

105TH CONGRESS
1ST SESSION

S. 1423

To modernize and improve the Federal Home Loan Bank System.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 1997

Mr. HAGEL (for himself, Mr. BENNETT, Mr. KERREY, and Mr. GRAMS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing and Urban Affairs

A BILL

To modernize and improve the Federal Home Loan Bank System.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Federal Home Loan Bank System Modernization Act of
6 1997”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Federal home loan banks.
- Sec. 4. Savings association membership.
- Sec. 5. Advances to members; collateral.

- Sec. 6. Eligibility criteria.
- Sec. 7. Qualified thrift lender status.
- Sec. 8. Establishment of Office of Finance.
- Sec. 9. Management of banks.
- Sec. 10. Powers and duties of banks.
- Sec. 11. Mergers and consolidations of Federal home loan banks.
- Sec. 12. Other amendments relating to bank operation and administration.
- Sec. 13. Resolution Funding Corporation.
- Sec. 14. Capital structure of the Federal home loan banks.
- Sec. 15. Federal Housing Finance Board.
- Sec. 16. Limitation on investments.

1 **SEC. 2. DEFINITIONS.**

2 Section 2 of the Federal Home Loan Bank Act (12
3 U.S.C. 1422) is amended—

4 (1) in paragraph (1), by striking “term ‘Board’
5 means” and inserting “terms ‘Finance Board’ and
6 ‘Board’ mean”;

7 (2) by striking paragraph (3) and inserting the
8 following:

9 “(3) STATE.—The term ‘State’ in addition to
10 the States of the United States, includes the District
11 of Columbia, Guam, Puerto Rico, the United States
12 Virgin Islands, American Samoa, and the Common-
13 wealth of the Northern Mariana Islands.”; and

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

16 “(13) COMMUNITY FINANCIAL INSTITUTION.—

17 “(A) IN GENERAL.—The term ‘community
18 financial institution’ means a member—

1 “(i) the deposits of which are insured
2 under the Federal Deposit Insurance Act;
3 and

4 “(ii) that has, as of the date of the
5 transaction at issue, less than
6 \$500,000,000 in average total assets,
7 based on an average of total assets over
8 the 3 years preceding that date.

9 “(B) ADJUSTMENTS.—The \$500,000,000
10 limit referred to in subparagraph (A)(ii) shall
11 be adjusted annually by the Finance Board,
12 based on the annual percentage increase, if any,
13 in the Consumer Price Index for all urban con-
14 sumers, as published by the Department of
15 Labor.”.

16 **SEC. 3. FEDERAL HOME LOAN BANKS.**

17 Section 3 of the Federal Home Loan Bank Act (12
18 U.S.C. 1423) is amended in the first sentence, by striking
19 “the continental United States” and all that follows
20 through “eight” and inserting “the States into not fewer
21 than 1”.

22 **SEC. 4. SAVINGS ASSOCIATION MEMBERSHIP.**

23 Section 5(f) of the Home Owners’ Loan Act (12
24 U.S.C. 1464(f)) is amended to read as follows:

1 “(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—
 2 On and after January 1, 1999, a Federal savings associa-
 3 tion may become a member of the Federal Home Loan
 4 Bank System, and shall qualify for such membership in
 5 the manner provided by the Federal Home Loan Bank
 6 Act.”.

7 **SEC. 5. ADVANCES TO MEMBERS; COLLATERAL.**

8 (a) IN GENERAL.—Section 10(a) of the Federal
 9 Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

10 (1) by redesignating paragraphs (1) through
 11 (4) as subparagraphs (A) through (D), respectively,
 12 and indenting appropriately;

13 (2) by striking “(a) Each” and inserting the
 14 following:

15 “(a) IN GENERAL.—

16 “(1) ALL ADVANCES.—Each”;

17 (3) by striking the second sentence and insert-
 18 ing the following:

19 “(2) PURPOSES OF ADVANCES.—A long-term
 20 advance may only be made for the purposes of—

21 “(A) providing funds to any member for
 22 residential housing finance; and

23 “(B) providing funds to any community fi-
 24 nancial institution for small businesses, agricul-

1 tural, rural development, or low-income commu-
2 nity development lending.”;

3 (4) by striking “A Bank” and inserting the fol-
4 lowing:

5 “(3) COLLATERAL.—A Bank”;

6 (5) in paragraph (3) (as so designated by para-
7 graph (4) of this subsection)—

8 (A) in subparagraph (C) (as so redesign-
9 dated by paragraph (1) of this subsection) by
10 striking “Deposits” and inserting “Cash or de-
11 posits”;

12 (B) in subparagraph (D) (as so redesign-
13 dated by paragraph (1) of this subsection), by
14 striking the second sentence; and

15 (C) by inserting after subparagraph (D)
16 (as so redesignated by paragraph (1) of this
17 subsection) the following new subparagraphs:

18 “(E) Secured loans for small business, ag-
19 riculture, rural development, or low-income
20 community development, or securities represent-
21 ing a whole interest in such secured loans, in
22 the case of any community financial institution.

23 “(F) Mutual fund shares, if and to the ex-
24 tent that such shares—

1 “(i) represent interests in securities
2 under subparagraph (A) or (B); and

3 “(ii) have a readily ascertainable mar-
4 ket value.”;

5 (6) in paragraph (5)—

6 (A) by striking “(5) Paragraphs (1)
7 through (4)” and inserting the following:

8 “(4) ADDITIONAL BANK AUTHORITY.—Subpara-
9 graphs (A) through (F) of paragraph (3)”;

10 (B) in the second sentence, by striking
11 “and the Board”; and

12 (C) in the third sentence, by striking
13 “Board” and inserting “Federal home loan
14 bank”; and

15 (7) by adding at the end the following:

16 “(5) DEFINITIONS.—For purposes of this sub-
17 section, the terms ‘small business’, ‘agriculture’,
18 ‘rural development’, and ‘low-income community de-
19 velopment’ shall have the meanings given those
20 terms by rule or regulation of the Finance Board.”.

21 (b) CLERICAL AMENDMENT.—The section heading
22 for section 10 of the Federal Home Loan Bank Act (12
23 U.S.C. 1430) is amended to read as follows:

1 **“SEC. 10. ADVANCES TO MEMBERS.”.**

2 **SEC. 6. ELIGIBILITY CRITERIA.**

3 Section 4(a) of the Federal Home Loan Bank Act
4 (12 U.S.C. 1424(a)) is amended—

5 (1) in paragraph (2)(A), by inserting, “(other
6 than a community financial institution)” after “in-
7 stitution”; and

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

10 “(3) LIMITED EXEMPTION FOR COMMUNITY FI-
11 NANCIAL INSTITUTIONS.—A community financial in-
12 stitution that otherwise meets the requirements of
13 paragraph (2) may become a member without regard
14 to the percentage of its total assets that is rep-
15 resented by residential mortgage loans, as described
16 in subparagraph (A) of paragraph (2).”.

17 **SEC. 7. QUALIFIED THRIFT LENDER STATUS.**

18 (a) FEDERAL HOME LOAN BANK ACT.—Section 10
19 of the Federal Home Loan Bank Act (12 U.S.C. 1430)
20 is amended by striking subsection (e), as added by section
21 105 of Public Law 100–86 and subsequently amended (re-
22 lating to qualified thrift lender status).

23 (b) HOME OWNERS’ LOAN ACT.—Section
24 10(m)(3)(B) of the Home Owners’ Loan Act (12 U.S.C.
25 1467a(m)(3)(B)) is amended—

1 (1) in clause (i), by striking subclause (III) and
2 by redesignating subclause (IV) as subclause (III);
3 and

4 (2) by amending clause (ii) to read as follows:

5 “(ii) ADDITIONAL RESTRICTIONS EF-
6 FECTIVE AFTER THREE YEARS.—Begin-
7 ning 3 years after the date on which a sav-
8 ings association should have become or
9 ceases to be a qualified thrift lender, the
10 savings association shall not retain any in-
11 vestment (including an investment in any
12 subsidiary) or engage, directly or indi-
13 rectly, in any activity unless that invest-
14 ment or activity would be permissible for
15 the savings association if it were a national
16 bank, and is also permissible for the sav-
17 ings association as a savings association.”.

18 **SEC. 8. ESTABLISHMENT OF OFFICE OF FINANCE.**

19 The Federal Home Loan Bank Act (12 U.S.C. 1421
20 et seq.) is amended by inserting after section 4 the follow-
21 ing new section:

22 **“SEC. 5. THE OFFICE OF FINANCE.**

23 “(a) OPERATION.—The Federal home loan banks
24 shall operate jointly an Office of Finance (hereafter in this
25 section referred to as the ‘Office’) to issue the notes,

1 bonds, and debentures of the Federal home loan banks
2 in accordance with this Act.

3 “(b) POWERS.—Subject to the other provisions of
4 this Act and to such safety and soundness regulations as
5 the Finance Board may prescribe, the Office shall be au-
6 thorized by the Federal home loan banks to act as the
7 agent of such banks to issue Federal home loan bank
8 notes, bonds, and debentures pursuant to section 11 on
9 behalf of the banks.

10 “(c) CENTRAL BOARD OF DIRECTORS.—

11 “(1) ESTABLISHMENT.—The Federal home
12 loan banks shall establish a central board of direc-
13 tors of the Office to administer the affairs of the Of-
14 fice in accordance with this Act.

15 “(2) COMPOSITION OF BOARD.—Each Federal
16 home loan bank shall annually select 1 individual
17 who, as of the time of the election, is an officer or
18 director of such bank to serve as a member of the
19 central board of directors of the Office.

20 “(d) STATUS.—Except to the extent otherwise ex-
21 pressly provided in this Act, the Office shall be treated
22 as a Federal home loan bank for purposes of any law.”.

23 **SEC. 9. MANAGEMENT OF BANKS.**

24 (a) BOARD OF DIRECTORS.—Section 7 of the Federal
25 Home Loan Bank Act (12 U.S.C. 1427) is amended—

1 (1) in subsection (a)—

2 (A) by striking “(a) The management”
3 and inserting the following:

4 “(a) BOARD OF DIRECTORS.—

5 “(1) NUMBER AND CLASSES OF DIRECTORS.—
6 The management”; and

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

8 “(2) APPROVAL OF ALTERNATIVE STRUC-
9 TURE.—Subject to the approval of the Finance
10 Board, a Federal home loan bank may include as
11 part of its capital structure plan submitted under
12 section 6, or any modification thereto, provisions es-
13 tablishing a structure for its elective and appointive
14 directors other than as provided for in this section.”;
15 and

16 (2) in subsection (d)—

17 (A) by striking “(d) The term” and insert-
18 ing the following:

19 “(d) TERMS OF OFFICE.—The term”; and

20 (B) by striking “shall be two years”.

21 (b) COMPENSATION.—Section 7(i) of the Federal
22 Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by
23 striking “, subject to the approval of the board”.

24 (c) OBLIGATIONS ON LAWFUL INVESTMENTS.—Sec-
25 tion 15 of the Federal Home Loan Bank Act (12 U.S.C.

1 1435) is amended by striking “with the approval of the
2 Board”.

3 **SEC. 10. POWERS AND DUTIES OF BANKS.**

4 (a) BONDS AND DEBENTURES.—Section 11(a) of the
5 Federal Home Loan Bank Act (12 U.S.C. 1431(a)) is
6 amended—

7 (1) by inserting “through the Office of Fi-
8 nance” after “to issue”; and

9 (2) by striking “Board may approve” and in-
10 sserting “board of directors of the bank may ap-
11 prove”.

12 (b) ISSUANCE OF CONSOLIDATED BONDS.—Section
13 11(b) of the Federal Home Loan Bank Act (12 U.S.C.
14 1431(b)) is amended to read as follows:

15 “(b) ISSUANCE OF FEDERAL HOME LOAN BANK
16 CONSOLIDATED BONDS.—

17 “(1) IN GENERAL.— The Office of Finance may
18 issue consolidated Federal home loan bank bonds
19 and other consolidated obligations on behalf of the
20 banks.

21 “(2) JOINT AND SEVERAL OBLIGATION; TERMS
22 AND CONDITIONS.—Consolidated obligations issued
23 by the Office of Finance under paragraph (1)
24 shall—

1 “(A) be the joint and several obligations of
2 all of the Federal home loan banks; and

3 “(B) shall be issued upon such terms and
4 conditions as shall be established by the Office
5 of Finance, subject to such rules and regula-
6 tions as the Finance Board may prescribe.”.

7 (c) REDISCOUNTING OF NOTES.—Section 11(f) of the
8 Federal Home Loan Bank Act (12 U.S.C. 1431(f)) is
9 amended by striking “permit, to require,” and inserting
10 “permit or to require”.

11 (d) TREASURY PURCHASE OF BANK OBLIGATIONS.—
12 Section 11(i) of the Federal Home Loan Bank Act (12
13 U.S.C. 1431(i)) is amended by striking the second undes-
14 ignated paragraph.

15 (e) CONFORMING AMENDMENTS.—Section 11 of the
16 Federal Home Loan Bank Act (12 U.S.C. 1431) is
17 amended—

18 (1) by striking subsection (e); and

19 (2) by redesignating subsections (d) through (k)
20 as subsections (c) through (j), respectively.

21 **SEC. 11. MERGERS AND CONSOLIDATIONS OF FEDERAL**
22 **HOME LOAN BANKS.**

23 Section 26 of the Federal Home Loan Bank Act (12
24 U.S.C. 1446) is amended to read as follows:

1 **“SEC. 26. MERGERS AND CONSOLIDATIONS.**

2 “(a) IN GENERAL.—

3 “(1) FINANCE BOARD AUTHORITY.—Whenever
4 the Finance Board determines it to be necessary to
5 the discharge of its obligations under section
6 2A(a)(3)(A), and in accordance with such rules, reg-
7 ulations, and orders as the Finance Board may pre-
8 scribe, the Finance Board may order that a Federal
9 home loan bank be liquidated or reorganized, and its
10 stock paid off and retired in whole or in part in con-
11 nection therewith, after paying or making provision
12 for the payment of the liabilities of the Federal
13 home loan bank.

14 “(2) ACQUISITION BY OTHER BANKS.—In the
15 case of a liquidation or reorganization under para-
16 graph (1), any other Federal home loan bank may,
17 with the approval of the Finance Board, acquire the
18 assets of any such liquidated or reorganized bank,
19 and assume the liabilities thereof, in whole or in
20 part.

21 “(b) VOLUNTARY MERGERS.—Nothing in this section
22 shall preclude voluntary mergers, combinations, or consoli-
23 dation by or among the Federal home loan banks pursuant
24 to such regulations as the Finance Board may prescribe.

25 “(c) NUMBER OF ELECTED DIRECTORS OF RESULT-
26 ING BANK.—

1 “(1) IN GENERAL.—Notwithstanding section 7,
2 any bank resulting from a merger, combination, or
3 consolidation pursuant to this section may have,
4 with the approval of the Finance Board, a number
5 of elected directors equal to or less than the total
6 number of elected directors of all the banks that
7 participated in such transaction (as determined im-
8 mediately before such transaction).

9 “(2) FULFILLMENT OF UNEXPIRED TERMS.—
10 Consistent with paragraph (1), a director of any
11 bank involved in a transaction referred to in para-
12 graph (1) may continue to serve on the board of di-
13 rectors of the resulting bank during the unexpired
14 portion of that director’s current term, if such con-
15 tinuation of service is provided for under the terms
16 of the merger, combination, or consolidation trans-
17 action, and whether or not that director remains
18 qualified after the transaction to fill a directorship.

19 “(d) NUMBER OF APPOINTED DIRECTORS OF RE-
20 SULTING BANK.—The number of appointed directors on
21 the board of directors of a bank resulting from a merger,
22 combination, or consolidation pursuant to this section
23 shall not exceed three-fourths the number of elected direc-
24 tors on the board of directors of that bank.

1 “(e) ADJUSTMENT OF DISTRICT BOUNDARIES.—Not
2 later than 30 days after consummation of any merger,
3 combination, or consolidation of 2 or more Federal home
4 loan banks, the Finance Board shall adjust the districts
5 established under section 3 to reflect such merger, com-
6 bination, or consolidation.

7 “(f) SUBSIDIARIES; HOLDING COMPANIES.—

8 “(1) AUTHORITY TO ESTABLISH.—Any 1 or
9 more Federal home loan banks may establish and
10 jointly own a subsidiary or holding company, subject
11 to the approval of the Finance Board.

12 “(2) FINANCE BOARD SUPERVISION.—Any sub-
13 sidiary or holding company established under this
14 subsection shall be subject to supervision by the Fi-
15 nance Board, and the activities of any such subsidi-
16 ary or holding company shall be restricted to those
17 activities permitted for Federal home loan banks
18 under this Act.

19 “(3) PURPOSES OF SUBSIDIARY.—A Federal
20 home loan bank may use a subsidiary to perform ad-
21 ministrative and operational functions.”.

22 **SEC. 12. OTHER AMENDMENTS RELATING TO BANK OPER-**
23 **ATION AND ADMINISTRATION.**

24 (a) REPEAL OF SECTIONS 22A AND 27.—The Fed-
25 eral Home Loan Bank Act (12 U.S.C. 1421 et seq.) is

1 amended by striking sections 22A (12 U.S.C. 1442a) and
2 27 (12 U.S.C. 1447).

3 (b) SECTION 12.—Section 12 of the Federal Home
4 Loan Bank Act (12 U.S.C. 1432) is amended—

5 (1) in subsection (a)—

6 (A) by striking “, but, except” and all that
7 follows through “ten years”;

8 (B) by striking “, subject to the approval
9 of the Board” each place that term appears;

10 (C) by striking “and, by its Board of direc-
11 tors,” and all that follows through “agent of
12 such bank,” and inserting “and, by the board
13 of directors of the bank, to prescribe, amend,
14 and repeal by-laws governing the manner in
15 which its affairs may be administered, consist-
16 ent with applicable laws and regulations, as ad-
17 ministered by the Finance Board. No officer,
18 employee, attorney, or agent of a Federal home
19 loan bank”; and

20 (D) by striking “Board of directors” each
21 place that term appears and inserting “board of
22 directors”; and

23 (2) in subsection (b), by striking “loans banks”
24 and inserting “loan banks”.

1 (c) POWERS AND DUTIES OF FEDERAL HOUSING FI-
2 NANCE BOARD.—

3 (1) ISSUANCE OF NOTICES OF VIOLATIONS.—

4 Section 2B(a) of the Federal Home Loan Bank Act
5 (12 U.S.C. 1422b(a)) is amended by adding at the
6 end the following new paragraph:

7 “(5) To issue and serve a notice of charges
8 upon a Federal home loan bank or upon any execu-
9 tive officer or director of a Federal home loan bank
10 if, in the determination of the Finance Board, the
11 bank, executive officer, or director is engaging or
12 has engaged in, or the Finance Board has reason-
13 able cause to believe that the bank, executive officer,
14 or director is about to engage in, any conduct that
15 violates any provision of this Act or any law, order,
16 rule, or regulation or any condition imposed in writ-
17 ing by the Finance Board in connection with the
18 granting of any application or other request by the
19 bank, or any written agreement entered into by the
20 bank with the agency, in accordance with the proce-
21 dures provided in section 1371(c) of the Federal
22 Housing Enterprises Financial Safety and Sound-
23 ness Act of 1992. Such authority includes the same
24 authority to take affirmation action to correct condi-
25 tions resulting from violations or practices or to

1 limit activities of a bank or any executive officer or
2 director of a bank as appropriate Federal banking
3 agencies have to take with respect to insured deposi-
4 tory institutions under paragraphs (6) and (7) of
5 section 8(b) of the Federal Deposit Insurance Act,
6 and to have all other powers, rights, and duties to
7 enforce this Act with respect to the Federal home
8 loan banks and their senior officers and directors as
9 the Office of Federal Housing Enterprise Oversight
10 has to enforce the Federal Housing Enterprises Fi-
11 nancial Safety and Soundness Act of 1992, the Fed-
12 eral National Mortgage Association Charter Act, or
13 the Federal Home Loan Mortgage Corporation Act
14 with respect to the Federal housing enterprises
15 under the Federal Housing Enterprises Financial
16 Safety and Soundness Act of 1992.”.

17 (2) STAFF.—Section 2B(b) of the Federal
18 Home Loan Bank Act (12 U.S.C. 1422b(b)) is
19 amended—

20 (A) in paragraph (1)—

21 (i) by striking “(1) BOARD STAFF.—”;

22 (ii) by striking “function to any em-
23 ployee, administrative unit” and inserting
24 “function to any employee or administra-
25 tive unit”; and

1 (iii) by striking the second sentence;

2 and

3 (B) by striking paragraph (2).

4 (3) TECHNICAL AMENDMENT.—Section 111 of
5 Public Law 93–495 (12 U.S.C. 250) is amended by
6 inserting “Federal Housing Finance Board,” after
7 “Director of the Office of Thrift Supervision,”.

8 (d) ELIGIBILITY TO SECURE ADVANCES.—

9 (1) SECTION 9.—Section 9 of the Federal
10 Home Loan Bank Act (12 U.S.C. 1429) is amend-
11 ed—

12 (A) in the second sentence, by striking
13 “with the approval of the Board”; and

14 (B) in the third sentence, by striking “,
15 subject to the approval of the Board,”.

16 (2) SECTION 10.—Section 10 of the Federal
17 Home Loan Bank Act (12 U.S.C. 1430) is amend-
18 ed—

19 (A) in subsection (c)—

20 (i) in the first sentence, by striking
21 “Board” and inserting “Federal home loan
22 bank”; and

23 (ii) by striking the second sentence;

24 (B) in subsection (d)—

1 (i) in the first sentence, by striking
2 “and the approval of the Board”; and

3 (ii) by striking “Subject to the ap-
4 proval of the Board, any” and inserting
5 “Any”; and

6 (C) in subsection (j)—

7 (i) in paragraph (1)—

8 (I) by striking “to subsidize the
9 interest rate on advances” and insert-
10 ing “to provide subsidies, including
11 subsidized interest rates on ad-
12 vances”;

13 (II) by striking “Pursuant” and
14 inserting the following:

15 “(A) ESTABLISHMENT.—Pursuant”; and

16 (III) by adding at the end the
17 following new subparagraph:

18 “(B) NONDELEGATION OF APPROVAL AU-
19 THORITY.—Subject to such regulations as the
20 Finance Board may prescribe, the board of di-
21 rectors of each Federal home loan bank may
22 approve or disapprove requests from members
23 for Affordable Housing Program subsidies, and
24 may not delegate such authority.”;

1 (ii) in each of paragraphs (1), (3),
2 (4), (6), (9)(B), (9)(C), (11), and (12), by
3 striking “advances” each place that term
4 appears and inserting “subsidies”;

5 (iii) in each of paragraphs (2), (5),
6 (9)(A), and (9)(F), by striking “subsidized
7 advances” each place that term appears
8 and inserting “subsidies, including sub-
9 sidized advances,”;

10 (iv) in paragraph (9)(F), by striking
11 “such advances” and inserting “such sub-
12 sidies”;

13 (v) in the paragraph heading for para-
14 graph (3), by striking “ADVANCES” and in-
15 serting “SUBSIDIES”;

16 (vi) in paragraph (2), by striking sub-
17 paragraph (B) and inserting the following:

18 “(B) finance the purchase, construction, or
19 rehabilitation of rental housing if, for a period
20 of not less than 15 years, either—

21 “(i) 20 percent or more of the units
22 in such housing are occupied by and af-
23 fordable for households whose income is 50
24 percent or less of area median income; or

1 “(ii) 40 percent or more of the units
2 in such housing are occupied by and af-
3 fordable for households whose income is 60
4 percent or less of area median income.”;

5 (vii) by striking paragraph (5) and in-
6 serting the following:

7 “(5) CONTRIBUTION TO PROGRAM.—Each Fed-
8 eral home loan bank shall annually contribute 10
9 percent of the net income of that bank during the
10 preceding year, or such prorated sums as may be re-
11 quired to assure that the aggregate contribution of
12 the banks shall not be less than \$100,000,000 for
13 each such year, to support subsidies, including sub-
14 sidized advances, through the Affordable Housing
15 Program.”;

16 (viii) in paragraph (11)—

17 (I) by striking “Bank” each
18 place it appears and inserting “Fed-
19 eral home loan bank”;

20 (II) by inserting “, pursuant to a
21 nomination process that is as broad
22 and as participatory as possible, and
23 giving consideration to the size of the
24 district and the diversity of low- and
25 moderate-income housing needs and

1 activities within the district,” after
2 “15 persons”;

3 (III) by inserting “a diverse
4 range of” before “community and
5 nonprofit organizations”; and

6 (IV) by inserting after the first
7 sentence, the following: “Representa-
8 tives of no one group shall constitute
9 an undue proportion of the member-
10 ship of the Advisory Council.”; and

11 (ix) in paragraph (13)—

12 (I) by striking “subsection—”
13 and inserting “subsection, the follow-
14 ing definitions shall apply.”; and

15 (II) by striking subparagraph
16 (D) and inserting the following:

17 “(D) AFFORDABLE.—For purposes of
18 paragraph (2)(B), the term ‘affordable’ means
19 that the rent with respect to a unit does not ex-
20 ceed 30 percent of the income limitation under
21 paragraph (2)(B) applicable to occupants of
22 such unit.”.

23 (e) SECTION 16.—Section 16(a) of the Federal Home
24 Loan Bank Act (12 U.S.C. 1436(a)) is amended in the
25 third sentence—

1 (1) by striking “net earnings” and inserting
2 “previously retained earnings or current net earn-
3 ings”; and

4 (2) by striking “, and then only with the ap-
5 proval of the Federal Housing Finance Board”.

6 (f) SECTION 18.—Section 18(b) of the Federal Home
7 Loan Bank Act (12 U.S.C. 1438(b)) is amended by strik-
8 ing paragraph (4).

9 **SEC. 13. RESOLUTION FUNDING CORPORATION.**

10 (a) IN GENERAL.—Section 21B(f)(2)(C) of the Fed-
11 eral Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is
12 amended to read as follows:

13 “(C) PAYMENTS BY FEDERAL HOME LOAN
14 BANKS.—To the extent that the amounts avail-
15 able pursuant to subparagraphs (A) and (B)
16 are insufficient to cover the amount of interest
17 payments, each Federal home loan bank shall
18 pay to the Funding Corporation in each cal-
19 endar year, 20.75 percent of the net earnings of
20 that bank (after deducting expenses relating to
21 section 10(j) and operating expenses).”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall become effective on January 1, 1999.

1 **SEC. 14. CAPITAL STRUCTURE OF THE FEDERAL HOME**
2 **LOAN BANKS.**

3 Section 6 of the Federal Home Loan Bank Act (12
4 U.S.C. 1426) is amended to read as follows:

5 **“SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN**
6 **BANKS.**

7 **“(a) CAPITAL STRUCTURE PLAN.—**

8 **“(1) APPROVAL OF PLANS.—**Not later than 270
9 days after the date of enactment of the Federal
10 Home Loan Bank System Modernization Act of
11 1997, the board of directors of each Federal home
12 loan bank shall submit for Finance Board approval
13 a plan establishing and implementing a capital
14 structure for such bank that—

15 **“(A)** the board of directors determines is
16 best suited for the condition and operation of
17 the bank and the interests of the shareholders
18 of the bank;

19 **“(B)** meets the requirements of subsection
20 (b); and

21 **“(C)** meets the minimum capital standards
22 and requirements established under subsection
23 (c) and any regulations prescribed by the Fi-
24 nance Board.

25 **“(2) APPROVAL OF MODIFICATIONS.—**The
26 board of directors of a Federal home loan bank shall

1 submit to the Finance Board for approval any modi-
2 fications that the bank wishes to make to an ap-
3 proved capital structure plan.

4 “(b) CONTENTS OF PLAN.—The capital structure
5 plan of each Federal home loan bank shall contain provi-
6 sions addressing each of the following:

7 “(1) STOCK PURCHASE REQUIREMENTS.—

8 “(A) IN GENERAL.—Each capital structure
9 plan of a Federal home loan bank shall require
10 the shareholders of the bank to maintain an in-
11 vestment in the stock of the bank in an amount
12 equal to the greater of—

13 “(i) a minimum percentage of the
14 total assets of the shareholder; or

15 “(ii) a minimum percentage of the
16 outstanding advances from the bank to the
17 shareholder.

18 “(B) MINIMUM PERCENTAGE LEVELS.—
19 The minimum percentages established pursuant
20 to subparagraph (A) shall be set at levels suffi-
21 cient to meet the minimum capital requirements
22 for the bank established by the Finance Board
23 under subsection (c).

24 “(C) LIMITATION ON ASSET-BASED CAP-
25 ITAL REQUIREMENT.—The asset-based capital

1 requirement applicable to any shareholder of a
2 Federal home loan bank in any year may not
3 exceed 0.6 percent of the total assets of the
4 shareholder at the close of the preceding year,
5 and in no case shall an asset-based capital re-
6 quirement applicable to a shareholder of a Fed-
7 eral home loan bank in any year exceed
8 \$300,000,000.

9 “(D) LIMITATION ON ADVANCE-BASED
10 CAPITAL REQUIREMENT.—The advance-based
11 capital requirement applicable to any share-
12 holder of a Federal home loan bank may not
13 exceed 5 percent of the total outstanding ad-
14 vances from the bank to the shareholder.

15 “(E) MINIMUM STOCK PURCHASE RE-
16 QUIREMENT AUTHORIZED.—The capital struc-
17 ture plan may establish a minimum dollar
18 amount of stock of a Federal home loan bank
19 in which a shareholder shall be required to in-
20 vest.

21 “(2) ADJUSTMENTS TO STOCK PURCHASE RE-
22 QUIREMENTS.—The capital structure plan shall im-
23 pose a continuing obligation on the board of direc-
24 tors of the bank to review and adjust as necessary
25 member stock purchase requirements in order to en-

1 sure that the bank remains in compliance with appli-
2 cable minimum capital levels established by the Fi-
3 nance Board.

4 “(3) TRANSITION RULE FOR STOCK PURCHASE
5 REQUIREMENTS.—

6 “(A) IN GENERAL.—The capital structure
7 plan may allow shareholders who were members
8 of a Federal home loan bank on the date of en-
9 actment of the Federal Home Loan Bank Sys-
10 tem Modernization Act of 1997 to come into
11 compliance with the asset-based stock purchase
12 requirement established under paragraph (1)
13 during a transition period established under the
14 plan of not more than 3 years, if such require-
15 ment exceeds the asset-based stock purchase re-
16 quirement in effect on that date of enactment.

17 “(B) INTERIM PURCHASE REQUIRE-
18 MENTS.—The capital structure plan may estab-
19 lish interim asset-based stock purchase require-
20 ments applicable to members referred to in sub-
21 paragraph (A) during a transition period estab-
22 lished under subparagraph (A).

23 “(4) DISPOSITION OF SHARES.—The capital
24 structure plan shall provide for the manner of dis-

1 position of any stock held by a member that termi-
2 nates or withdraws from membership for any reason.

3 “(5) CLASSES OF STOCK.—

4 “(A) IN GENERAL.—The capital structure
5 plan shall—

6 “(i) afford each shareholder of a Fed-
7 eral home loan bank the option of meeting
8 the stock purchase requirements of the
9 shareholder through the purchase of any
10 combination of Class A or Class B stock;
11 and

12 “(ii) provide for and prescribe the
13 terms, rights, and preferences, including
14 dividends, voting, and liquidation pref-
15 erences, of stock issued by the Federal
16 home loan bank.

17 “(B) CLASS A STOCK.—Class A stock shall
18 be stock of a Federal home loan bank that shall
19 be redeemed in cash and at par by the bank not
20 later than 12 months following the date of sub-
21 mission of a written notice by a shareholder of
22 the shareholder’s intention to divest all shares
23 of stock in the bank.

24 “(C) CLASS B STOCK.—Class B stock shall
25 be stock of a Federal home loan bank that shall

1 be redeemed in cash and at par by the bank
2 not later than 5 years following the date of sub-
3 mission of a written notice by a shareholder of
4 the shareholder's intention to divest all shares
5 of stock in the bank.

6 “(D) RIGHTS REQUIREMENT.—The Class
7 B stock of a Federal home loan bank may re-
8 ceive a dividend premium over that paid on
9 Class A stock, and may have preferential voting
10 rights in the election of Federal home loan bank
11 directors.

12 “(E) LOWER STOCK PURCHASE REQUIRE-
13 MENTS FOR CLASS B STOCK.—The capital
14 structure plan may provide for lower stock pur-
15 chase requirements with respect to those share-
16 holders that elect to purchase Class B stock in
17 a manner that is consistent with meeting the
18 minimum capital requirements of the subject
19 bank, as established by the Finance Board.

20 “(F) NO OTHER CLASSES OF STOCK PER-
21 MITTED.—No class of stock may be issued by
22 a Federal home loan bank, other than—

23 “(i) the Class A and Class B stock de-
24 scribed in subparagraphs (B) and (C); and

1 “(ii) redeemable equity certificates de-
2 scribed in paragraph (7)(C).

3 “(G) LIQUIDATION OF CLAIMS.—The cap-
4 ital structure plan shall provide for the liquida-
5 tion in an orderly manner, as determined by the
6 Federal home loan bank, of any claim of that
7 bank against a member, including claims for
8 any applicable prepayment fees or penalties re-
9 sulting from prepayment of advances prior to
10 stated maturity.

11 “(6) LIMITED TRANSFERABILITY OF STOCK.—
12 The capital structure plan shall—

13 “(A) provide that any equity securities is-
14 sued by the Federal home loan bank shall be
15 available only to, held only by, and tradable
16 only among members of that bank; and

17 “(B) establish standards, criteria, and re-
18 quirements for the issuance, purchase, trading,
19 transfer, retirement, and redemption of stock
20 issued by that bank.

21 “(7) TREATMENT OF RETAINED EARNINGS.—

22 “(A) IN GENERAL.—Each Federal home
23 loan bank shall have ownership in, and a pri-
24 vate property right in, the retained earnings of
25 the bank.

1 “(B) EXCEPTION.—Notwithstanding sub-
2 paragraph (A) and except as otherwise provided
3 in this section or through the declaration of a
4 dividend or a capital distribution by a Federal
5 home loan bank, or in the event of liquidation
6 of the bank, a shareholder shall have no right
7 to withdraw or otherwise receive distribution of
8 any portion of the bank’s retained earnings.

9 “(C) OTHER DISTRIBUTIONS.—In addition
10 to distributions of retained earnings through
11 dividends and capital distributions as described
12 in subparagraph (B), each Federal home loan
13 bank may provide its shareholders with the
14 right to receive a pro rata distribution of all or
15 a portion of the retained earnings of the bank
16 through the issuance of redeemable equity cer-
17 tificates or other indicia of ownership interests
18 to its members.

19 “(D) LIMITATION.—A Federal home loan
20 bank may not make any distribution of its re-
21 tained earnings unless, following such distribu-
22 tion, the bank would continue to meet all appli-
23 cable capital requirements.

24 “(8) BANK REVIEW OF PLAN.—Before filing the
25 capital structure plan with the Finance Board, each

1 Federal home loan bank shall conduct a review of
2 the plan by—

3 “(A) an independent public accountant, to
4 ensure, to the extent possible, that implementa-
5 tion of the plan would not result in any write-
6 down of its members’ bank stock investment;
7 and

8 “(B) not fewer than one major credit rat-
9 ing agency, to determine, to the extent possible,
10 whether implementation of the plan would, in
11 itself, create significant risk to the credit rat-
12 ings of the bank or access by the bank to the
13 global capital markets.

14 “(c) CAPITAL STANDARDS.—

15 “(1) IN GENERAL.—The Finance Board shall
16 prescribe, by regulation, uniform capital standards
17 applicable to each Federal home loan bank, which
18 shall require each such bank to meet the greater
19 of—

20 “(A) a leverage limit in accordance with
21 paragraph (2); or

22 “(B) risk-based capital requirements, in
23 accordance with paragraph (3).

24 “(2) MINIMUM LEVERAGE LIMIT.—The leverage
25 limit established by the Finance Board shall require

1 each Federal home loan bank to maintain total cap-
2 ital in an amount equal to not less than 5 percent
3 of the total assets of the bank. In determining com-
4 pliance with the minimum leverage ratio, the amount
5 of retained earnings and the paid-in value of Class
6 B stock, if any, shall be multiplied by 1.5, and such
7 higher amount shall be deemed to be capital for pur-
8 poses of meeting the 5 percent minimum leverage
9 ratio.

10 “(3) RISK-BASED CAPITAL STANDARD.—Regu-
11 lations prescribed by the Finance Board in accord-
12 ance with paragraph (1)(B) shall require each Fed-
13 eral home loan bank to maintain capital in an
14 amount that is sufficient to meet—

15 “(A) the credit risk to which the Federal
16 home loan bank is subject, based on an amount
17 equal to not less than the amount of tier 1,
18 risk-based capital required by regulations pre-
19 scribed or guidelines issued under section 38 of
20 the Federal Deposit Insurance Act for a well
21 capitalized insured depository institution; and

22 “(B) the interest rate risk to which the
23 Federal home loan bank is subject, based on an
24 interest rate stress test applied by the Finance
25 Board that rigorously tests for changes in inter-

1 est rates, rate volatility, and changes in the
2 shape of the yield curve.

3 “(d) REDEMPTION OF CAPITAL.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (5), a shareholder of a Federal home loan
6 bank shall have the right to withdraw that share-
7 holder’s membership from a Federal home loan bank
8 and to redeem the shareholder’s stock in accordance
9 with the redemption rights associated with the class
10 of stock that the shareholder holds, if the share-
11 holder—

12 “(A) has filed an appropriate written no-
13 tice of an intention to redeem all such shares;
14 and

15 “(B) has not canceled that notice prior to
16 the expiration of any requisite notice period.

17 “(2) LIQUIDATION OF CLAIMS.—If a member
18 withdraws from membership or terminates its mem-
19 bership for any reason, as prescribed in the capital
20 structure plan of a Federal home loan bank—

21 “(A) the indebtedness of the member to
22 the bank shall be liquidated in an orderly man-
23 ner;

24 “(B) the stock of the bank owned by the
25 member shall be surrendered and canceled;

1 “(C) the member shall be entitled to the
2 return of its collateral; and

3 “(D) the member shall receive payment for
4 the stock.

5 “(3) DIVESTITURE.—The board of directors of
6 any Federal home loan bank may, after a hearing,
7 order the divestiture by any shareholder of all own-
8 ership interests of such shareholder in the bank, if—

9 “(A) in the opinion of the board of direc-
10 tors, such shareholder has failed to comply with
11 a provision of this Act or any regulation pre-
12 scribed under this Act; or

13 “(B) the shareholder has been determined
14 to be insolvent, or otherwise subject to the ap-
15 pointment of a conservator, receiver, or other
16 legal custodian, by a State or Federal authority
17 with regulatory and supervisory responsibility
18 for such shareholder.

19 “(4) REDEMPTION OF EXCESS STOCK.—

20 “(A) SHAREHOLDER RIGHTS.—Unless pro-
21 hibited by the Finance Board, or as determined
22 by the board of directors of a Federal home
23 loan bank under paragraph (5), as necessary to
24 resolve an impairment in the capital of the Fed-
25 eral home loan bank, any shareholder may,

1 upon application to and in the discretion of the
2 bank, receive from the Federal home loan bank
3 payment in cash equal to the par value of the
4 stock in exchange for the redemption of stock
5 held by the shareholder in excess of the mini-
6 mum stock purchase requirements applicable to
7 the shareholder.

8 “(B) BANK RIGHTS.—A Federal home loan
9 bank may, without notice to or request by a
10 shareholder of the bank redeem any shares of
11 stock in the bank held by that shareholder that
12 are in excess of the minimum stock purchase
13 requirements applicable to that shareholder.

14 “(C) PRIORITY.—A Federal home loan
15 bank may not, under subparagraph (A) or (B),
16 redeem shares of Class B stock held by a mem-
17 ber before the end of the 5-year term of that
18 stock, unless there is no Class A stock out-
19 standing that could be redeemed as excess.

20 “(5) IMPAIRMENT OF CAPITAL.—If the Finance
21 Board or the board of directors of a Federal home
22 loan bank determines that the paid-in capital of the
23 bank is, or is likely to be, impaired as a result of
24 losses in or depreciation of the assets of the bank,
25 the Federal home loan bank shall withhold all or

1 part of any redemption proceeds, as determined by
2 the Finance Board to be necessary to prevent fur-
3 ther impairment of the capital of the bank. In no
4 case may a Federal home loan bank redeem any ap-
5 plicable capital stock if, following the redemption,
6 the bank would fail to satisfy any minimum capital
7 requirement.

8 “(6) POLICIES.—Subject to the requirements of
9 this section, the board of directors of each Federal
10 home loan bank shall promptly establish policies,
11 consistent with this Act, governing the capital stock
12 of such bank and other provisions of this section.

13 “(e) REJOINING AFTER DIVESTITURE OF ALL
14 SHARES.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of this Act, an institution that divests all
17 shares of stock in a Federal home loan bank may
18 not, after such divestiture, acquire shares of any
19 Federal home loan bank before the end of the 5-year
20 period beginning on the date of the completion of
21 such divestiture, unless the divestiture is a con-
22 sequence of a transfer of membership on an uninter-
23 rupted basis between banks.

24 “(2) EXCEPTION FOR WITHDRAWALS FROM
25 MEMBERSHIP BEFORE 1998.—Any institution that

1 withdrew from membership in any Federal home
2 loan bank before December 31, 1997, may acquire
3 shares of a Federal home loan bank at any time
4 after that date, subject to the approval of the Fi-
5 nance Board and the requirements of this Act.”.

6 **SEC. 15. FEDERAL HOUSING FINANCE BOARD.**

7 Section 2A(b) of the Federal Home Loan Bank Act
8 (12 U.S.C. 1422a(b)) is amended—

9 (1) in paragraph (1)—

10 (A) by redesignating subparagraphs (A)
11 and (B) as subparagraphs (B) and (C), respec-
12 tively;

13 (B) by inserting before subparagraph (B)
14 (as redesignated by subparagraph (A) of this
15 paragraph) the following new subparagraph:

16 “(A) The Chairperson of the Federal De-
17 posit Insurance Corporation (or the designee of
18 the Chairperson), who shall serve without addi-
19 tional compensation.”; and

20 (C) in subparagraph (C) (as redesignated
21 by subparagraph (A) of this paragraph) by
22 striking “Four” and inserting “Three”; and

23 (2) in paragraph (2)(A), in the third sentence,
24 by striking “Not more than 3 directors” and insert-
25 ing “Not more than 2 appointed directors”.

1 **SEC. 16. INVESTMENTS BY FEDERAL HOME LOAN BANKS.**

2 (a) IN GENERAL.—Section 11(g) of the Federal
3 Home Loan Bank Act (12 U.S.C. 1431(h) (as redesignig-
4 nated by section 10(e) of this Act)) is amended—

5 (1) by striking “(h) Such part” and inserting
6 the following:

7 “(g) INVESTMENT OF ASSETS.—

8 “(1) IN GENERAL.—Such part”; and

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

10 “(2) AMOUNT OF INVESTMENTS.—Notwith-
11 standing any other provision of this Act, a Federal
12 home loan bank may not maintain investments in an
13 amount in excess of the amount necessary for liquid-
14 ity purposes, for ensuring adequate availability of
15 credit for the members, for safe and sound operation
16 of the banks, for maintaining a stable capital base,
17 for supporting the Affordable Housing Program, or
18 for housing finance, as administered by the Finance
19 Board.”.

20 (b) INVESTMENT OF RESERVES.—Section 16(a) of
21 the Federal Home Loan Bank Act (12 U.S.C. 1436(a))
22 is amended—

23 (1) by striking “(a) Each Federal” and insert-
24 ing the following:

25 “(a) RESERVE ACCOUNTS.—

26 “(1) IN GENERAL.—Each Federal”; and

1 (2) by striking “The reserves” and all that fol-
2 lows through “is located.” and inserting the follow-
3 ing:

4 “(2) INVESTMENT OF RESERVES.—The reserves
5 of each Federal home loan bank shall be invested as
6 provided in section 11(g).”.

○