

104TH CONGRESS
1ST SESSION

H. R. 1657

To restructure and modernize the Federal Home Loan Bank System.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1995

Mr. GONZALEZ (by request) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To restructure and modernize 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Home Loan Bank System Restructuring and
6 Modernization Act of 1995”.

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

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENT OF FEDERAL HOME LOAN BANK ACT

Sec. 101. Statement of purpose.

Sec. 102. Definitions.

- Sec. 103. Federal Housing Finance Board.
- Sec. 104. Powers and duties of the Federal Housing Finance Board.
- Sec. 105. Continuing regulations and policies.
- Sec. 106. Readjustment of Federal Home Loan Bank districts; names.
- Sec. 107. Eligibility for membership.
- Sec. 108. Capital stock.
- Sec. 109. Transitional provisions concerning capital stock.
- Sec. 110. Prompt corrective action.
- Sec. 111. Federal Home Loan Bank directors.
- Sec. 112. Eligibility to secure advances.
- Sec. 113. Advances.
- Sec. 114. Advances to nonmember mortgagees; terms and conditions.
- Sec. 115. Powers and duties of banks.
- Sec. 116. Incorporation of banks; corporate powers; housing project loans.
- Sec. 117. Exemption from taxation; obligations acceptable as credit on debt of home owner.
- Sec. 118. Obligations as lawful investments; liability of United States for obligations issued by banks.
- Sec. 119. Reserves and dividends.
- Sec. 120. Financing Corporation.
- Sec. 121. Obligations of Resolution Funding Corporation.
- Sec. 122. Eligibility to membership in banks.
- Sec. 123. Merger, liquidation or reorganization.
- Sec. 124. General enforcement powers.

TITLE II—EMPLOYEE PROVISIONS

- Sec. 201. Federal Housing Finance Board employees.

TITLE III—CONFORMING AMENDMENTS

- Sec. 301. Amendments to the Federal Credit Union Act.
- Sec. 302. Amendments to the Federal Deposit Insurance Act.
- Sec. 303. Amendment to the Home Owners' Loan Act.
- Sec. 304. Amendment to the Housing and Urban-Rural Recovery Act of 1983.
- Sec. 305. Amendments to the Right to Financial Privacy Act of 1978.
- Sec. 306. Amendments to the Thrift Institutions Restructuring Act.
- Sec. 307. Amendments to title 18, United States Code.

1 **TITLE I—AMENDMENT OF FEDERAL HOME**

2 **LOAN BANK ACT**

3 **SEC. 101. STATEMENT OF PURPOSE.**

4 The Federal Home Loan Bank Act is amended by
 5 adding after section 1 (12 U.S.C. 1421) the following new
 6 section:

1 **“SEC. 1A. STATEMENT OF PURPOSE.**

2 “The Federal Home Loan Bank System is a profit-
3 making enterprise whose purpose is to support residential
4 mortgage lending (including mortgages on housing for
5 low- and moderate-income families), as well as community
6 development lending, throughout the Nation, safely and
7 soundly, primarily through a program of collateralized ad-
8 vances to System members. The System facilitates such
9 lending by increasing the liquidity and improving the dis-
10 tribution of investment capital available through its mem-
11 ber institutions.”.

12 **SEC. 102. DEFINITIONS.**

13 Section 2 of the Federal Home Loan Bank Act (12
14 U.S.C. 1422) is amended to read as follows:

15 **“SEC. 2. DEFINITIONS.**

16 “As used in this Act—

17 “(1) **BANK.**—The term ‘Federal Home Loan
18 Bank’ or ‘Bank’ means a bank established under the
19 authority of this Act.

20 “(2) **BANK-AFFILIATED PARTY.**—The term
21 ‘Bank-affiliated party’ means—

22 “(A) any director, officer, or employee of,
23 or agent for, a Federal Home Loan Bank;

24 “(B) any member, consultant, joint ven-
25 ture partner, and any other person as deter-
26 mined by the Board who participates in the

1 conduct of the affairs of a Federal Home Loan
2 Bank; and

3 “(C) any independent contractor (including
4 any attorney, appraiser, or accountant) who
5 knowingly or recklessly participates in—

6 “(i) any violation of any law or regu-
7 lation;

8 “(ii) any breach of fiduciary duty; or

9 “(iii) any unsafe or unsound practice,
10 which caused or is likely to cause more than a
11 minimal financial loss to, or a significant ad-
12 verse effect on, the Federal Home Loan Bank.

13 “(3) BOARD.—The term ‘Board’ means the
14 Federal Housing Finance Board established under
15 section 2A.

16 “(4) FEDERAL HOME LOAN BANK SYSTEM AND
17 SYSTEM.—The term ‘Federal Home Loan Bank Sys-
18 tem’ or ‘System’ means the Federal Home Loan
19 Banks, including any central office established by
20 the Banks, under the supervision of the Board.

21 “(5) HOME MORTGAGE.—The term ‘home mort-
22 gage’ means a mortgage upon real estate, in fee sim-
23 ple, or on a leasehold—(A) under a lease for not less
24 than ninety-nine years which is renewable or (B)
25 under a lease having a period of not less than fifty

1 years to run from the date the mortgage was exe-
2 cuted, upon which is located, or which comprises or
3 includes, one or more homes or other dwelling units,
4 all of which may be defined by the Board, and shall
5 include, in addition to first mortgages, such classes
6 of first liens as are commonly given to secure ad-
7 vances on real estate by institutions authorized
8 under this Act to become members, under the laws
9 of the State in which the real estate is located, to-
10 gether with the credit instruments, if any, secured
11 thereby.

12 “(6) HOME MORTGAGE LOAN.—The term ‘home
13 mortgage loan’ means a loan made by a member
14 upon the security of a home mortgage.

15 “(7) INSURED DEPOSITORY INSTITUTION.—The
16 term ‘insured depository institution’ means—

17 “(A) an insured depository institution (as
18 defined in section 3 of the Federal Deposit In-
19 surance Act), and

20 “(B) except as used in sections 21A and
21 21B, an insured credit union (as defined in sec-
22 tion 101 of the Federal Credit Union Act).

23 “(8) MEMBER.—The term ‘member’ means any
24 institution which has subscribed for the stock of a

1 Federal Home Loan Bank and has not surrendered
2 all of that stock.

3 “(9) SAVINGS ASSOCIATION.—The term ‘savings
4 association’ has the meaning given to such term in
5 section 3 of the Federal Deposit Insurance Act.

6 “(10) STATE.—The term ‘State’ includes the
7 District of Columbia, Guam, Puerto Rico, and the
8 Virgin Islands of the United States.

9 “(11) TOTAL CAPITAL.—The term ‘total cap-
10 ital’ means—

11 “(A) except as provided in subparagraphs
12 (B) and (C), total capital that is calculated at
13 least quarterly;

14 “(B) with respect to a Federal Home Loan
15 Bank, total capital that is calculated on the last
16 day of each month net of all stock to be re-
17 deemed under all pending notices of redemption
18 and withdrawal filed under section 6(e) with the
19 Bank and all stock pending retirement by the
20 Bank; and

21 “(C) with respect to the Federal Home
22 Loan Bank System, total capital that is cal-
23 culated on the last day of each month net of all
24 stock to be redeemed under all pending notices
25 of redemption and withdrawal filed under sec-

1 tion 6(e) with any of the Federal Home Loan
2 Banks and all stock pending retirement by any
3 of the Banks.

4 “(12) UNPAID PRINCIPAL.—The term ‘unpaid
5 principal’, when used in respect of a loan secured by
6 a home mortgage means the principal thereof less
7 the sum of (A) payments made on such principal,
8 and (B) in cases where shares or stock are pledged
9 as security for the loan, the payments made on such
10 shares or stock plus earnings or dividends appor-
11 tioned or credited thereon.”.

12 **SEC. 103. FEDERAL HOUSING FINANCE BOARD.**

13 (a) ESTABLISHMENT.—Section 2A(a) of the Federal
14 Home Loan Bank Act (12 U.S.C. 1422a(a)) is amended
15 by deleting paragraph (3).

16 (b) BOARD MEMBERS.—Section 2A(b) of the Federal
17 Home Loan Bank Act (12 U.S.C. 1422(b)) is amended
18 to read as follows:

19 “(b) BOARD MEMBERS.—

20 “(1) IN GENERAL.—The Board shall consist of
21 the following directors:

22 “(A) The Secretary of the Treasury (or the
23 Secretary of the Treasury’s designee), who shall
24 serve without additional compensation.

1 “(B) The Secretary of the Department of
2 Housing and Urban Development (or the Sec-
3 retary of the Department of Housing and
4 Urban Development’s designee), who shall serve
5 without additional compensation.

6 “(C) 3 directors appointed by the Presi-
7 dent, by and with the advice and consent of the
8 Senate—

9 “(i) from among individuals who are
10 citizens of the United States; and

11 “(ii) from among individuals—

12 “(I) with extensive experience or
13 training in housing finance or finan-
14 cial institution safety and soundness
15 regulation, or

16 “(II) with a commitment to pro-
17 viding specialized housing credit.

18 “(2) APPOINTED DIRECTORS.—

19 “(A) FULL-TIME DIRECTOR.—

20 “(I) ONE DIRECTOR.—1 of the ap-
21 pointed directors shall serve full-time as a
22 director of the Board.

23 “(II) CHAIRPERSON.—The full-time
24 appointed director shall be designated to
25 serve as the Chairperson of the Board and

1 the Chairperson shall be designated as the
2 chief executive officer, subject to the super-
3 vision of the Board.

4 “(III) ACTING CHAIRPERSON.—The
5 Chairperson shall designate another ap-
6 pointed director to serve as Acting Chair-
7 person during the absence or disability of
8 the Chairperson.

9 “(B) PART-TIME DIRECTORS.—2 of the ap-
10 pointed directors shall serve part-time as direc-
11 tors of the Board and at least 1 of the part-
12 time directors shall be chosen from an organiza-
13 tion with more than a 2-year history of rep-
14 resenting consumer or community interests on
15 banking services, credit needs, housing, or fi-
16 nancial consumer protections.

17 “(3) NOMINATIONS.—Nominations pursuant to
18 this subsection shall be referred in the Senate to the
19 Committee on Banking, Housing, and Urban Af-
20 fairs.”.

21 (c) APPOINTED DIRECTORS’ TERMS.—Section 2A(c)
22 of the Federal Home Loan Bank Act (12 U.S.C. 1422(c))
23 is amended to read as follows:

24 “(c) APPOINTED DIRECTORS’ TERMS.—

1 “(1) IN GENERAL.—The appointed directors
2 shall each be appointed for a term of 6 years.

3 “(2) INITIAL TERM.—Notwithstanding para-
4 graph (1), of the directors first appointed after the
5 enactment of the Federal Home Loan Bank System
6 Restructuring and Modernization Act of 1995—

7 “(i) 1 shall be appointed for a term of 2
8 years;

9 “(ii) 1 shall be appointed for a term of 4
10 years; and

11 “(iii) 1 shall be appointed for a term of 6
12 years.”.

13 (d) VACANCIES.—Section 2A(d) of the Federal Home
14 Loan Bank Act (12 U.S.C. 1422(d)) is amended to read
15 as follows:

16 “(d) VACANCIES.—

17 “(1) IN GENERAL.—Any vacancy on the Board
18 shall be filled in the same manner in which the origi-
19 nal appointment was made.

20 “(2) EXPIRATION OF TERM.—Any director ap-
21 pointed to fill a vacancy occurring before the expira-
22 tion of the term for which such director’s prede-
23 cessor was appointed shall be appointed only for the
24 remainder of such term.

1 “(3) CONTINUATION OF SERVICE.—Each direc-
2 tor may continue to serve until a successor has been
3 appointed and qualified.

4 “(4) QUORUM.—

5 “(A) IN GENERAL.—3 directors shall con-
6 stitute a quorum of the board of directors of
7 the Federal Housing Finance Board.

8 “(B) EXCEPTION.—If there shall be on the
9 Board less than a quorum, all powers and func-
10 tions vested in, or exercisable by, the Board
11 shall vest in and be exercisable by the remain-
12 ing directors, until such time as there shall be
13 a quorum of the Board.”.

14 (e) EMPLOYMENT AND OTHER RESTRICTIONS ON DI-
15 RECTORS; APPOINTED DIRECTORS COMPENSATION.—Sec-
16 tion 2A of the Federal Home Loan Bank Act (12 U.S.C.
17 1422a) is amended by adding after subsection (d) the fol-
18 lowing new subsections:

19 “(e) EMPLOYMENT AND OTHER RESTRICTIONS ON
20 DIRECTORS.—No director may—

21 “(1) serve as a director or officer of any Fed-
22 eral Home Loan Bank or any member of any Bank;
23 or

1 “(2) hold shares of, or any other financial inter-
2 est in, any member of any Federal Home Loan
3 Bank.

4 “(f) APPOINTED DIRECTORS COMPENSATION.—The
5 Chairperson and the other appointed directors shall be
6 compensated as prescribed in sections 5314 and 5315 of
7 title 5, United States Code, respectively.”.

8 (f) TRANSITIONAL PROVISION.—

9 (1) CONTINUED SERVICE OF FEDERAL HOUSING
10 FINANCE BOARD DIRECTORS.—Any Federal Housing
11 Finance Board director serving on the date of enact-
12 ment of the Federal Home Loan Bank Restructur-
13 ing and Modernization Act of 1995, whose term has
14 not expired prior to that date, shall remain a direc-
15 tor of the Board and shall be deemed to have been
16 appointed under subsection (b).

17 (2) TERMS OF APPOINTMENT.—The President
18 shall determine the length of the term of any direc-
19 tor described in paragraph (1), subject to subsection
20 (c)(2), and shall determine which director described
21 in paragraph (1) shall serve as the full-time director
22 and which shall serve part-time.

1 **SEC. 104. POWERS AND DUTIES OF THE FEDERAL HOUSING**
2 **FINANCE BOARD.**

3 (a) **POWERS AND DUTIES.**—Section 2B(a) of the
4 Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is
5 amended to read as follows:

6 “(a) **POWERS AND DUTIES.**—

7 “(1) **SAFETY AND SOUNDNESS.**—The primary
8 duty of the Board shall be to ensure that the Fed-
9 eral Home Loan Banks operate in a safe and sound
10 manner.

11 “(2) **ADDITIONAL POWERS AND DUTIES.**—The
12 Board also shall have the following powers and
13 duties—

14 “(A) to supervise the Federal Home Loan
15 Banks and the Federal Home Loan Bank Sys-
16 tem and to promulgate and enforce such regula-
17 tions and orders as are necessary from time to
18 time to carry out the provisions of this Act;

19 “(B) to ensure that the Federal Home
20 Loan Banks carry out their housing finance
21 mission;

22 “(C) to ensure that the Federal Home
23 Loan Banks and the Federal Home Loan Bank
24 System remain appropriately capitalized and
25 able to raise funds in the capital markets;

1 “(D) to determine necessary expenditures
2 of the Board under this Act and the manner in
3 which such expenditures shall be incurred, al-
4 lowed, and paid;

5 “(E) to use the United States mails in the
6 same manner and under the same conditions as
7 a department or agency of the United States;
8 and

9 “(F) utilizing the services of the Adminis-
10 trator of the General Services, to purchase,
11 lease, hold or dispose of such real estate for its
12 premises as may be necessary or convenient for
13 it to carry out the purposes of this Act.”.

14 (b) AMENDMENTS CONCERNING STAFF.—Section
15 2B(b) of the Federal Home Loan Bank Act (12 U.S.C.
16 1422b(b)) is amended to read as follows:

17 “(b) STAFF.—

18 “(1) FEDERAL HOUSING FINANCE BOARD
19 STAFF.—Subject to title II of the Federal Home
20 Loan Bank System Restructuring and Moderniza-
21 tion Act of 1995, the Board may employ, direct, and
22 fix the compensation and number of employees, at-
23 torneys, and agents of the Board, except that in no
24 event shall the Board delegate any function to any
25 employee or administrative unit of any bank.

1 “(2) COMPENSATION.—

2 “(a) EMPLOYEES, ATTORNEYS, AND
3 AGENTS.—In directing and fixing the com-
4 pensation of employees, attorneys, and agents,
5 the Board shall consult with and maintain com-
6 parability with the compensation at the Federal
7 bank regulatory agencies.

8 “(B) OTHER LAWS.—Except for the com-
9 pensation of the directors of the Board, com-
10 pensation under subparagraph (A) shall be paid
11 without regard to the provisions of other laws
12 applicable to officers or employees of the United
13 States.

14 “(3) ABOLITION OF THE OFFICE OF FI-
15 NANCE.—The Office of Finance is abolished on the
16 earlier of the date—

17 “(A) the central office described in section
18 11(k) is established, or

19 “(B) 6 months after the Federal Home
20 Loan Bank System Restructuring and Mod-
21 ernization Act of 1995 is enacted.”.

22 **SEC. 105. CONTINUING REGULATIONS AND POLICIES.**

23 Not later than 270 days after the date of enactment
24 of this Act, the Federal Housing Finance Board shall—

1 (a) identify the regulations and policies of the
2 Board that will continue in effect after the enact-
3 ment of this Act;

4 (b) identify the regulations and policies de-
5 scribed in subsection (a) that need to be amended to
6 comply with changes made to the Federal Home
7 Loan Bank Act by this Act; and

8 (c) publish the information required by sub-
9 sections (a) and (b) in the Federal Register.

10 **SEC. 106. READJUSTMENT OF FEDERAL HOME LOAN BANK**

11 **DISTRICTS; NAMES.**

12 Section 3 of the Federal Home Loan Bank Act (12
13 U.S.C. 1423) is amended to read as follows:

14 **“SEC. 3. READJUSTMENT OF FEDERAL HOME LOAN BANK**

15 **DISTRICTS; NAMES.**

16 “(a) READJUSTMENTS.—

17 “(1) AUTHORITY OF FEDERAL HOME LOAN
18 BANKS.—The Federal Home Loan Bank districts
19 and the Federal Home Loan Banks in existence on
20 the date of enactment of the Federal Home Loan
21 Bank System Restructuring and Modernization Act
22 of 1995 may be readjusted (through merger or oth-
23 erwise) by 2 or more Banks as long as—

1 “(A) there are never fewer than 1 nor
2 more than 12 districts and Federal Home Loan
3 Banks; and

4 “(B) the requirements of paragraph (2)
5 are satisfied.

6 “(2) ADDITIONAL REQUIREMENTS.—Any read-
7 justment described in this subsection—

8 “(A) CONVENIENCE TEST.—shall be with
9 due regard to the convenience and customary
10 course of business of the current members and
11 institutions eligible to and likely to subscribe
12 for stock of a Federal Home Loan Bank, and
13 no Federal Home Loan Bank district shall con-
14 tain a fractional part of any State.

15 “(B) PRIOR APPROVALS.—Must be ap-
16 proved (taking into account, among other
17 things, the convenience test in subparagraph
18 (A)), by—

19 “(i) the Federal Housing Finance
20 Board;

21 “(ii) the majority of the board of di-
22 rectors of each participating Bank; and

23 “(iii) the majority of the votes that all
24 members of each participating Bank may
25 cast with respect to the readjustment.

1 “(I) VOTES TO BE CAST.—Each
2 member may cast a number of votes
3 equal to the number of votes the
4 member may cast in an election under
5 section 7(b).

6 “(II) MEMBER DEFINED.—As
7 used in this subparagraph, “member”
8 means a member of a Federal Home
9 Loan Bank that was a member of
10 such Bank at the end of the calendar
11 year next preceding the vote.

12 “(b) NAME.—

13 “(1) DISTRICTS.—All districts shall be known
14 as Federal Home Loan Bank districts and may be
15 designated by number.

16 “(2) CITY.—The title of each Federal Home
17 Loan Bank shall include the name of the city at
18 which it is established.”.

19 **SEC. 107. ELIGIBILITY FOR MEMBERSHIP.**

20 (a) ELIGIBILITY CRITERIA.—Section 4(a) of the Fed-
21 eral Home Loan Bank Act (12 U.S.C. 1424(a)) is amend-
22 ed to read as follows:

23 “(a) CRITERIA FOR ELIGIBILITY.—

24 “(1) IN GENERAL.—Any building and loan as-
25 sociation, savings and loan association, cooperative

1 bank, homestead association, insurance company,
2 savings bank, or any insured depository institution
3 (as defined in section 2), shall be eligible to be a
4 member of a Federal Home Loan Bank if—

5 “(A) it is duly organized under the laws of
6 any State or of the United States;

7 “(B) it is subject to inspection and regula-
8 tion under the banking laws, or under similar
9 laws, of any State or of the United States;

10 “(C) it makes long-term home mortgage
11 loans, as defined by the Board;

12 “(D) it maintains at least 10 percent of its
13 total assets in whole first mortgages on im-
14 proved residential property (based on an aver-
15 age in each calendar quarter);

16 “(E) its financial condition is such that ad-
17 vances may be safely made to such institution;
18 and

19 “(F) the character of its management and
20 its home-financing policy are consistent with
21 sound and economical home financing.

22 “(2) DEFINITION OF WHOLE MORTGAGE.—A
23 whole first mortgage on improved residential prop-
24 erty for purposes of this subsection does not include
25 either a partial interest in a residential mortgage

1 loan or any security that represents an interest in a
2 residential mortgage loan.

3 “(3) TRANSITION PERIODS FOR NEW INSTITU-
4 TIONS AND EXISTING MEMBERS.—

5 “(A) NEW INSTITUTIONS.—An institution
6 commencing its initial business operations may
7 become a member of a Federal Home Loan
8 Bank prior to complying with paragraph (1)(D)
9 if it complies with paragraph (1)(D) within one
10 year after the commencement of its operations.

11 “(B) EXISTING MEMBERS.—Paragraph
12 (1)(D) does not apply to an institution that is
13 a member of a Federal Home Loan Bank on
14 the day before the date of enactment of the
15 Federal Home Loan Bank System Supervision
16 and Modernization Act of 1995 until 2 years
17 after the date of enactment of the Federal
18 Home Loan Bank System Restructuring and
19 Modernization Act of 1995.

20 “(C) REMOVAL.—A new institution or an
21 existing member that fails to comply with para-
22 graph (1)(D) within the time period provided by
23 subparagraph (A) or subparagraph (B), respec-
24 tively, shall be removed from membership by
25 the Board under section (6)(e).

1 “(4) FAILURE TO MAINTAIN ASSET REQUIRE-
2 MENT.—Except as provided in paragraph (3), any
3 member that fails to maintain compliance with the
4 10 percent whole first mortgage asset requirement
5 described in paragraph (1)(D)—

6 “(A) ADVANCES.—For 2 consecutive quar-
7 ters shall not be eligible to obtain advances
8 from its Federal Home Loan Bank until the
9 member meets the 10 percent whole first mort-
10 gage asset requirement; and

11 “(B) REMOVAL OF MEMBER.—For 4 con-
12 secutive quarters shall be removed from mem-
13 bership by the Board under section 6(e).”.

14 (b) MEMBERSHIP BASED ON CONVENIENCE; APPLI-
15 CATIONS.—Section 4(b) of the Federal Home Loan Bank
16 Act (12 U.S.C. 1424(b)) is amended to read as follows:

17 “(b) MEMBERSHIP BASED ON CONVENIENCE; APPLI-
18 CATIONS.—

19 “(1) MEMBERSHIP BASED ON CONVENIENCE.—
20 An institution eligible to become a member under
21 this section may become a member only of, and se-
22 cure advances only from—

23 “(A) the Federal Home Loan Bank of the
24 district in which the institution’s principal place
25 of business is located, or

1 “(B) the Bank of a district adjoining the
2 district in which the institution’s principal place
3 of business is located if demanded by conven-
4 ience and then only if—

5 “(i) the application for membership is
6 approved by the Bank of the adjoining dis-
7 trict; and

8 “(ii) the Board does not disapprove
9 the application within 30 days after Bank
10 approval is granted under clause (i).

11 “(2) APPLICATIONS.—

12 “(A) SUBMISSION.—An institution eligible
13 to become a member may submit an application
14 for membership—

15 “(i) to the Bank in the district in
16 which the principal place of business of the
17 institution is located; or

18 “(ii) if the institution is seeking to be-
19 come a member of a Bank of a district ad-
20 joining the district in which the institu-
21 tion’s principal place of business is located,
22 to the Bank of the adjoining district and
23 to the Board.

24 “(B) APPROVAL.—Each Federal Home
25 Loan Bank is authorized to approve or dis-

1 approve, subject to the requirements of this
2 Act, applications appropriately submitted to the
3 Bank.”.

4 **SEC. 108. CAPITAL STOCK.**

5 (a) REQUIRED SUBSCRIPTIONS; RETIREMENT OF
6 OVERSUBSCRIPTIONS; LIMITATIONS; CANCELLATION OF
7 OVERSUBSCRIPTIONS; REPORTS AND INFORMATION.—
8 Section 6(b) of the Federal Home Loan Bank Act (12
9 U.S.C. 1426(b)) is amended to read as follows:

10 “(b) REQUIRED SUBSCRIPTIONS; RETIREMENT OF
11 OVERSUBSCRIPTIONS; LIMITATIONS; CANCELLATION OF
12 OVERSUBSCRIPTIONS; REPORTS AND INFORMATION.—

13 “(1) REQUIRED SUBSCRIPTIONS.—

14 “(A) IN GENERAL.—

15 “(i) PERCENTAGE OF TOTAL AS-
16 SETS.—The minimum stock subscription of
17 each institution that becomes a member
18 shall be an amount equal to a percentage
19 of the subscriber’s total assets.

20 “(ii) EACH BANK TO SET INDIVIDUAL
21 REQUIEMENTS.—The percentage of total
22 assets in clause (i), which shall apply to all
23 members of the same Bank, shall be estab-
24 lished individually by each Federal Home
25 Loan Bank based, at a minimum, on the

1 capital standards set by the Board under
2 Section 6(A).

3 “(B) ADJUSTMENTS.—Each Federal Home
4 Loan Bank shall annually, as of the close of the
5 calendar year, adjust, at such time, and in such
6 manner and upon such terms and conditions as
7 the Board may by regulation or otherwise pre-
8 scribe, the amount of stock required to be held
9 by each member of the Bank so that such mem-
10 ber shall have invested in the stock of the Bank
11 at least an amount calculated in the manner
12 provided in subparagraph (A).

13 “(C) EXCESS STOCK.—

14 “(i) RETIREMENT.—If a Federal
15 Home Loan Bank finds that the invest-
16 ment of any member in stock of the Bank
17 is greater than that required under this
18 paragraph, it may, unless prohibited by the
19 Board or by the provisions of paragraph
20 (2), retire the stock of such member in ex-
21 cess of the amount so required.

22 “(ii) PAYMENT FOR RETIRED
23 STOCK.—The retirement of stock under
24 this subparagraph is subject to all of the
25 requirements imposed on the partial re-

1 demption of stock under subsection (e), ex-
2 cept for the notice requirement contained
3 in subsection (e)(1).

4 “(D) ENTIRE SHARES.—The Board, in its
5 discretion, may, by regulation or otherwise, pro-
6 vide for adjustments in amounts of stock to be
7 issued or retired in order that stock may be is-
8 sued or retired only in entire shares.

9 “(2) LIMITATION ON RETIREMENT OF EXCESS
10 SHARES.—Notwithstanding any other provision of
11 this subsection, no action shall be taken by any
12 Bank with respect to any member pursuant to para-
13 graph (1) if the effect of the action would be to
14 cause the aggregate outstanding advances made by
15 the Bank to exceed 20 times the amounts paid in by
16 the member for outstanding capital stock, unless the
17 member has established a permissible compensating
18 balance to support the excess advance.

19 “(3) REPORTS AND INFORMATION.—The
20 Board, by regulations or otherwise, may require each
21 member to submit such reports and information as
22 the Board, in its discretion, may determine to be
23 necessary or appropriate for the purposes of this
24 subsection.”.

1 (b) PARTIAL STOCK REDEMPTION OR WITHDRAWAL;
2 REMOVAL OF MEMBERS; SURRENDER AND CANCELLA-
3 TION OF STOCK; STOCK REDEMPTIONS.—Section 6(e) of
4 the Federal Home Loan Bank (12 U.S.C. 1426(e)) is
5 amended to read as follows:

6 “(e) PARTIAL STOCK REDEMPTION OR WITH-
7 DRAWAL; REMOVAL OF MEMBERS; SURRENDER AND CAN-
8 CELLATION OF STOCK; STOCK REDEMPTIONS.—

9 “(1) PARTIAL STOCK REDEMPTION AND WITH-
10 DRAWAL OF MEMBERS.—

11 “(A) IN GENERAL.—

12 “(i) NOTICE OF WITHDRAWAL.—Any
13 member may withdraw from membership
14 in a Federal Home Loan Bank, subject to
15 the conditions of this Act, by filing with
16 the Board and the Bank a written notice
17 of intention to withdraw.

18 “(ii) NOTICE OF PARTIAL REDEMP-
19 TION.—

20 “(I) IN GENERAL.—Except as
21 provided in subclause (II), any mem-
22 ber may redeem stock in excess of the
23 amount of stock required to be owned
24 by the member under section 6(b)(1),

1 by filing a written notice of a partial
2 redemption.

3 “(II) EXCEPTION.—Stock de-
4 scribed in subclause (I) may not be
5 redeemed if, following the redemption,
6 the aggregate outstanding advances to
7 the member would exceed 20 times
8 the amounts paid in by the member
9 for outstanding capital stock and the
10 member has not (or is not permitted
11 to) established a compensating bal-
12 ance to support the excess advances.

13 “(iii) DATE OF NOTICE.—Any notice
14 filed under this paragraph shall be deemed
15 to have been filed on the last day of the
16 month in which the notice is filed.

17 “(B) FEE FOR CANCELLATION OF NO-
18 TICE.—

19 “(i) FEE IMPOSED.—If a member
20 cancels a notice filed under subparagraph
21 (A), the member shall pay a fee in an
22 amount established by the Board.

23 “(ii) FEE AMOUNT.—The Board shall
24 set the cancellation fee at an amount de-
25 termined by the Board to be sufficient to

1 discourage members from filing a notice
2 for the purpose of maintaining a partial re-
3 demption option or withdrawal option.

4 “(iii) CAPITAL ACCOUNT.—The fee
5 paid by a member under this subparagraph
6 shall be added to the Bank’s retained earn-
7 ings account or other capital reserve ac-
8 count.

9 “(C) PROCESS.—For purposes of this sub-
10 section, notices of partial redemption and with-
11 drawal shall be processed in the order received.

12 “(2) REMOVAL OF MEMBERS.—

13 “(A) FEDERAL HOUSING FINANCE BOARD
14 ACTION.—The Board may, after hearing, re-
15 move any member from membership if such
16 member—

17 “(i) in the opinion of the Board—

18 “(I) has failed to comply with
19 any provision of this Act or regulation
20 of the Board prescribed under this
21 Act, including a failure to maintain at
22 least 10 percent of its total assets in
23 whole first mortgages on improved
24 residential property as required under
25 section 4; or

1 “(II) has a management or
2 home-financing policy of a character
3 inconsistent with sound and economi-
4 cal home financing or with the pur-
5 poses of this Act; or

6 “(ii) has been determined to be insol-
7 vent, or otherwise subject to the appoint-
8 ment of a conservator, receiving, or other
9 legal custodian, by a State or Federal au-
10 thority with regulatory and supervisory re-
11 sponsibility for the member.

12 “(B) FEDERAL HOME LOAN BANK REFER-
13 RAL.—

14 “(i) IN GENERAL.—A Federal Home
15 Loan Bank may refer a member to the
16 Board for removal if the Bank believes any
17 basis for removal set forth in subpara-
18 graph (A) is present.

19 “(ii) BOARD DECISION.—Within 30
20 days after receiving a referral described in
21 clause (i), the Board shall determine
22 whether to initiate a removal action under
23 subparagraph (A) and shall notify the re-
24 ferring Bank of its decision.

25 “(3) LIQUIDATION OF MEMBER’S DEBTS.—

1 “(A) IN GENERAL.—When a member’s
2 membership in a Federal Home Loan Bank is
3 terminated by removal, or a member files a no-
4 tice of withdrawal, the indebtedness of the
5 member to the Federal Home Loan Bank shall
6 be liquidated in an orderly manner as deter-
7 mined by the Federal Home Loan Bank and
8 the liquidation shall be completed no later than
9 the date the member’s stock is to be surren-
10 dered and canceled under paragraph (4).

11 “(B) LIQUIDATION DEEMED PREPAYMENT
12 OF DEBT.—Any liquidation described in sub-
13 paragraph (A) shall be deemed a prepayment of
14 the indebtedness, and shall be subject to any
15 penalties or other fees applicable to such pre-
16 payment.

17 “(C) PROHIBITION ON NEW ADVANCES.—
18 New advances may not be made to a member
19 and outstanding advances to a member may not
20 be renewed—

21 “(i) if the member has filed a notice
22 of withdrawal, unless the notice is canceled
23 and the fee described in paragraph (1)(B)
24 has been paid; or

1 “(ii) if the Board has determined,
2 after hearing, to remove the member.

3 “(D) RETURN OF COLLATERAL AND COM-
4 PENSATING BALANCES.—Upon the liquidation
5 of indebtedness described in subparagraph (A),
6 the member shall be entitled to the return of
7 any of its remaining collateral and compensat-
8 ing balance.

9 “(4) WITHDRAWALS AND REMOVALS.—All of
10 the stock in the Federal Home Loan Bank owned by
11 a member shall be surrendered and canceled—

12 “(i) in the case of withdrawal, 6
13 months after the date the member filed the
14 notice of withdrawal, unless the notice has
15 been canceled and the fee described in
16 paragraph (1)(B) has been paid; or

17 “(ii) in a removal case, upon the com-
18 pletion of the liquidation described in para-
19 graph (3).

20 “(B) PARTIAL REDEMPTION.—The amount
21 of stock in the Federal Home Loan Bank being
22 redeemed by a member in a partial redemption
23 shall be surrendered and canceled 6 months
24 after the date the member filed the notice of
25 partial redemption, unless the notice has been

1 canceled and the fee described in paragraph
2 (1)(B) has been paid.

3 “(5) PAYMENT FOR STOCK REDEMPTIONS.—

4 “(A) CASH SUBSCRIPTIONS PAID IN TWO
5 INSTALLMENTS.—Except as provided in sub-
6 paragraphs (B) and (C), a member that has
7 surrendered all or part of its capital stock shall
8 receive from the Federal Home Loan Bank a
9 sum equal to the member’s cash paid subscrip-
10 tions for the capital stock surrendered to be
11 paid in two equal installments as follows—

12 “(i) upon the surrender and cancella-
13 tion of the member’s stock; and

14 “(ii) six months after receiving the
15 payment described in clause (i).

16 “(B) EXTENSION OF TIME FOR PAY-
17 MENT.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in subparagraph (C), a member that
20 has surrendered all or part of its capital
21 stock shall receive from the Bank a sum
22 equal to the member’s cash subscription
23 for the capital stock surrendered to be paid
24 in three equal installments as set forth in
25 clause (ii) when—

1 “(I) pending stock redemptions
2 in the Federal Home Loan Bank ex-
3 ceed 20 percent of the Bank’s current
4 capital, or

5 “(II) the Board makes a written
6 determination that, for reasons of
7 safety and soundness, the period for
8 payment on redemptions should be ex-
9 tended.

10 “(ii) THREE INSTALLMENTS.—The
11 three equal installment payments referred
12 to in clause (i) shall be made as follows—

13 “(I) upon the surrender and can-
14 cellation of the member’s capital
15 stock;

16 “(II) six months after receiving
17 the payment described in subclause
18 (I); and

19 “(III) six months after receiving
20 the payment described in subclause
21 (II).

22 “(iii) WAIVER REQUEST.—In response
23 to a request from the Federal Home Loan
24 Bank, the Board in its discretion may
25 waive an extension of the payment period

1 imposed, or to be imposed, because pend-
2 ing capital redemptions exceed 20 percent
3 of the Bank’s current capital.

4 “(C) UNDERCAPITALIZATION.—If at any
5 time the Board finds that a Federal Home
6 Loan Bank is undercapitalized or is likely to
7 be undercapitalized for any reason including,
8 losses in or depreciation of the assets held or
9 capital stock redemptions, the Federal Home
10 Loan Bank shall on the order of the Board
11 withhold from the amount to be paid under this
12 paragraph a pro rata share of the amount equal
13 to the additional capital required for the Bank
14 to be adequately capitalized as determined by
15 the Board.”.

16 (c) ACQUISITION OF MEMBERSHIP AFTER WITH-
17 DRAWAL OR REMOVAL.—Section 6(h) of the Federal
18 Home Loan Bank Act (12 U.S.C. 1426(h)) is amended
19 to read as follows:

20 “(h) ACQUISITION OF MEMBERSHIP AFTER WITH-
21 DRAWAL OR REMOVAL.—Notwithstanding any other provi-
22 sion of this Act, an institution which withdraws, or is re-
23 moved, from membership may acquire membership in any
24 Federal Home Loan Bank only after the expiration of a
25 period of 10 years thereafter, except where such with-

1 drawal is a consequence of a transfer of membership on
2 a noninterrupted basis between Banks.”.

3 **SEC. 109. TRANSITIONAL PROVISIONS CONCERNING CAP-**
4 **ITAL STOCK.**

5 (a) TRANSITION FOR WITHDRAWAL.—

6 (1) DELAYED EFFECTIVE DATE.—Section 6(e)
7 of the Federal Home Loan Bank Act, as amended
8 by this Act, shall become effective 90 days after the
9 date of enactment of this Act.

10 (2) WITHDRAWAL BY CURRENT MEMBERS.—

11 (A) NOTICE TO WITHDRAW UNDER OLD
12 SYSTEM.—Any institution, other than a Federal
13 savings association, that was a member of a
14 Federal Home Loan Bank on the day before
15 the date of enactment of this Act shall have 90
16 days after the date of enactment of this Act to
17 file a notice with the Board of its intention to
18 withdraw from membership in a Federal Home
19 Loan Bank under the terms and conditions for
20 withdrawal existing on the day before the date
21 of enactment of the Federal Home Loan Bank
22 System Restructuring and Modernization Act of
23 1995, including the prohibition on an institu-
24 tion that withdraws from membership acquiring

1 membership in any Bank prior to the expiration
2 of a 10 year period.

3 (B) EXCEPTION CONCERNING TERMS AND
4 CONDITIONS OF WITHDRAWAL.—A member that
5 files a notice of withdrawal under subparagraph
6 (A) may not cancel the notice after the expira-
7 tion of the 90 day period described in subpara-
8 graph (A).

9 (C) NOTICES PENDING ON DATE OF EN-
10 ACTMENT.—The membership withdrawal by a
11 member that has a notice of withdrawal pend-
12 ing on the date of enactment of the Federal
13 Home Loan Bank System Restructuring and
14 Modernization Act of 1995 shall be subject to
15 the terms and conditions for withdrawal exist-
16 ing on the day before the date of enactment of
17 the Federal Home Loan Bank System Restruc-
18 turing and Modernization Act of 1995, except
19 the member shall not be permitted to cancel the
20 notice of withdrawal after the expiration of the
21 90 day period described in subparagraph (A).

22 (b) TRANSITION FOR STOCK SUBSCRIPTIONS.—

23 (1) REQUIRED STOCK SUBSCRIPTION.—

24 (A) BOARD REGULATIONS.—The Board
25 shall prescribe final regulations establishing the

1 capital standards required under section 6A of
2 the Federal Home Loan Bank Act that become
3 effective no later than 1 year after the date of
4 enactment of this Act.

5 (B) BANKS REQUIRED TO ESTABLISH IN-
6 DIVIDUAL STOCK SUBSCRIPTIONS.—Within 30
7 days after the regulations described in subpara-
8 graph (A) become effective, each Federal Home
9 Loan Bank shall establish its stock subscription
10 requirements under section 6(b)(1) of the Fed-
11 eral Home Loan Bank Act and shall submit a
12 plan to the Federal Housing Finance Board
13 specifying how the Bank intends to implement
14 its stock subscription requirements.

15 (C) 2 YEAR TRANSITION PERIOD.—Begin-
16 ning 2 years after a Bank first establishes its
17 stock subscription requirement described in
18 subparagraph (B), each member of the Bank
19 shall comply with that requirement.

20 (2) EXISTING REQUIREMENTS CONTINUED.—
21 Until a Federal Home Loan Bank has established
22 the stock subscription requirements described in
23 paragraph (1)(B), the minimum amount of stock re-
24 quired to be held by a member and the aggregate
25 amount of advances that may be outstanding to a

1 member shall continue to be determined under the
2 statutory provisions in effect on the day before the
3 date of enactment of this Act.

4 (c) TRANSITION FOR STOCK OR COMPENSATING BAL-
5 ANCE REQUIREMENT.—

6 (1) INITIAL DETERMINATION.—Prior to the
7 time a Bank first establishes its stock subscription
8 requirements under section 6(b)(1) of the Federal
9 Home Loan Bank Act, each Bank shall determine
10 whether members of the Bank wishing to obtain ad-
11 vances that exceed the standard leverage limit will
12 be—

13 (A) required to purchase additional stock;

14 (B) required to maintain a compensating
15 balance; or

16 (C) permitted to elect to purchase addi-
17 tional stock or maintain a compensating bal-
18 ance.

19 (2) SUBSEQUENT DETERMINATIONS.—Each
20 Bank may change its initial determination under
21 paragraph (1).

22 (3) MEMBERS THAT WILL MAINTAIN A COM-
23 PENSATING BALANCE.—

24 (A) 2 YEAR TRANSITION PERIOD.—

1 (i) IN GENERAL.—Beginning 2 years
2 after its Bank first establishes stock sub-
3 scription requirements under section
4 6(b)(1) of the Federal Home Loan Bank
5 Act, a member described in clause (ii) shall
6 comply with the compensating balance re-
7 quirements or reduce the amount of its
8 outstanding advances to an amount that
9 does not exceed the standard leverage
10 limit.

11 (ii) REQUIREMENTS.—Clauses (i) ap-
12 plies to a member that—

13 (I) is required, or has made a
14 permissible election, to maintain a
15 compensating balance to support ad-
16 vances that exceed the standard lever-
17 age limit; and

18 (II) on the day the member's
19 Bank first established its stock sub-
20 scription requirements under section
21 6(b)(1) of the Federal Home Loan
22 Bank Act, had outstanding advances
23 that exceeded the standard leverage
24 limit.

1 (B) PROHIBITION ON RENEWING CERTAIN
2 ADVANCES.—

3 (i) During the 2-year period described
4 in subparagraph (A), an advance to a
5 member described in clause (ii) shall not
6 be renewed, unless the compensating bal-
7 ance required by section 10(c)(2) of the
8 Federal Home Loan Bank Act is estab-
9 lished.

10 (ii) MEMBERS SUBJECT TO PROHIBI-
11 TION.—Clause (i) applies when—

12 (I) a member is required, or has
13 made a permissible election, to main-
14 tain compensating balances to support
15 advances that exceed the standard le-
16 verage limit; and

17 (II) the aggregate outstanding
18 advances to the member following the
19 renewal would exceed the standard le-
20 verage limit.

21 (4) STANDARD LEVERAGE LIMIT.—For pur-
22 poses of this subsection, the term “standard leverage
23 limit” means 20 times the amounts paid in by the
24 member for outstanding stock required under section
25 6(b)(1) of the Federal Home Loan Bank.

1 **SEC. 110. PROMPT CORRECTIVE ACTION.**

2 The Federal Home Loan Bank Act is amended by
3 adding after section 6 (12 U.S.C. 1426) the following new
4 section:

5 **“SEC. 6A. PROMPT CORRECTIVE ACTION.**

6 “(a) DEFINITIONS.—For purposes of this section—

7 “(1) CAPITAL CATEGORIES.—

8 “(A) ADEQUATELY CAPITALIZED.—A Fed-
9 eral Home Loan Bank is ‘adequately capital-
10 ized’ if it meets the required minimum level for
11 each relevant capital measure.

12 “(B) UNDERCAPITALIZED.—A Federal
13 Home Loan Bank is ‘undercapitalized’ if it fails
14 to meet the required minimum level for any rel-
15 evant capital measure.

16 “(C) SIGNIFICANTLY UNDERCAPITAL-
17 IZED.—A Federal Home Loan Bank is ‘signifi-
18 cantly undercapitalized’ if it is significantly
19 below the required minimum level for any rel-
20 evant capital measure.

21 “(D) CRITICALLY UNDERCAPITALIZED.—A
22 Federal Home Loan Bank is ‘critically
23 undercapitalized’ if it fails to meet any level
24 specified under subsection (b)(4)(A).

25 “(2) OTHER DEFINITIONS.—

1 “(A) AVERAGE.—The ‘average’ of an ac-
2 counting item (such as total assets or tangible
3 equity) during a given period means the sum of
4 that item at the close of business on each busi-
5 ness day during that period divided by the total
6 number of business days in that period.

7 “(B) CAPITAL DISTRIBUTIONS.—The term
8 ‘capital distribution’ means—

9 “(i) a distribution of cash or other
10 property by a Federal Home Loan Bank to
11 its members made on account of that
12 membership but not including—

13 “(I) any dividend consisting only
14 of shares of the Bank or right to pur-
15 chase such shares; or

16 “(II) any amount paid on the de-
17 posits of a Bank that the Board de-
18 termines is not a distribution for pur-
19 poses of this section;

20 “(ii) a payment by a Bank to repur-
21 chase, redeem, retire, or otherwise acquire
22 any of its shares, including any extension
23 of credit to finance an acquisition of those
24 shares; or

1 “(iii) a transaction that the Board de-
2 termines, by order or regulation, to be in
3 substance a distribution of capital to the
4 members of the Bank.

5 “(C) CAPITAL RESTORATION PLAN.—The
6 term ‘capital restoration plan’ means a plan
7 submitted under subsection (d)(2).

8 “(D) COMPENSATION.—The term ‘com-
9 pensation’ includes any payment of money or
10 provision of any other thing of value in consid-
11 eration of employment.

12 “(E) RELEVANT CAPITAL MEASURE.—The
13 term ‘relevant capital measure’ means the
14 measures described in subsection (b).

15 “(F) REQUIRED MINIMUM LEVEL.—The
16 term ‘required minimum level’ means, with re-
17 spect to each relevant capital measure, the min-
18 imum acceptable capital level specified by the
19 Board.

20 “(G) SENIOR EXECUTIVE OFFICER.—The
21 term ‘senior executive officer’ means a person
22 who participates or has authority to participate
23 (other than in the capacity of a director) in
24 major policy functions of the Federal Home
25 Loan Bank, whether or not: the officer has an

1 official title; the title designates the officer as
2 assistant; or the officer is serving without sal-
3 ary or other compensation.

4 “(b) CAPITAL STANDARDS.—

5 “(1) RELEVANT CAPITAL MEASURES.—

6 “(A) IN GENERAL.—The capital standard
7 prescribed by the Board shall include—

8 “(i) a leverage limit; and

9 “(ii) a risk-based capital requirement.

10 “(B) OTHER CAPITAL MEASURES.—The
11 Board may, by regulation establish any addi-
12 tional relevant capital measures to carry out the
13 purpose of this section.

14 “(2) RISK-BASED CAPITAL REQUIREMENT.—

15 “(A) IN GENERAL.—The risk-based capital
16 requirement under paragraph (1) shall be com-
17 posed of the following components.—

18 (i) capital for credit risk;

19 (ii) capital for interest rate risk; and

20 (iii) capital for a source of earnings.

21 “(B) CAPITAL COMPONENTS.—

22 “(i) CAPITAL FOR CREDIT RISK.—

23 Capital required for credit risk shall be no
24 less than the tier 1 risk-based capital re-
25 quired by regulation or guideline issued

1 under section 38 of the Federal Deposit
2 Insurance Act for a well-capitalized in-
3 sured depository institution.

4 “(ii) INTEREST RATE RISK.—Capital
5 required for interest rate risk shall be
6 based on an interest rate risk stress test
7 that rigorously tests for changes in interest
8 rates, rate volatility, and changes in the
9 shape of the yield curve.

10 “(iii) CAPITAL FOR A SOURCE OF
11 EARNINGS.—

12 “(I) IN GENERAL.—Capital re-
13 quired to provide a source of earnings
14 for the System’s obligations to the
15 Funding Corporation and the Afford-
16 able Housing Program shall include
17 an amount at least equal to each
18 Bank’s proportionate share of the
19 System’s yearly obligation under sec-
20 tion 21B(f)(2)(C).

21 “(II) CALCULATION.—For pur-
22 poses of subclause (I), a Bank’s pro-
23 portionate share of the System’s year-
24 ly obligation under section
25 21B(f)(2)(C) shall be calculated based

1 on the previous year’s actual payment
2 under that section.

3 “(3) CAPITAL CATEGORIES GENERALLY.—

4 “(A) IN GENERAL.—The Board shall, by
5 regulation, specify for each relevant capital
6 measure the levels at which a Federal Home
7 Loan Bank is adequately capitalized, under-
8 capitalized, and significantly undercapitalized.

9 “(B) MINIMUM LEVERAGE LIMIT FOR ADE-
10 QUATELY CAPITALIZED CATEGORY.—The level
11 specified by the Board for a Bank to be ade-
12 quately capitalized shall require total capital in
13 an amount not less than 4 percent of the
14 Bank’s total assets.

15 “(4) CRITICAL CAPITAL.—

16 “(A) FEDERAL HOUSING FINANCE BOARD
17 TO SPECIFY LEVEL.—

18 “(i) LEVERAGE LIMIT.—The board
19 shall, by regulation, specify the ratio of
20 total capital to total assets at which a Fed-
21 eral Home Loan Bank is critically
22 undercapitalized.

23 “(ii) OTHER RELEVANT CAPITAL
24 MEASURES.—The Board may, by regula-
25 tion, specify for one or more other relevant

1 capital measures, the level at which a
2 Bank is critically undercapitalized.

3 “(B) LEVERAGE LIMIT RANGE.—The level
4 specified under subparagraph (A)(i) shall re-
5 quire tangible equity in an amount—

6 “(i) not less than 2 percent of total
7 assets; and

8 “(ii) except as provided in clause (i),
9 not more than 65 percent of the required
10 minimum level of capital under the lever-
11 age limit.

12 “(c) PROVISIONS APPLICABLE TO ALL FEDERAL
13 HOME LOAN BANKS.—

14 “(1) CAPITAL DISTRIBUTIONS RESTRICTED.—
15 Except as provided in paragraph (2), a Federal
16 Home Loan Bank shall make no capital distribution
17 if, after making the distribution, the Bank would be
18 undercapitalized.

19 “(2) EXCEPTIONS.—Notwithstanding para-
20 graph (1)—

21 “(A) A Federal Home Loan Bank may re-
22 deem a member’s stock under, and subject to
23 the conditions of, section 6(e); and

24 “(B) The board may permit a Federal
25 Home Loan Bank to repurchase, redeem, retire,

1 or otherwise acquire its shares if the repur-
2 chase, redemption, retirement, or other acquisi-
3 tion—

4 “(i) is made in connection with the is-
5 suance of additional shares of the Bank in
6 at least an equivalent amount; and

7 “(ii) will reduce the Bank’s financial
8 obligations or otherwise improve the
9 Bank’s financial condition.

10 “(d) PROVISIONS APPLICABLE TO UNDERCAPI-
11 TALIZED FEDERAL HOME LOAN BANKS.—

12 “(1) MONITORING REQUIRED.—The Board
13 shall—

14 “(A) closely monitor the condition of any
15 undercapitalized Federal Home Loan Bank;

16 “(B) closely monitor compliance with cap-
17 ital restoration plans, restrictions, and require-
18 ments imposed under this section; and

19 “(C) periodically review the plan, restric-
20 tions, and requirements applicable to any
21 undercapitalized Bank to determine whether the
22 plan, restrictions, and requirements are achiev-
23 ing the purpose of this section.

24 “(2) CAPITAL RESTORATION PLAN RE-
25 QUIRED.—

1 “(A) IN GENERAL.—Any undercapitalized
2 Bank shall submit an acceptable capital res-
3 toration plan to the Board within the time al-
4 lowed by the Board under subparagraph D.

5 “(B) CONTENTS OF PLAN.—The capital
6 restoration plan shall—

7 “(i) specify—

8 “(I) the steps the Bank will take
9 to become adequately capitalized;

10 “(II) the levels of capital to be
11 attained during each year in which
12 the plan will be in effect;

13 “(III) how the Bank will comply
14 with the restrictions or requirements
15 then in effect under this section; and

16 “(IV) the types and levels of ac-
17 tivities in which the Bank will engage;
18 and

19 “(ii) contain such other information
20 as the Board may require.

21 “(C) CRITERIA FOR ACCEPTING PLAN.—
22 The Board shall not accept a capital restoration
23 plan unless the Board determines that the
24 plan—

25 “(i) complies with subparagraph (B);

1 “(ii) is based on realistic assumptions,
2 and is likely to succeed in restoring the
3 Bank’s capital; and

4 “(iii) would not appreciably increase
5 the risk (including credit risk, interest-rate
6 risk, and other type of risk) to which the
7 Bank is exposed.

8 “(D) DEADLINES FOR SUBMISSION AND
9 REVIEW OF PLANS.—The Board shall, by regu-
10 lation, establish deadlines that—

11 “(i) provide Federal Home Loan
12 Banks with reasonable time to submit cap-
13 ital restoration plans, and generally require
14 a Bank to submit a plan not later than 45
15 days after the Bank becomes
16 undercapitalized; and

17 “(ii) require the Board to act on cap-
18 ital restoration plans expeditiously, and
19 generally not later than 60 days after the
20 plan is submitted.

21 “(3) ASSET GROWTH RESTRICTED.—An
22 undercapitalized Federal Home Loan Bank shall not
23 permit its average total assets during any calendar
24 quarter to exceed its average total assets during the
25 preceding calendar quarter unless—

1 “(A) the Board has accepted the Bank’s
2 capital restoration plan;

3 “(B) any increase in total assets is consist-
4 ent with the plan; and

5 “(C) the Bank’s ratio of total capital to as-
6 sets increases during the calendar quarter at a
7 rate sufficient to enable the Bank to become
8 adequately capitalized within a reasonable time.

9 “(4) PRIOR APPROVAL FOR NEW ACTIVITIES.—
10 An undercapitalized Federal Home Loan Bank shall
11 not engage in any new activity unless—

12 “(A) the Board has accepted the Bank’s
13 capital restoration plan, the Bank is implement-
14 ing the plan and Board determines that the
15 proposed action is consistent with and will fur-
16 ther the achievement of the plan; or

17 “(B) the Board determines that the pro-
18 posed action will further the purpose of this
19 section.

20 “(5) DISCRETIONARY SAFEGUARDS.—The
21 Board may, with respect to any undercapitalized
22 Federal Home Loan Bank, take action described in
23 any subparagraph of subsection (e)(2) if the Board
24 determines that those actions are necessary to carry
25 out the purpose of this section.

1 “(e) PROVISIONS APPLICABLE TO SIGNIFICANTLY
2 UNDERCAPITALIZED FEDERAL HOME LOAN BANKS AND
3 UNDERCAPITALIZED BANKS THAT FAIL TO SUBMIT AND
4 IMPLEMENT CAPITAL RESTORATION PLANS.—

5 “(1) IN GENERAL.—This subsection shall apply
6 with respect to any Federal Home Loan Bank that
7 is—

8 “(A) significantly undercapitalized; or

9 “(B) undercapitalized and fails—

10 “(i) to submit an acceptable capital
11 restoration plan within the time allowed by
12 the Board under subsection (d)(2); or

13 “(ii) in any material respect to imple-
14 ment a plan accepted by the Board.

15 “(2) SPECIFIC ACTIONS AUTHORIZED.—The
16 Board shall carry out this section by taking one or
17 more of the following actions—

18 “(A) REQUIRED RECAPITALIZATION.—

19 Doing one or more of the following—

20 “(i) Requiring the Federal Home
21 Loan Bank to sell enough shares of the
22 Bank to its members or institutions eligible
23 to become members so that the Bank will
24 be adequately capitalized after the sale.

1 “(ii) Requiring the Bank to be ac-
2 quired by, or combine with, one or more
3 Federal Home Loan Banks.

4 “(B) RESTRICTING INTEREST RATES
5 PAID.—

6 “(i) IN GENERAL.—Restricting the in-
7 terest rates that the Bank pays on deposits
8 to an amount determined by the Board.

9 “(ii) RETROACTIVE RESTRICTIONS
10 PROHIBITED.—This subparagraph does not
11 authorize the Board to restrict interest
12 rates paid on time deposits made before
13 (and not renewed or renegotiated after)
14 the Board acted under this subparagraph.

15 “(C) RESTRICTING ASSET GROWTH.—Re-
16 stricting the Bank’s asset growth more strin-
17 gently than subsection (d)(3), or requiring the
18 Bank to reduce its total assets.

19 “(D) RESTRICTING ACTIVITIES.—Requir-
20 ing the Bank to alter, reduce, or terminate any
21 activity that the Board determines poses exces-
22 sive risk to the Bank.

23 “(E) IMPROVING MANAGEMENT.—Doing
24 one or more of the following:

1 “(i) NEW ELECTION OF DIRECTORS.—
2 Ordering a new election for the Bank’s
3 board of directors.

4 “(ii) DISMISSING DIRECTORS OR SEN-
5 IOR EXECUTIVE OFFICERS.—Requiring the
6 Bank to dismiss from office any elected di-
7 rector or senior executive officer who had
8 held office for more than 180 days imme-
9 diately before the Bank became
10 undercapitalized.

11 “(iii) DISMISSING APPOINTED DIREC-
12 TORS.—Dismissing from office any ap-
13 pointed director who had held office for
14 more than 180 days immediately before
15 the Bank became undercapitalized.

16 “(iv) CLARIFICATION OF DISMIS-
17 SALS.—Dismissal under clause (ii) or (iii)
18 shall not be construed to be a removal
19 under section 27A.

20 “(v) EMPLOYING QUALIFIED SENIOR
21 EXECUTIVE OFFICERS.—Requiring the
22 Bank to employ qualified senior executive
23 officers (who, if the Board so specifies,
24 shall be subject to approval by the Board).

1 “(F) REQUIRING OTHER ACTION.—Requir-
2 ing the Bank to take any other action that the
3 Board determines will better carry out the pur-
4 pose of this section.

5 “(3) PRESUMPTION IN FAVOR OF CERTAIN AC-
6 TIONS.—In complying with paragraph (2), the
7 Board shall take the action described in clause (i) or
8 (ii) of paragraph (2)(A) (relating to requiring the
9 sale of shares or requiring the Federal Home Loan
10 Bank to be acquired by, or combine with, another
11 Federal Home Loan Bank).

12 “(4) SENIOR EXECUTIVE OFFICERS’ COMPENSA-
13 TION RESTRICTED.—

14 “(A) IN GENERAL.—The Federal Home
15 Loan Bank shall not do any of the following
16 without the prior written approval of the Board:

17 “(i) Pay any bonus to any senior exec-
18 utive officer.

19 “(ii) Provide compensation to any sen-
20 ior executive officer at a rate exceeding
21 that officer’s average rate of compensation
22 (excluding bonuses, and (profit-sharing))
23 during the 12 calendar months preceding
24 the calendar month in which the Bank be-
25 came undercapitalized.

1 “(B) FAILURE TO SUBMIT PLAN.—The
2 Board shall not grant any approval under sub-
3 paragraph (A) with respect to a Bank that has
4 failed to submit an acceptable capital restora-
5 tion plan.

6 “(5) DISCRETION TO IMPOSE CERTAIN ADDI-
7 TIONAL RESTRICTIONS.—The Board may impose one
8 or more of the restrictions prescribed by regulation
9 under subsection (h) if the Board determines that
10 those restrictions are necessary to carry out the pur-
11 pose of this section.

12 “(f) MORE STRINGENT TREATMENT BASED ON
13 OTHER SUPERVISORY CRITERIA.—

14 “(1) IN GENERAL.—If the Board determines
15 (after notice and an opportunity for hearing) that a
16 Federal Home Loan Bank is in an unsafe or un-
17 sound condition or, pursuant to section 27A, deems
18 the Bank to be engaging in an unsafe or unsound
19 practice, the Board may—

20 “(A) if the Bank is adequately capitalized,
21 require the Bank to comply with one or more
22 provisions of subsections (c) and (d) as if the
23 Bank were undercapitalized; or

24 “(B) if the Bank is undercapitalized, take
25 any one or more actions authorized under sub-

1 section (e)(2) as if the Bank were significantly
2 undercapitalized.

3 “(2) CONTENTS OF PLAN.—

4 “(A) IN GENERAL.—Any plan required
5 under paragraph (1) shall specify the steps that
6 the Bank will take to correct the unsafe or un-
7 sound condition or practice.

8 “(B) PLAN NOT REQUIRED.—Capital res-
9 toration plans shall not be required under para-
10 graph (1)(A).

11 “(g) PROVISIONS APPLICABLE TO CRITICALLY
12 UNDERCAPITALIZED FEDERAL HOME LOAN BANKS.—

13 “(1) ACTIVITIES RESTRICTED.—Any critically
14 undercapitalized Federal Home Loan Bank shall
15 comply with restrictions prescribed by the Board
16 under subsection (h).

17 “(2) MERGER, LIQUIDATION, REORGANIZATION
18 OR OTHER ACTION REQUIRED.—

19 “(A) IN GENERAL.—The Board shall, not
20 later than 90 days after a Federal Home Loan
21 Bank becomes critically undercapitalized—

22 “(i) combine (by merger or otherwise)
23 the Bank with another Federal Home
24 Loan Bank;

1 “(ii) liquidate or reorganize the bank;

2 or

3 “(iii) take such other action as the
4 Board determines would better achieve the
5 purpose of this section, after documenting
6 why the action would better achieve that
7 purpose.

8 “(B) PERIODIC REDETERMINATION RE-
9 QUIRED.—Any determination by the Board
10 under subparagraph (A)(iii) to take any action
11 with respect to a Bank in lieu of combining the
12 Bank with another Federal Home Loan Bank
13 or reorganizing or liquidating the Bank shall
14 cease to be effective not later than the end of
15 the 90-day period beginning on the date that
16 the determination is made and the Bank shall
17 be combined, reorganized, or liquidated under
18 subparagraph (A) unless the Board makes a
19 new determination under subparagraph (A)(iii)
20 at the end of the effective period of the prior
21 determination.

22 “(h) RESTRICTING ACTIVITIES OF CRITICALLY
23 UNDERCAPITALIZED FEDERAL HOME LOAN BANKS.—To
24 carry out this section, the Board shall, by regulation or
25 order—

1 “(1) restrict the activities of any critically
2 undercapitalized Federal Home Loan Bank; and

3 “(2) at a minimum, prohibit any critically
4 undercapitalized Bank from doing any of the follow-
5 ing without the Board’s prior written approval:

6 “(A) Entering into any material trans-
7 action other than in the usual course of busi-
8 ness, including any investment, expansion, ac-
9 quisition, sale of assets, or other similar action.

10 “(B) Amending the Bank’s bylaws, except
11 to the extent necessary to carry out any other
12 requirement of any law, regulation, or order.

13 “(C) Making any material change in ac-
14 counting methods.

15 “(D) Paying excessive compensation or bo-
16 nuses.

17 “(E) Paying interest on new or renewed li-
18 abilities at a rate that would increase the
19 bank’s weighted average cost of funds to a level
20 significantly exceeding the prevailing rates of
21 interest on insured deposits in the Bank’s nor-
22 mal market areas.

23 “(i) ADMINISTRATIVE REVIEW OF DISMISSAL OR-
24 DERS.—

1 “(1) TIMELY PETITION REQUIRED.—A director
2 or senior executive officer dismissed pursuant to an
3 order under subsection (e)(2)(E)(ii) may obtain re-
4 view of that order by filing a written petition for re-
5 instatement with the Board not later than 10 days
6 after receiving notice of the dismissal.

7 “(2) PROCEDURE.—

8 “(A) HEARING REQUIRED.—The Board
9 shall give the petitioner an opportunity to—

10 “(i) submit written materials in sup-
11 port of the petition; and

12 “(ii) appear, personally or through
13 counsel, before 1 or more members of the
14 Board or designated employees of the
15 Board.

16 “(B) DEADLINE FOR HEARING.—The
17 Board shall—

18 “(i) schedule the hearing referred to
19 in subparagraph (A)(ii) promptly after the
20 petition is filed; and

21 “(ii) hold the hearing not later than
22 30 days after the petition is filed, unless
23 the petitioner requests that the hearing be
24 held at a later time.

1 “(C) DEADLINE FOR DECISION.—Not later
2 than 60 days after the date of the hearing, the
3 Board shall—

4 “(i) by order, grant or deny the peti-
5 tion;

6 “(ii) if the order is adverse to the pe-
7 titioner, set forth the basis for the order;
8 and

9 “(iii) notify the petitioner of the
10 order.

11 “(3) STANDARD FOR REVIEW OF DISMISSAL OR-
12 DERS.—The petitioner shall bear the burden of prov-
13 ing that the petitioner’s continued employment
14 would materially strengthen the Federal Home Loan
15 Bank’s ability—

16 “(A) to become adequately capitalized, to
17 the extent that the order is based on the Bank’s
18 failure to submit or implement a capital res-
19 toration plan; and

20 “(B) to correct the unsafe or unsound con-
21 dition or unsafe or unsound practice, to the ex-
22 tent that the order is based on subsection
23 (f)(1).

24 “(j) SAFEGUARDING SYSTEMWIDE CAPITAL.—

1 “(1) CAPITAL RESTORATION PLAN RE-
2 QUIRED.—

3 “(A) IN GENERAL.—If for any calendar
4 quarter the total capital of the Federal Home
5 Loan bank System is less than \$7 billion, the
6 System shall submit an acceptable capital res-
7 toration plan to the Board within the time al-
8 lowed by regulations prescribed by the Board.

9 “(B) CONTENTS OF PLAN.—The capital
10 restoration plan shall—

11 “(i) take into account the different
12 levels of capital of each Bank;

13 “(ii) focusing first on each
14 undercapitalized Bank, specify—

15 “(I) the steps that will be taken
16 to increase the total capital of any
17 undercapitalized Bank and the Sys-
18 tem;

19 “(II) the amount of capital to be
20 raised during each year the plan will
21 be in effect; and

22 “(III) the types and levels of ac-
23 tivities in which any undercapitalized
24 bank and the system will engage; and

1 “(iii) contain such other information
2 as the Board may require.

3 “(2) PROHIBITION ON DISTRIBUTING RE-
4 SERVES.—Except as provided in subparagraph
5 (3)(B), if for any calendar quarter the total capital
6 of the Federal Home Loan Bank System is less than
7 \$6 billion, no Federal Home Loan bank may distrib-
8 ute any of its reserves.

9 “(3) CAPITAL DISTRIBUTIONS RESTRICTED.—

10 “(A) IN GENERAL.—If for any calendar
11 quarter the total capital of the Federal Home
12 Loan Bank System is less than \$5 billion, each
13 Federal Home Loan Bank shall make no cap-
14 ital distribution.

15 “(B) EXCEPTION.—Notwithstanding sub-
16 paragraph (A)—

17 “(i) A Federal Home Loan Bank may
18 redeem a member’s stock under, and sub-
19 ject to the conditions of, section 6(e); and

20 “(ii) The Board may permit a Federal
21 Home Loan Bank to repurchase, redeem,
22 retire, or otherwise acquire its shares if the
23 repurchase, redemption, retirement, or
24 other acquisition—

1 “(I) is made in connection with
2 the issuance of additional shares of
3 the Bank in at least an equivalent
4 amount; and

5 “(II) will reduce the Bank’s fi-
6 nancial obligations or otherwise im-
7 prove the Bank’s financial condition.

8 “(k) IMPLEMENTATION.—

9 “(1) REGULATIONS AND OTHER ACTIONS.—The
10 Board shall prescribe such regulations, issue such
11 orders, and take such other actions as are necessary
12 to carry out this section.

13 “(2) WRITTEN DETERMINATION REQUIRED.—
14 Any determination by the Board required under this
15 section shall be written.

16 “(l) OTHER AUTHORITY NOT AFFECTED.—This sec-
17 tion does not limit any authority of the Board to take ac-
18 tion in addition to (but not in derogation of) that required
19 under this section.

20 “(m) PURPOSE.—The purpose of this section is to en-
21 sure that the Federal Home Loan Banks remain appro-
22 priately capitalized and able to raise funds in the capital
23 markets and to meet their obligations under this Act.”.

1 **SEC. 111. FEDERAL HOME LOAN BANK DIRECTORS.**

2 (a) NUMBER; QUALIFICATIONS; CONFLICTS OF IN-
3 TEREST.—Section 7(a) of the Federal Home Loan Bank
4 Act (12 U.S.C. 1427(a)) is amended to read as follows:

5 “(a) NUMBER; QUALIFICATIONS; CONFLICTS OF IN-
6 TEREST.—

7 “(1) NUMBER.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), the management of each
10 Federal Home Loan Bank shall be vested in a
11 board of fourteen directors, eight of whom shall
12 be elected by the members as hereinafter pro-
13 vided in this section and six of whom shall be
14 appointed by the Board, all of whom shall be
15 citizens of the United States and bona fide resi-
16 dents of the district in which such Bank is lo-
17 cated.

18 “(B) INCREASE IN DIRECTORS.—

19 “(i) ELECTIVE DIRECTORS.—Each
20 Federal Home Loan Bank may increase
21 the number of the Bank’s elective directors
22 to a number set by the Bank as long as
23 the number of directors in the case of any
24 district is at least equal to the number of
25 States in such district.

1 “(ii) INCREASE IN APPOINTED DIREC-
2 TORS.—If the number of elective directors
3 of a Bank is increased, the Board may in-
4 crease the number of appointed directors
5 of the Bank to a number not exceeding
6 three-fourths the number of elective direc-
7 tors.

8 “(2) QUALIFICATIONS.—At least 2 of the Fed-
9 eral Home Loan Bank directors who are appointed
10 by the Board shall be representatives chosen from
11 organizations with more than a 2-year history of
12 representing consumer or community interests on
13 banking services, credit needs, housing, or financial
14 consumer protection.

15 “(3) CONFLICTS OF INTEREST.—No Federal
16 Home Loan Bank director who is appointed pursu-
17 ant to this subsection may, during such Bank direc-
18 tor’s term of office, serve as an officer of any Fed-
19 eral Home Loan Bank or director or officer of any
20 member of a Bank, or hold shares, or any other fi-
21 nancial interest in, any member of a Bank.”.

22 (b) TERMS.—Section 7(d) of the Federal Home Loan
23 Bank Act (12 U.S.C. 1427(d)) is revised to read as
24 follows:

25 “(d) TERMS.—

1 “(1) IN GENERAL.—

2 “(A) ELECTED DIRECTORS.—The term of
3 each elective directorship that begins after the
4 date of enactment of the Federal Home Loan
5 Bank Restructuring and Modernization Act of
6 1995 shall be 4 years.

7 “(B) APPOINTED DIRECTORS.—The term
8 of each appointive directorship shall be 4 years.

9 “(2) TERM LIMITS.—If any person has been
10 elected to each of 2 consecutive full terms as an elec-
11 tive director of a Federal Home Loan Bank in any
12 elective directorship or elective directorships and has
13 served for all or part of each of said terms, such
14 person (and any person that is a director, officer or
15 employee of the same member as such person) shall
16 not be eligible for election to an elective directorship
17 of the Bank for a term which begins earlier than 2
18 years after the expiration of the last expiring of said
19 2 terms.”.

20 (c) CHAIRPERSON AND VICE CHAIRPERSON.—Sec-
21 tion 7(g) of the Federal Home Loan Bank Act (12 U.S.C.
22 1427(g)) is amended to read as follows:

23 “(g) CHAIRPERSON AND VICE CHAIRPERSON.—

1 “(1) DESIGNATION BY BANK DIRECTORS.—The
2 board of directors of each Federal Home Loan Bank
3 shall designate—

4 “(A) one of the directors of the Bank to be
5 chairperson of the Bank; and

6 “(B) one of the directors of the Bank to
7 be vice chairperson of the Bank.

8 “(2) REQUIREMENTS.—

9 “(A) APPOINTED DIRECTOR.—Either the
10 chairperson or the vice chairperson of the Bank
11 shall be an appointed director.

12 “(B) LIMITATION.—The President of a
13 Federal Home Loan Bank may not be des-
14 ignated as the chairperson or vice chairperson
15 of the Bank.”.

16 (d) COMPENSATION AND EXPENSES OF DIREC-
17 TORS.—Section 7(i) of the Federal Home Loan Bank Act
18 (12 U.S.C. 1427(i)) is amended to read as follows:

19 “(i) COMPENSATION AND EXPENSES OF DIREC-
20 TORS.—Each Bank may pay its directors reasonable com-
21 pensation for the time required of them, and their nec-
22 essary expenses, in the performance of their duties, in ac-
23 cordance with the resolutions adopted by the directors of
24 the Bank.”.

1 (e) CONFORMING AMENDMENTS.—Section 7 of the
2 Federal Home Loan Bank Act (12 U.S.C. 1427) is
3 amended—

4 (1) in subsection (b), by—

5 (A) deleting “as determined pursuant to
6 regulation of the Board” and inserting “as de-
7 termined by the Bank”;

8 (B) deleting “such bank” each place it ap-
9 pears and inserting “such Bank”; and

10 (C) deleting “Federal home loan bank”
11 and inserting “Federal Home Loan Bank”;

12 (2) in subsection (c), by—

13 (A) deleting “as determined pursuant to
14 regulation of the Board” and inserting “as de-
15 termined by the Bank”;

16 (B) deleting “bank” each place it appears
17 and inserting “Bank”;

18 (C) deleting “Federal home loan bank”
19 and inserting “Federal Home Loan Bank”; and

20 (3) in subsection (h), by deleting “Federal
21 home loan bank” and inserting “Federal Home
22 Loan Bank”.

23 **SEC. 112. ELIGIBILITY TO SECURE ADVANCES.**

24 Section 9 of the Federal Home Loan Bank Act (12
25 U.S.C. 1429) is amended to read as follows:

1 **“SEC. 9. ELIGIBILITY TO SECURE ADVANCES.**

2 “(a) WRITTEN APPLICATION.—Any member of a
3 Federal Home Loan Bank shall be entitled to apply in
4 writing for advances and the application shall be in such
5 form as shall be required by the Federal Home Loan
6 Bank.

7 “(b) BANK RESPONSE TO APPLICATIONS.—A Fed-
8 eral Home Loan Bank may at its discretion deny any ap-
9 plication described in subsection (a) or, subject to the re-
10 quirements of this Act, grant it on such conditions as the
11 Bank may prescribe.”.

12 **SEC. 113. ADVANCES.**

13 (a) NOTES OF BORROWING MEMBERS; INTEREST
14 RATE; LIEN ON STOCK; LIMITATIONS ON LOANS.—Sec-
15 tion 10(c) of the Federal Home Loan Bank Act (12
16 U.S.C. 1430(c)) is amended to read as follows:

17 “(c) NOTES OF BORROWING MEMBERS; INTEREST
18 RATE; LIEN ON STOCK; LIMITATIONS ON LOANS.—

19 “(1) NOTES OF BORROWING MEMBER.—Ad-
20 vances under subsection (a) shall be made upon the
21 note or obligation of the member secured as provided
22 in this section, bearing such rate of interest as the
23 Federal Home Loan Bank may approve or deter-
24 mine, and the Bank shall have a lien upon and shall
25 hold the stock of such member and any compensat-

1 ing balances as further collateral security for all in-
2 debtedness of the member to the Bank.

3 “(2) LEVERAGE LIMITATION ON ADVANCES.—

4 At no time shall the aggregate outstanding advances
5 made by any Federal Home Loan Bank to any
6 member exceed 20 times the amounts paid in by
7 such member for outstanding capital stock required
8 to be owned by a member under section 6(b)(1),
9 unless—

10 “(A) in the case of a member that is re-
11 quired, or has made a permissible election, to
12 purchase additional stock to support advances,
13 the member purchases additional stock so that
14 the aggregate outstanding advances made to
15 the member do not exceed 20 times the
16 amounts paid in by the member for outstanding
17 stock; or

18 “(B) in the case of a member that is re-
19 quired, or has made a permissible election, to
20 maintain a compensating balance to support ad-
21 vances, the member makes and maintains a
22 compensating balance with the Bank with re-
23 spect to the amount of the advances that exceed
24 20 times the amounts paid in by the member

1 for outstanding stock required to be owned by
2 the member under section 6(b)(1).

3 “(3) ADDITIONAL STOCK.—Stock purchased to
4 meet the requirements of paragraph (2)(A) is sub-
5 ject to the same terms and conditions applicable to
6 all stock in a Federal Home Loan Bank owned by
7 the member, including the conditions imposed under
8 section 6(e) on partial stock redemptions and with-
9 drawals.

10 “(4) COMPENSATING BALANCES.—

11 “(A) LEVERAGE LIMIT.—The amount of
12 the compensating balance required under para-
13 graph (2)(B) shall be established by the Bank
14 except, in no event may the amount of advances
15 made in reliance on a compensating balance ex-
16 ceed 20 times the compensating balance.

17 “(B) TERMS AND CONDITIONS.—Subject
18 to subparagraph (A), the terms and conditions
19 applicable to compensating balances under this
20 paragraph shall be established by each Bank.”.

21 (b) OBLIGATIONS TO REPAY; ADDITIONAL SECU-
22 RITY: SALE OF ASSETS TO OTHER BANKS.—Section 10(d)
23 of the Federal Home Loan Bank Act (12 U.S.C. 1430(d))
24 is amended to read as follows:

1 “(d) OBLIGATIONS TO REPAY; ADDITIONAL SECUR-
2 RITY: SALE OF ADVANCES TO OTHER BANKS.—

3 “(1) REPAYMENT OBLIGATION.—The institu-
4 tion applying for an advance shall enter into a pri-
5 mary and unconditional obligation to pay off all ad-
6 vances, together with interest and any unpaid costs
7 and expenses in connection therewith according to
8 the terms under which they were made, in such form
9 as shall meet the requirements of the Federal Home
10 Loan Bank.

11 “(2) ADDITIONAL SECURITY.—The Bank shall
12 reserve the right to require at any time, when
13 deemed necessary for its protection, deposits of addi-
14 tional collateral security or substitutions of security
15 by the borrowing institution, and each borrowing in-
16 stitution shall assign additional or substituted secu-
17 rity when and as so required.

18 “(3) SALE OF ADVANCES.—Any Federal Home
19 Loan Bank shall have power to sell to any other
20 Federal Home Loan Bank, with or without recourse,
21 any advance made under the provisions of this Act,
22 or to allow such Bank a participation therein, and
23 any other Federal Home Loan Bank shall have
24 power to purchase such advance or to accept a par-

1 participation therein, together with an appropriate as-
2 signment or security therefore.”.

3 (c) COMMUNITY SUPPORT REQUIREMENT.—Section
4 10(g) of the Federal Home Loan Bank Act (12 U.S.C.
5 1430(g)) is amended to read as follows:

6 “(g) COMMUNITY SUPPORT REQUIREMENT.—

7 “(1) IN GENERAL.—Before the end of the 2-
8 year period beginning on August 9, 1989, the Board
9 shall adopt regulations establishing standards of
10 community investment or service for members of
11 Banks to maintain continued access to long-term ad-
12 vances.

13 “(2) FACTORS TO BE INCLUDED.—The regula-
14 tions promulgated pursuant to paragraph (1) shall
15 take into account factors such as member’s perform-
16 ance under the Community Reinvestment Act of
17 1977 and the member’s record of lending to first-
18 time homebuyers.

19 “(3) COMMUNITY REINVESTMENT ACT COMPLI-
20 ANCE.—

21 “(A) IN GENERAL.—In determining wheth-
22 er a member has satisfied the standards estab-
23 lished under this subsection, the Board shall
24 rely only on the assessment of a member’s com-
25 pliance with the Community Reinvestment Act

1 of 1977 made by the member’s appropriate
2 Federal financial supervisory agency, unless the
3 Board is required under subparagraph (b) to
4 conduct an independent assessment.

5 “(B) INDEPENDENT ASSESSMENT RE-
6 QUIRED.—The board is required to independ-
7 ently assess whether a member has satisfied the
8 standards established under this subsection, in-
9 cluding the member’s record of lending to first-
10 time homebuyers, if—

11 “(i) the member is not subject to the
12 Community Reinvestment Act of 1977; or

13 “(ii) an assessment has not been pre-
14 pared by the member’s appropriate Federal
15 financial supervisory agency.

16 “(C) APPROPRIATE FEDERAL FINANCIAL
17 SUPERVISORY AGENCY.—The term “appropriate
18 Federal financial supervisory agency” has the
19 same meaning as in section 803 of the Commu-
20 nity Reinvestment Act of 1977.”.

21 (d) AFFORDABLE HOUSING PROGRAM APPLICA-
22 TIONS.—Section 10(j)(1) of the Federal Home Loan Bank
23 Act (12 U.S.C. 1430(j)(1)) is amended to read as follows:

24 “(1) IN GENERAL.—

1 “(A) EACH BANK MUST ESTABLISH PRO-
2 GRAM.—Pursuant to regulations promulgated
3 by the Board, each Bank shall establish an Af-
4 fordable Housing Program to provide subsidies,
5 including subsidized interest rates on advances,
6 to members to assist the members in financing
7 for low- and moderate-income, owner-occupied,
8 affordable rental housing.

9 “(B) APPLICATIONS.—Each Federal Home
10 Loan Bank is authorized to approve or dis-
11 approve, subject to the requirements of this
12 Act, applications by members of the Bank to
13 participate in the Bank’s Affordable Housing
14 Program.”.

15 (e) AFFORDABLE HOUSING PROGRAM CONTRIBU-
16 TION.—Section 10(j)(5) of the Federal Home Loan Bank
17 Act (12 U.S.C. 1430(j)(5)) is amended to read as follows:

18 “(5) CONTRIBUTION TO PROGRAM.—Each Bank
19 shall annually contribute the percentage of its an-
20 nual net earnings prescribed in the following sub-
21 paragraphs to support subsidies, including sub-
22 sidized advances, through the Affordable Housing
23 Program:

24 “(A) Except as provided in subparagraph
25 (B), 10 percent of the preceding year’s net

1 earnings, or such prorated sums as may be re-
2 quired to assure that the aggregate contribution
3 of the Banks shall not be less than
4 \$100,000,000 for each such year.

5 “(B) If the total capital of the Federal
6 Home Loan Bank System for the preceding
7 year is less than \$6 billion, 10 percent of the
8 preceding year’s net earnings.”.

9 (f) BRANCHES FOR COMMUNITY INVESTMENT AND
10 AFFORDABLE HOUSING PROGRAMS; AND LIMITATIONS ON
11 ADVANCES.—Section 10 of the Federal Home Loan Bank
12 Act (12 U.S.C. 1430) is amended by adding after sub-
13 section (j) the following new subsections:

14 “(k) BRANCHES FOR COMMUNITY INVESTMENT AND
15 AFFORDABLE HOUSING PROGRAMS.—

16 “(1) IN GENERAL.—With the prior approval of
17 the Board each Federal Home Loan Bank is author-
18 ized to establish 1 or more branches within its Fed-
19 eral Home Loan Bank district for the exclusive pur-
20 pose of conducting activities related to the Bank’s
21 community investment and affordable housing pro-
22 grams.

23 “(2) LIMITATION ON ACTIVITIES.—Only activi-
24 ties relating to the programs described in sub-

1 sections (h) and (i) may be conducted at a branch
2 established under paragraph (1).

3 “(l) LIMITATIONS ON ADVANCES.—

4 “(1) LIMITATION ON EXTENDED PERIODS.—
5 Except as provided in paragraph (2), no new ad-
6 vances to any undercapitalized depository institution
7 by any Federal Home Loan Bank under this section
8 may be outstanding for more than 60 days in any
9 120-day period.

10 “(2) VIABILITY EXCEPTION.—

11 “(A) IN GENERAL.—If the head of the ap-
12 propriate Federal banking agency certifies in
13 advance in writing to the Federal Home Loan
14 Bank that any depository institution is viable,
15 the limitation contained in paragraph (1) shall
16 not apply during the 60-day period beginning
17 on the date such certification is received.

18 “(B) EXTENSIONS OF PERIOD.—The 60-
19 day period may be extended for additional 60-
20 day periods upon receipt by the Federal Home
21 Loan Bank of additional written certifications
22 under subparagraph (A) with respect to each
23 such additional period.

24 “(C) AUTHORITY TO ISSUE A CERTIFICATE
25 OF VIABILITY MAY NOT BE DELEGATED.—The

1 authority of the head of any agency to issue a
2 written certification of viability under this para-
3 graph may not be delegated to any other
4 person.

5 “(3) PROHIBITION ON ADVANCES TO CRITI-
6 CALLY UNDERCAPITALIZED DEPOSITORY INSTITU-
7 TIONS.—Notwithstanding any other provision of this
8 Act, no new advances may be made to a critically
9 undercapitalized depository institution.

10 “(4) NO OBLIGATION TO MAKE ADVANCES.—A
11 Federal Home Loan Bank shall have no obligation
12 to make, increase, renew, or extend any advance or
13 discount under this Act to any member.

14 “(5) DEFINITIONS.—

15 “(A) APPROPRIATE FEDERAL BANKING
16 AGENCY.—The term ‘appropriate Federal bank-
17 ing agency’ has the same meaning as in section
18 3 of the Federal Deposit Insurance Act and
19 also includes the National Credit Union Admin-
20 istration.

21 “(B) CRITICALLY UNDERCAPITALIZED.—
22 The term ‘critically undercapitalized’ has the
23 same meaning as in section 38 of the Federal
24 Deposit Insurance Act.

1 “(C) DEPOSITORY INSTITUTION.—The
2 term ‘depository institution’ has the same
3 meaning as the term ‘insured depository institu-
4 tion’ in section 2.

5 “(D) NEW ADVANCE.—The term ‘new ad-
6 vance’ includes a renewal or extension of, or an
7 increase in, an outstanding advance.

8 “(E) UNDERCAPITALIZED DEPOSITORY IN-
9 STITUTION.—The term ‘undercapitalized depos-
10 itory institution’ means any depository institu-
11 tion which—

12 “(i) is undercapitalized, as defined in
13 section 38 of the Federal Deposit Insur-
14 ance Act; or

15 “(ii) has a composite CAMEL rating
16 of 5 under the Uniform Financial Institu-
17 tions Rating System (or an equivalent rat-
18 ing by any such agency under a com-
19 parable rating system) as of the most re-
20 cent examination of such institution.

21 “(F) VIABLE.—A depository institution is
22 ‘viable’ if the appropriate Federal banking
23 agency determines, giving due regard to the
24 economic conditions and circumstances in the

1 market in which the institution operates, that
2 the institution—

3 “(i) is not critically undercapitalized;

4 “(ii) is not expected to become criti-
5 cally undercapitalized; and

6 “(iii) is not expected to be placed in
7 conservatorship or receivership.”.

8 (g) ADDITIONAL AMENDMENTS.—Section 10 of the
9 Federal Home Loan Bank Act (1430) is amended—

10 (1) DELETION OF QUALIFIED THRIFT LENDER
11 STATUS.—By deleting the first subparagraph (e) as
12 added by section 714(b) of the Financial Institutions
13 Reform, Recovery, and Enforcement Act of 1989
14 Public Law 101–73.

15 (2) REDESIGNATION.—By redesignating sub-
16 sections (g), (h), (i), (j), (k), and (l) as subsections
17 (f), (g), (h), (i), (j), and (k), respectively.

18 (3) AFFORDABLE HOUSING PROGRAM CON-
19 FORMING AMENDMENTS.—In subsection (j)—

20 (A) by deleting “subsidized advances” each
21 place it appears and inserting “subsidies, in-
22 cluding subsidized advances”;

23 (B) in paragraph (9)(C), by deleting “ad-
24 vances made under this program” and inserting

1 “subsidies, including subsidized advances pro-
2 vided under this program”; and

3 (C) by deleting “advances” each place it
4 appears and inserting “subsidies”.

5 (4) TECHNICAL AMENDMENT.—In subsection
6 (a), in the first sentence before paragraph (1), by
7 striking “or section 11(g) of this Act”.

8 **SEC. 114. ADVANCES TO NONMEMBER MORTGAGEES;**
9 **TERMS AND CONDITIONS.**

10 Section 10B(a) of the Federal Home Loan Bank Act
11 (12 U.S.C. 1430b(a)) is amended to read as follows:

12 “(a) IN GENERAL.—

13 “(1) AUTHORITY.—Each Federal Home Loan
14 Bank is authorized to make advances to a
15 nonmember mortgagee described in paragraph (2).

16 “(2) PERMISSIBLE NONMEMBER MORTGAGEE.—

17 “(A) A State housing finance agency or an
18 Indian housing authority approved under title
19 II of the National Housing Act—

20 “(i) that is a chartered institution
21 having succession and subject to the in-
22 spection and supervision of some govern-
23 mental agency; and

1 “(ii) whose principal activity in the
2 mortgage field must consist of lending its
3 own funds; or

4 “(B) a Community Development Financial
5 Institution—

6 “(i) that is not an insured depository
7 institution or a subsidiary of an insured
8 depository institution;

9 “(ii) that, at the time the advance is
10 made, has been certified within the last
11 year as a Community Development Finan-
12 cial Institution under the Community De-
13 velopment Banking and Financial Institu-
14 tions Act of 1994;

15 “(iii) that is a chartered institution
16 having succession; and

17 “(iv) whose principal activity in the
18 mortgage field must consist of lending its
19 own funds.

20 “(3) SECURITY.—Such advances shall not be
21 subject to the other provisions and restrictions of
22 this Act, but shall be made upon the security of
23 mortgages insured under title II of the National
24 Housing Act.

1 “(4) TERMS AND CONDITIONS.—Advances made
2 under the terms of this section shall be at such rates
3 of interest and upon such terms and conditions as
4 shall be determined by the Federal Home Loan
5 Bank, but no advance may be for an amount in ex-
6 cess of 90 percent of the unpaid principal of the
7 mortgage loan given as security.

8 “(5) DEFINITIONS OF COMMUNITY DEVELOP-
9 MENT FINANCIAL INSTITUTION.—The term ‘Communi-
10 ty Development Financial Institution’ has the
11 same meaning as in section 103 of the Community
12 Development Banking and Financial Institutions Act
13 of 1994.

14 “(b) EXCEPTION.—An advance made to a State
15 housing finance agency or an Indian housing authority for
16 the purpose of facilitating mortgage lending that benefits
17 individuals and families that meet the income require-
18 ments set forth in section 142(d) or 143(f) of title 26,
19 United States Code need not be collateralized by a mort-
20 gage insured under title II of the National Housing Act
21 or otherwise if—

22 “(1) such advance otherwise meets the require-
23 ments of this subsection; and

24 “(2) such advance meets the requirements of
25 section 10(a), and any real estate collateral for such

1 loan comprises single family or multifamily residen-
2 tial mortgages.”.

3 **SEC. 115. POWERS AND DUTIES OF BANKS.**

4 (a) BORROWING MONEY; GENERAL POWERS.—Sec-
5 tion 11(a) of the Federal Home Loan Bank (12 U.S.C.
6 1431(a)) is amended to read as follows:

7 “(a) BORROWING MONEY; GENERAL POWERS.—
8 Each Federal Home Loan Bank shall have power, subject
9 to rules and regulations prescribed by the Board to borrow
10 and give security therefor and to pay interest thereon
11 upon such terms and conditions as the Bank may deter-
12 mine and to do all things necessary for carrying out the
13 provisions of this Act and all things incident thereto.”.

14 (b) ISSUANCE OF FEDERAL HOME LOAN BANK
15 BONDS.—Section 11(c) of the Federal Home Loan Bank
16 Act (12 U.S.C. 1431(c)) is amended to read as follows:

17 “(c) ISSUANCE OF FEDERAL HOME LOAN BANK
18 BONDS.—The Federal Home Loan Bank System, subject
19 to rules and regulations prescribed by the Board, may
20 issue consolidated Federal Home Loan Bank bonds which
21 shall be the joint and several obligations of all the Federal
22 Home Loan Banks, and shall be secured and be issued
23 upon such terms and conditions as the Banks may deter-
24 mine.”.

1 (c) DELAYED EFFECTIVE DATE.—The amendment
2 made by subsection (b) shall take effect on the earlier of
3 the date—

4 (1) the central office described in section 11(k)
5 of the Federal Home Loan Bank Act is established;
6 or

7 (2) 6 months after the enactment of this Act.

8 (d) ADDITIONAL OR SUBSTITUTED COLLATERAL ON
9 ADJUSTMENT OF EQUITIES.—Section 11(d) of the Fed-
10 eral Home Loan Bank Act (12 U.S.C. 1431(d)) is amend-
11 ed to read as follows:

12 “(d) ADDITIONAL OR SUBSTITUTED COLLATERAL ON
13 ADJUSTMENT OF EQUITIES.—The Board, for safety and
14 soundness reasons, may require any Federal Home Loan
15 Bank to deposit additional collateral or to make substi-
16 tutions of collateral or to adjust equities between the Fed-
17 eral Home Loan Bank.”.

18 (e) ACCEPTANCE OF DEPOSITS; RESTRICTIONS ON
19 TRANSACTION OF BANKING BUSINESS; COLLECTION AND
20 SETTLEMENT OF CHECKS, DRAFTS, ETC.; CHARGES;
21 RULES AND REGULATIONS.—Section 11(e) of the Federal
22 Home Loan Bank Act (12 U.S.C. 1431(e)) is amended
23 to read as follows:

24 “(e) ACCEPTANCE OF DEPOSITS; RESTRICTIONS ON
25 TRANSACTION OF BANKING BUSINESS; COLLECTION AND

1 SETTLEMENT OF CHECKS, DRAFTS, ETC.; CHARGES;
2 RULES AND REGULATIONS.—

3 “(1) ACCEPTANCE OF DEPOSITS.—Subject to
4 rules and regulations prescribed by the Board, each
5 Federal Home Loan Bank shall have power to ac-
6 cept deposits made by members of such Bank or by
7 any other Federal Home Loan Bank or other instru-
8 mentality of the United States, upon such terms and
9 conditions as the Bank may determine, but no Fed-
10 eral Home Loan Bank shall transact any banking or
11 other business not incidental to activities authorized
12 by this Act.

13 “(2) COLLECTION AND SETTLEMENT OF
14 CHECKS.—

15 “(A) IN GENERAL.—Subject to rules and
16 regulations of the Board, the Federal Home
17 Loan Bank are authorized to be drawees of,
18 and to engage in, or be agents or intermediaries
19 for, or otherwise participate or assist in, the
20 collection and settlement of (including present-
21 ment, clearing, and payment of, and remitting
22 for), checks, drafts, or any other negotiable or
23 nonnegotiable items or instruments of payment
24 drawn on or issued by members of any Federal
25 Home Loan Bank or by institutions which are

1 eligible to make application to become members
2 pursuant to section 4, and to have such inciden-
3 tal powers as the Board shall find necessary for
4 the exercise of any such authorization.

5 “(B) CHARGES.—A Federal Home Loan
6 Bank shall make charges, to be determined by
7 the Bank consistent with the principles set
8 forth in section 11A(c) of the Federal Reserve
9 Act, or utilize the services of, or act as agent
10 for, or be a member of, a Federal Reserve bank,
11 clearinghouse, or any other public or private fi-
12 nancial institution or other agency, in the exer-
13 cise of any powers or functions pursuant to this
14 paragraph.

15 “(C) RULES AND REGULATIONS.—

16 “(i) IN GENERAL.—(The Board) is
17 authorized, with respect to participation in
18 the collection and settlement of any items
19 by Federal Home Loan Banks, and with
20 respect to the collection and settlement (in-
21 cluding payment by the payor institution)
22 of items payable by members, to prescribe
23 rules and regulations regarding the rights,
24 powers, responsibilities, duties, and liabil-
25 ities, including standards relating thereto,

1 of such Federal Home Loan Banks, asso-
2 ciations, or banks and other parties to any
3 such items or their collection and settle-
4 ment.

5 “(ii) APPLICATION OF BANKING
6 USAGE AND PRACTICE.—In prescribing
7 such rules and regulations, the Board may
8 adopt or apply, in whole or in part, general
9 banking usage and practices, and, in in-
10 stances or respects in which they would
11 otherwise not be applicable, Federal Re-
12 serve regulations and operating letters, the
13 Uniform Commercial Code, and clearing-
14 house rule.”.

15 (f) REDISCOUNT OF NOTES HELD BY OTHER
16 BANKS; PURCHASE OF BONDS OF OTHER BANKS.—Sec-
17 tion 11(f) of the Federal Home Loan Bank Act (12 U.S.C.
18 1431(f)) is amended to read as follows:

19 “(f) REDISCOUNT OF NOTES HELD BY OTHER
20 BANKS; PURCHASE OF BONDS OF OTHER BANKS.—

21 “(1) IN GENERAL.—Each Federal Home Loan
22 Bank is authorized, upon the terms and conditions
23 determined by the Bank, to rediscount the dis-
24 counted notes of members held by other Federal
25 Home Loan Banks, or to make loans to, or make de-

1 posits with, such other Federal Home Loan Banks,
2 or to purchase any bonds issued under this section.

3 “(2) BOARD AUTHORITY.—The Board is au-
4 thorized to require Federal Home Loan Banks, upon
5 such terms and conditions as the Board may pre-
6 scribe, to engage in any activity described in para-
7 graph (1).”.

8 (g) AUDITS.—Section 11(j) of the Federal Home
9 Loan Bank Act (12 U.S.C. 1431(j)) is amended to read
10 as follows:

11 “(j) AUDITS.—

12 “(1) GOVERNMENT CAPITAL NOT REQUIRED.—
13 Notwithstanding the provisions of the first sentence
14 of section 202 of the Government Corporation Con-
15 trol Act, the audits of the financial transactions of
16 a Federal Home Loan Bank required by that section
17 shall not be limited to periods during which Govern-
18 ment capital has been invested therein.

19 “(2) EXCLUSIONS FROM GOVERNMENT COR-
20 PORATION CONTROL ACT.—The provisions of the
21 first sentence of subsection (d) of section 303 of the
22 Government Corporation Control Act shall not apply
23 to any Federal Home Loan Bank.

24 “(3) SELECTION OF EXTERNAL AUDITORS.—

1 “(A) IN GENERAL.—The Federal Home
2 Loan Banks shall contract jointly for an annual
3 external audit.

4 “(B) ROLE OF THE BOARD.—Notwith-
5 standing any other provision of law, the Board
6 shall not participate in the audit contracting
7 process under this paragraph, except that the
8 Board may establish requirements for external
9 audit contracts and requirements to assure con-
10 sistency in financial report.”.

11 (h) FISCAL AGENT OF FEDERAL HOME LOAN BANK
12 SYSTEM.—Section 11 of the Federal Home Loan Bank
13 Act (12 U.S.C. 1431) is amended by adding after sub-
14 section (k) the following new subsection:

15 “(l) FISCAL AGENT OF FEDERAL HOME LOAN BANK
16 SYSTEM.—

17 “(1) IN GENERAL.—The Federal Home Loan
18 Bank System shall establish, within 6 months after
19 the date of enactment of the Federal Home Loan
20 Bank System Restructuring and Modernization Act
21 of 1995, a central office that, on behalf of the Sys-
22 tem, will carry out the issuance of the systems’ con-
23 solidated obligations under this section.

24 “(2) DAY-TO-DAY OPERATIONS.—The System
25 may delegate other operational functions to the

1 central office described in subparagraph (A), or to
2 other offices, as the System may agree.”.

3 (i) DELETION AND REDESIGNATION.—Section 11 of
4 the Federal Home Loan Bank Act (12 U.S.C. 1431) is
5 amended by—

6 (1) CONSOLIDATED FEDERAL HOME LOAN
7 BANK DEBENTURES.—Deleting subsection (b); and

8 (2) REDESIGNATION.—Redesignating sub-
9 sections (c), (d), (e), (f), (g), (h), (i), (j), (k), and
10 (l) as (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k).

11 **SEC. 116. INCORPORATION OF BANKS; CORPORATE POW-**
12 **ERS; HOUSING PROJECT LOANS.**

13 (a) INCORPORATION AND CORPORATE POWERS.—
14 Section 12(a) of the Federal Home Loan Bank Act (12
15 U.S.C. 1432(a)) is amended to read as follows:

16 “(a) INCORPORATION AND CORPORATE POWERS.—

17 “(1) ORGANIZATIONAL CERTIFICATE.—

18 “(A) IN GENERAL.—In the event that any
19 new Federal Home Loan Bank district and any
20 new Federal Home Loan Bank are created, the
21 directors of the new Federal Home Loan Bank
22 shall, in accordance with such rules and regula-
23 tions as the Board may prescribe, make and file
24 with the Board at the earliest practicable date
25 after the establishment of such Bank, an orga-

1 nization certificate which shall contain such in-
2 formation as the Board may require.

3 “(B) FILING.—Upon the making and filing
4 of the organization certificate with the Board,
5 the Bank shall become as of the date of the
6 execution of its organization certificate, a body
7 corporate, and as such and in its name it shall
8 have the powers described in paragraph (2).

9 “(2) POWERS OF FEDERAL HOME LOAN
10 BANKS.—Each Federal Home Loan Bank shall have
11 the following powers—

12 “(A) to adopt, alter, and use a corporate
13 seal;

14 “(B) to make contracts;

15 “(C) to purchase or lease and hold or dis-
16 pose of such real estate as may be necessary or
17 convenient for the transaction of its business;

18 “(D) to sue and be sued, to complain, and
19 to defend, in any court of competent jurisdic-
20 tion, State or Federal;

21 “(E) to select, employ, and fix the com-
22 pensation of such officers, employees, attorneys,
23 and agents as shall be necessary for the trans-
24 action of its business;

1 “(F) to define the duties of such officers,
2 employees, attorneys, and agents; require bonds
3 of them and fix the penalties thereof; and to
4 dismiss them at pleasure;

5 “(G) by its board of directors, to prescribe,
6 amend, and repeal by-laws, rules and regula-
7 tions governing the manner which its affairs
8 may be administered; and

9 “(H) to exercise the powers granted to it
10 by law.

11 “(3) OFFICERS AS DIRECTORS.—The president
12 of a Federal Home Loan Bank also may be a mem-
13 ber of the board of directors thereof, but no other
14 officer, employee, attorney, or agent of such Bank,
15 who receives compensation, may be a member of the
16 board of directors.

17 “(4) INCIDENTAL POWERS.—Each Federal
18 Home Loan Bank shall have all such incidental pow-
19 ers, but inconsistent with the provisions of this Act,
20 as are customary and usual in corporations gen-
21 erally.”.

22 (b) TECHNICAL AMENDMENT.—Section 12(b) of the
23 Federal Home Loan Bank Act (12 U.S.C. 1432(b)) is
24 amended by deleting “Federal home loans banks” and in-
25 serting “Federal Home Loan Banks”.

1 **SEC. 117. EXEMPTION FROM TAXATION; OBLIGATIONS AC-**
2 **CEPTABLE AS CREDIT ON DEBT OF HOME**
3 **OWNER.**

4 Section 13 of the Federal Home Loan Bank Act (12
5 U.S.C. 1433) is amended—

6 (1) by striking “bank” each place it appears
7 and inserting “Federal Home Loan Bank”; and

8 (2) by striking “except that in any real prop-
9 erty of the bank” and inserting “except that any
10 real property”.

11 **SEC. 118. OBLIGATIONS AS LAWFUL INVESTMENTS; LIABIL-**
12 **ITY OF UNITED STATES FOR OBLIGATIONS**
13 **ISSUED BY BANKS.**

14 Section 15 of the Federal Home Loan Bank Act (12
15 U.S.C. 1435) is amended to read as follows:

16 **“SEC. 15. OBLIGATIONS AS LAWFUL INVESTMENTS; LIABIL-**
17 **ITY OF UNITED STATES FOR OBLIGATIONS**
18 **ISSUED BY BANKS.**

19 “(a) **LAWFUL INVESTMENTS.**—Obligations of the
20 Federal Home Loan Banks issued in compliance with this
21 Act shall be lawful investments, and may be accepted as
22 security, for all fiduciary, trust, and public funds the in-
23 vestment or deposit of which shall be under the authority
24 or control of the United States or any officer or officers
25 thereof.

1 “(b) FEDERAL RESERVE BANKS AS FISCAL
2 AGENTS.—The Federal Reserve banks are authorized to
3 act as depositaries, custodians, and/or fiscal agents for
4 Federal Home Loan Banks in the general performance of
5 their powers under this Act.

6 “(c) DISCLOSURE REGARDING ABSENCE OF UNITED
7 STATES GUARANTEE.—All obligations of Federal Home
8 Loan Banks shall plainly state that such obligations are
9 not obligations of the United States and are not guaran-
10 teed by the United States.”.

11 **SEC. 119. RESERVES AND DIVIDENDS.**

12 (a) RESERVE ACCOUNT; DIVIDENDS; INVESTMENT
13 OF RESERVES.—Section 16(a) of the Federal Home Loan
14 Bank Act (12 U.S.C. 1436(a)) is amended to read as
15 follows:

16 “(a) RESERVE ACCOUNT; DIVIDENDS; INVESTMENT
17 OF RESERVES.—

18 “(1) RESERVE ACCOUNT.—

19 “(A) REQUIRED RESERVES.—

20 “(i) IN GENERAL.—At the same time
21 it first establishes the capital standards re-
22 quired under section 6A, the Board shall
23 establish a reserve account requirement for
24 each Federal Home Loan Bank.

1 “(ii) FACTORS CONSIDERED IN ES-
2 TABLISHING RESERVE REQUIREMENT.—In
3 establishing the reserve account required
4 by subparagraph (A), the Board shall take
5 into account that reserves are integral to a
6 Bank’s capital structure and its safety and
7 soundness, including the ability of a Bank
8 to satisfy its capital requirements, meet its
9 statutory obligations, and manage its busi-
10 ness operations.

11 “(iii) RESERVE COMPLIANCE PLAN.—
12 At the same time each Bank submits to
13 the Board its plan specifying how the
14 Bank intends to implement its stock sub-
15 scription requirements, each Bank shall
16 submit to the Board a plan for complying
17 with the reserve account requirement es-
18 tablished under clause (i).

19 “(B) ADDITIONAL RESERVES.—Each Fed-
20 eral Home Loan Bank may carry to a reserve
21 account from time to time such portion of its
22 net earnings as may be determined by its board
23 of directors.

24 “(2) DIVIDENDS.—No dividends shall be paid
25 except out of previously retained earnings or current

1 net earnings remaining after reductions for all re-
2 serves, chargeoffs, purchases of capital certificates of
3 the Financing Corporation, and payments relating to
4 the Funding Corporation required under this Act
5 have been provided for, other than charge-offs or ex-
6 penses incurred by a Bank in connection with the
7 purchase of capital stock of the Financing Corpora-
8 tion under section 21 of this Act or payments relat-
9 ing to the Funding Corporation Principal Fund
10 under section 21B(e) of this Act.

11 “(3) INVESTMENT AUTHORITY.—The funds of
12 such Federal Home Loan Bank shall be invested,
13 subject to such regulations, restrictions, and limita-
14 tions as may be prescribed by the Board, in direct
15 obligations of the United States, in obligations, par-
16 ticipations, or other instruments of or issued by the
17 Federal National Mortgage Association or the Gov-
18 ernment National Mortgage Association, in mort-
19 gages, obligations, or other securities which are or
20 ever have been sold by the Federal Home Loan
21 Mortgage Corporation pursuant to section 305 or
22 section 306 of the Federal Home Loan Mortgage
23 Corporation Act, and in such securities as fiduciary
24 and trust funds may be invested in under the laws

1 of the State in which the Federal Home Loan Bank
2 is located.”.

3 (b) TECHNICAL AMENDMENTS.—Section 16(c) of the
4 Federal Home Loan Bank Act (12 U.S.C. 1436(c)) is
5 amended—

6 (1) by striking “bank” each place it appears
7 and inserting “Federal Home Loan Bank”;

8 (2) by striking “bank’s” and inserting “Federal
9 Home Loan Bank’s”; and

10 (3) in paragraph (1)(C), by striking “the first
11 2 sentences of subsection (a) of this section” and in-
12 serting “subsection (a)(1)”.

13 **SEC. 120. FINANCING CORPORATION.**

14 Section 21(b) of the Federal Home Loan Bank Act
15 (12 U.S.C. 1441(b)) is amended by striking “Director of
16 the Office of Finance of Federal Home Loan Banks” and
17 inserting “director of the central office described in section
18 11(k)”.

19 **SEC. 121. OBLIGATIONS OF RESOLUTION FUNDING COR-**
20 **PORATION.**

21 (a) PAYMENTS OF THE FEDERAL HOME LOAN BANK
22 SYSTEM.—Section 21B(f)(2)(C) of the Federal Home
23 Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended
24 to read as follows:

1 “(C) PAYMENTS BY THE FEDERAL HOME
2 LOAN BANK SYSTEM.—

3 “(i) AMOUNT TO BE PAID.—To the
4 extent the amounts available pursuant to
5 subparagraphs (A) and (B) are insufficient
6 to cover the amount of interest payments,
7 the Federal Home Loan Banks shall pay
8 to the Funding Corporation each calendar
9 year the aggregate amount of
10 \$300,000,000.

11 “(ii) PRO RATA SHARE OF TOTAL SYS-
12 TEM CAPITAL.—Except as provided in
13 clause (iii), the amount to be paid by each
14 Federal Home Loan Bank under clause (i)
15 shall be determined by—

16 “(I) dividing the Bank’s required
17 capital by the total of all of the
18 Banks’ required capital; and

19 “(II) multiplying the percentage
20 obtained under subclause (I) by
21 \$300,000,000.

22 “(iii) BANK ALLOCATION FORMULA.—
23 Notwithstanding clause (ii), the amount to
24 be paid by each Federal Home Loan Bank
25 under clause (i) shall be determined by a

1 permanent formula established by the Fed-
2 eral Home Loan Banks if—

3 “(I) within 60 days after the en-
4 actment of the Federal Home Loan
5 Bank System Restructuring and Mod-
6 ernization Act of 1995, the formula
7 established by the Banks is approved
8 by three-fourths of the Banks and by
9 Banks with combined total assets at
10 least equal to three-fourths of the
11 total assets of the System; and

12 “(II) within 45 days after the
13 formula is approved as described in
14 subclause (I), the Federal Housing
15 Finance Board approves the formula
16 established by the Banks, specifically
17 finding that the formula—

18 “(aa) is reasonable and con-
19 sistent with the objectives of as-
20 suring payment of the System’s
21 obligation in clause (i);

22 “(bb) is equitable to the
23 Banks and members;

24 “(cc) does not create incen-
25 tives for the Banks or members

1 to engage in conduct inconsistent
2 with the purpose of the System;
3 and

4 “(dd) is readily understood
5 and predictable in its impact.

6 “(iv) DEFINITIONS.—

7 “(I) REQUIRED CAPITAL.—For
8 purposes of clause (ii), ‘required cap-
9 ital’ means the greater of the leverage
10 capital requirement or risk-based cap-
11 ital requirement established by the
12 Board for each Bank.

13 “(II) TOTAL ASSETS.—For pur-
14 poses of clause (iii)(I), the ‘total as-
15 sets’ of each Bank and the System
16 shall be determined as of the date of
17 introduction of the Federal Home
18 Loan Bank System Restructuring and
19 Modernization Act of 1995.’.

20 (b) DELAYED EFFECTIVE DATE.—The amendment
21 made by subsection (a) shall take effect beginning with
22 the calendar year following the year the Board prescribes
23 regulations establishing capital requirements under sec-
24 tion 6(b).

1 (c) CONFORMING AMENDMENTS.—Section 21B(c)
2 (12 U.S.C. 1441b(c)) is amended by striking “director of
3 the Office of Finance of the Federal Home Loan Banks”
4 and inserting “director of the central office described in
5 section 11(k)”.

6 **SEC. 122. ELIGIBILITY TO MEMBERSHIP IN BANKS.**

7 Section 24 of the Federal Home Loan Bank Act (12
8 U.S.C. 1444) is repealed.

9 **SEC. 123. MERGER, LIQUIDATION OR REORGANIZATION.**

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

12 “(a) IN GENERAL.—Whenever the Board finds that
13 the efficient and economical accomplishment of the pur-
14 poses of this Act will be aided by such action, and in ac-
15 cordance with such rules, regulation, and orders as the
16 Board may prescribe—

17 “(1) MERGERS.—Any Federal Home Loan
18 Bank may be required to merge with any other Fed-
19 eral Home Loan Bank; and

20 “(2) LIQUIDATION OR REORGANIZATION.—Any
21 Federal Home Loan Bank may be liquidated or re-
22 organized by the Board, and the Bank’s stock paid
23 off and retired in whole or in part in connection
24 therewith after paying or making provision for the
25 payment of its liabilities.

1 “(b) ACQUISITION OF ASSETS AND ASSUMPTION OF
2 LIABILITIES.—In the case of any liquidation or reorga-
3 nization described in subsection (a), any other Federal
4 Home Loan Bank may, with the approval of the Board,
5 acquire assets of any such liquidated or reorganized bank
6 and assume liabilities thereof, in whole or in part.”.

7 **SEC. 124. GENERAL ENFORCEMENT POWERS.**

8 The Federal Home Loan Bank Act is amended by
9 adding after section 27 (12 U.S.C. 1447) the following
10 new section:

11 **“SEC. 27A. GENERAL ENFORCEMENT POWERS.**

12 “(a) CEASE AND DESIST PROCEDURES.—

13 “(1) GROUNDS FOR ISSUANCE.—The Board
14 may issue and serve upon a Federal Home Loan
15 Bank or a Bank-affiliated party a notice of charges
16 if, in the opinion of the Board, the Bank or Bank-
17 affiliated party—

18 “(A) is engaging or has engaged, or the
19 Board has reasonable cause to believe that the
20 Bank or Bank-affiliated party is about to en-
21 gage, in an unsafe or unsound practice in con-
22 ducting the business of the Bank; or

23 “(B) is violating or has violated, or the
24 Board has reasonable cause to believe that the

1 Bank or Bank-affiliated party is about to vio-
2 late—

3 “(i) a law, rule, or regulation;

4 “(ii) any condition imposed in writing
5 by the Board in connection with the grant-
6 ing of any application or other request by
7 the Bank; or

8 “(iii) any written agreement entered
9 into with the Board.

10 “(2) PROCEDURE.—

11 “(A) NOTICE OF CHARGES.—Any notice of
12 charges shall contain a statement of the facts
13 constituting the alleged violation or violations or
14 the unsafe or unsound practice or practices,
15 and shall fix a time and place at which a hear-
16 ing will be held to determine whether an order
17 to cease and desist therefrom should issue
18 against the Bank or Bank-affiliated party.

19 “(B) DATE OF HEARING.—Such hearing
20 shall be fixed for a date not earlier than 30
21 days nor later than 60 days after service of
22 such notice unless an earlier or a later date is
23 set by the Board at the request of any party
24 served.

1 “(C) FAILURE TO APPEAR CONSTITUTES
2 CONSENT.—Unless the party or parties so
3 served appear at the hearing personally or by a
4 duly authorized representative, the party or
5 parties shall be deemed to have consented to
6 the issuance of the cease-and-desist order.

7 “(D) ISSUANCE OF ORDER.—In the event
8 of such consent, or if upon the record made at
9 any such hearing, the Board shall find that any
10 violation or unsafe or unsound practice speci-
11 fied in the notice of charges has been estab-
12 lished, the Board may issue and serve upon the
13 Bank or Bank-affiliated party an order requir-
14 ing the Bank or Bank-affiliated party to cease
15 and desist from any such violation or practice
16 and to take affirmative action to correct the
17 conditions resulting from any such violation or
18 practice.

19 “(3) AFFIRMATIVE ACTION TO CORRECT CONDI-
20 TIONS RESULTING FROM VIOLATIONS OR PRAC-
21 TICES.—The authority to issue an order under this
22 subsection and subsection (b) which requires a Fed-
23 eral Home Loan Bank or Bank-affiliated party to
24 take affirmative action to correct or remedy any con-
25 ditions resulting from any violation or practice with

1 respect to which such order is issued includes the
2 authority to require such Bank or party to—

3 “(A) make restitution or provide reim-
4 bursement, indemnification, or guarantee
5 against loss if—

6 “(i) the Bank or Bank-affiliated party
7 was unjustly enriched in connection with
8 such violation or practice; or

9 “(ii) the violation or practice involved
10 a reckless disregard for the law or any ap-
11 plicable regulations or prior order of the
12 Board;

13 “(B) restrict the growth of the Bank;

14 “(C) dispose of any loan or asset involved;

15 “(D) rescind agreements or contracts;

16 “(E) employ qualified officers or employees
17 (who may be subject to approval by the Board
18 at the direction of the Board); and

19 “(F) take such other action as the Board
20 determines appropriate.

21 “(4) AUTHORITY TO LIMIT ACTIVITIES.—The
22 authority to issue an order under this subsection or
23 subsection (b) includes the authority to place limita-
24 tions on the activities or functions of a Bank or any
25 Bank-affiliated party.

1 “(5) EFFECTIVE DATE.—A cease-and-desist
2 order shall become effective at the expiration of 30
3 days after the service of such order upon the Bank
4 or Bank-affiliated party concerned (except in the
5 case of a cease-and-desist order issued upon consent,
6 which shall become effective at the time specified
7 therein), and shall remain, effective and enforceable
8 as provided therein, except to such extent as it is
9 stayed, modified, terminated, or set aside by action
10 of the Board or reviewing court.

11 “(6) STANDARD FOR CERTAIN ORDERS.—No
12 authority under this subsection or subsection (b) to
13 prohibit any Bank-affiliated party from withdrawing,
14 transferring, removing, dissipating, or disposing of
15 any funds, assets, or other property may be exer-
16 cised unless the Board meets the standards of Rule
17 65 of the Federal rules of Civil Procedure, without
18 regard to the requirement of such rule that the ap-
19 plicant show that the injury, loss or damage is irrep-
20 arable and immediate.

21 “(b) TEMPORARY CEASE-AND-DESIST ORDERS.—

22 “(1) GROUNDS FOR ISSUANCE; SCOPE.—When-
23 ever the Board determines that any violation, threat-
24 ened violation, or unsafe or unsound practice, speci-
25 fied in the notice of charges served upon the Federal

1 Home Loan Bank or Bank-affiliated party under
2 subsection (a)(1), or the continuation thereof, is
3 likely—

4 “(A) to cause insolvency or significant dis-
5 sipation of assets or earnings of the Bank, or

6 “(B) to weaken the condition of the Bank
7 prior to the completion of the proceedings con-
8 ducted under subsection (a)(2),

9 the Board may issue a temporary order requiring
10 the Bank, or any Bank-affiliated party, to cease and
11 desist from any such violation or practice and to
12 take affirmative action to prevent or remedy such in-
13 solvency, dissipation, or condition pending comple-
14 tion of such proceedings. Such order may include
15 any requirement authorized under subsection (a)(3).

16 “(2) EFFECTIVE DATE.—An order issued under
17 paragraph (1) shall become effective upon service
18 upon the Federal Home Loan Bank or Bank-affili-
19 ated party and, unless set aside, limited, or sus-
20 pended by a court in proceedings authorized by
21 paragraph (4), shall remain effective and enforceable
22 pending the completion of the administrative pro-
23 ceedings pursuant to such notice and shall remain
24 effective until such time as the Board dismisses the
25 charges specified in such notice or until superseded

1 by a cease-and-desist order issued under subsection
2 (a).

3 “(3) INCOMPLETE OR INACCURATE RECORDS.—

4 “(A) TEMPORARY ORDER.—If a notice of
5 charges served under subsection (a)(1) specifies
6 that, on the basis of particular facts and cir-
7 cumstances, the Bank’s books and records are
8 so incomplete or inaccurate that the Board is
9 unable, through the normal supervisory process,
10 to determine the financial condition of that
11 Bank or the details or the purpose of any trans-
12 action or transactions that may have a material
13 effect on the financial condition of that Bank,
14 the Board may issue a temporary order requir-
15 ing—

16 “(i) the cessation of any activity or
17 practice which gave rise, whether in whole
18 or in part, to the incomplete or inaccurate
19 state of the books or records; or

20 “(ii) affirmative action to restore such
21 books or records to a complete and accu-
22 rate state, until the completion of the pro-
23 ceedings under subsection (a).

24 “(B) EFFECTIVE PERIOD.—Any temporary
25 order issued under subparagraph (A)—

1 “(i) shall become effective upon serv-
2 ice; and

3 “(ii) unless set aside, limited, or sus-
4 pended by a court in proceedings under
5 paragraph (4), shall remain in effect and
6 enforceable until the earlier of—

7 “(I) the completion of the pro-
8 ceeding initiated under subsection (a)
9 in connection with the notice of
10 charges; or

11 “(II) the date the Board deter-
12 mines, by examination or otherwise,
13 that the Federal Home Loan Bank’s
14 books and records are accurate and
15 reflect the financial condition of the
16 Bank.

17 “(4) JUDICIAL REVIEW.—Within 10 days after
18 the Federal Home Loan Bank or Bank-affiliated
19 party has been served with a temporary cease-and-
20 desist order, the Bank or Bank-affiliated party may
21 apply to the United States district court for the ju-
22 dicial district in which the Bank is located, or the
23 United States District Court for the District of Co-
24 lumbia, for an injunction setting aside, limiting, or
25 suspending the enforcement, operation, or effective-

1 ness of such order pending the completion of the ad-
2 ministrative proceedings pursuant to the notice of
3 charges served upon the Bank or Bank-affiliated
4 party under subsection (a)(1), and such court shall
5 have jurisdiction to issue such injunction.

6 “(5) ENFORCEMENT.—In the case of a violation
7 or threatened violation of, or failure to obey, a tem-
8 porary order issued under, the Board may apply to
9 the United States district court for the judicial dis-
10 trict in which the Federal Home Loan Bank is lo-
11 cated, or the United States District Court for the
12 District of Columbia for an injunction to enforce
13 such order, and, if the court finds any such viola-
14 tion, threatened violation, or failure to obey, it shall
15 issue such injunction.

16 “(c) REMOVAL AND PROHIBITION AUTHORITY.—

17 “(1) AUTHORITY TO ISSUE ORDER.—The Board
18 may serve upon any Bank-affiliated party a written
19 notice of the Board’s intention to remove such party
20 from office or to prohibit any further participation
21 by such party in any manner, in the conduct of the
22 affairs of the Bank whenever the Board determines
23 that—

24 “(A) such party has directly or indi-
25 rectly—

1 “(i) violated—

2 “(I) any law or regulation;

3 “(II) any cease-and-desist order
4 which has become final;

5 “(III) any condition imposed in
6 writing by the Board in connection
7 with the grant of any application or
8 other request by the Bank; or

9 “(IV) any written agreement be-
10 tween the Bank and the Board;

11 “(ii) engaged or participated in any
12 unsafe or unsound practice in connection
13 with the Bank; or

14 “(iii) committed or engaged in any
15 act, omission, or practice which constitutes
16 a breach of such party’s fiduciary duty;

17 “(B) by reason of the violation, practice, or
18 breach described in any clause of subparagraph
19 (A)—

20 “(i) the Bank has suffered or will
21 probably suffer financial loss or other dam-
22 age; or

23 “(ii) such party has received financial
24 gain or other benefit by reason of such vio-
25 lation, practice, or breach; and

1 “(C) such violation, practice, or breach—

2 “(i) involves personal dishonesty on
3 the part of such party; or

4 “(ii) demonstrates willful or continu-
5 ing disregard by such party for the safety
6 or soundness of the Bank.

7 “(2) SUSPENSION ORDER.—

8 “(A) SUSPENSION OR PROHIBITION AU-
9 THORIZED.—If the Board serves written notice
10 under paragraph (1) to any Bank affiliated-
11 party, the Board may suspend such party from
12 office or prohibit such party from further par-
13 ticipation in any manner in the conduct of the
14 affairs of the Federal Home Loan Bank, if the
15 Board—

16 “(i) determines that such action is
17 necessary for the protection of the Bank;
18 and

19 “(ii) serves upon such party written
20 notice of the suspension order.

21 “(B) EFFECTIVE PERIOD.—Any suspen-
22 sion order issued under subparagraph (A)—

23 “(i) shall become effective upon serv-
24 ice; and

1 “(ii) unless a court issues a stay of
2 such order under paragraph (7), shall re-
3 main in effect and enforceable until—

4 “(I) the date the Board dismisses
5 the charges contained in the notice
6 served under paragraph (1) with re-
7 spect to such party; or

8 “(II) the effective date of an
9 order issued by the Board to such
10 party under paragraph (1).

11 “(C) COPY OF ORDER.—If the Board is-
12 sues a suspension order under subparagraph
13 (A) to any Bank-affiliated party, the Board
14 shall serve a copy of such order on any Federal
15 Home Loan Bank with which such party is as-
16 sociated at the time such order is issued.

17 “(3) PROCEDURE.—

18 “(A) NOTICE.—A notice of intention to re-
19 move a Bank-affiliated party from office or to
20 prohibit such party from participating in the
21 conduct of the affairs of a Federal Home Loan
22 Bank shall contain a statement of the facts con-
23 stituting grounds therefor, and shall fix a time
24 and place at which a hearing will be held there-
25 on.

1 “(B) DATE OF HEARING.—Such hearing
2 shall be fixed for a date not earlier than 30
3 days nor later than 60 days after the date of
4 service of such notice, unless an earlier or a
5 later date is set by the Board at the request of
6 such party and for good cause shown or by the
7 Attorney General of United States.

8 “(C) FAILURE TO APPEAR DEEMED CON-
9 SENT.—Unless such party appears at the hear-
10 ing in person or by a duly authorized represent-
11 ative, such party shall be deemed to have con-
12 sented to the issuance of an order of such re-
13 moval or prohibition.

14 “(D) ISSUANCE OF ORDER.—In the event
15 of such consent, or if upon the record made at
16 any such hearing, the Board finds that any of
17 the grounds specified in such notice have been
18 established, the Board may issue such orders of
19 suspension or removal from office, or prohibi-
20 tion from participation in the conduct of the af-
21 fairs of the Federal Home Loan Bank, as the
22 Board may deem appropriate.

23 “(4) EFFECTIVE DATE.—Any such order shall
24 become effective at the expiration of 30 days after
25 service upon the Federal Home Loan Bank and

1 Bank-affiliated party (except in the case of an order
2 issued upon consent, which shall become effective at
3 the time specified therein). Such order shall remain
4 effective and enforceable except to such extent as it
5 is stayed, modified, terminated, or set aside by ac-
6 tion of the Board or a reviewing court.

7 “(5) PROHIBITION OF CERTAIN SPECIFIC AC-
8 TIVITIES.—Any person subject to an order issued
9 under this subsection shall not—

10 “(A) participate in any manner in the con-
11 duct of the affairs of any institution or agency
12 specified in paragraph (6)(A);

13 “(B) solicit, procure, transfer, attempt to
14 transfer, vote, or attempt to vote any proxy,
15 consent, or authorization with respect to any
16 voting rights in any institution described in
17 subparagraph (A);

18 “(C) violate any voting agreement pre-
19 viously approved by the Board; or

20 “(D) vote for a director, or serve or act as
21 a Bank-affiliated party.

22 “(6) INDUSTRYWIDE PROHIBITION.—

23 “(A) IN GENERAL.—Except as provided in
24 paragraph (3), any person who, pursuant to an
25 order issued under this subsection, has been re-

1 moved or suspended from office in a Federal
2 Home Loan Bank or prohibited from participat-
3 ing in the conduct of the affairs of a Federal
4 Home Loan Bank may not, while such order is
5 in effect, continue or commence to hold any of-
6 fice in, or participate in any manner in the con-
7 duct of the affairs of—

8 “(i) any insured depository institution
9 as defined in section 3(c)(2) of the Federal
10 Deposit Insurance Act (12 U.S.C.
11 1813(c)(2));

12 “(ii) any institution treated as an in-
13 sured bank under section 8(b)(3) or
14 8(b)(4) of the Federal Deposit Insurance
15 Act (12 U.S.C. 1818(b)(3), (b)(4)), or as
16 a savings association under section 8(b)(8)
17 of the Federal Deposit Insurance Act (12
18 U.S.C. 1818(b)(8));

19 “(iii) any insured credit union as de-
20 fined in section 101(7) of the Federal
21 Credit Union Act (12 U.S.C. 1752);

22 “(iv) any institution chartered under
23 the Farm Credit Act of 1971;

24 “(v) the Board any Federal Home
25 Loan Bank;

1 “(vi) the Federal National Mortgage
2 Association;

3 “(vii) the Federal Home Loan Mort-
4 gage Corporation;

5 “(viii) the Student Loan Marketing
6 Association;

7 “(ix) the Government National Mort-
8 gage Association; and

9 “(x) any appropriate Federal deposi-
10 tory institutions regulatory agency as de-
11 fined in section 3(q) of the Federal De-
12 posit Insurance Act.

13 “(B) EXCEPTION IF AGENCY PROVIDES
14 WRITTEN CONSENT.—If, on or after the date an
15 order is issued under this subsection which re-
16 moves or suspends from office any Bank-affili-
17 ated party or prohibits such party from partici-
18 pating in the conduct of the affairs of a Federal
19 Home Loan Bank, such party receives the writ-
20 ten consent of—

21 “(i) the Federal Housing Finance
22 Board, and

23 “(ii) the appropriate Federal financial
24 institutions regulatory agency of the insti-
25 tution described in paragraph (6)(A) in

1 which such party proposes to hold office or
2 in the conduct of whose affairs such party
3 proposes to participate,

4 subparagraph (A) shall, to the extent of such
5 consent, cease to apply to such party with re-
6 spect to the institution described in such writ-
7 ten consent. Any agency that grants such a
8 written consent shall report such action to the
9 Board and publicly disclose such consent.

10 “(C) VIOLATION OF PARAGRAPH TREATED
11 AS VIOLATION OF ORDER.—Any violation of
12 subparagraph (A) by any person who is subject
13 to an order described in such subparagraph
14 shall be treated as a violation of the order.

15 “(D) APPROPRIATE FEDERAL FINANCIAL
16 INSTITUTIONS REGULATORY AGENCY DE-
17 FINED.—For purposes of this paragraph, the
18 term ‘appropriate Federal financial institutions
19 regulatory agency’ means—

20 “(i) the Secretary of Housing and
21 Urban Development and the Office of Fed-
22 eral Housing Enterprise Oversight, in the
23 case of the Federal National Mortgage As-
24 sociation and the Federal Home Loan
25 Mortgage Corporation;

1 “(ii) the Secretary of Housing and
2 Urban Development, in the case of the
3 Government National Mortgage Associa-
4 tion;

5 “(iii) the appropriate Federal banking
6 agency as defined in section 3(q) of the
7 Federal Deposit Insurance Act (12 U.S.C.
8 1813(q)), in the case of an insured deposi-
9 tory institution;

10 “(iv) the Secretary of the Treasury, in
11 the case of the Student Loan Marketing
12 Association;

13 “(v) the Farm Credit Administration,
14 in the case of an institution chartered
15 under the Farm Credit Act of 1971; and

16 “(vi) the National Credit Union Ad-
17 ministration Board, in the case of an in-
18 sured credit union (as defined in section
19 101(7) of the Federal Credit Union Act
20 (12 U.S.C. 1752(7)).

21 “(E) CONSULTATION BETWEEN AGEN-
22 CIES.—The agencies described in subparagraph
23 (B) shall consult with each other before provid-
24 ing any written consent authorized by subpara-
25 graph (B).

1 “(F) APPLICABILITY.—This paragraph
2 shall only apply to a person which is an individ-
3 ual, unless the Board specifically finds that it
4 should apply to a corporation, firm, or other
5 business enterprise.

6 “(7) STAY OF SUSPENSION OR PROHIBITION.—
7 Within ten days after any Bank-affiliated party has
8 been suspended from office or prohibited from par-
9 ticipation in the conduct of the affairs of a Federal
10 Home Loan Bank under paragraph (2), such party
11 may apply to the United States district court for the
12 judicial district in which the Federal Home Loan
13 Bank is located, or the United States District Court
14 for the District of Columbia, for a stay of such sus-
15 pension or prohibition pending the completion of the
16 administrative proceedings pursuant to the notice
17 served upon such director or executive officer, under
18 paragraph (1), and such court shall have jurisdiction
19 to stay such suspension or prohibition.

20 “(d) SUSPENSION OR REMOVAL OF PARTIES
21 CHARGED WITH FELONY.—

22 “(1) SUSPENSION.—Whenever any Bank-affili-
23 ated party is charged in any information, indict-
24 ment, or complaint with the commission of, or par-
25 ticipation in—

1 “(A) a crime involving dishonesty or
2 breach of trust which is punishable by impris-
3 onment for a term exceeding one year under
4 State or Federal law; or

5 “(B) a criminal violation of section 1956,
6 1957 or 1960 of title 18, United States Code,
7 or section 5322 of title 31, United States Code,
8 the Board may, if continued service or participation
9 by such party may threaten to impair public con-
10 fidence in the Federal Home Loan Bank, by written
11 notice served upon such party, suspend such party
12 from office or prohibit such party from further par-
13 ticipation in any manner in the conduct of the af-
14 fairs of the Bank.

15 “(2) PROVISIONS APPLICABLE TO NOTICE.—

16 “(A) COPY.—A copy of such notice shall
17 also be served upon the Bank.

18 “(B) EFFECTIVE PERIOD.—A suspension
19 or prohibition under paragraph (1) shall remain
20 in effect until the information, indictment, or
21 complaint is finally disposed of or until termi-
22 nated by the Board.

23 “(3) REMOVAL.—

24 “(A) IN GENERAL.—If a judgment of con-
25 viction or an agreement to enter a pre-trial di-

1 version or other similar program is entered
2 against a Bank-affiliated party, in connection
3 with a crime described in paragraph (1)(A),
4 and at such time as such judgment is not sub-
5 ject to further appellate review, the Board may,
6 if continued service or participation by such
7 party may threaten to impair public confidence
8 in the Federal Home Loan Bank, issue and
9 serve upon such party an order removing such
10 party from office or prohibiting such party from
11 further participation in any manner in the con-
12 duct of the affairs of the Bank without the
13 prior written consent of the Board.

14 “(B) REMOVAL REQUIRED.—In the case of
15 a judgment or conviction or agreement against
16 a Bank-affiliated party in connection with a vio-
17 lation described in paragraph (1)(B), the Board
18 shall issue and serve upon such party an order
19 removing such party from office or prohibiting
20 such party from further participation in any
21 manner in the conduct of the affairs of the
22 Bank without the prior written consent of the
23 Board.

24 “(4) PROVISIONS APPLICABLE TO ORDER.—

1 “(A) COPY.—A copy of any order under
2 paragraph (3) shall also be served upon the
3 Federal Home Loan Bank, whereupon the
4 Bank-affiliated party who is subject to the
5 order (if a director or an officer) shall cease to
6 be a director or officer of the Bank.

7 “(B) DISCRETIONARY REMOVAL NOT PRE-
8 CLUDED.—A finding of not guilty or other dis-
9 position of the charge shall not preclude the
10 Board from instituting proceedings to remove
11 such party from office or to prohibit further
12 participation in the affairs of the Bank pursu-
13 ant to subsection (e)(1) or (e)(3).

14 “(C) EFFECTIVE DATE.—Any notice of
15 suspension or order of removal issued under
16 this subsection shall remain effective until the
17 completion of any hearing or appeal authorized
18 under paragraph (5), unless earlier terminated
19 by the Board.

20 “(5) VACANCIES ON THE BOARD OF DIREC-
21 TORS.—

22 “(A) QUORUM.—If, at any time, because
23 of the suspension of one or more directors pur-
24 suant to this section, there shall be on the
25 board of directors of a Federal Home Loan

1 Bank less than a quorum, all powers and func-
2 tions vested in, or exercisable by, such board
3 shall vest in and be exercisable by the remain-
4 ing director or directors, until such time as
5 there shall be a quorum of the board of direc-
6 tors.

7 “(B) ALL DIRECTORS SUSPENDED.—In the
8 event all of the directors of the Bank are sus-
9 pended pursuant to this section, the Board shall
10 appoint temporary directors pending the termi-
11 nation of such suspensions or until such time as
12 the terms of the suspended directors expire and
13 their successors take office.

14 “(6) HEARING.—

15 “(A) REQUEST FOR HEARING.—Within 30
16 days from service of any notice of suspension or
17 order of removal issued pursuant to paragraph
18 (1), the Bank-affiliated party concerned may
19 request in writing an opportunity to appear be-
20 fore the Board to show that the continued serv-
21 ice to or participation in the conduct of the af-
22 fairs of the Federal Home Loan Bank by such
23 party does not, or is not likely to, threaten to
24 impair public confidence in the Bank.

1 “(B) TIME AND PLACE OF HEARING.—
2 Upon receipt of a request described in subpara-
3 graph (A), the Board shall fix a time (not more
4 than 30 days after receipt of such request, un-
5 less extended at the request of the Bank-affili-
6 ated party) and place at which such party may
7 appear, personally or through counsel, before
8 the Board or designated employees of the
9 Board to submit written materials (or, at the
10 discretion of the Board, oral testimony) and
11 oral argument.

12 “(C) DECISION OF THE FEDERAL HOUSING
13 FINANCE BOARD.—

14 “(i) IN GENERAL.—Within 60 days of
15 such hearing, the Board shall notify the
16 Bank-affiliated party whether the suspen-
17 sion or prohibition from participation in
18 any manner in the conduct of the affairs of
19 the Federal Home Loan Bank will be con-
20 tinued, terminated, or otherwise modified,
21 or whether the order removing such party
22 from office or prohibiting such party from
23 further participation in any manner in the
24 conduct of the affairs of the Bank will be
25 rescinded or otherwise modified.

1 “(ii) STATEMENT OF REASONS.—Such
2 notification shall contain a statement of
3 the basis for the Board’s decision, if ad-
4 verse to such party.

5 “(7) RULEMAKING.—The Board is authorized
6 to prescribe such rules and regulations as may be
7 necessary to carry out the purposes of this sub-
8 section.

9 “(e) HEARING AND JUDICIAL REVIEW.—

10 “(1) IN GENERAL.—Any hearing provided for
11 in this section (other than the hearing provided for
12 in subsection (d))—

13 “(A) shall be held in the Federal judicial
14 district or in the territory in which the Federal
15 Home Loan Bank is located unless the party
16 afforded the hearing consents to another place;
17 and

18 “(B) shall be conducted in accordance with
19 the provisions of chapter 5 of title 5, United
20 States Code (5 U.S.C. 500 et seq.).

21 “(2) FEDERAL HOUSING FINANCIAL BOARD’S
22 DECISION AND ORDER.—

23 “(A) IN GENERAL.—After such hearing,
24 and within 90 days after the Board has notified
25 the parties that the case has been submitted to

1 the Board for final decision, the Board shall
2 render its decision (which shall include findings
3 of fact upon which the decision is predicated)
4 and shall issue and serve upon each party to
5 the proceeding an order or orders consistent
6 with the provisions of this section.

7 “(B) REVIEW OF FEDERAL HOUSING FI-
8 NANCE BOARD’S ORDER.—Judicial review of
9 any such order shall be exclusively as provided
10 in paragraph (3). Unless a petition for review
11 is timely filed in a court of appeals of the
12 United States, as hereinafter provided in para-
13 graph (3), and thereafter until the record in the
14 proceeding has been filed as so provided, the
15 Board may at any time, upon such notice and
16 in such manner as it shall deem proper, modify,
17 terminate, or set aside any such order. Upon
18 such filing of the record, the Board may mod-
19 ify, terminate, or set aside any such order with
20 permission of the court.

21 “(3) JUDICIAL REVIEW.—

22 “(A) PETITION FOR REVIEW.—Any party
23 to any proceeding under paragraph (1) may ob-
24 tain a review of any order served pursuant to
25 paragraph (1) (other than an order issued with

1 the consent of the Federal Home Loan Bank or
2 Bank-affiliated party concerned, or an order is-
3 sued under subsection (d)) by the filing in the
4 court of appeals of the United States for the
5 circuit in which the Federal Home Loan Bank
6 is located, or in the United States Court of Ap-
7 peals for the District of Columbia Circuit, with-
8 in 30 days after the date of service of such
9 order, a written petition praying that the order
10 of the Board be modified, terminated, or set
11 aside. A copy of such petition shall be forthwith
12 transmitted by the clerk of the court to the
13 Board.

14 “(B) FILING.—Upon receiving a copy of a
15 petition, the Board shall file in the court the
16 record in the proceeding, as provided in section
17 2112 of title 28, United States Code.

18 “(C) EXCLUSIVE JURISDICTION.—Upon
19 the filing of a petition, such court shall have ju-
20 risdiction, which upon the filing of the record
21 by the Board shall (except as provided in the
22 last sentence of paragraph (2)(B)) be exclusive,
23 to affirm, modify, terminate, or set aside, in
24 whole or in part, the order of the Board. Re-

1 view of such proceedings shall be governed by
2 chapter 7 of title 5, United States Code.

3 “(4) SUPREME COURT REVIEW.—The judgment
4 and decree of the circuit court referred to in para-
5 graph (3) shall be final, except that the judgment
6 and decree shall be subject to review by the Supreme
7 Court upon certiorari, as provided in section 1254 of
8 title 28, United States Code.

9 “(5) NO AUTOMATIC STAY.—The commence-
10 ment of proceedings for judicial review under this
11 subsection shall not, unless specifically ordered by
12 the court, operate as a stay of any order issued by
13 the Board.

14 “(f) JURISDICTION AND ENFORCEMENT.—

15 “(1) APPLICATION FOR ENFORCEMENT.—The
16 Board may apply to the United States district court,
17 or the United States court of any territory, within
18 the jurisdiction of which the Federal Home Loan
19 Bank is located, for the enforcement of any effective
20 notice or order issued under this section or section
21 6A, and such court shall have jurisdiction and power
22 to order and require compliance herewith.

23 “(2) LIMITATION ON MODIFICATION.—Except
24 as otherwise provided in this section or section 6A
25 no court shall have jurisdiction to affect by injunc-

1 tion or otherwise the issuance or enforcement of any
2 notice or order under this subsection, or to review,
3 modify, suspend, terminate, or set aside any such
4 notice or order.

5 “(g) CIVIL MONEY PENALTY.—

6 “(1) FIRST TIER.—A Federal Home Loan
7 Bank which, and any Bank-affiliated party who—

8 “(A) violates any law or regulation;

9 “(B) violates any final order or temporary
10 order issued pursuant to subsection (a), (b),
11 (c), or (d), or any final order under section 6A;

12 “(C) violates any condition imposed in
13 writing by the Board in connection with the
14 grant of any application or other request by a
15 Bank; or

16 “(D) violates any written agreement be-
17 tween a Bank and the Board,

18 shall be forfeit and pay a civil penalty of not more
19 than \$5,000 for each day during which such viola-
20 tion continues.

21 “(2) SECOND TIER.—Notwithstanding para-
22 graph (1), a Federal Home Loan Bank which, and
23 any Bank-affiliated party who,—

24 “(A)(i) commits any violation described in
25 any subparagraph of paragraph (1);

1 “(ii) recklessly engages in an unsafe or un-
2 sound practice in conducting the affairs of a
3 Bank; or

4 “(iii) breaches any fiduciary duty; and

5 “(B) which violation, practice, or breach—

6 “(i) is part of a pattern of mis-
7 conduct;

8 “(ii) causes or is likely to cause more
9 than a minimal loss to the Bank; or

10 “(C) results in pecuniary gain or other
11 benefit to such party,

12 shall forfeit and pay a civil penalty of not more than
13 \$25,000 for each day during which such violation,
14 practice, or breach continues.

15 “(3) THIRD TIER.—Notwithstanding para-
16 graphs (1) and (2), a Federal Home Loan Bank
17 which, and any Bank-affiliated party who,—

18 “(A) knowingly—

19 “(i) commits any violation described
20 in paragraph (1);

21 “(ii) engages in any unsafe or un-
22 sound practice in conducting the affairs of
23 a Bank; or

24 “(iii) breaches any fiduciary duty; and

1 “(B) knowingly or recklessly causes a sub-
2 stantial loss to the Bank or a substantial pecu-
3 niary gain or other benefit to such party by rea-
4 son of such violation, practice, or breach,
5 shall forfeit and pay a civil penalty in an amount not
6 to exceed the applicable maximum amount deter-
7 mined under paragraph (4) for each day during
8 which such violation, practice, or breach continues.

9 “(4) MAXIMUM AMOUNTS OF PENALTIES.—The
10 maximum daily amount of any civil penalty which
11 may be assessed pursuant to paragraph (3) for any
12 violation, practice, or breach described in such para-
13 graph is—

14 “(A) in the case of any person other than
15 a Federal Home Loan Bank, an amount not to
16 exceed \$1,000,000; and

17 “(B) in the case of a Federal Home Loan
18 Bank, an amount not to exceed the lesser of—

19 “(i) \$1,000,000, or

20 “(ii) 1 percent of the total assets of
21 such Bank.

22 “(5) ASSESSMENT.—

23 “(A) WRITTEN NOTICE.—Any penalty im-
24 posed under this subsection may be assessed
25 and collected by the Board by written notice.

1 “(B) FINALITY OF ASSESSMENT.—If with
2 respect to any assessment under subparagraph
3 (A) a hearing is not timely requested pursuant
4 to paragraph (8), the penalty assessment con-
5 tained in a written notice shall constitute a
6 final and unappealable order.

7 “(6) AUTHORITY TO MODIFY OR REMIT PEN-
8 ALTY.—The Board may compromise, modify, or
9 remit any penalty which the Board may assess or
10 has already assessed under this subsection.

11 “(7) MITIGATING FACTORS.—In determining
12 the amount of any penalty imposed under this sub-
13 section, the Board shall take into account the appro-
14 priateness of the penalty with respect to—

15 “(A) the size of financial resources and
16 good faith of the Federal Home Loan Bank or
17 the other person charged;

18 “(B) the gravity of the violation;

19 “(C) the history of previous violations; and

20 “(D) such other matters as justice may
21 require.

22 “(8) HEARING.—The Federal Home Loan
23 Bank or Bank-affiliated party against whom any
24 penalty is assessed under this subsection shall be af-
25 forded a hearing if such Bank or person submits a

1 request for such hearing within 20 days after the is-
2 suance of the notice of assessment. A transcript that
3 includes all testimony and other documentary evi-
4 dence shall be prepared for all hearings commenced
5 pursuant to this subsection.

6 “(9) COLLECTION.—

7 “(A) REFERRAL.—If any Federal Home
8 Loan Bank or Bank-affiliated party fails to pay
9 a penalty that has become final, the Board shall
10 recover the amount assessed by action in the
11 appropriate United States district court.

12 “(B) APPROPRIATENESS OF PENALTY NOT
13 REVIEWABLE.—In any civil action brought
14 under subparagraph (A), the validity and ap-
15 propriateness of the penalty shall not be subject
16 to review.

17 “(10) DISBURSEMENT.—All penalties collected
18 under authority of this subsection shall be deposited
19 into the General Fund of the Treasury.

20 “(11) REGULATIONS.—The Board shall pre-
21 scribe regulations establishing such procedures as
22 may be necessary to carry out this subsection.

23 “(h) NOTICE UNDER THIS SECTION AFTER SEPARA-
24 TION FROM SERVICE.—The resignation, termination of
25 employment or participation, or separation of a Bank-af-

1 filiated party (including a separation caused by the closing
2 of a Federal Home Loan Bank) shall not affect the juris-
3 diction and authority of the Board to issue any notice and
4 proceed under this section against any such party, if such
5 notice is served before the end of the six-year period begin-
6 ning on the date such Bank-affiliated party ceased to be
7 such a party with respect to such Bank.

8 “(i) PREJUDGMENT ATTACHMENT.—

9 “(1) IN GENERAL.—In any action brought by
10 the Board pursuant to this section, or in actions
11 brought in aid of, or to enforce an order in, any ad-
12 ministrative or other civil action for money damages,
13 restitution, or civil money penalties brought by the
14 Board, the court may, upon application of the
15 Board, issue a restraining order that—

16 “(A) prohibits any person subject to the
17 proceeding from withdrawing, transferring, re-
18 moving, dissipating, or disposing of any funds,
19 assets or other property; and

20 “(B) appoints a temporary receiver to ad-
21 minister the restraining order.

22 “(2) STANDARD.—

23 “(A) SHOWING.—Rule 65 of the Federal
24 Rules of Civil Procedure shall apply with re-
25 spect to any proceeding under paragraph (1)

1 without regard to the requirement of such rule
2 that the applicant show that the injury, loss, or
3 damage is irreparable and immediate.

4 “(B) STATE PROCEEDING.—If, in the case
5 of any proceeding in a State court, the court
6 determines that rules of civil procedure avail-
7 able under the laws of such State provide sub-
8 stantially similar protection to a party’s right to
9 due process as Rule 65 (as modified with re-
10 spect to such proceeding by subparagraph (B)),
11 the relief sought under paragraph (1) may be
12 requested under the laws of such State.

13 “(j) CRIMINAL PENALTY.—Whoever, being subject to
14 an order in effect under subsection (c) or (d), without the
15 prior written approval of the Board knowingly partici-
16 pates, directly or indirectly, in any manner (including by
17 engaging in an activity specifically prohibited in such an
18 order or in subsection (c)(5) in the conduct of the affairs
19 of any institution or agency specified in subsection (c)(6))
20 shall be fined not more than \$1,000,000, imprisoned for
21 not more than 5 years, or both.

22 “(k) NOTICE OF SERVICE.—Any service required or
23 authorized to be made by the Board under this section
24 may be made by registered mail, or in such other manner

1 reasonably calculated to give actual notice as the Board
2 may by regulation or otherwise provide.

3 “(l) SUBPOENA POWER, ETC.—

4 “(1) POWERS.—In the course of or in connec-
5 tion with any administrative proceeding under this
6 section or any examination or investigation under
7 section 8, the Board or any designated representa-
8 tive of the Board, including any person designated
9 to conduct any hearing under this section, shall have
10 the power—

11 “(A) to administer oaths and affirmations;

12 “(B) to take or cause to be taken deposi-
13 tions;

14 “(C) to issue subpoenas and subpoenas
15 duces tecum;

16 “(D) to revoke, quash, or modify subpoe-
17 nas and subpoenas duces tecum issued by the
18 Board; and

19 “(E) to make rules and regulations with
20 respect to any such proceedings, examinations
21 or investigations.

22 “(2) JURISDICTION.—The attendance of wit-
23 nesses and the production of documents provided for
24 in this subsection may be required from any place in
25 any State or in any territory or other place subject

1 to the jurisdiction of the United States at any des-
2 ignated place where such proceeding is being con-
3 ducted.

4 “(3) ENFORCEMENT.—The Board or any party
5 to proceedings under this section may apply to the
6 United States District Court for the District of Co-
7 lumbia, or the United States district court for the
8 judicial district or the United States court in any
9 territory in which such proceeding is being con-
10 ducted, or where the witness resides or carries on
11 business, for enforcement of any subpoena or sub-
12 poena duces tecum issued pursuant to this sub-
13 section, and such courts shall have jurisdiction and
14 power to order and require compliance therewith.

15 “(4) FEES AND EXPENSES.—

16 “(A) WITNESS.—Witnesses subpoenaed
17 under this subsection shall be paid the same
18 fees and mileage that are paid witnesses in the
19 district courts of the United States.

20 “(B) EXPENSES AND ATTORNEY’S FEES.—
21 Any court having jurisdiction of any proceeding
22 instituted under this section by a Federal Home
23 Loan Bank or a director or officer thereof, may
24 allow to any such party such reasonable ex-
25 penses and attorneys’ fees as it deems just and

1 proper; and such expenses and fees shall be
2 paid by the Bank or from its assets.

3 “(5) FAILURE TO OBEY SUBPOENA.—Any per-
4 son who willfully shall fail or refuse to attend and
5 testify or to answer any lawful inquiry or to produce
6 books, papers, correspondence, memoranda, con-
7 tracts, agreements, or other records, if in such per-
8 son’s power so to do, in obedience to the subpoena
9 of the Board, shall be guilty of a misdemeanor and,
10 upon conviction, shall be subject to a fine of not
11 more than \$1,000 or to imprisonment for a term of
12 not more than one year or both.

13 “(m) PUBLIC DISCLOSURE OF FINAL ORDERS AND
14 AGREEMENTS.—

15 “(1) IN GENERAL.—The Board shall publish
16 and make available to the public on a semi-annual
17 basis—

18 “(A) any written agreement or other writ-
19 ten statement for which a violation may be en-
20 forced by the Board, unless the Board, in its
21 discretion, determines that publication would be
22 contrary to the public interests;

23 “(B) any final order issued with respect to
24 any administrative enforcement proceeding ini-

1 tiated by the Board under this section or any
2 other provision of law; and

3 “(C) any modification to or termination of
4 any final order or agreement made public pur-
5 suant to this paragraph.

6 “(2) HEARINGS.—All hearings on the record
7 with respect to any notice of charges issued by the
8 Board shall be open to the public, unless the Board,
9 in its discretion, determines that holding an open
10 hearing would be contrary to the public interest.

11 “(3) REPORTS TO CONGRESS.—A written report
12 shall be made part of a determination not to hold a
13 public hearing pursuant to paragraph (2) or not to
14 publish a document pursuant to paragraph (1)(A).
15 All reports prepared under this paragraph, shall be
16 available to Congress on request.

17 “(4) TRANSCRIPTS OF HEARINGS.—A tran-
18 script of public hearings shall be made available to
19 the public pursuant to section 552 of title 5, United
20 States Code.

21 “(5) DELAY OF PUBLICATION UNDER EXCEP-
22 TIONAL CIRCUMSTANCES.—If the Board makes a de-
23 termination in writing that the publication of any
24 final order pursuant to paragraph (1)(B) would seri-
25 ously threaten the safety or soundness of the Fed-

1 eral Home Loan Bank, the Board may delay the
2 publication of such order for a reasonable time.

3 “(6) DOCUMENTS FILED UNDER SEAL IN PUB-
4 LIC ENFORCEMENT HEARINGS.—The Board may file
5 any document or part thereof under seal in any ad-
6 ministrative enforcement hearing commenced by the
7 Board if disclosure thereof would be contrary to the
8 public interest. A written report shall be made part
9 of any determination to withhold any part of a docu-
10 ment from the transcript of the hearing required by
11 paragraph (2).

12 “(7) RETENTION OF DOCUMENTS.—The Board
13 shall keep and maintain a record, for a period of at
14 least 6 years, of all documents described in para-
15 graph (1) and all informal enforcement agreements
16 and other supervisory actions and supporting docu-
17 ments issued with respect to or in connection with
18 any administrative enforcement proceedings initiated
19 by the Board under this section or any other laws.

20 “(8) DISCLOSURES TO CONGRESS.—No provi-
21 sion of this subsection shall be construed to author-
22 ize the withholding, or to prohibit the disclosure, of
23 any information to the Congress or any committee
24 or subcommittee thereof.”.

1 **TITLE II—EMPLOYEE PROVISIONS**

2 **SEC. 201. FEDERAL HOUSING FINANCE BOARD EMPLOYEES.**

3 (a) **REQUIRED ASSESSMENTS AND DETERMINA-**
4 **TIONS.**—Not later than 270 days after the date of enact-
5 ment of this Act, the directors of the Federal Housing Fi-
6 nance Board shall—

7 (1) assess the functions, powers and duties of
8 the Federal Housing Finance Board, as provided for
9 in this Act;

10 (2) determine the number of employees that the
11 Federal Housing Finance Board needs to carry out
12 its functions, powers and duties.

13 (b) **PERSONNEL ACTIONS BY THE FEDERAL HOUS-**
14 **ING FINANCE BOARD.**—Not later than 1 year after the
15 enactment of this Act, the directors of the Federal Hous-
16 ing Finance Board shall have completed any personnel ac-
17 tion necessary to ensure that the Federal Housing Fi-
18 nance Board will be staffed appropriately in light of the
19 functions, powers and duties of the Federal Housing Fi-
20 nance Board.

21 **TITLE III—CONFORMING AMENDMENTS**

22 **SEC. 301. AMENDMENTS TO THE FEDERAL CREDIT UNION**
23 **ACT.**

24 Section 206(g)(7) of the Federal Credit Union Act
25 (12 U.S.C. 1786(g)(7)) is amended—

1 (a) in subparagraph (A)(vi), by striking “any
2 Federal home loan bank” and inserting “any Fed-
3 eral Home Loan Bank”; and

4 (b) in subparagraph (D)(iv), by striking “any
5 Federal home loan bank” and inserting “any Fed-
6 eral Home Loan Bank”.

7 **SEC. 302. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**
8 **ANCE ACT.**

9 (a) AMENDMENT TO SECTION 7.—Section 7(a)(2)(A)
10 of the Federal Deposit Insurance Act (12 U.S.C.
11 1817(a)(2)(A)) is amended by striking “any Federal home
12 loan bank” and inserting “any Federal Home Loan
13 Bank”.

14 (b) AMENDMENTS TO SECTION 8.—Section 8(e)(7) of
15 the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(7))
16 is amended—

17 (1) in subparagraph (A)(vi), by striking “any
18 Federal home loan bank” and inserting “any Fed-
19 eral Home Loan Bank”; and

20 (2) in subparagraph (D)(iv), by striking “any
21 Federal home loan bank” and inserting “any Fed-
22 eral Home Loan Bank”.

1 **SEC. 303. AMENDMENT TO THE HOME OWNERS' LOAN ACT.**

2 (a) AMENDMENT TO SECTION 5.—Section 5(f) of the
3 Home Owners' Loan Act (12 U.S.C. 1464(f)) is hereby
4 repealed.

5 (b) AMENDMENT TO SECTION 10.—Section
6 10(m)(3)(B) of the Home Owners' Loan Act (12 U.S.C.
7 1467a(m)(3)(B)) is amended—

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

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

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

1 **SEC. 304. AMENDMENT TO THE HOUSING AND URBAN-**
2 **RURAL RECOVERY ACT OF 1983.**

3 Section 469 of the Housing and Urban-Rural Recov-
4 ery Act of 1983 (12 U.S.C. 1701p-1) is amended by strik-
5 ing “Federal Home Loan Bank Board” and inserting
6 “Federal Housing Finance Board”.

7 **SEC. 305. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-**
8 **VACY ACT OF 1978.**

9 Section 1113 of the Right to Financial Privacy Act
10 of 1978 (12 U.S.C. 3413) is amended in subsection (o)
11 by striking “any of the Federal home loan banks” and
12 inserting “any of the Federal Home Loan Banks”.

13 **SEC. 306. AMENDMENTS TO THE THRIFT INSTITUTIONS RE-**
14 **STRUCTURING ACT.**

15 Section 341 of the Thrift Institution Restructuring
16 Act (12 U.S.C. 1701J-3) is amended—

17 “(1) in subsection (e)(1), by striking “Federal
18 Home Loan Bank Board” and inserting “Federal
19 Housing Finance Board”; and

20 “(2) in subsection (g), by striking “Federal
21 Home Loan Bank Board” and inserting “Federal
22 Housing Finance Board”.

23 **SEC. 307. AMENDMENTS TO TITLE 18, UNITED STATES**
24 **CODE.**

25 (a) AMENDMENT TO SECTION 657.—Section 657 of
26 title 18, United States Code (18 U.S.C. 657) is amended

1 by striking “Federal home loan bank” and inserting “Fed-
2 eral Home Loan Bank”.

3 (b) AMENDMENT TO SECTION 1006.—Section 1006
4 of title 18, United States Code (18 U.S.C. 1006) is
5 amended by striking “Federal home loan bank” and in-
6 serting “Federal Home Loan Bank”.

7 (c) AMENDMENT TO SECTION 1014.—Section 1014
8 of title 18, United States Code (18 U.S.C. 1014) is
9 amended by striking “Federal home loan bank” and in-
10 serting “Federal Home Loan Bank”.



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