

Union Calendar No. 98

104TH CONGRESS
1ST Session

H. R. 1858

[Report No. 104-193]

A BILL

To reduce paperwork and additional regulatory burdens for depository institutions.

JULY 18, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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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

JULY 18, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on June 15, 1995]

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”.*

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

Sec. 1. Short title; table of contents.

TITLE I—REDUCTIONS IN GOVERNMENT OVERREGULATION

Subtitle A—The Home Mortgage Process

Sec. 101. Regulatory authority over disclosures and escrow accounts under RESPA transferred to Federal Reserve Board.

Sec. 102. Simplification and unification of disclosures required under RESPA and TILA for mortgage transactions.

Sec. 103. Increased regulatory flexibility under the Truth in Lending Act.

Sec. 104. Reductions in RESPA regulatory burdens; clarifying amendments.

Sec. 105. Disclosures for adjustable rate mortgages.

Sec. 106. Certain charges.

Sec. 107. Exemptions from rescission.

Sec. 108. Tolerances; basis of disclosures.

Sec. 109. Limitation on liability.

Sec. 110. Limitation on rescission liability.

Sec. 111. Calculation of damages.

Sec. 112. Assignee liability.

Sec. 113. Rescission rights in foreclosure.

Sec. 114. Recovery of fees.

Sec. 115. Home ownership debt counseling notification.

Sec. 116. Home Mortgage Disclosure Act.

Sec. 117. Applicability.

Subtitle B—Community Reinvestment Act Amendments

Sec. 121. Expression of congressional intent.

Sec. 122. Community Reinvestment Act exemption.

Sec. 123. Self-certification of CRA compliance.

Sec. 124. Community input and conclusive rating.

Sec. 125. Special purpose financial institutions.

Sec. 126. Increased incentives for lending to low- and moderate-income communities.

Sec. 127. Prohibition on additional reporting under CRA.

Sec. 128. Technical amendment.

Sec. 129. Duplicative reporting.

Sec. 130. CRA congressional oversight.

Sec. 131. Consultation among examiners.

Sec. 132. Limitation on regulations.

Subtitle C—Consumer Banking Reforms

Sec. 141. Truth in Savings.

Sec. 142. Information sharing.

Sec. 143. Electronic Fund Transfer Act clarification.

Sec. 144. Limit on restitution for Truth in Lending violations if safety and soundness of violator would be affected.

Subtitle D—Equal Credit Opportunity Act Amendments

Sec. 151. Short title.

- Sec. 152. Findings and purpose.*
Sec. 153. Equal Credit Opportunity Act amendments.
Sec. 154. Fair Credit Reporting Act amendments.
Sec. 155. Incentives for self-testing.
Sec. 156. Credit scoring systems.
Sec. 157. Consultation by Attorney General required in nonreferral cases.
Sec. 158. Effective date.

Subtitle E—Consumer Leasing Act Amendments

- Sec. 161. Short title.*
Sec. 162. Congressional findings and declaration of purpose.
Sec. 163. Regulations.
Sec. 164. Consumer lease advertising.
Sec. 165. Statutory penalties.

Subtitle F—Federal Home Loan Bank Amendments

- Sec. 171. Application for membership in the FHLB System.*
Sec. 172. Federal home loan bank external auditors.

TITLE II—STREAMLINING GOVERNMENT REGULATIONS

Subtitle A—Regulatory Approval Issues

- Sec. 201. Streamlined nonbanking acquisitions by well capitalized and well managed banking organizations.*
Sec. 202. Streamlined bank acquisitions by well capitalized and well managed banking organizations.
Sec. 203. Eliminate filing and approval requirements for insured depository institutions already controlled by the same holding company.
Sec. 204. Eliminate redundant approval requirement for Oakar transactions.
Sec. 205. Elimination of duplicative requirements imposed upon bank holding companies and other regulatory relief under the Home Owners' Loan Act.
Sec. 206. Eliminate requirement that approval be obtained for divestitures.
Sec. 207. Eliminate unnecessary branch applications.
Sec. 208. Eliminate branch applications and requirements for ATMs and similar facilities.
Sec. 209. Eliminate requirement for approval of investments in bank premises for well capitalized and well managed banks.
Sec. 210. Eliminate unnecessary filing for officer and director appointments.
Sec. 211. Streamlining process for determining new nonbanking activities.
Sec. 212. Disposition of foreclosed assets.
Sec. 213. Increase in certain credit union loan ceilings.

Subtitle B—Streamlining of Government Regulations; Miscellaneous Provisions

- Sec. 221. Eliminate the per-branch capital requirement for national banks and State member banks.*
Sec. 222. Branch closures.
Sec. 223. Amendments to the Depository Institutions Management Interlocks Act.
Sec. 224. Acceleration of repayment to Treasury.
Sec. 225. Eliminate unnecessary and duplicative recordkeeping and reporting requirements relating to loans to executive officers and permit participation in employee benefit plans.
Sec. 226. Expanded regulatory discretion for small bank examinations.

- Sec. 227. *Cost reimbursement.*
 Sec. 228. *Identification of foreign nonbank financial institution customers.*
 Sec. 229. *Paperwork reduction review.*
 Sec. 230. *Daily confirmations for hold-in-custody repurchase transactions.*
 Sec. 231. *Required regulatory review of regulations.*
 Sec. 232. *Country risk requirements.*
 Sec. 233. *Audit costs.*
 Sec. 234. *Standards for director and officer liability.*
 Sec. 235. *Foreign bank applications.*
 Sec. 236. *Duplicate examination of foreign banks.*
 Sec. 237. *Second mortgages.*
 Sec. 238. *Streamlining FDIC approval of new State bank powers.*
 Sec. 239. *Repeal of call report attestation requirement.*
 Sec. 240. *Authority of the Comptroller of the Currency.*
 Sec. 241. *National bank community development insurance activities.*
 Sec. 242. *Authorizing bank service companies to organize as limited liability partnerships.*
 Sec. 243. *Bank investments in Edge Act and agreement corporations.*
 Sec. 244. *Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.*
 Sec. 245. *Waivers authorized for residency requirement for national bank directors.*

TITLE III—LENDER LIABILITY

- Sec. 301. *Lender liability.*

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

- Sec. 401. *Annual study and report.*

1 **TITLE I—REDUCTIONS IN GOV-**
 2 **ERNMENT OVERREGULATION**
 3 **Subtitle A—The Home Mortgage**
 4 **Process**

5 **SEC. 101. REGULATORY AUTHORITY OVER DISCLOSURES**
 6 **AND ESCROW ACCOUNTS UNDER RESPA**
 7 **TRANSFERRED TO FEDERAL RESERVE**
 8 **BOARD.**

- 9 (a) *IN GENERAL.*—Sections 4, 5, 6, and 10(d) of the
 10 *Real Estate Settlement Procedures Act of 1974 (12 U.S.C.*

1 2601 et seq.) are amended by striking “Secretary” each
2 place such term appears and inserting “Board”.

3 (b) *CLARIFICATION OF PURPOSE.*—Section 2(b)(2) of
4 the Real Estate Settlement Procedures Act of 1974 (12
5 U.S.C. 2601(b)(2)) is amended by inserting the following
6 before the semicolon at the end: “without—

7 “(A) directly regulating settlement services
8 prices; or

9 “(B) directly regulating wages to bona fide
10 employees that are not designed as a subterfuge
11 to facilitate kickbacks among affiliated compa-
12 nies”.

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

16 (1) by striking “and” at the end of paragraph
17 (7);

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

20 (3) by adding at the end the following new para-
21 graph:

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

24 (d) *NEGOTIATED REGULATIONS UNDER SECTIONS 8*
25 *AND 9.*—Section 8 of the Real Estate Settlement Procedures

1 *Act of 1974 (12 U.S.C. 2607) is amended by adding at the*
2 *end the following new subsection:*

3 “(e) *NEGOTIATED REGULATIONS.*—

4 “(1) *IN GENERAL.*—*The Secretary may not pub-*
5 *lish a proposed or final regulation under this section*
6 *and section 9 after the date of the enactment of the*
7 *Financial Institutions Regulatory Relief Act of 1995*
8 *unless the Secretary has used the negotiated rule-*
9 *making procedure established under subchapter III of*
10 *chapter 5 of title 5, United States Code, to attempt*
11 *to negotiate and develop the rule.*

12 “(2) *CONSISTENCY WITH PURPOSE.*—*Any regula-*
13 *tion prescribed in accordance with paragraph (1)*
14 *shall be consistent with the purposes of this title as*
15 *set forth in section 2.”*

16 (e) *ADMINISTRATIVE ENFORCEMENT OF PROHIBITION*
17 *AGAINST KICKBACKS AND UNEARNED FEES.*—*Section 8 of*
18 *the Real Estate Settlement Procedures Act of 1974 (12*
19 *U.S.C. 2607) is amended by adding after subsection (e) (as*
20 *added by subsection (d) of this section) the following new*
21 *subsection:*

22 “(f) *ADMINISTRATIVE ENFORCEMENT.*—

23 “(1) *IN GENERAL.*—*Compliance with the require-*
24 *ments of this section and sections 9 and 12 shall be*
25 *enforced under this Act—*

1 “(A) in the case of an insured depository
2 institution (as defined in section 3 of the Federal
3 Deposit Insurance Act), by the appropriate Fed-
4 eral banking agency (as defined in such section);

5 “(B) in the case of an insured credit union
6 (as defined in section 101(7) of the Federal Cred-
7 it Union Act), by the National Credit Union Ad-
8 ministration;

9 “(C) in the case of a bank holding company
10 (as defined in section 2 of the Bank Holding
11 Company Act of 1956) and any affiliate of any
12 such holding company (other than an insured
13 depository institution), by the Board;

14 “(D) in the case of a savings and loan hold-
15 ing company (as defined in section 10 of the
16 Home Owners’ Loan Act) and any affiliate of
17 any such holding company (other than an in-
18 sured depository institution), by the Director of
19 the Office of Thrift Supervision; and

20 “(E) in the case of any other person, by the
21 Secretary.

22 “(2) SPECIAL RULES RELATING TO DETERMINA-
23 TION OF APPROPRIATE REGULATOR.—

24 “(A) CASES OF MORE THAN 1 APPROPRIATE
25 REGULATOR.—If, under paragraph (1), a com-

1 pany may be regulated by more than 1 agency,
2 the Board shall determine which agency shall be
3 the responsible agency, notwithstanding para-
4 graph (1).

5 “(B) CASES INVOLVING JOINT VENTURES,
6 PARTNERSHIPS, AND OTHER AFFILIATED BUSI-
7 NESS ARRANGEMENTS.—If any insured deposi-
8 tory institution is involved in a joint venture,
9 partnership, or other affiliated business arrange-
10 ment with any person who is not an insured de-
11 pository institution, the agency responsible for
12 enforcing this section and sections 9 and 12 with
13 respect to such insured depository institution
14 shall be the agency with such responsibility with
15 respect to such joint venture, partnership, or
16 other affiliated business arrangement.

17 “(3) INTERAGENCY COOPERATION AND ENFORCE-
18 MENT GUIDELINES.—All the agencies referred to in
19 any subparagraph of paragraph (1) shall cooperate
20 with each other to develop enforcement guidelines and
21 other means for achieving effective compliance with
22 this section and sections 9 and 12.

23 “(4) PREFERENCE FOR CIVIL ENFORCEMENT
24 OVER CRIMINAL ENFORCEMENT.—As part of the coop-
25 erative efforts required under paragraph (3), the

1 *agencies referred to in paragraph (1) shall consider*
2 *means for achieving compliance with this section and*
3 *section 9 through the exercise of administrative en-*
4 *forcement authority under this subsection without re-*
5 *sorting to criminal enforcement actions under sub-*
6 *section (d) except in appropriate cases.*

7 *“(5) EFFECTIVE DATE.—Paragraphs (1) and (2)*
8 *shall not take effect until joint interagency coopera-*
9 *tion and enforcement guidelines are adopted by all*
10 *the agencies to which paragraphs (1) and (2) apply*
11 *and the enforcement authority of the Secretary with*
12 *respect to this section and sections 9 and 12 shall con-*
13 *tinue until such paragraphs take effect.”.*

14 *(f) INCREASED SCIENTER REQUIREMENT FOR CRIMI-*
15 *NAL PENALTY.—Section 8(d) of the Real Estate Settlement*
16 *Procedures Act of 1974 (12 U.S.C. 2607(d)) is amended—*

17 *(1) in paragraph (1), by inserting “willfully”*
18 *after “persons who”; and*

19 *(2) in paragraph (3), by striking “was not in-*
20 *tentional and”.*

21 *(g) REDESIGNATION OF CONTROLLED BUSINESS AR-*
22 *RANGEMENTS AS AFFILIATED BUSINESS ARRANGE-*
23 *MENTS.—The Real Estate Settlement Procedures Act of*
24 *1974 (12 U.S.C. 2601 et seq.) is amended—*

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

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

7 (h) *TECHNICAL AND CONFORMING AMENDMENTS.*—

8 (1) Section 4(a) of the Real Estate Settlement
9 Procedures Act of 1974 (12 U.S.C. 2603(a)) is amend-
10 ed by striking “Federal Home Loan Bank Board”
11 and inserting “Director of the Office of Thrift Super-
12 vision”.

13 (2) Section 8(d)(4) of the Real Estate Settlement
14 Procedures Act of 1974 (12 U.S.C. 2607(d)(4)) is
15 amended by inserting “any other agency described in
16 subsection (f)(1),” after “the Secretary,”.

17 (3) Section 10(c)(1)(C) of the Real Estate Settle-
18 ment Procedures Act of 1974 (12 U.S.C.
19 2609(c)(1)(C)) is amended by striking “Not later than
20 the expiration of the 90-day period beginning on the
21 date of the enactment of the Cranston-Gonzalez Na-
22 tional Affordable Housing Act, the” and inserting
23 “The”.

24 (4) Section 16 of the Real Estate Settlement Pro-
25 cedures Act of 1974 (12 U.S.C. 2614) is amended by

1 *striking “Secretary,” and inserting “Board, an agency*
2 *referred to in any subparagraph of section*
3 *8(f)(1),”.*

4 *(5) Section 18 of the Real Estate Settlement Pro-*
5 *cedures Act of 1974 (12 U.S.C. 2616) is amended—*

6 *(A) by striking “Secretary is authorized to”*
7 *and inserting “Board and Secretary may joint-*
8 *ly”;*

9 *(B) by striking “Secretary” each place such*
10 *term appears other than the 1st place and insert-*
11 *ing “Board and Secretary”;* and

12 *(C) by striking “determines that such laws”*
13 *and inserting “determine that such laws”.*

14 *(6) Section 19(a) of the Real Estate Settlement*
15 *Procedures Act of 1974 (12 U.S.C. 2617(a)) is amend-*
16 *ed to read as follows:*

17 *“(a) REGULATIONS.—*

18 *“(1) IN GENERAL.—Subject to paragraph (2), the*
19 *Secretary and the Board may prescribe such regula-*
20 *tions, make such interpretations, and grant such rea-*
21 *sonable exemptions for classes of transactions, as may*
22 *be necessary to achieve the purposes of this Act.*

23 *“(2) APPLICATION.—*

1 “(A) *BOARD.*—*The authority of the Board*
2 *under paragraph (1) shall apply with respect*
3 *to—*

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

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

8 “(B) *SECRETARY.*—*The authority of the*
9 *Secretary under paragraph (1) shall apply with*
10 *respect to—*

11 “(i) *sections 8 and 9; and*

12 “(ii) *sections 3, 7, 17, and 18 to the*
13 *extent such sections are applicable with re-*
14 *spect to the sections described in clause*
15 *(i).”.*

16 (7) *Section 19(b) of the Real Estate Settlement*
17 *Procedures Act of 1974 (12 U.S.C. 2617(b)) is amend-*
18 *ed by inserting “, the Board,” after “the Secretary”.*

19 (8) *Section 19(c) of the Real Estate Settlement*
20 *Procedures Act of 1974 (12 U.S.C. 2617(c)) is amend-*
21 *ed—*

22 (A) *in paragraph (1)—*

23 (i) *by striking “Secretary” the 1st*
24 *place such term appears and inserting*
25 *“Board, with respect to any action to en-*

1 *force section 4, 5, 6, or 10, and each agency*
 2 *referred to in any subparagraph of section*
 3 *8(f)(1), with respect to any action to enforce*
 4 *section 8, 9, or 12,”; and*

5 *(ii) by striking “Secretary” each place*
 6 *such term appears other than the 1st place*
 7 *and inserting “Board or such other agen-*
 8 *cy”;* and

9 *(B) in paragraph (2), by striking “Sec-*
 10 *retary” and inserting “Board or an agency re-*
 11 *ferred to in any subparagraph of section*
 12 *8(f)(1)”.*

13 *(9) The heading for section 19 of the Real Estate*
 14 *Settlement Procedures Act of 1974 (12 U.S.C. 2617)*
 15 *is amended to read as follows:*

16 “*AUTHORITY OF THE SECRETARY AND THE FEDERAL*
 17 *RESERVE BOARD”.*

18 *(i) REPEAL OF OBSOLETE PROVISIONS.—The Real Es-*
 19 *tate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et*
 20 *seq.) is amended by striking sections 13, 14, and 15.*

21 **SEC. 102. SIMPLIFICATION AND UNIFICATION OF DISCLO-**
 22 **SURES REQUIRED UNDER RESPA AND TILA**
 23 **FOR MORTGAGE TRANSACTIONS.**

24 *(a) IN GENERAL.—With respect to credit transactions*
 25 *which are subject to the Real Estate Settlement Procedures*

1 *Act of 1974 and the Truth in Lending Act, the Board of*
2 *Governors of the Federal Reserve System shall take such ac-*
3 *tion as may be necessary before the end of the 3-month pe-*
4 *riod beginning on the date of the enactment of this Act—*

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

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

11 (b) *REGULATIONS.—To the extent that it is necessary*
12 *to prescribe any regulation in order to effect any changes*
13 *required to be made under subsection (a), the proposed regu-*
14 *lation shall be published in the Federal Register before the*
15 *end of the 3-month period referred to in subsection (a).*

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

1 **SEC. 103. INCREASED REGULATORY FLEXIBILITY UNDER**
2 **THE TRUTH IN LENDING ACT.**

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

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

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

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

13 (2) *by inserting after subsection (a) the following*
14 *new subsection:*

15 “(b) *EXEMPTIVE AUTHORITY.*—

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

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

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

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

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

14 **SEC. 104. REDUCTIONS IN RESPA REGULATORY BURDENS;**
 15 **CLARIFYING AMENDMENTS.**

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

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

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

1 other person at any time while such loan is outstand-
2 ing.

3 “(2) *SIGNATURE OF APPLICANT.*—Any disclosure
4 of the information required under paragraph (1) shall
5 not be effective for purposes of this section unless the
6 disclosure is accompanied by a written statement, in
7 such form as the Secretary shall develop before the ex-
8 piration of the 180-day period beginning on the date
9 of the enactment of the *Financial Institutions Regu-*
10 *latory Relief Act of 1995*, that the applicant has read
11 and understood the disclosure and that is evidenced
12 by the signature of the applicant at the place where
13 such statement appears in the application.”.

14 (b) *EFFECTIVE DATE.*—The amendments made by sub-
15 section (a) shall take effect 180 days after the date of the
16 enactment of this Act.

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

20 (d) *CONSISTENCY OF RESPA AND TRUTH IN LENDING*
21 *ACT EXEMPTION OF BUSINESS LOANS.*—Section 7 of the
22 *Real Estate Settlement Procedures Act of 1974 (12 U.S.C.*
23 *2606)* is amended—

24 (1) by inserting “(a) *IN GENERAL.*—” before
25 “*This Act*”; and

1 (2) *by inserting at the end the following new*
2 *subsection:*

3 “(b) *INTERPRETATION.*—*In issuing regulations pursu-*
4 *ant to section 19(a) of this Act, the Board shall ensure that,*
5 *with regard to subsection (a), the exemption for business*
6 *credit includes all business credit which is exempt from the*
7 *Truth in Lending Act in accordance with section 226.3(a)*
8 *of the regulations prescribed by the Board known as ‘regula-*
9 *tion Z’ (12 C.F.R. 226.3(a)), as in effect on the date of*
10 *enactment of the Financial Institutions Regulatory Relief*
11 *Act of 1995.”.*

12 **SEC. 105. DISCLOSURES FOR ADJUSTABLE RATE MORT-**
13 **GAGES.**

14 (a) *IN GENERAL.*—*Section 127A(a)(2)(G) of the Truth*
15 *in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is amended by*
16 *inserting before the semicolon “, or a statement that the*
17 *monthly payment may increase or decrease significantly*
18 *due to increases in the annual percentage rate”.*

19 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*Sec-*
20 *tion 127A(b)(3) of the Truth in Lending Act (15 U.S.C.*
21 *1637a(b)(3)) is amended by striking “required under” and*
22 *inserting “referred to in”.*

23 (c) *ALTERNATIVE TO HISTORICAL EXAMPLE.*—*Section*
24 *128(a) of the Truth in Lending Act (15 U.S.C. 1638(a))*

1 *is amended by inserting at the end the following new para-*
2 *graph:*

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

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

14 “(3) *In the case of a residential mortgage transaction,*
15 *the disclosures under subsection (a) shall include the follow-*
16 *ing:*

17 “(A) *The note rate and points, and a statement,*
18 *if applicable, that these terms are subject to change.*

19 “(B) *A statement that the creditor must include*
20 *the disclosed note rate and points in the credit agree-*
21 *ment unless, in relation to either or both of those*
22 *terms—*

23 “(i) *the disclosure clearly and conspicuously*
24 *indicates that the term is subject to change, or*

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

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

7 “(II) the creditor has promptly and
8 clearly communicated to the consumer the
9 information and documentation that the
10 consumer is required to provide to the credi-
11 tor; and

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

16 **SEC. 106. CERTAIN CHARGES.**

17 (a) *THIRD PARTY FEES.*—Section 106(a) of the Truth
18 in Lending Act (15 U.S.C. 1605(a)) is amended by adding
19 after the 2d sentence the following new sentence: “The fi-
20 nance charge shall not include fees and amounts imposed
21 by third party closing agents (including settlement agents,
22 attorneys, and escrow and title companies) if the creditor
23 does not expressly require the imposition of the charges or
24 the services provided and does not retain the charges.”.

1 (b) *MORTGAGE BROKER FEES.*—Section 106(a) of the
2 *Truth in Lending Act (15 U.S.C. 1605(a))* is amended by
3 *adding at the end the following new paragraph:*

4 “(6) *Mortgage broker fees.*”.

5 (c) *TREATMENT OF CERTAIN DEBT CANCELLATION*
6 *AND DEFICIENCY WAIVER CONTRACTS.*—Section 106(c) of
7 *the Truth in Lending Act (15 U.S.C. 1605(c))* is amended
8 *to read as follows:*

9 “(c) *TREATMENT OF CERTAIN DEBT CANCELLATION*
10 *AND DEFICIENCY WAIVER CONTRACTS.*—Charges or pre-
11 *miums for any insurance or for any voluntary noninsur-*
12 *ance product, written in connection with any consumer*
13 *credit transaction, that provides protections against loss of*
14 *or damage to property or against part or all of the debtor’s*
15 *liability for amounts in excess of the value of the collateral*
16 *securing the debtor’s obligation, or against liability arising*
17 *out of the ownership or use of property, shall be included*
18 *in the finance charge unless a clear and specific statement*
19 *in writing is furnished by the creditor to the person to*
20 *whom the credit is extended, setting forth the cost of the*
21 *insurance or product if obtained from or through the credi-*
22 *tor, and stating that the person to whom credit is extended*
23 *may choose the person through which the insurance or prod-*
24 *uct is to be obtained.*”.

1 (d) *TAXES ON SECURITY INSTRUMENTS OR EVIDENCES*
2 *OF INDEBTEDNESS.*—Section 106(d) of the Truth in Lend-
3 *ing Act (15 U.S.C. 1605(d)) is amended by adding at the*
4 *end the following new paragraph:*

5 “(3) Any tax levied on security instruments or
6 on documents evidencing indebtedness if the payment
7 of such taxes is a precondition for recording the in-
8 strument securing the evidence of indebtedness.”.

9 (e) *PREPARATION OF LOAN DOCUMENTS.*—Section
10 106(e)(2) of the Truth in Lending Act (15 U.S.C.
11 1605(e)(2)) is amended to read as follows:

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

14 (f) *FEES RELATING TO PEST INFESTATIONS, INSPEC-*
15 *TIONS, AND HAZARDS.*—Section 106(e)(5) of the Truth in
16 *Lending Act (15 U.S.C. 1605(e)(5)) is amended by insert-*
17 *ing “, including fees related to pest infestations, premises*
18 *and structural inspections, and flood hazards” before the*
19 *period.*

20 (g) *ENSURING FINANCE CHARGES REFLECT COST OF*
21 *CREDIT.*—

22 (1) *REPORT.*—

23 (A) *IN GENERAL.*—Not later than 6 months
24 after the date of the enactment of this Act, the
25 Board of Governors of the Federal Reserve Sys-

1 *tem shall submit to the Congress a report con-*
2 *taining recommendations on any regulatory or*
3 *statutory changes necessary—*

4 *(i) to ensure that finance charges im-*
5 *posed in connection with consumer credit*
6 *transactions more accurately reflect the cost*
7 *of providing credit; and*

8 *(ii) to address abusive refinancing*
9 *practices engaged in solely for the purpose*
10 *of avoiding rescission.*

11 *(B) REPORT REQUIREMENTS.—In prepar-*
12 *ing the report under this paragraph, the Board*
13 *shall—*

14 *(i) consider the extent to which it is*
15 *feasible to include in finance charges all*
16 *charges payable directly or indirectly by the*
17 *consumer to whom credit is extended, and*
18 *imposed directly or indirectly by the credi-*
19 *tor as an incident to the extension of credit*
20 *(especially those charges excluded from fi-*
21 *nance charges under section 106 of the*
22 *Truth in Lending Act as of the date of the*
23 *enactment of this Act), excepting only those*
24 *charges which are payable in a comparable*
25 *cash transaction; and*

1 (ii) consult with and consider the
2 views of affected industries and consumer
3 groups.

4 (2) *REGULATIONS.*—The Board of Governors of
5 the Federal Reserve System shall prescribe any appro-
6 priate regulation in order to effect any change in-
7 cluded in the report under paragraph (1), and shall
8 publish the regulation in the Federal Register before
9 the end of the 1-year period beginning on the date of
10 enactment of this Act.

11 **SEC. 107. EXEMPTIONS FROM RESCISSION.**

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

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

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

17 (3) by adding at the end the following new para-
18 graph:

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

21 “(A) is a refinancing of the principal bal-
22 ance then due and any accrued and unpaid fi-
23 nance charges of a residential mortgage trans-
24 action as defined in section 103(w), or is any

1 *subsequent refinancing of such a transaction;*
2 *and*

3 *“(B) does not provide any new consolida-*
4 *tion or new advance.”.*

5 ***(b) TECHNICAL AND CONFORMING AMENDMENT.***—*Sec-*
6 *tion 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 the*
12 *Truth in Lending Act (15 U.S.C. 1605) is amended by add-*
13 *ing at the end the following new subsection:*

14 ***“(f) TOLERANCES 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 by*
18 *any finance charge—*

19 *“(1) except as provided in paragraph (2), shall*
20 *be treated as being accurate for purposes of this title*
21 *if the amount disclosed as the finance charge—*

22 *“(A) does not vary from the actual finance*
23 *charge by more than an amount equal to 1/2 of*
24 *the numerical tolerance corresponding to, and*
25 *generated by, the tolerance provided by section*

1 107(c) with respect to the annual percentage
2 rate, but in no case may the tolerance under this
3 paragraph be less than \$25 or greater than \$200;
4 or

5 “(B) is greater than the amount required to
6 be disclosed under this title; and

7 “(2) shall be treated as being accurate for pur-
8 poses of section 125 if the amount disclosed as the fi-
9 nance charge does not vary from the actual finance
10 charge by more than an amount equal to 0.5 percent
11 of the total amount of credit extended.”.

12 (b) *BASIS OF DISCLOSURE FOR PER DIEM INTER-*
13 *EST.*—Section 121(c) of the Truth in Lending Act (15
14 U.S.C. 1631(c)) is amended by adding at the end the follow-
15 ing new sentence: “In the case of any consumer credit trans-
16 action a portion of the interest on which is determined on
17 a per diem basis and is to be collected upon the consumma-
18 tion of such transaction, any disclosure with respect to such
19 portion of interest shall be deemed to be accurate for pur-
20 poses of this title if the disclosure is based on information
21 actually known to the creditor at the time that the disclo-
22 sure documents are being prepared for the consummation
23 of the transaction.”.

1 **SEC. 109. LIMITATION ON LIABILITY.**

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

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

6 “(a) *LIMITATIONS ON LIABILITY.*—For any consumer
7 credit transaction subject to this title that is consummated
8 before the date of the enactment of the Financial Institu-
9 tions Regulatory Relief Act of 1995, a creditor or any as-
10 signee of a creditor shall have no civil, administrative, or
11 criminal liability under this title for, and a consumer shall
12 have no extended rescission rights under section 125(f) with
13 respect to—

14 “(1) the creditor’s treatment, for disclosure pur-
15 poses, of—

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

17 “(B) fees and amounts described in section
18 106(e) (2) and (5);

19 “(C) fees and amounts referred to in the 3rd
20 sentence of section 106(a); or

21 “(D) mortgage broker fees referred to in sec-
22 tion 106(a)(6);

23 “(2) the form of written notice used by the credi-
24 tor to inform the obligor of the rights of the obligor
25 under section 125 if the creditor provided the obligor
26 with a properly dated form of written notice pub-

1 *lished and adopted by the Board or a comparable*
2 *written notice; or*

3 *“(3) any disclosure relating to the finance charge*
4 *imposed with respect to the transaction if the amount*
5 *or percentage actually disclosed—*

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

8 *“(B) is greater than the amount or percent-*
9 *age required to be disclosed under this title.*

10 *“(b) EXCEPTIONS.—Subsection (a) shall not apply*
11 *to—*

12 *“(1) any individual action or counterclaim*
13 *brought under this title which was filed before June*
14 *1, 1995;*

15 *“(2) any class action brought under this title for*
16 *which a final order certifying a class was entered be-*
17 *fore January 1, 1995;*

18 *“(3) the named individual plaintiffs in any class*
19 *action brought under this title which was filed before*
20 *June 1, 1995; or*

21 *“(4) any consumer credit transaction with re-*
22 *spect to which a timely notice of rescission was sent*
23 *to the creditor before June 1, 1995.”.*

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

1 *ing after the item relating to section 138 the following new*
 2 *item:*

“139. Certain limitations on liability.”.

3 **SEC. 110. LIMITATION ON RESCISSION LIABILITY.**

4 *Section 125 of the Truth in Lending Act (15 U.S.C.*
 5 *1635) is further amended by adding at the end the following*
 6 *new subsection:*

7 *“(h) LIMITATION ON RESCISSION.—An obligor shall*
 8 *have no rescission rights arising from the form of written*
 9 *notice used by the creditor to inform the obligor of the rights*
 10 *of the obligor under this section, if the creditor provided*
 11 *the obligor the appropriate form of written notice published*
 12 *and adopted by the Board, or a comparable written notice*
 13 *of the rights of the obligor, that was properly completed by*
 14 *the creditor.”.*

15 **SEC. 111. CALCULATION OF DAMAGES.**

16 *Section 130(a)(2)(A) of the Truth in Lending Act (15*
 17 *U.S.C. 1640(a)(2)(A)) is amended—*

18 *(1) by striking “or (ii)” and inserting “(ii);*
 19 *and*

20 *(2) by inserting before the semicolon at the end*
 21 *the following: “, or (iii) in the case of an individual*
 22 *action relating to a credit transaction not under an*
 23 *open end credit plan that is secured by real property*
 24 *or a dwelling, not less than \$250 or greater than*
 25 *\$2,500”.*

1 **SEC. 112. ASSIGNEE LIABILITY.**

2 (a) *VIOLATIONS APPARENT ON THE FACE OF TRANS-*
3 *ACTION DOCUMENTS.*—Section 131 of the Truth in Lending
4 *Act (15 U.S.C. 1641) is amended by adding at the end the*
5 *following new subsection:*

6 “(e) *LIABILITY OF ASSIGNEE FOR CONSUMER CREDIT*
7 *TRANSACTIONS SECURED BY REAL PROPERTY.*—

8 “(1) *IN GENERAL.*—*Except as otherwise specifi-*
9 *cally provided in this title, any civil action against*
10 *a creditor for a violation of this title, and any pro-*
11 *ceeding under section 108 against a creditor, with re-*
12 *spect to a consumer credit transaction secured by real*
13 *property may be maintained against any assignee of*
14 *such creditor only if—*

15 “(A) *the violation for which such action or*
16 *proceeding is brought is apparent on the face of*
17 *the disclosure statement provided in connection*
18 *with such transaction pursuant to this title; and*

19 “(B) *the assignment to the assignee was vol-*
20 *untary.*

21 “(2) *VIOLATION APPARENT ON THE FACE OF THE*
22 *DISCLOSURE DESCRIBED.*—*For the purpose of this*
23 *section, a violation is apparent on the face of the dis-*
24 *closure statement if—*

25 “(A) *the disclosure can be determined to be*
26 *incomplete or inaccurate from the face of the dis-*

1 *closure statement, any itemization of the amount*
2 *financed, or any other disclosure of disburse-*
3 *ment; or*

4 *“(B) the disclosure statement does not use*
5 *the terms or format required to be used by this*
6 *title.”.*

7 *(b) SERVICER NOT TREATED AS ASSIGNEE.—Section*
8 *131 of the Truth in Lending Act (15 U.S.C. 1641) is*
9 *amended by inserting after subsection (e) (as added by sub-*
10 *section (a) of this section) the following new subsection:*

11 *“(f) TREATMENT OF SERVICER.—*

12 *“(1) IN GENERAL.—A servicer of a consumer ob-*
13 *ligation arising from a consumer credit transaction*
14 *shall not be treated as an assignee of such obligation*
15 *for purposes of this section unless the servicer is the*
16 *owner of the obligation.*

17 *“(2) SERVICER NOT TREATED AS OWNER ON*
18 *BASIS OF ASSIGNMENT FOR ADMINISTRATIVE CONVEN-*
19 *IENCE.—A servicer of a consumer obligation arising*
20 *from a consumer credit transaction shall not be treat-*
21 *ed as the owner of the obligation for purposes of this*
22 *section on the basis of an assignment of the obligation*
23 *from the creditor or another assignee to the servicer*
24 *solely for the administrative convenience of the*
25 *servicer in servicing the obligation. Upon written re-*

1 *quest by the obligor, the servicer shall provide the ob-*
2 *ligor, to the best knowledge of the servicer, with the*
3 *name, address, and telephone number of the owner of*
4 *the obligation or the master servicer of the obligation.*

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

9 **SEC. 113. RESCISSION RIGHTS IN FORECLOSURE.**

10 *Section 125 of the Truth in Lending Act (15 U.S.C.*
11 *1635) is amended by inserting after subsection (h) (as*
12 *added by section 110) the following new subsection:*

13 *“(i) RESCISSION RIGHTS IN FORECLOSURE.—*

14 *“(1) IN GENERAL.—Notwithstanding section 139,*
15 *and subject to the time period provided in subsection*
16 *(f), in addition to any other right of rescission avail-*
17 *able under this section for a transaction, upon an ac-*
18 *tion of a creditor to execute foreclosure on the pri-*
19 *mary dwelling of an obligor securing an extension of*
20 *credit, the obligor shall have a right to rescind the*
21 *transaction equivalent to other rescission rights pro-*
22 *vided by this section, if—*

23 *“(A) a mortgage brokers fee is not included*
24 *in the finance charge in accordance with the*
25 *laws and regulations in effect at the time the*

1 *consumer credit transaction was consummated;*
2 *or*

3 “(B) *the form of notice of rescission for the*
4 *transaction is not the appropriate form of writ-*
5 *ten notice published and adopted by the Board*
6 *or a comparable written notice, or was not prop-*
7 *erly completed by the creditor.*

8 “(2) *TOLERANCE FOR DISCLOSURES.—Notwith-*
9 *standing section 106(f), and subject to the time period*
10 *provided in subsection (f), for the purposes of exercis-*
11 *ing any rescission rights following an action by a*
12 *creditor to foreclose on the principal dwelling of the*
13 *obligor securing an extension of credit, the disclosure*
14 *of the finance charge and other disclosures affected by*
15 *any finance charge shall be treated as being accurate*
16 *for purposes of this section if the amount disclosed as*
17 *the finance charge does not vary from the actual fi-*
18 *nance charge by more than \$35 or is greater than the*
19 *amount required to be disclosed under this title.”.*

20 **SEC. 114. RECOVERY OF FEES.**

21 *Section 125(b) of the Truth in Lending Act (15 U.S.C.*
22 *1635) is amended—*

23 (1) *in the 1st sentence, by inserting “, except*
24 *any charge for an appraisal report or credit report”*
25 *after “other charge”; and*

1 *borhoods in which it located. An institution subject to*
2 *such an order shall be required to comply with the re-*
3 *quirements of this Act for loans made after the time*
4 *that the order is issued at such time and for such pe-*
5 *riod as the Board deems appropriate. The dollar*
6 *amount in this section shall be adjusted annually*
7 *after December 31, 1994, by the annual percentage in-*
8 *crease in the Consumer Price Index for Urban Wage*
9 *Earners and Clerical Workers published by the Bu-*
10 *reau of Labor Statistics.”.*

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

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

16 *“(1) A depository institution shall be considered*
17 *to have satisfied the public availability requirements*
18 *of subsection (a) if such institution keeps the informa-*
19 *tion required under that subsection at its home office*
20 *and provides notice at the branch locations specified*
21 *in such subsection that such information is available*
22 *upon request from the home office of the institution.*
23 *A home office of the depository institution receiving*
24 *a 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 fifteen days*
2 *of 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 through a form of electronic medium,*
11 *such as computer disc.”.*

12 **SEC. 117. APPLICABILITY.**

13 *(a) IN GENERAL.—The amendments made by sub-*
14 *sections (a), (d), (e), and (f) of section 106 and sections*
15 *108, 112, and 113 shall apply to all consumer credit trans-*
16 *actions in existence or consummated on or after the date*
17 *of enactment of this Act.*

18 *(b) EXCEPTION.—Notwithstanding subsection (a), in*
19 *the case of—*

20 *(1) an individual action or a counterclaim re-*
21 *ferred to in section 139(b)(1) of the Truth in Lending*
22 *Act, as amended by section 109(a) of this Act;*

23 *(2) a class action referred to in section 139(b)(2)*
24 *of that Act;*

1 (3) a claim of an individual as a named indi-
2 vidual plaintiff in a class action referred to in section
3 139(b)(3) of that Act; or

4 (4) a claim relating to a consumer credit trans-
5 action referred to in section 139(b)(4) of that Act;

6 the Truth in Lending Act shall apply as in effect on the
7 date of the consummation of the consumer credit trans-
8 action that is the subject of the individual action, counter-
9 claim, class action, or claim, respectively.

10 **Subtitle B—Community**
11 **Reinvestment Act Amendments**

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

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

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

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

2 *The Community Reinvestment Act of 1977 (12 U.S.C.*
3 *2901 et seq.) is amended by adding at the end the following*
4 *new section:*

5 **“SEC. 809. EXAMINATION EXEMPTION.**

6 *“(a) IN GENERAL.—A regulated financial institution*
7 *shall not be subject to the examination requirements of this*
8 *title or any regulations issued under this section if the insti-*
9 *tution and any bank holding company which controls such*
10 *institution have aggregate assets of not more than*
11 *\$100,000,000.*

12 *“(b) ANNUAL ADJUSTMENT.—The dollar amount in*
13 *subsection (a) shall be adjusted annually after December 31,*
14 *1994, by the annual percentage increase in the Consumer*
15 *Price Index for Urban Wage Earners and Clerical Workers*
16 *published by the Bureau of Labor Statistics.”.*

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

18 *Section 804 of the Community Reinvestment Act of*
19 *1977 (12 U.S.C. 2903) is amended by adding at the end*
20 *the following new subsection (c):*

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

22 *“(1) CERTIFICATION.—In lieu of being evaluated*
23 *under section 806A and receiving a written evalua-*
24 *tion under section 807, a qualifying financial institu-*
25 *tion may elect to self-certify to the appropriate Fed-*

1 *eral financial supervisory agency that such institu-*
2 *tion is in compliance with the goals of this title.*

3 “(2) *QUALIFYING INSTITUTION.*—

4 “(A) *IN GENERAL.*—*For purposes of para-*
5 *graph (1), the term ‘qualifying institution’*
6 *means a financial institution which—*

7 “(i) *has not more than \$250 million in*
8 *assets;*

9 “(ii) *has not been found to have en-*
10 *gaged in a pattern or practice of illegal dis-*
11 *crimination under the Fair Housing Act or*
12 *the Equal Credit Opportunity Act for the*
13 *preceding 5-year calendar period; and*

14 “(iii) *received rating under section*
15 *807(b)(2) of ‘satisfactory’ or ‘outstanding’*
16 *in the most recent evaluation of such insti-*
17 *tution under this title.*

18 “(B) *ANNUAL ADJUSTMENT.*—*The dollar*
19 *amount in subparagraph (A) shall be adjusted*
20 *annually after December 31, 1994, by the annual*
21 *percentage increase in the Consumer Price Index*
22 *for Urban Wage Earners and Clerical Workers*
23 *published by the Bureau of Labor Statistics.*

24 “(3) *PUBLIC NOTICE.*—

1 “(A) *IN GENERAL.*—A qualifying institu-
2 tion shall maintain in every branch a public no-
3 tice stating that—

4 “(i) *the institution has self-certified*
5 *that the institution is satisfactorily helping*
6 *to meet the credit needs of its community;*

7 “(ii) *the institution maintains—*

8 “(I) *at the main office of such in-*
9 *stitution, a public file which contains*
10 *a copy of the self-certification to the*
11 *appropriate Federal financial super-*
12 *visory agency; and*

13 “(II) *a map delineating the com-*
14 *munity served by the institution;*

15 “(iii) *a list of the types of credit and*
16 *services that the institution provides to the*
17 *community served by the institution;*

18 “(iv) *such other information that the*
19 *institution believes demonstrates the institu-*
20 *tion’s record of helping to meet the credit*
21 *needs of its community; and*

22 “(v) *every public comment or letter to*
23 *the institution (and any response by the in-*
24 *stitution) received within the previous 2-*
25 *year period about the record of the institu-*

1 *tion of helping to meet the credit needs of*
2 *its community.*

3 “(B) *PUBLIC FILE.*—*A qualifying institu-*
4 *tion shall maintain a public file containing the*
5 *contents described in this paragraph at the insti-*
6 *tution’s main office.*

7 “(4) *RATING.*—

8 “(A) *IN GENERAL.*—*A qualifying institu-*
9 *tion shall be deemed to have a rating of a ‘satis-*
10 *factory record of meeting community credit*
11 *needs’ for the purposes of this section and section*
12 *806A(c).*

13 “(B) *PUBLICATION.*—*Each Federal finan-*
14 *cial supervisory agency shall publish in the Fed-*
15 *eral Register once each month a list of institu-*
16 *tions that have self-certified during the previous*
17 *month.*

18 “(C) *PUBLICATION CONSTITUTES DISCLO-*
19 *SURE.*—*Publication of the name of the institu-*
20 *tion in the Federal Register as having self-cer-*
21 *tified shall constitute disclosure of the rating of*
22 *the institution to the public for purposes of sec-*
23 *tions 806A and 807.*

24 “(5) *REGULATORY REVIEW.*—

1 “(A) *ASSESSMENT.*—During each examina-
2 tion for safety and soundness, a qualifying insti-
3 tution’s supervisory agency shall, as part of the
4 agency’s review of the institution’s loans, assess
5 whether the institution’s basis for its self-certifi-
6 cation is reasonable based on the public notice
7 and the information contained in the public file
8 pursuant to paragraph (3).

9 “(B) *EXAMINATION IF SELF-CERTIFICATION*
10 *IS NOT REASONABLE.*—If the agency determines
11 that the institution’s basis for the institution’s
12 self-certification is not reasonable, the agency
13 shall schedule an examination of the institution
14 for the purpose of assessing the institution’s
15 record of helping to meet the credit needs of its
16 community.

17 “(C) *REVOCATION OF SELF-CERTIFI-*
18 *CATION.*—If an assessment pursuant to subpara-
19 graph (B) results in a less than ‘satisfactory’
20 rating, the agency shall revoke the institution’s
21 self-certification and substitute a written evalua-
22 tion as provided under section 807.

23 “(D) *PERIOD OF INELIGIBILITY FOR SELF-*
24 *CERTIFICATION.*—An institution whose self-
25 certification has been revoked may not self-certify

1 *pursuant to this subsection during the 5 years*
2 *succeeding the year in which the self-certification*
3 *is revoked.*

4 “(E) *SUBSEQUENT ELIGIBILITY.*—*After the*
5 *end of the period of ineligibility described in*
6 *subparagraph (D), an institution which meets*
7 *the requirements for self-certification may elect*
8 *to self-certify.*

9 “(6) *PROHIBITION ON ADDITIONAL REQUIRE-*
10 *MENTS.*—*No appropriate Federal financial super-*
11 *visory agency may impose any additional require-*
12 *ments, whether by regulation or otherwise, relating to*
13 *the self-certification procedure under this subsection.”.*

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

15 (a) *CONFORMING AMENDMENT.*—*Section 804(a) of the*
16 *Community Reinvestment Act of 1977 (12 U.S.C. 2903) is*
17 *amended by inserting “conducted in accordance with sec-*
18 *tion 806A,” after “financial institution,”.*

19 (b) *COMMUNITY INPUT AND CONCLUSIVE RATING.*—
20 *The Community Reinvestment Act of 1977 (12 U.S.C. 2901*
21 *et seq.) is amended by inserting after section 806 the follow-*
22 *ing new section:*

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

24 “(a) *PUBLICATION OF EXAM SCHEDULE AND OPPOR-*
25 *TUNITY FOR COMMENT.*—

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

3 “(A) *publish in the Federal Register, 30*
4 *days before the beginning of a calendar quarter,*
5 *a listing of institutions scheduled for evaluation*
6 *for compliance with this title during such cal-*
7 *endar quarter; and*

8 “(B) *provide opportunity for written com-*
9 *ments from the community on the performance,*
10 *under this title, of each institution scheduled for*
11 *evaluation.*

12 “(2) *COMMENT PERIOD.*—Written comments may
13 *not be submitted to an appropriate Federal financial*
14 *supervisory agency pursuant to paragraph (1) after*
15 *the end of the 30-day period beginning on the first*
16 *day of the calendar quarter.*

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

19 “(b) *EVALUATION.*—The appropriate Federal financial
20 *supervisory agency shall—*

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

23 “(2) *prepare and publish a written evaluation of*
24 *the institution as required under section 807.*

25 “(c) *RECONSIDERATION OF RATING.*—

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

5 “(2) *PROCEDURES FOR REQUEST.*—Any such re-
6 *quest shall be made in writing and filed with the ap-*
7 *propriate Federal financial supervisory agency, and*
8 *may be filed by the institution or a member of the*
9 *community.*

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

18 “(4) *COMPLETION OF REVIEW.*—The appropriate
19 *Federal financial supervisory agency shall complete*
20 *any requested reconsideration within 30 days of the*
21 *filing of the request.*

22 “(d) *CONCLUSIVE RATING.*—

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

1 “(A) 30 days after the rating is disclosed to
2 the public; or

3 “(B) the completion of any requested recon-
4 sideration by the Federal financial supervisory
5 agency.

6 “(2) *RATING CONCLUSIVE OF MEETING COMMU-
7 NITY CREDIT NEEDS.*—An institution’s rating shall be
8 the conclusive assessment of the institution’s record of
9 meeting the credit needs of its community for pur-
10 poses of section 804 until the institution’s next rating,
11 developed pursuant to an examination, becomes con-
12 clusive.

13 “(3) *SAFE HARBOR.*—Institutions which have re-
14 ceived a ‘satisfactory’ or ‘outstanding’ rating shall be
15 deemed to have met the purposes of section 804.

16 “(4) *RULE OF CONSTRUCTION.*—Notwithstanding
17 any other provision of law, no provision of this sec-
18 tion shall be construed as granting a cause of action
19 to any person.”.

20 “(c) *OVERALL EVALUATION OF INSTITUTION.*—Para-
21 graph (2) of section 804(a) of the Community Reinvestment
22 Act of 1977 (12 U.S.C. 2903(a)) is amended to read as fol-
23 lows:

1 “(2) take such record into account in the overall
2 evaluation of the condition of the institution by the
3 appropriate Federal financial supervisory agency.”.

4 **SEC. 125. SPECIAL PURPOSE FINANCIAL INSTITUTIONS.**

5 (a) *IN GENERAL.*—Section 804 of the Community Re-
6 investment Act of 1977 (12 U.S.C. 2903) is amended by
7 inserting after subsection (c) (as added by section 123 of
8 this title) the following new subsection:

9 “(d) *SPECIAL PURPOSE INSTITUTIONS.*—

10 “(1) *IN GENERAL.*—In conducting assessments
11 pursuant to this section at any special purpose insti-
12 tution, the appropriate Federal financial supervisory
13 agency shall—

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

16 “(B) assess and take into account the record
17 of the institution commensurate with the amount
18 of deposits (as defined in section 3(1) of the Fed-
19 eral Deposit Insurance Act) received by such in-
20 stitution.

21 “(2) *STANDARDS.*—Each appropriate Federal fi-
22 nancial supervisory agency shall develop standards
23 under which special purpose institutions may be
24 deemed to have complied with the requirements of this

1 *title which are consistent with the specific nature of*
2 *such businesses.”.*

3 (b) *SPECIAL PURPOSE INSTITUTION DEFINED.*—Sec-
4 *tion 803 of the Community Reinvestment Act of 1977 (12*
5 *U.S.C. 2902) is amended by adding at the end the following*
6 *new paragraph:*

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

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

15 (a) *IN GENERAL.*—*Section 804(b) of the Community*
16 *Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amended*
17 *to read as follows:*

18 “(b) *POSITIVE CONSIDERATION OF CERTAIN LOANS*
19 *AND INVESTMENTS.*—*In assessing and taking into account*
20 *the records of a regulated financial institution under sub-*
21 *section (a), the appropriate Federal financial supervisory*
22 *agency shall—*

23 “(1) *consider as a positive factor, consistent with*
24 *the safe and sound operation of the institution, the*
25 *institution’s investment in or loan to—*

1 “(A) any minority depository institution or
2 women’s depository institution (as such terms
3 are defined in section 808(b)) or any low-income
4 credit union;

5 “(B) any joint venture or other entity or
6 project which promotes the public welfare in any
7 distressed community (as defined by such agen-
8 cy) whether or not the distressed community is
9 located in the local community in which the reg-
10 ulated financial institution is chartered to do
11 business; and

12 “(C) targeted low- and moderate-income
13 communities, including real property loans to
14 such communities; and

15 “(2) consider equally with other factors capital
16 investment, loan participation, and other ventures
17 undertaken by the institution in cooperation with—

18 “(A) minority- and women-owned financial
19 institutions and low-income credit unions to the
20 extent that these activities help meet the credit
21 needs of the local communities in which such in-
22 stitutions are chartered; and

23 “(B) community development corporations
24 in extending credit and other financial services
25 principally to low- and moderate-income persons

1 *and small businesses to the extent that such com-*
2 *munity development corporations help meet the*
3 *credit needs of the local communities served by*
4 *the majority-owned institution.”.*

5 **(b) AMENDMENT TO DEFINITIONS.**—*Section 803 of the*
6 *Community Reinvestment Act of 1977 (12 U.S.C. 2902) is*
7 *amended by inserting after paragraph (5) (as added by sec-*
8 *tion 125(b) of this subtitle) the following new paragraph:*

9 **“(6) STATE BANK SUPERVISOR.**—*The term ‘State*
10 *bank supervisor’ has the same meaning as in section*
11 *3(r) of the Federal Deposit Insurance Act.”.*

12 **(c) TECHNICAL CORRECTION.**—*The 1st of the 2 para-*
13 *graphs designated as paragraph (2) of section 803 of the*
14 *Community Reinvestment Act of 1977 (12 U.S.C. 2902) is*
15 *amended to read as follows:*

16 **“(D) the Director of the Office of Thrift Su-**
17 *pervision with respect to any savings association*
18 *(the deposits of which are insured by the Federal*
19 *Deposit Insurance Corporation) and any savings*
20 *and loan holding company (other than a com-*
21 *pany which is a bank holding company);”.*

22 **SEC. 127. PROHIBITION ON ADDITIONAL REPORTING**
23 **UNDER CRA.**

24 *Section 806 of the Community Reinvestment Act of*
25 *1977 (12 U.S.C. 2905) is amended to read as follows:*

1 **“SEC. 806. REGULATIONS.**

2 “(a) *IN GENERAL.*—

3 “(1) *PUBLICATION REQUIREMENT.*—*Regulations*
4 *to carry out the purposes of this title shall be pub-*
5 *lished by each appropriate Federal financial super-*
6 *visory agency.*

7 “(2) *PROHIBITION ON ADDITIONAL RECORD-*
8 *KEEPING.*—*Regulations prescribed and policy state-*
9 *ments, commentary, examiner guidance, or other su-*
10 *pervisory material issued under this title shall not*
11 *impose any additional recordkeeping on a financial*
12 *institution.*

13 “(3) *PROHIBITION ON LOAN DATA COLLEC-*
14 *TION.*—*No loan data may be required to be collected*
15 *and reported by a financial institution and no such*
16 *data may be made public by any Federal financial*
17 *supervisory agency under this title.”.*

18 **SEC. 128. TECHNICAL AMENDMENT.**

19 *Section 807(b)(1)(B) of the Community Reinvestment*
20 *Act (12 U.S.C. 2906) is amended by striking “The informa-*
21 *tion” and inserting “In the case of a regulated financial*
22 *institution that maintains domestic branches in 2 or more*
23 *States, the information”.*

1 **SEC. 129. DUPLICATIVE REPORTING.**

2 *Section 10(g) of the Federal Home Loan Bank Act (12*
3 *U.S.C. 1430(g)) is amended by adding at the end the follow-*
4 *ing new paragraph (3):*

5 *“(3) SPECIAL RULE.—This subsection shall not*
6 *apply to members receiving a grade of ‘outstanding’*
7 *or ‘satisfactory’ under section 807 of the Community*
8 *Reinvestment Act of 1977.”.*

9 **SEC. 130. CRA CONGRESSIONAL OVERSIGHT.**

10 *(a) SENSE OF CONGRESS RELATING TO AGGRESSIVE*
11 *OVERSIGHT.—It is the sense of the Congress that the appro-*
12 *priate committees of the House of Representatives and the*
13 *Senate should exercise aggressive oversight of the adoption*
14 *and implementation of any regulation by any appropriate*
15 *Federal financial supervisory agency under the Community*
16 *Reinvestment Act of 1977 after the date of the enactment*
17 *of this Act.*

18 *(b) AGENCY REPORTS REQUIRED.—*

19 *(1) IN GENERAL.—Each appropriate Federal fi-*
20 *nancial supervisory agency shall submit a report to*
21 *the Congress by December 31, 1996, and by December*
22 *31, 1997, on the implementation of all regulations*
23 *prescribed by such agency under the Community Re-*
24 *investment Act of 1977 after the date of the enactment*
25 *of this Act.*

1 (2) *REQUIREMENTS RELATING TO PREPARATION*
2 *OF REPORTS.*—*In preparing each report required*
3 *under paragraph (1), each appropriate Federal finan-*
4 *cial supervisory agency shall—*

5 (A) *solicit and include comments from regu-*
6 *lated financial institutions with respect to the*
7 *regulations which are the subject of the report;*
8 *and*

9 (B) *include quantifiable measures of the*
10 *cost savings achieved under the regulations*
11 *which are the subject of the report and the effec-*
12 *tiveness of such regulations in achieving the pur-*
13 *poses of the Community Reinvestment Act of*
14 *1977.*

15 (3) *DEFINITIONS.*—*For purposes of this section,*
16 *the terms “appropriate Federal financial supervisory*
17 *agency” and “regulated financial institution” have*
18 *the same meanings as in section 803 of the Commu-*
19 *nity Reinvestment Act of 1977.*

20 **SEC. 131. CONSULTATION AMONG EXAMINERS.**

21 *Section 10 of the Federal Deposit Insurance Act (12*
22 *U.S.C. 1820) is amended by adding at the end the following*
23 *new subsection:*

24 “(j) *CONSULTATION AMONG EXAMINERS.*—

1 “(1) *IN GENERAL.*—*Each appropriate Federal*
2 *banking agency shall take such action as may be nec-*
3 *essary to ensure that examiners employed by the*
4 *agency—*

5 “(A) *consult on examination activities with*
6 *respect to any depository institution; and*

7 “(B) *achieve an agreement and resolve any*
8 *inconsistencies on the recommendations to be*
9 *given to such institution as a consequence of any*
10 *examinations.*

11 “(2) *EXAMINER-IN-CHARGE.*—*Each agency shall*
12 *consider appointing an examiner-in-charge with re-*
13 *spect to a depository institution to ensure consulta-*
14 *tion on examination activities among all of the agen-*
15 *cy’s examiners involved in examinations of such in-*
16 *stitution.”.*

17 **SEC. 132. LIMITATION ON REGULATIONS.**

18 *Section 806 of the Community Reinvestment Act of*
19 *1977 (12 U.S.C. 2905) (as amended by section 127) is*
20 *amended by adding at the end the following new sub-*
21 *sections:*

22 “(b) *LIMITATION ON REGULATIONS.*—*No regulation*
23 *may be prescribed under this title by any Federal agency*
24 *which would—*

1 “(1) require any regulated financial institution
2 to—

3 “(A) make any loan or enter into any other
4 agreement on the basis of any discriminatory
5 criteria prohibited under any law of the United
6 States; or

7 “(B) make any loan to, or enter into any
8 other agreement with, any uncreditworthy person
9 that would jeopardize the safety and soundness of
10 such institution; or

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

14 “(c) *ENCOURAGE LOANS TO CREDITWORTHY BORROW-*
15 *ERS.—Regulations prescribed under this title shall encour-*
16 *age regulated financial institutions to make loans and ex-*
17 *tend credit to all creditworthy persons, consistent with safe-*
18 *ty and soundness.”.*

19 ***Subtitle C—Consumer Banking***
20 ***Reforms***

21 ***SEC. 141. TRUTH IN SAVINGS.***

22 (a) *PURPOSE.—Section 262 of the Truth in Savings*
23 *Act (12 U.S.C. 4301) is amended to read as follows:*

1 **“SEC. 262. PURPOSE.**

2 *“It is the purpose of this subtitle to ensure that con-*
 3 *sumers can make a meaningful comparison between the*
 4 *competing claims of depository institutions with regard to*
 5 *deposit accounts by requiring that institutions offering in-*
 6 *terest-bearing accounts pay interest on the full amount of*
 7 *principal each day in a consumer deposit account at the*
 8 *rate agreed to be paid by the institution.”.*

9 **(b) PROHIBITION ON MISLEADING OR INACCURATE AD-**
 10 **VERTISEMENTS AND DISCLOSURES.**—*Section 263 is amend-*
 11 *ed to read as follows:*

12 **“SEC. 263. PROHIBITION ON MISLEADING OR INACCURATE**
 13 **ADVERTISEMENTS AND DISCLOSURES.**

14 *“No depository institution or deposit broker shall make*
 15 *any advertisement, announcement, solicitation or disclosure*
 16 *relating to a deposit account that is inaccurate or mislead-*
 17 *ing, including any inaccurate or misleading description of*
 18 *a free or no-cost account, or that misrepresents its deposit*
 19 *contracts.”.*

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

23 **“SEC. 264. ACCOUNT INFORMATION.**

24 **“(a) IN GENERAL.**—*Each depository institution shall*
 25 *disclose fees, charges, penalties, and interest rates applicable*

1 to each class of accounts offered by the institution in accord-
2 ance with this section.

3 “(b) *INFORMATION ON FEES AND CHARGES.*—Each de-
4 pository institution shall disclose the following information
5 with respect to any account to a consumer at the time the
6 account is opened, or at such earlier time as a consumer
7 may request (and no additional information may be re-
8 quired to be disclosed under this subtitle by regulation or
9 otherwise with respect to such account):

10 “(1) A description of all fees, periodic service
11 charges, penalties, and interest rates which may be
12 charged or assessed against the account (or against
13 the account holder in connection with such account),
14 the amount of any such fees, charges, or penalties (or
15 the method by which such amount will be calculated),
16 and the conditions under which any such amount will
17 be assessed.

18 “(2) All minimum balance requirements that af-
19 fect fees, charges, and penalties, including a clear de-
20 scription of how each such minimum balance is cal-
21 culated.

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

1 “(c) *INFORMATION ON INTEREST RATES.*—The disclo-
2 *tures required under subsections (a) and (b) with respect*
3 *to any account shall include the following information:*

4 “(1) *Any annual rate of simple interest.*

5 “(2) *The frequency with which interest will be*
6 *compounded and credited.*

7 “(d) *NO REGULATIONS AUTHORIZED.*—No regulations
8 *may be prescribed with respect to this section by the Board*
9 *or any agency referred to in this title, including any regula-*
10 *tion to define any terms used in this section.”.*

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

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

15 *“If any change is made in any item required to be*
16 *disclosed under section 264, all account holders who may*
17 *be affected by such change shall be notified by mail and*
18 *provided with a description of such change at least 30 days*
19 *before the effective date of the change.”.*

20 (e) *REPEAL OF SECTIONS.*—Sections 266, 268, 271,
21 *and 273 of the Truth in Savings Act (12 U.S.C. 4304, 4305,*
22 *4307, 4310, and 4312, respectively) are hereby repealed.*

23 (f) *REDESIGNATION OF SECTIONS.*—Section 267, 270,
24 *272 of the Truth in Savings Act (12 U.S.C. 4306, 4309,*

1 and 4311) are redesignated as sections 266, 268, and 269,
2 respectively.

3 (g) *REDESIGNATION AND AMENDMENT OF SECTION*
4 269.—Section 269 of the Truth in Savings Act (12 U.S.C.
5 4308) (as determined before the redesignation made by sub-
6 section (f) of this section) is amended to read as follows:

7 **“SEC. 267. REGULATIONS.**

8 “(a) *IN GENERAL.*—The Board, after consultation
9 with each agency referred to in section 268(a) and public
10 notice and opportunity for comment, shall prescribe regula-
11 tions to carry out the purpose and provisions of this sub-
12 title.

13 “(b) *EFFECTIVE DATE OF REGULATIONS.*—The provi-
14 sions of this subtitle shall not apply with respect to any
15 depository institution before the effective date of regulations
16 prescribed by the Board under this subsection.”.

17 (h) *REDESIGNATION AND AMENDMENT OF SECTION*
18 274.—Section 274 of the Truth in Savings Act (12 U.S.C.
19 4313) is amended to read as follows:

20 **“SEC. 270. DEFINITIONS.**

21 “For the purposes of this subtitle, the following defini-
22 tions shall apply:

23 “(1) *ACCOUNTS.*—The term ‘account’ means any
24 account intended for use by and generally used by a

1 *consumer primarily for personal, family, or household*
2 *purposes that is offered by a depository institution.*

3 “(2) *DEPOSIT BROKER.*—*The term ‘deposit*
4 *broker’—*

5 “(A) *has the meaning given to such term in*
6 *section 29(f)(1) of the Federal Deposit Insurance*
7 *Act; and*

8 “(B) *includes any person who solicits any*
9 *amount from any other person for deposit in an*
10 *insured depository institution.*

11 “(3) *DEPOSITORY INSTITUTION.*—*The term ‘de-*
12 *pository institution’—*

13 “(A) *means an institution described in*
14 *clause (i), (ii), (iii), (iv), (v), or (vi) of section*
15 *19(b)(1)(A) of the Federal Reserve Act; and*

16 “(B) *does not include nonautomated credit*
17 *unions which were not required to comply with*
18 *the requirements of this title as of the date of the*
19 *enactment of the Financial Institutions Regu-*
20 *latory Relief Act of 1995 pursuant to the deter-*
21 *mination of the National Credit Union Adminis-*
22 *tration Board.*

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

1 “(5) *BOARD*.—The term ‘Board’ means the
2 *Board of Governors of the Federal Reserve System*.”.

3 (i) *EFFECTIVE DATE*.—

4 (1) *IN GENERAL*.—The amendments made by
5 this section shall take effect on the effective date of
6 regulations prescribed by the Board of Governors of
7 the Federal Reserve System to implement such
8 amendments.

9 (2) *AUTHORITY TO ISSUE REGULATIONS*.—Not-
10 withstanding paragraph (1), the Board of Governors
11 of the Federal Reserve System shall prescribe regula-
12 tions in accordance with the amendment made by
13 subsection (g).

14 (3) *CONTINUED APPLICABILITY OF PROVISIONS*
15 *UNTIL EFFECTIVE DATE OF NEW REGULATIONS*.—The
16 *Truth in Savings Act*, as in effect on the day before
17 the date of the enactment of this Act, shall continue
18 to apply on and after such date until the effective
19 date of the amendments to such Act under this sec-
20 tion.

21 **SEC. 142. INFORMATION SHARING.**

22 Section 18 of the *Federal Deposit Insurance Act* (12
23 U.S.C. 1828) is amended by adding at the end the following
24 new subsection:

25 “(s) *CUSTOMER ACCESS TO PRODUCTS*.—

1 “(1) *IN GENERAL.*—*Notwithstanding any other*
2 *provision of law, any depository institution, or any*
3 *affiliate or subsidiary of any depository institution,*
4 *may share or exchange information or otherwise*
5 *transfer information between or among themselves*
6 *without any restriction or limitation if it is clearly*
7 *and conspicuously disclosed that the information may*
8 *be communicated among such persons and the*
9 *consumer is given the opportunity, before the time*
10 *that the information is initially communicated, to di-*
11 *rect that such information not be communicated*
12 *among such persons.*

13 “(2) *DEFINITION.*—*For purposes of this sub-*
14 *section, the term ‘information’ means any and all*
15 *data, records, or other information and material ob-*
16 *tained or maintained by any depository institution*
17 *or any affiliate or subsidiary thereof in the ordinary*
18 *course of its business that relates in any way to a*
19 *person (as such term is defined in section 603(b) of*
20 *the Fair Credit Reporting Act) who applies for,*
21 *maintains, or has maintained an account or credit*
22 *relationship with or applied for, purchased or ob-*
23 *tained other products or services from any depository*
24 *institution or any affiliate or subsidiary of any de-*
25 *pository institution, regardless of the source of man-*

1 following: “and does not include any value which is stored
2 on, or assigned to, a card, device, or computer itself that
3 enables a person to pay for transactions through use of that
4 stored value”.

5 **SEC. 144. LIMIT ON RESTITUTION FOR TRUTH IN LENDING**
6 **VIOLATIONS IF SAFETY AND SOUNDNESS OF**
7 **VIOLATOR WOULD BE AFFECTED.**

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

10 *(1) by striking “in any such case, the agency*
11 *may require” and inserting “in any such case, the*
12 *agency may (i) require”;*

13 *(2) by striking “, except that with respect to any*
14 *transaction consummated after the effective date of*
15 *section 608 of the Truth in Lending Simplification*
16 *and Reform Act, the agency shall” and inserting “;*
17 *or (ii)”;* and

18 *(3) by striking “reasonable,” and inserting “rea-*
19 *sonable if, in the case of an agency referred to in*
20 *paragraph (1), (2), or (3) of subsection (a), the agen-*
21 *cy determines that a partial adjustment or the mak-*
22 *ing of partial payments over an extended period is*
23 *necessary to avoid causing the creditor to become*
24 *undercapitalized (as determined in accordance with*

1 *regulations prescribed by such agency under section*
2 *38 of the Federal Deposit Insurance Act);”.*

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

5 ***SEC. 151. SHORT TITLE.***

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

8 ***SEC. 152. FINDINGS AND PURPOSE.***

9 *(a) FINDINGS.—The Congress finds that both the*
10 *Equal Credit Opportunity Act (15 U.S.C. 1691, et seq.) and*
11 *the Fair Credit Reporting Act (15 U.S.C. 1681, et seq.) con-*
12 *tain requirements that applicants for consumer credit be*
13 *given certain information in the event that adverse action*
14 *is 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 the*
17 *party required to furnish the information.*

18 *(b) PURPOSE.—It is the purpose of this subtitle to*
19 *combine and simplify the adverse action notification re-*
20 *quirements of the Equal Credit Opportunity Act and the*
21 *Fair Credit Reporting Act regarding applications for*
22 *consumer credit and to make the information that is re-*
23 *quired to be furnished more understandable.*

1 **SEC. 153. EQUAL CREDIT OPPORTUNITY ACT AMENDMENTS.**

2 (a) NOTICE OF ADVERSE ACTION.—Section
3 701(d)(2)(B) of the Equal Credit Opportunity Act (15
4 U.S.C. 1691(d)(2)(B)) is amended to read as follows:

5 “(B) giving written notification of adverse
6 action which discloses—

7 “(i) the applicant’s right to a state-
8 ment of reasons within 30 days after receipt
9 by the creditor of a request made within 60
10 days after such notification;

11 “(ii) if credit is denied or the charge
12 for such credit is increased either wholly or
13 partly because of information contained in
14 a consumer report from a consumer report-
15 ing agency—

16 “(I) that fact and the name, ad-
17 dress, and telephone number of the
18 consumer reporting agency making the
19 report;

20 “(II) the consumer’s right to ob-
21 tain, under section 612, a free copy of
22 a consumer report on the consumer,
23 from the consumer reporting agency re-
24 ferred to in subclause (I) within the
25 30-day period provided under such sec-
26 tion; and

1 “(III) the consumer’s right to dis-
2 pute, under section 611, with a
3 consumer reporting agency the accu-
4 racy or completeness of any informa-
5 tion in a consumer report furnished by
6 the agency.

7 “(iii) if credit is denied or the charge
8 for credit is increased either wholly or part-
9 ly because of information obtained from a
10 person other than a consumer reporting
11 agency bearing upon the consumer’s credit
12 worthiness, credit standing, credit capacity,
13 character, general reputation, personal
14 characteristics or mode of living, that fact
15 and the right to receive disclosure of the na-
16 ture of the information so received, within
17 a reasonable period of time, upon the con-
18 sumer’s written request for information
19 within 60 days after learning of such ad-
20 verse action; and

21 “(iv) the identity of the person or office
22 from which such notification may be ob-
23 tained.

24 Such statement of reasons may be given orally if
25 the written notification advises the applicant of

1 *his right to have the statement of reasons con-*
2 *firmed in writing on written request.”.*

3 (b) *TECHNICAL AND CONFORMING AMENDMENT.—Sec-*
4 *tion 701(d)(3) of the Equal Credit Opportunity Act (15*
5 *U.S.C. 1691(d)(3)) is amended by striking the period at*
6 *the end and adding the following: “and, to the extent appli-*
7 *cable, the name, address, and telephone number of the*
8 *consumer reporting agency identified in accordance with*
9 *the requirements of subsection (d)(3)(ii) and a statement*
10 *of the right to obtain disclosure of the nature of the informa-*
11 *tion upon which adverse action was taken as required by*
12 *such subsection.”.*

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

17 *“(l) REASONABLE PROCEDURES TO ASSURE COMPLI-*
18 *ANCE.—No person shall be held liable for any violation of*
19 *subsection 701(d) if such person shows by a preponderance*
20 *of the evidence that at the time of the alleged violation the*
21 *person maintained reasonable procedures to assure compli-*
22 *ance with the provisions of the subsection.”.*

1 **SEC. 154. FAIR CREDIT REPORTING ACT AMENDMENTS.**

2 (a) Section 615(a) of the Fair Credit Reporting Act
3 (15 U.S.C. 1681m(a)) is amended by striking “credit or”
4 each place such term appears.

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

8 (c) Section 615(b) (as redesignated by this section) of
9 the Fair Credit Reporting Act (15 U.S.C. 1681m(b)) is
10 amended by striking “subsections (a) and (b)” and insert-
11 ing “subsection (a)”.

12 **SEC. 155. INCENTIVES FOR SELF-TESTING.**

13 (a) **EQUAL CREDIT OPPORTUNITY.**—

14 (1) **IN GENERAL.**—The Equal Credit Oppor-
15 tunity Act (15 U.S.C. 1691 et seq.) is amended by in-
16 serting after section 704 the following new section:

17 **“SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-COR-**
18 **RECTION.**

19 **“(a) IN GENERAL.**—If a creditor—

20 **“(1) conducts, or authorizes an independent**
21 **third party to conduct, a self-test of the creditor’s**
22 **lending or any part of the creditor’s lending oper-**
23 **ations in order to determine the level or effectiveness**
24 **of compliance with this title by the creditor; and**

1 “(2) *has identified discriminatory practices and*
2 *has taken or is taking appropriate corrective actions*
3 *to address the discrimination,*
4 *any report or results of such a self-test may not be obtained*
5 *or used by any applicant, department, or agency in any*
6 *proceeding or civil action brought under this title.*

7 “(b) *RESULTS OF SELF-TESTING.—No provision of*
8 *this section shall be construed as preventing an applicant,*
9 *department, or agency from obtaining and using the results*
10 *of any self-testing in any proceeding or civil action brought*
11 *under this title if—*

12 “(1) *the creditor or any other entity conducted*
13 *such activity at the request of a department or agen-*
14 *cy;*

15 “(2) *the creditor or any other entity, or any per-*
16 *son acting on behalf of the creditor or other entity—*

17 “(A) *voluntarily releases or discloses all, or*
18 *any part of, such results; or*

19 “(B) *refers to or describes such results as a*
20 *defense to charges of unlawful discrimination*
21 *against such creditor, person, or entity; or*

22 “(3) *the results are sought by the applicant, de-*
23 *partment, or agency by means of a discovery request*
24 *for the purposes of determining an appropriate pen-*
25 *alty or remedy for a violation of this title.*

1 “(c) *REGULATIONS.*—*The appropriate Federal depart-*
2 *ment or agency shall prescribe regulations, after notice and*
3 *opportunity for comment, which determine what types of*
4 *‘self-tests’ are sufficiently extensive so as to constitute a de-*
5 *termination of the level or effectiveness of a creditor’s com-*
6 *pliance with this title.”.*

7 (2) *REFERRALS TO THE ATTORNEY GENERAL.*—
8 *Section 706(g) of the Equal Credit Opportunity Act*
9 *(15 U.S.C. 1691e(g)) is amended—*

10 (A) *by striking “(g) The agencies” and in-*
11 *serting “(g) REFERRALS TO THE ATTORNEY*
12 *GENERAL.—*

13 *“(1) IN GENERAL.—The agencies”; and*

14 (B) *by adding at the end the following new*
15 *paragraphs:*

16 (2) *LIMITATION ON REFERRALS OF SELF-TEST-*
17 *ING RESULTS.—*

18 (A) *IN GENERAL.—No agency shall be re-*
19 *quired to refer any report or results of a self-test*
20 *relating to any creditor to the Attorney General*
21 *if the creditor—*

22 (i) *has already identified discrimina-*
23 *tory practices as the result of self-testing in-*
24 *stituted by the creditor to determine compli-*
25 *ance with this title; and*

1 “(ii) has taken or is taking appro-
2 priate corrective actions to address the dis-
3 crimination.

4 “(3) *ENFORCEMENT UNDER OTHER LAWS.*—No
5 provision of this section shall be construed as limiting
6 the authority of the agency to enforce the provisions
7 of this title under any other provision of law.”.

8 (3) *REFERRALS TO HUD.*—Section 706(k) of the
9 *Equal Credit Opportunity Act (15 U.S.C. 1691e(k))*
10 is amended by adding at the end the following: “No
11 such agency shall be required to notify the Secretary
12 of Housing and Urban Development or the applicant
13 that the agency has reason to believe that a violation
14 of this title or the *Fair Housing Act* occurred if the
15 reason is based on a result of self-testing instituted by
16 the creditor to determine compliance with this title,
17 and the creditor has already identified the possible
18 violation and has taken or is taking appropriate cor-
19 rective actions to address the possible violation. No
20 provisions of this section shall be construed as limit-
21 ing the authority of the agency to enforce the provi-
22 sions of this title under any other provision of law.”.

23 (4) *CLERICAL AMENDMENT.*—The table of sec-
24 tions for title VII of the *Consumer Credit Protection*

1 *Act is amended by inserting after the item relating to*
2 *section 704 the following new item:*

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

3 ***(b) FAIR HOUSING.—The Fair Housing Act (42***
4 *U.S.C. 3601 et seq.) is amended by inserting after section*
5 *814 the following new section:*

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

7 ***“(a) IN GENERAL.—If any person—***

8 *“(1) conducts, or authorizes an independent*
9 *third party to conduct, a self-test of that person’s resi-*
10 *dential real estate related lending activities, or any*
11 *part of such activities, in order to determine the level*
12 *or effectiveness of compliance with this title by the*
13 *person; and*

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

17 *any report or results of such a self-test may not be obtained*
18 *or used by any aggrieved person, complainant, department,*
19 *or agency in any proceeding or civil action brought under*
20 *this title.*

21 ***“(b) RESULTS OF SELF-TESTING.—No provision of***
22 *this section shall be construed as preventing an aggrieved*
23 *person, complainant, department, or agency from obtaining*
24 *and using the results of any self-testing as described in sub-*

1 *section (a) in any proceeding or civil action brought under*
2 *this title if—*

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

6 “(2) *the creditor or any other entity, or any per-*
7 *son acting on behalf of the creditor or other entity—*

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

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

13 “(3) *the results are sought by the aggrieved per-*
14 *son, complainant, department, or agency by means of*
15 *a discovery request for the purposes of determining an*
16 *appropriate penalty or remedy for a violation of this*
17 *title.*

18 “(c) *REGULATIONS.—The appropriate Federal depart-*
19 *ment or agency shall prescribe regulations, after notice and*
20 *opportunity for comment, which determine what types of*
21 *‘self-tests’ are sufficiently extensive so as to constitute a de-*
22 *termination of the level or effectiveness of a creditor’s com-*
23 *pliance with this title.”.*

1 **SEC. 156. CREDIT SCORING SYSTEMS.**

2 *Section 701 of the Equal Credit Opportunity Act (15*
3 *U.S.C. 1691) is amended by adding at the end the following*
4 *new subsection:*

5 “(f) *CREDIT SCORING SYSTEM.*—

6 “(1) *IN GENERAL.*—*A creditor shall be deemed to*
7 *be in compliance with subsection (a) with respect to*
8 *any credit decision made by the creditor which is*
9 *based solely on the use of an empirically derived, de-*
10 *monstrably and statistically sound, credit scoring sys-*
11 *tem (as defined by the Board in regulations pre-*
12 *scribed under this title) if such system—*

13 “(A) *does not utilize any category protected*
14 *under subsection (a);*

15 “(B) *does not use as a factor in such system*
16 *any criterion which is so directly associated with*
17 *such a category as to be the functional equivalent*
18 *of such a category; and*

19 “(C) *does not use as a factor in such system*
20 *any criterion that has a disparate impact on a*
21 *category protected under subsection (a) unless*
22 *use of the criterion is justified by business neces-*
23 *sity and there is no less discriminatory alter-*
24 *native available.*

25 “(2) *AGE AS A FACTOR.*—*No provision of this*
26 *subsection shall be construed as precluding a creditor*

1 *from using age as a factor in a credit scoring system*
2 *under paragraph (1) to the extent otherwise permitted*
3 *under this title.”.*

4 **SEC. 157. CONSULTATION BY ATTORNEY GENERAL RE-**
5 **QUIRED IN NONREFERRAL CASES.**

6 (a) *EQUAL CREDIT OPPORTUNITY.*—Section 706(h) of
7 *the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is*
8 *amended by adding at the end the following new sentence:*
9 *“Before bringing a civil action against any creditor de-*
10 *scribed in paragraph (1), (2), or (3) of section 704(a), the*
11 *Attorney General shall consult with the appropriate agency*
12 *under such paragraph.”.*

13 (b) *FAIR HOUSING ACT.*—Section 814(a) of the *Fair*
14 *Housing Act (42 U.S.C. 3614(a)) is amended by adding*
15 *at the end the following new sentence: “Before bringing a*
16 *civil action under the preceding sentence against any per-*
17 *son or group of persons described in paragraph (1), (2),*
18 *or (3) of section 704(a) of the Equal Credit Opportunity*
19 *Act with respect to a violation of 805(a) of this title, the*
20 *Attorney General shall consult with the appropriate agency*
21 *under such paragraph.”.*

22 **SEC. 158. EFFECTIVE DATE.**

23 (a) *IN GENERAL.*—*Except with respect to the require-*
24 *ments of subsection (b), this Act shall take effect at the end*

1 of the 270-day period beginning on the date of the enact-
2 ment of this Act.

3 (b) *IMPLEMENTING REGULATIONS.*—The Board of
4 Governors of the Federal Reserve System shall prescribe reg-
5 ulations to implement this Act and such regulations shall
6 be published in final form before the end of the 180-day
7 period beginning on the date of the enactment of this Act.

8 ***Subtitle E—Consumer Leasing Act***
9 ***Amendments***

10 ***SEC. 161. SHORT TITLE.***

11 *This subtitle may be cited as the “Consumer Leasing*
12 *Act Amendments of 1995”.*

13 ***SEC. 162. CONGRESSIONAL FINDINGS AND DECLARATION***
14 ***OF PURPOSE.***

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

16 (1) *Competition among the various financial in-*
17 *stitutions and other firms engaged in the business of*
18 *consumer leasing is greatest when there is informed*
19 *use of leasing. The informed use of leasing results*
20 *from an awareness of the cost of leasing by consumers.*

21 (2) *There has been a continued trend toward*
22 *leasing automobiles and other durable goods for*
23 *consumer use as an alternative to installment credit*
24 *sales and that leasing product advances have occurred*
25 *such that lessors have been unable to provide consist-*

1 *ent industry-wide disclosures to fully account for the*
2 *competitive progress that has occurred.*

3 *(b) PURPOSES.—*

4 *(1) It is the purpose of this subtitle to assure a*
5 *simple, meaningful disclosure of leasing terms so that*
6 *the consumer will be able to compare more readily the*
7 *various leasing terms available to the consumer and*
8 *avoid the uninformed use of leasing, and to protect*
9 *the consumer against inaccurate and unfair leasing*
10 *practices.*

11 *(2) To provide for adequate cost disclosures that*
12 *reflect the marketplace without impairing competition*
13 *and the development of new leasing products, it is the*
14 *purpose of this subtitle to provide the Board with the*
15 *regulatory authority to assure a simplified, meaning-*
16 *ful definition and disclosure of the terms of certain*
17 *leases of personal property for personal, family, or*
18 *household purposes so as to enable the lessee to com-*
19 *pare more readily the various lease terms available to*
20 *the lessee, enable comparison of lease terms with cred-*
21 *it terms where appropriate and to assure meaningful*
22 *and accurate disclosures of lease terms in advertise-*
23 *ments.*

1 **SEC. 163. REGULATIONS.**

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

5 **“SEC. 187. REGULATIONS.**

6 “(a) *REGULATIONS AUTHORIZED.*—

7 “(1) *IN GENERAL.*—The Board shall write regu-
8 *lations or staff commentary, if appropriate, to update*
9 *and clarify the requirements and definitions for lease*
10 *disclosures, contracts, and any other specific issues re-*
11 *lated to consumer leasing which would carry out the*
12 *purposes of this chapter, to prevent any circumven-*
13 *tion of the chapter, and to facilitate compliance with*
14 *the requirements of the chapter.*

15 “(2) *CLASSIFICATIONS, ADJUSTMENTS.*—The reg-
16 *ulations prescribed under paragraph (1) may contain*
17 *classifications and differentiations and may provide*
18 *for adjustments and exceptions for any class of trans-*
19 *action.*

20 “(b) *MODEL DISCLOSURES.*—The Board shall publish
21 *model disclosure forms and clauses to facilitate compliance*
22 *with the disclosure requirements and to aid the consumer*
23 *in understanding the transaction. In designing forms, the*
24 *Board shall consider the use by lessors of data processing*
25 *or similar automated equipment. Use of the models shall*
26 *be optional. A lessor who properly uses the material aspects*

1 *of the models shall be deemed to be in compliance with the*
2 *disclosure requirements.*

3 “(c) *EFFECTIVE DATES.*—

4 “(1) *IN GENERAL.*—*Any regulation of the Board,*
5 *or any amendment or interpretation of any regula-*
6 *tion of the Board, that requires a disclosure different*
7 *from the disclosures previously required shall have an*
8 *effective date of the October 1 that follows the date of*
9 *promulgation by at least 6 months.*

10 “(2) *LONGER PERIOD.*—*The Board may, in the*
11 *Board’s discretion, lengthen the period of time re-*
12 *ferred to in paragraph (1) to permit lessors to adjust*
13 *their forms to accommodate new requirements.*

14 “(3) *SHORTER PERIOD.*—*The Board may also*
15 *shorten the period of time referred to in paragraph*
16 *(1) if the Board makes a specific finding that such*
17 *action is necessary to comply with the findings of a*
18 *court or to prevent unfair or deceptive practices.*

19 “(4) *COMPLIANCE BEFORE EFFECTIVE DATE.*—
20 *Lessors may comply with any newly promulgated dis-*
21 *closure requirement before the effective date of such re-*
22 *quirement.”.*

23 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
24 *chapter 5 of title I of the Consumer Credit Protection Act*

1 *(15 U.S.C. 1601 et seq.) is amended by inserting after the*
2 *item relating to section 186 the following new item:*

“187. Regulations.”.

3 **SEC. 164. CONSUMER LEASE ADVERTISING.**

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

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

7 *“(a) IN GENERAL.—If an advertisement for a*
8 *consumer lease states the amount of any payment or states*
9 *that any or no initial payment is required, the advertise-*
10 *ment must also clearly and conspicuously state the follow-*
11 *ing terms, as applicable:*

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

13 *“(2) The total of initial payments required at or*
14 *before consummation of the lease or delivery of the*
15 *property, whichever is later.*

16 *“(3) That a security deposit is required.*

17 *“(4) The number, amounts, and timing of sched-*
18 *uled payments.*

19 *“(5) For a lease in which the consumer’s liabil-*
20 *ity at the end of the lease term is based on the antici-*
21 *ipated residual value of the property, that an extra*
22 *charge may be imposed at the end of the lease term.*

23 *“(b) ADVERTISING MEDIUM NOT LIABLE.—Any owner*
24 *or personnel of any medium in which an advertisement ap-*

1 *pears or through which it is disseminated shall not be liable*
2 *under this section.”.*

3 **SEC. 165. STATUTORY PENALTIES.**

4 *Section 185(a) of the Consumer Credit Protection Act*
5 *(15 U.S.C. 1667d(a)) is amended by adding at the end the*
6 *following new sentence: “Notwithstanding the preceding*
7 *sentence, a creditor shall only have liability determined*
8 *under section 130(a)(2) for failing to comply with the re-*
9 *quirements of paragraph (2), (8), (9), or (10) of section 182*
10 *or for failing to comply with disclosure requirements under*
11 *State law for any term which the Board has determined*
12 *to be substantially the same in meaning under section 186*
13 *as any of the terms referred to in section 182.”.*

14 ***Subtitle F—Federal Home Loan***
15 ***Bank Amendments***

16 **SEC. 171. APPLICATION FOR MEMBERSHIP IN THE FHLB**
17 **SYSTEM.**

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

20 *“(b) MEMBERSHIP BASED ON CONVENIENCY.—An in-*
21 *stitution eligible to become a member of a Federal home*
22 *loan bank under this section may become a member by sub-*
23 *mitting the institution’s application for membership to the*
24 *bank in the district where the applicant’s principal place*
25 *of business is located. An application for membership shall*

1 *be approved by the bank if, in the judgment of the bank,*
2 *the applicant meets the criteria for eligibility contained in*
3 *this section. An institution eligible to become a member*
4 *under this section may apply for membership in an adjoin-*
5 *ing district, if appropriate for the convenience of the insti-*
6 *tution and then only with the approval of the Board.”.*

7 **SEC. 172. FEDERAL HOME LOAN BANK EXTERNAL AUDI-**
8 **TORS.**

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

11 *“(j) AUDITS.—*

12 *“(1) Notwithstanding any other provision of law,*
13 *audits by the Comptroller General of the United*
14 *States of the financial transactions of a Federal home*
15 *loan bank shall not be limited to periods during*
16 *which Government capital has been invested in the*
17 *bank. The provisions of section 9107(c)(2) and*
18 *9108(d)(1) of title 31, of such Code, shall not apply*
19 *to any Federal home loan bank.*

20 *“(2) Notwithstanding any other provision of law,*
21 *the Board shall not participate in the hiring of an ex-*
22 *ternal auditor by the banks; except, that the Board*
23 *may establish requirements for external audit con-*
24 *tracts and, that all 12 banks shall contract for an an-*
25 *nuual audit with a single 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 Bank
9 *Holding Company Act of 1956 (12 U.S.C. 1843(j) is*
10 *amended—*

11 (1) *in paragraph (1)(A), by striking “No” and*
12 *inserting “Except as provided in paragraph (3), no”;*
13 *and*

14 (2) *by adding at the end the following new para-*
15 *graphs:*

16 “(3) *NO NOTICE REQUIRED FOR CERTAIN TRANS-*
17 *ACTIONS.*—No notice under paragraph (1) or sub-
18 *sections (c)(8) or (a)(2)(B) is required for a proposal*
19 *by a bank holding company to engage in any activity*
20 *or acquire the shares or assets of any company if the*
21 *proposal qualifies under paragraph (4).*

22 “(4) *CRITERIA FOR STATUTORY APPROVAL.*—A
23 *proposal qualifies under this paragraph if all of the*
24 *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 of*
12 *insured depository institutions controlled by*
13 *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 aggre-*
23 *gate total risk-weighted assets of insured de-*
24 *pository institutions controlled by such*
25 *holding company are well managed.*

1 “(i) *LIMITATION ON POORLY MANAGED*
2 *INSTITUTIONS.—Except with respect to in-*
3 *sured depository institutions described in*
4 *paragraph (6), no insured depository insti-*
5 *tution controlled by the acquiring bank*
6 *holding company has received 1 of the 2*
7 *lowest composite ratings at the later of the*
8 *institution’s most recent examination or*
9 *subsequent review.*

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

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

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

25 “(D) *SIZE OF ACQUISITION.—*

1 “(i) *ASSET SIZE.*—*The book value of*
2 *the total assets to be acquired does not ex-*
3 *ceed 10 percent of the consolidated total*
4 *risk-weighted assets of the acquiring bank*
5 *holding company; and*

6 “(ii) *CONSIDERATION.*—*The gross con-*
7 *sideration to be paid for the securities or*
8 *assets does not exceed 15 percent of the con-*
9 *solidated Tier 1 capital of the acquiring*
10 *bank holding company.*

11 “(E) *NOTICE NOT OTHERWISE WAR-*
12 *RANTED.*—*For proposals described in paragraph*
13 *(5)(B), the Board has not, before the conclusion*
14 *of the period provided in paragraph (5)(B), ad-*
15 *vised the bank holding company that a notice*
16 *under paragraph (1) is required.*

17 “(F) *COMPLIANCE CRITERION.*—*During the*
18 *12-month period ending on the date on which the*
19 *bank holding company proposes to commence an*
20 *activity or acquisition, no administrative en-*
21 *forcement action has been commenced, and no*
22 *cease and desist order has been issued pursuant*
23 *to section 8 of the Federal Deposit Insurance*
24 *Act, against the bank holding company or any*
25 *depository institution subsidiary of the holding*

1 *company and no such enforcement action, order,*
2 *or other administrative enforcement proceeding*
3 *is pending as of such date.*

4 “(5) NOTIFICATION.—

5 “(A) COMMENCEMENT OF ACTIVITIES AP-
6 *PROVED BY RULE.—A bank holding company*
7 *that qualifies under paragraph (4) and that pro-*
8 *poses to engage de novo, directly or through a*
9 *subsidiary, in any activity that is permissible*
10 *under subsection (c)(8), as determined by the*
11 *Board by regulation, may commence that activ-*
12 *ity without prior notice to the Board and must*
13 *provide written notification to the Board no*
14 *later than ten business days after commencing*
15 *the activity.*

16 “(B) ACTIVITIES PERMITTED BY ORDER
17 AND ACQUISITIONS.—

18 “(i) IN GENERAL.—At least 12 business
19 *days before commencing any activity pursu-*
20 *ant to paragraph (3) (other than an activ-*
21 *ity described in subparagraph (A)) or ac-*
22 *quiring shares or assets of any company*
23 *pursuant to paragraph (3), the bank hold-*
24 *ing company shall provide written notice of*
25 *the proposal to the Board, unless the Board*

1 *determines that no notice or a shorter notice*
2 *period is appropriate.*

3 “(ii) *DESCRIPTION OF ACTIVITIES AND*
4 *TERMS.—A notification under this subpara-*
5 *graph shall include a description of the pro-*
6 *posed activities and the terms of any pro-*
7 *posed acquisition.*

8 “(6) *RECENTLY ACQUIRED INSTITUTIONS.—In-*
9 *sured depository institutions which have been ac-*
10 *quired by a bank holding company during the 12-*
11 *month period preceding the date on which the com-*
12 *pany proposes to commence an activity or acquisition*
13 *pursuant to paragraph (3) may be excluded for pur-*
14 *poses of paragraph (4)(B)(i) if—*

15 “(A) *the bank holding company has devel-*
16 *oped a plan for the institution to restore the cap-*
17 *ital and management of the institution which is*
18 *acceptable to the appropriate Federal banking*
19 *agency; and*

20 “(B) *all such insured depository institu-*
21 *tions represent, in the aggregate, less than 10*
22 *percent of the aggregate total risk-weighted assets*
23 *of all insured depository institutions controlled*
24 *by the bank holding company.*

1 “(7) *ADJUSTMENT OF PERCENTAGES.*—*The*
2 *Board may, by regulation, adjust the percentages and*
3 *the manner in which the percentages of insured depos-*
4 *itory institutions are calculated under paragraph*
5 *(4)(B)(i), (4)(D), or paragraph (6)(B) if the Board*
6 *determines that any such adjustment is consistent*
7 *with safety and soundness and the purposes of this*
8 *Act.*”.

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

11 (1) *by striking paragraph (1) and inserting the*
12 *following new paragraph:*

13 “(1) *CAPITAL TERMS.*—

14 “(A) *INSURED DEPOSITORY INSTITU-*
15 *TIONS.*—*With respect to insured depository insti-*
16 *tutions, the terms ‘well-capitalized’, ‘adequately*
17 *capitalized’, and ‘uncapitalized’ have the mean-*
18 *ing given those terms in section 38(b) of the Fed-*
19 *eral Deposit Insurance Act.*

20 “(B) *BANK HOLDING COMPANY.*—

21 “(i) *ADEQUATELY CAPITALIZED.*—*The*
22 *term ‘adequately capitalized’ means a level*
23 *of capitalization which meets or exceeds all*
24 *applicable Federal regulatory capital stand-*
25 *ards.*

1 “(ii) *WELL CAPITALIZED.*—A bank
2 *holding company is ‘well capitalized’ if it*
3 *meets the required capital levels for well*
4 *capitalized bank holding companies estab-*
5 *lished by the Board.*

6 “(C) *OTHER CAPITAL TERMS.*—The terms
7 *‘Tier 1’ and ‘risk-weighted assets’ have the mean-*
8 *ing given those terms in the capital guidelines or*
9 *regulations established by the Board for bank*
10 *holding companies.”; and*

11 (2) *by adding at the end the following new para-*
12 *graphs:*

13 “(8) *LEAD INSURED DEPOSITORY INSTITU-*
14 *TIONS.*—

15 “(A) *IN GENERAL.*—The term *‘lead insured*
16 *depository institution’ means the largest insured*
17 *depository institution controlled by the bank*
18 *holding company at any time, based on a com-*
19 *parison of the average total risk-weighted assets*
20 *controlled by each insured depository institution*
21 *during the previous 12-month period.*

22 “(B) *BRANCH OR AGENCY.*—For purposes of
23 *this paragraph and section 4(j)(4), the term ‘in-*
24 *sured depository institution’ shall also include*

1 *any branch or agency operated in the United*
2 *States by a foreign bank.*

3 “(9) *WELL MANAGED.*—*The term ‘well managed’*
4 *means—*

5 “(A) *in the case of any company or deposi-*
6 *tory institution which receives examinations, the*
7 *achievement of—*

8 “(i) *a CAMEL composite rating of 1*
9 *or 2 (or an equivalent rating under an*
10 *equivalent rating system) in connection*
11 *with the most recent examination or subse-*
12 *quent review of such company or institu-*
13 *tion; and*

14 “(ii) *at least a satisfactory rating for*
15 *management, if such rating is given; or*

16 “(B) *in the case of a company or depository*
17 *institution that has not received an examination*
18 *rating, the existence and use of managerial re-*
19 *sources which the Board determines are satisfac-*
20 *tory.”.*

1 **SEC. 202. STREAMLINED BANK ACQUISITIONS BY WELL CAP-**
2 **ITALIZED AND WELL MANAGED BANKING OR-**
3 **GANIZATIONS.**

4 *Section 3 of the Bank Holding Company Act (12*
5 *U.S.C. 1842) is amended by adding at the end the following*
6 *new subsection:*

7 *“(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-*
8 *ACTIONS.—*

9 *“(1) IN GENERAL.—Notwithstanding paragraph*
10 *(3) or (5) of subsection (a) and subject to paragraphs*
11 *(5) and (6), an acquisition of shares by a registered*
12 *bank holding company, or a merger or consolidation*
13 *between registered bank holding companies, shall be*
14 *deemed approved at the conclusion of the period speci-*
15 *fied in subparagraph (G) if all of the following condi-*
16 *tions have been met:*

17 *“(A) FINANCIAL AND MANAGERIAL CRI-*
18 *TERIA.—*

19 *“(i) WELL CAPITALIZED BANK HOLD-*
20 *ING COMPANY.—Both at the time of and im-*
21 *mediately after the proposed transaction,*
22 *the acquiring bank holding company is well*
23 *capitalized.*

24 *“(ii) WELL CAPITALIZED LEAD IN-*
25 *SURED DEPOSITORY INSTITUTION.—Both at*
26 *the time of and immediately after the pro-*

1 *posed transaction, the lead insured deposi-*
2 *tory institution of the acquiring bank hold-*
3 *ing company is well capitalized.*

4 *“(iii) CAPITAL OF OTHER INSURED DE-*
5 *POSITORY INSTITUTIONS.—At the time of*
6 *the transaction, well capitalized insured de-*
7 *pository institutions control at least 80 per-*
8 *cent of the aggregate total risk-weighted as-*
9 *sets of insured depository institutions con-*
10 *trolled by the acquiring bank holding com-*
11 *pany.*

12 *“(iv) NO UNDERCAPITALIZED INSURED*
13 *DEPOSITORY INSTITUTIONS.—At the time of*
14 *the transaction, no insured depository insti-*
15 *tution controlled by the acquiring bank*
16 *holding company is undercapitalized.*

17 *“(v) WELL MANAGED.—*

18 *“(I) IN GENERAL.—At the time of*
19 *the transaction, the acquiring bank*
20 *holding company, its lead insured de-*
21 *pository institution, and insured de-*
22 *pository institutions that control at*
23 *least 90 percent of the aggregate total*
24 *risk-weighted assets of insured deposi-*

1 *tory institutions controlled by such*
2 *holding company are well managed.*

3 *“(II) NO POORLY MANAGED INSTI-*
4 *TUTIONS.—Except with respect to in-*
5 *sured depository institutions described*
6 *in paragraph (2), no insured deposi-*
7 *tory institution controlled by the ac-*
8 *quiring bank holding company has re-*
9 *ceived 1 of the 2 lowest composite rat-*
10 *ings at the later of the institution’s*
11 *most recent examination or subsequent*
12 *review.*

13 *“(B) NO UNSATISFACTORY CRA RATINGS.—*
14 *Except with respect to insured depository insti-*
15 *tutions described in paragraph (3), no insured*
16 *depository institution controlled by the acquiring*
17 *bank holding company has received a ‘needs to*
18 *improve’ or ‘substantial noncompliance’ compos-*
19 *ite rating as a result of the institution’s most re-*
20 *cent examination under the Community Rein-*
21 *vestment Act of 1977.*

22 *“(C) COMPETITIVE CRITERIA.—Consumma-*
23 *tion of the proposal complies with guidelines es-*
24 *tablished by the Board by regulation, after con-*
25 *sultation with the Attorney General, that iden-*

1 *tify proposals that are not likely to have a sig-*
2 *nificantly adverse effect on competition in any*
3 *relevant market.*

4 “(D) *SIZE OF ACQUISITION.*—

5 “(i) *ASSET SIZE.*—*The book value of*
6 *the total assets to be acquired does not ex-*
7 *ceed 10 percent of the consolidated total risk*
8 *weighted assets of the acquiring bank hold-*
9 *ing company.*

10 “(ii) *CONSIDERATION.*—*The gross con-*
11 *sideration to be paid for the securities or*
12 *assets does not exceed 15 percent of the con-*
13 *solidated Tier 1 capital of the acquiring*
14 *bank holding company.*

15 “(E) *INTERSTATE ACQUISITIONS.*—*Board*
16 *approval of the transaction is not prohibited*
17 *under subsection (d).*

18 “(F) *COMPLIANCE CRITERION.*—*During the*
19 *12-month period ending on the date of the trans-*
20 *action, no administrative enforcement action has*
21 *been commenced, and no cease and desist order*
22 *has been issued pursuant to section 8 of the Fed-*
23 *eral Deposit Insurance Act, against any bank*
24 *holding company involved in the transaction or*
25 *any depository institution subsidiary of any*

1 *such holding company and no such enforcement*
2 *action, order, or other administrative enforce-*
3 *ment proceeding is pending as of such date.*

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

7 “(H) *NOTIFICATION.—The acquiring bank*
8 *holding company provides written notice of the*
9 *transaction, including a description of the terms*
10 *of the transaction, to the Board and the Attorney*
11 *General, simultaneously, at least 15 business*
12 *days (or such shorter period as permitted by the*
13 *Board) before the transaction is consummated.*

14 “(I) *NO BOARD DISAPPROVAL.—Before the*
15 *end of the 15-day period (or the shorter period)*
16 *referred to in subparagraph (H), the Board has*
17 *not required an application under subsection*
18 *(a).*

19 “(2) *SPECIAL RULE RELATING TO THE REQUIRE-*
20 *MENT FOR WELL MANAGED INSTITUTIONS.—Insured*
21 *depository institutions which have been acquired by a*
22 *bank holding company during the 12-month period*
23 *preceding the date of the transaction may be excluded*
24 *for purposes of paragraph (1)(A)(v)(II) if—*

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

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

11 “(3) SPECIAL RULE RELATING TO THE REQUIRE-
12 MENT FOR COMMUNITY INVESTMENT.—Insured deposi-
13 tory institutions acquired during the 12-month period
14 preceding the date of the transaction may be excluded
15 for purposes of paragraph (1)(B) if the bank holding
16 company has developed a plan to restore the perform-
17 ance of the institution to at least a ‘satisfactory’ rat-
18 ing under the Community Reinvestment Act of 1977
19 which is acceptable to the appropriate Federal bank-
20 ing agency.

21 “(4) ADJUSTMENT OF PERCENTAGES.—The
22 Board may by regulation adjust the percentages and
23 the manner in which the percentages of insured depos-
24 itory institutions are calculated under subparagraph
25 (A)(v)(I) or (D) of paragraph (1) or paragraph

1 (2)(B) if the Board determines that such adjustment
2 is consistent with safety and soundness and the pur-
3 poses of this Act.

4 “(5) *ADVICE OF ATTORNEY GENERAL.*—The At-
5 torney General shall advise the Board during the pe-
6 riod referred to in paragraph (1)(H) in writing if
7 any competitive concerns exist with respect to the
8 transaction.

9 “(6) *WAIVER OF POSTAPPROVAL WAITING PE-*
10 *RIOD.*—If the Attorney General advises the Board
11 that no competitive concerns exist with respect to the
12 transaction, the provisions of section 11(b) relating to
13 a postapproval waiting shall not apply with respect
14 to such transaction.”.

15 **SEC. 203. ELIMINATE FILING AND APPROVAL REQUIRE-**
16 **MENTS FOR INSURED DEPOSITORY INSTITU-**
17 **TIONS ALREADY CONTROLLED BY THE SAME**
18 **HOLDING COMPANY.**

19 (a) *BANK MERGER ACT.*—Section 18(c) of the Federal
20 *Deposit Insurance Act (12 U.S.C. 1828(c))* is amended by
21 adding at the end the following new paragraph:

22 “(12) The provisions of this subsection shall not
23 apply to any merger, consolidation, acquisition of as-
24 sets or assumption of liabilities involving only in-

1 *sured depository institutions that are subsidiaries of*
2 *the same depository institution holding company if—*

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

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

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; and*

16 *“(D) after receiving such notice, the agency*
17 *does not require the institution to submit an ap-*
18 *plication with respect to such transaction and so*
19 *notifies the institution.”.*

20 *(b) NATIONAL BANK CONSOLIDATION AND MERGER*
21 *ACT.—*

22 *(1) CONSOLIDATIONS.—Section 2 of the National*
23 *Bank Consolidation and Merger Act (12 U.S.C. 215)*
24 *is amended—*

1 (A) in subsection (a), by adding at the end
2 the following new sentence:

3 “No approval by the Comptroller of the Currency is re-
4 quired under this subsection for a transaction which in-
5 volves the consolidation of banks that, at the time of the
6 consolidation, are all subsidiaries (as defined in section 3
7 of the Federal Deposit Insurance Act) of the same com-
8 pany.”; and

9 (B) in subsection (b)—

10 (i) by striking “, and thereafter the
11 consolidation shall be approved by the
12 Comptroller”; and

13 (ii) by striking “when such consolida-
14 tion is approved by the Comptroller”.

15 (2) *MERGERS*.—Section 3 of the National Bank
16 Consolidation and Merger Act (12 U.S.C. 215a) is
17 amended—

18 (A) in subsection (a), by adding at the end
19 the following new sentence:

20 “No approval by the Comptroller of the Currency is re-
21 quired under this subsection for a transaction which in-
22 volves the merger of banks that, at the time of the merger,
23 are all subsidiaries (as defined in section 3 of the Federal
24 Deposit Insurance Act) of the same company.”; and

25 (B) in subsection (b)—

1 (i) by striking “, and thereafter the
2 merger shall be approved by the Comptrol-
3 ler”; and

4 (ii) by striking “when such merger
5 shall be approved by the Comptroller”.

6 **SEC. 204. ELIMINATE REDUNDANT APPROVAL REQUIRE-**
7 **MENT FOR OAKAR TRANSACTIONS.**

8 (a) *IN GENERAL.*—Section 5(d)(3) of the Federal De-
9 posit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

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

13 (2) in subparagraph (E)—

14 (A) by striking clause (iv) and inserting the
15 following new clause:

16 “(iv) A transaction shall not be au-
17 thorized under this paragraph unless the ac-
18 quiring, assuming, or resulting depository
19 institution will meet all applicable capital
20 requirements upon consummation of the
21 transaction.”;

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

23 (C) by redesignating clauses (iii) and (iv)
24 (as amended by subparagraph (A) of this para-
25 graph) as clauses (i) and (ii), respectively; and

1 (3) by striking subparagraph (G) and redesignig-
2 nating the subsequent subparagraphs accordingly.

3 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—Sec-
4 tion 5156A(b)(1) of the Revised Statutes of the United
5 States (12 U.S.C. 215c(b)(1)) is amended by striking “sec-
6 tion 5(d)(3) of the Federal Deposit Insurance Act or”.

7 (c) *CLERICAL AMENDMENT.*—The heading for section
8 5(d)(3)(E) of the Federal Deposit Insurance Act (12 U.S.C.
9 1815(d)(3)(E)) is amended by striking “FOR APPROVAL,
10 GENERALLY”.

11 **SEC. 205. ELIMINATION OF DUPLICATIVE REQUIREMENTS**
12 **IMPOSED UPON BANK HOLDING COMPANIES**
13 **AND OTHER REGULATORY RELIEF UNDER**
14 **THE HOME OWNERS’ LOAN ACT.**

15 (a) *EXEMPTION FOR BANK HOLDING COMPANIES.*—
16 Section 10 of the Home Owners’ Loan Act (12 U.S.C.
17 1467a) is amended by adding at the end the following new
18 subsection:

19 “(t) *EXEMPTION FOR BANK HOLDING COMPANIES.*—
20 This section shall not apply to a bank holding company
21 that is subject to the Bank Holding Company Act of 1956
22 or any company controlled by such bank holding company
23 (other than a savings association).”.

1 **(b) DEFINITION OF SAVINGS AND LOAN HOLDING COM-**
2 *PANY.—Section 10(a)(1)(D) of the Home Owners’ Loan Act*
3 *(12 U.S.C. 1467a(a)(1)(D)) is amended to read as follows:*

4 **“(D) SAVINGS AND LOAN HOLDING COM-**
5 *PANY.—*

6 **“(i) IN GENERAL.—***Except as provided*
7 *in clause (ii), the term ‘savings and loan*
8 *holding company’ means any company*
9 *which directly or indirectly controls a sav-*
10 *ings association or controls any other com-*
11 *pany which is a savings and loan holding*
12 *company.*

13 **“(ii) EXCEPTION FOR BANK HOLDING**
14 *COMPANY.—The term ‘savings and loan*
15 *holding company’ does not include any*
16 *company which is registered under, and*
17 *subject to, the provisions of the Bank Hold-*
18 *ing Company Act of 1956, or any company*
19 *directly or indirectly controlled by such*
20 *company.”.*

21 **(c) AMENDMENTS TO THE BANK HOLDING COMPANY**
22 *ACT OF 1956.—Section 4(i) of the Bank Holding Company*
23 *Act of 1956 (12 U.S.C. 1843(i)) is amended by adding at*
24 *the end the following new paragraphs:*

25 **“(4) SOLICITATION OF VIEWS.—**

1 “(A) *NOTICE TO DIRECTOR.*—Upon receiving
2 any application or notice by a bank holding
3 company to acquire directly or indirectly a sav-
4 ings association under subsection (c)(8), the
5 Board shall solicit the Director’s comments and
6 recommendations with respect to such acquisi-
7 tion.

8 “(B) *COMMENT PERIOD.*—The comments
9 and views of the Director under subparagraph
10 (A) with respect to any acquisition subject to
11 such subparagraph shall be transmitted to the
12 Board within 30 days of the receipt by the Di-
13 rector of the notice relating to such acquisition
14 (or such shorter period as the Board may specify
15 if the Board advises the Director that an emer-
16 gency exists which requires expeditious action).

17 “(5) *EXAMINATION.*—

18 “(A) *SCOPE.*—The Board shall consult with
19 the Director, as appropriate, in establishing the
20 scope of an examination by the Board of a bank
21 holding company that controls directly or indi-
22 rectly a savings association.

23 “(B) *ACCESS TO INSPECTION REPORTS.*—
24 Upon the request of the Director, the Board shall
25 furnish the Director with a copy of any inspec-

1 *tion report, additional examination materials, or*
2 *supervisory information relating to any bank*
3 *holding company which directly or indirectly*
4 *controls a savings association.*

5 *“(6) COORDINATION OF ENFORCEMENT EF-*
6 *FORTS.—The Board and the Director shall cooperate*
7 *in any enforcement action against any bank holding*
8 *company which controls a savings association, if the*
9 *relevant conduct involves such association.*

10 *“(7) DIRECTOR DEFINED.—For purposes of this*
11 *section, the term ‘Director’ means the Director of the*
12 *Office of Thrift Supervision.”.*

13 *(d) ALTERNATIVE TEST.—Section 10(m) of the Home*
14 *Owners’ Loan Act (12 U.S.C. 1467a(m)) is amended—*

15 *(1) in paragraph (1), by striking “(2) and (7)”*
16 *and inserting “(2), (7), and (8)”;* and

17 *(2) by adding at the end the following new para-*
18 *graph:*

19 *“(8) ALTERNATIVE TEST.—Any savings associa-*
20 *tion which meets the requirements set forth in section*
21 *7701(a)(19)(C) of the Internal Revenue Code of 1986*
22 *shall be deemed to be a qualified thrift lender and*
23 *any qualified thrift lender shall be deemed to meet the*
24 *requirements of such section.”.*

1 **SEC. 206. ELIMINATE REQUIREMENT THAT APPROVAL BE**
 2 **OBTAINED FOR DIVESTITURES.**

3 *Section 2(g) of the Bank Holding Company Act of*
 4 *1956 (12 U.S.C. 1841(g)) is amended—*

5 *(1) by striking paragraph (3);*

6 *(2) by inserting “and” after the semicolon at the*
 7 *end of paragraph (1); and*

8 *(3) by striking “; and” at the end of paragraph*
 9 *(2) and inserting a period.*

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

12 *(a) NATIONAL BANK BRANCH APPLICATIONS.—Section*
 13 *5155(i) of the Revised Statutes (12 U.S.C. 36(i)) is amend-*
 14 *ed—*

15 *(1) by striking “(i) No branch” and inserting*
 16 *“(i) RELOCATION.—*

17 *“(1) APPROVAL REQUIRED.—Except as provided*
 18 *in paragraph (2), no branch”; and*

19 *(2) by adding at the end the following new para-*
 20 *graphs:*

21 *“(2) NO APPROVAL REQUIRED FOR CERTAIN*
 22 *BRANCHES.—Notwithstanding this subsection or sub-*
 23 *section (b) or (c), the consent and approval of the*
 24 *Comptroller of the Currency shall not be required for*
 25 *a national bank to establish and operate, or to retain*
 26 *and operate, a branch or seasonal agency if—*

1 “(A) the bank is well capitalized (as defined
2 in section 38 of the Federal Deposit Insurance
3 Act and regulations prescribed by the Comptrol-
4 ler of the Currency under such section);

5 “(B) the bank received a composite CAMEL
6 rating of ‘1’ or ‘2’ under the Uniform Financial
7 Institutions Rating System (or an equivalent
8 rating under a comparable rating system) as of
9 its most recent examination;

10 “(C) the bank did not receive a ‘needs to
11 improve’ or ‘substantial noncompliance’ compos-
12 ite rating at its most recent examination under
13 the Community Reinvestment Act of 1977; and

14 “(D) the Comptroller of the Currency is oth-
15 erwise authorized to grant approval under this
16 section to such bank to establish and operate, or
17 to retain and operate, a branch or seasonal agen-
18 cy at the proposed location.

19 “(3) CERTAIN BRANCHES DEEMED TO HAVE AP-
20 PROVED APPLICATIONS.—A branch or seasonal agency
21 established by a national bank under paragraph (2)
22 shall be deemed to have been established and operated
23 pursuant to an application approved under this sec-
24 tion.”.

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

8 “(A) *the State member bank is well-capital-*
9 *ized (as defined in section 38 of the Federal De-*
10 *posit Insurance Act and regulations prescribed*
11 *by the Board under such section);*

12 “(B) *the State member bank received a com-*
13 *posite CAMEL rating of ‘1’ or ‘2’ under the Uni-*
14 *form Financial Institutions Rating System (or*
15 *an equivalent rating under a comparable rating*
16 *system);*

17 “(C) *the State member bank did not receive*
18 *a ‘needs to improve’ or ‘substantial noncompli-*
19 *ance’ composite rating at its most recent exam-*
20 *ination under the Community Reinvestment Act*
21 *of 1977; and*

22 “(D) *the Board is otherwise authorized to*
23 *grant approval under this section to such State*
24 *member bank to establish and operate a branch*
25 *or seasonal agency at the proposed location.*

1 *A branch or seasonal agency established by a State member*
2 *bank under the previous sentence shall be deemed to have*
3 *been established and operated pursuant to an application*
4 *approved under this section.”.*

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

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

14 *“(A) the bank is well-capitalized (as defined*
15 *in section 38 and regulations prescribed by the*
16 *Corporation under such section);*

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

22 *“(C) the bank did not receive a ‘needs to*
23 *improve’ or ‘substantial noncompliance’ compos-*
24 *ite rating as result of the bank’s most recent ex-*

1 *unit which is owned and operated by a depository in-*
 2 *stitution—*

3 *“(A) primarily for the benefit of the institu-*
 4 *tion and the affiliates of the institution; and*

5 *“(B) which could operate a branch at the*
 6 *location of such machine or unit.”.*

7 *(b) DEFINITION OF BRANCH UNDER FEDERAL DE-*
 8 *POSIT INSURANCE ACT.—Section 3(o) of the Federal De-*
 9 *posit Insurance Act (12 U.S.C. 1813(o)) is amended—*

10 *(1) by striking “(o) The term” and inserting*

11 *“(o) DEFINITIONS RELATING TO BRANCHES.—*

12 *“(1) DOMESTIC BRANCH.—*

13 *“(A) IN GENERAL.—The term”; and*

14 *(2) by striking “lent; and the term” and insert-*
 15 *ing “lent.*

16 *“(B) CERTAIN PROPRIETARY ATMS AND RE-*
 17 *MOTE SERVICING UNITS.—The term ‘domestic*
 18 *branch’ does not include any automated teller*
 19 *machine or remote service unit which is owned*
 20 *and operated by a depository institution—*

21 *“(i) primarily for the benefit of the in-*
 22 *stitution and the affiliates of the institu-*
 23 *tion; and*

24 *“(ii) which could operate a branch at*
 25 *the location of such machine or unit.*

1 “(2) *FOREIGN BRANCH.*—*The term*”.

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

5 *Section 24A of the Federal Reserve Act (12 U.S.C.*
6 *371d) is amended by inserting before the period in that sec-*
7 *tion the following: “or, in the case of a bank which received*
8 *a composite CAMEL rating of ‘1’ or ‘2’ under the Uniform*
9 *Financial Institutions Rating System (or an equivalent*
10 *rating under a comparable rating system) as of its most*
11 *recent examination and, both before and immediately fol-*
12 *lowing the investment or loan, is well capitalized (as de-*
13 *finied under section 38 of the Federal Deposit Insurance*
14 *Act), the amount which is equal to 150 percent of the cap-*
15 *ital stock and surplus of such bank”.*

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

18 *Section 32(d) of the Federal Deposit Insurance Act (12*
19 *U.S.C. 1831i(d)) is amended to read as follows:*

20 “(d) *ADDITIONAL INFORMATION.*—

21 “(1) *IN GENERAL.*—*Any notice submitted to an*
22 *appropriate Federal banking agency with respect to*
23 *an individual by any insured depository institution*
24 *or depository institution holding company pursuant*
25 *to subsection (a) shall include—*

1 “(A) the information described in section
2 7(j)(6)(A) about the individual; and

3 “(B) such other information as the agency
4 may prescribe by regulation.

5 “(2) WAIVER.—An appropriate Federal banking
6 agency may waive the requirement of this section by
7 regulation or on a case-by-case basis consistent with
8 safety and soundness.”.

9 **SEC. 211. STREAMLINING PROCESS FOR DETERMINING NEW**
10 **NONBANKING ACTIVITIES.**

11 Section 4(c)(8) of the Bank Holding Company Act of
12 1956 (12 U.S.C. 1843(c)(8)) is amended—

13 (1) by striking “and opportunity for hearing”;
14 and

15 (2) by striking “approval by the Board prior to
16 January 1, 1971.” and inserting the following: “ap-
17 proval by the Board prior to January 1, 1971, except
18 that, after March 30, 1997, it shall be closely related
19 to banking or managing or controlling banks and a
20 proper incident thereto to provide insurance as a
21 principal, agent, or broker in any State, in full com-
22 pliance with the laws and regulations of such State
23 that apply uniformly to each type of insurance license
24 or authorization in that State, including laws that
25 restrict a bank in that State from having an affiliate,

1 agent, or employee in that State licensed to provide
2 insurance as principal, agent, or broker. The Board
3 shall prescribe regulations concerning insurance af-
4 filiations that provide equivalent treatment for all
5 stock and mutual fund insurance companies that con-
6 trol or are affiliated with a bank, and fully accommo-
7 date and are consistent with State law.”.

8 **SEC. 212. DISPOSITION OF FORECLOSED ASSETS.**

9 Section 4(c)(2) of the Bank Holding Company Act of
10 1956 (12 U.S.C. 1843(c)(2)) is amended—

11 (1) by striking “for not more than one year at
12 a time”; and

13 (2) by striking “but no such extensions shall ex-
14 tend beyond a date five years” and inserting “and, in
15 the case of a bank holding company which has not
16 disposed of such shares within 5 years of the date
17 such shares were acquired, the Board may, upon the
18 application of such company, grant additional ex-
19 emptions if, in the Board’s judgment, such extension
20 would not be detrimental to the public interest and ei-
21 ther the bank holding company has made a good faith
22 attempt to dispose of such shares during such 5-year
23 period or the disposal of such shares during such 5-
24 year period would have been detrimental to the com-

1 pany, but the aggregate duration of such extensions
2 shall not extend 10 years”.

3 **SEC. 213. INCREASE IN CERTAIN CREDIT UNION LOAN CEIL-**
4 **INGS.**

5 Section 107(5)(A) of the Federal Credit Union Act (12
6 U.S.C. 1757(5)(A)) is amended—

7 (1) in clause (iv), by striking “\$10,000” and in-
8 serting “\$50,000”; and

9 (2) in clause (v), by striking “\$10,000” and in-
10 serting “\$50,000”.

11 **Subtitle B—Streamlining of Gov-**
12 **ernment Regulations; Mis-**
13 **cellaneous Provisions**

14 **SEC. 221. ELIMINATE THE PER-BRANCH CAPITAL REQUIRE-**
15 **MENT FOR NATIONAL BANKS AND STATE**
16 **MEMBER BANKS.**

17 Section 5155 of the Revised Statutes (12 U.S.C. 36)
18 is amended—

19 (1) by striking subsection (h); and

20 (2) by redesignating subsections (i) (as amended
21 by section 207(a) of this Act), (j) (as amended by sec-
22 tion 208(a) of this Act), (k), and (l) as subsections
23 (h), (i), (j), and (k), respectively.

1 **SEC. 222. BRANCH CLOSURES.**

2 (a) *IN GENERAL.*—Section 42 of the Federal Deposit
3 *Insurance Act (12 U.S.C. 1831r-1)* is amended by adding
4 *at the end the following new subsection:*

5 “(e) *SCOPE OF APPLICATION.*—

6 “(1) *IN GENERAL.*—This section shall not apply
7 *with respect to—*

8 “(A) *an automated teller machine;*

9 “(B) *a branch which—*

10 “(i) *has been acquired through merger,*
11 *consolidation, purchase, assumption, or*
12 *other method; and*

13 “(ii) *is located—*

14 “(I) *within 2.5 miles of another*
15 *branch of the acquiring institution; or*

16 “(II) *within a neighborhood cur-*
17 *rently being served by another branch*
18 *of the acquiring institution,*

19 *if such other branch of the acquiring institution*
20 *is expected to continue to provide banking serv-*
21 *ices to substantially all of the customers cur-*
22 *rently served by the branch acquired;*

23 “(C) *a branch which is closing and reopen-*
24 *ing at a location which is—*

25 “(i) *within 2.5 miles of the location of*
26 *the branch being closed; or*

1 “(i) *within the same neighborhood as*
2 *the branch being closed,*
3 *if the branch at the new location is expected to*
4 *continue to provide banking services to substan-*
5 *tially all of the customers served by the branch*
6 *at the former location;*

7 “(D) *a branch that is closed in connection*
8 *with—*

9 “(i) *an emergency acquisition under—*
10 “(I) *section 11(n); or*

11 “(II) *subsections (f) or (k) of sec-*
12 *tion 13; or*

13 “(ii) *any assistance provided by the*
14 *Corporation under section 13(c); and*

15 “(E) *any other branch closure whose exemp-*
16 *tion from the notice requirements of this section*
17 *would not produce a result inconsistent with the*
18 *purposes of this section.*

19 “(2) *REGULATIONS.—The appropriate Federal*
20 *banking agency shall, by regulation, determine the*
21 *circumstances under which any exemption under*
22 *paragraph(1)(E) may be granted.”.*

23 “(b) *EFFECTIVE DATE.—The amendment made by sub-*
24 *section (a) shall apply as if such amendment had been in-*
25 *cluded in section 42 of the Federal Deposit Insurance Act*

1 *as of the date of the enactment of the Federal Deposit Insur-*
2 *ance Corporation Improvement Act of 1991.*

3 **SEC. 223. AMENDMENTS TO THE DEPOSITORY INSTITU-**
4 **TIONS MANAGEMENT INTERLOCKS ACT.**

5 *(a) DUAL SERVICE IN SAME AREA, TOWN, OR VIL-*
6 *LAGE.—Section 203 of the Depository Institution Manage-*
7 *ment Interlocks Act (12 U.S.C. 3202) is amended—*

8 *(1) by inserting “(a) PROHIBITIONS.—” before*
9 *“A management official”; and*

10 *(2) by adding after subsection (a) the following*
11 *new subsection:*

12 *“(b) SMALL MARKET SHARE EXEMPTION.—*

13 *“(1) IN GENERAL.—This section shall not be con-*
14 *strued as prohibiting a management official of a de-*
15 *pository institution or depository holding company*
16 *from serving as a management official of another de-*
17 *pository institution or depository holding company*
18 *not affiliated with such institution or holding com-*
19 *pany if the depository institutions or depository hold-*
20 *ing companies with which the management official*
21 *serves hold, together with all the affiliates of such in-*
22 *stitutions or holding companies, in the aggregate no*
23 *more than 20 percent of the deposits in each relevant*
24 *geographic banking market where offices of the depository*

1 *tory institutions or depository holding companies or*
 2 *their affiliates are located.*

3 “(2) *RELEVANT GEOGRAPHIC BANKING MARKET*
 4 *DEFINED.—For purposes of paragraph (1), the term*
 5 *‘relevant geographic banking market’ means—*

6 “(A) *the area defined by the boundaries*
 7 *identified by the Board of Governors of the Fed-*
 8 *eral Reserve System;*

9 “(B) *if the Board has not defined such*
 10 *boundaries, the area defined by the boundaries of*
 11 *the Ranally Metropolitan Area in which the of-*
 12 *fice of the depository institution or the depository*
 13 *institution holding company is located; and*

14 “(C) *if the office of such institution or com-*
 15 *pany is not located within a Ranally Metropoli-*
 16 *tan Area, the area defined by the county (or an*
 17 *equivalent area of general local government) in*
 18 *which such office is located.”.*

19 (b) *DUAL SERVICE AMONG LARGER ORGANIZA-*
 20 *TIONS.—Section 204 of the Depository Institution Manage-*
 21 *ment Interlocks Act (12 U.S.C. 3203) is amended to read*
 22 *as follows:*

23 “**SEC. 204. DUAL SERVICE AMONG LARGER ORGANIZATIONS.**

24 “(a) *IN GENERAL.—If a depository institution, depository*
 25 *institution holding company, or depository institution*

1 *affiliate of any such institution or company has total assets*
2 *exceeding \$2,500,000,000, a management official of such in-*
3 *stitution, company, or affiliate may not serve as a manage-*
4 *ment official of any other depository institution, depository*
5 *institution holding company, or depository institution affil-*
6 *iate of any such institution or company which—*

7 “(1) *is not an affiliate of the institution, com-*
8 *pany, or affiliate of which such person is a manage-*
9 *ment official; and*

10 “(2) *has total assets exceeding \$1,500,000,000.*

11 “(b) *CPI ADJUSTMENTS.—The dollar amounts in this*
12 *section shall be adjusted annually after December 31, 1994,*
13 *by the annual percentage increase in the Consumer Price*
14 *Index for Urban Wage Earners and Clerical Workers pub-*
15 *lished by the Bureau of Labor Statistics.”.*

16 “(c) *EXTENSION OF GRANDFATHER EXEMPTION.—Sec-*
17 *tion 206 of the Depository Institution Management Inter-*
18 *locks Act (12 U.S.C. 3205) is amended—*

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

22 (2) *in subsection (b), by striking the 2d sentence;*
23 *and*

24 (3) *by striking subsection (c).*

1 (d) *RULES OR REGULATIONS.*—Section 209 of the De-
2 pository Institution Management Interlocks Act (12 U.S.C.
3 3207) is amended—

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

6 (2) by inserting “, including rules or regulations
7 which permit service by a management official which
8 would otherwise be prohibited by section 203 or sec-
9 tion 204,” after “title”; and

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

11 **SEC. 224. ACCELERATION OF REPAYMENT TO TREASURY.**

12 *The Appraisal Subcommittee of the Financial Institu-*
13 *tions Examination Council shall repay to the Secretary of*
14 *the Treasury the funds specified in section 1108 of Finan-*
15 *cial Institutions Reform, Recovery, and Enforcement Act*
16 *of 1989 by not later than September 30, 1998, and the Sec-*
17 *retary shall deposit such funds in the general fund of the*
18 *Treasury.*

19 **SEC. 225. ELIMINATE UNNECESSARY AND DUPLICATIVE**
20 **RECORDKEEPING AND REPORTING REQUIRE-**
21 **MENTS RELATING TO LOANS TO EXECUTIVE**
22 **OFFICERS AND PERMIT PARTICIPATION IN**
23 **EMPLOYEE BENEFIT PLANS.**

24 (a) *AMENDMENTS TO SECTION 22(h) OF THE FEDERAL*
25 *RESERVE ACT.*—

1 (1) *EMPLOYEE BENEFIT PLANS.*—Section
2 22(h)(2) of the Federal Reserve Act (12 U.S.C.
3 375b(2)) is amended—

4 (A) by redesignating subparagraphs (A),
5 (B), and (C) as clauses (i), (ii), and (iii), respec-
6 tively, and moving the left margins of such
7 clauses 2 ems to the right;

8 (B) by striking “(2) *PREFERENTIAL TERMS*
9 *PROHIBITED.*—A member bank” and inserting
10 “(2) *PREFERENTIAL TERMS PROHIBITED.*—

11 “(A) *IN GENERAL.*—A member bank”; and
12 (C) by adding at the end the following new
13 subparagraph:

14 “(B) *EXCEPTION.*—No provision of this
15 paragraph shall be construed as prohibiting ex-
16 tensions of credit that constitute a benefit or
17 compensation program that is widely available
18 to and used by employees of the member bank,
19 including employees who are not executive offi-
20 cers of the bank.”.

21 (2) *EXCEPTION FOR EXTENSIONS OF CREDIT TO*
22 *EXECUTIVE OFFICERS AND DIRECTORS OF NONBANK*
23 *AFFILIATES.*—Section 22(h)(8)(B) of the Federal Re-
24 serve Act (12 U.S.C. 375b(8)(B)) is amended to read
25 as follows:

1 “(B) *EXCEPTION.*—*The Board may, by regulation,*
2 *make exceptions to subparagraph (A) for*
3 *an executive officer or director of a subsidiary of*
4 *a company that controls the member bank if—*

5 “(i) *the executive officer or director*
6 *does not have authority to participate, and*
7 *does not participate, in major policymaking*
8 *functions of the member bank; and*

9 “(ii) *the assets of such subsidiary do*
10 *not exceed 10 percent of the consolidated as-*
11 *sets of a company that controls the member*
12 *bank and such subsidiary (and is not con-*
13 *trolled by any other company).”.*

14 (3) *RECORDKEEPING REQUIREMENTS.*—*Section*
15 *22(h)(10) of the Federal Reserve Act (12 U.S.C.*
16 *375b(10)) is amended by adding at the end the follow-*
17 *ing: “The Board shall specify by regulation the rec-*
18 *ordkeeping required of member banks to ensure com-*
19 *pliance with this section.”.*

20 (b) *REPORTING REQUIREMENTS.*—

21 (1) *UNNECESSARY REPORTS.*—*Section 22(g) of*
22 *the Federal Reserve Act (12 U.S.C. 375a) is amend-*
23 *ed—*

24 (A) *by striking paragraphs (6) and (9); and*

1 (B) by redesignating paragraphs (7), (8),
2 and (10) as paragraphs (8), (9), and (10), re-
3 spectively.

4 (2) *UNNECESSARY REPORTS*.—Section 7 of the
5 *Federal Deposit Insurance Act (12 U.S.C. 1817)* is
6 amended by striking subsection (k).

7 (3) *UNNECESSARY REPORTS REGARDING LOANS*
8 *FROM CORRESPONDENT BANKS*.—Section 106(b)(2) of
9 the *Bank Holding Company Act Amendments of 1970*
10 (12 U.S.C. 1972(2)) is amended—

11 (A) by striking subparagraph (G); and

12 (B) by redesignating subparagraphs (H)
13 and (I) as subparagraphs (G) and (H), respec-
14 tively.

15 (c) *AMENDMENTS RELATING TO LOANS TO EXECUTIVE*
16 *OFFICERS*.—Section 22(g) of the *Federal Reserve Act (12*
17 *U.S.C. 375a)* (as amended by subsection (a) of this section)
18 is amended—

19 (1) in paragraph (1)(D), by striking “of any one
20 of the three categories respectively referred to in para-
21 graphs (2), (3), and (4)” and inserting “of any cat-
22 egory referred to in paragraph (2), (3), (4), (5), or
23 (6)”;

24 (2) by redesignating paragraphs (4) and (5) as
25 paragraphs (6) and (7), respectively;

1 (3) by inserting after paragraph (3) the follow-
2 ing new paragraph:

3 “(4) *HOME EQUITY LINES OF CREDIT.*—A mem-
4 ber bank may make a revolving open-end extension of
5 credit to any executive officer of the bank if the cred-
6 it—

7 “(A) does not exceed \$100,000; and

8 “(B) is secured by a dwelling that is owned
9 by such officer and used by the officer as a resi-
10 dence.

11 “(5) *LOANS SECURED BY MARKETABLE AS-*
12 *SETS.*—A member bank may extend credit to any ex-
13 ecutive officer of the bank if the credit is secured by
14 readily marketable assets of a value not exceeding
15 such amount as the Board may establish by regula-
16 tion.”; and

17 (4) in paragraph (7) (as so redesignated by
18 paragraph (2) of this subsection) by striking “(4)”
19 each place such term appears and inserting “(6)”.

20 **SEC. 226. EXPANDED REGULATORY DISCRETION FOR SMALL**
21 **BANK EXAMINATIONS.**

22 (a) *SMALL BANK SIZE DISCRETION.*—Section 10(d) of
23 the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is
24 amended—

1 (1) by redesignating paragraph (9) as para-
2 graph (10);

3 (2) by redesignating the 2d of the 2 paragraphs
4 designated as paragraph (8) as paragraph (9); and

5 (3) in paragraph (9) (as so redesignated), by
6 striking “\$175,000,000” and inserting
7 “\$250,000,000”.

8 (b) *INFLATION ADJUSTMENT.*—Section 10(d) of the
9 *Federal Deposit Insurance Act (12 U.S.C. 1820(d))* is
10 amended by inserting after paragraph (10) (as so redesi-
11 gnated in subsection (a)(1) of this section) the following new
12 paragraph:

13 “(11) *ANNUAL CPI ADJUSTMENT.*—The dollar
14 amount in this section shall be adjusted annually
15 after December 31, 1994, by the annual percentage in-
16 crease in the Consumer Price Index for Urban Wage
17 Earners and Clerical Workers published by the Bu-
18 reau of Labor Statistics.”.

19 (c) *COORDINATED FEDERAL AND STATE EXAMINA-*
20 *TIONS.*—The Federal banking agencies (as defined in sec-
21 tion 3 of the *Federal Deposit Insurance Act*) shall submit
22 semiannual reports to the Congress on the progress made
23 by such agencies in implementing the requirements of sec-
24 tion 10(d)(6) of the *Federal Deposit Insurance Act* until
25 such agencies submit a final report that—

1 **SEC. 229. PAPERWORK REDUCTION REVIEW.**

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

7 *(1) review the extent to which current regula-*
8 *tions require insured depository institutions and in-*
9 *sured credit unions to produce unnecessary internal*
10 *written policies; and*

11 *(2) eliminate such requirements, where appro-*
12 *priate.*

13 *For purposes of this section, the terms “insured depository*
14 *institution” and “appropriate Federal banking agency”*
15 *have the same meanings as in section 3 of the Federal De-*
16 *posit Insurance Act and the term “insured credit union”*
17 *has the same meaning as in section 101(7) of the Federal*
18 *Credit Union Act.*

19 **SEC. 230. DAILY CONFIRMATIONS FOR HOLD-IN-CUSTODY**
20 **REPURCHASE TRANSACTIONS.**

21 *Before the end of the 1-year period beginning on the*
22 *date of the enactment of this Act, the Secretary of the Treas-*
23 *ury shall revise the regulation under section 15C of the Se-*
24 *curities Exchange Act of 1934 relating to the obligations*
25 *of financial institutions and of brokers and dealer registered*
26 *under such Act holding custody of securities subject to a*

1 repurchase agreement to confirm, daily and in writing, the
2 securities that are subject to such repurchase agreement.
3 Such revision shall permit the counterparty to such agree-
4 ment to waive in writing the right to obtain such daily
5 written confirmation if the counterparty has received a
6 clear and conspicuous disclosure before entering into any
7 side agreement, in a form prescribed by the Secretary, that
8 adequately informs the counterparty of the benefits of re-
9 ceiving such daily written confirmations.

10 **SEC. 231. REQUIRED REGULATORY REVIEW OF REGULA-**
11 **TIONS.**

12 (a) *IN GENERAL.*—Not less frequently than once every
13 10 years, the Financial Institutions Examination Council
14 (hereafter in this section referred to as the “Council”) and
15 each appropriate Federal banking agency (as defined in sec-
16 tion 3(q) of the Federal Deposit Insurance Act) represented
17 on the Council shall conduct a review of all regulations pre-
18 scribed by the Council or by any such agency, respectively,
19 in order to identify outdated or otherwise unnecessary regu-
20 latory requirements imposed upon insured depository insti-
21 tutions.

22 (b) *PROCESS.*—In conducting the review under sub-
23 section (a), the Council or the appropriate Federal banking
24 agency shall—

1 (1) *categorize the regulations by type (such as*
2 *consumer regulations, safety and soundness regula-*
3 *tions, or such other designations as determined by the*
4 *Council); and*

5 (2) *at regular intervals, provide notice and so-*
6 *licit public comment on a particular category or cat-*
7 *egories of regulations, requesting commentators to*
8 *identify areas of the regulations that are outdated,*
9 *unnecessary, or unduly burdensome.*

10 (c) *COMPLETE REVIEW.—The Council or the appro-*
11 *priate Federal banking agency shall ensure that the notice*
12 *and comment period described in subsection (b)(2) is con-*
13 *ducted with respect to all regulations described in subsection*
14 *(a) not less frequently than once every 10 years.*

15 (d) *REGULATORY RESPONSE.—The Council or the ap-*
16 *propriate Federal banking agency shall—*

17 (1) *publish in the Federal Register a summary*
18 *of the comments received under this section, identify-*
19 *ing significant issues raised and providing comment*
20 *on such issues; and*

21 (2) *eliminate unnecessary regulations to the ex-*
22 *tent that such action is appropriate.*

23 (e) *REPORT TO CONGRESS.—Not later than 30 days*
24 *after carrying out subsection (d)(1), the Council shall pro-*
25 *vide to the Congress a report, which shall include—*

1 (1) *a summary of any significant issues raised*
 2 *by public comments received by the Council and the*
 3 *appropriate Federal banking agencies under this sec-*
 4 *tion and the relative merits of such issues; and*

5 (2) *an analysis of whether the appropriate Fed-*
 6 *eral banking agency involved is able to address the*
 7 *regulatory burdens associated with such issues by reg-*
 8 *ulation, or whether such burdens must be addressed*
 9 *by legislative action.*

10 **SEC. 232. COUNTRY RISK REQUIREMENTS.**

11 *Subsections (a)(1) and (b) of section 905 of the Inter-*
 12 *national Lending Supervision Act of 1983 (12 U.S.C. 3904)*
 13 *are amended by striking “shall” and inserting “may”.*

14 **SEC. 233. AUDIT COSTS.**

15 (a) *IN GENERAL.*—

16 (1) *AUDITOR ATTESTATIONS.*—*Section 36 of the*
 17 *Federal Deposit Insurance Act (12 U.S.C. 1831m) is*
 18 *amended—*

19 (A) *in subsection (a)(2)(A)(ii), by striking*
 20 *“subsections (c) and (d)” and inserting “sub-*
 21 *section (c)”;*

22 (B) *by striking subsections (c) and (e); and*

23 (C) *by redesignating subsections (d), (f), (g),*
 24 *(h), (i), and (j) as subsections (c), (d), (e), (f),*
 25 *(g), and (h), respectively.*

1 (2) *PUBLIC AVAILABILITY.*—Section 36(a)(3) of
2 the *Federal Deposit Insurance Act* (12 U.S.C.
3 1831m(a)(3)) is amended by inserting at the end the
4 following new sentence: “Notwithstanding the preced-
5 ing sentence, the Corporation and the appropriate
6 Federal banking agencies may designate certain in-
7 formation as privileged and confidential and not
8 available to the public.”.

9 (b) *EXEMPTION FOR WELL-CAPITALIZED AND WELL-*
10 *MANAGED INSURED DEPOSITORY INSTITUTIONS.*—Section
11 36 of the *Federal Deposit Insurance Act* (12 U.S.C. 1831m)
12 (as amended by subsection (a) of this section) is amended
13 by adding at the end the following new subsection:

14 “(i) *EXEMPTION FOR WELL-CAPITALIZED AND WELL-*
15 *MANAGED INSURED DEPOSITORY INSTITUTIONS.*—No pro-
16 vision of this section other than subsection (c) shall apply
17 with respect to any insured depository institution which is
18 well-capitalized and well-managed.”.

19 (c) *TECHNICAL AND CONFORMING AMENDMENTS.*—

20 (1) Paragraph (1)(B) of section 36(e) of the *Fed-*
21 *eral Deposit Insurance Act* (as so redesignated by sub-
22 section (a)(1)(C) of this section) is amended by strik-
23 ing “(b)(2), (c), and (d)” and inserting “(b)(2) and
24 (c)”.

1 (2) Paragraph (1) of section 36(g) of the Federal
2 Deposit Insurance Act (as so redesignated by sub-
3 section (a)(1)(C) of this section) is amended by strik-
4 ing “(d)” and inserting “(c)”.

5 **SEC. 234. STANDARDS FOR DIRECTOR AND OFFICER LIABIL-**
6 **ITY.**

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

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

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

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

15 **SEC. 235. FOREIGN BANK APPLICATIONS.**

16 (a) *PROVISIONS RELATING TO ESTABLISHMENT OF*
17 *BANK OFFICES.*—Section 7(d) of the International Banking
18 Act of 1978 (12 U.S.C. 3105(d)) is amended—

19 (1) in paragraph (2), by striking “The” and in-
20 serting “Except as provided in paragraph (6), the”;

21 (2) in paragraph (5), by striking “Consistent
22 with the standards for approval in paragraph (2),
23 the” and inserting “The”; and

24 (3) by adding at the end the following new para-
25 graphs:

1 “(6) *EXCEPTION.*—

2 “(A) *IN GENERAL.*—*If the Board is unable*
3 *to find under paragraph (2) that a foreign bank*
4 *is subject to comprehensive supervision or regula-*
5 *tion on a consolidated basis by the appropriate*
6 *authorities in its home country, the Board may*
7 *nevertheless approve an application under para-*
8 *graph (1) by such foreign bank if—*

9 “(i) *the appropriate authorities in the*
10 *home country of such foreign bank are*
11 *working to establish arrangements for the*
12 *consolidated supervision of such bank; and*

13 “(ii) *all other factors are consistent*
14 *with approval.*

15 “(B) *ADDITIONAL CONDITIONS.*—*The*
16 *Board, after requesting and considering the*
17 *views of the appropriate State bank supervisor*
18 *or the Comptroller of the Currency, as the case*
19 *may be, may impose such conditions or restric-*
20 *tions relating to activities or business operations*
21 *of the proposed branch, agency, or commercial*
22 *lending company subsidiary, including restric-*
23 *tions on sources of funding, as are considered ap-*
24 *propriate in the public interest.*

1 “(C) *MODIFICATION OF CONDITIONS.*—*Any*
2 *condition or restriction imposed by the Board*
3 *under this subsection in connection with the ap-*
4 *proval of an application may be varied or with-*
5 *drawn where such modification is consistent*
6 *with the public interest.*

7 “(7) *TIME PERIOD FOR BOARD ACTION.*—

8 “(A) *FINAL ACTION.*—*The Board shall take*
9 *final action on any application under para-*
10 *graph (1) within 180 days of receipt of the ap-*
11 *plication, except that the Board may extend for*
12 *an additional 180 days the period within which*
13 *to take final action on such application, after*
14 *providing notice of, and the reasons for, the ex-*
15 *ension to the applicant foreign bank and any*
16 *appropriate State bank supervisor or the Comp-*
17 *troller of the Currency, as the case may be.*

18 “(B) *FAILURE TO SUBMIT INFORMATION.*—
19 *The Board may deny any application if it has*
20 *not received information requested from the ap-*
21 *plicant foreign bank or appropriate authorities*
22 *in the home country in sufficient time to permit*
23 *the Board to evaluate such information ade-*
24 *quately within the time periods for final action*
25 *set forth in subparagraph (A).*

1 “(C) *WAIVER.*—*A foreign bank may waive*
2 *the applicability of subparagraph (A) with re-*
3 *spect to any such application.*”.

4 (b) *PROVISION RELATING TO TERMINATION OF BANK*
5 *OFFICES.*—*Section 7(e)(1)(A) of the International Banking*
6 *Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amended—*

7 (1) *by striking “(A)” and inserting “(A)(i)”;*

8 (2) *by striking “; or” and inserting “; and”;* and

9 (3) *by inserting at the end the following new*
10 *clause:*

11 “(i) *the appropriate authorities in the*
12 *home country are not making progress in estab-*
13 *lishing arrangements for the comprehensive su-*
14 *pervision or regulation of such foreign bank on*
15 *a consolidated basis; or”.*

16 (c) *UNIFORM TERMINATIONS OF FOREIGN BANK OF-*
17 *FICES, AGENCIES, BRANCHES, AND SUBSIDIARIES BY THE*
18 *FEDERAL RESERVE SYSTEM.*—

19 (1) *IN GENERAL.*—*Section 7(e)(1) of the Inter-*
20 *national Banking Act of 1978 (12 U.S.C. 3105(e)(1))*
21 *is amended—*

22 (A) *by inserting “or the Comptroller of the*
23 *Currency” after “State bank supervisor”;*

1 (B) by inserting “or a Federal branch or
2 agency” after “commercial lending company sub-
3 sidiary” the 1st place such term appears; and

4 (C) in the last sentence, by inserting “or a
5 Federal branch or agency” after “commercial
6 lending company subsidiary”.

7 (2) *TECHNICAL AND CONFORMING AMEND-*
8 *MENT.*—Section 7(e) of the International Banking Act
9 of 1978 (12 U.S.C. 3105(e)) is amended—

10 (A) by striking paragraph (5); and

11 (B) by redesignating paragraphs (6) and
12 (7) as paragraphs (5) and (6), respectively.

13 **SEC. 236. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

14 Section 7(c)(1) of the International Banking Act of
15 1978 (12 U.S.C. 3105(c)(1)) is amended—

16 (1) by adding after clause (ii) of subparagraph

17 (B) the following new clause:

18 “(iii) *AVOIDANCE OF DUPLICATION.*—

19 *In exercising its authority under this para-*
20 *graph, the Board shall take all reasonable*
21 *measures to reduce burden and avoid un-*
22 *necessary duplication of examinations.”;*

23 (2) by striking subparagraph (C) and inserting
24 the following:

1 “(C) *ON-SITE EXAMINATION.*—*Each Federal*
2 *branch or agency, and each State branch or*
3 *agency, of a foreign bank shall be subject to on-*
4 *site examination by a Federal banking agency or*
5 *State bank supervisor as frequently as would a*
6 *national bank or State bank, respectively, by its*
7 *appropriate Federal banking agency.”; and*
8 (3) *by amending subparagraph (D) to read as*
9 *follows:*

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

18 **SEC. 237. SECOND MORTGAGES.**

19 (a) *IN GENERAL.*—*Section 103(aa)(1) of the Truth in*
20 *Lending Act (15 U.S.C. 1602(aa)(1)) is amended—*

21 (1) *by inserting “a subordinate mortgage on”*
22 *after “secured by”; and*

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

1 (b) *EFFECT ON PENDING CASES.*—Any administrative
2 enforcement proceeding or other action which—

3 (1) is pending on the date of the enactment of
4 this Act; and

5 (2) is based on regulations in effect as of such
6 date under the Truth in Lending Act with respect to
7 high-cost residential mortgage transactions which are
8 not subordinate mortgages,
9 shall be dismissed as of such date.

10 **SEC. 238. STREAMLINING FDIC APPROVAL OF NEW STATE**
11 **BANK POWERS.**

12 (a) *IN GENERAL.*—Section 24(a) of the Federal De-
13 posit Insurance Act (12 U.S.C. 1831a(a)) is amended to
14 read as follows:

15 “(a) *ACTIVITIES GENERALLY.*—

16 “(1) *IN GENERAL.*—An insured State bank may
17 not engage as principal in any type of activity that
18 is not permissible for a national bank unless—

19 “(A) the bank has given the Corporation
20 written notice of the bank’s intention to engage
21 in such activity at least 60 days before commenc-
22 ing to engage in the activity and within such 60-
23 day period (or within the extended period pro-
24 vided under paragraph (2)) the Corporation has
25 not disapproved the activity; and

1 “(B) *the State bank is, and continues to be,*
2 *in compliance with applicable capital standards*
3 *prescribed by the appropriate Federal banking*
4 *agency.*

5 “(2) *EXTENSION OF PERIOD.—The Corporation*
6 *may extend the 60-day period referred to in para-*
7 *graph (1) for issuing a notice of disapproval with re-*
8 *spect to any activity for an additional 30 days.*

9 “(3) *CONTENTS OF NOTICE.—Any notice submit-*
10 *ted by a State bank under paragraph (1)(A) shall*
11 *contain such information as the Corporation may re-*
12 *quire.*

13 “(4) *BASIS FOR DISAPPROVAL.—The Corporation*
14 *may disapprove an activity for a State bank under*
15 *this subsection unless the Corporation determines that*
16 *the activity would pose no significant risk to the ap-*
17 *propriate insurance fund.”.*

18 “(b) *SUBSIDIARIES OF INSURED STATE BANKS.—Sec-*
19 *tion 24(d)(1) of the Federal Deposit Insurance Act (12*
20 *U.S.C. 1831a(d)(1)) is amended to read as follows:*

21 “(1) *ACTIVITIES GENERALLY.—*

22 “(A) *IN GENERAL.—A subsidiary of an in-*
23 *sured State bank may not engage as principal in*
24 *any type of activity that is not permissible for*
25 *a subsidiary of a national bank unless—*

1 “(i) the subsidiary has given the Cor-
2 poration written notice of the subsidiary’s
3 intention to engage in such activity at least
4 60 days before commencing to engage in the
5 activity and within such 60-day period (or
6 within the extended period provided under
7 paragraph (2)) the Corporation has not dis-
8 approved the activity; and

9 “(ii) the bank is, and continues to be,
10 in compliance with applicable capital
11 standards prescribed by the appropriate
12 Federal banking agency.

13 “(B) EXTENSION OF PERIOD.—The Cor-
14 poration may extend the 60-day period referred
15 to in subparagraph (A) for issuing a notice of
16 disapproval with respect to any activity for an
17 additional 30 days.

18 “(C) CONTENTS OF NOTICE.—Any notice
19 submitted by a subsidiary of an insured State
20 bank under subparagraph (A)(i) shall contain
21 such information as the Corporation may re-
22 quire.

23 “(D) BASIS FOR DISAPPROVAL.—The Cor-
24 poration may disapprove an activity for a sub-
25 sidiary of an insured State bank under this

1 *paragraph unless the Corporation determines*
2 *that the activity would pose no significant risk*
3 *to the appropriate insurance fund.”.*

4 **SEC. 239. REPEAL OF CALL REPORT ATTESTATION RE-**
5 **QUIREMENT.**

6 *Section 5211(a) of the Revised Statutes (12 U.S.C.*
7 *161(a)) is amended by striking the 4th sentence.*

8 **SEC. 240. AUTHORITY OF THE COMPTROLLER OF THE CUR-**
9 **RENCY.**

10 *(a) STATE SUPERVISION.—Chapter 1 of title LXII of*
11 *the Revised Statutes of the United States (12 U.S.C. 21 et*
12 *seq.) is amended—*

13 *(1) by redesignating section 5136A as section*
14 *5136C; and*

15 *(2) by inserting after section 5136 (12 U.S.C.*
16 *24) the following new section:*

17 **“SEC. 5136A. STATE SUPERVISION OF INSURANCE.**

18 **“(a) STATE LICENSING OF INSURANCE ACTIVITIES.—**

19 **“(1) IN GENERAL.—Subject to paragraph (2), no**
20 *provision of section 5136, any other section of this*
21 *title, or section 13 of the Federal Reserve Act may be*
22 *construed as limiting or otherwise impairing the au-*
23 *thority of any State to regulate—*

24 **“(A) the extent to which, and the manner in**
25 *which, a national bank may engage within the*

1 *State in insurance activities pursuant to section*
2 *5136B of this chapter or section 13 of the Fed-*
3 *eral Reserve Act;*

4 *“(B) the manner in which a national bank*
5 *may engage within the State in insurance ac-*
6 *tivities pursuant to section 5136(b)(2)(B) of the*
7 *Revised Statutes of the United States; or*

8 *“(C) the manner in which a national bank*
9 *may engage within the State in insurance ac-*
10 *tivities pursuant to section 5136(b)(2)(A) of the*
11 *Revised Statutes of the United States through,*
12 *and limited to, consumer disclosure requirements*
13 *or licensing requirements, procedures, and quali-*
14 *fications as described in paragraph (2)(C).*

15 *“(2) PROHIBITION ON STATE DISCRIMINATION*
16 *AGAINST NATIONAL BANKS.—Notwithstanding para-*
17 *graph (1)—*

18 *“(A) PROVIDING INSURANCE AS AGENT OR*
19 *BROKER.—No State may impose any insurance*
20 *regulatory requirement relating to providing in-*
21 *surance as an agent or broker that treats a na-*
22 *tional bank differently than all other persons*
23 *who are authorized to provide insurance as*
24 *agents or brokers in such State, unless there is*
25 *a legitimate and reasonable State regulatory*

1 *purpose for the requirement for which there is no*
2 *less restrictive alternative.*

3 “(B) *PROVIDING INSURANCE AS PRINCIPAL,*
4 *AGENT, OR BROKER.—*

5 “(i) *No State may impose on a na-*
6 *tional bank any insurance regulatory re-*
7 *quirement relating to providing insurance*
8 *as principal, agent, or broker that treats the*
9 *national bank more restrictively than any*
10 *other depository institution (as defined in*
11 *section 3(c)(1) of the Federal Deposit Insur-*
12 *ance Act, 12 U.S.C. 1813(c)(1)) operating*
13 *in the State.*

14 “(ii) *Nothing in this subparagraph*
15 *shall affect the validity of a State law*
16 *that—*

17 “(I) *prevents a national bank*
18 *from engaging in insurance activities*
19 *within the State to as great an extent*
20 *as a savings association (as defined in*
21 *section 3(b)(1) of the Federal Deposit*
22 *Insurance Act, 12 U.S.C. 1813(b)(1))*
23 *may engage in such activities within*
24 *the State; and*

1 “(II) was in effect on June 1,
2 1995.

3 “(C) LICENSING QUALIFICATIONS AND PRO-
4 CEDURES.—No State may discriminate against
5 a national bank with respect to the following re-
6 quirements, procedures, and qualifications as
7 such requirements, procedures, and qualifications
8 relate to the authority of the national bank to
9 provide insurance in such State as an agent or
10 broker:

11 “(i) License application and process-
12 ing procedures.

13 “(ii) Character, experience, and edu-
14 cational qualifications for licenses.

15 “(iii) Testing and examination re-
16 quirements for licenses.

17 “(iv) Fee requirements for licenses.

18 “(v) Continuing education require-
19 ments.

20 “(vi) Types of licenses required.

21 “(vii) Standards and requirements for
22 renewal of licenses.

23 “(b) AUTHORITY OF THE COMPTROLLER OF THE CUR-
24 RENCY.—A national bank may not provide insurance as
25 a principal, agent, or broker except as specifically provided

1 *in this section, the paragraph designated as the ‘Seventh’*
2 *of section 5136(a) of this chapter, section 5136(b) or 5136B*
3 *of this chapter, or section 13 of the Federal Reserve Act.*

4 “(c) *PRESERVATION OF FEDERALLY AUTHORIZED*
5 *BANK ACTIVITIES IN PERMISSIVE STATES.—No provision*
6 *of this section may be construed as affecting the authority,*
7 *pursuant to section 5136B of this chapter or section 13 of*
8 *the Federal Reserve Act, of a national bank to act as insur-*
9 *ance agent or broker consistent with State law.*

10 “(d) *PRESERVATION OF NATIONAL BANK AUTHORITY*
11 *CONSISTENT WITH STATE BANK AUTHORITY.—Except as*
12 *provided in subsection (a)(2)(B), no provision of this sec-*
13 *tion or section 5136(b)(1) shall have the effect of enabling*
14 *a State to deny a national bank authority that the bank*
15 *otherwise possesses to provide a product in a State, includ-*
16 *ing as agent, broker, or principal, where the bank is not*
17 *providing the product in the State other than to an extent*
18 *and in a manner that a State bank (as defined in section*
19 *3(a)(2) of the Federal Deposit Insurance Act, 12 U.S.C.*
20 *1813(a)(2)) is permitted by the law of the State to provide*
21 *such product, except that nothing in this subsection shall*
22 *be construed as granting any new authority to a national*
23 *bank to provide any product because the law of the State*
24 *has authorized State banks to provide such product.*

1 “(e) *DEFINITIONS.*—For purposes of this section, sec-
2 tions 5136 and 5136B, and section 13 of the Federal Re-
3 serve Act, the following definitions shall apply:

4 “(1) *INSURANCE.*—The term ‘insurance’ means
5 any product defined or regulated as insurance, con-
6 sistent with the relevant State insurance law, by the
7 insurance regulatory authority of the State in which
8 such product is sold, solicited, or underwritten, in-
9 cluding any annuity contract the income on which is
10 tax deferred under section 72 of the Internal Revenue
11 Code of 1986.

12 “(2) *STATE.*—The term ‘State’ has the same
13 meaning as in section 3(a)(3) of the Federal Deposit
14 Insurance Act.

15 “(f) *GRANDFATHER PROVISION.*—

16 “(1) *IN GENERAL.*—Any national bank which,
17 before January 1, 1995, was providing insurance as
18 agent or broker under section 13 of the Federal Re-
19 serve Act may provide insurance as an agent or
20 broker under such section, to no less extent and in a
21 no more restrictive manner as such bank was provid-
22 ing insurance as agent or broker under such section
23 on January 1, 1995, notwithstanding contrary State
24 law, subject to final, controlling judgment in a pend-
25 ing action.

1 “(2) *TERMINATION.*—*This subsection shall cease*
2 *to apply with respect to any national bank described*
3 *in paragraph (1) if—*

4 “(A) *the bank is subject to an acquisition,*
5 *merger, consolidation, or change in control, other*
6 *than a transaction to which section 18(c)(12) of*
7 *the Federal Deposit Insurance Act applies; or*

8 “(B) *any bank holding company which di-*
9 *rectly or indirectly controls such bank is subject*
10 *to an acquisition, merger, consolidation, or*
11 *change in control, other than a transaction in*
12 *which the beneficial ownership of such bank hold-*
13 *ing company or of a bank holding company*
14 *which controls such company does not change as*
15 *a result of the transaction.*

16 “(g) *PRESERVATION OF BANKING PRODUCTS.*—*Noth-*
17 *ing in this section shall be construed as affecting the ability*
18 *of a national bank, or a subsidiary of a national bank, to*
19 *engage in any activity, including any activity authorized*
20 *pursuant to the paragraph designated the “Seventh” of sec-*
21 *tion 5136(a), that is part of, and not merely incidental to,*
22 *the business of banking.”.*

23 “(b) *INTERPRETIVE AUTHORITY OF THE COMPTROLLER*
24 *OF THE CURRENCY.*—*Section 5136 of the Revised Statutes*
25 *of the United States (12 U.S.C. 24) is amended—*

1 (1) *by striking “Upon duly making and filing*
2 *articles of association” and inserting “(a) IN GEN-*
3 *ERAL.—Upon duly making and filing articles of asso-*
4 *ciation”;* and

5 (2) *by adding at the end the following new sub-*
6 *section:*

7 “(b) *INTERPRETIVE AUTHORITY OF THE COMPTROL-*
8 *LER OF THE CURRENCY.—*

9 “(1) *IN GENERAL.—Subject to paragraph (2), it*
10 *shall not be incidental to banking for a national bank*
11 *to provide insurance as a principal, agent, or broker.*

12 “(2) *SCOPE OF APPLICATION.—Notwithstanding*
13 *paragraph (1), it shall be incidental to banking for*
14 *a national bank to engage in the following activities:*

15 “(A) *Providing, as an agent or broker, any*
16 *annuity contract the income on which is tax de-*
17 *ferred under section 72 of the Internal Revenue*
18 *Code of 1986.*

19 “(B) *Providing, as a principal, agent, or*
20 *broker, any type of insurance, other than an an-*
21 *nuity or title insurance, which the Comptroller*
22 *of the Currency specifically determined, before*
23 *May 1, 1995, to be incidental to banking with*
24 *respect to national banks.”.*

25 (c) *TECHNICAL AND CONFORMING AMENDMENTS.—*

1 (1) *The 11th undesignated paragraph of section*
2 *13 of the Federal Reserve Act (12 U.S.C. 92) is*
3 *amended by inserting “, and subject to section 5136A*
4 *of the Revised Statutes of the United States,” after*
5 *“the laws of the United States”.*

6 (2) *The paragraph designated the “Seventh” of*
7 *section 5136 of the Revised Statutes of the United*
8 *States (12 U.S.C. 24) is amended by striking “subject*
9 *to law,” and inserting “subject to subsection (b), sec-*
10 *tion 5136A, and any other provision of law,”.*

11 (3) *Section 1306 of title 18, United States Code,*
12 *is amended by striking “5136A” and inserting*
13 *“5136C”.*

14 (d) *CLERICAL AMENDMENT.—The table of sections for*
15 *chapter 1 of title LXII of the Revised Statutes of the United*
16 *States is amended—*

17 (1) *by redesignating the item relating to section*
18 *5136A as section 5136C; and*

19 (2) *by inserting after the item relating to section*
20 *5136 the following new item:*

“5136A. State supervision of insurance.”.

21 (e) *PRESERVATION OF BANK HOLDING COMPANY IN-*
22 *SURANCE AUTHORITY.—No provision of this section, and*
23 *no amendment made by this section to any other provision*
24 *of law, may be construed as affecting the authority of a*
25 *bank holding company to engage in insurance agency activ-*

1 *ity pursuant to section 4(c) of the Bank Holding Company*
2 *Act of 1956 (12 U.S.C. 1843(c)).*

3 **SEC. 241. NATIONAL BANK COMMUNITY DEVELOPMENT IN-**
4 **SURANCE ACTIVITIES.**

5 *(a) IN GENERAL.—Chapter 1 of title LXII of the Re-*
6 *vised Statutes of the United States (12 U.S.C. 21 et seq.)*
7 *is amended by inserting after section 5136A (as added by*
8 *section 240(a) of this Act) the following new section:*

9 **“SEC. 5136B. INSURANCE SALES IN EMPOWERMENT ZONES.**

10 *“(a) AUTHORITY TO SELL INSURANCE AS AGENT*
11 *FROM EMPOWERMENT ZONES.—The Comptroller of the*
12 *Currency may approve an application by a national bank*
13 *maintaining a main office or full-service branch in an*
14 *empowerment zone to act as an agent or broker from such*
15 *office or branch for any fire, life, or other insurance com-*
16 *pany authorized to do business in the State in which the*
17 *customer is located if—*

18 *“(1) the bank provides sufficient evidence that*
19 *the availability of competitively priced insurance in*
20 *the empowerment zone is inadequate; and*

21 *“(2) the insurance is sold only in the*
22 *empowerment zone.*

23 *“(b) APPLICATION OF STATE LAW.—State laws which*
24 *regulate conducting the business of insurance shall apply*
25 *to national banks and their employees that sell insurance*

1 *as agent or broker under this section to the same extent as*
2 *such laws apply to other entities and persons not affiliated*
3 *with depository institutions except—*

4 “(1) *in any case in which the Comptroller of the*
5 *Currency determines, after notice to and comment by*
6 *the appropriate State insurance officials, that the ap-*
7 *plication of a State law would have an unreasonably*
8 *discriminatory effect upon the sale of insurance by*
9 *national banks or their employees in comparison with*
10 *the effect the application of the State law would have*
11 *with respect to sale of insurance by other entities; or*

12 “(2) *when State law by its own terms does not*
13 *apply to national banks or employees of such banks.*

14 “(c) *AUTHORITY OF COMPTROLLER OF THE CUR-*
15 *RENCY.—*

16 “(1) *IN GENERAL.—The Comptroller of the Cur-*
17 *rency may prescribe regulations governing sales of in-*
18 *surance by national banks pursuant to this section.*

19 “(2) *ENFORCEMENT OF STATE LAW.—The provi-*
20 *sions of any State law to which a national bank is*
21 *subject under this section shall be enforced with re-*
22 *spect to such bank by the Comptroller of the Cur-*
23 *rency.*

24 “(d) *DEFINITIONS.—*

1 “(1) *EMPOWERMENT ZONE.*—*The term*
 2 ‘empowerment zone’ means an area that meets the
 3 standards for designation as an empowerment zone or
 4 enterprise community under section 1392 of the *Inter-*
 5 *nal Revenue Code of 1986 or an Indian reservation.*

6 “(2) *FULL-SERVICE BRANCH.*—*The term ‘full-*
 7 *service branch’ means a staffed facility which has*
 8 *been approved as a branch and offers loan and de-*
 9 *posit services.*

10 “(3) *INDIAN RESERVATION.*—*The term ‘Indian*
 11 *reservation’ has the meaning given such term by sec-*
 12 *tion 168(j)(6) of the Internal Revenue Code of 1986.”.*

13 (b) *CLERICAL AMENDMENT.*—*The table of sections for*
 14 *chapter 1 of title LXII of the Revised Statutes of the United*
 15 *States is amended by inserting after the item relating to*
 16 *section 5136A (as added by section 240(d) of this title) the*
 17 *following new item:*

 “5136B. *Insurance sales in empowerment zones.*”.

18 **SEC. 242. AUTHORIZING BANK SERVICE COMPANIES TO OR-**
 19 **GANIZE AS LIMITED LIABILITY PARTNER-**
 20 **SHIPS.**

21 (a) *AMENDMENT TO SHORT TITLE.*—*Section 1 of the*
 22 *Bank Service Corporation Act (12 U.S.C. 1861(a)) is*
 23 *amended by striking subsection (a) and inserting the follow-*
 24 *ing new subsection:*

1 “(a) *SHORT TITLE.*—*This Act may be cited as the*
2 *‘Bank Service Company Act’.*”;

3 (b) *AMENDMENTS TO DEFINITIONS.*—*Section 1(b) of*
4 *the Bank Service Corporation Act (12 U.S.C. 1861(b)) is*
5 *amended—*

6 (1) *by striking paragraph (2) and inserting the*
7 *following new paragraph:*

8 “(2) *the term ‘bank service company’ means—*

9 “(A) *any corporation—*

10 “(i) *which is organized to perform*
11 *services authorized by this Act; and*

12 “(ii) *all of the capital stock of which is*
13 *owned by 1 or more insured banks; and*

14 “(B) *any limited liability company—*

15 “(i) *which is organized to perform*
16 *services authorized by this Act; and*

17 “(ii) *all of the members of which are 1*
18 *or more insured banks.*”;

19 (2) *in paragraph (6)—*

20 (A) *by striking “corporation” and inserting*
21 *“company”; and*

22 (B) *by striking “and” after the semicolon;*

23 (3) *by redesignating paragraph (7) as para-*
24 *graph (8) and inserting after paragraph (6) the fol-*
25 *lowing new paragraph:*

1 “(7) the term ‘limited liability company’ means
2 any company organized under the law of a State (as
3 defined in section 3 of the Federal Deposit Insurance
4 Act) which provides that a member or manager of
5 such company is not personally liable for a debt, obli-
6 gation, or liability of the company solely by reason
7 of being, or acting as, a member or manager of such
8 company; and”;

9 (4) in paragraph (8) (as so redesignated)—

10 (A) by striking “corporation” each place
11 such term appears and inserting “company”;
12 and

13 (B) by striking “capital stock” and insert-
14 ing “equity”.

15 (c) AMENDMENTS TO SECTION 2.—Section 2 of the
16 Bank Service Corporation Act (12 U.S.C. 1862) is amend-
17 ed—

18 (1) by striking “corporation” and inserting
19 “company”;

20 (2) by striking “corporations” and inserting
21 “companies”; and

22 (3) in the heading for such section, by striking
23 “CORPORATION” and inserting “COMPANY”.

1 (d) *AMENDMENTS TO SECTION 3.*—Section 3 of the
2 *Bank Service Corporation Act (12 U.S.C. 1863)* is amend-
3 *ed—*

4 (1) *by striking “corporation” each place such*
5 *term appears and inserting “company”; and*

6 (2) *in the heading for such section, by striking*
7 *“CORPORATION” and inserting “COMPANY”.*

8 (e) *AMENDMENTS TO SECTION 4.*—Section 4 of the
9 *Bank Service Corporation Act (12 U.S.C. 1864)* is amend-
10 *ed—*

11 (1) *by striking “corporation” each place such*
12 *term appears and inserting “company”;*

13 (2) *in subsection (b), by inserting “or members”*
14 *after “shareholders” each place such term appears;*

15 (3) *in subsections (c) and (d), by inserting “or*
16 *member” after “shareholder” each place such term ap-*
17 *pears;*

18 (4) *in subsection (e)—*

19 (A) *by inserting “or members” after “na-*
20 *tional bank and State bank shareholders”;*

21 (B) *by striking “its national bank share-*
22 *holder or shareholders” and inserting “any*
23 *shareholder or member of the company which is*
24 *a national bank”;*

1 (C) by striking “its State bank shareholder
2 or shareholders” and inserting “any shareholder
3 or member of the company which is a State
4 bank”;

5 (D) by striking “such State bank or banks”
6 and inserting “any such State bank”; and

7 (E) by inserting “or members” after “State
8 bank and national bank shareholders”;

9 (5) in subsection (f), by inserting “or providing
10 insurance as principal, agent, or broker (except to the
11 extent permitted under subparagraph (A) or (E) of
12 section 4(c)(8) of the Bank Holding Company Act of
13 1956)” after “or deposit taking”; and

14 (6) in the heading for such section, by striking
15 “CORPORATION” and inserting “COMPANY”.

16 (f) AMENDMENTS TO SECTION 5.—Section 5 of the
17 Bank Service Corporation Act (12 U.S.C. 1865) is amend-
18 ed—

19 (1) by striking “corporation” each place such
20 term appears and inserting “company”; and

21 (2) in the heading for such section, by striking
22 “CORPORATIONS” and inserting “COMPANIES”.

23 (g) AMENDMENTS TO SECTION 6.—Section 6 of the
24 Bank Service Corporation Act (12 U.S.C. 1866) is amend-
25 ed—

1 (1) by striking “corporation” each place such
2 term appears and inserting “company”;

3 (2) by inserting “or is not a member of” after
4 “does not own stock in”;

5 (3) by striking “the nonstockholding institution”
6 and inserting “such depository institution”;

7 (4) by inserting “or is a member of” after “that
8 owns stock in”;

9 (5) in paragraphs (1) and (2), by inserting “or
10 nonmember” after “nonstockholding”; and

11 (6) in the heading for such section by inserting
12 “OR NONMEMBERS” after “NONSTOCKHOLDERS”.

13 (h) *AMENDMENTS TO SECTION 7.*—Section 7 of the
14 *Bank Service Corporation Act (12 U.S.C. 1867)* is amend-
15 ed—

16 (1) by striking “corporation” each place such
17 term appears and inserting “company”;

18 (2) in subsection (a)—

19 (A) by inserting “or principal member”
20 after “principal shareholder”; and

21 (B) by inserting “or member” after “other
22 shareholder”; and

23 (3) in the heading for such section, by striking
24 “CORPORATIONS” and inserting “COMPANIES”.

1 **SEC. 243. BANK INVESTMENTS IN EDGE ACT AND AGREE-**
2 **MENT CORPORATIONS.**

3 *The 10th undesignated paragraph of section 25A of the*
4 *Federal Reserve Act (12 U.S.C. 618) is amended by striking*
5 *the last sentence and inserting the following: “Any national*
6 *bank may invest in the stock of any corporation organized*
7 *under this section. The aggregate amount of stock held by*
8 *any national bank in all corporations engaged in business*
9 *of the kind described in this section or section 25 shall not*
10 *exceed an amount equal to 10 percent of the capital and*
11 *surplus of such bank unless the Board determines that the*
12 *investment of an additional amount by the bank would not*
13 *be unsafe or unsound and, in any case, shall not exceed*
14 *an amount equal to 25 percent of the capital and surplus*
15 *of such bank.”.*

16 **SEC. 244. REPORT ON THE RECONCILIATION OF DIF-**
17 **FERENCES BETWEEN REGULATORY AC-**
18 **COUNTING PRINCIPLES AND GENERALLY AC-**
19 **CEPTED ACCOUNTING PRINCIPLES.**

20 *Before the end of the 180-day period beginning on the*
21 *date of the enactment of this Act, each appropriate Federal*
22 *banking agency (as defined in section 3 of the Federal De-*
23 *posit Insurance Act) shall submit to the Committee on*
24 *Banking and Financial Services of the House of Represent-*
25 *atives and the Committee on Banking, Housing, and Urban*
26 *Affairs of the Senate a report on the actions taken and to*

1 *be taken by the agency to eliminate or conform inconsistent*
 2 *or duplicative accounting and reporting requirements ap-*
 3 *plicable to reports or statements filed with any such agency*
 4 *by insured depository institutions, as required by section*
 5 *121 of the Federal Deposit Insurance Corporation Improve-*
 6 *ment Act of 1991.*

7 **SEC. 245. WAIVERS AUTHORIZED FOR RESIDENCY REQUIRE-**
 8 **MENT FOR NATIONAL BANK DIRECTORS.**

9 *The 1st sentence of section 5146 of the Revised Statutes*
 10 *of the United States (12 U.S.C. 72) is amended by inserting*
 11 *“(1) the Comptroller of the Currency may, in the Comptrol-*
 12 *ler’s discretion, waive the residency requirement in the case*
 13 *of any director of a national bank to whom the requirement*
 14 *would otherwise apply, and (2)” after “except that”.*

15 **TITLE III—LENDER LIABILITY**

16 **SEC. 301. LENDER LIABILITY.**

17 *(a) IN GENERAL.—The Federal Deposit Insurance Act*
 18 *(12 U.S.C. 1811 et seq.) is amended by adding after section*
 19 *44, the following new section:*

20 **“SEC. 45. LENDER, FIDUCIARY, AND GOVERNMENT AGENCY**
 21 **ENVIRONMENTAL LIABILITIES.**

22 *“(a) LENDER ENVIRONMENTAL LIABILITY.—*

23 *“(1) IN GENERAL.— Notwithstanding any other*
 24 *provision or rule of Federal law, no lender, acting as*
 25 *defined in this section, shall be liable pursuant to a*

1 *Federal environmental law, except as provided in this*
2 *section.*

3 “(2) *ACTUAL PARTICIPATION REQUIRED.*—A
4 *lender shall only be liable pursuant to a Federal envi-*
5 *ronmental law when the lender actually participates*
6 *in management of another person’s activities which*
7 *create liability under the same Federal environmental*
8 *law.*

9 “(3) *DEFINITIONS.*—*The following definitions*
10 *shall apply for purposes of this section:*

11 “(A) *PARTICIPATE IN MANAGEMENT.*—*The*
12 *term ‘participate in management’ means actu-*
13 *ally participating in the management or oper-*
14 *ational affairs of other persons’ activities, and*
15 *does not include merely having the capacity to*
16 *influence, or the unexercised right to control such*
17 *activities.*

18 “(B) *PARTICIPATE IN MANAGEMENT.*—*A*
19 *person shall be considered to ‘participate in*
20 *management’ while a borrower is still in posses-*
21 *sion of property, only if such person—*

22 “(i) *exercises decisionmaking control*
23 *over the environmental compliance of a bor-*
24 *rower, such that the person has undertaken*
25 *responsibility for the hazardous substance*

1 *handling or disposal practices of the bor-*
2 *rower; or*

3 “(ii) *exercises control at a level com-*
4 *parable to that of a manager of the enter-*
5 *prise of the borrower, such that the person*
6 *has assumed or manifested responsibility for*
7 *the overall management of the enterprise en-*
8 *compassing day-to-day decisionmaking with*
9 *respect to environmental compliance, or*
10 *with respect to substantially all of the oper-*
11 *ational aspects (as distinguished from fi-*
12 *nancial or administrative aspects) of the*
13 *enterprise, other than environmental com-*
14 *pliance.*

15 “(C) *PARTICIPATE IN MANAGEMENT.*—*The*
16 *term ‘participate in management’ does not in-*
17 *clude engaging in an act or failing to act before*
18 *the time that an extension of credit is made or*
19 *a security interest is created in property.*

20 “(D) *PARTICIPATE IN MANAGEMENT.*—*The*
21 *term ‘participate in management’ does not in-*
22 *clude, unless such actions rise to the level of par-*
23 *ticipating in management (as defined in sub-*
24 *paragraphs (A) and (B))—*

1 “(i) holding an extension of credit or a
2 security interest or abandoning or releasing
3 an extension of credit or a security interest;

4 “(ii) including in the terms of an ex-
5 tension of credit, or in a contract or secu-
6 rity agreement relating to such an exten-
7 sion, covenants, warranties, or other terms
8 and conditions that relate to environmental
9 compliance;

10 “(iii) monitoring or enforcing the
11 terms and conditions of an extension of
12 credit or security interest;

13 “(iv) monitoring or undertaking 1 or
14 more inspections of property, except that
15 monitoring or undertaking any such inspec-
16 tion, although not required by this sub-
17 section, shall provide probative evidence
18 that a holder of a security interest is acting
19 to preserve and protect the property during
20 the time the holder may have possession or
21 control of such property;

22 “(v) requiring or conducting a re-
23 sponse action or other lawful means of ad-
24 dressing the release or threatened release of
25 a hazardous substance in connection with

1 *property prior to, during, or upon the expi-*
2 *ration of the term of an extension of credit;*

3 *“(vi) providing financial or other ad-*
4 *vice or counseling in an effort to mitigate,*
5 *prevent, or cure default or diminution in*
6 *the value of the property;*

7 *“(vii) restructuring, renegotiating, or*
8 *otherwise agreeing to alter the terms and*
9 *conditions of an extension of credit or secu-*
10 *rity interest, or exercising forbearance; or*

11 *“(viii) exercising other remedies that*
12 *may be available under applicable law for*
13 *the breach of any term or condition of the*
14 *extension of credit or security agreement.*

15 *“(E) When a lender did not participate in*
16 *management of property prior to foreclosure,*
17 *then the lender shall not be liable even if such*
18 *person forecloses on property, sells, re-leases, or*
19 *liquidates property, maintains business activi-*
20 *ties, winds up operations, or undertakes any re-*
21 *sponse action with respect to property, or takes*
22 *other measures to preserve, protect, or prepare*
23 *property prior to sale or disposition, if such per-*
24 *son seeks to sell, release, or otherwise divest the*
25 *property at the earliest practical, commercially*

1 *reasonable time, on commercially reasonable*
2 *terms, taking into account market conditions*
3 *and legal and regulatory requirements.*

4 “(4) *LIMITATION ON LIABILITY.—The liability of*
5 *any lender that is liable under any Federal environ-*
6 *mental law shall be limited to only the cost of any*
7 *response action or corrective action to the extent and*
8 *in the amount that the lender actively and directly*
9 *contributed to the hazardous substance release. A*
10 *lender shall not be liable for the cost of any response*
11 *action or corrective action relating to the release of a*
12 *hazardous substance which commences before and con-*
13 *tinues after the lender obtains a security interest in*
14 *the property so long as the lender does not actively*
15 *and directly contribute to the hazardous substance re-*
16 *lease.*

17 “(b) *FIDUCIARY ENVIRONMENTAL LIABILITY.—*

18 “(1) *IN GENERAL.—Notwithstanding any other*
19 *provision or rule of Federal law, no fiduciary, acting*
20 *as defined in this section, shall be liable pursuant to*
21 *any Federal environmental law, except as provided in*
22 *this section.*

23 “(2) *LIABILITY OF FIDUCIARY.—*

24 “(A) *Subject to subparagraphs (B) and (C),*
25 *a fiduciary holding title to property or otherwise*

1 *affiliated with property solely in a fiduciary ca-*
2 *capacity shall be personally subject to the obliga-*
3 *tions and liabilities of any person under any*
4 *Federal environmental law, to the same extent*
5 *as if the property were held by the fiduciary free*
6 *of trust.*

7 *“(B) The personal obligations and liabil-*
8 *ities of a fiduciary referred to in subparagraph*
9 *(A) shall be limited to the extent to which the as-*
10 *sets of the trust or estate are sufficient to indem-*
11 *nify the fiduciary, unless—*

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

15 *“(ii) the fiduciary’s own failure to ex-*
16 *ercise due care with respect to property*
17 *caused or contributed to the release of haz-*
18 *ardous substances following establishment of*
19 *the trust, estate, or fiduciary relationship;*
20 *or*

21 *“(iii) the fiduciary had a role in estab-*
22 *lishing the trust, estate, or fiduciary rela-*
23 *tionship, and such trust, estate, or fiduciary*
24 *relationship has no objectively reasonable or*
25 *substantial purpose apart from the avoid-*

1 *ance or limitation of liability under an en-*
2 *vironmental law.*

3 *Nothing in the preceding sentence shall be con-*
4 *strued as requiring indemnification by an em-*
5 *ployee benefit plan (within the meaning of para-*
6 *graph (3) of section 3 of the Employee Retire-*
7 *ment Income Security Act of 1974), or by any*
8 *trust forming a part thereof, of any fiduciary of*
9 *such plan contrary to the terms of the plan or*
10 *in an amount in excess of the amount permitted*
11 *under the terms of such plan.*

12 *“(C) A fiduciary shall not be personally lia-*
13 *ble for undertaking or directing another to un-*
14 *dertake a response action.*

15 *“(3) RULE OF CONSTRUCTION.—No provision of*
16 *this subsection shall be construed as affecting the li-*
17 *ability, if any, of any person who—*

18 *“(A)(i) acts in a capacity other than a fi-*
19 *duciary capacity; and*

20 *“(i) directly or indirectly benefits from a*
21 *trust or fiduciary relationship; or*

22 *“(B)(i) is a beneficiary and a fiduciary*
23 *with respect to the same fiduciary estate; and*

24 *“(i) as a fiduciary, receives benefits that*
25 *exceed customary or reasonable compensation,*

1 *and incidental benefits, permitted under other*
2 *applicable laws.*

3 “(c) *DEFINITIONS.—For purposes of subsections (a)*
4 *and (b), the following definitions shall apply:*

5 “(1) *FEDERAL ENVIRONMENTAL LAW.—The term*
6 *‘Federal environmental law’ means any Federal stat-*
7 *ute or rule of common law with the purpose of protec-*
8 *tion of the environment and any Federal regulation*
9 *promulgated thereunder and any State statute or reg-*
10 *ulation created as a federally approved or delegated*
11 *program implementing these laws, including the fol-*
12 *lowing:*

13 “(A) *The Federal Insecticide, Fungicide,*
14 *and Rodenticide Act (7 U.S.C. 136 et seq.).*

15 “(B) *The Toxic Substances Control Act (15*
16 *U.S.C. 2601 et seq.).*

17 “(C) *The Federal Water Pollution Control*
18 *Act (33 U.S.C. 1251 et seq.).*

19 “(D) *The Oil Pollution Act of 1990 (33*
20 *U.S.C. 2701 et seq.).*

21 “(E) *The Clean Air Act (42 U.S.C. 7401 et*
22 *seq.).*

23 “(F) *The Solid Waste Disposal Act (42*
24 *U.S.C. 6901 et seq.).*

1 “(G) *The Comprehensive Environmental*
2 *Response, Compensation, and Liability Act of*
3 *1980 (42 U.S.C. 9601 et seq.).*

4 “(H) *The Pollution Prevention Act of 1990*
5 *(42 U.S.C. 13101 et seq.).*

6 “(2) *EXTENSION OF CREDIT.*—*The term ‘exten-*
7 *sion of credit’ means the making or renewal of any*
8 *loan, a granting of a line of credit or extending credit*
9 *in any manner, such as an advance by means of an*
10 *overdraft or the issuance of a standby letter of credit,*
11 *and a lease finance transaction—*

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

16 “(B) *that conforms with regulations issued*
17 *by the appropriate Federal banking agency or*
18 *the appropriate State bank supervisory (as these*
19 *terms are defined in section 3 of the Federal De-*
20 *posit Insurance Act or with regulations issued by*
21 *the National Credit Union Administration*
22 *Board, as appropriate.*

23 “(3) *FIDUCIARY.*—*The term ‘fiduciary’ means a*
24 *person who acts for the exclusive benefit of another*
25 *person as a bona fide fiduciary within the meaning*

1 of section 3(21) of the *Employee Retirement Income*
2 *Security Act of 1974*, trustee, executor, administrator,
3 custodian, guardian, conservator, receiver, committee
4 of estates of lunatics or other disabled persons, or per-
5 sonal representative; except, that the term ‘fiduciary’
6 does not include any person—

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

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

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

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

23 “(4) *FINANCIAL OR ADMINISTRATIVE ASPECT*.—

24 *The term ‘financial or administrative aspect’ means*
25 *a function such as a credit manager, accounts pay-*

1 *able officer, accounts receivable officer, personnel*
2 *manager, comptroller, or chief financial officer, or*
3 *any similar function.*

4 “(5) *FORECLOSURE, FORECLOSE.*—*The terms*
5 *‘foreclosure’ and ‘foreclose’ means, respectively, ac-*
6 *quiring, and to acquire, property through—*

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

13 “(B) *conveyance pursuant to an extension*
14 *of credit previously contracted, including the ter-*
15 *mination of a lease agreement; or*

16 “(C) *any other formal or informal manner*
17 *by which the person acquires, for subsequent dis-*
18 *position, possession of collateral in order to pro-*
19 *tect the security interest of the person.*

20 “(6) *HAZARDOUS SUBSTANCE.*—*The term ‘haz-*
21 *ardous substance’ means any chemical, biological, or-*
22 *ganic, inorganic, or radioactive pollutants, contami-*
23 *nants, materials, waste, or other substances regulated*
24 *under, defined, listed, or included in any Federal en-*
25 *vironmental law.*

1 “(7) *LENDER*.—*The term ‘lender’ means—*

2 “(A) *a person that makes a bona fide exten-*
3 *sion of credit to or takes a security interest from*
4 *another person and includes a successor or as-*
5 *sign of the person which makes the extension of*
6 *credit or takes the security interest;*

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

13 “(C) *any person engaged in the business of*
14 *insuring or guaranteeing against a default in*
15 *the repayment of an extension of credit, or act-*
16 *ing as a surety with respect to an extension of*
17 *credit, to other persons; or*

18 “(D) *any person regularly engaged in the*
19 *business of providing title insurance who ac-*
20 *quires property as a result of assignment or con-*
21 *veyance in the course of underwriting claims*
22 *and claims settlement.*

23 “(8) *OPERATIONAL ASPECT*.—*The term ‘oper-*
24 *ational aspect’ means a function such as a facility or*

1 *plant manager, operations manager, chief operating*
2 *officer, or chief executive officer.*

3 “(9) *PERSON*.—*The term ‘person’ means an in-*
4 *dividual, firm, corporation, association, partnership,*
5 *consortium, joint venture, commercial entity, United*
6 *States Government, State, municipality, commission,*
7 *political subdivision of a State, or any interstate*
8 *body.*

9 “(10) *PROPERTY*.—*The term ‘property’ means*
10 *real, personal, and mixed property.*

11 “(11) *RESPONSE ACTION*.—*The term ‘response*
12 *action’ shall have the same meaning as that term is*
13 *defined in section 101 of the Comprehensive Environ-*
14 *mental Response, Compensation and Liability Act.*

15 “(12) *SECURITY INTEREST*.—*The term ‘security*
16 *interest’ means a right under a mortgage, deed of*
17 *trust, assignment, judgment lien, pledge, security*
18 *agreement, factoring agreement, or lease, or any other*
19 *right accruing to a person to secure the repayment of*
20 *money, the performance of a duty, or some other obli-*
21 *gation.*

22 “(d) *SAVINGS CLAUSE*.—*Nothing in subsections (a)*
23 *(b), or (c), shall—*

1 “(1) *affect the rights or immunities or other de-*
2 *fenses that are already available to lenders or fidu-*
3 *ciaries under any Federal environmental law;*

4 “(2) *be construed to create any liability for any*
5 *lender or fiduciary; or*

6 “(3) *create a private right of action against any*
7 *lender or fiduciary.*

8 “(e) *FEDERAL BANKING AND LENDING AGENCY ENVI-*
9 *RONMENTAL LIABILITY.—*

10 “(1) *GOVERNMENTAL ENTITIES.—*

11 “(A) *BANKING AND LENDING AGENCIES.—*
12 *Except as provided in paragraph (C), a Federal*
13 *banking or lending agency shall not be liable*
14 *under any law imposing strict liability for the*
15 *release or threatened release of petroleum or a*
16 *hazardous substance at or from property (includ-*
17 *ing any right or interest therein) acquired—*

18 “(i) *in connection with the exercise of*
19 *receivership or conservatorship authority, or*
20 *the liquidation or winding up of the affairs*
21 *of an insured depository institution, includ-*
22 *ing any of its subsidiaries, and bridge bank;*

23 “(ii) *in connection with the provision*
24 *of loans, discounts, advances, guarantees,*
25 *insurance, or other financial assistance; or*

1 “(iii) in connection with property re-
2 ceived in any civil or criminal proceeding,
3 or administrative enforcement action,
4 whether by settlement or order.

5 “(B) *APPLICATION OF STATE LAW.*—*Noth-*
6 *ing in paragraph (e) shall be construed as pre-*
7 *empting, affecting, applying to, or modifying*
8 *any State law, or any rights, actions, cause of*
9 *action, or obligations under State law, except*
10 *that liability under State law shall not exceed*
11 *the value of the agency’s interest in the asset giv-*
12 *ing rise to such liability. Nothing in this section*
13 *shall be construed to prevent a Federal banking*
14 *or lending agency from agreeing with a State to*
15 *transfer property to such State in lieu of any li-*
16 *ability that might otherwise be imposed under*
17 *State law.*

18 “(C) *LIMITATION.*—*Notwithstanding para-*
19 *graph (A), and subject to section 107(d) of the*
20 *Comprehensive Environmental Response, Com-*
21 *ensation, and Liability Act of 1980, a Federal*
22 *banking or lending agency that directly caused*
23 *or materially contributed to the release of petro-*
24 *leum or a hazardous substance may be liable for*

1 *removal, remedial, or other response action per-*
2 *taining to that release.*

3 “(D) *SUBSEQUENT PURCHASER.*—*The im-*
4 *munity provided by paragraphs (A) and (B)*
5 *shall extend to the first subsequent purchaser of*
6 *property described in such paragraph from a*
7 *Federal banking or lending agency, unless such*
8 *purchaser—*

9 “(i) *would otherwise be liable or poten-*
10 *tially liable for all or part of the costs of the*
11 *removal, remedial, or other response action*
12 *due to a prior relationship with the prop-*
13 *erty;*

14 “(ii) *is or was affiliated with or relat-*
15 *ed to a party described in subparagraph (i);*

16 “(iii) *fails to agree to take reasonable*
17 *steps necessary to abate the release or*
18 *threatened release or to protect public health*
19 *and safety in a manner consistent with the*
20 *purposes of applicable Federal environ-*
21 *mental laws; or*

22 “(iv) *directly causes or significantly*
23 *and materially contributes to any addi-*
24 *tional release or threatened release on the*
25 *property.*

1 “(E) *FEDERAL OR STATE ACTION.*—Not-
2 withstanding subparagraph (D), if a Federal
3 agency or State environmental agency is re-
4 quired to take remedial action due to the failure
5 of a subsequent purchaser to carry out, in good
6 faith, the agreement described in subparagraph
7 (D)(iii), such subsequent purchaser shall reim-
8 burse the Federal or State environmental agency
9 for the costs of such remedial action. Any such
10 reimbursement shall not exceed the increase in
11 the fair market value of the property attributable
12 to the remedial action.

13 “(2) *LIEN EXEMPTION.*—Notwithstanding any
14 other provision of law, any property held by a subse-
15 quent purchaser referred to in paragraph (1)(D) or
16 held by a Federal banking or lending agency shall not
17 be subject to any lien for costs or damages associated
18 with the release or threatened release of petroleum or
19 a hazardous substance existing at the time of the
20 transfer.

21 “(3) *EXEMPTION FROM COVENANTS TO REMEDI-*
22 *ATE.*—A Federal banking or lending agency shall be
23 exempt from any law requiring such agency to grant
24 covenants warranting that a removal, remedial, or
25 other response action has been, or will in the future

1 *be, taken with respect to property acquired in the*
2 *manner described in paragraph (e)(1)(A).*

3 “(4) *DEFINITIONS.*—*For purposes of subsection*
4 *(e), the following definitions shall apply:*

5 “(A) *FEDERAL BANKING OR LENDING AGEN-*
6 *CY.*—*The term ‘Federal banking or lending agen-*
7 *cy’ means the Corporation, the Resolution Trust*
8 *Corporation, the Board of Governors of the Fed-*
9 *eral Reserve System, the Comptroller of the Cur-*
10 *rency, the Office of Thrift Supervision, a Federal*
11 *Reserve Bank, a Federal Home Loan Bank, the*
12 *Department of Housing and Urban Develop-*
13 *ment, the National Credit Union Administration*
14 *Board, the Farm Credit Administration, the*
15 *Farm Credit System Insurance Corporation, the*
16 *Farm Credit System Assistance Board, the*
17 *Farmers Home Administration, the Rural Elec-*
18 *trification Administration, the Small Business*
19 *Administration, and any other Federal agency*
20 *acting in a similar capacity, in any of their ca-*
21 *pacities, and their agents or appointees.*

22 “(B) *HAZARDOUS SUBSTANCE.*—*The term*
23 *‘hazardous substance’ has the same meaning as*
24 *in section 101(14) of the Comprehensive Envi-*

1 *ronmental Response, Compensation, and Liabil-*
2 *ity Act of 1980.*

3 “(C) *RELEASE.*—*The term ‘release’ has the*
4 *same meaning as in section 101(22) of the Com-*
5 *prehensive Environmental Response, Compensa-*
6 *tion, and Liability Act of 1980, and includes the*
7 *use, storage, disposal, treatment, generation, or*
8 *transportation of a hazardous substance.*

9 “(5) *SAVINGS CLAUSE.*—*Nothing in subsection*
10 *(e) shall—*

11 “(A) *affect the rights or immunities or other*
12 *defenses that are available under this Act or*
13 *other applicable law to any party, subject to the*
14 *provisions of this section;*

15 “(B) *be construed to create any liability for*
16 *any party; or*

17 “(C) *create a private right of action against*
18 *an insured depository institution or lender or*
19 *against a Federal banking or lending agency.”.*

20 (b) *EFFECTIVE DATE.*—*This section shall take effect*
21 *upon the date of the enactment of this Act and shall apply*
22 *to any claim against any lender, fiduciary, or government*
23 *agency under any Federal environmental law that has not*
24 *been finally resolved by adjudication or settlement before*
25 *such date.*

1 **TITLE IV—ANNUAL STUDY AND**
2 **REPORT ON IMPACT ON**
3 **LENDING TO SMALL BUSI-**
4 **NESS**

5 **SEC. 401. ANNUAL STUDY AND REPORT.**

6 *Not later than 12 months after the date of the enact-*
7 *ment of this Act, and annually thereafter, the Board of Gov-*
8 *ernors of the Federal Reserve System, the Director of the*
9 *Office of Thrift Supervision, the Comptroller of the Cur-*
10 *rency, and the Board of Directors of the Federal Deposit*
11 *Insurance Corporation shall jointly conduct a study and*
12 *submit to the Congress a report on the extent to which this*
13 *Act and the amendments made by this Act have, through*
14 *reductions in regulatory burdens, resulted in increased*
15 *lending to small businesses.*