

104TH CONGRESS
1ST SESSION

H. R. 1858

To reduce paperwork and additional regulatory burdens for depository institutions.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1995

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

A BILL

To reduce paperwork and additional regulatory burdens for depository institutions.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Financial Institutions Regulatory Relief Act of 1995”.

6 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

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- Sec. 105. Alternative disclosures for adjustable rate mortgages.
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1 **TITLE I—REDUCTIONS IN GOV-**
2 **ERNMENT OVERREGULATION**
3 **Subtitle A—The Home Mortgage**
4 **Process**

5 **SEC. 101. TRANSFER OF RESPA REGULATORY AUTHORITY;**
6 **ELIMINATION OF REDUNDANT REGULATORS.**

7 (a) **TRANSFER OF AUTHORITY.**—The Real Estate
8 Settlement Procedures Act (12 U.S.C. 2601 et seq.) is
9 amended—

10 (1) by striking “Secretary” each time it ap-
11 pears and inserting “Board”, except in sections
12 3(1)(B)(ii), 3(6) and section 14 (12 U.S.C.
13 2602(1)(B)(ii), 2602(6) and 2612, respectively); and

14 (2) in section 3 by adding at the end thereof a
15 new paragraph (9) as follows:

16 “(9) the term “Board” means the Board of
17 Governors of the Federal Reserve System.”.

18 (b) **ELIMINATION OF REDUNDANT REGULATORS.**—
19 The Real Estate Settlement Procedures Act (12 U.S.C.
20 2601 et seq.) is amended—

21 (1) in section 19 by striking subsection (a) and
22 inserting in lieu thereof the following:

23 “(a) The Board shall prescribe regulations to carry
24 out the purpose of this title. These regulations may con-
25 tain such classifications, differentiations, or other provi-

1 sions, and may provide for such adjustments and excep-
2 tions for any class of transactions, as in the judgment of
3 the Board are necessary or proper to effectuate the pur-
4 poses of this title, to prevent circumvention or evasion
5 thereof, or to facilitate compliance therewith. Such regula-
6 tions shall minimize the burdens and cost imposed upon
7 creditors and shall ensure that costs, burdens, and com-
8 plexities to consumers are reduced.”; and

9 (2) by inserting after section 19 of the Real Es-
10 tate Settlement Procedures Act (12 U.S.C. 2617)
11 the following:

12 **“SEC. 20. ADMINISTRATIVE ENFORCEMENT.**

13 “(a) Compliance with the requirements imposed
14 under this subtitle shall be enforced under—

15 “(1) section 8 of the Federal Deposit Insurance
16 Act, in the case of—

17 “(A) national banks, and Federal branches
18 and Federal agencies of foreign banks, by the
19 Office of the Comptroller of the Currency;

20 “(B) member banks of the Federal Reserve
21 System (other than national banks), branches
22 and agencies of foreign banks (other than Fed-
23 eral branches, Federal agencies, and insured
24 State branches of foreign banks), commercial
25 lending companies owned or controlled by for-

1 eign banks, and organizations operating under
2 section 25 or 25A of the Federal Reserve Act,
3 by the Board; and

4 “(C) banks insured by the Federal Deposit
5 Insurance Corporation (other than members of
6 the Federal Reserve System) and insured State
7 branches of foreign banks, by the Board of Di-
8 rectors of the Federal Deposit Insurance Cor-
9 poration;

10 “(2) section 8 of the Federal Deposit Insurance
11 Act, by the Director of the Office of Thrift Super-
12 vision, in the case of a savings association the depos-
13 its of which are insured by the Federal Deposit In-
14 surance Corporation.

15 “(3) the Federal Credit Union Act, by the Ad-
16 ministrator of the National Credit Union Adminis-
17 tration with respect to any Federal credit union.

18 “(4) The Packers and Stockyards Act of 1921
19 (except as provided in section 406 of that Act), by
20 the Secretary of Agriculture with respect to any ac-
21 tivities subject to that Act.

22 “(5) the Farm Credit Act of 1971, by the Farm
23 Credit Administration with respect to any Federal
24 land bank, Federal land bank association, Federal

1 intermediate credit bank or production credit asso-
2 ciation.

3 The terms used in paragraph (1) that are not defined in
4 this title or otherwise defined in section 3(s) of the Federal
5 Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the
6 meaning given to them in section 1(b) of the International
7 Banking Act of 1978 (12 U.S.C. 3101).

8 “(b) For the purpose of the exercise by any agency
9 referred to in subsection (a) of its powers under any Act
10 referred to in that subsection, a violation of any require-
11 ment imposed under this title shall be deemed to be a vio-
12 lation of a requirement imposed under the Act. In addition
13 to its powers under any provision of law specifically re-
14 ferred to in subsection (a), each of the agencies referred
15 to in that subsection may exercise, for the purpose of en-
16 forcing compliance with any requirement imposed under
17 this title, any other authority conferred on it by law.

18 “(c) Except to the extent that the enforcement of the
19 requirements imposed under this title is specifically com-
20 mitted to some other Government agency under subsection
21 (a), the Federal Trade Commission shall enforce such re-
22 quirements. For the purpose of the exercise by the Federal
23 Trade Commission of its functions and powers under the
24 Federal Trade Commission Act, a violation of any require-
25 ment imposed under this title shall be deemed a violation

1 of a requirement imposed under that Act. All of the func-
2 tions and powers of the Federal Trade Commission under
3 the Federal Trade Commission Act are available to the
4 Commission to enforce compliance by any person with the
5 requirements imposed under this title, irrespective of
6 whether that person is engaged in commerce or meets any
7 other jurisdictional tests in the Federal Trade Commission
8 Act.”.

9 **SEC. 102. TRUTH IN LENDING AND RESPA COMPARABILITY.**

10 (a) Section 102 of the Truth in Lending Act (15
11 U.S.C. 1601) is amended by adding a new subsection (c)
12 as follows:

13 “(c) The Congress also finds that the disclosure and
14 other requirements related in consumer credit have be-
15 come overly costly, burdensome, and complex to consum-
16 ers and to creditors. It is also the purpose of this title
17 to reduce the complexity of the disclosure requirements for
18 creditors and consumers by directing the Board to reduce
19 the complexity and difficulty of understanding, preparing
20 and providing disclosures for credit transactions. Improve-
21 ments in the disclosures and timing of disclosures should
22 serve the dual purpose of reducing compliance errors and
23 increasing the ability of consumers to understand and use
24 the information provided in the disclosures. Clarifications
25 should include the development of uniform terms to de-

1 scribe credit costs and uniform formats to arrange and
2 provide the information both under this Act and other
3 Acts affecting the consumer credit process.”.

4 (b) Section 105 of the Truth in Lending Act (15
5 U.S.C. 1604) is amended by inserting a new subsection
6 (e) as follows:

7 “(e) The Board shall by regulation eliminate, modify,
8 or simplify any disclosure required by this title, including
9 the content and timing of the disclosure, where such action
10 will make disclosures and timing of disclosures required
11 by this title uniform with other laws relating to the disclo-
12 sure of information in connection with credit transactions,
13 including the Real Estate Settlement Procedures Act. No
14 additional disclosure requirements may be added as a re-
15 sult of this subsection.”.

16 (c) Section 2 of the Real Estate Settlement Proce-
17 dures Act (12 U.S.C. 2602) is amended by adding to the
18 end of subsection (a) the following: “The Congress also
19 finds that the disclosure and other requirements related
20 to consumer credit, including mortgage transactions, have
21 become overly costly, burdensome, and complex to con-
22 sumers and to creditors and that changes to the required
23 disclosures related to such credit must be streamlined and
24 reduced in order to eliminate unnecessary cost, burdens,
25 and complexity.”.

1 (d) Section 19 of the Real Estate Procedures Act (12
2 U.S.C. 2617) (as amended by Section 101 of this Act)
3 is amended by inserting the following new subsection (b)
4 and redesignating the remaining subsections accordingly:

5 “(b) The Board shall by regulation eliminate, modify,
6 or simplify any disclosure required by this title, including
7 the content and timing of the disclosure, where such action
8 will make disclosures and timing of disclosures required
9 by this title uniform with other laws relating to the dislo-
10 sure of information in connection with credit transactions,
11 including the Truth in Lending Act. No additional dislo-
12 sure requirements may be added as a result of this sub-
13 section.”.

14 **SEC. 103. INCREASED REGULATORY FLEXIBILITY UNDER**
15 **THE TRUTH IN LENDING ACT.**

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

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

22 (b) **EXEMPTIVE AUTHORITY.**—Section 105 of the
23 Truth in Lending Act (15 U.S.C. 1604) is amended by
24 redesignating subsections (b) through (d) as (c) through
25 (e) and inserting a new subsection (b) as follows:

1 “(b) EXEMPTIVE AUTHORITY.—The Board shall ex-
2 empt from all or parts of this title any class of trans-
3 actions for which, in the Board’s judgment, coverage
4 under all or part of this title does not provide a measur-
5 able benefit to consumers in the form of useful informa-
6 tion or protection. In determining which classes of trans-
7 actions to exempt in whole or in part, the Board shall con-
8 sider, among other factors, the following:

9 “(1) The amount of the loan or closing costs
10 and whether the disclosures, right of rescission, and
11 other provisions are necessary, particularly for small
12 loans.

13 “(2) Whether the requirements of this title
14 complicate, hinder, or make more expensive the cred-
15 it process for the class of transactions.

16 “(3) The status of the borrower, including, the
17 borrowers’ related financial arrangements, the finan-
18 cial sophistication of the borrower relative to the
19 type of transaction, and the importance of the credit
20 and related supporting property to the borrower.”.

21 **SEC. 104. REDUCTIONS IN RESPA REGULATORY BURDENS;**

22 **CLARIFYING AMENDMENTS.**

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

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

3 “(1) IN GENERAL.—Each person who makes a
4 federally related mortgage loan shall disclose to each
5 person who applies for any such loan, at the time of
6 application for the loan, whether the servicing of any
7 such loan may be assigned, sold, or transferred to
8 any other person at any time while such loan is out-
9 standing.

10 “(2) SIGNATURE OF APPLICANT.—Any disclo-
11 sure of the information required under paragraph
12 (1) shall not be effective for purposes of this section
13 unless the disclosure is accompanied by a written
14 statement, in such form as the Secretary shall de-
15 velop before the expiration of the 180-day period be-
16 ginning on the date of enactment, that the applicant
17 has read and understood the disclosure and that is
18 evidenced by the signature of the applicant at the
19 place where such statement appears in the applica-
20 tion.”.

21 (b) EFFECTIVE DATE.—This subsection shall become
22 effective 180 days after the date of enactment.

23 (c) SECOND MORTGAGES.—Section 3(1)(A) of the
24 Real Estate Settlement Procedures Act (12 U.S.C.
25 2602(1)(A)), is amended by striking “or subordinate”.

1 (d) CONSISTENCY OF RESPA AND TRUTH IN LEND-
2 ING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of
3 the Real Estate Settlement Procedures Act (12 U.S.C.
4 2606) is amended—

5 (1) by inserting “(a) IN GENERAL.—” before
6 “This Act”; and

7 “(2) inserting a new subsection (b) as follows:

8 “(b) INTERPRETATION.—In issuing regulations pur-
9 suant to Section 19(a) of this Act, the Board shall ensure
10 that with regard to subsection (a), the exemption for busi-
11 ness credit includes all “business credit” exempted from
12 the Truth in Lending Act (15 U.S.C. 1601) as that term
13 has been interpreted by the Board of Governors of the
14 Federal Reserve System in Section 226.3(a) of Regulation
15 Z (12 C.F.R. 226.3(a)) as in effect on the date of enact-
16 ment.”.

17 **SEC. 105. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE**
18 **RATE MORTGAGES.**

19 (a) Section 127A(a)(2)(G) of the Truth in Lending
20 Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting
21 before the semicolon “, or a statement that the monthly
22 payment may increase or decrease significantly due to in-
23 creases in the annual percentage rate”.

1 (b) Section 128(a) of the Truth in Lending Act (15
2 U.S.C. 1638(a)) is amended by inserting at the end the
3 following new paragraph (14):

4 “(14) In any variable rate residential mortgage
5 transaction, at the creditors’ option, a statement
6 that the monthly payment may increase or decrease
7 substantially, or a historical example illustrating the
8 effects of interest rate changes implemented accord-
9 ing to the loan program.”.

10 **SEC. 106. CERTAIN CHARGES.**

11 (a) **THIRD PARTY FEES.**—Section 106(a) of the
12 Truth in Lending Act (15 U.S.C. 1605(a)) is amended
13 by adding after the second sentence the following new sen-
14 tence: “The finance charge shall not include fees and
15 amounts imposed by third parties not affiliated with the
16 creditor (including settlement agents, attorneys, and es-
17 crow and title companies) if the creditor does not expressly
18 require the imposition of the charges and does not retain
19 the charges.”.

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

24 “(3) Any tax levied on security instruments or
25 on documents evidencing indebtedness if the pay-

1 ment of such taxes is a precondition for the instru-
2 ment securing the evidence of indebtedness.”.

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

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

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

14 **SEC. 107. EXEMPTIONS FROM RESCISSION.**

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

17 (1) by striking “or” at the end of paragraph
18 (3);

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

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

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

1 “(A) is secured by a first lien, in any
2 amount; and

3 “(B) constitutes a refinancing or consoli-
4 dation of an existing extension of credit.”.

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

10 **SEC. 108. TOLERANCES; BASIS OF DISCLOSURES.**

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

14 “(f) TOLERANCE FOR ACCURACY.—In connection
15 with credit transactions not under an open end credit plan
16 that are secured by real property or a dwelling, the disclo-
17 sure of the finance charge and other disclosures affected
18 by any finance charge shall be treated as being accurate
19 for purposes of this title if the amount disclosed as the
20 finance charge does not vary from the actual finance
21 charge by more than an amount equal to one-half of the
22 numerical tolerance corresponding to, and generated by,
23 the tolerance provided by section 107(e) with respect to
24 the annual percentage rate.”.

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

13 **SEC. 109. LIMITATION ON LIABILITY.**

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

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

18 “(a) LIMITATIONS ON LIABILITY FOR DISCLOSURES
 19 RELATING TO CERTAIN FEES AND CHARGES OTHER
 20 THAN FINANCE CHARGES.—

21 “(1) IN GENERAL.—For transactions con-
 22 summed before the date of the enactment of the
 23 Financial Institutions Regulatory Relief Act of
 24 1995, a creditor or any assignee of a creditor shall
 25 have no civil, administrative, or criminal liability

1 under this title for, and a consumer shall have no
2 extended rescission rights under section 125(f) with
3 respect to, the creditor's treatment, for disclosure
4 purposes, of—

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

6 “(B) fees and amounts described in section
7 106(e) (2) and (5) and third party fees and
8 amounts described in section 106(a); and

9 “(C) delivery charges imposed by a credi-
10 tor.

11 “(2) EXCEPTIONS.—Subsection (a) shall not
12 apply to—

13 “(A) any individual action or counterclaim
14 brought under this title—

15 “(i) which was filed before October 1,
16 1994; and

17 “(ii) the pleadings in which (as filed
18 before such date) allege improper disclo-
19 sure of charges described in paragraph (1),
20 (2), or (3) of subsection (a);

21 “(B) any class action brought under this
22 title—

23 “(i) for which a class was certified be-
24 fore October 1, 1994; and

1 “(ii) the pleadings in which (as filed
2 before such date) allege improper disclo-
3 sure of charges described in paragraph (1),
4 (2), or (3) of subsection (a);

5 “(C) the named individual plaintiffs in any
6 class action brought under this title—

7 “(i) which was filed before October 1,
8 1994; and

9 “(ii) the pleadings in which (as filed
10 before such date) allege improper disclo-
11 sure of charges described in paragraph (1),
12 (2), or (3) of subsection (a); or

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

16 “(b) EXEMPTION FROM LIABILITY FOR FINANCE
17 CHARGE DISCLOSURES WITHIN TOLERANCE LIMITS.—

18 “(1) IN GENERAL.—In the case of any
19 consumer credit transaction subject to this title, in-
20 cluding a transaction consummated before the date
21 of the enactment of the Financial Institutions Regu-
22 latory Relief Act of 1995, no creditor or assignee
23 with respect to such transaction shall have any civil,
24 administrative, or criminal liability under this title
25 for, and no consumer shall have extended rescission

1 rights under section 125 by reason of, any disclosure
2 relating to the finance charge imposed with respect
3 to such transaction if the amount or percentage ac-
4 tually disclosed—

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

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

9 “(2) EXCEPTIONS.—Paragraph (1) shall not
10 apply to—

11 “(A) any individual action or counterclaim
12 brought under this title which was filed before
13 October 1, 1994;

14 “(B) any class action brought under this
15 title for which a class was certified before Octo-
16 ber 1, 1994;

17 “(C) the named individual plaintiffs in any
18 class action brought under this title which was
19 filed before October 1, 1994; or

20 “(D) any consumer credit transaction with
21 respect to which a timely notice of rescission
22 was sent to the creditor before October 1,
23 1994.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for chapter 2 of the Truth in Lending Act is amended

1 by inserting after the item relating to section 138 the fol-
2 lowing new item:

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

3 **SEC. 110. APPLICABILITY.**

4 Except as otherwise provided in section 109, the
5 amendments made by sections 106, 107, 108, 109, 110,
6 111, 112, 113 shall apply to all consumer credit trans-
7 actions consummated on or after the date of enactment
8 of this Act, except that the amendments made by sub-
9 sections (a) and (b) of section 107 shall apply to all exten-
10 sions of credit with respect to which rescission rights have
11 not been asserted as of January 1, 1995.

12 **SEC. 111. LIMITATION ON RESCISSION PERIOD.**

13 Section 125(f) of the Truth in Lending Act (15
14 U.S.C. 1635(f)) is amended by adding at the end the fol-
15 lowing sentences: “The expiration of the right of rescission
16 pursuant to this subsection shall be absolute and no
17 consumer may assert rescission, affirmatively or as a de-
18 fense, in any action in any State or Federal court after
19 the earlier of the end of the 3-year period beginning on
20 the date of the consummation of the transaction or the
21 sale of the property securing the loan or other extension
22 of credit, except as otherwise provided in the preceding
23 sentence. This subsection shall supersede any State law
24 which is inconsistent with any provision of this sub-
25 section.”.

1 **SEC. 112. CALCULATION OF ACTUAL DAMAGES.**

2 Paragraph (1) of section 130(a) of the Truth in
3 Lending Act (15 U.S.C. 1640(a)) is amended to read as
4 follows:

5 “(1) Any actual damages sustained by such
6 person as a result of the failure (to the extent the
7 person demonstrates reliance on the inaccurate dis-
8 closure which prevented the person from accepting
9 better credit terms actually available to the person
10 from another creditor) and the amount of such dam-
11 ages shall be the difference between the finance
12 charges actually paid and the finance charges that
13 would have been paid over the same period under
14 credit terms applicable with respect to credit actu-
15 ally available to the person from another creditor.”.

16 **SEC. 113. ASSIGNEE LIABILITY.**

17 (a) VIOLATIONS APPARENT ON THE FACE OF TRANS-
18 ACTION DOCUMENTS.—Section 131(a) of the Truth in
19 Lending Act (15 U.S.C. 1641(a)) is amended to read as
20 follows:

21 “(a) LIABILITY OF ASSIGNEE FOR APPARENT VIOLA-
22 TIONS.—

23 “(1) IN GENERAL.—Except as otherwise specifi-
24 cally provided in this title, any civil action against
25 a creditor for a violation of this title, and any pro-
26 ceeding under section 108 against a creditor, with

1 respect to a consumer credit transaction may be
2 maintained against any assignee of such creditor
3 only if—

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

8 “(B) the assignment to the assignee was
9 voluntary.

10 “(2) VIOLATION APPARENT ON THE FACE OF
11 THE DISCLOSURE DESCRIBED.—For the purpose of
12 this section, a violation is apparent on the face of
13 the disclosure statement if—

14 “(A) the disclosure can be determined to
15 be incomplete or inaccurate from the face of the
16 disclosure statement; or

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

19 (b) SERVICER NOT TREATED AS ASSIGNEE.—Section
20 131 of the Truth in Lending Act (15 U.S.C. 1641) is
21 amended by adding at the end the following new sub-
22 section:

23 “(d) TREATMENT OF SERVICER.—

24 “(1) IN GENERAL.—A servicer of a consumer
25 obligation arising from a consumer credit trans-

1 action shall not be treated as an assignee of such ob-
2 ligation for purposes of this section unless the
3 servicer is the owner of the obligation.

4 “(2) SERVICER NOT TREATED AS OWNER ON
5 BASIS OF ASSIGNMENT FOR ADMINISTRATIVE CON-
6 VENIENCE.—A servicer of a consumer obligation
7 arising from a consumer credit transaction shall not
8 be treated as the owner of the obligation for pur-
9 poses of this section on the basis of an assignment
10 of the obligation from the creditor or another as-
11 signee to the servicer solely for the administrative
12 convenience of the servicer in servicing the obliga-
13 tion.

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

18 **SEC. 114. RECOVERY OF FEES.**

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

21 (a) in the first sentence, by inserting “, except
22 any charge for a appraisal report or credit report”
23 after “other charge”; and

1 (b) in the second sentence, by striking “other-
2 wise” and inserting “as otherwise required under
3 this subsection”.

4 **SEC. 115. HOMEOWNERSHIP DEBT COUNSELING NOTIFICA-**
5 **TION.**

6 Section 106(c)(5) of the Housing and Urban Devel-
7 opment Act of 1968 (12 U.S.C. 1701x(c)(5)) is repealed.

8 **SEC. 116. HOME MORTGAGE DISCLOSURE ACT.**

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

11 (1) in the second sentence, by striking
12 “\$10,000,000” and inserting “\$50,000,000”; and,

13 (2) by inserting at the end the following new
14 sentence: “The Board may also, by regulation, ex-
15 empt from the provisions of this Act institutions
16 specified in section 303(2)(A) which have total as-
17 sets as of their last full fiscal year of \$50,000,000
18 or greater where the burden of complying with this
19 Act on such institutions outweighs the usefulness of
20 the information required to be disclosed. The exemp-
21 tions provided under this section shall not be appli-
22 cable to an institution which the Board, by order,
23 has found a reasonable basis to believe is not fulfill-
24 ing its obligations to serve the housing needs of the
25 communities and neighborhoods in which it located.

1 An institution subject to such an order shall be re-
2 quired to comply with the requirements of this Act
3 for loans made after the time that the order is is-
4 sued at such time and for such period as the Board
5 deems appropriate. The dollar amount in this section
6 shall be adjusted annually after December 31, 1994,
7 by the annual percentage increase in the Consumer
8 Price Index for Urban Wage Earners and Clerical
9 Workers published by the Bureau of Labor Statis-
10 tics.”.

11 (b) Section 304 of the Home Mortgage Disclosure
12 Act of 1975 (12 U.S.C. 2803) is amended by adding the
13 following new subsection (m) at the end as follows:

14 “(m) OPPORTUNITY TO REDUCE COMPLIANCE BUR-
15 DEN.—

16 “(1) A depository institution will have satisfied
17 the public availability requirements of subsection (a)
18 if such institution keeps the information required
19 under that subsection at its home office and provides
20 notice at the branch locations specified in such sub-
21 section that such information is available upon re-
22 quest from the home office of the institution. A
23 home office of the depository institution receiving a
24 request for such information pursuant to this sub-
25 section shall provide the information pertinent to the

1 location of the branch in question within 15 days of
2 the receipt of the written request.

3 “(2) In complying with paragraph (1), a deposi-
4 tory institution may provide the individual request-
5 ing such information, at the institution’s choice,
6 with—

7 “(A) a paper copy of the information re-
8 quested; or

9 “(B) if acceptable to the individual, the in-
10 formation via a form of electronic medium, such
11 as computer disc.”.

12 **Subtitle B—Community** 13 **Reinvestment Act Amendments**

14 **SEC. 121. EXPRESSION OF CONGRESSIONAL INTENT.**

15 Subsection (b) of Section 802 of the Community Re-
16 investment Act of 1977 (12 U.S.C. 2901) is amended to
17 read as follows:

18 “(b) It is the purpose of this title to require each ap-
19 propriate Federal financial supervisory agency to use its
20 authority, when examining financial institutions, to en-
21 courage such institutions to help meet the credit needs of
22 the local communities in which they are chartered consist-
23 ent with the safe and sound operation of such institutions.
24 When examining financial institutions, a supervisory agen-

1 cy shall not impose additional burden, recordkeeping, or
2 reporting upon such institutions.”.

3 **SEC. 122. COMMUNITY REINVESTMENT ACT EXEMPTION.**

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

7 **“SEC. 808. EXAMINATION EXEMPTION.**

8 “A regulated financial institution shall not be subject
9 to the examination requirements of this title or any regula-
10 tions issued hereunder if—

11 “(1) the main office (and each branch of such
12 institution) is located in a town, political subdivision,
13 or other unit of general local government of a State
14 that has a population of not more than 30,000 per-
15 sons and which is not part of a metropolitan statis-
16 tical area; and

17 “(2) the institution and its parent bank holding
18 company have aggregate assets of not more than
19 \$100,000,000.

20 The dollar amount in this section shall be adjusted annu-
21 ally after December 31, 1994, by the annual percentage
22 increase in the Consumer Price Index for Urban Wage
23 Earners and Clerical Workers published by the Bureau of
24 Labor Statistics.”.

1 **SEC. 123. SELF-CERTIFICATION OF CRA COMPLIANCE.**

2 Section 804 of the Community Reinvestment Act of
3 1977 (12 U.S.C. 2903) is amended by adding at the end
4 the following new subsection (c):

5 “(c) SELF-CERTIFICATION OF CRA COMPLIANCE.—

6 “(1) CERTIFICATION.—In lieu of being evalu-
7 ated under section 806A and receiving a written
8 evaluation under section 807, a qualifying financial
9 institution may choose to self-certify to the appro-
10 priate Federal financial supervisory agency that it is
11 in compliance with the goals of this Act.

12 “(2) QUALIFYING INSTITUTION.—A financial
13 institution shall be deemed a ‘qualifying institution’
14 for purposes of this Act if it has—

15 “(A) no more than \$250 million in assets;

16 “(B) not been found to have engaged in a
17 pattern or practice of illegal discrimination
18 under the Fair Housing Act or the Equal Cred-
19 it Opportunity Act for the preceding 5-year cal-
20 endar period; and

21 “(C) a current CRA rating of ‘satisfactory’
22 or ‘outstanding’.

23 The dollar amount in this paragraph shall be ad-
24 justed annually after December 31, 1994, by the an-
25 nual percentage increase in the Consumer Price

1 Index for Urban Wage Earners and Clerical Work-
2 ers published by the Bureau of Labor Statistics.

3 “(3) PUBLIC NOTICE.—A qualifying institution
4 must maintain in every branch a public notice stat-
5 ing that the institution has self-certified that it is
6 satisfactorily helping to meet the credit needs of its
7 community, and that it maintains:

8 “(A) a public file at its main office which
9 contains a copy of its self-certification to its ap-
10 propriate regulator;

11 “(B) a map delineating its community;

12 “(C) a list of the types of credit and serv-
13 ices that it provides to its community;

14 “(D) such other information that the insti-
15 tution believes demonstrates its record of help-
16 ing to meet the credit needs of its community;
17 and

18 “(E) every public comment or letter to the
19 institution (and any response by the institution)
20 received within the previous two year-period
21 about its record of helping to meet the credit
22 needs of its community.

23 The institution shall maintain a public file at its
24 main office containing the contents described in this
25 paragraph.

1 “(4) RATING.—A qualifying institution shall be
2 deemed to have a rating of a ‘satisfactory record of
3 meeting community credit needs’ for the purposes of
4 this section and section 806A(c). Each Federal fi-
5 nancial supervisory agency shall publish in the Fed-
6 eral Register once each month a list of institutions
7 that have self-certified during the previous month.
8 Publication of the name of the institution in the
9 Federal Register as having self-certified shall con-
10 stitute disclosure of the rating of the institution to
11 the public under sections 806A and 807 of this Act.

12 “(5) REGULATORY REVIEW.—During each ex-
13 amination for safety and soundness, a qualifying in-
14 stitution’s supervisory agency shall, as part of its
15 loan review, assess whether the institution’s basis for
16 its self-certification is reasonable. If the agency de-
17 termines that the institution’s self-certification is
18 unreasonable, then the agency shall schedule an ex-
19 amination of the institution for the purpose of as-
20 sessing the institution’s record of helping to meet
21 the credit needs of its community. If that assess-
22 ment results in a less than ‘satisfactory’ rating, then
23 the agency shall revoke the institution’s self-certifi-
24 cation and substitute a written evaluation as pro-
25 vided under section 807. An institution that has had

1 its self-certification revoked shall not be permitted to
2 self-certify pursuant to this subsection for five years
3 from the year of revocation. At any time thereafter,
4 if the institution meets the requirements for self-cer-
5 tification, it may again opt to self-certify.”.

6 **SEC. 124. COMMUNITY INPUT AND CONCLUSIVE RATING.**

7 (a) CONFORMING AMENDMENT.—Section 804(a) of
8 the Community Reinvestment Act of 1977 (12 U.S.C.
9 2903) is amended by inserting “conducted in accordance
10 with section 806A,” after “financial institution,”.

11 (b) COMMUNITY INPUT AND CONCLUSIVE RATING.—
12 The Community Reinvestment Act of 1977 (12 U.S.C.
13 2901 et seq.) is amended by inserting after section 806
14 a new section 806A as follows:

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

16 “(a) PUBLICATION OF EXAM SCHEDULE AND OPPOR-
17 TUNITY FOR COMMENT.—Each appropriate Federal finan-
18 cial supervisory agency shall publish in the Federal Reg-
19 ister, thirty days prior to the beginning of a calendar quar-
20 ter, a listing of institutions scheduled for examination pur-
21 suant to this Act during that calendar quarter, and pro-
22 vide opportunity for written comments from the commu-
23 nity on the performance, under this Act, of each institu-
24 tion scheduled for examination. Such comments shall be
25 received by the appropriate Federal financial supervisory

1 agency no later than 30 days after the commencement of
2 such calendar quarter. The agency shall provide a copy
3 of such comments to the institution.

4 “(b) EVALUATION.—The appropriate Federal finan-
5 cial supervisory agency shall evaluate the institution in ac-
6 cordance with the standards set forth in section 804 of
7 this Act, and shall prepare and publish a written evalua-
8 tion of the institution as required under section 807 of
9 this Act.

10 “(c) RECONSIDERATION OF RATING.—A reconsider-
11 ation of an institution’s rating, referred to in section
12 807(b)(1)(C), may be requested within 30 days of the rat-
13 ing’s disclosure to the public. Any such request must be
14 made in writing and filed with the appropriate Federal
15 financial supervisory agency, and may be filed by the insti-
16 tution or a member of the community. Any such request
17 shall be based on significant issues of a substantive nature
18 which are relevant to the delineated community of the in-
19 stitution, and in the case of a request by a member of
20 the community shall be limited to issues previously raised
21 in comments submitted pursuant to subsection (a). The
22 appropriate Federal financial supervisory agency shall
23 complete any requested reconsideration within 30 days of
24 the filing of the request.

1 “(d) CONCLUSIVE RATING.—An institution’s rating
2 becomes ‘conclusive’ on the later of—

3 “(1) 30 days after the rating is disclosed to the
4 public; or

5 “(2) the completion of any requested reconsid-
6 eration by the Federal financial supervisory agency.

7 An institution’s rating shall be the conclusive assessment
8 of its record of meeting the credit needs of its community
9 for purposes of section 804 of this Act until the institu-
10 tion’s next rating, developed pursuant to an examination,
11 becomes conclusive. Institutions which have received a
12 ‘satisfactory’ or ‘outstanding’ rating shall be deemed to
13 have satisfied section 804 of this Act. Notwithstanding
14 any other provision of law, nothing herein shall be con-
15 strued to grant a cause of action to any person.”.

16 **SEC. 125. SPECIAL PURPOSE BANKS.**

17 The Community Reinvestment Act of 1977 (12
18 U.S.C. 2901 et seq.) is amended—

19 (1) in section 803 (12 U.S.C. 2902), by insert-
20 ing at the end thereof the following new paragraph
21 (5):

22 “(5) the term ‘special purpose banks’ means a
23 bank that does not generally accept retail deposits,
24 such as credit card banks and trust banks.”; and

1 (2) in section 804 (12 U.S.C. 2903), by insert-
2 ing after subsection (c) (as added by section 122 of
3 this title):

4 “(d) In conducting assessments pursuant to this sec-
5 tion as special purpose banks, each appropriate Federal
6 financial supervisory agency shall take into consideration
7 the nature of business such banks are involved in and de-
8 velop standards under which such banks may be deemed
9 to have complied with the requirements of this Act which
10 are consistent with the specific nature for such busi-
11 nesses.”.

12 **SEC. 126. INCREASED INCENTIVES TO LENDING TO LOW-**
13 **AND MODERATE-INCOME COMMUNITIES.**

14 Section 804(a) of the Community Reinvestment Act
15 of 1977 (12 U.S.C. 2903(a)) is amended—

16 (1) in paragraph (1), by striking “; and” at the
17 end and inserting;

18 (2) in paragraph (2), by striking the period and
19 inserting “; and”; and

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

22 “(3) provide the institution with credit, for pur-
23 poses of satisfying the requirements of this Act, for
24 investments in, and loans to—

1 “(A) minority depository institutions and
2 women’s depository institutions (as defined in
3 section 808(b)); and

4 “(B) joint ventures or other entities or
5 projects which provide benefits to distressed
6 communities, as such term is defined by the ap-
7 propriate Federal financial supervisory agency.
8 whether those minority or women’s depository insti-
9 tutions, or those communities, are located within or
10 outside of the service area of the regulated financial
11 institution.”.

12 **SEC. 127. PROHIBITION ON ADDITIONAL REPORTING**
13 **UNDER CRA.**

14 Section 806 of the Community Reinvestment Act of
15 1977 (12 U.S.C. 2905) is amended to read as follows:

16 **“SEC. 806. REGULATIONS.**

17 “Regulations to carry out the purposes of this title
18 shall be published by each appropriate Federal financial
19 supervisory agency. Such regulations and any policy state-
20 ments, commentary, examiner guidance, or other super-
21 visory material shall not impose any additional record-
22 keeping on a financial institution. No loan data may be
23 required to be collected and reported by a financial institu-
24 tion and no such data may be made public by any Federal
25 financial supervisory agency under this title.”.

1 **SEC. 128. TECHNICAL AMENDMENT.**

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

7 **SEC. 129. DUPLICATIVE REPORTING.**

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

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

15 **Subtitle C—Consumer Banking**
16 **Reforms**

17 **SEC. 131. TRUTH IN SAVINGS.**

18 (a) Section 262 of the Truth in Savings Act (12
19 U.S.C. 4301) is amended to read as follows:

20 **“SEC. 262. PURPOSE.**

21 “It is the purpose of this Act to ensure that consum-
22 ers can make a meaningful comparison between the com-
23 peting claims of depository institutions with regard to de-
24 posit accounts by requiring that institutions offering inter-
25 est-bearing accounts pay interest on the full amount of

1 principal each day in a consumer deposit account at the
2 rate agreed to be paid by the institution.”.

3 (b) Section 263 is amended to read as follows:

4 **“SEC. 263. PROHIBITION ON MISLEADING OR INACCURATE**
5 **ADVERTISEMENTS AND DISCLOSURES.**

6 “No depository institution or deposit broker shall
7 make any advertisement, announcement, solicitation or
8 disclosure relating to a deposit account that is inaccurate
9 or misleading or that misrepresents its deposit contracts.”.

10 (c) Sections 264, 265, and 266 of the Truth in Sav-
11 ings Act (12 U.S.C. 4302, 4303, 4304, and 4305, respec-
12 tively) are hereby repealed.

13 (d) Section 267 of the Truth in Savings Act (12
14 U.S.C. 4306) is redesignated as Sec. 263.

15 (e) Section 268 of the Truth in Savings Act (12
16 U.S.C. 4307) is hereby repealed.

17 (f) Section 269 of the Truth in Savings Act (12
18 U.S.C. 4308) is redesignated as Sec. 264 and is amended
19 to read as follows:

20 **“SEC. 264. REGULATIONS.**

21 “(a) IN GENERAL.—The Board, after consultation
22 with each agency referred to in section 265(a) and public
23 notice and opportunity for comment, shall prescribe regu-
24 lations to carry out the purpose and provisions of this title.

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

5 (f) Section 270 of the Truth in Savings Act (12
6 U.S.C. 4309) is redesignated as Sec. 265.

7 (g) Sections 271 and 273 of the Truth in Savings
8 Act (12 U.S.C. 4310 and 4312) are hereby repealed.

9 (h) Section 272 of the Truth in Savings Act (12
10 U.S.C. 4311) is redesignated as Sec. 266.

11 (i) Section 274 of the Truth in Savings Act (12
12 U.S.C. 4313) is redesignated as Sec. 267 and is amended
13 to read as follows:

14 **“SEC. 267. DEFINITIONS.**

15 “For the purposes of this chapter—

16 “(1) ACCOUNTS.—The term ‘account’ means
17 any account intended for use by and generally used
18 by a consumer primarily for personal, family, or
19 household purposes that is offered by a depository
20 institution into which a customer deposits funds, in-
21 cluding demand deposits, time accounts, negotiable
22 order of withdrawal accounts, and share draft ac-
23 counts.

24 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
25 pository institution’ has the meaning given such

1 term in clauses (i) through (vi) of section
2 19(b)(1)(A) of the Federal Reserve Act.

3 “(3) INTEREST.—The term ‘interest’ includes
4 dividends paid with respect to share draft accounts
5 which are accounts within the meaning of paragraph
6 (1).

7 “(4) BOARD.—The term ‘Board’ means the
8 Board of Governors of the Federal Reserve Sys-
9 tem.”.

10 **SEC. 132. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.**

11 (a) Section 909(a)(1) of the Electronic Fund Trans-
12 fer Act (15 U.S.C. 1693g(a)(1)) is amended by inserting
13 “(or in cases where the cardholder has substantially con-
14 tributed to the unauthorized use, including writing on or
15 keeping with the card or other means of access a personal
16 identification or other security code, \$500)” after “\$50”.

17 (b) Section 909 of the Electronic Fund Transfer Act
18 (15 U.S.C. 1693g) is amended by adding at the end the
19 following new subsections—

20 “(f) Notwithstanding any provision of subsection (a)
21 or subsection (b)—

22 “(1) a financial institution may request that a
23 consumer who alleges an unauthorized electronic
24 fund transfer involving the consumer’s account pro-
25 vide reasonable cooperation in connection with the

1 financial institution’s investigation of the alleged un-
2 authorized electronic fund transfer; and

3 “(2) the consumer shall remain liable for the
4 amount of the alleged unauthorized electronic fund
5 transfer if the consumer fails or refuses to provide
6 such cooperation, unless the financial institution oth-
7 erwise has information which confirms that the elec-
8 tronic fund transfer was unauthorized.

9 “(g) Notwithstanding any provision of subsection (a)
10 or subsection (b), a consumer who authorizes a person to
11 use the consumer’s access device may be held liable by
12 the financial institution for all electronic fund transfers
13 made by such person using such access device prior to the
14 consumer revoking the authorization and notifying the fi-
15 nancial institution of the revocation in accordance with
16 procedures reasonably established by the financial institu-
17 tion for such a revocation of authority, as more specifically
18 provided by the Board in regulations prescribed under this
19 title.”.

20 **SEC. 133. LIABILITY FOR UNAUTHORIZED USE OF CREDIT**
21 **CARDS.**

22 Section 133(a) of the Truth in Lending Act (15
23 U.S.C. 1643(a)) is amended—

24 (1) by redesignating paragraph (2) as para-
25 graph (3);

1 (2) by inserting after paragraph (1) the follow-
2 ing:

3 “(2)(A) Notwithstanding paragraph (1), a card-
4 holder shall be liable for the unauthorized use of a
5 credit card if—

6 “(i) the liability is in excess of \$50; and

7 “(ii) the cardholder fails to notify the card
8 issuer of any unauthorized transaction which
9 appears on the statement of the cardholder’s
10 account in connection with an extension of
11 consumer credit within 60 days of the trans-
12 mission of such statement.

13 “(B) The liability described in subparagraph
14 (A) shall not apply if the cardholder demonstrates
15 that the failure to timely notify the card issuer of
16 the unauthorized use was due to extenuating cir-
17 cumstances such as extended travel or hospitaliza-
18 tion, and notice was provided at the earliest possible
19 time thereafter.

20 “(C) The liability described in subparagraph
21 (A) shall only apply where the card issuer has pro-
22 vided prior notice to the cardholder of such liabil-
23 ity.”;

24 and inserting after paragraph (3) (as so redesign-
25 ated by paragraph (1) of this section):

1 “(4) Notwithstanding any other provision of
2 this subsection or subsection (b)—

3 “(A) a card issuer may request that a
4 cardholder who alleges unauthorized use of his
5 or her credit card provide reasonable coopera-
6 tion in connection with the card issuer’s inves-
7 tigation of the alleged unauthorized use; and

8 “(B) the cardholder shall remain liable for
9 the amount of the alleged unauthorized use if
10 the cardholder fails or refuses to provide such
11 cooperation, unless the card issuer otherwise
12 has information which clearly establishes the
13 unauthorized use.

14 “(5) Notwithstanding any other provision of
15 this subsection or subsection (b), a cardholder who
16 authorizes a person to use the cardholder’s credit
17 card may be held liable by the card issuer for all ex-
18 tensions of credit which are obtained by such person
19 using such credit card prior to the cardholder revok-
20 ing the authorization and notifying the card issuer
21 of the revocation in accordance with procedures rea-
22 sonably established by the card issuer for such a rev-
23 ocation of authority, as more specifically provided by
24 the Board in regulations prescribed under this
25 title.”.

1 **SEC. 134. INFORMATION SHARING.**

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

5 “(s) CUSTOMER ACCESS TO PRODUCTS.—

6 “(1) IN GENERAL.—Notwithstanding any other
7 provision of law, any depository institution or any
8 affiliate or subsidiary thereof may share or exchange
9 information or otherwise transfer information be-
10 tween or among themselves without any restriction
11 or limitation if it is clearly and conspicuously dis-
12 closed that the information may be communicated
13 among such persons and the consumer is given the
14 opportunity, prior to the time that the information
15 is initially communicated, to direct that such infor-
16 mation not be communicated among such persons.

17 “(2) DEFINITION.—For purposes of this sub-
18 section, ‘information’ means any and all data,
19 records, or other information and material obtained
20 or maintained by any depository institution or any
21 affiliate or subsidiary thereof in the ordinary course
22 of its business that relates in any way to a person
23 (as that term is defined in 15 U.S.C. 1681a(b)) who
24 applies for, maintains or has maintained an account
25 or credit relationship with or applied for, purchased
26 or obtained other products or services from any de-

1 a person to pay for transactions through use of that stored
2 value”.

3 **Subtitle D—Equal Credit**
4 **Opportunity Act Amendments**

5 **SEC. 141. SHORT TITLE.**

6 This subtitle may be cited as the Equal Credit Oppor-
7 tunity Act Amendments of 1995.

8 **SEC. 142. FINDINGS AND PURPOSE.**

9 (a) The Congress finds that both the Equal Credit
10 Opportunity Act (15 U.S.C. 1691, et seq.) and the Fair
11 Credit Reporting Act (15 U.S.C. 1681, et seq.) contain
12 requirements that applicants for consumer credit be given
13 certain information in the event that adverse action is
14 taken on the application. These requirements differ in
15 both scope and content and for that reason are confusing
16 to both the consumer who receives the information and
17 the party required to furnish the information.

18 (b) It is the purpose of this Act to combine and sim-
19 plify the adverse action notification requirements of the
20 Equal Credit Opportunity Act and the Fair Credit Report-
21 ing Act regarding applications for consumer credit and to
22 make the information that is required to be furnished
23 more understandable.

1 **SEC. 143. EQUAL CREDIT OPPORTUNITY ACT AMEND-**
2 **MENTS.**

3 (a) Section 701(d)(2)(B) of the Equal Credit Oppor-
4 tunity Act (15 U.S.C. 1691(d)(2)(B)) is amended to read
5 as follows:

6 “(B) Giving written notification of adverse
7 action which discloses—

8 “(i) the applicant’s right to a state-
9 ment of reasons within thirty days after
10 receipt by the creditor of a request made
11 within sixty days after such notification;

12 “(ii) if credit is denied or the charge
13 for such credit is increased either wholly or
14 partly because of information contained in
15 a consumer report from a consumer re-
16 porting agency, that fact and the name
17 and address of the consumer reporting
18 agency making the report;

19 “(iii) if credit is denied or the charge
20 therefor is increased either wholly or partly
21 because of information obtained from a
22 person other than a consumer reporting
23 agency bearing upon the consumer’s credit
24 worthiness, credit standing, credit capacity,
25 character, general reputation, personal
26 characteristics or mode of living, that fact

1 and the right to receive disclosure of the
2 nature of the information so received upon
3 receipt of the consumer's written request
4 therefor within sixty days after learning of
5 such adverse action; and

6 “(iv) the identity of the person or of-
7 fice from which such notification may be
8 obtained.

9 Such statement of reasons may be given orally
10 if the written notification advises the applicant
11 of his right to have the statement of reasons
12 confirmed in writing on written request.”.

13 (b) Paragraph 701(d)(3) of the Equal Credit Oppor-
14 tunity Act (15 U.S.C. 1691(d)(3)) is amended by striking
15 the period at the end and adding the following: “and, to
16 the extent applicable, the name and address of the
17 consumer reporting agency identified in accordance with
18 the requirements of subsection (d)(3)(ii) and a statement
19 of the right to obtain disclosure of the nature of the infor-
20 mation upon which adverse action was taken as required
21 by subsection (d)(3)(iii).”.

22 (c) Section 706 of the Equal Credit Opportunity Act
23 (15 U.S.C. 1691e) is amended by adding at the end the
24 following new subsection:

1 “(e) No person shall be held liable for any violation
2 of subsection 701(d) hereof if he shows by a preponder-
3 ance of the evidence that at the time of the alleged viola-
4 tion he maintained reasonable procedures to assure com-
5 pliance with the provisions of the subsection.”.

6 **SEC. 144. FAIR CREDIT REPORTING ACT AMENDMENTS.**

7 (a) Section 615(a) of the Fair Credit Reporting Act
8 (15 U.S.C. 1681m(a)) is amended by striking “credit or”
9 each time such term appears.

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

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

17 **SEC. 145. INCENTIVES FOR SELF-TESTING.**

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

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

23 **“SEC. 704A. SELF-TESTING ENHANCEMENT.**

24 “Whenever a creditor conducts, or authorizes an
25 independent third party to conduct, a test or review of

1 the creditor’s lending or any part of its lending operations
2 in order to determine the level or effectiveness of compli-
3 ance with this Act by the creditor, then any report or re-
4 sults of such a test or review may not be reviewed, ob-
5 tained, examined or otherwise acquired or used by any ap-
6 plicant in any proceeding or civil action brought under this
7 Act.”;

8 (2) in section 706(g), by inserting the following
9 new language after the 2d sentence: “No agency
10 shall refer a matter to the Attorney General if the
11 creditor has already identified the matter as a pos-
12 sible violation of the Equal Credit Opportunity Act
13 as the result of internal review, self-testing, compli-
14 ance review or other audit or review procedure insti-
15 tuted by the creditor to determine compliance with
16 the Act. No provision of this section shall be con-
17 strued as limiting the authority of the agency to en-
18 force the provisions of this Act under any other pro-
19 vision of law.”; and

20 (3) in section 706(k), by adding at the end the
21 following: “No agency referred to in paragraph (1),
22 (2), or (3) of section 704(a) shall notify the Sec-
23 retary of Housing and Urban Development or the
24 applicant of a violation of the Equal Credit Oppor-
25 tunity Act or of the Fair Housing Act if the creditor

1 has already identified the matter as a possible viola-
2 tion of either of those Acts as a result of internal
3 review, self-testing, compliance review or other audit
4 or review procedure instituted by the creditor to de-
5 termine compliance with the Act. No provisions of
6 this section shall be construed as limiting the au-
7 thority of the agency to enforce the provisions of this
8 Act under any other provision of law.”.

9 (b) FAIR HOUSING.—The Fair Housing Act (42
10 U.S.C. 3601 et seq.) is amended by adding the following:

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

12 “Whenever any person conducts, or authorizes an
13 independent third party to conduct, a test or review of
14 that person’s residential real estate or real estate-related
15 activities or any part thereof in order to determine the
16 level or effectiveness of compliance with this Act by the
17 person, then any report or results of such a test or review
18 may not be reviewed, obtained, examined or otherwise ac-
19 quired or used by the applicant, aggrieved party, or com-
20 plainant in any proceeding or civil action brought under
21 this Act.”.

22 **SEC. 146. CREDIT SCORING SYSTEMS.**

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

1 “(f) A creditor shall be deemed to be in compliance
2 with subsection (a) with respect to any credit decision
3 made by the creditor which is based solely on the use of
4 an empirically derived, demonstrably and statistically
5 sound, credit scoring system, as defined by the Board in
6 regulations prescribed under this title, if such system does
7 not utilize any category protected under subsection (a) or
8 use as a factor in such system any criterion which is so
9 directly associated with such a category as to be the func-
10 tional equivalent of such a category. Nothing in this sub-
11 section shall preclude a creditor from using age as a factor
12 in such a system as otherwise permitted under this title.”.

13 **SEC. 147. EFFECTIVE DATE.**

14 This Act shall take effect 270 days after enactment.
15 The Board of Governors of the Federal Reserve System
16 shall promulgate regulations to implement this Act at least
17 90 days before its effective date.

18 **Subtitle E—Consumer Leasing Act**
19 **Amendments**

20 **SEC. 151. SHORT TITLE.**

21 This subtitle may be cited as the Consumer Leasing
22 Act Amendments of 1995.

1 **SEC. 152. CONGRESSIONAL FINDINGS AND DECLARATION**
2 **OF PURPOSE.**

3 (a) The Congress finds that competition among the
4 various financial institutions and other firms engaged in
5 the business of consumer leasing is greatest when there
6 is informed use of leasing. The informed use of leasing
7 results from an awareness of the cost thereof by consum-
8 ers. It is the purpose of this subchapter to assure a simple,
9 meaningful disclosure of leasing terms so that the
10 consumer will be able to compare more readily the various
11 leasing terms available to him and avoid the uninformed
12 use of leasing, and to protect the consumer against inac-
13 curate and unfair leasing practices.

14 (b) The Congress also finds that there has been a
15 continued trend toward leasing automobiles and other du-
16 rable goods for consumer use as an alternative to install-
17 ment credit sales and that leasing product advances have
18 occurred such that lessors have been unable to provide
19 consistent industry-wide disclosures to fully account for
20 the competitive progress that has occurred. To provide for
21 adequate cost disclosures that reflect the marketplace
22 without impairing competition and the development of new
23 leasing products it is the purpose of this subchapter to
24 provide the Board with the regulatory authority to assure
25 a simplified, meaningful definition and disclosure of the
26 terms of certain leases of personal property for personal,

1 family, or household purposes so as to enable the lessee
2 to compare more readily the various lease terms available
3 to the lessee, enable comparison of lease terms with credit
4 terms where appropriate and to assure meaningful and ac-
5 curate disclosures of lease terms in advertisements.

6 **SEC. 153. REGULATIONS.**

7 Chapter 5 of the Consumer Credit Protection Act is
8 amended by adding at the end the following new section:

9 **“SEC. 187. REGULATIONS.**

10 “(a) IN GENERAL.—The Board shall write regula-
11 tions or staff commentary, if appropriate, to update and
12 clarify the requirements and definitions for lease disclo-
13 sures, contracts, and any other specific issues related to
14 consumer leasing which would carry out the purposes of
15 the Consumer Leasing Act, to prevent its circumvention,
16 and to facilitate compliance with its requirements. The
17 regulations may contain classifications and differentia-
18 tions and may provide for adjustments and exceptions for
19 any class of transaction.

20 “(b) MODEL DISCLOSURES.—The Board shall pub-
21 lish model disclosure forms and clauses to facilitate com-
22 pliance with the disclosure requirements and to aid the
23 consumer in understanding the transaction. In designing
24 forms, the Board shall consider the use by lessors of data
25 processing or similar automated equipment. Use of the

1 models shall be optional. A lessor who properly uses the
2 material aspects of the models shall be deemed to be in
3 compliance with the disclosure requirements.

4 “(c) EFFECTIVE DATES.—Any regulation of the
5 Board, or any amendment or interpretation thereof, that
6 requires a disclosure different from the disclosures pre-
7 viously required shall have an effective date of October 1
8 that follows the date of promulgation by at least six
9 months. The Board may at its discretion lengthen that
10 period of time to permit lessors to adjust their forms to
11 accommodate new requirements. The Board may also
12 shorten that period of time if it makes a specific finding
13 that such action is necessary to comply with the findings
14 of a court or to prevent unfair or deceptive practices. In
15 any case, lessors may comply with any newly promulgated
16 disclosure requirement prior to its effective date.”.

17 **SEC. 154. SEGREGATED LEASING DISCLOSURES.**

18 Section 182 of the Consumer Credit Protection Act
19 as amended (15 U.S.C. 1667(a)) is amended—

20 (a) by inserting “(a)” before “Each lessor” in
21 the first sentence; and,

22 (b) by adding at the end the following new sub-
23 section:

24 “(b) Prior to or at the time the consumer receives
25 the disclosure required under section 182(a), the lessor

1 shall separately disclose, to the extent applicable, each of
2 the following items in a tabular format in a manner to
3 be prescribed by the Board:

4 “(1) Total amount of funds due at lease incep-
5 tion. This amount shall include any security deposit,
6 whether or not it is refundable and any other fees
7 required to be paid to the lessor at lease inception
8 by the consumer.

9 “(2) Total monthly payment due to the Lessor.
10 This amount does not include any taxes payable by
11 the lessee to any governmental entity.

12 “(3) Number of Payments.

13 “(4) Total of Monthly Payments.

14 “(5) Capitalized Cost.

15 “(6) Residual Value.

16 “(7) Whether or not the Lessee has the right
17 to purchase the Vehicle during or at the end of the
18 Lease.

19 “(8) Excess Mileage Charge: The amount that
20 the Lessee, at scheduled termination, must pay for
21 each mile in excess of a pre-determined number of
22 miles.

23 “(9) Early Termination: In the even of early
24 termination of the lease by the lessee, the disclosure
25 of the payment allocation method by name alone

1 which would facilitate comparison shopping by con-
2 sumers.

3 In prescribing regulations to carry out this clause, the
4 Board shall define and name not more than the five early
5 termination liability calculation methods determined by
6 the Board to be the most commonly used methods.”.

7 **SEC. 155. CONSUMER LEASE ADVERTISING.**

8 Section 184 of the Consumer Credit Protection Act
9 (15 U.S.C. 1667(c)) is amended to read as follows:

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

11 “(a) If an advertisement for a consumer lease states
12 the amount of any payment or states that any or no initial
13 payment is required, the advertisement must also clearly
14 and conspicuously state the following terms, as applicable:

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

16 “(2) The total of initial payments required at
17 or before consummation of the lease or delivery of
18 the property, whichever is later.

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

20 “(4) The number, amounts, and timing of
21 scheduled payments.

22 “(5) For a lease in which the consumer’s liabil-
23 ity at the end of the lease term is based on the an-
24 ticipated residual value of the property, that an

1 extra charge may be imposed at the end of the lease
2 term.

3 “(b) Any owner or personnel of any medium in which
4 an advertisement appears or through which it is dissemi-
5 nated shall not be liable under this section.”.

6 **Subtitle F—Federal Home Loan**
7 **Bank Amendments**

8 **SEC. 161. APPLICATION FOR MEMBERSHIP IN THE FHLB**
9 **SYSTEM.**

10 Section 4(b) of the Federal Home Loan Bank Act
11 (12 U.S.C. 1424) is amended to read as follows:

12 “(b) MEMBERSHIP BASED ON CONVENIENCY.—An
13 institution eligible to become a member under this section
14 may become a member by submitting its application for
15 membership to the Bank in the district where the appli-
16 cant’s principal place of business is located. An application
17 for membership shall be approved by the Bank if, in the
18 judgment of the Bank, the applicant meets the criteria
19 for eligibility contained in this section. An institution eligi-
20 ble to become a member under this section may apply for
21 membership in an adjoining district, if appropriate for the
22 convenience of the institution and then only with the ap-
23 proval of the Board.”.

1 **SEC. 162. FEDERAL HOME LOAN BANK EXTERNAL**
2 **AUDITORS.**

3 Section 11(j) of the Federal Home Loan Bank Act
4 (12 U.S.C. 1431(j)) is amended to read as follows:

5 “(j) AUDITS.—

6 “(1) Notwithstanding the provisions of section
7 9105(a)(1)(B) of title 31, United States Code, au-
8 dits by the General Accounting Office of the finan-
9 cial transactions of a Federal home loan bank shall
10 not be limited to periods during which Government
11 capital has been invested therein. The provisions of
12 section 9107(e)(2) and 9108(d)(1) of title 31, of
13 such Code, shall not apply to any Federal home loan
14 bank.

15 “(2) Notwithstanding any other provision of
16 law, the Board shall not participate in the hiring of
17 an external auditor by the banks; except, that the
18 Board may establish requirements for external audit
19 contracts and accounting standards and, that all 12
20 banks shall contract for an annual audit with a sin-
21 gle provider.”.

1 **TITLE II—STREAMLINING**
2 **GOVERNMENT REGULATIONS**
3 **Subtitle A—Regulatory Approval**
4 **Issues**

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

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

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

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

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

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

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

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

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

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

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

17 “(B) MANAGERIAL CRITERIA.—

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

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

3 “(I) IN GENERAL.—No insured
4 depository institution controlled by
5 the acquiring bank holding company
6 has received one of the lowest 2 com-
7 posite ratings at the later of the insti-
8 tution’s most recent examination or
9 subsequent review.

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

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

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

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

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

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

23 “(D) SIZE OF ACQUISITION.—

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

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

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

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

15 “(5) NOTIFICATION.—

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

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

3 “(B) ACTIVITIES PERMITTED BY ORDER
4 AND ACQUISITIONS.—At least 12 business days
5 prior to commencing any activity pursuant to
6 paragraph (3) other than an activity described
7 in subparagraph (A) or acquiring shares or as-
8 sets of any company pursuant to paragraph (3),
9 the bank holding company must provide the
10 Board written notification of the proposal, un-
11 less the Board determines that no notice or a
12 shorter notice period is appropriate. A notifica-
13 tion under this subparagraph must include a
14 description of the proposed activities and the
15 terms of any proposed acquisition.

16 “(6) ADJUSTMENT OF AMOUNTS.—The Board
17 may by regulation adjust the amounts and the man-
18 ner in which the percentage of insured depository in-
19 stitutions is calculated under paragraph (4)(B)(i),
20 paragraph (4)(B)(ii)(II)(bb), and paragraph (4)(D)
21 if the Board determines that any such adjustment is
22 consistent with safety and soundness and the pur-
23 poses of this Act.”

1 (b) DEFINITIONS.—Section 2(o)(1) of the Bank
2 Holding Company Act (12 U.S.C. 1841) is amended by
3 adding at the end the following new paragraphs:

4 “(1) CAPITAL TERMS.—

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

11 “(B) BANK HOLDING COMPANY.—

12 “(i) ADEQUATELY CAPITALIZED.—
13 The term ‘adequately capitalized’ means a
14 level of capitalization which meets or ex-
15 ceeds all applicable Federal regulatory cap-
16 ital standards;

17 “(ii) WELL CAPITALIZED.—A bank
18 holding company is ‘well capitalized’ if it
19 meets the required capital levels for well
20 capitalized bank holding companies estab-
21 lished by the Board.

22 “(C) OTHER CAPITAL TERMS.—The term
23 ‘Tier 1’ and ‘risk-weighted assets’ have the
24 meaning given those terms in the capital guide-

1 lines or regulations established by the Board for
2 bank holding companies.

3 “(p) LEAD INSURED DEPOSITORY INSTITUTION.—

4 The term ‘lead insured depository institution’ means the
5 largest insured depository institution controlled by the
6 bank holding company at any time, based on a comparison
7 of the average total risk-weighted assets controlled by each
8 insured depository institution during the previous 12
9 month period. For purposes of this subsection and section
10 4(j)(4), the term ‘insured depository institution’ shall also
11 include any branch or agency operated in the United
12 States by a foreign bank.

13 “(q) WELL MANAGED.—A company or depository in-
14 stitution is ‘well managed’ if, at its most recent examina-
15 tion or subsequent review, the company or institution re-
16 ceived—

17 “(1) one of the highest 2 composite ratings;
18 and

19 “(2) at least a satisfactory rating for manage-
20 ment, if such rating is given.”.

21 **SEC. 202. STREAMLINED BANK ACQUISITIONS BY WELL**
22 **CAPITALIZED AND WELL MANAGED BANKING**
23 **ORGANIZATIONS.**

24 (a) BANK HOLDING COMPANY ACT AMENDMENTS.—

25 Section 3 of the Bank Holding Company Act (12 U.S.C.

1 1842) is amended by adding at the end the following new
2 subsection:

3 “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-
4 ACTIONS.—Notwithstanding subsections (a)(3) or (a)(5),
5 an acquisition of shares by a registered bank holding com-
6 pany, or a merger or consolidation between registered
7 bank holding companies, shall be deemed approved at the
8 conclusion of the period specified in paragraph (7) if—

9 “(1) FINANCIAL AND MANAGERIAL CRITERIA.—

10 “(A) WELL CAPITALIZED BANK HOLDING
11 COMPANY.—Both at the time of and imme-
12 diately after the proposed transaction, the ac-
13 quiring bank holding company is well capital-
14 ized.

15 “(B) WELL CAPITALIZED LEAD INSURED
16 DEPOSITORY INSTITUTION.—Both at the time
17 of and immediately after the proposed trans-
18 action, the lead insured depository institution of
19 the acquiring bank holding company is well cap-
20 italized.

21 “(C) CAPITAL OF OTHER INSURED DEPOSI-
22 TORY INSTITUTIONS.—At the time of the trans-
23 action, well capitalized insured depository insti-
24 tutions control at least 80 percent of the aggre-
25 gate total risk-weighted assets of insured depos-

1 itory institutions controlled by the acquiring
2 bank holding company.

3 “(D) NO UNDERCAPITALIZED INSURED
4 DEPOSITORY INSTITUTIONS.—At the time of the
5 transaction, no insured depository institution
6 controlled by the acquiring bank holding com-
7 pany is undercapitalized.

8 “(E) WELL MANAGED.—

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

17 “(ii) NO POORLY MANAGED INSTITU-
18 TIONS.—

19 “(I) IN GENERAL.—No insured
20 depository institution controlled by
21 the acquiring bank holding company
22 has received one of the lowest two
23 composite ratings at the later of the
24 institution’s most recent examination
25 or subsequent review.

1 “(II) RECENTLY ACQUIRED IN-
2 STITUTIONS.—Insured depository in-
3 stitutions acquired by the bank hold-
4 ing company within the previous 12
5 months may be excluded for purposes
6 of subclause (I) if—

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

16 “(bb) all such insured depos-
17 itory institutions represent, in
18 the aggregate, less than 10 per-
19 cent of the aggregate total risk-
20 weighted assets of all insured de-
21 pository institutions controlled by
22 the holding company.

23 “(iii) ADJUSTMENT OF AMOUNTS.—
24 The Board may by regulation adjust the
25 amounts and the manner in which the per-

1 centage of insured depository institutions
2 is calculated under clauses (i) and
3 (ii)(II)(bb) if the Board determines that
4 such adjustment is consistent with safety
5 and soundness and the purposes of this
6 Act.

7 “(2) NO UNSATISFACTORY CRA RATINGS.—

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

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

1 “(3) COMPETITIVE CRITERIA.—Consummation
2 of the proposal complies with guidelines established
3 by the Board by regulation, after consultation with
4 the Attorney General, that identify proposals that
5 are not likely to have a significantly adverse effect
6 on competition in any relevant market.

7 “(4) SIZE OF ACQUISITION.—

8 “(A) LIMITATIONS.—

9 “(i) ASSET SIZE.—The book value of
10 the total assets acquired does not exceed
11 10 percent of the consolidated total risk
12 weighted assets of the acquiring bank hold-
13 ing company.

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

19 “(B) ADJUSTMENT TO LIMITATIONS.—The
20 Board may by regulation adjust the limitations
21 established in this paragraph in a manner con-
22 sistent with safety and soundness and the pur-
23 poses of this Act.

1 “(5) INTERSTATE ACQUISITIONS.—Board ap-
2 proval of the transaction is not prohibited under
3 subsection (d).

4 “(6) OTHER CONSIDERATIONS.—Board ap-
5 proval of the transaction is not prohibited under
6 subsection (c)(3); and

7 “(7) NOTIFICATION.—The acquiring bank hold-
8 ing company provides the Board with written notice
9 of the transaction, including a description of the
10 terms of the transaction, at least 15 business days
11 (or such shorter period as permitted by the Board)
12 prior to consummation of the transaction, and, prior
13 to the conclusion of that period, the Board has not
14 required an application under subsection (a).”.

15 **SEC. 203. ELIMINATE BANK MERGER ACT FILING AND AP-**
16 **PROVAL REQUIREMENTS FOR INSURED DE-**
17 **POSITORY INSTITUTIONS ALREADY CON-**
18 **TROLLED BY THE SAME HOLDING COMPANY.**

19 Section 18(c) of the Federal Deposit Insurance Act
20 is amended by adding at the end the following new para-
21 graph:

22 “(12) The provisions of this subsection shall
23 not apply to any merger, consolidation, acquisition
24 of assets or assumption of liabilities involving only
25 insured depository institutions that are subsidiaries

1 of the same depository institution holding company
2 if—

3 “(A) the responsible agency would not be
4 prohibited from approving the transaction
5 under section 44;

6 “(B) the acquiring, assuming, or resulting
7 institution complies with all applicable provi-
8 sions of section 44 as if the merger, consolida-
9 tion, or acquisition were approved under this
10 subsection; and

11 “(C) the acquiring, assuming, or resulting
12 institution provides written notification of the
13 transaction to the appropriate Federal banking
14 agency for the institution at least 10 days prior
15 to consummation of the transaction.”.

16 **SEC. 204. ELIMINATE REDUNDANT APPROVAL REQUIRE-**
17 **MENT FOR OAKAR TRANSACTIONS.**

18 Section 5(d)(3) of the Federal Deposit Insurance Act
19 (12 U.S.C. 1815(d)(3)) is amended—

20 (1) in subparagraph (A), by striking “with the
21 prior written approval of the responsible agency
22 under section 18(c)(2)”;

23 (2) in subparagraph (E)—

24 (A) by striking clause (iv) and inserting
25 the following new clause:

1 “(iv) A transaction shall not be au-
2 thorized under this paragraph unless the
3 acquiring, assuming, or resulting deposi-
4 tory institution will meet all applicable cap-
5 ital requirements upon consummation of
6 the transaction.”;

7 (B) by striking clauses (i) and (ii); and

8 (C) by redesignating clauses (iii) and (iv)
9 as clauses (i) and (ii), respectively;

10 (3) by striking subparagraph (G) and redesi-
11 gnating the subsequent subparagraphs accordingly.

12 **SEC. 205. ELIMINATE DUPLICATIVE REQUIREMENTS IM-**
13 **POSED ON BANK HOLDING COMPANIES**
14 **UNDER THE HOME OWNERS’ LOAN ACT.**

15 (a) Section 10(a) of the Home Owners’ Loan Act (12
16 U.S.C. 1467a(a)) is amended by adding at the end the
17 following new paragraph:

18 “(5) EXEMPTION FOR BANK HOLDING COMPA-
19 NIES.—The provisions of this section shall not apply
20 to any company that is a bank holding company reg-
21 istered under, and subject to, the provisions of the
22 Bank Holding Company Act, or to any company di-
23 rectly or indirectly controlled by such company
24 (other than a savings association).”.

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

4 “(i) SAVINGS AND LOAN HOLDING
5 COMPANY.—Except as provided in clause
6 (ii), the term ‘savings and loan holding
7 company’ means any company which di-
8 rectly or indirectly controls a savings asso-
9 ciation or controls any other company
10 which is a savings and loan holding com-
11 pany.

12 “(ii) EXCLUSION.—The term ‘savings
13 and loan holding company’ does not in-
14 clude a bank holding company that is reg-
15 istered under, and subject to, the provi-
16 sions of the Bank Holding Company Act,
17 or any company controlled by such bank
18 holding company.”.

19 (c) Section 10(e)(1)(B) of the Home Owners' Loan
20 Act (12 U.S.C. 1467a(e)(1)(B)) is amended—

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

22 (2) by inserting before the period at the end of
23 the first sentence the following: “, or (iii) acquired
24 by a bank holding company that is registered under,
25 and subject to, the provisions of the Bank Holding

1 Company Act, or any company controlled by such
2 bank holding company”.

3 **SEC. 206. ELIMINATE REQUIREMENT THAT APPROVAL BE**
4 **OBTAINED FOR DIVESTITURES.**

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

7 (1) by striking paragraph (3);

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

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

10 (2) and inserting a period.

11 **SEC. 207. ELIMINATE UNNECESSARY BRANCH APPLICA-**
12 **TIONS.**

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

16 (1) by striking “No branch” and inserting the
17 following:

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

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

22 “(2) NO APPROVAL REQUIRED FOR CERTAIN
23 BRANCHES.—Notwithstanding this subsection, sub-
24 section (b) or subsection (c), the consent and ap-
25 proval of the Comptroller of the Currency shall not

1 be required for a national banking association to es-
2 tablish and operate, or to retain and operate, a
3 branch or seasonal agency if—

4 “(A) the association is well-capitalized, as
5 that term is defined in section 38 of the Fed-
6 eral Deposit Insurance Act and regulations pre-
7 scribed by the Comptroller of the Currency
8 under such section;

9 “(B) the association received a composite
10 CAMEL rating of ‘1’ or ‘2’ under the Uniform
11 Financial Institutions Rating System (or an
12 equivalent rating under a comparable rating
13 system) as of its most recent examination;

14 “(C) the association did not receive a
15 ‘needs to improve’ or ‘substantial noncompli-
16 ance’ composite rating at its most recent exam-
17 ination under the Community Reinvestment
18 Act; and

19 “(D) the Comptroller of the Currency is
20 authorized to grant approval under this section
21 to such association to establish and operate, or
22 to retain and operate, a branch or seasonal
23 agency at the proposed location.

24 “(3) A branch or seasonal agency established by
25 a national banking association under paragraph (2)

1 shall be deemed to have been established and oper-
2 ated pursuant to an application approved under this
3 section.”.

4 (b) STATE MEMBER BANK BRANCH APPLICA-
5 TIONS.—The third undesignated paragraph of section 9
6 of the Federal Reserve Act (12 U.S.C. 321) is amended
7 by adding at the end the following: “Notwithstanding the
8 previous two sentences, the approval of the Board shall
9 not be required for a State member bank to establish and
10 operate a branch or seasonal agency if—

11 “(A) the State member bank is well-capitalized,
12 as that term is defined in section 38 of the Federal
13 Deposit Insurance Act and regulations prescribed by
14 the Board under such section;

15 “(B) the State member bank received a com-
16 posite CAMEL rating of ‘1’ or ‘2’ under the Uni-
17 form Financial Institutions Rating System (or an
18 equivalent rating under a comparable rating sys-
19 tem);

20 “(C) the State member bank did not receive a
21 ‘needs to improve’ or ‘substantial noncompliance’
22 composite rating at its most recent examination
23 under the Community Reinvestment Act; and

24 “(D) the Board is authorized to grant approval
25 under this section to such State member bank to es-

1 tablish and operate a branch or seasonal agency at
2 the proposed location.

3 A branch or seasonal agency established by a State mem-
4 ber bank under the previous sentence shall be deemed to
5 have been established and operated pursuant to an appli-
6 cation approved under this section.”.

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

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

16 “(A) the bank is well-capitalized, as that
17 term is defined in section 38 and regulations
18 prescribed by the Corporation under such sec-
19 tion;

20 “(B) the bank received a composite
21 CAMEL rating of ‘1’ or ‘2’ under the Uniform
22 Financial Institutions Rating System (or an
23 equivalent rating under a comparable rating
24 system) as of its most recent examination;

1 “(C) the bank did not receive a ‘needs to
2 improve’ or ‘substantial noncompliance’ compos-
3 ite rating at its most recent examination under
4 the Community Reinvestment Act; and

5 “(D) the Corporation is authorized to give
6 consent under this section to such bank to es-
7 tablish and operate a domestic branch at the
8 proposed location.

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

14 **SEC. 208. ELIMINATE BRANCH APPLICATIONS/REQUIRE-**
15 **MENTS FOR ATMs AND SIMILAR FACILITIES.**

16 (1) “BRANCH” UNDER NATIONAL BANK ACT.—Sec-
17 tion 5155(j) of the Revised Statutes (12 U.S.C. 36(j)) is
18 amended by adding at the end the following: “The term
19 ‘branch’ does not include automated teller machines or re-
20 mote service units.”.

21 (2) “BRANCH” UNDER FEDERAL DEPOSIT INSUR-
22 ANCE ACT.—Section 3(o) of the Federal Deposit Insur-
23 ance Act (12 U.S.C. 1813(o)) is amended by striking
24 “lent; and the” and inserting “lent. The term ‘domestic

1 branch’ does not include automated teller machines or re-
2 mote service units. The”.

3 **SEC. 209. ELIMINATE REQUIREMENT FOR APPROVAL OF IN-**
4 **VESTMENTS IN BANK PREMISES FOR WELL**
5 **CAPITALIZED AND WELL MANAGED BANKS.**

6 Section 24A of the Federal Reserve Act (12 U.S.C.
7 371d) is amended by inserting before the period in that
8 section the following: “unless such bank received a com-
9 posite CAMEL rating of ‘1’ or ‘2’ under the Uniform Fi-
10 nancial Institutions Rating System (or an equivalent rat-
11 ing under a comparable rating system) as of its most re-
12 cent examination and, both before and immediately follow-
13 ing the investment or loan, is well capitalized (as defined
14 under section 38 of the Federal Deposit Insurance Act)”.

15 **SEC. 210. ELIMINATE UNNECESSARY FILING FOR OFFICER**
16 **AND DIRECTOR APPOINTMENTS.**

17 Section 32 of the Federal Deposit Insurance Act (12
18 U.S.C. 1831i) is amended as follows:

19 (1) in subsection (a)—

20 (A) by inserting after “30 days (or such
21 other period as determined by the agency)”;

22 (B) by striking “if the insured depository
23 institution or depository institution holding
24 company” and inserting “if”;

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

1 (D) in paragraph (3)—

2 (i) by inserting “the insured deposi-
3 tory institution or depository institution
4 holding company” before “is not in compli-
5 ance”; and

6 (ii) by striking the period and insert-
7 ing instead “; and”;

8 (E) by redesignating paragraph (3) as
9 paragraph (1); and

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

12 “(2) the agency determines, in connection with
13 its review of the plan required under section 38 or
14 otherwise, that such prior notice is appropriate.”;
15 and

16 (2) in subsection (b), by striking “30-day” and
17 inserting in its place “notice”.

18 **SEC. 211. STREAMLINING PROCESS FOR DETERMINING**
19 **NEW NONBANKING ACTIVITIES.**

20 Section 4(c)(8) of the Bank Holding Company Act
21 of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking
22 “and opportunity for hearing”.

1 **Subtitle B—Streamlining of Gov-**
2 **ernment Regulations; Mis-**
3 **cellaneous Provisions**

4 **SEC. 221. ELIMINATE THE PER-BRANCH CAPITAL REQUIRE-**
5 **MENT FOR NATIONAL BANKS AND STATE**
6 **MEMBER BANKS.**

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

9 **SEC. 222. BRANCH CLOSURES.**

10 Section 39 of the Federal Deposit Insurance Act (12
11 U.S.C. 1831p) (as added by section 228 of the Federal
12 Deposit Insurance Corporation Improvement Act of 1991)
13 is amended by adding at the end the following new sub-
14 sections:

15 “(a) DEFINITIONS.—For purposes of this section, the
16 term ‘branch’ shall not include the following:

17 “(1) Automated teller machines.

18 “(2) A branch acquired through merger, con-
19 solidation, purchase, assumption, or other method
20 that is located in a local market area currently
21 served by another branch of the acquiring institu-
22 tion.

23 “(3) A branch that is closed and reopened in
24 another location within the same local market area
25 which would continue to provide banking services to

1 substantially all of the customers currently served by
2 the branch that is closed.

3 “(4) A branch that is closed in connection
4 with—

5 “(A) an emergency acquisition under—

6 “(i) section 11(n); or

7 “(ii) subsections (f) or (k) of section
8 13; or

9 “(B) any assistance provided by the Cor-
10 poration under section 13(c).

11 “(5) Any other branch closure whose exemption
12 from the notice requirements of this section would
13 not produce a result inconsistent with the purposes
14 of this section. The appropriate Federal banking
15 agency shall, by regulation, determine the cir-
16 cumstances under which such exemptions will be
17 granted.

18 “(e) EFFECTIVE DATE.—The amendments made by
19 this section shall become effective on the date of enact-
20 ment of the Federal Deposit Insurance Corporation Im-
21 provement Act of 1991.”.

1 **SEC. 223. AMENDMENTS TO THE DEPOSITORY INSTITU-**
2 **TIONS MANAGEMENT INTERLOCKS ACT.**

3 (a) DUAL SERVICE IN SAME AREA, TOWN, OR VIL-
4 LAGE.—Section 203 of the Depository Institution Man-
5 agement Interlocks Act (12 U.S.C. 3202) is amended—

6 (1) by inserting “(a) PROHIBITIONS.—” before
7 “A management official”; and

8 (2) by adding after subsection (a) the following
9 new subsection:

10 “(b) SMALL MARKET SHARE EXEMPTION.—This sec-
11 tion shall not prohibit a management official of a deposi-
12 tory institution or depository holding company from serv-
13 ing as a management official of another depository institu-
14 tion or depository holding company not affiliated therewith
15 if the depository institutions or depository holding compa-
16 nies with which the management official serves hold, to-
17 gether with their affiliates, in the aggregate no more than
18 20 percent of the deposits in each relevant geographic
19 banking market, as defined by the Board of Governors of
20 the Federal Reserve System, where offices of the deposi-
21 tory institutions or depository holding companies or their
22 affiliates are located.”.

23 (b) DUAL SERVICE AMONG LARGER ORGANIZA-
24 TIONS.—Section 204 of the Depository Institution Man-
25 agement Interlocks Act (12 U.S.C. 3203) is amended—

1 (1) by striking “\$1,000,000,000” and inserting
2 “\$2,000,000,000”; and

3 (2) by striking “\$500,000,000” and inserting
4 “\$1,000,000,000”; and,

5 (3) by adding at the end thereof the following:
6 “The dollar amount in this section shall be adjusted
7 annually after December 31, 1994, by the annual
8 percentage increase in the Consumer Price Index for
9 Urban Wage Earners and Clerical Workers pub-
10 lished by the Bureau of Labor Statistics.”.

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

14 (1) in subsection (a), by striking “for a period
15 of, subject to the requirements of subsection (c), 20
16 years after the date of enactment of this title”;

17 (2) by inserting a period after “position” the
18 second place such term appears;

19 (3) in subsection (b), by striking the second
20 sentence; and

21 (4) by striking subsection (c).

22 (d) RULES OR REGULATIONS.—Section 209 of the
23 Depository Institution Management Interlocks Act (12
24 U.S.C. 3207) is amended—

1 (1) by striking “(a) IN GENERAL.—Rules” and
2 inserting “Rules”;

3 (2) by inserting “, including rules or regula-
4 tions which permit service by a management official
5 which would otherwise be prohibited by section 203
6 or section 204,” after “chapter”; and

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

8 **SEC. 224. CONSOLIDATION OF APPRAISAL SUBCOMMITTEE.**

9 (a) APPRAISAL SUBCOMMITTEE CONSOLIDATION.—
10 The Appraisal Subcommittee established under the Fed-
11 eral Financial Institutions Examination Council Act of
12 1978 is abolished and its functions shall be consolidated
13 into the Financial Institutions Examination Council.

14 (b) CONFORMING AMENDMENTS TO TITLE XI.—

15 (1) The Federal Financial Institutions Exam-
16 ination Council Act of 1978 is amended by striking
17 the following sections:

18 (A) Section 1102 (12 U.S.C. 3310).

19 (B) Section 1104 (12 U.S.C. 3333).

20 (C) Section 1105 (12 U.S.C. 3334).

21 (D) Section 1106 (12 U.S.C. 3335).

22 (E) Section 1108 (12 U.S.C. 3337).

23 (F) Section 1116(e) (12 U.S.C. 3345(e)).

24 (G) Section 1122(e) (12 U.S.C. 3351(e)).

1 (2) Section 1121 of the FIECA of 1978 (12
2 U.S.C. 3350) is amended—

3 (A) by striking paragraphs (2) and (8);

4 (B) by redesignating paragraphs (3)
5 through (7) as paragraphs (2) through (6), re-
6 spectively; and

7 (C) by redesignating paragraphs (9)
8 through (10) as paragraphs (7) through (8), re-
9 spectively.

10 (c) CONFORMING AMENDMENT.—Section 202(e) of
11 the National Housing Act (12 U.S.C. 1708(e)) is amended
12 by striking paragraph (2) and redesignating paragraphs
13 (3) and (4) as paragraphs (2) through (3).

14 (d) CONSOLIDATION OF FUNCTIONS TO FFIEC; RE-
15 DUCATION OF ASSESSMENTS ON APPRAISERS.—

16 (1) Section 1103 of the Financial Institutions
17 Reform, Recovery and Enforcement Act of 1989 (12
18 U.S.C. 3332) is amended—

19 (A) by striking “Appraisal Subcommittee”
20 each place it appears and inserting instead “Fi-
21 nancial Institutions Examination Council”;

22 (B) in paragraph (a)(3), by inserting be-
23 fore “maintain” the words “if the Council de-
24 termines that doing so will further the purposes
25 of this chapter,”; and

1 (C) by amending paragraph (a)(4) to read
2 as follows:

3 “(4) include in its annual report to Congress a
4 description of how it has performed the functions as-
5 signed to it under this chapter.”.

6 (2) Section 1109 of the Financial Institutions
7 Reform, Recovery and Enforcement Act of 1989 (12
8 U.S.C. 3338) is amended to read as follows:

9 **“SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED**
10 **APPRAISERS.**

11 “(a) ROSTER; COLLECTION OF FEES.—Each State
12 with an appraiser certifying and licensing agency whose
13 certifications and licenses comply with this chapter,
14 shall—

15 “(1) upon request of the Federal Financial In-
16 stitutions Examination Council, transmit to the
17 Council annually (or at any less frequent interval
18 specified by the Council) a roster listing individuals
19 who have received a State certification or license in
20 accordance with this chapter;

21 “(2) collect from such individuals who perform
22 or seek to perform appraisals in federally related
23 transactions, an annual registry fee, the amount of
24 which is to be determined by the Council but not to

1 exceed \$25 per year, to support its activities under
2 this chapter; and

3 “(3) transmit all registry fees to the Council on
4 an annual basis.

5 “(b) STATUS OF REGISTRY FEES.—Registry fees col-
6 lected and transmitted to the Council pursuant to this sec-
7 tion shall not constitute appropriated funds.”.

8 (3) Section 1116(e) of the Financial Institu-
9 tions Reform, Recovery and Enforcement Act of
10 1989 (12 U.S.C. 3345(e)) is amended by striking
11 “Appraisal Subcommittee” and “Subcommittee” and
12 inserting instead “Financial Institutions Examina-
13 tion Council”.

14 (4) Section 1118 of the Financial Institutions
15 Reform, Recovery and Enforcement of 1989 (12
16 U.S.C. 3347) is amended by striking “Appraisal
17 Subcommittee” each place it appears and inserting
18 instead “Financial Institutions Examination Coun-
19 cil”.

20 (5) Section 1119 of the Financial Institutions
21 Reform, Recovery and Enforcement Act of 1989 (12
22 U.S.C. 3348) is amended—

23 (A) by striking “Subject to the approval of
24 the Council, the Appraisal Subcommittee” and
25 inserting in its place “The Council”;

1 (B) by striking “Appraisal Subcommittee”
2 each place it appears and inserting instead “Fi-
3 nancial Institutions Examination Council”.

4 (6) Section 1120 of the Financial Institutions
5 Reform, Recovery and Enforcement Act of 1989 (12
6 U.S.C. 3349) is amended by striking “Appraisal
7 Subcommittee” and inserting instead “Financial In-
8 stitutions Examination Council”.

9 (e) REMISSION OF FUNDS TO THE TREASURY.—All
10 funds held by, and the right to collect all funds owed to,
11 the Appraisal Subcommittee on the effective date of this
12 section shall be transferred to the United States Treasury.

13 (f) REPAYMENT OF PREPAID REGISTRY FEES.—Be-
14 fore the effective date specified in subsection (g), the Ap-
15 praisal Subcommittee shall refund to the States any reg-
16 istry fees prepaid to the Subcommittee for the period after
17 December 31, 1995.

18 (g) EMPLOYEES TRANSFERRED.—

19 (1) IDENTIFYING EMPLOYEES FOR TRANS-
20 FER.—

21 (A) IN GENERAL.—The Financial Institu-
22 tions Examination Council shall identify those
23 employees of the Appraisal Subcommittee for
24 transfer to the Council needed to perform func-
25 tions transferred from the Subcommittee to the

1 Council, in a manner that the Council, in its
2 sole discretion, deems equitable.

3 (B) IDENTIFIED EMPLOYEES TRANS-
4 FERRED.—All employees of the Appraisal Sub-
5 committee identified for transfer to the Council
6 under subparagraph (A) shall be transferred to
7 the Council for employment on the date set
8 forth in subsection (h).

9 (2) PRIORITY OF THIS ACT.—If any protection
10 provided under this section conflicts with any protec-
11 tion provided to transferred employees under section
12 3503 of title 5, United States Code, the provisions
13 of this section shall control.

14 (3) RIGHTS OF TRANSFERRED EMPLOYEES.—

15 (A) COMPARABLE POSITIONS.—Each em-
16 ployee transferred to the Financial Institutions
17 Examination Council shall, on the date of
18 transfer, be appointed to a position under the
19 compensation system and performance evalua-
20 tion system of the Council that is comparable in
21 tenure and grade to that of the position the em-
22 ployee held on the enactment date of this Act.

23 (B) PAY.—

24 (i) IN GENERAL.—Except as provided
25 in clause (ii), each employee transferred to

1 the Financial Institutions Examination
2 Council under this section shall, during the
3 1-year period after the date of transfer, re-
4 ceive pay at a rate not less than the basic
5 rate of pay that the employee received at
6 the Appraisal Subcommittee during the 1-
7 year period immediately before the enact-
8 ment date of this Act.

9 (ii) EXCEPTIONS.—Clause (i) does not
10 limit the right of the Council to reduce a
11 transferred employee’s rate of basic pay—

12 (I) for cause;

13 (II) for unacceptable perform-
14 ance; or

15 (III) with the employee’s consent.

16 (iii) PROTECTION ONLY WHILE EM-
17 PLOYED.—Subparagraph (B) applies to a
18 transferred employee only while that em-
19 ployee remains employed by the Council.

20 (4) RETIREMENT BENEFITS.—

21 (A) CONTINUATION OF EXISTING RETIRE-
22 MENT PLAN.—Except as otherwise permitted by
23 law, each employee who transfers to the Finan-
24 cial Institutions Examination Council under
25 this section shall remain enrolled in the retire-

1 ment plan (and any associated thrift savings
2 plan) in which he or she was enrolled on the
3 day before the date of transfer while he or she
4 remains employed by the Council.

5 (B) EMPLOYER'S CONTRIBUTION.—The
6 Financial Institutions Examination Council
7 shall pay any employer contributions to the re-
8 tirement plan in which each transferred em-
9 ployee is subject during his or her period of
10 service at the Council, as required under that
11 plan.

12 (5) NO PRIVATE RIGHT OF ACTION.—This sec-
13 tion does not provide any employee transferred to
14 the Financial Institutions Examination Council
15 under this section with any right of action to require
16 the Council, or any officer, employee, agent, or ad-
17 ministrator thereof, to take any action under this
18 section.

19 (h) EFFECTIVE DATE.—This section shall take effect
20 90 days from enactment, except that, unless otherwise
21 provided, subsections (f) and (g) shall take effect imme-
22 diately.

1 **SEC. 225. ELIMINATE UNNECESSARY AND DUPLICATIVE**
2 **RECORDKEEPING AND REPORTING REQUIRE-**
3 **MENTS RELATING TO LOANS TO EXECUTIVE**
4 **OFFICERS AND PERMIT PARTICIPATION IN**
5 **EMPLOYEE BENEFIT PLANS.**

6 (a) AMENDMENTS TO SECTION 22(h) OF THE FED-
7 ERAL RESERVE ACT.—Section 22(h) of the Federal Re-
8 serve Act (12 U.S.C. 375b(2)) is amended—

9 (1) EMPLOYEE BENEFIT PLANS.—In paragraph
10 (2)—

11 (A) by renumbering subparagraphs (A)
12 and (C) as clauses (i) through (iii) respectively;

13 (B) by striking “(2) Preferential terms
14 prohibited” and inserting in its place:

15 “(2) PREFERENTIAL TERMS PROHIBITED.—

16 “(A) IN GENERAL; and

17 (C) by inserting at the end a new subpara-
18 graph (B) to read as follows:

19 “(B) EXCEPTION.—Nothing in this para-
20 graph shall prohibit extensions of credit made
21 pursuant to a benefit or compensation program
22 widely available to employees of the member
23 bank.”;

24 (2) EXCEPTION FOR EXTENSIONS OF CREDIT
25 TO EXECUTIVE OFFICERS AND DIRECTORS OF
26 NONBANK AFFILIATES.—In subsection (h)(8)(B) by

1 striking the phrase”, except as that subparagraph
2 makes applicable paragraph (2),”; and

3 (3) RECORDKEEPING REQUIREMENTS.—In
4 paragraph (10), by adding at the end the following:
5 “The Board shall specify by regulation the record-
6 keeping required of member banks to ensure compli-
7 ance with this section. Compliance with the record-
8 keeping requirements adopted pursuant to this para-
9 graph shall satisfy the audit requirement of section
10 36(e) of the Federal Deposit Insurance Act, to the
11 extent that its requirements are applicable to this
12 section.”.

13 (b) REPORTING REQUIREMENTS.—

14 (1) UNNECESSARY REPORTS.—Section 22(g) of
15 the Federal Reserve Act is amended by deleting
16 paragraphs (6) and (9) and in their entirety and re-
17 numbering paragraphs (7), (8), and (10) as para-
18 graphs (6), (7), and (8), respectively.

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

22 “(k) RESERVED.”.

23 (3) UNNECESSARY REPORTS REGARDING LOANS
24 FROM CORRESPONDENT BANKS.—Section 106(b)(2)

1 of the Bank Holding Company Act Amendments of
2 1970 (12 U.S.C. 1972(2)) is amended—

3 (A) by deleting subparagraph (G) in its en-
4 tirety; and

5 (B) by redesignating subparagraphs (H)
6 and (I) as subparagraphs (G) and (H), respec-
7 tively.

8 **SEC. 226. EXPANDED REGULATORY DISCRETION FOR**
9 **SMALL BANK EXAMINATIONS.**

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

13 (1) in the title, by striking “18-MONTH RULE”
14 and inserting “24-MONTH RULE”; and

15 (2) in the first sentence, by striking “18-
16 month” and inserting “24-month”.

17 (b) **SMALL BANK SIZE DISCRETION.**—Section
18 10(d)(8) of the Federal Deposit Insurance Act (12 U.S.C.
19 1820(d)(8)) is amended by striking “\$175,000,000” and
20 inserting “\$250,000,000”.

21 (c) **INFLATION ADJUSTMENT.**—Section 10(d) of the
22 Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is
23 amended by adding at the end thereof the following new
24 paragraph:

1 consultation with insured depository institutions and other
2 interested parties, shall—

3 (1) review the extent to which current regula-
4 tions require insured depository institutions to
5 produce unnecessary internal written policies; and

6 (2) eliminate such requirements, where appro-
7 priate.

8 For purposes of this section, the terms “insured depository
9 institution” and “appropriate Federal banking agency”
10 have the same meanings as in section 3 of the Federal
11 Deposit Insurance Act.

12 **SEC. 230. REPEAL OF UNNECESSARY REPORTING REQUIRE-**
13 **MENTS.**

14 Sections 122 and 477 of the Federal Deposit Insur-
15 ance Corporation Improvement Act of 1991 (Public Law
16 102–242) are hereby repealed.

17 **SEC. 231. DAILY CONFIRMATIONS FOR HOLD-IN-CUSTODY**
18 **REPURCHASE TRANSACTIONS.**

19 Within one year after the date of enactment of this
20 section, the Secretary of the Treasury shall revise the reg-
21 ulation under section 15C of the Securities Exchange Act
22 of 1934 relating to the obligations of financial institutions
23 holding custody of securities subject to a repurchase
24 agreement to confirm, daily and in writing, the securities
25 that are subject to such repurchase agreement. Such revi-

1 sion shall permit the counterparty to such agreement to
2 waive in writing the right to obtain such daily written con-
3 firmation if the counterparty has received a disclosure, in
4 a form prescribed by the Secretary, that adequately in-
5 forms the counterparty of the benefits of receiving such
6 daily written confirmations.

7 **SEC. 232. REQUIRED REGULATORY REVIEW OF REGULA-**
8 **TIONS.**

9 (a) IN GENERAL.—The Financial Institutions Exam-
10 ination Council shall, within every 10-year period, conduct
11 a review of all of the regulations issued pursuant to its
12 or its representatives' authority to identify outdated or
13 otherwise unnecessary regulatory requirements imposed
14 upon insured depository institutions.

15 (b) PROCESS.—In conducting the review required
16 under subsection (a), the Council shall—

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

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

1 The Council shall, over a 10-year period, ensure that all
2 categories of regulations have been set out for notice and
3 comment.

4 (c) REGULATORY RESPONSE.—The Council shall—

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

9 (2) eliminate unnecessary regulations wherever
10 appropriate.

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

20 (e) DEFINITIONS.—For purposes of this section, the
21 terms “insured depository institution” and “appropriate
22 Federal banking agency” have the same meaning as in
23 section 3 of the Federal Deposit Insurance Act.

1 **SEC. 233. COUNTRY RISK REQUIREMENTS.**

2 (a) Section 905 of the International Lending Super-
3 vision Act (12 U.S.C. 3904) is amended—

4 (1) in subsection (a)(1), by striking “shall” and
5 inserting “may”; and

6 (2) in subsection (b), by striking “shall” and
7 inserting “may”.

8 (b) Section 905A of the International Lending Super-
9 vision Act (12 U.S.C. 3904a) is repealed.

10 **SEC. 234. AUDIT COSTS.**

11 (a) IN GENERAL.—Section 36 of the Federal Deposit
12 Insurance Act (12 U.S.C. 1831m) (as added by section
13 112 of the Federal Deposit Insurance Corporation Im-
14 provement Act of 1991) is amended—

15 (1) AUDITOR ATTESTATIONS.—

16 (A) in subsection (a)(2)(A)(ii), by striking
17 “subsections (c) and (d)” and inserting “sub-
18 section (c)”;

19 (B) by striking subsection (c);

20 (C) in subsection (d), by deleting “(d)”
21 and inserting “(c)”; and

22 (D) by striking subsection (e);

23 (2) INDEPENDENT AUDIT COMMITTEES.—

24 (A) in subsection (g)(1)(A), by striking
25 “entirely” and inserting “the majority of which
26 is”;

1 (B) in subsection (g)(1), by inserting the
2 following new subparagraph:

3 “(D) EXEMPTIVE AUTHORITY.—Each ap-
4 propriate Federal banking agency shall, by reg-
5 ulation, exempt from the requirements of this
6 subsection all insured depository institutions
7 which face hardships in retaining competent di-
8 rectors on their internal audit committees as a
9 result of this subsection. In determining what
10 types of institutions will be exempted, the agen-
11 cy shall consider such factors as the size of the
12 institution and the availability of competent
13 outside directors in the community.”.

14 (3) PUBLIC AVAILABILITY.—In subsection
15 (a)(3), by inserting at the end the following new sen-
16 tence: “Notwithstanding the previous sentence, the
17 Corporation and the appropriate Federal banking
18 agencies may designate certain information as privi-
19 leged and confidential and not available to the
20 public.”.

21 **SEC. 235. DUE PROCESS PROTECTIONS.**

22 (a) ATTACHMENT OF ASSETS.—

23 (1) INSURED DEPOSITORY INSTITUTIONS.—

1 (A) Section 11(d)(19) of the Federal De-
2 posit Insurance Act (12 U.S.C. 1821(d)(19)) is
3 amended—

4 (i) in subparagraph (A), by striking
5 “without regard” and all that follows
6 through “immediate”; and

7 (ii) in subparagraph (B), by striking
8 “(as modified with respect to such proceed-
9 ing by subparagraph (A))”.

10 (B) Section 8(b) of the Federal Deposit
11 Insurance Act (12 U.S.C. 1818(b)) is amended
12 by redesignating subsection (b)(6)(F) as sub-
13 section (b)(6)(G), and inserting after subsection
14 (b)(6)(E) the following:

15 “(F) prohibit such person from withdraw-
16 ing, transferring, removing, dissipating, or dis-
17 posing of any funds, assets or other property
18 where injury, loss, or damage to such property
19 is irreparable and immediate; and”.

20 (C) Section 8(i) of the Federal Deposit In-
21 surance Act (12 U.S.C. 1818(i)) is amended by
22 striking paragraph (4)(B) and inserting the fol-
23 lowing:

1 “(B) STANDARD.—Rule 65 of the Federal
2 Rules of Civil Procedure shall apply with re-
3 spect to any proceeding under this paragraph.”.

4 (2) CREDIT UNIONS.—

5 (A) Section 207(b)(2)(H) of the Federal
6 Credit Union Act (12 U.S.C. 1787(b)(2)(H)) is
7 amended—

8 (i) in clause (i), by striking “without
9 regard” and all that follows through “im-
10 mediate”; and

11 (ii) in clause (ii), by striking “(as
12 modified with respect to such proceeding
13 by clause (i))”.

14 (B) Section 206(e)(3) of the Federal Cred-
15 it Union Act (12 U.S.C. 1786(e)(3)) is amend-
16 ed by redesignating subsection (e)(3)(F) as sub-
17 section (e)(3)(G), and inserting after subsection
18 (e)(3)(E) the following:

19 “(F) prohibit such person from withdraw-
20 ing, transferring, removing, dissipating, or dis-
21 posing of any funds, assets or other property
22 where injury, loss, or damage to such property
23 is irreparable and immediate; and”.

1 **SEC. 236. CULPABILITY STANDARDS FOR OUTSIDE DIREC-**
2 **TORS.**

3 Section 3(u) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1813(u)) is amended—

5 (1) in paragraph (1), by inserting “(other than
6 an outside director)” after “director”;

7 (2) in paragraph (3), inserting “(other than an
8 outside director)” after “any other person”; and

9 (3) in paragraph (4), by inserting “or outside
10 director” after “or accountant”).

11 **SEC. 237. RULES ON DEPOSIT TAKING.**

12 Section 29(g)(3) of the Federal Deposit Insurance
13 Act (12 U.S.C. 1831f(g)(3)) is amended—

14 (1) by inserting “undercapitalized” after “in-
15 cludes any”;

16 (2) by inserting “undercapitalized” after “em-
17 ployee of any”; and

18 (3) by striking “that is not well capitalized”.

19 **SEC. 238. TRANSITION PERIOD FOR NEW REGULATIONS.**

20 Section 302(b) of the Riegle Community Develop-
21 ment and Regulatory Improvement Act of 1994 is amend-
22 ed by striking “a calendar quarter” and inserting “the
23 semiannual period”

24 **SEC. 239. FOREIGN BANK APPLICATIONS.**

25 Section 7(d) of the International Banking Act of
26 1978 (12 U.S.C. 3105(d)) is amended as follows:

1 (1) By striking paragraphs (1) and (2) and in-
2 serting in lieu thereof the following:

3 “(1) PRIOR REVIEW REQUIRED.—Before any
4 foreign bank application to establish a branch or an
5 agency, or acquire ownership or control of a com-
6 mercial lending company may be approved by any
7 appropriate State bank supervisor or the Comptrol-
8 ler of the Currency, the application must first be
9 submitted for review to the Board for a period of
10 not more than 180 days. The purpose of the review
11 is to determine whether approval of any application
12 would place at risk the safe and sound operation of
13 the United States banking system.

14 “(2) AUTHORITY OF THE BOARD.—Based on
15 the determination described in paragraph (1), the
16 Board is authorized to—

17 “(A) deny the application;

18 “(B) extend for 180 days the period for re-
19 view of any application, after providing notice
20 of, and the reasons for, the extension to the ap-
21 plicant and any appropriate State bank super-
22 visor or the Comptroller of the Currency; or

23 “(C) approve the application, either by af-
24 firmative action or by taking no action during
25 the 180 day review period.”.

1 (2) In paragraph (3), by redesignating subpara-
2 graphs (A) through (D) as subparagraphs (C)
3 through (F); by striking all from “In” through “ac-
4 count—”; and by inserting the following: “In mak-
5 ing any determination under paragraph (1), the
6 Board may consider—

7 “(A) whether the foreign bank engages di-
8 rectly in the business of banking outside the
9 United States and is subject to comprehensive
10 supervision or regulation on a consolidated
11 basis by the appropriate authorities in its home
12 country; and

13 “(B) whether the foreign bank has fur-
14 nished to the Board the information it needs to
15 adequately assess the application.”.

16 **SEC. 240. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

17 Section 7(c)(1) of the International Banking Act of
18 1978 (12 U.S.C. 3105(b)(1)) is amended by striking sub-
19 paragraphs (B), (C), and (D) and inserting in lieu thereof:

20 “(B) RELIANCE ON PRIMARY SUPER-
21 VISOR.—In order to avoid unnecessary duplica-
22 tion and cost, the Board shall, to the extent
23 practicable, rely upon the reports of examina-
24 tions made by the Comptroller, the Federal De-
25 posit Insurance Corporation, or the appropriate

1 State bank supervisor in achieving the purposes
2 of this subsection.

3 “(C) ON-SITE EXAMINATION.—Each
4 branch or agency of a foreign bank shall be
5 subject to on-site examination on the same
6 schedule that a comparable national or State
7 non-member bank would be examined by the
8 Comptroller of the Currency or the Federal De-
9 posit Insurance Corporation.

10 “(D) COST OF EXAMINATIONS.—The cost
11 of any examination undertaken pursuant to
12 subparagraph (A) shall be assessed against and
13 collected from the foreign bank or the foreign
14 company that controls the foreign bank, as the
15 case may be, but only to the same extent that
16 fees are collected by the Board for examination
17 of any State member insured bank.”.

18 **SEC. 241. SECOND MORTGAGES.**

19 Section 103 of the Truth in Lending Act (15 U.S.C.
20 1602) is amended—

21 (1) in paragraph (aa)(1) by inserting “a subor-
22 dinate mortgage on” after “secured by”; and

23 (2) by deleting “a residential mortgage trans-
24 action”.

1 **SEC. 242. OCC AUTHORITY.**

2 The Comptroller of the Currency shall not authorize
 3 or allow by rule, regulation, order, action, inaction or oth-
 4 erwise any activity that would have the effect of permitting
 5 a national bank to provide insurance as principal, agent
 6 or broker, and no national bank shall engage in any such
 7 activity, except to the extent that such specific activity was
 8 authorized for national banks on June 12, 1995.

9 **TITLE III—LENDER LIABILITY**

10 **SEC. 301. LENDER LIABILITY.**

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

14 **“SEC. 45. LENDER, FIDUCIARY AND GOVERNMENT AGENCY**
 15 **ENVIRONMENTAL LIABILITIES.**

16 “(a) LENDER ENVIRONMENTAL LIABILITY.—

17 “(1) Notwithstanding any other provision or
 18 rule of Federal law, no lender shall be liable pursu-
 19 ant to any Federal environmental law, except as pro-
 20 vided in this section.

21 “(2) A lender shall only be liable pursuant to
 22 an Federal environmental law when the lender actu-
 23 ally participates in management of another person’s
 24 activities which create liability under the same Fed-
 25 eral environmental law.

26 “(3) For purposes of this section—

1 “(A) the term ‘participate in management’
2 means actually participating in the management
3 or operational affairs of other persons’ activi-
4 ties, and does not include merely having the ca-
5 pacity to influence, or the unexercised right to
6 control such activities;

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

10 “(i) exercises decisionmaking control
11 over the environmental compliance of a
12 borrower, such that the person has under-
13 taken responsibility for the hazardous sub-
14 stance handling or disposal practices of the
15 borrower; or

16 “(ii) exercises control at a level com-
17 parable to that of a manager of the enter-
18 prise of the borrower, such that the person
19 has assumed or manifested responsibility
20 for the overall management of the enter-
21 prise encompassing day-to-day decision-
22 making with respect to environmental com-
23 pliance, or with respect to substantially all
24 of the operational aspects (as distinguished
25 from financial or administrative aspects) of

1 the enterprise, other than environmental
2 compliance;

3 “(C) the term ‘participate in management’
4 does not include engaging in an act of failing
5 to act prior to the time that an extension of
6 credit is made or a security interest is created
7 in property; and

8 “(D) the term ‘participate in management’
9 does not include—

10 “(i) holding an extension of credit or
11 a security interest or abandoning or releas-
12 ing an extension of credit or a security in-
13 terest;

14 “(ii) including in the terms of an ex-
15 tension of credit, or in a contract or secu-
16 rity agreement relating to such an exten-
17 sion, covenants, warranties, or other
18 terms and conditions that relate to envi-
19 ronmental compliance;

20 “(iii) monitoring or enforcing the
21 terms and conditions of an extension of
22 credit or security interest;

23 “(iv) monitoring or undertaking one
24 or more inspections of property;

1 “(v) requiring or conducting a re-
2 sponse action or other lawful means of ad-
3 dressing the release or threatened release
4 of a hazardous substance in connection
5 with property prior to, during, or upon the
6 expiration of the term of an extension of
7 credit;

8 “(vi) providing financial or other ad-
9 vice or counseling in an effort to mitigate,
10 prevent, or cure default or diminution in
11 the value of the property;

12 “(vii) restructuring, renegotiating, or
13 otherwise agreeing to alter the terms and
14 conditions of an extension of credit or se-
15 curity interest, or exercising forbearance;
16 or

17 “(viii) exercising other remedies that
18 may be available under applicable law for
19 the breach of any term or condition of the
20 extension of credit or security agreement;

21 if such actions do not rise to the level of partici-
22 pating in management, as defined in subpara-
23 graphs (A) and (B).

24 “(E) When a lender did not participate in
25 management of property prior to foreclosure,

1 then the lender shall not be liable even if such
2 person forecloses on property, sells, re-leases, or
3 liquidates property, maintains business activi-
4 ties, winds up operations, or undertakes any re-
5 sponse action with respect to property, or takes
6 other measures to preserve, protect, or prepare
7 property prior to sale or disposition, if such
8 person seeks to sell, re-lease, or otherwise divest
9 the property at the earliest practical, commer-
10 cially reasonable time, on commercially reason-
11 able terms, taking into account market condi-
12 tions and legal and regulatory requirements.

13 “(4) The liability of any lender that is liable
14 under any Federal environmental law shall be lim-
15 ited to the unpaid balance of any outstanding exten-
16 sion of credit related to the property or activities
17 forming the basis for the liability.

18 “(b) FIDUCIARY ENVIRONMENTAL LIABILITY.—

19 “(1) Notwithstanding any other provision or
20 rule of Federal law, no fiduciary shall be liable pur-
21 suant to any Federal environmental law, except as
22 provided in this section.

23 “(2)(A) Subject to subparagraphs (B) and (C),
24 a fiduciary holding title to property or otherwise af-
25 filiated with property solely in a fiduciary capacity

1 shall be personally subject to the obligations and li-
2 abilities of any person under an Federal environ-
3 mental law, to the same extent as if the property
4 were held by the fiduciary free of trust.

5 “(B) The personal obligations and liabilities of
6 a fiduciary referred to in subparagraph (A) shall be
7 limited to the extent to which the assets of the trust
8 or estate are sufficient to indemnify the fiduciary,
9 unless—

10 “(i) the obligations and liabilities would
11 have arisen even if the person had not served
12 as a fiduciary;

13 “(ii) the fiduciary’s own failure to exercise
14 due care with respect to property caused or
15 contributed to the release of hazardous sub-
16 stances following establishment of the trust, es-
17 tate, or fiduciary relationship;

18 “(iii) the fiduciary had a role in establish-
19 ing the trust, estate, or fiduciary relationship,
20 and such trust, estate, or fiduciary relationship
21 has no objectively reasonable or substantial pur-
22 pose apart from the avoidance or limitation of
23 liability under an environmental law.

1 “(C) a fiduciary shall not be personally liable
2 for undertaking or directing another to undertake a
3 response action.

4 “(3) Nothing in this section shall be construed
5 to effect the liability, if any, of a person who—

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

8 “(ii) directly or indirectly benefits from a
9 trust or fiduciary relationship; or

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

12 “(ii) as a fiduciary, receives benefits that
13 exceed customary or reasonable compensation,
14 and incidental benefits, permitted under other
15 applicable laws.

16 “(c) DEFINITIONS.—For purposes of subsections (a)
17 and (b)—

18 “(1) The term ‘Federal environmental law’
19 means any Federal statute or rule of common law
20 with the purpose of protection of the environment
21 and any Federal regulation promulgated thereunder
22 and any State statute or regulation created as a
23 Federal approved or delegated program implement-
24 ing these laws, including but not limited to 7 U.S.C.
25 136–136y, 15 U.S.C. 2601–2692, 15 U.S.C. 2641–

1 2654, 33 U.S.C. 1251–1387, 33 U.S.C. 2701–2761,
2 42 U.S.C. 7401–7642, 42 U.S.C. 6901–6991i, 42
3 U.S.C. 9601–9675, and 42 U.S.C. 13101–13109.

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

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

14 “(B) that conforms with regulations issued
15 by the appropriate Federal banking agency or
16 the appropriate state bank supervisor (as these
17 terms are defined in section 3 of the Federal
18 Deposit Insurance Act or with regulations is-
19 sued by the National Credit Union Administra-
20 tion Board, as appropriate.

21 “(3) The term ‘fiduciary’ means a person who
22 acts for the exclusive benefit of another person as a
23 bona fide fiduciary within the meaning of section
24 3(31) of the Employee Retirement Income Security
25 Act of 1974, trustee, executor, administrator, custo-

1 dian, guardian, conservator, receiver, committee of
2 estates of lunatics or other disabled persons, or per-
3 sonal representative; except, that the term ‘fiduciary’
4 does not include any person—

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

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

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

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

21 “(4) The term ‘financial or administrative as-
22 pect’ means a function such as a credit manager, ac-
23 counts payable officer, accounts receivable officer,
24 personnel manager, comptroller, or chief financial of-
25 ficer, or any similar function.

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

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

10 “(B) conveyance pursuant to an extension
11 of credit previously contracted, including, but
12 not limited to, the termination of a lease agree-
13 ment; or

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

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

23 “(7) The term ‘lender’ means—

24 “(A) a person that makes a bona fide ex-
25 tension of credit to or takes a security interest

1 from another person and includes a successor
2 or assign of the person which makes the exten-
3 sion of credit or takes the security interest;

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

10 “(C) any person engaged in the business of
11 insuring or guaranteeing against default in the
12 repayment of an extension of credit, or acting
13 as a surety with respect to an extension of cred-
14 it, to other persons; or

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

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

24 “(9) The term ‘person’ means an individual,
25 firm, corporation, association, partnership, consor-

1 tium, joint venture, commercial entity, United States
2 Government, State, municipality, commission, politi-
3 cal subdivision of a State, or any interstate body.

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

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

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

16 “(d) SAVINGS CLAUSE.—Nothing in subsection (a),
17 (b), or (c), shall—

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

21 “(2) be construed to create any liability for any
22 lender or fiduciary; or

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

1 “(e) FEDERAL BANKING AND LENDING AGENCY EN-
2 VIRONMENTAL LIABILITY.—

3 “(1) GOVERNMENTAL ENTITIES.—

4 “(A) BANKING AND LENDING AGENCIES.—

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

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

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

21 “(iii) in connection with property re-
22 ceived in any civil or criminal proceeding,
23 or administrative enforcement action,
24 whether by settlement or order.

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

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

23 “(D) SUBSEQUENT PURCHASER.—The im-
24 munity provided by paragraphs (A) and (B)
25 shall extend to the first subsequent purchaser

1 of property described in such paragraph from a
2 Federal banking or lending agency, unless such
3 purchaser—

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

9 “(ii) is or was affiliated with or relat-
10 ed to a party described in subparagraph
11 (i);

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

18 “(iv) directly causes or significantly
19 and materially contributes to any addi-
20 tional release or threatened release on the
21 property.

22 “(E) FEDERAL OR STATE ACTION.—Not-
23 withstanding subparagraph (D), if a Federal
24 agency or State environmental agency is re-
25 quired to take remedial action due to the failure

1 of a subsequent purchaser to carry out, in good
2 faith, the agreement described in subparagraph
3 (D)(iii), such subsequent purchaser shall reim-
4 burse the Federal or State environmental agen-
5 cy for the costs of such remedial action. Any
6 such reimbursement shall not exceed the in-
7 crease in the fair market value of the property
8 attributable to the remedial action.

9 “(2) LIEN EXEMPTION.—Notwithstanding any
10 other provision of law, any property held by a subse-
11 quent purchaser referred to in subsection (a)(4) or
12 held by a Federal banking or lending agency shall
13 not be subject to any lien for costs or damages asso-
14 ciated with the release or threatened release of pe-
15 troleum or a hazardous substance existing at the
16 time of the transfer.

17 “(3) EXEMPTION FROM COVENANTS TO REME-
18 DIATE.—A Federal banking or lending agency shall
19 be exempt from any law requiring such agency to
20 grant covenants warranting that a removal, reme-
21 dial, or other response action has been, or will in the
22 future be, taken with respect to property acquired in
23 the manner described in paragraph (e)(1)(A).

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

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

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

22 “(C) The term ‘release’ has the same
23 meaning as in section 101(22) of the Com-
24 prehensive Environmental Response, Compensa-
25 tion, and Liability Act of 1980, and includes

1 the use, storage, disposal, treatment, genera-
2 tion, or transportation of a hazardous sub-
3 stance.

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

6 “(A) affect the rights of immunities or
7 other defenses that are available under this Act
8 or other applicable law to any party, subject to
9 the provisions of this section;

10 “(B) be construed to create any liability
11 for any party; or

12 “(C) create a private right of action
13 against an insured depository institution or
14 lender or against a Federal banking or lending
15 agency.”.

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

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