent violation; and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(2) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right—

"(A) to intervene in the action;

"(B) upon so intervening, to be heard on all matters arising therein;

"(C) to remove the action to the appropriate United States district court; and

"(D) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or the appropriate Federal regulator has instituted a civil action or an administrative action under section 8 of the Federal Deposit Insurance Act for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation of this title that is alleged in that complaint.

"(5) LIMITATIONS ON STATE ACTIONS FOR VIOLATION OF SECTION 623(a)(1).—

"(A) VIOLATION OF INJUNCTION REQUIRED.—A State may not bring an action against a person under paragraph (1)(B) for a violation of section 623(a)(1), unless—

"(i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and

"(ii) the person has violated the injunction.

"(B) LIMITATION ON DAMAGES RECOVERABLE.—In an action against a person under paragraph (1)(B) for a violation of section 623(a)(1), a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.".

SEC. 418. FEDERAL RESERVE BOARD AUTHORITY.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following new subsection:

"(e) INTERPRETIVE AUTHORITY.—The Board of Governors of the Federal Reserve System may issue interpretations of any provision of this title as such provision may

apply to any persons identified under paragraph (1), (2), and (3) of subsection (b), or to the holding companies and affiliates of such persons, in consultation with Federal agencies identified in paragraphs (1), (2), and (3) of subsection (b).".

SEC. 419. PREEMPTION OF STATE LAW.

Section 624 of the Fair Credit Reporting Act (as redesignated by section 413(a) of this Act) is amended—

(1) by striking "This title" and inserting "(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title"; and

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

"(b) GENERAL EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State—

"(1) with respect to any subject matter regulated under—

"(A) subsection (c) or (e) of section 604, relating to the prescreening of consumer reports;

"(B) section 611, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this sub-

paragraph does not apply to any State law in effect on the date of enactment of the Consumer Reporting Reform Act of 1995;

"(C) subsections (a) and (b) of section 615, relating to the duties of a person who takes any adverse action with respect to a consumer;

"(D) section 615(d), relating to the duties of persons who use a consumer report of a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

"(E) section 615(e), relating to the duties of persons who use a consumer report of a consumer in connection with any direct marketing transaction that is not initiated by the consumer;

"(F) section 605, relating to information contained in consumer reports, except that this subparagraph does not apply to any State law in effect on the date of enactment of the Consumer Reporting Reform Act of 1995; or

"(G) section 623(b)(2), relating to the time by which a person must take any action required under section 623(b)(1) with respect to an inves-

tigation of information furnished by the person to a consumer reporting agency, except that this subparagraph does not apply to any State law in effect on the date of enactment of the Consumer Reporting Reform Act of 1995;

"(2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control; or

"(3) with respect to the form and content of any disclosure required to be made under section 609(c).

"(c) DEFINITION OF FIRM OFFER OF CREDIT OR INSURANCE.—Notwithstanding any definition of the term 'firm offer of credit or insurance' (or any equivalent term) under the laws of any State, the definition of that term contained in section 603(l) shall be construed to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

"(d) LIMITATIONS.—Subsections (b) and (c)—

"(1) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on the date of enactment of the Consumer Reporting Reform Act of 1995; and

"(2) do not apply to any provision of State law (including any provision of a State constitution) that—

"(A) is enacted after January 1, 2004;

"(B) states explicitly that the provision is intended to supplement this Act; and

"(C) gives greater protection to consumers than is provided under this Act.".

SEC. 420. ACTION BY FTC AND FEDERAL RESERVE BOARD.

(a) MODIFICATION OF REQUIREMENTS BY FTC AND FEDERAL RESERVE BOARD AUTHORIZED.—

(1) IN GENERAL.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following new subsection:

"(f) MODIFICATION OF REQUIREMENTS BY FTC AUTHORIZED.—

"(1) IN GENERAL.—If the Federal Trade Commission considers such action necessary for the protection of consumers, the Commission may, after consultation with appropriate State regulatory and law enforcement agencies, promulgate regulations in accordance with section 553 of title 5, United States Code, to impose, with respect to consumer reporting agencies and all other persons subject to this title

other than any person described in paragraph (1), (2), or (3) of subsection (b), requirements—

"(A) that are more stringent than those imposed under—

"(i) section 611, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file;

"(ii) section 615(a), relating to the disclosure requirements applicable to a person who takes any adverse action with respect to a consumer on the basis of information contained in a consumer report;

"(iii) section 615(d), relating to the disclosure requirements applicable to persons who use a consumer report on a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance; or

"(iv) section 623(b)(2), relating to the time by which a person must take any action required under section 623(b)(1) with

respect to an investigation of information furnished by the person to a consumer reporting agency; and

"(B) with respect to the form and content of any disclosure required to be made under section 609(c).

"(2) FEDERAL RESERVE BOARD AUTHORITY.—If the Board of Governors of the Federal Reserve System determines such action to be necessary for the protection of consumers, the Board may prescribe regulations imposing on persons described in paragraph (1), (2), or (3) of subsection (b) or on the holding companies and affiliates of such persons, any requirement described in paragraph (1) of this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) The section heading and section designation for section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) are amended to read as follows:

"SEC. 621. ADMINISTRATIVE ENFORCEMENT AND AUTHORITIES; STATE ACTIONS.".

(B) The table of sections at the beginning of the Fair Credit Reporting Act is amended by striking the item relating to section 621 and inserting the following:

"621. Administrative enforcement and authorities; State actions.".

(b) DEADLINE TO PRESCRIBE MATTERS.—The Federal Trade Commission shall prescribe all matters required by this title (including the amendments made by this title) to be prescribed by that Commission, before the end of the 300-day period beginning on the date of enactment of this Act.

SEC. 421. AMENDMENT TO FAIR DEBT COLLECTION PRACTICES ACT.

(a) IN GENERAL.—Section 807(11) of the Fair Debt Collection Practices Act (15 U.S.C. 1692e), relating to certain practices constituting prohibited representations, is amended to read as follows:

"(11) The failure to disclose clearly, in any written communication made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, except that this paragraph does not apply to a communication—

"(A) to acquire location information in accordance with section 804;

"(B) made solely to acknowledge receipt of moneys or payments;

"(C) that consists solely of information requested by the consumer or the consumer's attorney; or

"(D) that is a formal pleading made in connection with a legal action.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 90 days after the date of enactment of this Act.

SEC. 422. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b) (as so designated by section 403 of this Act) is amended by adding at the end the following new paragraph:

"(4) In response to a request by the head of a department, agency, or office of any State or any political subdivision of any State that is responsible under law for enforcing child support orders (or an official authorized by the head of any such department, agency, or office), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed to establish an individual's capacity to make child support payments, or to determine the appropriate level of such payments;

"(B) the person has provided not less than 10 days prior written notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(C) the consumer report obtained pursuant to this paragraph will be kept confidential, will be used solely for establishing child support payment obligations, and will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.".

SEC. 423. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding at the end the following new section:

"SEC. 625. DISCLOSURES TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at

which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, that certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, that certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to

the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power; and

"(B) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained

the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c) and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and that have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, if the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military

department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General of the United States shall fully inform—

"(1) the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives; and

"(2) the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate;

concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer

reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee that was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency

or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 624 the following:

"625. Disclosures to FBI for counterintelligence purposes.".

(c) SUNSET.—The amendments made by this section shall become effective on the date of enactment of this Act, and shall remain in effect during the period beginning on

that date of enactment and ending 5 years after that date of enactment.

SEC. 424. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this title, the amendments made by this title shall become effective 365 days after the date of enactment of this Act.

(b) EARLY COMPLIANCE.—Any person or other entity that is subject to the requirements of this title may, at its option, comply with any provision of this title prior to the date on which that provision becomes effective under this title, in which case, each of the corresponding provisions of this title shall be fully applicable to such person or entity.

SEC. 425. RELATIONSHIP TO OTHER LAW.

Nothing in this title or the amendments made by this title shall be considered to supersede or otherwise affect section 2721 of title 18, United States Code, with respect to motor vehicle records for surveys, marketing, or solicitations.

TITLE V—ASSET CONSERVATION, LENDER LIABILITY, AND DEPOSIT INSURANCE PROTECTION

SEC. 501. SHORT TITLE.

This title may be cited as the "Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1995".

SEC. 502. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 45. FEDERAL BANKING AND LENDING AGENCY LIABILITY.

"(a) GOVERNMENTAL ENTITIES.—

"(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (3), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of a hazardous substance at or from property (including a right or interest in property) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an

insured depository institution, including a subsidiary of an insured depository institution;

"(B) in connection with the provision of a loan, a discount, an advance, a guarantee, insurance, or other financial assistance; or

"(C) in connection with property received in a civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying a State law, or a right, action, cause of action, or obligation under State law, except that the liability of a Federal banking or lending agency under a State law shall not exceed the value of the interest of the agency in the asset giving rise to the liability. Nothing in this section shall prevent a Federal banking or lending agency from agreeing with a State to transfer property to the State in lieu of any liability that might otherwise be imposed under State law.

"(3) LIMITATION.—Notwithstanding paragraph (1), and subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and section 9003 of the Solid

Waste Disposal Act, a Federal banking or lending agency that caused or contributed to the release of a hazardous substance may be liable for removal, remedial, corrective, or other response action pertaining to that release.

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of the property from a Federal banking or lending agency, unless the purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, corrective, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—If a Federal agency or State environmental agency is required to

take remedial or corrective action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), the subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of the remedial or corrective action. Any such reimbursement shall not exceed the increase in the fair market value of the property attributable to the remedial or corrective action.

"(b) LIEN EXEMPTION.—Notwithstanding any other provision of law, any property held by a subsequent purchaser referred to in subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to a lien for costs or damages associated with the release or threatened release of a hazardous substance existing at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring the agency to grant a covenant warranting that a removal, remedial, corrective, or other response action has been, or will in the future be, taken with respect to property acquired in the manner referred to in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, a Federal Reserve Bank, a Federal Home Loan Bank, the Department of Housing and Urban Development, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, the Small Business Administration, and any other Federal agency acting in a similar capacity, in any of their capacities, and their agents or appointees.

"(2) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' means—

"(A) any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; and

"(B) petroleum.

"(3) RELEASE.—The term 'release' has the same meaning as in—

"(A) section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, including the use, storage, disposal, treatment, generation, or transportation of a hazardous substance; and

"(B) section 9001(5) of the Solid Waste Disposal Act.

"(e) SAVINGS CLAUSE.—Nothing in this section shall—

"(1) affect the rights or immunities or other defenses that are available under this Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, subtitle I of the Solid Waste Disposal Act, or other applicable law to any party;

"(2) create any liability for any party; or

"(3) create a private right of action against an insured depository institution or lender, a Federal banking or lending agency, or any other party.".

SEC. 503. CERCLA AMENDMENTS.

(a) LENDER AND FIDUCIARY LIABILITY LIMITATIONS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following new section:

"SEC. 127. INSURED DEPOSITORY INSTITUTION AND OTHER LENDER LIABILITY.

"(a) LIABILITY LIMITATIONS.—The liability of an insured depository institution or other lender that is liable under any other provision of this Act or subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) for the release or threatened release of a hazardous substance at, from, or in connection with property—

"(1) acquired through foreclosure;

"(2) subject to a security interest held by the institution or lender;

"(3) held by a lessor pursuant to the terms of an extension of credit; or

"(4) subject to financial control or financial oversight pursuant to the terms of an extension of credit;

shall be limited to the actual benefit conferred on the institution or lender by a removal, remedial, corrective, or other response action undertaken by another party.

"(b) ACTUAL BENEFIT.—For purposes of this section, the actual benefit conferred on an institution or lender by a removal, remedial, corrective, or other response action shall be equal to the net gain, if any, realized by the institution or lender due to the action. For purposes of this subsection, the net gain shall not exceed the amount realized

by the institution or lender on the sale of property less acquisition, holding, and disposition costs.

"(c) EXCLUSION.—Notwithstanding subsection (a), but subject to section 107(d) and section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b), a depository institution or lender that caused or contributed to the release of a hazardous substance may be liable for removal, remedial, corrective, or other response action pertaining to that release.

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Administrator, after consultation with the Federal Deposit Insurance Corporation, shall issue and publish guidelines for insured depository institutions and other lenders to develop and carry out adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by the property. The requirements may provide for exclusions or different types of environmental assessments as may be appropriate under the circumstances to account for the levels of risk that may be posed by different classes of collateral. Each Federal agency having the authority under Federal law to make an examination of an insured depository institution shall take compliance

with the guidelines into account in performing the examinations.

"(2) FINAL GUIDELINES.—Final guidelines required to be issued pursuant to paragraph (1) shall be issued not later than 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency'—

"(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

"(B) includes the National Credit Union Administration Board.

"(2) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(A) in which the lessor does not initially select the leased property and does not during the lease term control the daily operations or maintenance of the property; or

"(B) that conforms with regulations issued by the appropriate Federal banking agency or

the appropriate State banking regulatory agency.

"(3) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the same meaning as in section 45(d)(2) of the Federal Deposit Insurance Act.

"(4) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), and shall also include—

"(A) an insured credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

"(B) a bank or association chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); and

"(C) a leasing or trust company that is an affiliate of an insured depository institution (as the term is defined in this paragraph).

"(5) LENDER.—The term 'lender' means—

"(A) a person (other than an insured depository institution) that—

"(i) makes a bona fide extension of credit to or takes a security interest from a nonaffiliated party; and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final guidelines under the subsection have been issued;

and includes a successor or assignee of any such person;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests in loans, if the Association, Corporation, or entity requires institutions from which it purchases loans (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final guidelines under that subsection have been issued;

"(C) a person engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to nonaffiliated parties; and

"(D) a person regularly engaged in the business of providing title insurance who acquires the property as a result of assignment or conveyance in the course of underwriting claims and claims settlement.

"(6) PROPERTY ACQUIRED THROUGH FORECLOSURE.—

"(A) IN GENERAL.—The term 'property acquired through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or other lender—

"(i) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if the property was security for an extension of credit previously contracted;

"(ii) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(iii) through any other formal or informal manner by which the insured deposi-

tory institution or other lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect the interest of the institution or lender.

"(B) EXCLUSION.—Property is not acquired through foreclosure if the insured depository institution or lender does not seek to sell or otherwise divest the property at the earliest practical, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

"(7) RELEASE.—The term 'release' has the same meaning as in section 45(d)(3) of the Federal Deposit Insurance Act.

"(8) SECURITY INTEREST.—The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

"(f) SAVINGS CLAUSE.—Nothing in this section shall—

"(1) affect the rights or immunities or other defenses that are available under this Act, subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.), or other applicable law to a party subject to this section;

"(2) create any liability for a party; or

"(3) create a private right of action against an insured depository institution or lender, a Federal agency that regulates an insured depository institution or other lender, or any other party.

"SEC. 128. LIABILITY OF FIDUCIARIES.

"(a) IN GENERAL.—The liability of a fiduciary that is liable under any other provision of this Act or subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) for the release or threatened release of a hazardous substance at, from, or in connection with property held in a fiduciary capacity, may not exceed the assets held in the fiduciary capacity that are available to indemnify the fiduciary.

"(b) EXCLUSION.—Subsection (a) does not apply to the extent that a person is liable under this Act independently of the person's ownership or actions taken in a fiduciary capacity.

"(c) LIMITATION.—Notwithstanding subsections (a) and (d), a fiduciary whose failure to exercise due care caused or contributed to the release of a hazardous substance

may have liability in its personal capacity for a response or corrective action pertaining to the release.

"(d) SAFE HARBOR.—A fiduciary shall not be liable in its personal capacity under this Act for—

"(1) undertaking or directing another person to undertake a response action under section 107(d)(1) or under the direction of an on-scene coordinator;

"(2) undertaking or directing another to undertake a corrective action under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h));

"(3) undertaking or directing another to undertake any other lawful means of addressing hazardous substances in connection with the property;

"(4) terminating the fiduciary relationship;

"(5) including in the terms of the fiduciary agreement a covenant, warranty, or other term or condition that relates to compliance with an environmental law, or monitoring or enforcing the term;

"(6) monitoring or undertaking 1 or more inspections of the property;

"(7) providing financial or other advice or counseling to other parties to the fiduciary relationship, including the settler or beneficiary;

"(8) restructuring, renegotiating, or otherwise altering the terms and conditions of the fiduciary relationship; or

"(9) declining to take any of the actions referred to in paragraphs (3) through (8).

"(e) DEFINITIONS.—As used in this section:

"(1) FIDUCIARY.—The term 'fiduciary'—

"(A) means a person acting for the benefit of another party as a bona fide—

"(i) trustee;

"(ii) executor;

"(iii) administrator;

"(iv) custodian;

"(v) guardian of estates or guardian ad litem;

"(vi) receiver;

"(vii) conservator;

"(viii) committee of estates of lunatics or other disabled persons;

"(ix) personal representative; or

"(x) representative in any other capacity that the Administrator, pursuant to public notice, determines to be similar to the persons listed in clauses (i) through (ix); and

"(B) does not include any person who is acting as a fiduciary with respect to a trust or other fiduciary estate that—

"(i) was not created as part of, or to facilitate, 1 or more estate plans or pursuant to the incapacity of a natural person; and

"(ii) was organized for the primary purpose of, or is engaged in, actively carrying on a trade or business for profit.

"(2) FIDUCIARY CAPACITY.—The term 'fiduciary capacity' means the capacity of a person in holding title to the property, or otherwise having control of or an interest in the property, pursuant to the exercise of the responsibilities of the person as a fiduciary.

"(3) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency' has the same meaning as in section 45(d)(1) of the Federal Deposit Insurance Act.

"(4) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the same meaning as in section 45(d)(2) of the Federal Deposit Insurance Act.

"(5) RELEASE.—The term 'release' has the same meaning as in section 45(d)(3) of the Federal Deposit Insurance Act.

"(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act, subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.), or other law that is applicable to a person subject to this section. Nothing in this section creates any liability for a party or a private right of action against a fiduciary or any other party.

"(g) INAPPLICABILITY TO FEDERAL BANKING AND LENDING AGENCIES.—Nothing in this section applies to a Federal banking or lending agency.

"(h) NO EFFECT ON CERTAIN PERSONS.—Nothing in this section affects the liability, if any, of a person who—

"(1)(A) acts in a capacity other than a fiduciary capacity; and

"(B) directly or indirectly benefits from a trust or fiduciary relationship; or

"(2) who—

"(A) is a beneficiary and a fiduciary with respect to the same fiduciary estate; and

"(B) as a fiduciary, receives benefits that exceed customary or reasonable compensation, and incidental benefits, permitted under other applicable law.

"(i) REGULATIONS.—The Administrator, after consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to carry out this section.".

(b) DEFINITION OF OWNER OR OPERATOR.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended—

(1) in subparagraph (A)—

(A) in clause (iii) of the first sentence, by inserting "the United States or" after "abandonment, or similar means to"; and

(B) by striking the second sentence;

(2) in subparagraph (D)—

(A) in the first sentence, by inserting "the United States or" after "does not include"; and

(B) in the second sentence—

(i) by inserting "any department, agency, or instrumentality of the United States or" after "shall not apply to"; and

(ii) by striking ", and such a" and inserting ", and the department, agency, or instrumentality of the United States or"; and

(3) by adding at the end the following:

"(E) EXCLUSION OF UNITED STATES, CONSERVATOR, OR RECEIVER.—The term 'owner or operator' shall not include the United States or any department, agency, or instrumentality of the United States, or a conservator or receiver appointed by a department, agency, or instrumentality of the United States, if the United States or the conservator or receiver meets both of the following conditions:

"(i) AUTHORITY.—The United States, conservator, or receiver acquired ownership or control of a vessel or facility (or any right or interest in a vessel or facility)—

"(I) in connection with the exercise of receivership or conservatorship authority or the liquidation or winding up of the affairs of an entity subject to a receivership or conservatorship, including a subsidiary of the entity;

"(II) in connection with the exercise of any seizure or forfeiture authority; or

"(III) pursuant to a law specifying the property to be acquired.

"(ii) NONPARTICIPATION IN MANAGEMENT.—The United States, conservator, or receiver does not participate in the management of the vessel or facility operations that result in a release or threat of release of hazardous substances and complies with such other requirements as the Administrator, after consultation with the Federal Deposit Insurance Corporation, may establish by regulation.

"(F) EXCLUSION OF PERSONS NOT PARTICIPANTS IN MANAGEMENT.—

"(i) INDICIA OF OWNERSHIP TO PROTECT SECURITY INTEREST.—The term 'owner or operator' does not include a person who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility.

"(ii) NONPARTICIPATION IN MANAGEMENT PRIOR TO FORECLOSURE.—The term 'owner or operator' does not include a person who did not participate in management of a vessel or facility prior to foreclosure,

even if the person forecloses on the vessel or facility, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a response action under section 107(d)(1) or under the direction of an on-scene coordinator, or undertakes a corrective action under section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b), with respect to the vessel or facility, or takes other measures to preserve, protect, or prepare the vessel or facility prior to sale or disposition, if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the vessel or facility at the earliest practical, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

"(G) PARTICIPATION IN MANAGEMENT.—For purposes of subparagraph (F)—

"(i) the term 'participate in management' means actually participating in the management or operational affairs of a ves-

sel or facility, and does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations;

"(ii) a person shall be considered to participate in management while the borrower is still in possession of the vessel or facility encumbered by the security interest only if the person—

"(I) exercises decisionmaking control over the environmental compliance of a borrower, such that the person has undertaken responsibility for the hazardous substance handling or disposal practices of the borrower; or

"(II) exercises control at a level comparable to that of a manager of the enterprise of the borrower, such that the person has assumed or manifested responsibility for the overall management of the enterprise encompassing day-to-day decisionmaking with respect to environmental compliance, or with respect to substantially all of the operational aspects (as distinguished

from financial or administrative aspects) of the enterprise, other than environmental compliance;

"(iii) the term 'participate in management' does not include conducting an act or failing to act prior to the time that a security interest is created in a vessel or facility; and

"(iv) the term 'participate in management' does not include—

"(I) holding such a security interest or abandoning or releasing such a security interest;

"(II) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(III) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

"(IV) monitoring or undertaking 1 or more inspections of the vessel or facility;

"(V) requiring or conducting response action or other lawful means of addressing the release or threatened release of a hazardous substance in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

"(VI) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

"(VII) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance; or

"(VIII) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement;

if the actions do not rise to the level of participating in management, as defined in clauses (i) and (ii).

"(H) OTHER TERMS.—As used in subparagraphs (E) through (G), and this subparagraph:

"(i) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(I) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

"(II) that conforms with regulations issued by the appropriate Federal banking agency or the appropriate State bank supervisor (as those terms are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) or with regulations issued by the National Credit Union Administration Board, as appropriate.

"(ii) FINANCIAL OR ADMINISTRATIVE ASPECT.—The term 'financial or administrative aspect' includes a function such as a function of a credit manager, accounts payable officer, accounts receivable officer, per-

sonnel manager, comptroller, or chief financial officer, or a similar function.

"(iii) FORECLOSURE; FORECLOSE.—The terms 'foreclosure' and 'foreclose' mean, respectively, acquiring, and to acquire, a vessel or facility through—

"(I) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if the vessel or facility was security for an extension of credit previously contracted;

"(II) conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(III) any other formal or informal manner by which the person acquires, for subsequent disposition, possession of collateral in order to protect the security interest of the person.

"(iv) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the same

meaning as in section 45(d)(2) of the Federal Deposit Insurance Act.

"(v) OPERATIONAL ASPECT.—The term 'operational aspect' includes a function such as a function of a facility or plant manager, operations manager, chief operating officer, or chief executive officer.

"(vi) RELEASE.—The term 'release' has the same meaning as in section 45(d)(3) of the Federal Deposit Insurance Act.

"(vii) SECURITY INTEREST.—The term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

"(viii) VESSEL OR FACILITY.—The term 'vessel or facility' includes an underground storage tank as defined in section 9001(1) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)).".

SEC. 504. SOLID WASTE DISPOSAL ACT AMENDMENTS.

(a) DEFINITION OF OWNER AND OPERATOR.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended by adding at the end the following:

"(9) OWNER AND OPERATOR.—The terms 'owner' and 'operator' do not include any person excluded from the definition of an 'owner or operator' under subparagraphs (E) through (H) of section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)).".

(b) LENDER AND FIDUCIARY LIABILITY.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9011. LENDER AND FIDUCIARY LIABILITY.

"This subtitle shall be subject to the limitations on liability in sections 127 and 128 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall be applicable with respect to any claim that has not been finally adjudicated as of the date of enactment of this Act.

TITLE VI—STUDIES AND REPORTS; MISCELLANEOUS

SEC. 601. ELECTRONIC FUND TRANSFER ACT CLARIFICATION.

(a) DEFINITION OF ACCEPTED CARD OR OTHER MEANS OF ACCESS.—Section 903(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(1)) is amended—

(1) by striking "access' means a card" and inserting "access'—

"(A) means a card";

(2) by adding "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(B) does not include a card or device that a person may use to pay for transactions through use of value stored on, or assigned to, the card or device itself, except for a transaction in which such card or device is actually used to access an account to effect such transaction;".

(b) DEFINITION OF ACCOUNT.—Section 903(2) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(2)) is amended—

(1) by striking "account' means" and inserting "account'—

"(A) means";

(2) by adding "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(B) does not include any value that is stored on, or assigned to, a card or device that enables a person to pay for transactions through the use of that stored value;".

SEC. 602. TREATMENT OF CLAIMS ARISING FROM BREACH OF POST-APPOINTMENT AGREEMENTS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF CERTAIN CLAIMS AS ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection or any other provision of law, in an action against a Federal banking agency arising from a claim that the agency breached an agreement entered into after the date of appointment of the agency as conservator or receiver of an insured depository institution, any final judgment for monetary damages entered against the agency shall be considered to be an administrative expense of the conservator or receiver.

"(B) APPLICATION.—Subparagraph (A) shall apply whether or not the subject Federal banking agency considers the monetary judgment referred to in subparagraph (A) to be an obligation that is necessary or appropriate to the smooth and orderly disposition of the assets of the insured depository institution under conservatorship or receivership.".

SEC. 603. FICTITIOUS FINANCIAL INSTRUMENTS.

(a) INCREASED PENALTIES FOR COUNTERFEITING VIOLATIONS.—Sections 474 and 474A of title 18, United States Code, are each amended by striking "class C felony" each place that term appears, and inserting "class B felony".

(b) CRIMINAL PENALTY FOR PRODUCTION, SALE, TRANSPORTATION, OR POSSESSION OF FICTITIOUS FINANCIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE ORGANIZATIONS.—

(1) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by inserting after section 513 the following new section:

"§ 514. Fictitious obligations

"(a) IN GENERAL.—Whoever, with the intent to defraud—

"(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

"(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

"(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States;

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

"(b) INCORPORATED DEFINITIONS.—For purposes of this section, any term used in this section that is defined in section 513(c) shall have the same meaning as in section 513(c).

"(c) INVESTIGATIVE AUTHORITY.—The United States Secret Service, in addition to any other agency having such

authority, shall have authority to investigate offenses under this section.".

(2) TECHNICAL AMENDMENT.—The analysis for chapter 27 of title 18, United States Code, is amended by inserting after the item relating to section 513 the following:

"514. Fictitious obligations.".

SEC. 604. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

(a) REPEALS.—Sections 268 and 271 of the Truth in Savings Act (12 U.S.C. 4307, 4310) are repealed.

(b) ON-PREMISES DISPLAYS.—Section 263(c) of the Truth in Savings Act (12 U.S.C. 4302(c)) is amended—

(1) by striking paragraph (2);

(2) by striking "(1) IN GENERAL.—"; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately.

(c) DEPOSITORY INSTITUTION DEFINITION.—Section 274(6) of the Truth in Savings Act (12 U.S.C. 4313(6)) is amended by inserting before the period ", but does not include any nonautomated credit union that was not required to comply with the requirements of this title as of the date of enactment of the Economic Growth and Regulatory Paperwork Reduction Act of 1995, pursuant to the determination of the National Credit Union Administration Board".

(d) TIME DEPOSITS.—Section 266(a)(3) of the Truth in Savings Act (12 U.S.C. 4305(a)(3)) is amended by inserting "has a maturity of more than 30 days" after "deposit which".

SEC. 605. CONSUMER LEASING ACT AMENDMENTS.

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) competition among the various financial institutions and other firms engaged in the business of consumer leasing is greatest when there is informed use of leasing;

(B) the informed use of leasing results from an awareness of the cost of leasing by consumers; and

(C) there has been a continued trend toward leasing automobiles and other durable goods for consumer use as an alternative to installment credit sales and that leasing product advances have occurred such that lessors have been unable to provide consistent industry-wide disclosures to fully account for the competitive progress that has occurred.

(2) PURPOSES.—The purposes of this section are—

(A) to assure a simple, meaningful disclosure of leasing terms so that the consumer will be able to compare more readily the various leasing terms available to the consumer and avoid the uninformed use of leasing, and to protect the consumer against inaccurate and unfair leasing practices;

(B) to provide for adequate cost disclosures that reflect the marketplace without impairing competition and the development of new leasing products; and

(C) to provide the Board with the regulatory authority to assure a simplified, meaningful definition and disclosure of the terms of certain leases of personal property for personal, family, or household purposes so as to—

(i) enable the lessee to compare more readily the various lease terms available to the lessee;

(ii) enable comparison of lease terms with credit terms, as appropriate; and

(iii) assure meaningful and accurate disclosures of lease terms in advertisements.

(b) REGULATIONS.—

(1) IN GENERAL.—Chapter 5 of the Truth in Lending Act (15 U.S.C. 1667 et seq.) is amended by adding at the end the following new section:

"SEC. 187. REGULATIONS.

"(a) REGULATIONS AUTHORIZED.—

"(1) IN GENERAL.—The Board shall promulgate regulations to update and clarify the requirements and definitions applicable to lease disclosures and contracts, and any other issues specifically related to consumer leasing, to the extent that the Board determines such action to be necessary—

"(A) to carry out this chapter;

"(B) to prevent any circumvention of this chapter; or

"(C) to facilitate compliance with the requirements of the chapter.

"(2) CLASSIFICATIONS, ADJUSTMENTS.—Any regulations promulgated under paragraph (1) may contain classifications and differentiations, and may provide for adjustments and exceptions for any class of transactions, as the Board considers appropriate.

"(b) MODEL DISCLOSURE.—

"(1) PUBLICATION.—The Board shall establish and publish model disclosure forms to facilitate compliance with the disclosure requirements of this chap-

ter and to aid the consumer in understanding the transaction to which the subject disclosure form relates.

"(2) USE OF AUTOMATED EQUIPMENT.—In establishing model forms under this subsection, the Board shall consider the use by lessors of data processing or similar automated equipment.

"(3) USE OPTIONAL.—A lessor may utilize a model disclosure form established by the Board under this subsection for purposes of compliance with this chapter, at the discretion of the lessor.

"(4) EFFECT OF USE.—Any lessor who uses the material aspects of any model disclosure form established by the Board under this subsection shall be deemed to be in compliance with the disclosure requirements to which the form relates.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Any regulation of the Board, or any amendment or interpretation of any regulation of the Board issued pursuant to section 187 of the Truth in Lending Act (as added by paragraph (1) of this subsection), shall become effective on the first October 1 that follows the date of promulgation of that regulation,

amendment, or interpretation by not less than 6 months.

(B) LONGER PERIOD.—The Board may, at the discretion of the Board, extend the time period referred to in subparagraph (A) in accordance with subparagraph (C), to permit lessors to adjust their disclosure forms to accommodate the requirements of section 127 of the Truth in Lending Act (as added by paragraph (1) of this subsection).

(C) SHORTER PERIOD.—The Board may shorten the time period referred to in subparagraph (A), if the Board makes a specific finding that such action is necessary to comply with the findings of a court or to prevent an unfair or deceptive practice.

(D) COMPLIANCE BEFORE EFFECTIVE DATE.—Any lessor may comply with any means of disclosure provided for in section 127 of the Truth in Lending Act (as added by paragraph (1) of this subsection) before the effective date of such requirement.

(E) DEFINITIONS.—For purposes of this subsection, the term "lessor" has the same mean-

ing as in section 181 of the Truth in Lending Act.

(3) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title I of the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after the item relating to section 186 the following new item:

"187. Regulations.".

(c) CONSUMER LEASE ADVERTISING.—Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended to read as follows:

"SEC. 184. CONSUMER LEASE ADVERTISING.

"(a) IN GENERAL.—If an advertisement for a consumer lease includes a statement of the amount of any payment or a statement that any or no initial payment is required, the advertisement shall clearly and conspicuously state, as applicable—

"(1) the transaction advertised is a lease;

"(2) the total amount of any initial payments required on or before consummation of the lease or delivery of the property, whichever is later;

"(3) that a security deposit is required;

"(4) the number, amount, and timing of scheduled payments; and

"(5) with respect to a lease in which the liability of the consumer at the end of the lease term is based

on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

"(b) ADVERTISING MEDIUM NOT LIABLE.—No owner or employee of any entity that serves as a medium in which an advertisement appears or through which an advertisement is disseminated, shall be liable under this section.".

SEC. 606. STUDY OF CORPORATE CREDIT UNIONS.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADMINISTRATION.—The term "Administration" means the National Credit Union Administration.

(2) BOARD.—The term "Board" means the National Credit Union Administration Board.

(3) CORPORATE CREDIT UNION.—The term "corporate credit union" has the meaning given such term by rule or regulation of the Board.

(4) FUND.—The term "Fund" means the National Credit Union Share Insurance Fund established under section 203 of the Federal Credit Union Act.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Board, the Corporation, the Comptroller of the Currency, and the Administration, shall conduct a study and evaluation of—

(A) the oversight and supervisory practices of the Administration concerning the Fund, including the treatment of amounts deposited in the Fund pursuant to section 202(c) of the Federal Credit Union Act, including analysis of—

(i) whether those amounts should be—

(I) refundable; or

(II) treated as expenses; and

(ii) the use of those amounts in determining equity capital ratios;

(B) the potential for, and potential effects of, administration of the Fund by an entity other than the Administration;

(C) the 10 largest corporate credit unions in the United States, conducted in cooperation with appropriate employees of other Federal agencies with expertise in the examination of federally insured financial institutions, including—

(i) the investment practices of those credit unions; and

(ii) the financial stability, financial operations, and financial controls of those credit unions;

(D) the regulations of the Administration; and

(E) the supervision of corporate credit unions by the Administration.

(c) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress, a report that includes the results of the study and evaluation conducted under subsection (b), together with any recommendations that the Secretary considers to be appropriate.

SEC. 607. REPORT ON THE RECONCILIATION OF DIFFERENCES BETWEEN REGULATORY ACCOUNTING PRINCIPLES AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall submit to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report describing both the actions that have been taken by the agency and the actions that will be taken by the agency to eliminate or conform inconsistent or duplicative account-

ing and reporting requirements applicable to reports or statements filed with any such agency by insured depository institutions, as required by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 608. STATE-BY-STATE AND METROPOLITAN AREA-BY-METROPOLITAN AREA STUDY OF BANK FEES.

Section 1002(b)(2)(A) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

> *"(A) a description of any discernible trend, in the Nation as a whole, in each of the 50 States, and in each consolidated metropolitan statistical area or primary metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of retail banking services (including fees imposed for providing such services), that delineates differences between insured depository institutions on the basis of both the size of the institution and any engagement of the institution in multistate activity; and".*

SEC. 609. PROSPECTIVE APPLICATION OF GOLD CLAUSES IN CONTRACTS.

Section 5118(d)(2) of title 31, United States Code, is amended by adding at the end the following: "This para-

graph shall apply to any obligation issued on or before October 27, 1977, notwithstanding any assignment or novation of such obligation after October 27, 1977, unless all parties to the assignment or novation specifically agree to include a gold clause in the new agreement.".

S 650 RS——2

S 650 RS——3

S 650 RS——4

S 650 RS——5

S 650 RS——6

S 650 RS——7

S 650 RS——8

S 650 RS——9

S 650 RS——10

S 650 RS——11

S 650 RS——12

S 650 RS——13

S 650 RS——14

S 650 RS——15

S 650 RS——16

S 650 RS——17

S 650 RS——18

S 650 RS——19

S 650 RS——20

S 650 RS——21