

104TH CONGRESS
2D SESSION

H. R. 4079

To reduce paperwork and additional regulatory burdens for depository institutions.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1996

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

A BILL

To reduce paperwork and additional regulatory burdens for depository institutions.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Financial Institutions Regulatory Relief Act of 1996”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 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. Amendments to the Real Estate Settlement Procedures Act of 1974.

- 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. Treatment of certain debt cancellation and deficiency waiver contracts.
- Sec. 107. Conforming definition of “application” in various consumer credit laws so as to exclude requests for prequalification.
- Sec. 108. Recovery of fees.
- Sec. 109. Home ownership debt counseling notification.
- Sec. 110. Home Mortgage Disclosure Act.
- Sec. 111. Technical corrections.

Subtitle B—Consumer Banking Reforms

- Sec. 141. Amendments to the Truth in Savings Act.
- Sec. 142. Information sharing.
- Sec. 143. Limit on restitution for Truth in Lending violations if safety and soundness of violator would be affected.
- Sec. 144. Applicability of Electronic Fund Transfer Act to certain transactions.

Subtitle C—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. Consultation by attorney general required in nonreferral cases.
- Sec. 157. Effective date.

Subtitle D—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.

TITLE II—STREAMLINING GOVERNMENT REGULATIONS

Subtitle A—Regulatory Approval Issues

- Sec. 201. No prior approval required for well capitalized and well managed financial services holding companies.
- 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. Constraints on employee-wide benefit plans and home equity loans.
- 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. High-cost mortgages.
- Sec. 238. Streamlining FDIC approval of new State bank powers.
- Sec. 239. Repeal of call report attestation requirement.
- Sec. 240. Authorizing bank service companies to organize as limited liability partnerships.
- Sec. 241. Bank investments in Edge Act and agreement corporations.
- Sec. 242. Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.
- Sec. 243. Waivers authorized for residency requirement for national bank directors.
- Sec. 244. Consultation among examiners.
- Sec. 245. Antitying exemptive authority.

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.

TITLE V—FINANCIAL SERVICE REFORM

Subtitle A—Reform of Holding Company Procedures

- Sec. 501. Streamlined examination and reporting requirements for all financial services holding companies.
- Sec. 502. Holding company supervision for financial services holding companies engaged primarily in nonbanking activities.
- Sec. 503. Conversion of unitary savings and loan holding companies to financial services holding companies.
- Sec. 504. Coordination with State law.
- Sec. 505. Conforming amendments to the Bank Holding Company Act of 1956.
- Sec. 506. Conforming amendments to the Bank Holding Company Act Amendments of 1970.
- Sec. 507. Credit cards for business purposes.
- Sec. 508. Prohibitions on certain depository institution associations with Government-sponsored enterprises.
- Sec. 509. Provisions applicable to limited purpose banks.
- Sec. 510. Discretion of Federal reserve board.
- Sec. 511. Qualified family partnerships.

Subtitle B—Interagency Banking and Financial Services Task Force

- Sec. 521. Interagency banking and financial services task force.
- Sec. 522. Financial services advisory committee.

TITLE VI—DROUGHT RELIEF

- Sec. 601. Cooperative efforts between depository institutions and farmers and ranchers in drought-stricken areas.

TITLE VII—FINANCIAL ACTIVITIES

- Sec. 701. Financial activities.
- Sec. 702. Retirement certificates of deposits.
- Sec. 703. GAO study of State supervision of national bank insurance activities.
- Sec. 704. National bank licensing requirements.

TITLE VIII—DEPOSIT INSURANCE FUNDS

- Sec. 801. Short title.
- Sec. 802. Special assessment to capitalize SAIF.
- Sec. 803. Financing Corporation funding.
- Sec. 804. Merger of BIF and SAIF.
- Sec. 805. Creation of SAIF special reserve.
- Sec. 806. Refund of amounts in deposit insurance fund in excess of designated reserve amount.
- Sec. 807. Assessment rates for SAIF members may not be less than assessment rates for BIF members.
- Sec. 808. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.
- Sec. 809. Treasury study of common depository institution charter.
- Sec. 810. Definitions.

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

5 **SEC. 101. AMENDMENTS TO THE REAL ESTATE SETTLE-**
6 **MENT PROCEDURES ACT OF 1974.**

7 (a) **EMPLOYEE COMPENSATION.**—Section 8(c) of the
8 Real Estate Settlement Procedures Act of 1974 (12
9 U.S.C. 2607) is amended—

10 (1) by redesignating paragraph (5) as para-
11 graph (6); and

12 (2) by striking “or” at the end of paragraph
13 (4) and inserting “(5) an employer’s payment to the
14 employer’s own bona fide employees for any referral
15 activities, or”.

16 (b) **INCREASED SCIENTER REQUIREMENT FOR**
17 **CRIMINAL PENALTY.**—Section 8(d) of the Real Estate
18 Settlement Procedures Act of 1974 (12 U.S.C. 2607(d))
19 is amended—

20 (1) in paragraph (1), by inserting “willfully”
21 after “persons who”; and

22 (2) in paragraph (3), by striking “was not in-
23 tentional and”.

24 (c) **REDESIGNATION OF CONTROLLED BUSINESS AR-**
25 **RANGEMENTS AS AFFILIATED BUSINESS ARRANGE-**

1 MENTS.—The Real Estate Settlement Procedures Act of
2 1974 (12 U.S.C. 2601 et seq.) is amended—

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

6 (2) in subsections (c)(4) and (d)(6) of section
7 8, by striking “controlled business arrangements”
8 and inserting “affiliated business arrangements”.

9 (d) DISCLOSURES BY TELEPHONE OR ELECTRONIC
10 MEDIA.—Section 8(c)(4) of the Real Estate Settlement
11 Procedures Act of 1974 (12 U.S.C. 2607(c)(4)(A)) is
12 amended by striking subparagraph (A) and inserting the
13 following “(A)(i) at or before the time of a face-to-face
14 referral or referral made in writing (or within 3 business
15 days after a referral by telephone, electronic mail, or other
16 electronic media), a written disclosure is made of the exist-
17 ence of such an arrangement to the person being referred
18 and, in connection with such referral, such person is pro-
19 vided a written estimate of the charge or range of charges
20 generally made by the provider to which the person is re-
21 ferred, except that, in the case of a referral made by a
22 lender (including a referral by a lender to an affiliated
23 lender), such written estimate requirement may be deemed
24 to have been satisfied through the provision of the esti-
25 mates required under section 5(c), as of the time such esti-

1 mates are provided and (ii) a written receipt of any disclo-
2 sure required pursuant to clause (i) (without regard to the
3 manner in which the disclosure is made) is obtained before
4 the closing of the transaction.”.

5 (e) LIMITATION ON CLAIMS ARISING FROM VIOLA-
6 TIONS OF REQUIREMENTS FOR SERVICING MORTGAGES
7 AND ADMINISTERING ESCROW ACCOUNTS.—Section 16 of
8 the Real Estate Settlement Procedures Act of 1974 (12
9 U.S.C. 2614) is amended—

10 (1) by striking “section 8 or 9” and inserting
11 “section 6, 8, or 9”; and

12 (2) by striking “within one year” and inserting
13 “within 3 years in the case of a violation of section
14 6 and 1 year in the case of a violation of section 8
15 or 9”.

16 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) Section 4(a) of the Real Estate Settlement
18 Procedures Act of 1974 (12 U.S.C. 2603(a)) is
19 amended by striking “Federal Home Loan Bank
20 Board” and inserting “Director of the Office of
21 Thrift Supervision”.

22 (2) Section 10(e)(1)(C) of the Real Estate Set-
23 tlement Procedures Act of 1974 (12 U.S.C.
24 2609(e)(1)(C)) is amended by striking “Not later
25 than the expiration of the 90-day period beginning

1 on the date of the enactment of the Cranston-Gon-
2 zalez National Affordable Housing Act, the” and in-
3 serting “The”.

4 (g) REPEAL OF OBSOLETE PROVISIONS.—The Real
5 Estate Settlement Procedures Act of 1974 (12 U.S.C.
6 2601 et seq.) is amended by striking sections 13, 14 and
7 15.

8 **SEC. 102. SIMPLIFICATION AND UNIFICATION OF DISCLO-**
9 **SURES REQUIRED UNDER RESPA AND TILA**
10 **FOR MORTGAGE TRANSACTIONS.**

11 (a) IN GENERAL.—With respect to credit trans-
12 actions which are subject to the Real Estate Settlement
13 Procedures Act of 1974 and the Truth in Lending Act,
14 the Board of Governors of the Federal Reserve System
15 and the Secretary of Housing and Urban Development
16 shall take such action as may be necessary before the end
17 of the 3-month period beginning on the date of the enact-
18 ment of this Act—

19 (1) to simplify the disclosures applicable to such
20 transactions under such Acts, including the timing
21 of the disclosures; and

22 (2) to provide a single format for such disclo-
23 sures which will satisfy the requirements of each
24 such Act with respect to such transactions.

1 (b) REGULATIONS.—To the extent that it is nec-
2 essary to prescribe any regulation in order to effect any
3 changes required to be made under subsection (a), the pro-
4 posed regulation shall be published in the Federal Register
5 before the end of the 3-month period referred to in sub-
6 section (a).

7 (c) RECOMMENDATIONS FOR LEGISLATION.—If the
8 Board of Governors of the Federal Reserve System and
9 the Secretary of Housing and Urban Development find
10 that legislative action may be necessary or appropriate in
11 order to simplify and unify the disclosure requirements
12 under the Real Estate Settlement Procedures Act of 1974
13 and the Truth in Lending Act, the Board and the Sec-
14 retary shall submit a report containing recommendations
15 to the Congress concerning such action.

16 **SEC. 103. INCREASED REGULATORY FLEXIBILITY UNDER**
17 **THE TRUTH IN LENDING ACT.**

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

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

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

1 (1) by redesignating subsections (b), (c), and
2 (d) as subsections (c), (d), and (e), respectively; and

3 (2) by inserting after subsection (a) the follow-
4 ing new subsection:

5 “(b) EXEMPTIVE AUTHORITY.—

6 “(1) IN GENERAL.—The Board may exempt
7 from all or parts of this title any class of trans-
8 actions for which, in the Board’s judgment, coverage
9 under all or part of this title does not provide a
10 meaningful benefit to consumers in the form of use-
11 ful information or protection.

12 “(2) FACTORS TO BE CONSIDERED.—In deter-
13 mining which classes of transactions to exempt in
14 whole or in part, the Board shall consider, among
15 other factors, the following:

16 “(A) The amount of the loan or closing
17 costs and whether the disclosures, right of re-
18 scission, and other provisions are necessary,
19 particularly for small loans.

20 “(B) Whether the requirements of this title
21 complicate, hinder, or make more expensive the
22 credit process for the class of transactions.

23 “(C) The status of the borrower, including,
24 the borrowers’ related financial arrangements,
25 the financial sophistication of the borrower rel-

1 ative to the type of transaction, and the impor-
2 tance of the credit and related supporting prop-
3 erty to the borrower.”.

4 **SEC. 104. REDUCTIONS IN RESPA REGULATORY BURDENS;**
5 **CLARIFYING AMENDMENTS.**

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

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

11 “(1) IN GENERAL.—Each person who makes a
12 federally related mortgage loan shall disclose to each
13 person who applies for any such loan, at the time of
14 application for the loan, whether the servicing of any
15 such loan may be assigned, sold, or transferred to
16 any other person at any time while such loan is out-
17 standing.

18 “(2) SIGNATURE OF APPLICANT.—Any disclo-
19 sure of the information required under paragraph
20 (1) shall not be effective for purposes of this section
21 unless the disclosure is accompanied by a written
22 statement, in such form as the Secretary shall de-
23 velop before the expiration of the 180-day period be-
24 ginning on the date of the enactment of the Finan-
25 cial Institutions Regulatory Relief Act of 1996, that

1 the applicant has read and understood the disclosure
2 and that is evidenced by the signature of the appli-
3 cant at the place where such statement appears in
4 the application.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect 180 days after the date
7 of the enactment of this Act.

8 (c) SECOND MORTGAGES.—Section 3(1)(A) of the
9 Real Estate Settlement Procedures Act of 1974 (12
10 U.S.C. 2602(1)(A)) is amended by striking “or subordi-
11 nate”.

12 (d) CONSISTENCY OF RESPA AND TRUTH IN LEND-
13 ING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of
14 the Real Estate Settlement Procedures Act of 1974 (12
15 U.S.C. 2606) is amended—

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

18 (2) by inserting at the end the following new
19 subsection:

20 “(b) INTERPRETATION.—In issuing regulations pur-
21 suant to section 19(a) of this Act, the Secretary shall en-
22 sure that, with regard to subsection (a), the exemption
23 for business credit includes all business credit which is ex-
24 empt from the Truth in Lending Act in accordance with
25 section 226.3(a) of the regulations prescribed by the

1 Board of Governors of the Federal Reserve System known
2 as ‘regulation Z’ (12 C.F.R. 226.3(a)), as in effect on the
3 date of enactment of the Financial Institutions Regulatory
4 Relief Act of 1996.”.

5 **SEC. 105. DISCLOSURES FOR ADJUSTABLE RATE MORT-**
6 **GAGES.**

7 (a) IN GENERAL.—Section 127A(a)(2)(G) of the
8 Truth in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is
9 amended by inserting before the semicolon “, or a state-
10 ment that the monthly payment may increase or decrease
11 significantly due to increases in the annual percentage
12 rate”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
14 Section 127A(b)(3) of the Truth in Lending Act (15
15 U.S.C. 1637a(b)(3)) is amended by striking “required
16 under” and inserting “referred to in”.

17 (c) ALTERNATIVE TO HISTORICAL EXAMPLE FOR
18 ADJUSTABLE RATE MORTGAGE DISCLOSURES.—Section
19 128 of the Truth in Lending Act (15 U.S.C. 1638) is
20 amended by adding at the end the following new sub-
21 section:

22 “(e) DISCLOSURE IN LIEU OF HISTORICAL EXAM-
23 PLE.—

24 “(1) IN GENERAL.—Any regulation prescribed
25 by the Board pursuant to section 105(a) which re-

1 quires disclosures with respect to any consumer
2 credit transaction other than under an open end
3 credit plan—

4 “(A) which has a term to maturity of more
5 than 1 year and is secured by the principal
6 dwelling of the consumer;

7 “(B) with respect to which the annual per-
8 centage rate on any outstanding balance may
9 increase after the extension is made,

10 the regulation shall allow the creditor the option of
11 providing the information described in paragraph (2)
12 with regard to such transaction in lieu of an histori-
13 cal example that illustrates the effects of interest
14 rate changes implemented in accordance with the
15 terms of the transaction.

16 “(2) SUBSTITUTE INFORMATION.—The infor-
17 mation referred to in paragraph (1) is a written no-
18 tice provided by the creditor that—

19 “(A) states that the monthly rate of inter-
20 est on any outstanding balance may increase or
21 decrease substantially in accordance with the
22 terms of the consumer credit transactions; and

23 “(B) indicates the maximum rate of inter-
24 est and monthly payment that would apply with
25 respect to a \$10,000 loan if such loan had been

1 originated at a recent rate of interest, as deter-
2 mined in accordance with regulations prescribed
3 by the Board.”.

4 (d) ENSURING HONORING OF LOCK-IN PROMISES.—
5 Section 128(b) of the Truth in Lending Act (15 U.S.C.
6 1638(b)) is amended by adding at the end the following
7 new paragraph:

8 “(3) In the case of a residential mortgage trans-
9 action, the disclosures under subsection (a) shall include
10 the following:

11 “(A) The note rate and points, and a state-
12 ment, if applicable, that these terms are subject to
13 change.

14 “(B) A statement that the creditor must in-
15 clude the disclosed note rate and points in the credit
16 agreement unless, in relation to either or both of
17 those terms—

18 “(i) the disclosure clearly and conspicu-
19 ously indicates that the term is subject to
20 change, or

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

23 “(I) the creditor has clearly and con-
24 spicuously indicated that the term is condi-

1 tioned on closing the transaction within a
2 prescribed time;

3 “(II) the creditor has promptly and
4 clearly communicated to the consumer the
5 information and documentation that the
6 consumer is required to provide to the
7 creditor; and

8 “(III) the consumer has failed to pro-
9 vide such information and documentation
10 within a reasonable time after receiving
11 that communication.”.

12 **SEC. 106. TREATMENT OF CERTAIN DEBT CANCELLATION**
13 **AND DEFICIENCY WAIVER CONTRACTS.**

14 Section 106(c) of the Truth in Lending Act (15
15 U.S.C. 1605(c)) is amended to read as follows:

16 “(c) TREATMENT OF CERTAIN DEBT CANCELLATION
17 AND DEFICIENCY WAIVER CONTRACTS.—

18 “(1) IN GENERAL.—Charges and premiums for
19 any applicable insurance or product written in con-
20 nection with any consumer credit transaction shall
21 be included in the finance charge unless a clear and
22 specific statement in writing is furnished by the
23 creditor to the consumer to whom credit is ex-
24 tended—

1 “(A) setting forth the cost of the insurance
2 or product, if obtained from or through the
3 creditor; and

4 “(B) stating that the consumer to whom
5 credit is extended may choose the person
6 through which the insurance or product is to be
7 obtained.

8 “(2) APPLICABLE INSURANCE OR PRODUCT DE-
9 FINED.—For purposes of paragraph (1), the term
10 ‘applicable insurance or product’ means—

11 “(A) any insurance against—

12 “(i) loss of or damage to property; or

13 “(ii) liability arising out of the owner-
14 ship or use of property; and

15 “(B) any voluntary insurance or noninsur-
16 ance product that provides protection against
17 part or all of the debtor’s liability for amounts
18 in excess of the value of the collateral securing
19 the debtor’s obligation.”.

1 **SEC. 107. CONFORMING DEFINITION OF “APPLICATION” IN**
2 **VARIOUS CONSUMER CREDIT LAWS SO AS TO**
3 **EXCLUDE REQUESTS FOR**
4 **PREQUALIFICATION.**

5 (a) HOME MORTGAGE DISCLOSURE ACT.—Section
6 303 of the Home Mortgage Disclosure Act of 1975 (12
7 U.S.C. 2802) is amended—

8 (1) by striking “For purposes of” and inserting
9 “(a) IN GENERAL.—For purposes of”;

10 (2) by striking “and” at the end of paragraph
11 (5);

12 (3) by striking the period at the end of para-
13 graph (6) and inserting “; and”; and

14 (4) by adding at the end the following:

15 “(7) subject to subsection (b), the term ‘appli-
16 cation’—

17 “(A) means oral or written request for an
18 extension of credit secured or to be secured by
19 an identified parcel of real estate or dwelling
20 that is made in accordance with procedures es-
21 tablished by the creditor for the type of credit
22 requested; and

23 “(B) does not include a request by a pro-
24 spective loan applicant for a preliminary deter-
25 mination, whether or not a specific parcel of
26 real estate or dwelling is identified, of—

1 “(i) the likelihood that the prospective
2 loan applicant would qualify for credit
3 under the standards established by the
4 creditor; or

5 “(ii) the amount of credit for which
6 the prospective applicant would likely qual-
7 ify.

8 “(b) DESIGNATION BY CONSUMER OF REQUEST AS
9 APPLICATION OR PREQUALIFICATION REQUEST.—If an
10 oral or written request by a prospective loan applicant re-
11 lates to an identified parcel of real estate or dwelling, the
12 applicant may designate whether the request shall be
13 treated by the creditor as an application described in sub-
14 paragraph (A) of subsection (a)(7) or as a request for a
15 preliminary determination described in subparagraph (B)
16 of subsection (a)(7).”.

17 (b) REAL ESTATE SETTLEMENT PROCEDURES
18 ACT.—Section 3 of the Real Estate Settlement Procedures
19 Act of 1974 (12 U.S.C. 2602) (as amended by section
20 101(a) of this subtitle) is amended by adding at the end
21 the following new paragraph:

22 “(11) the term ‘application’ has the meaning
23 given such term in section 303(7) of the Home
24 Mortgage Disclosure Act of 1975.”.

25 (c) EQUAL CREDIT OPPORTUNITY ACT.—

1 (1) PREQUALIFICATION REQUEST IS NOT AN
2 APPLICATION.—Section 702 of the Equal Credit Op-
3 portunity Act (15 U.S.C. 1691a) is amended by add-
4 ing at the end the following new subsection:

5 “(h) PREQUALIFICATION REQUESTS.—

6 “(1) IN GENERAL.—A person who makes a re-
7 quest described in subparagraph (B) of section
8 303(7) of the Home Mortgage Disclosure Act of
9 1975 shall not be treated as an applicant for pur-
10 poses of this title, and the request shall not be treat-
11 ed as an application, unless the request relates to
12 identified real or personal property and such person
13 elects to treat the request as an application.

14 “(2) PERSON WHO MAKES A PREQUALIFICATION
15 REQUEST DEFINED.—The term ‘person who makes a
16 prequalification request’ means any person described
17 in paragraph (1) who has not elected to be treated
18 as an applicant.

19 “(3) PREQUALIFICATION REQUEST DEFINED.—
20 The term ‘prequalification request’ means a request
21 described in subparagraph (B) of section 303(7) of
22 the Home Mortgage Disclosure Act of 1975.”.

23 (2) DISCRIMINATION PROHIBITED AGAINST ANY
24 PERSON WHO MAKES A PREQUALIFICATION RE-

1 QUEST.—Section 701(a) of the Equal Credit Oppor-
2 tunity Act (15 U.S.C. 1691(a)) is amended—

3 (A) by inserting “or any person who makes
4 a prequalification request” after “any appli-
5 cant”;

6 (B) in paragraphs (1) and (3), by inserting
7 “or person” after “the applicant”; and

8 (C) in paragraph (2), by inserting “or per-
9 son’s” after “the applicant’s”.

10 (3) ADVERSE RESPONSE TO PREQUALIFICATION

11 REQUEST NOT TREATED AS AN ADVERSE ACTION.—

12 The last sentence of section 701(d)(6) of the Equal
13 Credit Opportunity Act (15 U.S.C. 1691(d)(6)) is
14 amended by inserting “and, in the case of a federally
15 related mortgage loan (as defined in section 3(1) of
16 the Real Estate Settlement Procedures Act of 1974),
17 a creditor’s response to a prequalification request”
18 before the period.

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

21 (1) in the 2d sentence of subsection (g) by in-
22 serting “(other than a bailment or lease which is ter-
23 minable without penalty at any time by the
24 consumer and was entered into in compliance with

1 such appropriate noncredit disclosures as the Board
2 may prescribe)” after “bailment or lease”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(cc) APPLICATION.—In the case of any federally re-
6 lated mortgage loan (as defined in section 3(1) of the Real
7 Estate Settlement Procedures Act of 1974), the term ‘ap-
8 plication’ has the meaning given to such term in section
9 303(7) of the Home Mortgage Disclosure Act of 1975.”.

10 (e) FAIR CREDIT REPORTING ACT.—Section 615 of
11 the Fair Credit Reporting Act (15 U.S.C. 1681m) is
12 amended by adding at the end the following new sub-
13 section:

14 “(d) CERTAIN PREQUALIFICATION REQUESTS EX-
15 CLUDED FROM SCOPE OF SECTION.—This section shall
16 not apply with respect to a creditor’s response to a
17 prequalification request (as defined in section 702(h)(3)
18 of the Equal Credit Opportunity Act) with respect to a
19 federally related mortgage loan (as defined in section 3(1)
20 of the Real Estate Settlement Procedures Act of 1974).”.

21 **SEC. 108. RECOVERY OF FEES.**

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

1 (1) in the first sentence, by inserting “, except
2 any charge for an appraisal report or credit report”
3 after “other charge”; and

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

7 **SEC. 109. HOME OWNERSHIP DEBT COUNSELING NOTIFICA-**
8 **TION.**

9 Section 106(c) of the Housing and Urban Develop-
10 ment Act of 1968 (12 U.S.C. 1701x(c)) is amended by
11 striking paragraph (5).

12 **SEC. 110. HOME MORTGAGE DISCLOSURE ACT.**

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

15 (1) in the second sentence, by striking
16 “\$10,000,000” and inserting “\$50,000,000”; and

17 (2) by inserting at the end the following new
18 sentence: “The dollar amount in this section shall be
19 adjusted annually after December 31, 1994, by the
20 annual percentage increase in the Consumer Price
21 Index for Urban Wage Earners and Clerical Work-
22 ers published by the Bureau of Labor Statistics.”.

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

1 “(m) OPPORTUNITY TO REDUCE COMPLIANCE BUR-
2 DEN.—

3 “(1) A depository institution shall be considered
4 to have satisfied the public availability requirements
5 of subsection (a) if such institution keeps the infor-
6 mation required under that subsection at its home
7 office and provides notice at the branch locations
8 specified in such subsection that such information is
9 available upon request from the home office of the
10 institution. A home office of the depository institu-
11 tion receiving a request for such information pursu-
12 ant to this subsection shall provide the information
13 pertinent to the location of the branch in question
14 within fifteen days of the receipt of the written re-
15 quest.

16 “(2) In complying with paragraph (1), a deposi-
17 tory institution may provide the individual request-
18 ing such information, at the institution’s choice,
19 with—

20 “(A) a paper copy of the information re-
21 quested; or

22 “(B) if acceptable to the individual, the in-
23 formation through a form of electronic medium,
24 such as computer disc.”.

1 **SEC. 111. TECHNICAL CORRECTIONS.**

2 Section 139(a) of the Truth in Lending Act (as added
3 by section 4 of the Truth in Lending Act Amendments
4 of 1995) is amended—

5 (1) in the matter preceding paragraph (1), by
6 striking “subject to this title” and inserting “re-
7 ferred to in section 106(f)”; and

8 (2) in paragraph (3)(A), by striking “may” and
9 all that follows through “charge” the first place such
10 term appears.

11 **Subtitle B—Consumer Banking**
12 **Reforms**

13 **SEC. 141. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

14 (a) REPEAL.—Section 271 of the Truth in Savings
15 Act (12 U.S.C. 4310) is hereby repealed.

16 (b) ON-PREMISES DISPLAYS.—Section 263(c) of the
17 Truth in Savings Act (12 U.S.C. 4302(c)) is amended—

18 (1) by striking paragraph (2);

19 (2) by striking “(1) IN GENERAL.—”; and

20 (3) by redesignating subparagraphs (A) and
21 (B) as paragraphs (1) and (2), respectively, and in-
22 denting appropriately.

23 (c) DEPOSITORY INSTITUTION DEFINITION.—Section
24 274(6) of the Truth in Savings Act (12 U.S.C. 4313(6))
25 is amended by inserting before the period “, but does not
26 include any nonautomated credit union that was not re-

1 quired to comply with the requirements of this title as of
2 the date of enactment of the Economic Growth and Regu-
3 latory Paperwork Reduction Act of 1995, pursuant to the
4 determination of the National Credit Union Administra-
5 tion Board”.

6 (d) TIME DEPOSITS.—Section 266(a)(3) of the Truth
7 in Savings Act (12 U.S.C. 4305(a)(3)) is amended by in-
8 serting “has a maturity of more than 30 days” after “de-
9 posit which”.

10 **SEC. 142. INFORMATION SHARING.**

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

14 “(s) CUSTOMER ACCESS TO PRODUCTS.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 provision of law, any depository institution, or any
17 affiliate or subsidiary of any depository institution,
18 may share or exchange information or otherwise
19 transfer information between or among themselves
20 without any restriction or limitation if it is clearly
21 and conspicuously disclosed that the information
22 may be communicated among such persons and the
23 consumer is given the opportunity, before the time
24 that the information is initially communicated, to di-

1 rect that such information not be communicated
2 among such persons.

3 “(2) DEFINITION.—For purposes of this sub-
4 section, the term ‘information’ means any and all
5 data, records, or other information and material ob-
6 tained or maintained by any depository institution or
7 any affiliate or subsidiary thereof in the ordinary
8 course of its business that relates in any way to a
9 person (as such term is defined in section 603(b) of
10 the Fair Credit Reporting Act) who applies for,
11 maintains, or has maintained an account or credit
12 relationship with or applied for, purchased or ob-
13 tained other products or services from any deposi-
14 tory institution or any affiliate or subsidiary of any
15 depository institution, regardless of the source of
16 manner in which the information is obtained or fur-
17 nished.

18 “(3) RULE OF CONSTRUCTION.—Any depository
19 institution, or any affiliate or subsidiary of any de-
20 pository institution, relying on this subsection shall
21 not be deemed to be a consumer reporting agency,
22 user, or third party, and the information itself shall
23 not constitute a consumer report, within the mean-
24 ing of the Fair Credit Reporting Act or other similar
25 law.”.

1 **SEC. 143. LIMIT ON RESTITUTION FOR TRUTH IN LENDING**
2 **VIOLATIONS IF SAFETY AND SOUNDNESS OF**
3 **VIOLATOR WOULD BE AFFECTED.**

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

6 (1) by striking “in any such case, the agency
7 may require” and inserting “in any such case, the
8 agency may (i) require”;

9 (2) by striking “, except that with respect to
10 any transaction consummated after the effective
11 date of section 608 of the Truth in Lending Sim-
12 plification and Reform Act, the agency shall” and
13 inserting “; or (ii)”;

14 (3) by striking “reasonable,” and inserting
15 “reasonable if, in the case of an agency referred to
16 in paragraph (1), (2), or (3) of subsection (a), the
17 agency determines that a partial adjustment or the
18 making of partial payments over an extended period
19 is necessary to avoid causing the creditor to become
20 undercapitalized (as determined in accordance with
21 regulations prespelled by such agency under
22 section 38 of the Federal Deposit Insurance Act);”.

23 **SEC. 144. APPLICABILITY OF ELECTRONIC FUND TRANSFER**
24 **ACT TO CERTAIN TRANSACTIONS.**

25 (a) **STUDY REQUIRED.**—The Board of Governors of
26 the Federal Reserve System shall conduct a study of

1 whether, and the extent to which, the Electronic Fund
2 Transfer Act is applicable to, or should or should not be
3 applicable to, any payment for transactions by a person
4 through the use of value stored on, or assigned to, a card,
5 device, or computer if the card, device, or computer is not
6 used to actually access an account in order to effect the
7 transaction.

8 (b) REPORT.—

9 (1) IN GENERAL.—The Board of Governors of
10 the Federal Reserve System shall submit a report on
11 the study required under subsection (a) to the Con-
12 gress before the end of the 90-day period beginning
13 on the date of the enactment of this Act.

14 (2) CONTENTS.—The report submitted under
15 paragraph (1) shall contain the findings and conclu-
16 sions of the Board of Governors of the Federal Re-
17 serve System and such recommendations for legisla-
18 tive and administrative action as the Board consid-
19 ers to be appropriate.

20 **Subtitle C—Equal Credit**
21 **Opportunity Act Amendments**

22 **SEC. 151. SHORT TITLE.**

23 This subtitle may be cited as the “Equal Credit Op-
24 portunity Act Amendments of 1996”.

1 **SEC. 152. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds that both the
3 Equal Credit Opportunity Act (15 U.S.C. 1691, et seq.)
4 and the Fair Credit Reporting Act (15 U.S.C. 1681, et
5 seq.) contain requirements that applicants for consumer
6 credit be given certain information in the event that ad-
7 verse action is taken on the application. These require-
8 ments differ in both scope and content and for that reason
9 are confusing to both the consumer who receives the infor-
10 mation and the party required to furnish the information.

11 (b) PURPOSE.—It is the purpose of this subtitle to
12 combine and simplify the adverse action notification re-
13 quirements of the Equal Credit Opportunity Act and the
14 Fair Credit Reporting Act regarding applications for
15 consumer credit and to make the information that is re-
16 quired to be furnished more understandable.

17 **SEC. 153. EQUAL CREDIT OPPORTUNITY ACT AMEND-**
18 **MENTS.**

19 (a) NOTICE OF ADVERSE ACTION.—Section
20 701(d)(2)(B) of the Equal Credit Opportunity Act (15
21 U.S.C. 1691(d)(2)(B)) is amended to read as follows:

22 “(B) giving written notification of adverse
23 action which discloses—

24 “(i) the applicant’s right to a state-
25 ment of reasons within 30 days after re-

1 ceipt by the creditor of a request made
2 within 60 days after such notification;

3 “(ii) if credit is denied or the charge
4 for such credit is increased either wholly or
5 partly because of information contained in
6 a consumer report from a consumer re-
7 porting agency—

8 “(I) that fact and the name, ad-
9 dress, and telephone number of the
10 consumer reporting agency making
11 the report;

12 “(II) the consumer’s right to ob-
13 tain, under section 612, a free copy of
14 a consumer report on the consumer,
15 from the consumer reporting agency
16 referred to in subclause (I) within the
17 30-day period provided under such
18 section; and

19 “(III) the consumer’s right to
20 dispute, under section 611, with a
21 consumer reporting agency the accu-
22 racy or completeness of any informa-
23 tion in a consumer report furnished
24 by the agency.

1 “(iii) if credit is denied or the charge
2 for credit is increased either wholly or
3 partly because of information obtained
4 from a person other than a consumer re-
5 porting agency bearing upon the consum-
6 er’s credit worthiness, credit standing,
7 credit capacity, character, general reputa-
8 tion, personal characteristics or mode of
9 living, that fact and the right to receive
10 disclosure of the nature of the information
11 so received, within a reasonable period of
12 time, upon the consumer’s written request
13 for information within 60 days after learn-
14 ing of such adverse action; and

15 “(iv) the identity of the person or of-
16 fice from which such notification may be
17 obtained.

18 Such statement of reasons may be given orally
19 if the written notification advises the applicant
20 of his right to have the statement of reasons
21 confirmed in writing on written request.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENT.—
23 Section 701(d)(3) of the Equal Credit Opportunity Act
24 (15 U.S.C. 1691(d)(3)) is amended by striking the period
25 at the end and adding the following: “and, to the extent

1 applicable, the name, address, and telephone number of
2 the consumer reporting agency identified in accordance
3 with the requirements of subsection (d)(3)(ii) and a state-
4 ment of the right to obtain disclosure of the nature of the
5 information upon which adverse action was taken as re-
6 quired by such subsection.”.

7 (c) REASONABLE PROCEDURES TO ASSURE COMPLI-
8 ANCE.—Section 706 of the Equal Credit Opportunity Act
9 (15 U.S.C. 1691e) is amended by adding at the end the
10 following new subsection:

11 “(l) REASONABLE PROCEDURES TO ASSURE COM-
12 PLIANCE.—No person shall be held liable for any violation
13 of subsection 701(d) if such person shows by a preponder-
14 ance of the evidence that at the time of the alleged viola-
15 tion the person maintained reasonable procedures to as-
16 sure compliance with the provisions of the subsection.”.

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

18 (a) Section 615(a) of the Fair Credit Reporting Act
19 (15 U.S.C. 1681m(a)) is amended by striking “credit or”
20 each place such term appears.

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

24 (c) Section 615(b) (as redesignated by this section)
25 of the Fair Credit Reporting Act (15 U.S.C. 1681m(b))

1 is amended by striking “subsections (a) and (b)” and in-
2 serting “subsection (a)”.

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

4 (a) EQUAL CREDIT OPPORTUNITY.—

5 (1) IN GENERAL.—The Equal Credit Oppor-
6 tunity Act (15 U.S.C. 1691 et seq.) is amended by
7 inserting after section 704 the following new section:

8 **“SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-
9 CORRECTION.**

10 “(a) IN GENERAL.—If a creditor—

11 “(1) conducts, or authorizes an independent
12 third party to conduct, a self-test of the creditor’s
13 lending or any part of the creditor’s lending oper-
14 ations in order to determine the level or effectiveness
15 of compliance with this title by the creditor; and

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

19 any report or results of such a self-test may not be ob-
20 tained or used by any applicant, department, or agency
21 in any proceeding or civil action brought under this title.

22 “(b) RESULTS OF SELF-TESTING.—No provision of
23 this section shall be construed as preventing an applicant,
24 department, or agency from obtaining and using the re-

1 sults of any self-testing in any proceeding or civil action
2 brought under 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
7 person acting on behalf of the creditor or other en-
8 tity—

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

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

14 “(3) the results are sought by the applicant, de-
15 partment, or agency by means of a discovery request
16 for the purposes of determining an appropriate pen-
17 alty or remedy for a violation of this title.

18 “(c) REGULATIONS.—The appropriate Federal de-
19 partment or agency shall prescribe regulations, after no-
20 tice and opportunity for comment, which determine what
21 types of ‘self-tests’ are sufficiently extensive so as to con-
22 stitute a determination of the level or effectiveness of a
23 creditor’s compliance with this title.”.

1 (2) REFERRALS TO THE ATTORNEY GEN-
2 ERAL.—Section 706(g) of the Equal Credit Oppor-
3 tunity Act (15 U.S.C. 1691e(g)) is amended—

4 (A) by striking “(g) The agencies” and in-
5 serting “(g) REFERRALS TO THE ATTORNEY
6 GENERAL.—

7 “(1) IN GENERAL.—The agencies”; and

8 (B) by adding at the end the following new
9 paragraphs:

10 “(2) LIMITATION ON REFERRALS OF SELF-
11 TESTING RESULTS.—

12 “(A) IN GENERAL.—No agency shall be re-
13 quired to refer any report or results of a self-
14 test relating to any creditor to the Attorney
15 General if the creditor—

16 “(i) has already identified discrimina-
17 tory practices as the result of self-testing
18 instituted by the creditor to determine
19 compliance with this title; and

20 “(ii) has taken or is taking appro-
21 priate corrective actions to address the dis-
22 crimination.

23 “(3) ENFORCEMENT UNDER OTHER LAWS.—No
24 provision of this section shall be construed as limit-

1 ing the authority of the agency to enforce the provi-
2 sions of this title under any other provision of law.”.

3 (3) REFERRALS TO HUD.—Section 706(k) of
4 the Equal Credit Opportunity Act (15 U.S.C.
5 1691e(k)) is amended by adding at the end the fol-
6 lowing: “No such agency shall be required to notify
7 the Secretary of Housing and Urban Development or
8 the applicant that the agency has reason to believe
9 that a violation of this title or the Fair Housing Act
10 occurred if the reason is based on a result of self-
11 testing instituted by the creditor to determine com-
12 pliance with this title, and the creditor has already
13 identified the possible violation and has taken or is
14 taking appropriate corrective actions to address the
15 possible violation. No provisions of this section shall
16 be construed as limiting the authority of the agency
17 to enforce the provisions of this title under any other
18 provision of law.”.

19 (4) CLERICAL AMENDMENT.—The table of sec-
20 tions for title VII of the Consumer Credit Protection
21 Act is amended by inserting after the item relating
22 to section 704 the following new item:

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

23 (b) FAIR HOUSING.—The Fair Housing Act (42
24 U.S.C. 3601 et seq.) is amended by inserting after section
25 814 the following new section:

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

2 “(a) IN GENERAL.—If any person—

3 “(1) conducts, or authorizes an independent
4 third party to conduct, a self-test of that person’s
5 residential real estate related lending activities, or
6 any part of such activities, in order to determine the
7 level or effectiveness of compliance with this title by
8 the person; and

9 “(2) has identified discriminatory practices and
10 has taken or is taking appropriate corrective actions
11 to address the discrimination,
12 any report or results of such a self-test may not be ob-
13 tained or used by any aggrieved person, complainant, de-
14 partment, or agency in any proceeding or civil action
15 brought under this title.

16 “(b) RESULTS OF SELF-TESTING.—No provision of
17 this section shall be construed as preventing an aggrieved
18 person, complainant, department, or agency from obtain-
19 ing and using the results of any self-testing as described
20 in subsection (a) in any proceeding or civil action brought
21 under this title if—

22 “(1) the creditor or any other entity conducted
23 such activity at the request of a department or agen-
24 cy;

1 “(2) the creditor or any other entity, or any
2 person acting on behalf of the creditor or other en-
3 tity—

4 “(A) voluntarily releases or discloses all, or
5 any part of, such results; or

6 “(B) refers to or describes such results as
7 a defense to charges of unlawful discrimination
8 against such creditor, person, or entity; or

9 “(3) the results are sought by the aggrieved
10 person, complainant, department, or agency by
11 means of a discovery request for the purposes of de-
12 termining an appropriate penalty or remedy for a
13 violation of this title.

14 “(c) REGULATIONS.—The appropriate Federal de-
15 partment or agency shall prescribe regulations, after no-
16 tice and opportunity for comment, which determine what
17 types of ‘self-tests’ are sufficiently extensive so as to con-
18 stitute a determination of the level or effectiveness of a
19 creditor’s compliance with this title.”.

20 **SEC. 156. CONSULTATION BY ATTORNEY GENERAL RE-**
21 **QUIRED IN NONREFERRAL CASES.**

22 (a) EQUAL CREDIT OPPORTUNITY.—Section 706(h)
23 of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h))
24 is amended by adding at the end the following new sen-
25 tence: “Before bringing a civil action against any creditor

1 described in paragraph (1), (2), or (3) of section 704(a),
2 the Attorney General shall consult with the appropriate
3 agency under such paragraph.”.

4 (b) FAIR HOUSING ACT.—Section 814(a) of the Fair
5 Housing Act (42 U.S.C. 3614(a)) is amended by adding
6 at the end the following new sentence: “Before bringing
7 a civil action under the preceding sentence against any
8 person or group of persons described in paragraph (1),
9 (2), or (3) of section 704(a) of the Equal Credit Oppor-
10 tunity Act with respect to a violation of 805(a) of this
11 title, the Attorney General shall consult with the appro-
12 priate agency under such paragraph.”.

13 **SEC. 157. EFFECTIVE DATE.**

14 (a) IN GENERAL.—Except with respect to the re-
15 quirements of subsection (b), this subtitle shall take effect
16 at the end of the 270-day period beginning on the date
17 of the enactment of this Act.

18 (b) IMPLEMENTING REGULATIONS.—The Board of
19 Governors of the Federal Reserve System shall prescribe
20 regulations to implement this subtitle and such regulations
21 shall be published in final form before the end of the 180-
22 day period beginning on the date of the enactment of this
23 Act.

1 **Subtitle D—Consumer Leasing Act**
2 **Amendments**

3 **SEC. 161. SHORT TITLE.**

4 This subtitle may be cited as the “Consumer Leasing
5 Act Amendments of 1996”.

6 **SEC. 162. CONGRESSIONAL FINDINGS AND DECLARATION**
7 **OF PURPOSE.**

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

9 (1) Competition among the various financial in-
10 stitutions and other firms engaged in the business of
11 consumer leasing is greatest when there is informed
12 use of leasing. The informed use of leasing results
13 from an awareness of the cost of leasing by consum-
14 ers.

15 (2) There has been a continued trend toward
16 leasing automobiles and other durable goods for
17 consumer use as an alternative to installment credit
18 sales and that leasing product advances have oc-
19 curred such that lessors have been unable to provide
20 consistent industry-wide disclosures to fully account
21 for the competitive progress that has occurred.

22 (b) PURPOSES.—

23 (1) It is the purpose of this subtitle to assure
24 a simple, meaningful disclosure of leasing terms so
25 that the consumer will be able to compare more

1 readily the various leasing terms available to the
2 consumer and avoid the uninformed use of leasing,
3 and to protect the consumer against inaccurate and
4 unfair leasing practices.

5 (2) To provide for adequate cost disclosures
6 that reflect the marketplace without impairing com-
7 petition and the development of new leasing prod-
8 ucts, it is the purpose of this subtitle to provide the
9 Board with the regulatory authority to assure a sim-
10 plified, meaningful definition and disclosure of the
11 terms of certain leases of personal property for per-
12 sonal, family, or household purposes so as to enable
13 the lessee to compare more readily the various lease
14 terms available to the lessee, enable comparison of
15 lease terms with credit terms where appropriate and
16 to assure meaningful and accurate disclosures of
17 lease terms in advertisements.

18 **SEC. 163. REGULATIONS.**

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

22 **“SEC. 187. REGULATIONS.**

23 **“(a) REGULATIONS AUTHORIZED.—**

24 **“(1) IN GENERAL.—**The Board shall write reg-
25 ulations or staff commentary, if appropriate, to up-

1 date and clarify the requirements and definitions for
2 lease disclosures, contracts, and any other specific
3 issues related to consumer leasing which would carry
4 out the purposes of this chapter, to prevent any cir-
5 cumvention of the chapter, and to facilitate compli-
6 ance with the requirements of the chapter.

7 “(2) CLASSIFICATIONS, ADJUSTMENTS.—The
8 regulations prescribed under paragraph (1) may con-
9 tain classifications and differentiations and may pro-
10 vide for adjustments and exceptions for any class of
11 transaction.

12 “(b) MODEL DISCLOSURES.—The Board shall pub-
13 lish model disclosure forms and clauses to facilitate com-
14 pliance with the disclosure requirements and to aid the
15 consumer in understanding the transaction. In designing
16 forms, the Board shall consider the use by lessors of data
17 processing or similar automated equipment. Use of the
18 models shall be optional. A lessor who properly uses the
19 material aspects of the models shall be deemed to be in
20 compliance with the disclosure requirements.

21 “(c) EFFECTIVE DATES.—

22 “(1) IN GENERAL.—Any regulation of the
23 Board, or any amendment or interpretation of any
24 regulation of the Board, that requires a disclosure
25 different from the disclosures previously required

1 shall have an effective date of the October 1 that fol-
2 lows the date of promulgation by at least 6 months.

3 “(2) LONGER PERIOD.—The Board may, in the
4 Board’s discretion, lengthen the period of time re-
5 ferred to in paragraph (1) to permit lessors to ad-
6 just their forms to accommodate new requirements.

7 “(3) SHORTER PERIOD.—The Board may also
8 shorten the period of time referred to in paragraph
9 (1) if the Board makes a specific finding that such
10 action is necessary to comply with the findings of a
11 court or to prevent unfair or deceptive practices.

12 “(4) COMPLIANCE BEFORE EFFECTIVE DATE.—
13 Lessors may comply with any newly promulgated
14 disclosure requirement before the effective date of
15 such requirement.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 5 of title I of the Consumer Credit Protection
18 Act (15 U.S.C. 1601 et seq.) is amended by inserting after
19 the item relating to section 186 the following new item:
“187. Regulations.”.

20 **SEC. 164. CONSUMER LEASE ADVERTISING.**

21 Section 184 of the Consumer Credit Protection Act
22 (15 U.S.C. 1667c) is amended to read as follows:

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

24 “(a) IN GENERAL.—If an advertisement for a
25 consumer lease states the amount of any payment or

1 states that any or no initial payment is required, the ad-
2 vertisement shall also clearly and conspicuously state the
3 following terms which shall be segregated from all other
4 information and identified as ‘Important Information for
5 Consumers’:

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

7 “(2) The total of initial payments required at
8 or before consummation of the lease or delivery of
9 the property, whichever is later.

10 “(3) Whether a security deposit is required.

11 “(4) The number, amounts, and timing of
12 scheduled payments.

13 “(5) The capitalized cost as defined by the
14 Board and stated as a dollar amount that represents
15 either the actual capitalized cost at which the lessor
16 is willing to lease the property or the average cap-
17 italized cost as a percentage of manufacturer’s sug-
18 gested retail price of all similar property leased by
19 the advertiser or lessor during the most recent 6-
20 month period ending either December 31, or June
21 30.

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

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

3 “(b) CLEARLY AND CONSPICUOUSLY.—

4 “(1) The disclosures required by this section
5 shall be given clearly and conspicuously in accord-
6 ance with the following requirements:

7 “(A) In print advertisements, the required
8 disclosure shall appear in a type size, shade,
9 contrast, prominence, and location as to be
10 readily noticeable, readable, and comprehensible
11 to an ordinary consumer.

12 “(B) In advertisements on the Internet,
13 the required disclosures shall appear in a type
14 size, shade, contrast, prominence, and location
15 as to be readily readable and comprehensible to
16 users and shall be separated from marketing
17 and promotional information and easily acces-
18 sible under the label or heading ‘Important In-
19 formation for Consumers’.

20 “(C) In any other form of advertising, the
21 disclosures shall be made in accordance with
22 regulations prescribed by the Board which shall
23 require that the disclosures be made in a simi-
24 lar manner to the disclosures required under

1 subparagraphs (A) and (B) to the extent appro-
2 priate and practicable.

3 “(c) ADVERTISEMENT FOR LEASE.—No adver-
4 tisement to promote or assist, directly or indirectly,
5 any consumer lease for personal use of any property
6 shall—

7 “(1) state that no downpayment is required on
8 the lease when the lessor requires a capitalized cost
9 reduction payment, acquisition fee, property trade-
10 in, or other payment upon initiation of the lease, ex-
11 cept that payment of the first monthly payment on
12 the lease, and any refundable deposit shall not be
13 considered a downpayment;

14 “(2) incorporate within the same advertisement
15 the amounts of any payment, downpayment, or other
16 term pertaining to both a lease transaction and to
17 an alternative installment credit transaction, except
18 with respect to print advertisements where lease in-
19 formation must be clearly and conspicuously sepa-
20 rated from nonlease information;

21 “(3) include the amounts of any payment,
22 downpayment, or other term of leases that the lessor
23 does not customarily provide or will offer only to se-
24 lected consumers, or the amounts of any payment,
25 downpayment, or other term of leases of property

1 that the lessor does not have in sufficient quantities
2 to meet reasonably anticipated consumer demand for
3 the property at such advertised terms;

4 “(4) display any lease term, including the
5 amount of any monthly payment, or downpayment
6 or no downpayment more prominently than the term
7 ‘lease’ or more prominently than the amount of the
8 total payment required to be paid at the inception
9 of the lease; and

10 “(5) fail to include a prominent statement of
11 the limitations on use of leased property, such as
12 mileage.

13 “(d) LIMITATION.—Nothing contrary to, inconsistent
14 with, or in mitigation of the required disclosures shall be
15 used in any advertisement in any medium and no audio,
16 videos, or print technique shall be used that is likely to
17 obscure or detract significantly from the communication
18 of the disclosures.

19 “(e) ADVERTISING MEDIUM NOT LIABLE.—Any
20 owner or personnel of any medium, including the owner
21 of any home page on the Internet, in which an advertise-
22 ment appears or through which it is disseminated shall
23 not be liable under this section.”

1 **SEC. 165. STATUTORY PENALTIES.**

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

13 **TITLE II—STREAMLINING**
 14 **GOVERNMENT REGULATIONS**
 15 **Subtitle A—Regulatory Approval**
 16 **Issues**

17 **SEC. 201. NO PRIOR APPROVAL REQUIRED FOR WELL CAP-**
 18 **ITALIZED AND WELL MANAGED FINANCIAL**
 19 **SERVICES HOLDING COMPANIES.**

20 Section 4(j) of the Bank Holding Company Act of
 21 1956 (12 U.S.C. 1843(j)) is amended—

22 (1) in paragraph (1), by striking “No” and in-
 23 serting “Except as provided in paragraph (3), no”;
 24 and

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

1 “(3) NO NOTICE REQUIRED FOR CERTAIN
2 TRANSACTIONS.—Notwithstanding paragraph (1), no
3 notice under subsection (c)(8) or (a)(2)(B) is re-
4 quired for a proposal by a financial services holding
5 company to engage in any activity or acquire or re-
6 tain the shares or assets of any company if the pro-
7 posal qualifies under paragraph (4).

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

11 “(A) FINANCIAL CRITERIA.—Both before
12 and immediately after the proposed trans-
13 action—

14 “(i) the acquiring financial services
15 holding company is well capitalized;

16 “(ii) the lead depository institution of
17 such holding company is well capitalized;

18 “(iii) well capitalized depository insti-
19 tutions control at least 80 percent of the
20 aggregate total risk-weighted assets of de-
21 pository institutions controlled by such
22 holding company; and

23 “(iv) no depository institution con-
24 trolled by such holding company is under-
25 capitalized.

1 “(B) MANAGERIAL CRITERIA.—

2 “(i) WELL MANAGED.—At the time of
3 the transaction, the acquiring financial
4 services holding company, the lead deposi-
5 tory institution of such holding company,
6 and depository institutions that control at
7 least 80 percent of the aggregate total
8 risk-weighted assets of depository institu-
9 tions controlled by such holding company
10 are well managed.

11 “(ii) LIMITATION ON POORLY MAN-
12 AGED INSTITUTIONS.—No depository insti-
13 tution which is controlled by the acquiring
14 financial services holding company has re-
15 ceived any of the lowest 2 composite rat-
16 ings at the later of the institution’s most
17 recent examination or subsequent review.

18 “(iii) RECENTLY ACQUIRED INSTITU-
19 TIONS.—Depository institutions acquired
20 by the financial services holding company
21 during the 12-month period ending on the
22 date of the proposed transaction may be
23 excluded for purposes of clause (ii) if—

24 “(I) the financial services holding
25 company has developed a plan accept-

1 able to the appropriate Federal bank-
2 ing agency for the institution to re-
3 store the capital and management of
4 the institution; and

5 “(II) all such depository institu-
6 tions represent, in the aggregate, less
7 than 25 percent of the total risk-
8 weighted assets of all depository insti-
9 tutions controlled by the financial
10 services holding company.

11 “(C) ACTIVITIES PERMISSIBLE.—Following
12 consummation of the proposed transaction, the
13 financial services holding company engages di-
14 rectly or through a subsidiary solely in—

15 “(i) activities that are permissible
16 under subsection (c)(8), as determined by
17 the Board by any regulation, order, or ad-
18 visory opinion under such subsection that
19 is in effect at the time of the proposed
20 transaction, subject to all of the restric-
21 tions, terms, and conditions of such sub-
22 section and such regulation, order, or advi-
23 sory opinion; and

24 “(ii) such other activities as are other-
25 wise permissible under this Act, subject to

1 the restrictions, terms and conditions, in-
2 cluding any prior notice or approval re-
3 quirements, provided in this Act.

4 “(D) SIZE OF ACQUISITION.—

5 “(i) ASSET SIZE.—The book value of
6 the total risk-weighted assets acquired does
7 not exceed 10 percent of the consolidated
8 total risk-weighted assets of the acquiring
9 financial services holding company.

10 “(ii) CONSIDERATION.—The gross
11 consideration to be paid for the securities
12 or assets does not exceed 15 percent of the
13 consolidated tier 1 capital of the acquiring
14 financial services holding company.

15 “(E) NOTICE NOT OTHERWISE WAR-
16 RANTED.—For proposals described in para-
17 graph (5)(C), the Board has not, before the
18 conclusion of the period described in such para-
19 graph, advised the financial services holding
20 company that a notice under paragraph (1) is
21 required.

22 “(F) SPECIAL PROVISION FOR THE ACQUI-
23 SITION OF SAVINGS ASSOCIATIONS.—In the case
24 of an acquisition of the shares or assets of a
25 savings association in accordance with para-

1 graph (5), the lead insured depository institu-
2 tion subsidiary of the acquiring financial serv-
3 ices holding company and insured depository in-
4 stitution subsidiaries of such holding company
5 which control at least 80 percent of the aggre-
6 gate total risk-weighted assets of insured depos-
7 itory institutions controlled by such holding
8 company, have received a rating of ‘satisfactory’
9 or better in meeting community credit needs
10 pursuant to section 807 of the Community Re-
11 investment Act of 1977 during the most recent
12 examinations of such depository institutions.

13 “(5) NOTIFICATION.—

14 “(A) COMMENCEMENT OF ACTIVITIES AP-
15 PROVED BY RULE.—A financial services holding
16 company that qualifies under paragraph (4)
17 and proposes to engage de novo, directly or
18 through a subsidiary, in any activity that is per-
19 missible under subsection (c)(8), as determined
20 by the Board by regulation, may commence that
21 activity without prior notice to the Board.

22 “(B) SUBSEQUENT NOTICE.—A financial
23 services holding company that commences an
24 activity under subsection (c)(8) without prior
25 notice to the Board shall provide written notice

1 to the Board no later than 10 business days
2 after commencing the activity.

3 “(C) ACTIVITIES PERMITTED BY ORDER
4 AND ACQUISITIONS.—

5 “(i) IN GENERAL.—At least 12 busi-
6 ness days prior to commencing any activity
7 (other than an activity described in sub-
8 paragraph (A)) or acquiring shares or as-
9 sets of any company in a proposal that
10 qualifies under paragraph (4), the financial
11 services holding company shall provide
12 written notice to the Board of the pro-
13 posal, unless the Board determines that no
14 notice or a shorter notice period is appro-
15 priate.

16 “(ii) DESCRIPTION OF PROPOSED AC-
17 TIVITIES.—A notice under clause (i) shall
18 include a description of the proposed ac-
19 tivities and the terms of any proposed ac-
20 quisition.

21 “(D) ACQUISITIONS OF SAVINGS ASSOCIA-
22 TIONS.—

23 “(i) IN GENERAL.—Notwithstanding
24 subparagraphs (A) and (C) and except as
25 provided in clause (ii), a financial services

1 holding company which proposes to acquire
2 the shares or assets of a savings associa-
3 tion pursuant to this paragraph shall, at
4 least 30 days before the acquisition—

5 “(I) provide the Board written
6 notification of the proposal, and

7 “(II) publish notice of the pro-
8 posal in a newspaper of general cir-
9 culation in the affected communities
10 for the purpose of soliciting comments
11 on performance under the Community
12 Reinvestment Act.

13 “(ii) EXCEPTION IN CASE OF COMPLI-
14 ANCE WITH APPROVED STRATEGIC PLAN.—

15 Clause (i) shall not apply with respect to
16 a financial services holding company re-
17 ferred to in such clause if, at the time of
18 the transaction, the lead insured depository
19 institution of such holding company, and
20 insured depository institutions that control
21 at least 80 percent of the aggregate total
22 risk-weighted assets of insured depository
23 institutions controlled by such holding
24 company, have received a rating of ‘satis-
25 factory’ or better in the most recent eval-

1 uation of compliance with strategic plans
2 which have been—

3 “(I) submitted by such institu-
4 tions to the appropriate Federal fi-
5 nancial supervisory agency (as defined
6 in section 803(1) of the Community
7 Reinvestment Act of 1977) in accord-
8 ance with regulations prescribed
9 under the Community Reinvestment
10 Act of 1977; and

11 “(II) approved by each such
12 agency.

13 “(6) ADJUSTMENT OF AMOUNTS.—The Board
14 may, by regulation, adjust the amounts and the
15 manner in which the percentage of depository insti-
16 tutions is calculated under subparagraph (B)(i),
17 (B)(iii)(II), or (D) of paragraph (4) if the Board de-
18 termines that any such adjustment is consistent with
19 safety and soundness and the purposes of this Act.

20 “(7) EXPEDITED PROCEDURE FOR NEW ACTIVI-
21 TIES.—

22 “(A) EXPEDITED PREACQUISITION RE-
23 VIEW.—After the end of the 12-day period re-
24 ferred to in paragraph (5)(C) and subject to
25 any final ruling under subparagraph (B), a fi-

1 nancial services holding company may acquire a
2 company engaged in activities that the company
3 believes are financial in nature for purposes of
4 subsection (c)(8) and that the Board has not
5 previously reviewed under such subsection if—

6 “(i) the proposal qualifies under all of
7 the criteria in paragraph (4) other than
8 paragraph (4)(C);

9 “(ii) the financial services holding
10 company provides the notice required
11 under paragraph (5)(C), and includes with
12 such notice an explanation of the facts and
13 circumstances that provide a reasonable
14 basis for concluding that the proposed ac-
15 tivities are financial in nature or incidental
16 to such financial activities; and

17 “(iii) before the end of such 12-day
18 period, the Board has not—

19 “(I) required a notice under
20 paragraph (1) with respect to the pro-
21 posed transaction; or

22 “(II) advised the financial serv-
23 ices holding company that the com-
24 pany has failed to provide a reason-
25 able basis for concluding that the pro-

1 posed activities are financial in nature
2 or incidental to such financial activi-
3 ties.

4 “(B) POSTACQUISITION REVIEW.—

5 “(i) NOTICE PROCEDURE.—A finan-
6 cial services holding company which is per-
7 mitted to make an acquisition under this
8 paragraph shall file a notice with the
9 Board in accordance with paragraph (1)
10 before the end of the 30-day period begin-
11 ning on the date of the consummation of
12 the acquisition.

13 “(ii) LIMITED REVIEW.—The Board’s
14 review of a postconsummation notice re-
15 quired under this subparagraph shall be
16 limited to determining whether the pro-
17 posed activities are permissible under sub-
18 section (c)(8), including whether the pro-
19 posal meets the criteria in paragraph
20 (2)(A).

21 “(iii) CONDITIONAL ACTION.—No pro-
22 vision of this paragraph shall be construed
23 as limiting in any way the authority of the
24 Board under this section to impose condi-

1 tions on the conduct of any activity or the
2 ownership of any company.

3 “(iv) DIVESTITURE OF IMPERMIS-
4 SIBLE ACTIVITIES.—If the Board deter-
5 mines that any proposed activity is not
6 permissible under subsection (c)(8), the fi-
7 nancial services holding company shall ter-
8minate the activity or divest the company
9 acquired in reliance on this paragraph be-
10 fore the end of the 2-year period beginning
11 on the date of such determination.

12 “(C) INITIAL DECISION NOT PREJUDICIAL
13 TO SUBSEQUENT DETERMINATION.—A decision
14 by the Board under subparagraph (A) not to
15 require a notice under paragraph (1) during the
16 12-day period referred to in such subparagraph
17 shall not prejudice the Board’s decision under
18 subparagraph (B).”.

19 **SEC. 202. STREAMLINED BANK ACQUISITIONS BY WELL**
20 **CAPITALIZED AND WELL MANAGED BANKING**
21 **ORGANIZATIONS.**

22 Section 3 of the Bank Holding Company Act (12
23 U.S.C. 1842) is amended by adding at the end the follow-
24 ing new subsection:

1 “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-
2 ACTIONS.—

3 “(1) IN GENERAL.—Notwithstanding paragraph
4 (3) or (5) of subsection (a) and subject to para-
5 graphs (5) and (6), an acquisition of shares by a
6 registered bank holding company, or a merger or
7 consolidation between registered bank holding com-
8 panies, shall be deemed approved at the conclusion
9 of the period specified in subparagraph (G) if all of
10 the following conditions have been met:

11 “(A) FINANCIAL AND MANAGERIAL CRI-
12 TERIA.—

13 “(i) WELL CAPITALIZED BANK HOLD-
14 ING COMPANY.—Both at the time of and
15 immediately after the proposed trans-
16 action, the acquiring bank holding com-
17 pany is well capitalized.

18 “(ii) WELL CAPITALIZED LEAD IN-
19 SURED DEPOSITORY INSTITUTION.—Both
20 at the time of and immediately after the
21 proposed transaction, the lead insured de-
22 pository institution of the acquiring bank
23 holding company is well capitalized.

24 “(iii) CAPITAL OF OTHER INSURED
25 DEPOSITORY INSTITUTIONS.—At the time

1 of the transaction, well capitalized insured
2 depository institutions control at least 80
3 percent of the aggregate total risk-weight-
4 ed assets of insured depository institutions
5 controlled by the acquiring bank holding
6 company.

7 “(iv) NO UNDERCAPITALIZED IN-
8 SURED DEPOSITORY INSTITUTIONS.—At
9 the time of the transaction, no insured de-
10 pository institution controlled by the ac-
11 quiring bank holding company is under-
12 capitalized.

13 “(v) WELL MANAGED.—

14 “(I) IN GENERAL.—At the time
15 of the transaction, the acquiring bank
16 holding company, its lead insured de-
17 pository institution, and insured de-
18 pository institutions that control at
19 least 90 percent of the aggregate total
20 risk-weighted assets of insured deposi-
21 tory institutions controlled by such
22 holding company are well managed.

23 “(II) NO POORLY MANAGED IN-
24 STITUTIONS.—Except with respect to
25 insured depository institutions de-

1 scribed in paragraph (2), no insured
2 depository institution controlled by
3 the acquiring bank holding company
4 has received 1 of the 2 lowest compos-
5 ite ratings at the later of the institu-
6 tion’s most recent examination or sub-
7 sequent review.

8 “(B) CRA RATINGS.—Except with respect
9 to insured depository institutions described in
10 paragraph (3), the lead insured depository insti-
11 tution subsidiary of the acquiring financial serv-
12 ices holding company and insured depository in-
13 stitution subsidiaries of such holding company
14 which control at least 80 percent of the aggre-
15 gate total risk-weighted assets of insured depos-
16 itory institutions controlled by such holding
17 company have received a rating of ‘satisfactory’
18 or better in meeting community credit needs
19 pursuant to section 807 of the Community Re-
20 investment Act of 1977 during the most recent
21 examinations of such depository institutions.

22 “(C) COMPETITIVE CRITERIA.—Con-
23 summation of the proposal complies with guide-
24 lines established by the Board by regulation,
25 after consultation with the Attorney General,

1 that identify proposals that are not likely to
2 have a significantly adverse effect on competi-
3 tion in any 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
8 risk weighted assets of the acquiring bank
9 holding company.

10 “(ii) CONSIDERATION.—The gross
11 consideration to be paid for the securities
12 or assets does not exceed 15 percent of the
13 consolidated 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
19 the 12-month period ending on the date of the
20 transaction, no administrative enforcement ac-
21 tion has been commenced, and no cease and de-
22 sist order has been issued pursuant to section
23 8 of the Federal Deposit Insurance Act, against
24 any bank holding company involved in the
25 transaction or any depository institution sub-

1 subsidiary of any such holding company and no
2 such enforcement action, order, or other admin-
3 istrative enforcement proceeding is pending as
4 of such date.

5 “(G) OTHER CONSIDERATIONS.—Board
6 approval of the transaction is not prohibited
7 under subsection (c)(3).

8 “(H) NOTIFICATION.—The acquiring bank
9 holding company provides written notice of the
10 transaction, including a description of the terms
11 of the transaction, to the Board and the Attor-
12 ney General, simultaneously, at least 15 busi-
13 ness days (or such shorter period as permitted
14 by the Board) before the transaction is con-
15 summated.

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

21 “(J) PUBLIC NOTICE.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), the acquiring financial
24 services holding company publishes notice
25 of the application in a newspaper of gen-

1 eral circulation in the affected communities
2 at least 30 days before consummation of
3 the transaction.

4 “(ii) EXCEPTION IN CASE OF COMPLI-
5 ANCE WITH APPROVED STRATEGIC PLAN.—

6 Clause (i) shall not apply with respect to
7 a financial services holding company re-
8 ferred to in such clause if, at the time of
9 the transaction, the lead insured depository
10 institution of such holding company, and
11 insured depository institutions that control
12 at least 80 percent of the aggregate total
13 risk-weighted assets of insured depository
14 institutions controlled by such holding
15 company, have received a rating of ‘satis-
16 factory’ or better in the most recent eval-
17 uation of compliance with strategic plans
18 which have been—

19 “(I) submitted by such institu-
20 tions to the appropriate Federal fi-
21 nancial supervisory agency (as defined
22 in section 803(1) of the Community
23 Reinvestment Act of 1977) in accord-
24 ance with regulations prescribed

1 under the Community Reinvestment
2 Act of 1977; and

3 “(II) approved by each such
4 agency.

5 “(2) SPECIAL RULE RELATING TO THE RE-
6 QUIREMENT FOR WELL MANAGED INSTITUTIONS.—
7 Insured depository institutions which have been ac-
8 quired by a bank holding company during the 12-
9 month period preceding the date of the transaction
10 may be excluded for purposes of paragraph
11 (1)(A)(v)(II) if—

12 “(A) the bank holding company has devel-
13 oped a plan for the institution to restore the
14 capital and management of the institution
15 which is acceptable to the appropriate Federal
16 banking agency; and

17 “(B) all such insured depository institu-
18 tions represent, in the aggregate, less than 10
19 percent of the aggregate total risk-weighted as-
20 sets of all insured depository institutions con-
21 trolled by the holding company.

22 “(3) SPECIAL RULE RELATING TO THE RE-
23 QUIREMENT FOR COMMUNITY INVESTMENT.—In-
24 sured depository institutions acquired during the 12-
25 month period preceding the date of the transaction

1 may be excluded for purposes of paragraph (1)(B)
2 if the bank holding company has developed a plan to
3 restore the performance of the institution to at least
4 a ‘satisfactory’ rating under the Community Rein-
5 vestment Act of 1977 which is acceptable to the ap-
6 propriate Federal banking agency.

7 “(4) ADJUSTMENT OF PERCENTAGES.—The
8 Board may by regulation adjust the percentages and
9 the manner in which the percentages of insured de-
10 pository institutions are calculated under subpara-
11 graph (A)(v)(I) or (D) of paragraph (1) or para-
12 graph (2)(B) if the Board determines that such ad-
13 justment is consistent with safety and soundness
14 and the purposes of this Act.

15 “(5) ADVICE OF ATTORNEY GENERAL.—The
16 Attorney General shall advise the Board during the
17 period referred to in paragraph (1)(H) in writing if
18 any competitive concerns exist with respect to the
19 transaction.

20 “(6) WAIVER OF POSTAPPROVAL WAITING PE-
21 RIOD.—If the Attorney General advises the Board
22 that no competitive concerns exist with respect to
23 the transaction, the provisions of section 11(b) relat-
24 ing to a postapproval waiting shall not apply with
25 respect to such transaction.”.

1 **SEC. 203. ELIMINATE FILING AND APPROVAL REQUIRE-**
2 **MENTS FOR INSURED DEPOSITORY INSTITU-**
3 **TIONS ALREADY CONTROLLED BY THE SAME**
4 **HOLDING COMPANY.**

5 (a) **BANK MERGER ACT.**—Section 18(c) of the Fed-
6 eral Deposit Insurance Act (12 U.S.C. 1828(c)) is amend-
7 ed by adding at the end the following new paragraph:

8 “(12) The provisions of this subsection shall
9 not apply to any merger, consolidation, acquisition
10 of assets or assumption of liabilities involving only
11 insured depository institutions that are subsidiaries
12 of the same depository institution holding company
13 if—

14 “(A) the responsible agency would not be
15 prohibited from approving the transaction
16 under section 44, if applicable;

17 “(B) the acquiring, assuming, or resulting
18 institution complies with all applicable provi-
19 sions of section 44, if any, as if the merger,
20 consolidation, or acquisition were approved
21 under this subsection;

22 “(C) either—

23 “(i) the insured depository institutions
24 involved in the transaction—

25 “(I) have received a rating of
26 ‘satisfactory’ or better in meeting

1 community credit needs pursuant to
2 section 807 of the Community Rein-
3 vestment Act of 1977 during the most
4 recent examination of such institu-
5 tions; and

6 “(II) publish notice of the pro-
7 posed transaction in a newspaper of
8 general circulation in the affected
9 communities at least 30 days before
10 consummation of the transaction; or

11 “(ii) the insured depository institu-
12 tions have received a rating of ‘satisfac-
13 tory’ or better in the most recent evalua-
14 tion of compliance with strategic plans
15 which have been—

16 “(I) submitted by the institutions
17 to the appropriate Federal banking
18 agency in accordance with regulations
19 prescribed under the Community Re-
20 investment Act of 1977; and

21 “(II) approved by the agency;

22 “(D) the acquiring, assuming, or resulting
23 institution provides written notification of the
24 transaction to the appropriate Federal banking

1 agency for the institution at least 20 days prior
2 to consummation of the transaction; and

3 “(E) after receiving such notice, the agen-
4 cy does not require the institution to submit an
5 application with respect to such transaction and
6 so notifies the institution.”.

7 (b) NATIONAL BANK CONSOLIDATION AND MERGER
8 ACT.—

9 (1) CONSOLIDATIONS.—Section 2 of the Na-
10 tional Bank Consolidation and Merger Act (12
11 U.S.C. 215) is amended—

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

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

20 (B) in subsection (b)—

21 (i) by striking “, and thereafter the
22 consolidation shall be approved by the
23 Comptroller”; and

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

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

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

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

11 (B) in subsection (b)—

12 (i) by striking “, and thereafter the
13 merger shall be approved by the Comptrol-
14 ler”; and

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

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

19 (a) IN GENERAL.—Section 5(d)(3) of the Federal
20 Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amend-
21 ed—

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

25 (2) in subparagraph (E)—

1 (A) by striking clause (iv) and inserting
2 the following new clause:

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

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

10 (C) by redesignating clauses (iii) and (iv)
11 (as amended by subparagraph (A) of this para-
12 graph) as clauses (i) and (ii), respectively; and
13 (3) by striking subparagraph (G) and redesign-
14 ating the subsequent subparagraphs accordingly.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—
16 Section 5156A(b)(1) of the Revised Statutes of the United
17 States (12 U.S.C. 215c(b)(1)) is amended by striking
18 “section 5(d)(3) of the Federal Deposit Insurance Act or”.

19 (c) CLERICAL AMENDMENT.—The heading for sec-
20 tion 5(d)(3)(E) of the Federal Deposit Insurance Act (12
21 U.S.C. 1815(d)(3)(E)) is amended by striking “FOR AP-
22 PROVAL, GENERALLY”.

1 **SEC. 205. ELIMINATION OF DUPLICATIVE REQUIREMENTS**
2 **IMPOSED UPON BANK HOLDING COMPANIES**
3 **AND OTHER REGULATORY RELIEF UNDER**
4 **THE HOME OWNERS' LOAN ACT.**

5 (a) EXEMPTION FOR BANK HOLDING COMPANIES.—
6 Section 10 of the Home Owners' Loan Act (12 U.S.C.
7 1467a) is amended by adding at the end the following new
8 subsection:

9 “(t) EXEMPTION FOR BANK HOLDING COMPA-
10 NIES.—This section shall not apply to a bank holding com-
11 pany that is subject to the Bank Holding Company Act
12 of 1956 or any company controlled by such bank holding
13 company (other than a savings association).”.

14 (b) DEFINITION OF SAVINGS AND LOAN HOLDING
15 COMPANY.—Section 10(a)(1)(D) of the Home Owners'
16 Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read
17 as follows:

18 “(D) SAVINGS AND LOAN HOLDING COM-
19 PANY.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), the term ‘savings and
22 loan holding company’ means any company
23 which directly or indirectly controls a sav-
24 ings association or controls any other com-
25 pany which is a savings and loan holding
26 company.

1 “(ii) EXCEPTION FOR BANK HOLDING
2 COMPANY.—The term ‘savings and loan
3 holding company’ does not include any
4 company which is registered under, and
5 subject to, the provisions of the Bank
6 Holding Company Act of 1956, or any
7 company directly or indirectly controlled by
8 such company.”.

9 (c) AMENDMENTS TO THE BANK HOLDING COMPANY
10 ACT OF 1956.—Section 4(i) of the Bank Holding Com-
11 pany Act of 1956 (12 U.S.C. 1843(i)) is amended by add-
12 ing at the end the following new paragraphs:

13 “(4) SOLICITATION OF VIEWS.—

14 “(A) NOTICE TO DIRECTOR.—Upon receiv-
15 ing any application or notice by a bank holding
16 company to acquire directly or indirectly a sav-
17 ings association under subsection (c)(8), the
18 Board shall solicit the Director’s comments and
19 recommendations with respect to such acquisi-
20 tion.

21 “(B) COMMENT PERIOD.—The comments
22 and views of the Director under subparagraph
23 (A) with respect to any acquisition subject to
24 such subparagraph shall be transmitted to the
25 Board within 30 days of the receipt by the Di-

1 rector of the notice relating to such acquisition
2 (or such shorter period as the Board may speci-
3 fy if the Board advises the Director that an
4 emergency exists which requires expeditious ac-
5 tion).

6 “(5) EXAMINATION.—

7 “(A) SCOPE.—The Board shall consult
8 with the Director, as appropriate, in establish-
9 ing the scope of an examination by the Board
10 of a bank holding company that controls di-
11 rectly or indirectly a savings association.

12 “(B) ACCESS TO INSPECTION REPORTS.—
13 Upon the request of the Director, the Board
14 shall furnish the Director with a copy of any in-
15 spection report, additional examination mate-
16 rials, or supervisory information relating to any
17 bank holding company which directly or indi-
18 rectly controls a savings association.

19 “(6) COORDINATION OF ENFORCEMENT EF-
20 FORTS.—The Board and the Director shall cooper-
21 ate in any enforcement action against any bank
22 holding company which controls a savings associa-
23 tion, if the relevant conduct involves such associa-
24 tion.

1 “(7) DIRECTOR DEFINED.—For purposes of
2 this section, the term ‘Director’ means the Director
3 of the Office of Thrift Supervision.”.

4 (d) ALTERNATIVE TEST.—

5 (1) IN GENERAL.—Section 10(m) of the Home
6 Owners’ Loan Act (12 U.S.C. 1467a(m)) is amend-
7 ed—

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

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

12 “(8) ALTERNATIVE TEST.—Any savings asso-
13 ciation which meets the requirements set forth in
14 section 7701(a)(19)(C) of the Internal Revenue
15 Code of 1986 shall be deemed to be a qualified thrift
16 lender.”.

17 (2) CONFORMING AMENDMENTS.—Section 5(r)
18 of the Home Owners’ Loan Act (12 U.S.C. 1464(r))
19 is amended—

20 (A) in the 1st sentence of paragraph (1),
21 by inserting “, qualifies as a qualified thrift
22 lender under section 10(m),” after “Internal
23 Revenue Code of 1986”;

1 (B) in the second sentence of paragraph
2 (1), by inserting “or as a qualified thrift lender
3 under section 10(m)” before the period;

4 (C) by striking subparagraph (C) of para-
5 graph (2) and inserting the following new sub-
6 paragraph:

7 “(C) the law of the State in which the
8 branch is or is to be located would permit es-
9 tablishment of the branch were the association
10 an institution of the savings association or sav-
11 ings bank type chartered by the State in which
12 the home office of such institution is located;
13 or”.

14 **SEC. 206. ELIMINATE REQUIREMENT THAT APPROVAL BE**
15 **OBTAINED FOR DIVESTITURES.**

16 Section 2(g) of the Bank Holding Company Act of
17 1956 (12 U.S.C. 1841(g)) is amended—

18 (1) by striking paragraph (3);

19 (2) by inserting “and” after the semicolon at
20 the end of paragraph (1); and

21 (3) by striking “; and” at the end of paragraph
22 (2) and inserting a period.

1 **SEC. 207. ELIMINATE UNNECESSARY BRANCH APPLICA-**
2 **TIONS.**

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

6 (1) by striking “(i) No branch” and inserting
7 “(i) RELOCATION.—

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

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

12 “(2) NO APPROVAL REQUIRED FOR CERTAIN
13 BRANCHES.—Notwithstanding this subsection or
14 subsection (b) or (c), the consent and approval of
15 the Comptroller of the Currency shall not be re-
16 quired for a national bank to establish and operate,
17 or to retain and operate, a branch or seasonal agen-
18 cy if—

19 “(A) the bank is well capitalized (as de-
20 fined in section 38 of the Federal Deposit In-
21 surance Act and regulations prescribed by the
22 Comptroller of the Currency under such sec-
23 tion);

24 “(B) the bank received a composite
25 CAMEL rating of ‘1’ or ‘2’ under the Uniform
26 Financial Institutions Rating System (or an

1 equivalent rating under a comparable rating
2 system) as of its most recent examination;

3 “(C) either—

4 “(i) the bank—

5 “(I) has received a rating of ‘satis-
6 satisfactory’ or better in meeting commu-
7 nity credit needs pursuant to section
8 807 of the Community Reinvestment
9 Act of 1977 during the most recent
10 examination of such bank; and

11 “(II) publishes notice of the
12 bank’s intention to establish and oper-
13 ate, or retain and operate, a branch
14 or seasonal agency at the proposed lo-
15 cation in a newspaper of general cir-
16 culation in the affected communities
17 at least 30 days before consummation
18 of the transaction; or

19 “(ii) the bank has received a rating of
20 ‘satisfactory’ or better in the most recent
21 evaluation of compliance with a strategic
22 plan which has been—

23 “(I) submitted by the bank to the
24 Comptroller of the Currency in ac-
25 cordance with regulations prescribed

1 under the Community Reinvestment
2 Act of 1977; and

3 “(II) approved by the Comptrol-
4 ler of the Currency; and

5 “(D) the Comptroller of the Currency is
6 otherwise authorized to grant approval under
7 this section to such bank to establish and oper-
8 ate, or to retain and operate, a branch or sea-
9 sonal agency at the proposed location.

10 “(3) CERTAIN BRANCHES DEEMED TO HAVE
11 APPROVED APPLICATIONS.—A branch or seasonal
12 agency established by a national bank under para-
13 graph (2) shall be deemed to have been established
14 and operated pursuant to an application approved
15 under this section.”.

16 (b) STATE MEMBER BANK BRANCH APPLICA-
17 TIONS.—The third undesignated paragraph of section 9
18 of the Federal Reserve Act (12 U.S.C. 321) is amended
19 by adding at the end the following: “Notwithstanding the
20 preceding 2 sentences, the approval of the Board shall not
21 be required for a State member bank to establish and op-
22 erate a branch or seasonal agency if—

23 “(A) the State member bank is well-cap-
24 italized (as defined in section 38 of the Federal

1 Deposit Insurance Act and regulations pre-
2 scribed by the Board under such section);

3 “(B) the State member bank received a
4 composite CAMEL rating of ‘1’ or ‘2’ under the
5 Uniform Financial Institutions Rating System
6 (or an equivalent rating under a comparable
7 rating system);

8 “(C) either—

9 “(i) the State member bank—

10 “(I) has received a rating of ‘sat-
11 isfactory’ or better in meeting commu-
12 nity credit needs pursuant to section
13 807 of the Community Reinvestment
14 Act of 1977 during the most recent
15 examinations of such bank; and

16 “(II) publishes notice of the
17 bank’s intention to establish and oper-
18 ate, or retain and operate, a branch
19 or seasonal agency at the proposed lo-
20 cation in a newspaper of general cir-
21 culation in the affected communities
22 at least 30 days before consummation
23 of the transaction; or

24 “(ii) the State member bank has re-
25 ceived a rating of ‘satisfactory’ or better in

1 the most recent evaluation of compliance
2 with a strategic plan which has been—

3 “(I) submitted by the bank to the
4 Board in accordance with regulations
5 prescribed under the Community Re-
6 investment Act of 1977; and

7 “(II) approved by the Board; and

8 “(D) the Board is otherwise authorized to
9 grant approval under this section to such State
10 member bank to establish and operate a branch
11 or seasonal agency at the proposed location.

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

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

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

1 “(A) the bank is well-capitalized (as de-
2 fined in section 38 and regulations prescribed
3 by the Corporation under such section);

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

9 “(C) either—

10 “(i) the bank—

11 “(I) has received a rating of ‘sat-
12 isfactory’ or better in meeting commu-
13 nity credit needs pursuant to section
14 807 of the Community Reinvestment
15 Act of 1977 during the most recent
16 examinations of such bank; and

17 “(II) publishes notice of the
18 bank’s intention to establish and oper-
19 ate, or retain and operate, a branch
20 or seasonal agency at the proposed lo-
21 cation in a newspaper of general cir-
22 culation in the affected communities
23 at least 30 days before consummation
24 of the transaction; or

1 “(ii) the bank has received a rating of
2 ‘satisfactory’ or better in the most recent
3 evaluation of compliance with a strategic
4 plan which has been—

5 “(I) submitted by the bank to the
6 Corporation in accordance with regu-
7 lations prescribed under the Commu-
8 nity Reinvestment Act of 1977; and

9 “(II) approved by the Corpora-
10 tion; and

11 “(D) the Corporation is otherwise author-
12 ized to give consent under this section to such
13 bank to establish and operate a domestic
14 branch at the proposed location.

15 “(6) APPROVAL GRANTED.—A branch estab-
16 lished by a State member bank under paragraph (5)
17 shall be deemed to have been established and oper-
18 ated pursuant to an application approved under this
19 section.”.

20 **SEC. 208. ELIMINATE BRANCH APPLICATIONS AND RE-**
21 **QUIREMENTS FOR ATMs AND SIMILAR FA-**
22 **CILITIES.**

23 (a) DEFINITION OF BRANCH UNDER NATIONAL
24 BANK ACT.—Section 5155(j) of the Revised Statutes (12
25 U.S.C. 36(j)) is amended—

1 (1) by striking “(j) The term” and inserting

2 “(j) BRANCH.—

3 “(1) IN GENERAL.—The term”; and

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

6 “(2) CERTAIN PROPRIETARY ATMS AND RE-
7 MOTE SERVICING UNITS.—The term ‘branch’ does
8 not include any automated teller machine or remote
9 service unit which is owned and operated by a depos-
10 itory institution—

11 “(A) primarily for the benefit of the insti-
12 tution and the affiliates of the institution; and

13 “(B) which could operate a branch at the
14 location of such machine or unit.”.

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

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

19 “(o) DEFINITIONS RELATING TO BRANCHES.—

20 “(1) DOMESTIC BRANCH.—

21 “(A) IN GENERAL.—The term”; and

22 (2) by striking “lent; and the term” and insert-
23 ing “lent.

24 “(B) CERTAIN PROPRIETARY ATMS AND
25 REMOTE SERVICING UNITS.—The term ‘domes-

1 tic branch' does not include any automated tell-
2 er machine or remote service unit which is
3 owned and operated by a depository institu-
4 tion—

5 “(i) primarily for the benefit of the in-
6 stitution and the affiliates of the institu-
7 tion; and

8 “(ii) which could operate a branch at
9 the location of such machine or unit.

10 “(2) FOREIGN BRANCH.—The term”.

11 **SEC. 209. ELIMINATE REQUIREMENT FOR APPROVAL OF IN-**
12 **VESTMENTS IN BANK PREMISES FOR WELL**
13 **CAPITALIZED AND WELL MANAGED BANKS.**

14 Section 24A of the Federal Reserve Act (12 U.S.C.
15 371d) is amended by inserting before the period in that
16 section the following: “or, in the case of a bank which re-
17 ceived a composite CAMEL rating of ‘1’ or ‘2’ under the
18 Uniform Financial Institutions Rating System (or an
19 equivalent rating under a comparable rating system) as
20 of its most recent examination and, both before and imme-
21 diately following the investment or loan, is well capitalized
22 (as defined under section 38 of the Federal Deposit Insur-
23 ance Act), the amount which is equal to 150 percent of
24 the capital stock and surplus of such bank”.

1 **SEC. 210. ELIMINATE UNNECESSARY FILING FOR OFFICER**
2 **AND DIRECTOR APPOINTMENTS.**

3 Section 32(d) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1831i(d)) is amended to read as follows:

5 “(d) **ADDITIONAL INFORMATION.**—

6 “(1) **IN GENERAL.**—Any notice submitted to an
7 appropriate Federal banking agency with respect to
8 an individual by any insured depository institution
9 or depository institution holding company pursuant
10 to subsection (a) shall include—

11 “(A) the information described in section
12 7(j)(6)(A) about the individual; and

13 “(B) such other information as the agency
14 may prescribe by regulation.

15 “(2) **WAIVER.**—An appropriate Federal bank-
16 ing agency may waive the requirement of this section
17 by regulation or on a case-by-case basis consistent
18 with safety and soundness.”.

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

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

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

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

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

3 (2) by striking “but no such extensions shall ex-
4 tend beyond a date five years” and inserting “and,
5 in the case of a bank holding company which has
6 not disposed of such shares within 5 years of the
7 date such shares were acquired, the Board may,
8 upon the application of such company, grant addi-
9 tional exemptions if, in the Board’s judgment, such
10 extension would not be detrimental to the public in-
11 terest and either the bank holding company has
12 made a good faith attempt to dispose of such shares
13 during such 5-year period or the disposal of such
14 shares during such 5-year period would have been
15 detrimental to the company, but the aggregate dura-
16 tion of such extensions shall not extend 10 years”.

17 **SEC. 213. INCREASE IN CERTAIN CREDIT UNION LOAN**
18 **CEILINGS.**

19 Section 107(5)(A) of the Federal Credit Union Act
20 (12 U.S.C. 1757(5)(A)) is amended—

21 (1) in clause (iv), by striking “\$10,000” and in-
22 sserting “\$50,000”; and

23 (2) in clause (v), by striking “\$10,000” and in-
24 sserting “\$50,000”.

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

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

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

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

10 (2) by redesignating subsections (i) (as amend-
11 ed by section 207(a) of this Act), (j) (as amended
12 by section 208(a) of this Act), (k), and (l) as sub-
13 sections (h), (i), (j), and (k), respectively.

14 **SEC. 222. BRANCH CLOSURES.**

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

18 “(e) SCOPE OF APPLICATION.—

19 “(1) IN GENERAL.—This section shall not apply
20 with respect to—

21 “(A) an automated teller machine;

22 “(B) a branch which—

23 “(i) has been acquired through merg-
24 er, consolidation, purchase, assumption, or
25 other method; and

1 “(ii) is located—

2 “(I) within 2.5 miles of another
3 branch of the acquiring institution; or

4 “(II) within a neighborhood cur-
5 rently being served by another branch
6 of the acquiring institution,

7 if such other branch of the acquiring institution
8 is expected to continue to provide banking serv-
9 ices to substantially all of the customers cur-
10 rently served by the branch acquired;

11 “(C) a branch which is closing and reopen-
12 ing at a location which is—

13 “(i) within 2.5 miles of the location of
14 the branch being closed; or

15 “(ii) within the same neighborhood as
16 the branch being closed,

17 if the branch at the new location is expected to
18 continue to provide banking services to substan-
19 tially all of the customers served by the branch
20 at the former location;

21 “(D) a branch that is closed in connection
22 with—

23 “(i) an emergency acquisition under—

24 “(I) section 11(n); or

1 “(II) subsections (f) or (k) of
2 section 13; or

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

5 “(E) any other branch closure whose ex-
6 emption from the notice requirements of this
7 section would not produce a result inconsistent
8 with the purposes of this section.

9 “(2) REGULATIONS.—The appropriate Federal
10 banking agency shall, by regulation, determine the
11 circumstances under which any exemption under
12 paragraph(1)(E) may be granted.”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply as if such amendment had been
15 included in section 42 of the Federal Deposit Insurance
16 Act as of the date of the enactment of the Federal Deposit
17 Insurance Corporation Improvement Act of 1991.

18 **SEC. 223. AMENDMENTS TO THE DEPOSITORY INSTITU-**
19 **TIONS MANAGEMENT INTERLOCKS ACT.**

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

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

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

3 “(b) SMALL MARKET SHARE EXEMPTION.—

4 “(1) IN GENERAL.—This section shall not be
5 construed as prohibiting a management official of a
6 depository institution or depository holding company
7 from serving as a management official of another de-
8 pository institution or depository holding company
9 not affiliated with such institution or holding com-
10 pany if the depository institutions or depository
11 holding companies with which the management offi-
12 cial serves hold, together with all the affiliates of
13 such institutions or holding companies, in the aggre-
14 gate no more than 20 percent of the deposits in each
15 relevant geographic banking market where offices of
16 the depository institutions or depository holding
17 companies or their affiliates are located.

18 “(2) RELEVANT GEOGRAPHIC BANKING MARKET
19 DEFINED.—For purposes of paragraph (1), the term
20 ‘relevant geographic banking market’ means—

21 “(A) the area defined by the boundaries
22 identified by the Board of Governors of the
23 Federal Reserve System;

24 “(B) if the Board has not defined such
25 boundaries, the area defined by the boundaries

1 of the Ranally Metropolitan Area in which the
2 office of the depository institution or the depos-
3 itory institution holding company is located;
4 and

5 “(C) if the office of such institution or
6 company is not located within a Ranally Metro-
7 politan Area, the area defined by the county (or
8 an equivalent area of general local government)
9 in which such office is located.”.

10 (b) DUAL SERVICE AMONG LARGER ORGANIZA-
11 TIONS.—Section 204 of the Depository Institution Man-
12 agement Interlocks Act (12 U.S.C. 3203) is amended to
13 read as follows:

14 **“SEC. 204. DUAL SERVICE AMONG LARGER ORGANIZA-
15 TIONS.**

16 “(a) IN GENERAL.—If a depository institution, de-
17 pository institution holding company, or depository insti-
18 tution affiliate of any such institution or company has
19 total assets exceeding \$2,500,000,000, a management offi-
20 cial of such institution, company, or affiliate may not serve
21 as a management official of any other depository institu-
22 tion, depository institution holding company, or depository
23 institution affiliate of any such institution or company
24 which—

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

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

5 “(b) CPI ADJUSTMENTS.—The dollar amounts in
6 this section shall be adjusted annually after December 31,
7 1994, by the annual percentage increase in the Consumer
8 Price Index for Urban Wage Earners and Clerical Work-
9 ers published by the Bureau of Labor Statistics.”.

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

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

16 (2) in subsection (b), by striking the 2d sen-
17 tence; and

18 (3) by striking subsection (c).

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

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

24 (2) by inserting “, including rules or regula-
25 tions which permit service by a management official

1 which would otherwise be prohibited by section 203
2 or section 204,” after “title”; and

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

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

5 The Appraisal Subcommittee of the Financial Institu-
6 tions Examination Council shall repay to the Secretary of
7 the Treasury the funds specified in section 1108 of Finan-
8 cial Institutions Reform, Recovery, and Enforcement Act
9 of 1989 by not later than September 30, 1998, and the
10 Secretary shall deposit such funds in the general fund of
11 the Treasury.

12 **SEC. 225. CONSTRAINTS ON EMPLOYEE-WIDE BENEFIT**
13 **PLANS AND HOME EQUITY LOANS.**

14 (a) AMENDMENTS TO SECTION 22(h) OF THE FED-
15 ERAL RESERVE ACT.—

16 (1) EMPLOYEE-WIDE BENEFIT PLANS.—Section
17 22(h)(2) of the Federal Reserve Act (12 U.S.C.
18 375b(2)) is amended—

19 (1) by redesignating subparagraphs (A) through
20 (C) as clauses (i) through (iii), respectively, and in-
21 denting the left margins of such clauses appro-
22 priately;

23 (2) by striking “(2) PREFERENTIAL TERMS
24 PROHIBITED.—” and inserting the following:

25 “(2) PREFERENTIAL TERMS PROHIBITED.—

1 “(A) IN GENERAL.—”; and

2 (3) by adding at the end the following new sub-
3 paragraph:

4 “(B) EXCEPTION.—No provision of this
5 paragraph shall be construed as prohibiting any
6 extension of credit made pursuant to a benefit
7 or compensation program—

8 “(i) that is widely available to employ-
9 ees of the member bank; and

10 “(ii) that does not give preference to
11 any officer, director, or principal share-
12 holder of the member bank, or to any re-
13 lated interest of such person, over other
14 employees of the member bank.”.

15 (2) EXCEPTION FOR EXTENSIONS OF CREDIT
16 TO EXECUTIVE OFFICERS AND DIRECTORS OF
17 NONBANK AFFILIATES.—Section 22(h)(8)(B) of the
18 Federal Reserve Act (12 U.S.C. 375b(8)(B)) is
19 amended to read as follows:

20 “(B) EXCEPTION.—The Board may, by
21 regulation, make exceptions to subparagraph
22 (A) for an executive officer or director of a sub-
23 sidiary of a company that controls the member
24 bank if—

1 “(i) the executive officer or director
2 does not have authority to participate, and
3 does not participate, in major policymaking
4 functions of the member bank; and

5 “(ii) the assets of such subsidiary do
6 not exceed 10 percent of the consolidated
7 assets of a company that controls the
8 member bank and such subsidiary (and is
9 not controlled by any other company).”.

10 (3) RECORDKEEPING REQUIREMENTS.—Section
11 22(h)(10) of the Federal Reserve Act (12 U.S.C.
12 375b(10)) is amended by adding at the end the fol-
13 lowing: “The Board shall specify by regulation the
14 recordkeeping required of member banks to ensure
15 compliance with this section.”.

16 (b) UNNECESSARY REPORTING REQUIREMENTS.—
17 Section 22(g) of the Federal Reserve Act (12 U.S.C.
18 375a) is amended—

19 (1) by striking paragraph (6);

20 (2) by redesignating paragraphs (7), (8), (9),
21 and (10) as paragraphs (6), (7), (8), and (9), re-
22 spectively; and

23 (3) in paragraph (8) (as so redesignated by
24 paragraph (1) of this subsection)—

1 (A) by striking “include with (but not as
2 part of) each report of condition and copy
3 thereof filed under section 7(a)(3) of the Fed-
4 eral Deposit Insurance Act” and inserting
5 “submit a semiannual”; and

6 (B) by striking “previous report of condi-
7 tion” and inserting “previous semiannual re-
8 port”.

9 (c) AMENDMENTS RELATING TO LOANS TO EXECU-
10 TIVE OFFICERS.—Section 22(g) of the Federal Reserve
11 Act (12 U.S.C. 375a) (as amended by subsection (a) of
12 this section) is amended—

13 (1) in paragraph (1)(D), by striking “of any
14 one of the three categories respectively referred to in
15 paragraphs (2), (3), and (4)” and inserting “of any
16 category referred to in paragraph (2), (3), (4), (5),
17 or (6)”;

18 (2) by redesignating paragraphs (4) and (5) as
19 paragraphs (6) and (7), respectively;

20 (3) by inserting after paragraph (3) the follow-
21 ing new paragraph:

22 “(4) HOME EQUITY LINES OF CREDIT.—A
23 member bank may make a revolving open-end exten-
24 sion of credit to any executive officer of the bank if
25 the credit—

1 “(A) does not exceed \$100,000; and

2 “(B) is secured by a dwelling that is owned
3 by such officer and used by the officer as a res-
4 idence.

5 “(5) LOANS SECURED BY MARKETABLE AS-
6 SETS.—A member bank may extend credit to any
7 executive officer of the bank if the credit is secured
8 by readily marketable assets with a fair market
9 value of not less than the amount which is equal to
10 200 percent of any credit so extended.”; and

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

14 **SEC. 226. EXPANDED REGULATORY DISCRETION FOR**
15 **SMALL BANK EXAMINATIONS.**

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

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

21 (2) by redesignating the second of the 2 para-
22 graphs designated as paragraph (8) as paragraph
23 (9); and

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

4 (b) INFLATION ADJUSTMENT.—Section 10(d) of the
5 Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is
6 amended by inserting after paragraph (10) (as so redesign-
7 ated in subsection (a)(1) of this section) the following
8 new paragraph:

9 “(11) ANNUAL CPI ADJUSTMENT.—The dollar
10 amount in this section shall be adjusted annually
11 after December 31, 1994, by the annual percentage
12 increase in the Consumer Price Index for Urban
13 Wage Earners and Clerical Workers published by
14 the Bureau of Labor Statistics.”.

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

22 (1) the examination system provided for in such
23 section is in place; and

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 deposi-
14 tory institution” and “appropriate Federal banking agen-
15 cy” have the same meanings as in section 3 of the Federal
16 Deposit Insurance Act and the term “insured credit
17 union” has the same meaning as in section 101(7) of the
18 Federal 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
23 Treasury shall revise the regulation under section 15C of
24 the Securities Exchange Act of 1934 relating to the obli-
25 gations of financial institutions and of brokers and dealer
26 registered under such Act holding custody of securities

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

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

13 (a) IN GENERAL.—Not less frequently than once
14 every 10 years, the Financial Institutions Examination
15 Council (hereafter in this section referred to as the “Coun-
16 cil”) and each appropriate Federal banking agency (as de-
17 fined in section 3(q) of the Federal Deposit Insurance
18 Act) represented on the Council shall conduct a review of
19 all regulations prescribed by the Council or by any such
20 agency, respectively, in order to identify outdated or other-
21 wise unnecessary regulatory requirements imposed upon
22 insured depository institutions.

23 (b) PROCESS.—In conducting the review under sub-
24 section (a), the Council or the appropriate Federal bank-
25 ing 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
4 the 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 sub-
14 section (a) not less frequently than once every 10 years.

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

17 (1) publish in the Federal Register a summary
18 of the comments received under this section, identi-
19 fying significant issues raised and providing com-
20 ment 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
8 regulation, or whether such burdens must be ad-
9 dressed by legislative action.

10 **SEC. 232. COUNTRY RISK REQUIREMENTS.**

11 Subsections (a)(1) and (b) of section 905 of the
12 International Lending Supervision Act of 1983 (12 U.S.C.
13 3904) are amended by striking “shall” and inserting
14 “may”.

15 **SEC. 233. AUDIT COSTS.**

16 (a) IN GENERAL.—

17 (1) AUDITOR ATTESTATIONS.—Section 36 of
18 the Federal Deposit Insurance Act (12 U.S.C.
19 1831m) is amended—

20 (A) by striking subsection (e); and

21 (B) by redesignating subsections (f), (g),
22 (h), (i), and (j) as subsections (e), (f), (g), (h),
23 and (i), respectively.

24 (2) PUBLIC AVAILABILITY.—Section 36(a)(3) of
25 the Federal Deposit Insurance Act (12 U.S.C.

1 1831m(a)(3)) is amended by inserting at the end the
2 following new sentence: “Notwithstanding the pre-
3 ceding sentence, the Corporation and the appro-
4 priate Federal banking agencies may designate cer-
5 tain information as privileged and confidential and
6 not available to the public.”.

7 (b) EXEMPTION FOR WELL-CAPITALIZED AND
8 WELL-MANAGED INSURED DEPOSITORY INSTITU-
9 TIONS.—Section 36 of the Federal Deposit Insurance Act
10 (12 U.S.C. 1831m) (as amended by subsection (a) of this
11 section) is amended by adding at the end the following
12 new subsection:

13 “(j) EXEMPTION FOR WELL-CAPITALIZED AND
14 WELL-MANAGED INSURED DEPOSITORY INSTITU-
15 TIONS.—No provision of this section other than sub-
16 sections (d) and (f) shall apply with respect to any insured
17 depository institution which has a CAMEL rating of 1 (or
18 an equivalent rating under a equivalent rating system).”.

19 (c) INDEPENDENT AUDIT COMMITTEES.—Section
20 36(f)(1) of the Federal Deposit Insurance Act (12 U.S.C.
21 1831m(g)(1)) (as so redesignated by subsection (a)(1)(B)
22 of this section) is amended—

23 (1) in subparagraph (A), by striking “entirely
24 made up of outside directors who are independent of
25 the management of the institution, and who” and in-

1 serting “not less than $\frac{1}{2}$ of the members of which
2 shall be outside directors and the members of
3 which”; and

4 (2) by adding at the end the following new sub-
5 paragraph:

6 “(D) EXEMPTION AUTHORITY.—

7 “(i) IN GENERAL.—An appropriate
8 Federal banking agency may, by order or
9 regulation, permit an insured depository
10 institution to maintain an independent
11 audit committee less than $\frac{1}{2}$ of the mem-
12 bers of which are outside directors, if the
13 agency determines that the institution has
14 encountered hardships in recruiting and
15 retaining a sufficient number of outside di-
16 rectors to serve on such committee.

17 “(ii) FACTORS TO BE CONSIDERED.—

18 In determining whether an insured deposi-
19 tory institution has encountered the hard-
20 ships referred to in clause (i), the appro-
21 priate Federal banking agency shall con-
22 sider factors such as the size of the institu-
23 tion and the extent to which the institution
24 has made a good faith effort to elect or
25 name additional competent outside direc-

1 tors to the board of directors of the insti-
2 tution who may serve on the independent
3 audit committee.”.

4 **SEC. 234. STANDARDS FOR DIRECTOR AND OFFICER LI-**
5 **ABILITY.**

6 Section 3(u) of the Federal Deposit Insurance Act
7 (12 U.S.C. 1813(u)) is amended—

8 (1) by redesignating subparagraphs (A), (B),
9 and (C) of paragraph (4) as clauses (i), (ii), and
10 (iii), respectively;

11 (2) by redesignating paragraphs (1), (2), (3),
12 and (4) as subparagraphs (A), (B), (C), and (D), re-
13 spectively, and indenting the left margin of such
14 subparagraphs appropriately;

15 (3) in subparagraph (A) (as so redesignated),
16 by inserting “(other than an outside director)” after
17 “director”;

18 (4) in subparagraph (C) (as so redesignated),
19 by inserting “(other than an outside director)” after
20 “any other person”;

21 (5) by striking “term ‘institution-affiliated
22 party’ means” and inserting “term ‘institution-affili-
23 ated party’—

24 “(1) means—”;

1 (6) by striking the period at the end of sub-
2 paragraph (D) of paragraph (1) (as so redesignated)
3 and inserting “; and”; and

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

6 “(2) includes any outside director which the ap-
7 propriate Federal banking agency determines, on the
8 basis of such factors as the agency (in the agency’s
9 sole discretion) determines to be appropriate, shall
10 be treated as an institution-affiliated party for pur-
11 poses of section 8, after taking into consideration
12 that an outside director may have a different level
13 of knowledge of the management and operation of
14 an insured depository institution than a director who
15 is not an outside director.”.

16 **SEC. 235. FOREIGN BANK APPLICATIONS.**

17 (a) PROVISIONS RELATING TO ESTABLISHMENT OF
18 BANK OFFICES.—Section 7(d) of the International Bank-
19 ing Act of 1978 (12 U.S.C. 3105(d)) is amended—

20 (1) in paragraph (2), by striking “The” and in-
21 serting “Except as provided in paragraph (6), the”;

22 (2) in paragraph (5), by striking “Consistent
23 with the standards for approval in paragraph (2),
24 the” and inserting “The”; and

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

3 “(6) EXCEPTION.—

4 “(A) IN GENERAL.—If the Board is unable
5 to find under paragraph (2) that a foreign bank
6 is subject to comprehensive supervision or regu-
7 lation on a consolidated basis by the appro-
8 priate authorities in its home country, the
9 Board may nevertheless approve an application
10 under paragraph (1) by such foreign bank if—

11 “(i) the appropriate authorities in the
12 home country of such foreign bank are
13 working to establish arrangements for the
14 consolidated supervision of such bank; and

15 “(ii) all other factors are consistent
16 with approval.

17 “(B) ADDITIONAL CONDITIONS.—The
18 Board, after requesting and considering the
19 views of the appropriate State bank supervisor
20 or the Comptroller of the Currency, as the case
21 may be, may impose such conditions or restric-
22 tions relating to activities or business oper-
23 ations of the proposed branch, agency, or com-
24 mercial lending company subsidiary, including

1 restrictions on sources of funding, as are con-
2 sidered appropriate in the public interest.

3 “(C) MODIFICATION OF CONDITIONS.—
4 Any condition or restriction imposed by the
5 Board under this subsection in connection with
6 the approval of an application may be varied or
7 withdrawn where such modification is consistent
8 with the public interest.

9 “(7) TIME PERIOD FOR BOARD ACTION.—

10 “(A) FINAL ACTION.—The Board shall
11 take final action on any application under para-
12 graph (1) within 180 days of receipt of the ap-
13 plication, except that the Board may extend for
14 an additional 180 days the period within which
15 to take final action on such application, after
16 providing notice of, and the reasons for, the ex-
17 tension to the applicant foreign bank and any
18 appropriate State bank supervisor or the Comp-
19 troller of the Currency, as the case may be.

20 “(B) FAILURE TO SUBMIT INFORMA-
21 TION.—The Board may deny any application if
22 it has not received information requested from
23 the applicant foreign bank or appropriate au-
24 thorities in the home country in sufficient time
25 to permit the Board to evaluate such informa-

1 tion adequately within the time periods for final
2 action set forth in subparagraph (A).

3 “(C) WAIVER.—A foreign bank may waive
4 the applicability of subparagraph (A) with re-
5 spect to any such application.”.

6 (b) PROVISION RELATING TO TERMINATION OF
7 BANK OFFICES.—Section 7(e)(1)(A) of the International
8 Banking Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amend-
9 ed—

10 (1) by striking “(A)” and inserting “(A)(i)”;

11 (2) by striking “; or” and inserting “; and”;

12 and

13 (3) by inserting at the end the following new
14 clause:

15 “(ii) the appropriate authorities in the
16 home country are not making progress in estab-
17 lishing arrangements for the comprehensive su-
18 pervision or regulation of such foreign bank on
19 a consolidated basis; or”.

20 (c) UNIFORM TERMINATIONS OF FOREIGN BANK OF-
21 FICES, AGENCIES, BRANCHES, AND SUBSIDIARIES BY THE
22 FEDERAL RESERVE SYSTEM.—

23 (1) IN GENERAL.—Section 7(e)(1) of the Inter-
24 national Banking Act of 1978 (12 U.S.C.
25 3105(e)(1)) is amended—

1 (A) by inserting “or the Comptroller of the
2 Currency” after “State bank supervisor”;

3 (B) by inserting “or a Federal branch or
4 agency” after “commercial lending company
5 subsidiary” the first place such term appears;
6 and

7 (C) in the last sentence, by inserting “or
8 a Federal branch or agency” after “commercial
9 lending company subsidiary”.

10 (2) TECHNICAL AND CONFORMING AMEND-
11 MENT.—Section 7(e) of the International Banking
12 Act of 1978 (12 U.S.C. 3105(e)) is amended—

13 (A) by striking paragraph (5); and

14 (B) by redesignating paragraphs (6) and
15 (7) as paragraphs (5) and (6), respectively.

16 **SEC. 236. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

17 Section 7(c)(1) of the International Banking Act of
18 1978 (12 U.S.C. 3105(c)(1)) is amended—

19 (1) by adding after clause (ii) of subparagraph
20 (B) the following new clause:

21 “(iii) AVOIDANCE OF DUPLICATION.—

22 In exercising its authority under this para-
23 graph, the Board shall take all reasonable
24 measures to reduce burden and avoid un-
25 necessary duplication of examinations.”;

1 (2) by striking subparagraph (C) and inserting
2 the following:

3 “(C) ON-SITE EXAMINATION.—Each Fed-
4 eral branch or agency, and each State branch
5 or agency, of a foreign bank shall be subject to
6 on-site examination by a Federal banking agen-
7 cy or State bank supervisor as frequently as
8 would a national bank or State bank, respec-
9 tively, by its appropriate Federal banking agen-
10 cy.”; and

11 (3) by amending subparagraph (D) to read as
12 follows:

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

21 **SEC. 237. HIGH-COST MORTGAGES.**

22 (a) FEDERAL RESERVE SURVEY AND STUDY.—

23 (1) IN GENERAL.—During the period beginning
24 180 days after the date of enactment of this Act and
25 ending 2 years after that date of enactment, the

1 Board of Governors of the Federal Reserve System
2 shall conduct an empirical survey and study and
3 submit to the Congress a report, including rec-
4 ommendations for the enactment or repeal of any
5 appropriate legislation, regarding the national mar-
6 ket for mortgages covered under section 103(aa) of
7 the Truth in Lending Act.

8 (2) COMPETITION AND CREDIT AVAILABIL-
9 ITY.—The survey shall seek to ascertain whether
10 competition in the market for mortgages covered
11 under section 103(aa) of the Truth in Lending Act
12 has been enhanced or impaired by the Home Owner-
13 ship and Equity Protection Act of 1994, as well as
14 an assessment of the impact of that Act on lenders,
15 consumers, and the secondary mortgage market for
16 refinanced loans and home equity loans, particularly
17 in the area of credit availability.

18 (3) ABUSIVE AND FRAUDULENT PRACTICES.—
19 The survey, which shall include consumers and state
20 regulators, shall also identify both abusive and
21 fraudulent practices in the market for mortgages
22 covered under section 103(aa) of the Truth in Lend-
23 ing Act, as well as the type of entities and individ-
24 uals actually responsible for these practices.

1 (b) REGULATORY TOLERANCES FOR DE MINIMUS
2 CHANGES.—Section 129(b)(2) of the Truth in Lending
3 Act (15 U.S.C. 1639(b)(2)) is amended by adding at the
4 end the following new subparagraph:

5 “(C) DE MINIMUS CHANGES.—A creditor
6 shall not be required under this section to make
7 any new disclosure under this section as a re-
8 sult of—

9 “(i) any change in the regular pay-
10 ment amount of 2 percent or less from the
11 initially disclosed regular payment amount;
12 or

13 “(ii) any change in 3d party fees or
14 disbursements which are made to pay off
15 creditors which are financed under the
16 transaction.”.

17 (c) TIME OF DISCLOSURES.—Section 129(b) of the
18 Truth in Lending Act (15 U.S.C. 1639(b)) is amended
19 by adding at the end the following new paragraph:

20 “(4) TIME OF DISCLOSURES FOR CERTAIN
21 TRANSACTIONS.—Notwithstanding paragraph (1), in
22 the case of a transaction which is covered under sec-
23 tion 103(aa) and subject to section 125, the disclo-
24 sures required by this section may be made by the

1 creditor at any time before the consummation of the
2 transaction.”.

3 (d) **REMOVAL OF RESTRICTION ON REGULATIONS.**—

4 The 2d sentence of section 105(a) of the Truth in Lending
5 Act (15 U.S.C. 1604(a)) is amended by striking “Except
6 in the case of a mortgage referred to in section 103(aa),
7 these” and inserting “The”.

8 **SEC. 238. STREAMLINING FDIC APPROVAL OF NEW STATE**
9 **BANK POWERS.**

10 (a) **IN GENERAL.**—Section 24(a) of the Federal De-
11 posit Insurance Act (12 U.S.C. 1831a(a)) is amended to
12 read as follows:

13 “(a) **ACTIVITIES GENERALLY.**—

14 “(1) **IN GENERAL.**—An insured State bank may
15 not engage as principal in any type of activity that
16 is not permissible for a national bank unless—

17 “(A) the bank has given the Corporation
18 written notice of the bank’s intention to engage
19 in such activity at least 60 days before com-
20 mencing to engage in the activity and within
21 such 60-day period (or within the extended pe-
22 riod provided under paragraph (2)) the Cor-
23 poration has not disapproved the activity; and

24 “(B) the State bank is, and continues to
25 be, in compliance with applicable capital stand-

1 ards prescribed by the appropriate Federal
2 banking agency.

3 “(2) EXTENSION OF PERIOD.—The Corporation
4 may extend the 60-day period referred to in para-
5 graph (1) for issuing a notice of disapproval with re-
6 spect to any activity for an additional 30 days.

7 “(3) CONTENTS OF NOTICE.—Any notice sub-
8 mitted by a State bank under paragraph (1)(A) shall
9 contain such information as the Corporation may re-
10 quire.

11 “(4) BASIS FOR DISAPPROVAL.—The Corpora-
12 tion may disapprove an activity for a State bank
13 under this subsection unless the Corporation deter-
14 mines that the activity would pose no significant risk
15 to the appropriate insurance fund.”.

16 (b) SUBSIDIARIES OF INSURED STATE BANKS.—Sec-
17 tion 24(d)(1) of the Federal Deposit Insurance Act (12
18 U.S.C. 1831a(d)(1)) is amended to read as follows:

19 “(1) ACTIVITIES GENERALLY.—

20 “(A) IN GENERAL.—A subsidiary of an in-
21 sured State bank may not engage as principal
22 in any type of activity that is not permissible
23 for a subsidiary of a national bank unless—

24 “(i) the subsidiary has given the Cor-
25 poration written notice of the subsidiary’s

1 intention to engage in such activity at least
2 60 days before commencing to engage in
3 the activity and within such 60-day period
4 (or within the extended period provided
5 under paragraph (2)) the Corporation has
6 not disapproved the activity; and

7 “(ii) the bank is, and continues to be,
8 in compliance with applicable capital
9 standards prescribed by the appropriate
10 Federal banking agency.

11 “(B) EXTENSION OF PERIOD.—The Cor-
12 poration may extend the 60-day period referred
13 to in subparagraph (A) for issuing a notice of
14 disapproval with respect to any activity for an
15 additional 30 days.

16 “(C) CONTENTS OF NOTICE.—Any notice
17 submitted by a subsidiary of an insured State
18 bank under subparagraph (A)(i) shall contain
19 such information as the Corporation may re-
20 quire.

21 “(D) BASIS FOR DISAPPROVAL.—The Cor-
22 poration may disapprove an activity for a sub-
23 sidiary of an insured State bank under this
24 paragraph unless the Corporation determines

1 that the activity would pose no significant risk
2 to the appropriate insurance fund.”.

3 **SEC. 239. REPEAL OF CALL REPORT ATTESTATION RE-**
4 **QUIREMENT.**

5 Section 5211(a) of the Revised Statutes (12 U.S.C.
6 161(a)) is amended by striking the 4th sentence.

7 **SEC. 240. AUTHORIZING BANK SERVICE COMPANIES TO OR-**
8 **GANIZE AS LIMITED LIABILITY PARTNER-**
9 **SHIPS.**

10 (a) AMENDMENT TO SHORT TITLE.—Section 1 of the
11 Bank Service Corporation Act (12 U.S.C. 1861(a)) is
12 amended by striking subsection (a) and inserting the fol-
13 lowing new subsection:

14 “(a) SHORT TITLE.—This Act may be cited as the
15 ‘Bank Service Company Act’.”;

16 (b) AMENDMENTS TO DEFINITIONS.—Section 1(b) of
17 the Bank Service Corporation Act (12 U.S.C. 1861(b)) is
18 amended—

19 (1) by striking paragraph (2) and inserting the
20 following new paragraph:

21 “(2) the term ‘bank service company’ means—

22 “(A) any corporation—

23 “(i) which is organized to perform
24 services authorized by this Act; and

1 “(ii) all of the capital stock of which
2 is owned by 1 or more insured banks; and

3 “(B) any limited liability company—

4 “(i) which is organized to perform
5 services authorized by this Act; and

6 “(ii) all of the members of which are
7 1 or more insured banks.”;

8 (2) in paragraph (6)—

9 (A) by striking “corporation” and inserting
10 “company”; and

11 (B) by striking “and” after the semicolon;

12 (3) by redesignating paragraph (7) as para-
13 graph (8) and inserting after paragraph (6) the fol-
14 lowing new paragraph:

15 “(7) the term ‘limited liability company’ means
16 any company organized under the law of a State (as
17 defined in section 3 of the Federal Deposit Insur-
18 ance Act) which provides that a member or manager
19 of such company is not personally liable for a debt,
20 obligation, or liability of the company solely by rea-
21 son of being, or acting as, a member or manager of
22 such company; and”;

23 (4) in paragraph (8) (as so redesignated)—

1 (A) by striking “corporation” each place
2 such term appears and inserting “company”;
3 and

4 (B) by striking “capital stock” and insert-
5 ing “equity”.

6 (c) AMENDMENTS TO SECTION 2.—Section 2 of the
7 Bank Service Corporation Act (12 U.S.C. 1862) is amend-
8 ed—

9 (1) by striking “corporation” and inserting
10 “company”;

11 (2) by striking “corporations” and inserting
12 “companies”; and

13 (3) in the heading for such section, by striking
14 “CORPORATION” and inserting “COMPANY”.

15 (d) AMENDMENTS TO SECTION 3.—Section 3 of the
16 Bank Service Corporation Act (12 U.S.C. 1863) is amend-
17 ed—

18 (1) by striking “corporation” each place such
19 term appears and inserting “company”; and

20 (2) in the heading for such section, by striking
21 “CORPORATION” and inserting “COMPANY”.

22 (e) AMENDMENTS TO SECTION 4.—Section 4 of the
23 Bank Service Corporation Act (12 U.S.C. 1864) is amend-
24 ed—

1 (1) by striking “corporation” each place such
2 term appears and inserting “company”;

3 (2) in subsection (b), by inserting “or mem-
4 bers” after “shareholders” each place such term ap-
5 pears;

6 (3) in subsections (c) and (d), by inserting “or
7 member” after “shareholder” each place such term
8 appears;

9 (4) in subsection (e)—

10 (A) by inserting “or members” after “na-
11 tional bank and State bank shareholders”;

12 (B) by striking “its national bank share-
13 holder or shareholders” and inserting “any
14 shareholder or member of the company which is
15 a national bank”;

16 (C) by striking “its State bank shareholder
17 or shareholders” and inserting “any share-
18 holder or member of the company which is a
19 State bank”;

20 (D) by striking “such State bank or
21 banks” and inserting “any such State bank”;
22 and

23 (E) by inserting “or members” after
24 “State bank and national bank shareholders”;

1 (5) in subsection (f), by inserting “or providing
2 insurance as principal, agent, or broker (except to
3 the extent permitted under subparagraph (A) or (E)
4 of section 4(c)(8) of the Bank Holding Company Act
5 of 1956)” after “or deposit taking”; and

6 (6) in the heading for such section, by striking
7 “CORPORATION” and inserting “COMPANY”.

8 (f) AMENDMENTS TO SECTION 5.—Section 5 of the
9 Bank Service Corporation Act (12 U.S.C. 1865) is amend-
10 ed—

11 (1) by striking “corporation” each place such
12 term appears and inserting “company”; and

13 (2) in the heading for such section, by striking
14 “CORPORATIONS” and inserting “COMPANIES”.

15 (g) AMENDMENTS TO SECTION 6.—Section 6 of the
16 Bank Service Corporation Act (12 U.S.C. 1866) is amend-
17 ed—

18 (1) by striking “corporation” each place such
19 term appears and inserting “company”;

20 (2) by inserting “or is not a member of” after
21 “does not own stock in”;

22 (3) by striking “the nonstockholding institu-
23 tion” and inserting “such depository institution”;

24 (4) by inserting “or is a member of” after “that
25 owns stock in”;

1 (5) in paragraphs (1) and (2), by inserting “or
2 nonmember” after “nonstockholding”; and

3 (6) in the heading for such section by inserting
4 “OR NONMEMBERS” after “NONSTOCKHOLDERS”.

5 (h) AMENDMENTS TO SECTION 7.—Section 7 of the
6 Bank Service Corporation Act (12 U.S.C. 1867) is amend-
7 ed—

8 (1) by striking “corporation” each place such
9 term appears and inserting “company”;

10 (2) in subsection (a)—

11 (A) by inserting “or principal member”
12 after “principal shareholder”; and

13 (B) by inserting “or member” after “other
14 shareholder”; and

15 (3) in the heading for such section, by striking
16 “CORPORATIONS” and inserting “COMPANIES”.

17 **SEC. 241. BANK INVESTMENTS IN EDGE ACT AND AGREE-**
18 **MENT CORPORATIONS.**

19 The 10th undesignated paragraph of section 25A of
20 the Federal Reserve Act (12 U.S.C. 618) is amended by
21 striking the last sentence and inserting the following:
22 “Any national bank may invest in the stock of any cor-
23 poration organized under this section. The aggregate
24 amount of stock held by any national bank in all corpora-
25 tions engaged in business of the kind described in this sec-

1 tion or section 25 shall not exceed an amount equal to
2 10 percent of the capital and surplus of such bank unless
3 the Board determines that the investment of an additional
4 amount by the bank would not be unsafe or unsound and,
5 in any case, shall not exceed an amount equal to 25 per-
6 cent of the capital and surplus of such bank.”.

7 **SEC. 242. REPORT ON THE RECONCILIATION OF DIF-**
8 **FERENCES BETWEEN REGULATORY AC-**
9 **COUNTING PRINCIPLES AND GENERALLY AC-**
10 **CEPTED ACCOUNTING PRINCIPLES.**

11 Before the end of the 180-day period beginning on
12 the date of the enactment of this Act, each appropriate
13 Federal banking agency (as defined in section 3 of the
14 Federal Deposit Insurance Act) shall submit to the Com-
15 mittee on Banking and Financial Services of the House
16 of Representatives and the Committee on Banking, Hous-
17 ing, and Urban Affairs of the Senate a report on the ac-
18 tions taken and to be taken by the agency to eliminate
19 or conform inconsistent or duplicative accounting and re-
20 porting requirements applicable to reports or statements
21 filed with any such agency by insured depository institu-
22 tions, as required by section 121 of the Federal Deposit
23 Insurance Corporation Improvement Act of 1991.

1 **SEC. 243. WAIVERS AUTHORIZED FOR RESIDENCY RE-**
2 **QUIREMENT FOR NATIONAL BANK DIREC-**
3 **TORS.**

4 The first sentence of section 5146 of the Revised
5 Statutes of the United States (12 U.S.C. 72) is amended
6 by inserting “(1) the Comptroller of the Currency may,
7 in the Comptroller’s discretion, waive the residency re-
8 quirement in the case of any director of a national bank
9 to whom the requirement would otherwise apply, and (2)”
10 after “except that”.

11 **SEC. 244. CONSULTATION AMONG EXAMINERS.**

12 (a) IN GENERAL.—Section 10 of the Federal Deposit
13 Insurance Act (12 U.S.C. 1820) is amended by adding at
14 the end the following new subsection:

15 “(j) CONSULTATION AMONG EXAMINERS.—

16 “(1) IN GENERAL.—Each appropriate Federal
17 banking agency shall take such action as may be
18 necessary to ensure that examiners employed by the
19 agency—

20 “(A) consult on examination activities with
21 respect to any depository institution; and

22 “(B) achieve an agreement and resolve any
23 inconsistencies on the recommendations to be
24 given to such institution as a consequence of
25 any examinations.

1 “(2) EXAMINER-IN-CHARGE.—Each agency
2 shall consider appointing an examiner-in-charge with
3 respect to a depository institution to ensure con-
4 sultation on examination activities among all of the
5 agency’s examiners involved in examinations of such
6 institution.”.

7 (b) COORDINATED AND UNIFIED EXAMINATION
8 FLEXIBILITY.—Section 10(d)(6)(B) of the Federal De-
9 posit Insurance Act (12 U.S.C. 1820(d)(6)(B)) is amend-
10 ed by inserting “or State bank supervisors” after “one of
11 the Federal agencies”.

12 **SEC. 245. ANTITYPING EXEMPTIVE AUTHORITY.**

13 Section 5(q) of the Home Owners’ Loan Act (12
14 U.S.C. 1464(q)) is amended by adding at the end the fol-
15 lowing new paragraph:

16 “(6) EXCEPTIONS.—The Director may, by reg-
17 ulation or order, permit such exceptions to the pro-
18 hibitions of this subsection as the Director considers
19 will not be contrary to the purposes of this sub-
20 section and which conform to exceptions granted by
21 the Board of Governors of the Federal Reserve Sys-
22 tem pursuant to section 106(b) of the Bank Holding
23 Company Act Amendments of 1970.”.

1 **TITLE III—LENDER LIABILITY**

2 **SEC. 301. LENDER LIABILITY.**

3 (a) PARTICIPATION IN MANAGEMENT.—

4 (1) IN GENERAL.—It is the sense of Congress
5 that a person who holds indicia of ownership pri-
6 marily to protect the person’s security interest in a
7 vessel or facility should not be considered to have
8 participated in management, as that term is used in
9 section 101(20) of the Comprehensive Environ-
10 mental Response, Compensation, and Liability Act
11 of 1980 (42 U.S.C. 9601(20)), unless the person—

12 (A) exercises decisionmaking control over
13 the borrower’s environmental compliance such
14 that the person has undertaken responsibility
15 for the hazardous substance handling or dis-
16 posal practices of the vessel or facility; or

17 (B) exercises control at a level comparable
18 to that of a manager of the borrower’s vessel or
19 facility such that the person has assumed or
20 manifested responsibility for the overall man-
21 agement of the vessel or facility encompassing
22 day-to-day decisionmaking over either environ-
23 mental compliance or over the operational, as
24 opposed to financial and administrative, aspects
25 of the vessel or facility.

1 (2) OPERATIONAL ASPECTS DEFINED.—In
2 paragraph (1)(B), the term “operational aspects”
3 includes functions such as those of a facility or plant
4 manager, operations manager, chief operating offi-
5 cer, or chief executive officer.

6 (b) EXCLUSIONS.—It is further the sense of Congress
7 that the term “participation in management” as used in
8 such section 101(20) should not include any of the follow-
9 ing:

10 (1) The mere capacity to influence, or ability to
11 influence, or the unexercised right to control vessel
12 or facility operations.

13 (2) Any act of a security interest holder to re-
14 quire another person to comply with applicable laws
15 or to respond lawfully to disposal of any hazardous
16 substance.

17 (3) Conducting an act or failing to act prior to
18 the time that a security interest is created in a ves-
19 sel or facility.

20 (4) Holding a security interest in a vessel or fa-
21 cility or abandoning or releasing such a security in-
22 terest.

23 (5) Including in the terms of an extension of
24 credit, or in a contract or security agreement relat-
25 ing to such an extension, covenants, warranties, or

1 other terms and conditions that relate to environ-
2 mental compliance.

3 (6) Monitoring or enforcing the terms and con-
4 ditions of the extension of credit or security interest.

5 (7) Monitoring or undertaking 1 or more in-
6 spections of the vessel or facility.

7 (8) Under section 107(d) of the Comprehensive
8 Environmental Response, Compensation, and Liabil-
9 ity Act of 1980, or under the direction of an on-
10 scene coordinator, conducting a response action or
11 other lawful means of addressing the release or
12 threatened release of a hazardous substance in con-
13 nection with the vessel or facility prior to, during, or
14 upon the expiration of the term of the extension of
15 credit.

16 (9) Providing financial or other advice or coun-
17 seling in an effort to mitigate, prevent, or cure de-
18 fault or diminution in the value of the vessel or facil-
19 ity.

20 (10) Restructuring, renegotiating, or otherwise
21 agreeing to alter the terms and conditions of the ex-
22 tension of credit or security interest or exercising
23 forbearance.

24 (11) Exercising other remedies that may be
25 available under applicable law for the breach of any

1 term or condition of the extension of credit or secu-
2 rity agreement.

3 (12) Holding legal or equitable title acquired by
4 a security interest holder through foreclosure or its
5 equivalent primarily to protect a security interest
6 provided that the holder undertakes to sell, re-lease,
7 or otherwise divest the property in a reasonably ex-
8 peditious manner on commercially reasonable terms,
9 taking into account market conditions and legal and
10 regulatory requirements.

11 (c) SECURITY INTEREST.—It is further the sense of
12 Congress that the term “security interest” as used in such
13 section 101(20) should include rights under a mortgage,
14 deed of trust, assignment, judgment, lien, pledge, security
15 agreement, factoring agreement, lease, or any other right
16 accruing to person to secure the repayment of money, the
17 performance of a duty, or some other obligation.

18 (d) MISCELLANEOUS.—It is further the sense of the
19 Congress that the potential Superfund liability of fidu-
20 ciaries and the potential Resource Conservation and Re-
21 covery Act liability of lenders and fiduciaries should be
22 addressed by the Congress.

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 en-
 7 actment of this Act, and annually thereafter, the Board
 8 of Governors of the Federal Reserve System, the Director
 9 of the Office of Thrift Supervision, the Comptroller of the
 10 Currency, and the Board of Directors of the Federal De-
 11 posit Insurance Corporation shall jointly conduct a study
 12 and submit to the Congress a report on the extent to
 13 which this Act and the amendments made by this Act
 14 have, through reductions in regulatory burdens, resulted
 15 in increased lending to small businesses.

16 **TITLE V—FINANCIAL SERVICE**
 17 **REFORM**

18 **Subtitle A—Reform of Holding**
 19 **Company Procedures**

20 **SEC. 501. STREAMLINED EXAMINATION AND REPORTING**
 21 **REQUIREMENTS FOR ALL FINANCIAL SERV-**
 22 **ICES HOLDING COMPANIES.**

23 Section 5(c) of the Bank Holding Company Act of
 24 1956 (12 U.S.C. 1844(c)) is amended to read as follows—

25 “(c) REPORTS AND EXAMINATIONS.—

1 “(1) PURPOSES.—

2 “(A) IN GENERAL.—The purpose of this
3 subsection is to authorize the Board, through
4 reports and examinations, to gather information
5 from a financial services holding company and
6 the subsidiaries of any such holding company
7 regarding the structure, activities, and financial
8 condition of the financial services holding com-
9 pany and such subsidiaries so that the Board
10 can monitor risks within the holding company
11 system that could adversely affect any deposi-
12 tory institution subsidiary of the holding com-
13 pany and may monitor and enforce compliance
14 with this Act.

15 “(B) PURPOSE NOT TO IMPOSE ADDI-
16 TIONAL BURDENS ON HOLDING COMPANIES.—It
17 is the intended purpose of this subsection that
18 the Board shall—

19 “(i) exercise the Board’s authority to
20 collect information under this section in a
21 manner that is the least burdensome to fi-
22 nancial services holding companies and the
23 subsidiaries of such companies; and

24 “(ii) rely, to the fullest extent pos-
25 sible, on reports prepared for and examina-

1 tions conducted by or for other Federal
2 and State supervisors.

3 “(C) PURPOSE TO REQUIRE CAREFULLY
4 TAILORED EXAMINATIONS.—It is the intended
5 purpose of this subsection that the Board shall
6 tailor the focus and scope of any examination
7 under this section to a financial services holding
8 company or to any subsidiary of such company
9 which, because of financial conditions, activities,
10 operations of such subsidiary, the transactions
11 between such subsidiary and other affiliates, or
12 the size of any such subsidiary poses a potential
13 material risk to a depository institution subsidi-
14 ary of such holding company.

15 “(2) REPORTS.—

16 “(A) IN GENERAL.—The Board from time
17 to time may require any financial services hold-
18 ing company and any subsidiary of such com-
19 pany to submit reports under oath to keep the
20 Board informed as to—

21 “(i) the company’s or the subsidiary’s
22 activities, financial condition, policies, sys-
23 tems for monitoring and controlling finan-
24 cial and operational risks, and transactions

1 with depository institution subsidiaries of
2 the holding company; and

3 “(ii) the extent to which the company
4 or subsidiary has complied with the provi-
5 sions of this Act and regulations prescribed
6 and orders issued under this Act.

7 “(B) USE OF EXISTING REPORTS.—

8 “(i) IN GENERAL.—The Board shall,
9 to the fullest extent possible, accept re-
10 ports in fulfillment of the Board’s report-
11 ing requirements under this paragraph
12 that a financial services holding company
13 or any subsidiary of such company has
14 been required to provide to other Federal
15 and State supervisors or to appropriate
16 self-regulatory organizations.

17 “(ii) AVAILABILITY.—A financial serv-
18 ices holding company or a subsidiary of
19 such company shall provide to the Board,
20 at the request of the Board, a report re-
21 ferred to in clause (i).

22 “(3) EXAMINATIONS.—

23 “(A) LIMITED USE OF EXAMINATION AU-
24 THORITY.—The Board may make examinations

1 of each financial services holding company and
2 each subsidiary of such company in order to—

3 “(i) inform the Board of the nature of
4 the operations and financial condition of
5 the financial services holding company and
6 such subsidiaries;

7 “(ii) inform the Board of the—

8 “(I) financial and operational
9 risks within the financial services
10 holding company system that may af-
11 fect any depository institution owned
12 by such holding company; and

13 “(II) the systems of the holding
14 company and such subsidiaries for
15 monitoring and controlling those
16 risks; and

17 “(iii) monitor compliance with the
18 provisions of this Act and those governing
19 transactions and relationships between any
20 depository institution controlled by a finan-
21 cial services holding company and any of
22 the company’s other subsidiaries.

23 “(B) RESTRICTED FOCUS OF EXAMINA-
24 TIONS.—The Board shall, to the fullest extent
25 possible, limit the focus and scope of any exam-

1 ination of a financial services holding company
2 to—

3 “(i) the holding company; and

4 “(ii) to any subsidiary (other than a
5 depository institution subsidiary) of the
6 holding company which, because of the
7 size, condition, or activities of the subsidi-
8 ary, the nature or size of transactions be-
9 tween such subsidiary and any depository
10 institution affiliate, or the centralization of
11 functions within the holding company sys-
12 tem, could have a materially adverse effect
13 on the safety and soundness of any deposi-
14 tory institution affiliate of the subsidiary
15 or of the holding company.

16 “(C) DEFERENCE TO BANK EXAMINA-
17 TIONS.—The Board shall, to the fullest extent
18 possible, use the report of examinations of de-
19 pository institutions made by the Comptroller of
20 the Currency, the Federal Deposit Insurance
21 Corporation, the Office of Thrift Supervision or
22 the appropriate State depository institution su-
23 pervisory authority for the purposes of this sec-
24 tion.

1 “(D) DEFERENCE TO OTHER EXAMINA-
2 TIONS.—The Board shall, to the fullest extent
3 possible, use the reports of examination made
4 of—

5 “(i) any registered broker or dealer by
6 or on behalf of the Securities Exchange
7 Commission, and

8 “(ii) any other subsidiary that the
9 Board finds to be comprehensively super-
10 vised under relevant Federal or State law
11 by a Federal or state agency or authority.

12 “(E) CONFIDENTIALITY OF REPORTED IN-
13 FORMATION.—

14 “(i) IN GENERAL.—Notwithstanding
15 any other provision of law, the Board shall
16 not be compelled to disclose any informa-
17 tion required to be reported under this
18 paragraph, or any information supplied to
19 the Board by any domestic or foreign regu-
20 latory agency, that relates to the financial
21 or operational condition of any financial
22 services holding company or any subsidiary
23 of such company.

24 “(ii) COMPLIANCE WITH REQUESTS
25 FOR INFORMATION.—No provision of this

1 subparagraph shall be construed as author-
2 izing the Board to withhold information
3 from Congress, or preventing the Board
4 from complying with a request for informa-
5 tion from any other Federal department or
6 agency for purposes within the scope of
7 such department's or agency's jurisdiction,
8 or from complying with an order of a court
9 of competent jurisdiction in an action
10 brought by the United States or the
11 Board.

12 “(iii) COORDINATION WITH OTHER
13 LAW.—For purposes of section 552 of title
14 5, United States Code, this subparagraph
15 shall be considered to be a statute de-
16 scribed in subsection (b)(3)(B) of such sec-
17 tion.

18 “(iv) DESIGNATION OF CONFIDENTIAL
19 INFORMATION.—In prescribing regulations
20 to carry out the requirements of this sub-
21 section, the Board shall designate informa-
22 tion described in or obtained pursuant to
23 this paragraph as confidential information.

24 “(F) COSTS.—The cost of any examination
25 conducted by the Board under this section may

1 be assessed against, and made payable by, such
2 holding company.”.

3 **SEC. 502. HOLDING COMPANY SUPERVISION FOR FINAN-**
4 **CIAL SERVICES HOLDING COMPANIES EN-**
5 **GAGED PRIMARILY IN NONBANKING ACTIVI-**
6 **TIES.**

7 Section 5 of the Bank Holding Company Act of 1956
8 (12 U.S.C. 1844) is amended by adding at the end the
9 following new subsection:

10 “(g) REDUCED SUPERVISION OF COMPANIES CON-
11 TROLLING PRINCIPALLY NONDEPOSITORY INSTITU-
12 TIONS.—

13 “(1) ELECTION.—

14 “(A) IN GENERAL.—Any financial services
15 holding company that qualifies under paragraph
16 (2) may make an election to be governed by the
17 approval, capital, reporting and examination re-
18 quirements of paragraphs (3), (4), (5) and (6)
19 by—

20 “(i) filing an application for such elec-
21 tion with the Board; and

22 “(ii) if applicable, providing a written
23 guarantee to the Federal Deposit Insur-
24 ance Corporation pursuant to paragraph
25 (2).

1 “(B) EFFECTIVE PERIOD OF ELECTION.—
2 An election under subparagraph (A) shall re-
3 main in effect—

4 “(i) so long as the financial services
5 holding company continues to qualify
6 under paragraph (2); or

7 “(ii) until the financial services hold-
8 ing company revokes the election.

9 “(2) CRITERIA FOR ELECTION.—A financial
10 services holding company may make an election
11 under paragraph (1) if the company meets all of the
12 following criteria:

13 “(A) COMPANY PRINCIPALLY CONTROLS
14 NONDEPOSITORY COMPANIES.—

15 “(i) FINANCIAL SERVICES HOLDING
16 COMPANIES WITH DEPOSITORY INSTITU-
17 TIONS.—In the case of a financial services
18 holding company, the consolidated total
19 risk-weighted assets of all depository insti-
20 tutions and foreign banks (as defined in
21 section 1(b)(7) of the International Bank-
22 ing Act of 1978) controlled by the financial
23 services holding company—

1 “(I) constitute less than 10 per-
2 cent of the consolidated total risk-
3 weighted assets of such company; and

4 “(II) are less than
5 \$5,000,000,000.

6 “(ii) INFLATION ADJUSTMENT.—The
7 dollar limitation contained in clause (i)(II)
8 shall be adjusted annually after December
9 31, 1996, by the annual percentage in-
10 crease in the Consumer Price Index for
11 Urban Wage Earners and Clerical Workers
12 published by the Bureau of Labor Statis-
13 tics.

14 “(iv) AUTHORITY TO INCREASE LIM-
15 ITS.—The Board may increase the percent-
16 age referred to in clause (i)(I) and the dol-
17 lar amount described in clause (i)(II) as
18 the Board may determine to be appro-
19 priate.

20 “(B) WELL CAPITALIZED INSTITUTIONS.—
21 Each depository institution controlled by the fi-
22 nancial services holding company is well capital-
23 ized.

24 “(C) WELL MANAGED INSTITUTIONS.—

1 “(i) IN GENERAL.—Each depository
2 institution controlled by the financial serv-
3 ices holding company received a CAMEL
4 composite rating of 1 or 2 (or an equiva-
5 lent rating under an equivalent rating sys-
6 tem) in the most recent examination of
7 such institution.

8 “(ii) EXCLUSION FOR NEWLY AC-
9 QUIRED INSTITUTIONS.—A depository in-
10 stitution acquired by a financial services
11 holding company during the 12-month pe-
12 riod ending on the date of the election by
13 such company under paragraph (1) may be
14 excluded for purposes of clause (i) if the fi-
15 nancial services holding company has de-
16 veloped a plan acceptable to the appro-
17 priate Federal banking agency (for such
18 institution) to restore the capital and man-
19 agement of the institution.

20 “(D) HOLDING COMPANY GUARANTEE.—

21 “(i) IN GENERAL.—The financial
22 services holding company provides a writ-
23 ten guarantee acceptable to the Federal
24 Deposit Insurance Corporation to maintain
25 the capital levels of each insured depository

1 tory institution controlled by the financial
2 services holding company at not less than
3 the levels required for such institution to
4 remain well capitalized.

5 “(ii) LIMITATION ON LIABILITY.—The
6 liability of a financial services holding com-
7 pany under a guarantee provided under
8 this subparagraph shall not exceed an
9 amount equal to 10 percent of the total
10 risk-weighted assets of the insured deposi-
11 tory institution, measured as of the date
12 that the institution becomes undercapital-
13 ized.

14 “(iii) DURATION OF GUARANTEE.—
15 Notwithstanding paragraph (1), a financial
16 services holding company that has elected
17 treatment under this subsection shall con-
18 tinue to be bound by the guarantee made
19 under this subsection until released in ac-
20 cordance with this subparagraph.

21 “(iv) RELEASE FROM LIABILITY.—
22 The Board shall release a financial services
23 holding company from the guarantee appli-
24 cable with respect to any depository insti-
25 tution subsidiary of such company—

1 “(I) upon the written request of
2 the financial services holding company
3 to revoke the company’s election
4 under paragraph (1) if the Board de-
5 termines that each depository institu-
6 tion controlled by the financial serv-
7 ices holding company is well capital-
8 ized and well managed at the time of
9 such revocation;

10 “(II) in the case of a financial
11 services holding company which no
12 longer meets the requirements of sub-
13 paragraph (A), upon a determination
14 by the Board that each depository in-
15 stitution controlled by the financial
16 services holding company is well cap-
17 italized and well managed;

18 “(III) upon the written request
19 of the financial services holding com-
20 pany following the divestiture of con-
21 trol of the depository institution in a
22 transaction that does not require Fed-
23 eral assistance if the Board deter-
24 mines that, immediately following the

1 divestiture, the depository institution
2 is or will be well capitalized; or

3 “(IV) upon a determination by
4 the Board, after consultation with the
5 Federal Deposit Insurance Corpora-
6 tion, that, subject to the limit on li-
7 ability provided in clause (ii), the fi-
8 nancial services holding company has
9 fully performed under the guarantee.

10 “(E) RESPONSIVENESS TO COMMUNITY
11 NEEDS.—The lead insured depository institu-
12 tion subsidiary of the financial services holding
13 company and insured depository institutions
14 controlling at least 80 percent of the aggregate
15 total risk-weighted assets of insured depository
16 institutions controlled by the financial services
17 holding company have achieved a ‘satisfactory
18 record of meeting community credit needs’, or
19 better, during the most recent examination of
20 such insured depository institutions.

21 “(3) NO NOTICE OR APPROVAL REQUIRED FOR
22 CERTAIN PURPOSES UNDER PARAGRAPHS (8), (13),
23 OR (15) OF SECTION 4(c).—

24 “(A) IN GENERAL.—Notwithstanding
25 paragraphs (8) and (13) of section 4(c), a fi-

1 financial services holding company that has in ef-
2 fect an election under paragraph (1), and any
3 subsidiary of such holding company, may, with-
4 out prior notice to, or the approval of, the
5 Board under paragraph (8) or (13) of section
6 4(c), engage de novo in any activity, or acquire
7 shares of any company engaged in any activity,
8 if—

9 “(i) the Board has determined, by
10 order or regulation in effect at the time
11 the company or subsidiary commences to
12 engage in such activity or acquire such
13 shares, that the activity is permissible for
14 a financial services holding company or a
15 subsidiary of such company to engage in
16 under paragraph (8) or (13) of section 4(c)
17 (and regulations prescribed under such
18 paragraphs); and

19 “(ii) the activity is conducted in com-
20 pliance with all conditions and limitations
21 applicable to such activity under any regu-
22 lation, order, or advisory opinion pre-
23 scribed or issued by the Board.

24 “(B) SUBSEQUENT NOTICE.—A financial
25 services holding company that commences to

1 engage in an activity, or makes an acquisition,
2 in accordance with subparagraph (A) shall in-
3 form the Board of such fact, in writing, not
4 later than 10 days after commencing the activ-
5 ity or consummating the acquisition.

6 “(4) CAPITAL.—

7 “(A) IN GENERAL.—The Board shall not
8 (by regulation or order), directly or indirectly,
9 establish or apply minimum capital require-
10 ments to a financial services holding company
11 which has in effect an election under paragraph
12 (1) unless the Board concludes, on the basis of
13 all information available to the Board, that the
14 financial services holding company is not main-
15 taining sufficient financial resources to meet
16 fully any guarantee required under paragraph
17 (2).

18 “(B) CRITERIA FOR CONSIDERATION.—For
19 purposes of making a determination under sub-
20 paragraph (A), the Board shall consider, in ad-
21 dition to any other relevant considerations, the
22 financial condition and the adequacy of the cap-
23 ital of each of the depository institutions con-
24 trolled by the financial services holding com-
25 pany.

1 “(5) REPORTS.—

2 “(A) IN GENERAL.—The reporting require-
3 ments contained in subsection (c)(2) shall apply
4 to a financial services holding company which
5 qualifies under this subsection, to the extent
6 provided by the Board.

7 “(B) EXEMPTIONS FROM REPORTING RE-
8 QUIREMENTS.—

9 “(i) IN GENERAL.—The Board may,
10 by regulation or order, exempt any com-
11 pany or class of companies, under such
12 terms and conditions and for such periods
13 as the Board shall provide in such regula-
14 tion or order, from the provisions of this
15 paragraph and any regulations prescribed
16 under this paragraph.

17 “(ii) CRITERIA FOR CONSIDER-
18 ATION.—In granting any exemption under
19 clause (i), the Board shall consider, among
20 other factors—

21 “(I) whether information of the
22 type required under this paragraph is
23 available from a supervisory agency
24 (as defined in section 1101(7) of the
25 Right to Financial Privacy Act of

1 1978), the Commodity Futures Trad-
2 ing Commission, or a foreign regu-
3 latory body of a similar type;

4 “(II) the primary business of the
5 company; and

6 “(III) the nature and extent of
7 domestic or foreign regulations of the
8 company’s activities.

9 “(6) EXAMINATIONS.—

10 “(A) LIMITED USE OF EXAMINATION AU-
11 THORITY FOR FINANCIAL SERVICES HOLDING
12 COMPANIES.—The Board shall not examine,
13 under this section, any financial services hold-
14 ing company described in paragraph (2)(A)(i)
15 for which an election is in effect under para-
16 graph (1) or any subsidiary (other than a de-
17 pository institution) of such holding company
18 unless—

19 “(i) the Board determines, on the
20 basis of all information available to the
21 Board, that—

22 “(I) the operations or activities
23 of the financial services holding com-
24 pany or any subsidiary of such com-
25 pany, or any transaction involving

1 such company or subsidiary and an
2 affiliated depository institution, may
3 pose a material risk to the safety and
4 soundness of any depository institu-
5 tion owned by such holding company;
6 or

7 “(II) the financial services hold-
8 ing company does not appear to have
9 sufficient resources to meet the guar-
10 antee required under paragraph (2);
11 or

12 “(ii) the Board is unable to accom-
13 plish the purposes described in subsection
14 (c)(3)(A) without such examinations.

15 “(B) RESTRICTED FOCUS AND DEFERENCE
16 IN EXAMINATIONS.—The Board shall limit the
17 focus and scope of any examination, under this
18 section, of a financial services holding company
19 for which an election is in effect under para-
20 graph (1) or of any subsidiary (other than a de-
21 pository institution) of such holding company
22 and shall defer to examinations conducted by
23 the Securities Exchange Commission or other
24 supervisors in accordance with subparagraphs
25 (B), (C), and (D) of subsection (c)(3).”.

1 **SEC. 503. CONVERSION OF UNITARY SAVINGS AND LOAN**
2 **HOLDING COMPANIES TO FINANCIAL SERV-**
3 **ICES HOLDING COMPANIES.**

4 (a) IN GENERAL.—The Bank Holding Company Act
5 of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting
6 after section 5 the following new section:

7 **“SEC. 6. CONVERSION OF UNITARY SAVINGS AND LOAN**
8 **HOLDING COMPANIES TO FINANCIAL SERV-**
9 **ICES HOLDING COMPANIES.**

10 “(a) STREAMLINED PROCEDURE FOR CONVER-
11 SION.—

12 “(1) IN GENERAL.—During the 18-month pe-
13 riod beginning on the date of the enactment of the
14 Financial Institutions Regulatory Relief Act of
15 1996, no approval shall be required under section
16 3(a) or paragraph (8) or (13) of section 4(c) for any
17 qualified savings and loan holding company to be-
18 come a financial services holding company if the re-
19 quirements of paragraph (2) are met.

20 “(2) ELIGIBILITY REQUIREMENTS.—A qualified
21 savings and loan holding company shall be eligible to
22 become a financial services holding company pursu-
23 ant to paragraph (1) if—

24 “(A) the company becomes a financial
25 services holding company as the result of the
26 conversion of a savings association controlled by

1 such company as of the date of enactment of
2 the Financial Institutions Regulatory Relief Act
3 of 1996 into a bank;

4 “(B) the company is adequately capitalized
5 before and immediately after the conversion re-
6 ferred to in subparagraph (A);

7 “(C) all depository institutions controlled
8 by such company are well capitalized before and
9 immediately after such conversion;

10 “(D) all depository institutions controlled
11 by such company are well managed before the
12 conversion;

13 “(E) the Board would not be prohibited
14 under any provision of section 3(d) from ap-
15 proving the transaction;

16 “(F) the activities of the company and of
17 each subsidiary of the company comply with
18 this Act (and regulations prescribed under this
19 Act); and

20 “(G) the company provides the Board with
21 at least 30 days written notice of the proposed
22 conversion, and, before the expiration of such
23 30-day period, the Board has not objected to
24 the company becoming a financial services hold-

1 ing company based on the criteria contained in
2 this subsection.

3 “(3) QUALIFIED SAVINGS AND LOAN HOLDING
4 COMPANY DEFINED.—For purposes of this sub-
5 section, the term ‘qualified savings and loan holding
6 company’ means any company which became a sav-
7 ings and loan holding company before January 1,
8 1995, and is a savings and loan holding company as
9 of the date of the enactment of the Financial Insti-
10 tutions Regulatory Relief Act of 1996.

11 “(b) LIMITED RETENTION OF EXISTING INVEST-
12 MENTS.—Any holding company which converts to a finan-
13 cial services holding company in accordance with sub-
14 section (a) may retain direct or indirect ownership or con-
15 trol of voting shares of any company as provided in, and
16 subject to, section 4(k) if—

17 “(1) the holding company controlled 1 or more
18 savings associations in accordance with section
19 10(c)(3) of the Home Owners Loan Act before Jan-
20 uary 1, 1995, and as of the date of the enactment
21 of the Financial Institutions Regulatory Relief Act
22 of 1996;

23 “(2) the investment in voting shares and the fi-
24 nancial services holding company meet the require-
25 ments of section 4(k); and

1 “(3) more than 75 percent of the revenues of
2 the financial services holding company for each of
3 the 2 calendar years before the date such company
4 became a financial services holding company involved
5 activities that the Board has determined to be per-
6 missible under section 4(c)(8).”.

7 (b) OWNERSHIP OF SHARES OF CERTAIN COMPA-
8 NIES.—Section 4 of the Bank Holding Company Act of
9 1956 (12 U.S.C. 1843) is amended by adding at the end
10 the following new subsection:

11 “(k) OWNERSHIP OF SHARES OF CERTAIN COMPA-
12 NIES.—

13 “(1) NONCONFORMING FINANCIAL COMPA-
14 NIES.—Notwithstanding subsection (a), a financial
15 services holding company may retain direct or indi-
16 rect ownership or control of voting shares of any
17 company that—

18 “(A) engages solely in activities that the
19 Board finds to be financial but which the Board
20 has not authorized under subsection (c)(8) (and
21 such other financial activities that the Board
22 has authorized) if—

23 “(i) the financial services holding
24 company acquired the shares of a company
25 engaged in such activities or of each com-

1 pany to which the company engaged in
2 such activities is a successor more than 2
3 years before the date that such financial
4 services holding company becomes a finan-
5 cial services holding company;

6 “(ii) the aggregate investment by the
7 financial services holding company in
8 shares of all such companies does not ex-
9 ceed 10 percent of the total consolidated
10 capital and surplus of the financial services
11 holding company as of the date that the
12 holding company becomes a financial serv-
13 ices holding company or as of the date of
14 any additional investment by the financial
15 services holding company in such shares;

16 “(iii) the company engaged in such
17 activities continues to engage only in ac-
18 tivities that such company conducted as of
19 the date that such financial services hold-
20 ing company becomes a financial services
21 holding company (or other activities per-
22 mitted under subsection (c)(8)); and

23 “(iv) the company was a qualified sav-
24 ings and loan holding company (as defined
25 in section 6(a)(3)) which became a finan-

1 cial services holding company in accord-
2 ance with section 6; or

3 “(B) engages in activities not authorized
4 under this section if—

5 “(i) the financial services holding
6 company held the shares of any company
7 engaged in such activities as of the date of
8 the enactment of the Financial Services
9 Competitiveness and Regulatory Relief Act
10 of 1996 and the financial services holding
11 company was then exempt from the provi-
12 sions of this section pursuant to subsection
13 (d) as of such date;

14 “(ii) the company engaged in such ac-
15 tivities continues to engage only in the
16 same general lines of business and related
17 activities that such company conducted as
18 of the date of the enactment of the Finan-
19 cial Institutions Regulatory Relief Act of
20 1996 (or other activities permitted under
21 subsection (c)); and

22 “(iii) 80 percent of the aggregate
23 gross revenues of the financial services
24 holding company and the subsidiaries of
25 such holding company as of the date of the

1 enactment of the Financial Institutions
2 Regulatory Relief Act of 1996 was attrib-
3 utable to—

4 “(I) ownership and operation of
5 depository institutions;

6 “(II) activities that are financial
7 in nature as determined by the Board
8 pursuant to subsection (c)(8); and

9 “(III) such other activities that
10 would be permissible generally for the
11 holding company as a financial serv-
12 ices holding company.

13 “(2) NONFINANCIAL COMPANIES.—

14 “(A) IN GENERAL.—Notwithstanding sub-
15 section (a), a financial services holding company
16 may, during the 5-year period beginning on the
17 date that the company becomes a financial serv-
18 ices holding company, retain direct or indirect
19 ownership or control of voting shares of any
20 company which—

21 “(i) the financial services holding
22 company owns or controls on the date such
23 holding company becomes a financial serv-
24 ices holding company; and

1 “(ii) a financial services holding com-
2 pany is not authorized to own or control,
3 directly or indirectly, under section 3 or
4 subsections (a) or (c) of this section.

5 “(B) EXTENSION OF DIVESTITURE PE-
6 RIOD.—The Board may extend the period de-
7 scribed in subparagraph (A) for an additional
8 period not to exceed 5 years if the Board—

9 “(i) determines that such extension is
10 necessary to avert substantial loss to the
11 financial services holding company; and

12 “(ii) finds that the financial services
13 holding company has made good faith ef-
14 forts to divest such shares.

15 “(C) NO EXPANSION OF NONFINANCIAL
16 COMPANIES PRIOR TO DIVESTITURE.—Unless
17 an acquisition or activity is permitted in accord-
18 ance with subsection (c) or section 3—

19 “(i) no financial services holding com-
20 pany, and no company whose shares are
21 owned or controlled by a financial services
22 holding company in accordance with this
23 paragraph, may acquire any interest in or
24 assets of any other company, and

1 “(ii) no company whose shares are
2 owned or controlled by a financial services
3 holding company pursuant to this para-
4 graph may engage directly or indirectly in
5 any activity that the company did not con-
6 duct on the day before the financial serv-
7 ices holding company registered as a finan-
8 cial services holding company.

9 “(3) RESTRICTIONS ON JOINT MARKETING.—
10 No depository institution (and no subsidiary of such
11 institution) shall—

12 “(A) offer or market, directly or indirectly
13 through any arrangement, any product or serv-
14 ice of any affiliate whose shares are owned or
15 controlled by the financial services holding com-
16 pany pursuant to this subsection; or

17 “(B) permit any of such depository institu-
18 tion’s or subsidiary’s products or services to be
19 offered or marketed, directly or indirectly
20 through any arrangement, by or through any
21 affiliate whose shares are owned or controlled
22 by the financial services holding company pur-
23 suant to this subsection,

24 unless, in a case involving an affiliate held under
25 this subsection, the product or service is permissible

1 or authorized for financial services holding compa-
 2 nies to provide under subsection (c)(8).

3 “(4) DEPOSITORY INSTITUTION DEFINED.—For
 4 purposes of paragraph (3), the term ‘depository in-
 5 stitution’ includes a foreign bank.”.

6 **SEC. 504. COORDINATION WITH STATE LAW.**

7 No provision of this title, and no amendment made
 8 by this title to any other provision of law, may be con-
 9 strued as superseding any provision of the law of any
 10 State which imposes additional requirements or estab-
 11 lishes higher standards for the safe and sound operation
 12 and condition of depository institutions (as defined in sec-
 13 tion 3 of the Federal Deposit Insurance Act) and the pro-
 14 tection of consumers than the requirements imposed or the
 15 standards established under this title and the amendments
 16 made by this title to other provisions of law (including cap-
 17 ital standards and other safeguards placed on affiliates).

18 **SEC. 505. CONFORMING AMENDMENTS TO THE BANK HOLD-**
 19 **ING COMPANY ACT OF 1956.**

20 (a) SHORT TITLE; TABLE OF CONTENTS.—The first
 21 section of the Bank Holding Company Act of 1956 (12
 22 U.S.C. 1841 note) is amended to read as follows:

23 **“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

24 “(a) SHORT TITLE.—This Act may be cited as the
 25 ‘Financial Services Holding Company Act of 1996’.

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

- “Sec. 1. Short title; table of contents.
- “Sec. 2. Definitions.
- “Sec. 3. Acquisition of bank shares or assets.
- “Sec. 4. Interests in nonbanking organizations.
- “Sec. 5. Administration.
- “Sec. 6. Conversion of unitary savings and loan holding companies to financial services holding companies.
- “Sec. 7. Reservation of rights to States.
- “Sec. 8. Penalties.
- “Sec. 9. Judicial review.
- “Sec. 11. Saving provision.
- “Sec. 12. Separability of provisions.

3 “(c) REFERENCES IN OTHER LAWS.—Any reference
4 in any Federal or State law to a provision of the Bank
5 Holding Company Act of 1956 shall be deemed to be a
6 reference to the corresponding provision of this Act.”.

7 (b) DEFINITIONS.—

8 (1) Subsection (n) of section 2 of the Bank
9 Holding Company Act of 1956 (12 U.S.C. 1841(n))
10 is amended by inserting “‘depository institution’,”
11 before “‘insured depository institution’”.

12 (2) Subsection (o) of section 2 of the Bank
13 Holding Company Act of 1956 (12 U.S.C. 1841(o))
14 is amended—

15 (A) by striking paragraph (1) and insert-
16 ing the following new paragraph:

17 “(1) LEAD DEPOSITORY INSTITUTION.—The
18 term ‘lead depository institution’ means the largest
19 depository institution controlled by the financial
20 services holding company, based on a comparison of

1 the average total assets controlled by each deposi-
2 tory institution during the previous 12-month pe-
3 riod.”; and

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

6 “(8) DEPOSITORY INSTITUTION FOR CERTAIN
7 SECTIONS.—Notwithstanding subsection (n), the
8 term ‘depository institution’ includes, for purposes of
9 paragraph (1), any branch, agency, or commercial
10 lending company operated in the United States by a
11 foreign bank.

12 “(9) WELL MANAGED.—The term ‘well man-
13 aged’ means—

14 “(A) in the case of any company or deposi-
15 tory institution which receives examinations, the
16 achievement of—

17 “(i) a CAMEL composite rating of 1
18 or 2 (or an equivalent rating under an
19 equivalent rating system) in connection
20 with the most recent examination or subse-
21 quent review of such company or institu-
22 tion; and

23 “(ii) at least a satisfactory rating for
24 management, if such rating is given; or

1 “(B) in the case of a company or deposi-
2 tory institution that has not received an exam-
3 ination rating, the existence and use of manage-
4 rial resources which the Board determines are
5 satisfactory.”.

6 (3) Section 2 of the Bank Holding Company
7 Act of 1956 (12 U.S.C. 1841) is amended by adding
8 at the end the following new subsections:

9 “(p) CAPITAL TERMS.—

10 “(1) DEPOSITORY INSTITUTIONS.—With respect
11 to depository institutions, the terms ‘well capital-
12 ized,’ ‘adequately capitalized’ and ‘undercapitalized’
13 have the meanings given to such terms in accord-
14 ance with section 38(b) of the Federal Deposit In-
15 surance Act.

16 “(2) FINANCIAL SERVICES HOLDING COM-
17 PANY.—The following definitions shall apply with re-
18 spect to financial services holding companies:

19 “(A) ADEQUATELY CAPITALIZED.—The
20 term ‘adequately capitalized’ means a level of
21 capitalization which meets or exceeds the re-
22 quired minimum level established by the Board
23 for each relevant capital measure for financial
24 services holding companies.

1 “(B) WELL CAPITALIZED.—The term ‘well
2 capitalized’ means a level of capitalization
3 which meets or exceeds the required capital lev-
4 els established by the Board for well capitalized
5 financial services holding companies.

6 “(3) OTHER CAPITAL TERMS.—The terms ‘tier
7 1’ and ‘risk-weighted assets’ have the meaning given
8 those terms in the capital guidelines or regulations
9 established by the Board for financial services hold-
10 ing companies.

11 “(q) FOREIGN BANK TERMS.—For purposes of sub-
12 section (o)—

13 “(1) the terms ‘agency’, ‘branch’, and ‘commer-
14 cial lending company’ have the same meaning as in
15 section 1(b) of the International Banking Act of
16 1978; and

17 “(2) the term ‘foreign bank’ means a foreign
18 bank (as defined in section 1(b) of the International
19 Banking Act of 1978) which operates a branch,
20 agency or commercial lending company, or owns or
21 controls a bank, in the United States.”.

22 (c) AMENDMENT REGARDING CONDITIONAL AP-
23 PROVAL OF NOTICES.—Section 4(a)(2) of the Bank Hold-
24 ing Company Act of 1956 (12 U.S.C. 1843(a)(2)) is
25 amended by striking “paragraph (8)” and all that follows

1 through “issued by the Board under such paragraph” and
2 inserting “subsection (c)(8), subject to all the conditions
3 specified in such subsection or in any order or regulation
4 issued by the Board under such subsection”.

5 (d) AMENDMENT TO NOTICE PROCEDURES.—Section
6 4(j) of the Bank Holding Company Act of 1956 (12
7 U.S.C. 1843(j)) (as amended by section 201 of this title)
8 is amended—

9 (1) in paragraph (1)(A), by striking “subsection
10 (c)(8) or (a)(2)” and inserting “subsection (a)(2) or
11 (c)(8)”; and

12 (2) in paragraph (1)(E)—

13 (A) by striking “subsection (c)(8) or
14 (a)(2)” and inserting “subsection (a)(2) or
15 (c)(8)”; and

16 (B) by striking the last sentence and in-
17 serting the following: “In no event may the
18 Board, without the agreement of the financial
19 services holding company submitting the notice,
20 extend the notice period under this subpara-
21 graph beyond the period that ends 180 days
22 after the date that a notice is filed with the
23 Board or the relevant Federal reserve bank in
24 accordance with the regulations of the Board.”.

1 (e) ELIMINATION OF OBSOLETE PROVISIONS.—The
2 Bank Holding Company Act of 1956 (12 U.S.C. 1841
3 through 1849) is amended—

4 (1) in section 4(a)(2)—

5 (A) by striking “or in the case of a com-
6 pany” and ending “after December 31, 1980,”;
7 and

8 (B) by striking the sentence beginning
9 “Notwithstanding any other provision of this
10 paragraph”;

11 (2) in section 4(b), by striking “After two years
12 from the date of enactment of this Act, no” and in-
13 serting “No”; and

14 (3) in section 5(a)—

15 (A) by striking “Within one hundred and
16 eighty days after the date of enactment of this
17 Act, or within” and inserting “Within”; and

18 (B) by striking “whichever is later,”.

19 (f) CONFORMING AMENDMENTS.—The Bank Holding
20 Company Act of 1956 (12 U.S.C. 1841 et seq.) is amend-
21 ed as follows:

22 (1) In section 3(c)(4), by striking “one-bank
23 holding company” each place such term appears and
24 inserting “1-bank financial services holding com-
25 pany”.

1 (2) In section 3(f)(5), by striking “bank holding
2 company” the first and second time such term ap-
3 pears and inserting “financial services holding com-
4 pany”.

5 (3) In section 4(i)(3)(A), by striking “is ac-
6 quired” and inserting “was acquired”.

7 (4) By striking “bank holding companies” each
8 place such appears in the following sections and in-
9 serting “financial services holding companies”:

10 (A) Section 3(d).

11 (B) Section 4(f).

12 (C) Section 7(a).

13 (5) By striking “bank holding company’s” each
14 place such term appears in section 4(c)(14) and in-
15 serting “financial services holding company’s”.

16 (6) By striking “bank holding company” each
17 place such term appears in the following sections
18 and inserting “financial services holding company”:

19 (A) Subsections (a), (d), (e), (g), (h), and
20 (o) of section 2.

21 (B) Subsections (a), (b), (d), (f)(1), (f)(2),
22 and (f)(3) of section 3.

23 (C) Subsections (a), (d), (e), (g), (h), and
24 (j) of section 4.

1 (D) Clause (ii) in the portion of section
2 4(e) which precedes paragraph (1) of such sec-
3 tion.

4 (E) Paragraphs (2), (3), (7), (8), (10),
5 (11), (12)(A), and (14) of section 4(c).

6 (F) Paragraphs (4), (5), and (9) of section
7 4(f).

8 (G) Paragraphs (1) and (2) of section 4(i).

9 (H) Sections 5, 7(b), 8, and 11.

10 (7) In section 4(f)(1), by striking “bank holding
11 company” the second place such term appears and
12 inserting “financial services holding company”.

13 (8) In the headings for section 3(f) and 4(f), by
14 striking “BANK HOLDING” and inserting “FINAN-
15 CIAL SERVICES HOLDING”.

16 (9) In the heading the heading for section
17 2(o)(7), by striking “BANK” and inserting “FINAN-
18 CIAL SERVICES”.

19 (g) TREATMENT OF EXISTING BANK HOLDING COM-
20 PANIES.—Section 2(a)(6) of the Bank Holding Company
21 Act of 1956 (12 U.S.C. 1841(a)(6)) is amended by insert-
22 ing at the end the following: “Any company that was a
23 bank holding company on the day before the date of enact-
24 ment of the Financial Institutions Regulatory Relief Act
25 of 1996 shall, for purposes of this Act, be deemed to be

1 a financial services holding company as of the date on
2 which the company became a bank holding company.”.

3 (h) OTHER REFERENCES.—Any reference in any
4 Federal law to “bank holding company” or “bank holding
5 companies” as those terms were defined under the Bank
6 Holding Company Act of 1956 before the enactment of
7 this Act shall be deemed to include a reference to “finan-
8 cial services holding company” and “financial services
9 holding companies”, respectively, as such terms are de-
10 fined under the Financial Services Holding Company Act
11 of 1996.

12 **SEC. 506. CONFORMING AMENDMENTS TO THE BANK HOLD-**
13 **ING COMPANY ACT AMENDMENTS OF 1970.**

14 Section 106 of the Bank Holding Company Act
15 Amendments of 1970 (12 U.S.C. 1971 through 1978) is
16 amended by striking “bank holding company” each place
17 such term appears and inserting “financial services hold-
18 ing company”.

19 **SEC. 507. CREDIT CARDS FOR BUSINESS PURPOSES.**

20 Section 2(e)(2)(F) of the Bank Holding Company Act
21 of 1956 (relating to the definition of credit card banks)
22 is amended—

23 (1) in clause (i), by inserting “including the
24 provision of credit card accounts for business pur-
25 poses” before the semicolon; and

1 (2) in clause (v), by inserting “(other than the
2 provision of credit card accounts for business pur-
3 poses in connection with the credit card operations
4 referred to in clause (i))” before the period.

5 **SEC. 508. PROHIBITIONS ON CERTAIN DEPOSITORY INSTI-**
6 **TUTION ASSOCIATIONS WITH GOVERNMENT-**
7 **SPONSORED ENTERPRISES.**

8 (a) CREDIT UNIONS.—Section 201 of the Federal
9 Credit Union Act (12 U.S.C. 1781) is amended by adding
10 at the end the following new subsection:

11 “(e) PROHIBITION ON CERTAIN ASSOCIATIONS.—

12 “(1) IN GENERAL.—No insured credit union
13 may be sponsored by or accept financial support, di-
14 rectly or indirectly, from any Government-sponsored
15 enterprise, if the credit union includes the customers
16 of the Government-sponsored enterprise in the field
17 of membership of the credit union.

18 “(2) ROUTINE BUSINESS FINANCING.—Para-
19 graph (1) shall not apply with respect to advances
20 or other forms of financial assistance generally pro-
21 vided by a Government-sponsored enterprise in the
22 ordinary course of business of the enterprise.

23 “(3) GOVERNMENT-SPONSORED ENTERPRISE
24 DEFINED.—For purposes of this subsection, the
25 term ‘Government-sponsored enterprise’ has the

1 meaning given to such term in section 1404(e)(1)(A)
2 of the Financial Institutions Reform, Recovery, and
3 Enforcement Act of 1989.”.

4 (b) BANKS AND SAVINGS ASSOCIATIONS.—Section 18
5 of the Federal Deposit Insurance Act (12 U.S.C. 1828)
6 is amended by adding at the end the following new sub-
7 section:

8 “(s) PROHIBITION ON CERTAIN AFFILIATIONS.—

9 “(1) IN GENERAL.—No depository institution
10 may be an affiliate of, be sponsored by, or accept fi-
11 nancial support, directly or indirectly, from any Gov-
12 ernment-sponsored enterprise.

13 “(2) EXCEPTION FOR MEMBERS OF A FEDERAL
14 HOME LOAN BANK.—Paragraph (1) shall not apply
15 with respect to the membership of a depository insti-
16 tution in a Federal home loan bank.

17 “(3) ROUTINE BUSINESS FINANCING.—Para-
18 graph (1) shall not apply with respect to advances
19 or other forms of financial assistance provided by a
20 Government-sponsored enterprise pursuant to the
21 statutes governing such enterprise.

22 “(4) GOVERNMENT-SPONSORED ENTERPRISE
23 DEFINED.—For purposes of this subsection, the
24 term ‘Government-sponsored enterprise’ has the
25 meaning given to such term in section 1404(e)(1)(A)

1 of the Financial Institutions Reform, Recovery, and
2 Enforcement Act of 1989.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply on and after January 1, 1996.

5 **SEC. 509. PROVISIONS APPLICABLE TO LIMITED PURPOSE**
6 **BANKS.**

7 (a) EXCEPTION TO RESTRICTION ON ASSET GROWTH
8 OF NONBANK BANKS.—

9 (1) IN GENERAL.—Section 4(f)(3) of the Bank
10 Holding Company Act of 1956 (12 U.S.C.
11 1843(f)(3)) is amended by adding at the end the fol-
12 lowing new subparagraph:

13 “(D) EXCEPTION TO RESTRICTION ON
14 ASSET GROWTH, ACTIVITIES, AND CERTAIN
15 CROSS-MARKETING RESTRICTIONS.—

16 “(i) QUALIFICATION FOR EXCEPTION
17 FROM GROWTH RESTRICTION.—A bank
18 controlled by a company described in para-
19 graph (1) shall not be subject to the limi-
20 tation contained in subparagraph (B)(iv) if
21 the company meets the requirements of
22 this subparagraph and the requirements of
23 paragraph (14).

24 “(ii) QUALIFICATION FOR EXCEPTION
25 FROM ACTIVITIES RESTRICTION.—Notwith-

1 standing subparagraph (B)(i), a bank con-
2 trolled by a company described in para-
3 graph (1) that meets the requirements of
4 clause (i) may engage in an activity au-
5 thorized under applicable law (other than
6 an activity that would have resulted in the
7 institution being a bank for purposes of
8 this Act, as in effect on the day before the
9 date of the enactment of the Competitive
10 Equality Banking Act of 1987, based on
11 the activities each bank conducted on
12 March 5, 1987, as reported to the Board)
13 if such bank, at least 60 days before com-
14 mencing such activity, has notified the
15 Board of the bank's intention to commence
16 such activity and either—

17 “(I) the Board has notified such
18 bank that the Board will not dis-
19 approve the proposed activity as un-
20 safe or unsound; or

21 “(II) the Board has not, within
22 60 days after receiving such notice,
23 disapproved the proposal on the basis
24 of such criteria.

1 “(iii) QUALIFICATION FOR EXCEPTION
2 FROM CROSS-MARKETING RESTRICTION.—
3 Notwithstanding subparagraph (B)(ii), a
4 bank controlled by a company described in
5 paragraph (1) that meets the requirements
6 of clause (i) may offer or market products
7 or services of an affiliate or permit the
8 bank’s products or services to be offered or
9 marketed in connection with products or
10 services of an affiliate if such products or
11 services are offered or marketed only to
12 the extent permissible for banks or finan-
13 cial services holding companies to provide
14 by law, regulation, or order under sub-
15 section (c)(8).

16 “(iv) EXCEPTION FROM DIVESTITURE
17 REQUIREMENT FOR BANKS RESTORED TO
18 WELL CAPITALIZED LEVEL.—If any bank
19 controlled by a company that meets the re-
20 quirements of clause (i) ceases to be well
21 capitalized, the company shall divest con-
22 trol of such bank in accordance with para-
23 graph (4) unless—

24 “(I) within 12 months after the
25 date the bank ceases to be well cap-

1 italized, the capital of the bank is re-
2 stored to the well capitalized level;
3 and

4 “(II) after the end of such 12-
5 month period, the bank remains well
6 capitalized, subject to the capital res-
7 toration requirements in subclause (I).

8 “(v) ACTION REQUIRED IF BANK
9 CEASES TO BE ADEQUATELY CAPITAL-
10 IZED.—If any bank controlled by a com-
11 pany that meets the requirements of clause
12 (i) ceases to be adequately capitalized, the
13 company shall, within 30 days after the
14 date as of which the bank ceases to be ade-
15 quately capitalized—

16 “(I) execute an agreement with
17 the Board to divest control of such
18 bank in accordance with paragraph
19 (4); or

20 “(II) restore the capital of the
21 bank to at least the adequately cap-
22 italized level.”.

23 (2) QUALIFICATIONS FOR COMPANIES UNDER
24 PARAGRAPH (3)(D).—Section 4(f) of the Bank Hold-
25 ing Company Act of 1956 (12 U.S.C. 1843(f)) is

1 amended by adding at the end the following new
2 paragraph:

3 “(14) QUALIFICATIONS FOR COMPANIES UNDER
4 PARAGRAPH (3)(D).—A company meets the require-
5 ments of paragraph (3)(D)(i) if—

6 “(A) the company (based on consolidated
7 revenues) engages predominantly in activities
8 that are financial in nature (including activities
9 not authorized under subsection (c)(8)) or are
10 incidental to such financial activities;

11 “(B) all insured depository institutions
12 controlled by such company are well capitalized
13 and well managed; and

14 “(C) the company has provided at least 60
15 days prior written notice to the Board and, dur-
16 ing that period, the Board has not disapproved
17 the proposal.”.

18 (b) AMENDED DIVESTITURE PROCEDURE FOR CER-
19 TAIN COMPANIES.—Section 4(f)(4) of the Bank Holding
20 Company Act of 1956 (12 U.S.C. 1843(f)(4)) is amended
21 by adding at the end the following: “If any company de-
22 scribed in paragraph (1) which meets the requirements of
23 paragraph (3)(D)(i) fails to qualify for the exemption pro-
24 vided under paragraph (2), such company shall divest, in
25 accordance with this paragraph, control of each bank the

1 company controls unless, within 12 months after the date
2 that the company fails to comply with the provisions of
3 paragraph (2), the company has corrected the condition
4 or ceased the activity that led to the failure to comply.”.

5 (c) CONVERSION OF CERTAIN NONBANK HOLDING
6 COMPANIES TO FINANCIAL SERVICES HOLDING COMPA-
7 NIES.—Section 4(f) of the Bank Holding Company Act
8 of 1956 (12 U.S.C. 1843(f)) is amended by inserting after
9 paragraph (14) (as added by subsection (a)(2)) the follow-
10 ing new paragraph:

11 “(15) CONVERSION OF CERTAIN COMPANIES TO
12 FINANCIAL SERVICES HOLDING COMPANIES.—

13 “(A) IN GENERAL.—During the 18-month
14 period beginning on the date of the enactment
15 of the Financial Institutions Regulatory Relief
16 Act of 1996, any company described in para-
17 graph (1) may become a financial services hold-
18 ing company if—

19 “(i) the company (on a consolidated
20 basis) engages predominantly in activities
21 that are financial in nature (including ac-
22 tivities not authorized under subsection
23 (c)(8)) or are incidental to such financial
24 activities;

1 “(ii) all insured depository institutions
2 controlled by such company are well cap-
3 italized and well managed;

4 “(iii) the company provides written
5 notice to the Board under section 4 at
6 least 60 days before the company becomes
7 a financial services holding company; and

8 “(iv) the Board does not object to
9 such transaction before the end of such 60-
10 day period; and

11 “(B) RETENTION OF FINANCIAL COMPA-
12 NIES.—

13 “(i) IN GENERAL.—Notwithstanding
14 subsection (a), a company that becomes a
15 financial services holding company pursu-
16 ant to subparagraph (A) may retain direct
17 or indirect ownership or control of voting
18 shares of any company that engages solely
19 in activities that the Board finds to be fi-
20 nancial but which the Board has not au-
21 thorized under subsection (c)(8) (and such
22 other financial activities that the Board
23 has authorized) if the financial services
24 holding company acquired the shares of
25 such company, or of each company to

1 which such company is a successor, before
2 January 1, 1995.

3 “(ii) LIMITS FOLLOWING REGISTRA-
4 TION.—A company that becomes a finan-
5 cial services holding company pursuant to
6 this paragraph, and any company whose
7 shares are owned or controlled by a finan-
8 cial services holding company pursuant to
9 this paragraph, shall be subject to the limi-
10 tations contained in paragraph (3) of sec-
11 tion 4(k) as if the activities or shares of
12 such company were conducted or held pur-
13 suant to section 4(k)(2).

14 “(iii) PERIOD TO CONFORM OTHER
15 ACTIVITIES.—Notwithstanding subsection
16 (a), a company that becomes a financial
17 services holding company pursuant to sub-
18 paragraph (A) may retain direct or indi-
19 rect ownership or control of voting shares
20 of any company not otherwise permitted
21 under this section for the period provided
22 in, and subject to the conditions contained
23 in, paragraphs (2) and (3) of section 4(k).

24 “(C) ELECTION FOR REDUCED SUPER-
25 VISION.—Any company that becomes a financial

1 services holding company pursuant to subpara-
2 graph (A) may elect to be governed by the pro-
3 visions of paragraphs (3), (4), (5), and (6) of
4 section 5(g), subject to the requirements of
5 such section, if—

6 “(i) the company, and any insured de-
7 pository institution controlled by such com-
8 pany, meet the requirements of section
9 5(g) (other than the requirements of para-
10 graph (2)(A) of such section);

11 “(ii) the company does not acquire
12 more than 5 percent of the shares of any
13 additional depository institution after the
14 date that such company becomes a finan-
15 cial services holding company; and

16 “(iii) no depository institution con-
17 trolled by such company acquires, estab-
18 lishes, or operates an additional branch of-
19 fice after the date that the company be-
20 comes a financial services holding com-
21 pany.”.

22 **SEC. 510. DISCRETION OF FEDERAL RESERVE BOARD.**

23 (a) APPLICATIONS.—Section 3 of the Bank Holding
24 Company Act of 1956 (12 U.S.C. 1842) is amended by
25 adding at the end the following new subsection:

1 “(h) DISCRETION WITH REGARD TO APPLICA-
2 TIONS.—In the case of an application by an entity which
3 is subject to this section because such entity owns or con-
4 trols 5 percent or more of the voting stock of a bank hold-
5 ing company, the Board may—

6 “(1) waive the filing requirement under this
7 section with respect to applications by such entity if
8 the Board determines that no regulatory purpose
9 would be served by such filing requirement; and

10 “(2) adjust the manner in which the Board may
11 require any company to seek the Board’s approval
12 under subsection (a) for a proposed action or the
13 manner in which the Board reviews any such pro-
14 posed action, including—

15 “(A) adjustments with regard to the types
16 and amount of information which the Board
17 may require to be included in any type of appli-
18 cation or proposal submitted for the Board’s
19 approval under subsection (a); and

20 “(B) waiver of any requirement for an ap-
21 plication, or reducing the scope of an applica-
22 tion, (including an application by a corporation
23 of a central or provincial government) in any
24 case in which the Board determines that—

1 “(i) an applicant does not and will not
2 exercise significant managerial control
3 over, or otherwise holds a purely passive
4 investment in the voting securities of, a
5 bank or another bank holding company,
6 notwithstanding the fact that the applicant
7 directly or indirectly owns, controls, or has
8 the power to vote more than 5 percent of
9 any class of voting securities of such bank
10 or other bank holding company; or

11 “(ii) requiring an application, or re-
12 quiring an extensive application, by an en-
13 tity, in connection with the application by
14 a bank holding company subsidiary of such
15 entity to acquire a bank, would not serve
16 any legitimate regulatory need of the
17 Board in rendering a decision with regard
18 to the application of such bank holding
19 company subsidiary.”.

20 (b) COLLATERAL.—Section 11(m) of the Federal Re-
21 serve Act (12 U.S.C. 248) is amended—

22 (1) by striking “not less than six of”

23 (2) by inserting a comma after “its members”;

24 (3) by striking “but no such loan shall be made

25 by any such bank to any person in an amount in ex-

1 cess of 15 percent of the unimpaired capital and
2 surplus of such bank: *Provided, That*” and inserting
3 “except that”; and

4 (4) by striking “15 percent on loans to any per-
5 son”.

6 **SEC. 511. QUALIFIED FAMILY PARTNERSHIPS.**

7 Section 2 of the Bank Holding Company Act of 1956
8 (12 U.S.C. 1841) is amended—

9 (1) in subsection (b), by inserting “, and shall
10 not include a qualified family partnership” after “by
11 any State”; and

12 (2) by inserting after subsection (q) (as added
13 by section 505(b)(3) of this subtitle) the following
14 new subsection:

15 “(r) **QUALIFIED FAMILY PARTNERSHIP.**—For pur-
16 poses of this Act, the term ‘qualified family partnership’
17 means a general or limited partnership which the Board
18 determines—

19 “(1) does not directly control any banks, except
20 through a registered bank holding company;

21 “(2) does not control more than 1 registered
22 bank holding company;

23 “(3) does not engage in any business activity,
24 except indirectly through ownership of other busi-
25 ness entities;

1 “(4) has no investments other than those per-
2 mitted for a bank holding company pursuant to sec-
3 tion 4(c);

4 “(5) is not obligated on any debt, either directly
5 or as a guarantor;

6 “(6) has partners, all of whom are either—

7 “(A) individuals related to each other by
8 blood, marriage (including former marriage), or
9 adoption; or

10 “(B) trusts for the primary benefit of indi-
11 viduals so related; and

12 “(7) has filed with the Board a statement
13 which includes—

14 “(A) the basis for the eligibility of the
15 partnership under paragraph (6);

16 “(B) a list of the existing activities and in-
17 vestments of the partnership;

18 “(C) a commitment to comply with this
19 subsection;

20 “(D) a commitment to comply with section
21 7 of the Federal Deposit Insurance Act with re-
22 spect to any acquisition of control of an insured
23 depository institution occurring after the date
24 of enactment of this subsection; and

25 “(E) a commitment to be subject to—

1 “(i) examination by the Board to as-
2 sure compliance with this subsection; and
3 “(ii) section 8 of the Federal Deposit
4 Insurance Act,
5 to the same extent as if the qualified family
6 partnership were a bank holding company.”.

7 **Subtitle B—Interagency Banking**
8 **and Financial Services Task Force**

9 **SEC. 521. INTERAGENCY BANKING AND FINANCIAL SERV-**
10 **ICES TASK FORCE.**

11 (a) ESTABLISHMENT; COMPOSITION.—There is here-
12 by established the Banking and Financial Services Task
13 Force (hereafter in this subtitle referred to as the “Task
14 Force”) which shall consist of 7 members as follows:

15 (1) The Secretary of the Treasury.

16 (2) The Chairman of the Board of Governors of
17 the Federal Reserve System.

18 (3) The Chairperson of the Board of Directors
19 of the Federal Deposit Insurance Corporation.

20 (4) The Chairman of the Securities and Ex-
21 change Commission.

22 (5) The Chairperson of the Commodities Fu-
23 tures Trading Commission.

24 (6) The Comptroller of the Currency.

1 (7) A State bank supervisor (as defined in sec-
2 tion 3(r) of the Federal Deposit Insurance Act) se-
3 lected by the chairperson of the task force.

4 (b) CHAIRPERSON.—The chairperson of the Task
5 Force shall be the Secretary of the Treasury.

6 (c) DESIGNATION OF OFFICERS AND EMPLOYEES.—
7 The members of the Task Force may, from time to time,
8 designate other officers or employees of their respective
9 agencies to carry out their duties on the Task Force.

10 (d) COMPENSATION AND EXPENSES.—Each member
11 of the Task Force shall serve without additional com-
12 pensation but shall be entitled to reasonable expenses in-
13 curred in carrying out official duties as a member.

14 (e) FUNCTION OF THE TASK FORCE.—

15 (1) IN GENERAL.—The Task Force shall meet
16 as appropriate to consider matters of mutual inter-
17 est to the members and to consider making rec-
18 ommendations to the Board of Governors of the
19 Federal Reserve System regarding the types of ac-
20 tivities that may be financial in nature for purposes
21 of the Financial Services Holding Company Act and
22 to the Comptroller of the Currency regarding the
23 types of activities that may be incidental to banking
24 for purposes of section 5136 of the Revised Statutes
25 of the United States.

1 (2) CONSIDERATION OF RECOMMENDATIONS.—

2 The Board of Governors of the Federal Reserve Sys-
3 tem and the Comptroller of the Currency, as appro-
4 priate, shall take into account any recommendation
5 made to the respective agency by the Task Force
6 and, if the agency does not adopt the recommenda-
7 tion, shall provide a written explanation to the Task
8 Force.

9 (f) IMPROVING THE SUPERVISION, EFFICIENCY, AND
10 COMPETITIVENESS OF THE FINANCIAL SERVICES INDUS-
11 TRY.—

12 (1) IN GENERAL.—The Task Force shall seek
13 to improve the supervision, efficiency, and competi-
14 tiveness of the financial services industry by making
15 recommendations for such legislative or administra-
16 tive action as the Task Force determines to be ap-
17 propriate to the Congress, each agency or office rep-
18 resented by a member on the Task Force, and other
19 agencies or departments of the United States, in-
20 cluding recommendations for changes in law and in
21 the regulations, policies, and procedures of any de-
22 partment or agency.

23 (2) PRINTING IN FEDERAL REGISTER.—Rec-
24 ommendations from paragraph (1) shall be printed
25 in the Federal Register and submitted to the Com-

1 mittee on Banking and Financial Services of the
2 House of Representatives and the Committee on
3 Banking, Housing, and Urban Affairs of the Senate.

4 **SEC. 522. FINANCIAL SERVICES ADVISORY COMMITTEE.**

5 (a) ESTABLISHMENT.—There is hereby established
6 the Financial Services Advisory Committee (hereinafter in
7 this section referred to as the “Committee”) to the Task
8 Force.

9 (b) MEMBERSHIP.—

10 (1) IN GENERAL.—The Committee shall consist
11 of 9 members, appointed as follows from among in-
12 dividuals who are not officers or employees of the
13 Federal Government and who are especially qualified
14 to serve on such committee by virtue of their edu-
15 cation, training, or experience:

16 (A) 1 member appointed by the Secretary
17 of the Treasury.

18 (B) 2 members appointed by the Comptrol-
19 ler of the Currency.

20 (C) 2 members appointed by the Director
21 of the Office of Thrift Supervision.

22 (D) 2 members appointed by the Board of
23 Governors of the Federal Reserve System.

1 (E) 2 members appointed by the Board of
2 Directors of the Federal Deposit Insurance Cor-
3 poration.

4 (2) REPRESENTATION OF SMALL AND INDE-
5 PENDENT DEPOSITORY INSTITUTIONS.—Of the
6 members appointed under subparagraphs (B), (C),
7 (D), and (E) of paragraph (1), 1 of the 2 members
8 appointed under each such paragraph shall be ap-
9 pointed from among individuals who are especially
10 qualified to represent the interests of depository in-
11 stitutions which—

12 (A) have total assets of less than
13 \$500,000,000; or

14 (B) are not controlled by any depository
15 institution holding company.

16 (c) VACANCIES.—Any vacancy on the Committee
17 shall be filled in the same manner in which the original
18 appointment was made.

19 (d) PAY AND EXPENSES.—Members of the Commit-
20 tee shall serve without pay, but each member shall be re-
21 imbursed for expenses incurred in connection with attend-
22 ance of such members at meetings of the Committee by
23 the agency which appointed such member to the Commit-
24 tee.

1 (e) TERMS.—Members shall be appointed for terms
2 of 3 years.

3 (f) AUTHORITY OF THE COMMITTEE.—The Commit-
4 tee may select a chairperson, vice chairperson, and sec-
5 retary, and adopt methods of procedure, and shall have
6 power—

7 (1) to confer with each member of the Task
8 Force on general and special business conditions and
9 regulatory and other matters relating to the finan-
10 cial services industry in the United States; and

11 (2) to request information from, and to make
12 recommendations to, each Federal agency or office
13 represented on the Task Force with respect to mat-
14 ters within the jurisdiction of such agency or office.

15 (g) MEETINGS.—The Committee shall meet annually
16 at the call of the chairperson or a majority of the mem-
17 bers.

18 (h) REPORTS.—The Committee shall submit an an-
19 nual written report to the Committee on Banking and Fi-
20 nancial Services of the House and to the Committee on
21 Banking, Housing, and Urban Affairs of the Senate. Such
22 report shall describe the activities of the Committee for
23 such annual period and contain such recommendations as
24 the Committee considers appropriate.

1 (i) PROVISION OF STAFF AND OTHER RESOURCES.—
2 Each of the Federal banking agencies shall provide the
3 Committee with the use of such resources, including staff,
4 as the Committee reasonably shall require to carry out its
5 duties, including the preparation and submission of re-
6 ports to Congress, under this section.

7 (j) DEFINITION.—For purposes of this section, the
8 term “insured depository institution” has the meaning
9 given to such term in section 3 of the Federal Deposit
10 Insurance Act.

11 (k) FEDERAL ADVISORY COMMITTEE ACT DOES NOT
12 APPLY.—The Federal Advisory Committee Act shall not
13 apply to the Committee.

14 (l) SUNSET.—The Committee shall cease to exist on
15 the earlier of—

16 (1) the abolition of the Task Force; or

17 (2) the end of the 10-year period beginning on
18 the date of the enactment of this Act.

19 **TITLE VI—DROUGHT RELIEF**

20 **SEC. 601. COOPERATIVE EFFORTS BETWEEN DEPOSITORY** 21 **INSTITUTIONS AND FARMERS AND RANCH-** 22 **ERS IN DROUGHT-STRICKEN AREAS.**

23 (a) FINDINGS.—The Congress hereby finds the fol-
24 lowing:

1 (1) Severe drought is being experienced in the
2 Plains and the Southwest portions of our country.

3 (2) Soil erosion is becoming a critical issue as
4 the dry season approaches and summer winds may
5 rob these fields of nutrient-rich topsoil.

6 (3) Without immediate assistance, ranchers and
7 farmers would be forced to cull their herds bringing
8 tremendous volatility in the beef market.

9 (4) The American people will feel the impact of
10 this drought in their pocketbooks through higher
11 prices for grain products.

12 (5) The communities in drought-stricken areas
13 are suffering and borrowers may have difficulty
14 meeting their obligations to financial institutions.

15 (6) Congress has already passed the Depository
16 Institutions Disaster Relief Act of 1992 which allows
17 financial institutions to make emergency exceptions
18 to the appraisal requirement in times of national dis-
19 asters.

20 (b) SENSE OF THE CONGRESS.—It is the sense of
21 the Congress that financial institutions and Federal bank
22 regulators should work cooperatively with farmers and
23 ranchers in communities affected by drought conditions to
24 allow financial obligations to be met without imposing
25 undue burdens.

TITLE VII—FINANCIAL ACTIVITIES

SEC. 701. FINANCIAL ACTIVITIES.

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

(1) by striking “shares of any company” and all that follows through “broker” and inserting “shares of any company the activities of which the Board after due notice has determined (by order, regulation, or advisory opinion) to be financial in nature or incidental to such financial activities. In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account changes or reasonably expected changes in the marketplace in which financial services holding companies compete as well as changes or reasonably expected changes in the technology by which these services are delivered. In addition, the Board shall take into account activities considered financial activities or banking or financial operations for purposes of the regulation of the Board designated as ‘Regulation K’ (12 C.F.R. 211.23 (f)(5)(iii)(B)) as in effect on the date of the enactment of the Financial Institutions Regulatory Relief Act of 1996. Any activity that the Board has determined, by order or

1 regulation that is in effect on such date to be so
2 closely related to banking or managing or controlling
3 banks as to be a proper incident thereto shall be
4 deemed to be of a financial nature for purposes of
5 this paragraph without further action by the Board
6 (subject to the same terms and conditions contained
7 in such order or regulation, unless modified by the
8 Board), but for purposes of this subsection it shall
9 not be closely related to banking or managing or
10 controlling banks or financial in nature or incidental
11 to a financial activity for a financial services holding
12 company to provide any annuity contract the income
13 on which is tax-deferred under section 72 of the In-
14 ternal Revenue Code of 1986 as a principal, agent,
15 or broker, or to provide insurance as a principal,
16 agent, or broker”;

17 (2) by striking the second sentence; and

18 (3) by inserting after the period at the end of
19 the 1st sentence the following new sentence: “For
20 purposes of subparagraphs (A) through (F), the
21 term ‘insurance agency activity’, and for purposes of
22 subparagraph (G), the term ‘activity’ includes pro-
23 viding any annuity contract as agent or broker.”.

1 **SEC. 702. RETIREMENT CERTIFICATES OF DEPOSITS.**

2 (a) IN GENERAL.—Section 3(l)(5) of the Federal De-
3 posit Insurance Act (12 U.S.C. 1813(l)(5) is amended—

4 (1) in subparagraph (A), by striking “and” at
5 the end;

6 (2) in subparagraph (B), by striking the period
7 at the end and inserting “; and”; and

8 (3) by adding at the end the following new sub-
9 paragraph:

10 “(C) any liability of an insured depository
11 institution that arises under an annuity con-
12 tract, the income of which is tax deferred under
13 section 72 of the Internal Revenue Code of
14 1986.”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 subsection (a) shall apply to any liability of an insured
17 depository that arises under an annuity contract issued
18 on or after the date of enactment of this Act.

19 **SEC. 703. GAO STUDY OF STATE SUPERVISION OF NA-**
20 **TIONAL BANK INSURANCE ACTIVITIES.**

21 (a) STUDY REQUIRED.—The Comptroller General of
22 the United States shall conduct a study to determine
23 whether the supervision by State insurance regulators of
24 insurance activities of national banks is adequate or com-
25 parable to the supervision of nonbank activities.

1 (b) CONSULTATION.—In conducting the study pursu-
2 ant to subsection (a), the Comptroller General shall con-
3 sult with State insurance regulators, Federal and State
4 banking regulators, and representatives of insurance asso-
5 ciations, banking associations, and consumer groups.

6 (c) REPORT.—Before the end of the 180-day period
7 beginning on the date of the enactment of this Act, the
8 Comptroller General shall submit a report to the Congress
9 on the findings and conclusions of the Comptroller General
10 together with such recommendations as the Comptroller
11 General determines to be appropriate.

12 **SEC. 704. NATIONAL BANK LICENSING REQUIREMENTS.**

13 (a) IN GENERAL.—Chapter 1 of title LXII of the Re-
14 vised Statutes of the United States (12 U.S.C. 21 et seq.)
15 is amended—

16 (1) by redesignating section 5136A as section
17 5136B; and

18 (2) by inserting after section 5136 (12 U.S.C.
19 24) the following new section:

20 **“SEC. 5136A. NATIONAL BANK LICENSING REQUIREMENTS.**

21 “National banks shall comply with applicable non-
22 discriminatory State—

23 “(1) licensing requirements establishing char-
24 acter, experience, and educational qualifications for
25 individuals selling insurance as agents;

1 “(2) testing and continuing education require-
2 ments for individuals selling insurance as agents;
3 and

4 “(3) standards and requirements for types of li-
5 censes and for license renewals that apply to individ-
6 uals selling insurance as agents.

7 “(b) **RULE OF CONSTRUCTION.**—No provision of this
8 section shall be construed as affecting the applicability or
9 nonapplicability of other Federal laws or State laws to the
10 insurance activities of national banks.”.

11 (b) **CLERICAL AMENDMENT.**—The table of sections
12 for chapter 1 of title LXII of the Revised Statutes of the
13 United States is amended—

14 (1) by redesignating the item relating to section
15 5136A as section 5136B; and

16 (2) by inserting after the item relating to sec-
17 tion 5136 the following new item:

 “5136A. National bank licensing requirements.”.

18 (c) **TECHNICAL AND CONFORMING AMENDMENT.**—
19 Section 1306 of title 18, United States Code, is amended
20 by striking “5136A” and inserting “5136B”.

21 **TITLE VIII—DEPOSIT**
22 **INSURANCE FUNDS**

23 **SEC. 801. SHORT TITLE.**

24 This title may be cited as the “Deposit Insurance
25 Funds Act of 1996”.

1 **SEC. 802. SPECIAL ASSESSMENT TO CAPITALIZE SAIF.**

2 (a) IN GENERAL.—Except as provided in subsections
3 (f) and (k), the Board of Directors of the Federal Deposit
4 Insurance Corporation shall impose a special assessment
5 on the SAIF-assessable deposits of each insured deposi-
6 tory institution in accordance with assessment regulations
7 of the Corporation at a rate applicable to all such institu-
8 tions that the Board of Directors, in its sole discretion,
9 determines (after taking into account the adjustments de-
10 scribed in subsections (g), (h), and (j)) will cause the Sav-
11 ings Association Insurance Fund to achieve the designated
12 reserve ratio on the first business day of the 1st month
13 beginning after the date of the enactment of this Act.

14 (b) FACTORS TO BE CONSIDERED.—In carrying out
15 subsection (a), the Board of Directors shall base its deter-
16 mination on—

17 (1) the monthly Savings Association Insurance
18 Fund balance most recently calculated;

19 (2) data on insured deposits reported in the
20 most recent reports of condition filed not later than
21 70 days before the date of enactment of this Act by
22 insured depository institutions; and

23 (3) any other factors that the Board of Direc-
24 tors deems appropriate.

25 (c) DATE OF DETERMINATION.—For purposes of
26 subsection (a), the amount of the SAIF-assessable depos-

1 its of an insured depository institution shall be determined
2 as of March 31, 1995.

3 (d) DATE PAYMENT DUE.—Except as provided in
4 subsection (g), the special assessment imposed under this
5 section shall be—

6 (1) due on the first business day of the 1st
7 month beginning after the date of the enactment of
8 this Act; and

9 (2) paid to the Corporation on the later of—

10 (A) the first business day of the 1st month
11 beginning after such date of enactment; or

12 (B) such other date as the Corporation
13 shall prescribe, but not later than 60 days after
14 the date of enactment of this Act.

15 (e) ASSESSMENT DEPOSITED IN SAIF.—Notwith-
16 standing any other provision of law, the proceeds of the
17 special assessment imposed under this section shall be de-
18 posited in the Savings Association Insurance Fund.

19 (f) EXEMPTIONS FOR CERTAIN INSTITUTIONS.—

20 (1) EXEMPTION FOR WEAK INSTITUTIONS.—

21 The Board of Directors may, by order, in its sole
22 discretion, exempt any insured depository institution
23 that the Board of Directors determines to be weak,
24 from paying the special assessment imposed under
25 this section if the Board of Directors determines

1 that the exemption would reduce risk to the Savings
2 Association Insurance Fund.

3 (2) GUIDELINES REQUIRED.—Not later than 30
4 days after the date of enactment of this Act, the
5 Board of Directors shall prescribe guidelines setting
6 forth the criteria that the Board of Directors will
7 use in exempting institutions under paragraph (1).
8 Such guidelines shall be published in the Federal
9 Register.

10 (3) EXEMPTION FOR CERTAIN NEWLY CHAR-
11 TERED AND OTHER DEFINED INSTITUTIONS.—

12 (A) IN GENERAL.—In addition to the insti-
13 tutions exempted from paying the special as-
14 sessment under paragraph (1), the Board of
15 Directors shall exempt any insured depository
16 institution from payment of the special assess-
17 ment if the institution—

18 (i) was in existence on October 1,
19 1995, and held no SAIF-assessable depos-
20 its before January 1, 1993;

21 (ii) is a Federal savings bank which—

22 (I) was established de novo in
23 April 1994 in order to acquire the de-
24 posits of a savings association which

1 was in default or in danger of default;
2 and

3 (II) received minority interim
4 capital assistance from the Resolution
5 Trust Corporation under section
6 21A(w) of the Federal Home Loan
7 Bank Act in connection with the ac-
8 quisition of any such savings associa-
9 tion; or

10 (iii) is a savings association, the de-
11 posits of which are insured by the Savings
12 Association Insurance Fund, which—

13 (I) before January 1, 1987, was
14 chartered as a Federal savings bank
15 insured by the Federal Savings and
16 Loan Insurance Corporation for the
17 purpose of acquiring all or substan-
18 tially all of the assets and assuming
19 all or substantially all of the deposit
20 liabilities of a national bank in a
21 transaction consummated after July
22 1, 1986; and

23 (II) as of the date of that trans-
24 action, had assets of less than
25 \$150,000,000.

1 (B) DEFINITION.—For purposes of this
2 paragraph, an institution shall be deemed to
3 have held SAIF-assessable deposits before Jan-
4 uary 1, 1993, if—

5 (i) it directly held SAIF-assessable de-
6 posits before that date; or

7 (ii) it succeeded to, acquired, pur-
8 chased, or otherwise holds any SAIF-as-
9 sessable deposits as of the date of enact-
10 ment of this Act that were SAIF-assess-
11 able deposits before January 1, 1993.

12 (4) EXEMPT INSTITUTIONS REQUIRED TO PAY
13 ASSESSMENTS AT FORMER RATES.—

14 (A) PAYMENTS TO SAIF AND DIF.—Any in-
15 sured depository institution that the Board of
16 Directors exempts under this subsection from
17 paying the special assessment imposed under
18 this section shall pay semiannual assessments—

19 (i) during calendar years 1996, 1997,
20 and 1998, into the Savings Association In-
21 surance Fund, based on SAIF-assessable
22 deposits of that institution, at assessment
23 rates calculated under the schedule in ef-
24 fect for Savings Association Insurance
25 Fund members on June 30, 1995; and

1 (ii) during calendar year 1999—

2 (I) into the Deposit Insurance
3 Fund, based on SAIF-assessable de-
4 posits of that institution as of Decem-
5 ber 31, 1998, at assessment rates cal-
6 culated under the schedule in effect
7 for Savings Association Insurance
8 Fund members on June 30, 1995; or

9 (II) in accordance with clause (i),
10 if the Bank Insurance Fund and the
11 Savings Association Insurance Fund
12 are not merged into the Deposit In-
13 surance Fund.

14 (B) OPTIONAL PRO RATA PAYMENT OF
15 SPECIAL ASSESSMENT.—This paragraph shall
16 not apply with respect to any insured depository
17 institution (or successor insured depository in-
18 stitution) that has paid, during any calendar
19 year from 1997 through 1999, upon such terms
20 as the Corporation may announce, an amount
21 equal to the product of—

22 (i) 16.7 percent of the special assess-
23 ment that the institution would have been
24 required to pay under subsection (a), if the

1 Board of Directors had not exempted the
2 institution; and

3 (ii) the number of full semiannual pe-
4 riods remaining between the date of the
5 payment and December 31, 1999.

6 (g) SPECIAL ELECTION FOR CERTAIN INSTITUTIONS
7 FACING HARDSHIP AS A RESULT OF THE SPECIAL AS-
8 SESSMENT.—

9 (1) ELECTION AUTHORIZED.—If—

10 (A) an insured depository institution, or
11 any depository institution holding company
12 which, directly or indirectly, controls such insti-
13 tution, is subject to terms or covenants in any
14 debt obligation or preferred stock outstanding
15 on September 13, 1995; and

16 (B) the payment of the special assessment
17 under subsection (a) would pose a significant
18 risk of causing such depository institution or
19 holding company to default or violate any such
20 term or covenant,

21 the depository institution may elect, with the ap-
22 proval of the Corporation, to pay such special as-
23 sessment in accordance with paragraphs (2) and (3)
24 in lieu of paying such assessment in the manner re-
25 quired under subsection (a).

1 (2) FIRST ASSESSMENT.—An insured deposi-
2 tory institution which makes an election under para-
3 graph (1) shall pay an assessment in an amount
4 equal to 50 percent of the amount of the special as-
5 sessment that would otherwise apply under sub-
6 section (a), by the date on which such special assess-
7 ment is payable under subsection (d).

8 (3) SECOND ASSESSMENT.—An insured deposi-
9 tory institution which makes an election under para-
10 graph (1) shall pay a second assessment, by the date
11 established by the Board of Directors in accordance
12 with paragraph (4), in an amount equal to the prod-
13 uct of 51 percent of the rate determined by the
14 Board of Directors under subsection (a) for deter-
15 mining the amount of the special assessment and the
16 SAIF-assessable deposits of the institution on March
17 31, 1996, or such other date in calendar year 1996
18 as the Board of Directors determines to be appro-
19 priate.

20 (4) DUE DATE OF SECOND ASSESSMENT.—The
21 date established by the Board of Directors for the
22 payment of the assessment under paragraph (3) by
23 a depository institution shall be the earliest prac-
24 ticable date which the Board of Directors determines
25 to be appropriate, which is at least 15 days after the

1 date used by the Board of Directors under para-
2 graph (3).

3 (5) SUPPLEMENTAL SPECIAL ASSESSMENT.—

4 An insured depository institution which makes an
5 election under paragraph (1) shall pay a supple-
6 mental special assessment, at the same time the pay-
7 ment under paragraph (3) is made, in an amount
8 equal to the product of—

9 (A) 50 percent of the rate determined by
10 the Board of Directors under subsection (a) for
11 determining the amount of the special assess-
12 ment; and

13 (B) 95 percent of the amount by which the
14 SAIF-assessable deposits used by the Board of
15 Directors for determining the amount of the 1st
16 assessment under paragraph (2) exceeds, if any,
17 the SAIF-assessable deposits used by the Board
18 for determining the amount of the second as-
19 sessment under paragraph (3).

20 (h) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
21 CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

22 (1) IN GENERAL.—For purposes of computing
23 the special assessment imposed under this section
24 with respect to a Bank Insurance Fund member
25 bank, the amount of any deposits of any insured de-

1 pository institution which section 5(d)(3) of the Fed-
2 eral Deposit Insurance Act treats as insured by the
3 Savings Association Insurance Fund shall be re-
4 duced by 20 percent—

5 (A) if the adjusted attributable deposit
6 amount of the Bank Insurance Fund member
7 bank is less than 50 percent of the total domes-
8 tic deposits of that member bank as of June 30,
9 1995; or

10 (B) if, as of June 30, 1995, the Bank In-
11 surance Fund member—

12 (i) had an adjusted attributable de-
13 posit amount equal to less than 75 percent
14 of the total assessable deposits of that
15 member bank;

16 (ii) had total assessable deposits
17 greater than \$5,000,000,000; and

18 (iii) was owned or controlled by a
19 bank holding company that owned or con-
20 trolled insured depository institutions hav-
21 ing an aggregate amount of deposits in-
22 sured or treated as insured by the Bank
23 Insurance Fund greater than the aggre-
24 gate amount of deposits insured or treated

1 as insured by the Savings Association In-
2 surance Fund.

3 (2) ADJUSTED ATTRIBUTABLE DEPOSIT
4 AMOUNT.—For purposes of this subsection, the “ad-
5 justed attributable deposit amount” shall be deter-
6 mined in accordance with section 5(d)(3)(C) of the
7 Federal Deposit Insurance Act.

8 (i) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE
9 DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND
10 MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit
11 Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

12 (1) in subparagraph (C), by striking “The ad-
13 justed attributable deposit amount” and inserting
14 “Except as provided in subparagraph (K), the ad-
15 justed attributable deposit amount”; and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(K) ADJUSTMENT OF ADJUSTED ATTRIB-
19 UTABLE DEPOSIT AMOUNT.—The amount deter-
20 mined under subparagraph (C)(i) for deposits
21 acquired by March 31, 1995, shall be reduced
22 by 20 percent for purposes of computing the
23 adjusted attributable deposit amount for the
24 payment of any assessment for any semiannual
25 period that begins after the date of the enact-

1 ment of the Deposit Insurance Funds Act of
2 1996 (other than the special assessment im-
3 posed under section 802(a) of such Act), for a
4 Bank Insurance Fund member bank that, as of
5 June 30, 1995—

6 “(i) had an adjusted attributable de-
7 posit amount that was less than 50 percent
8 of the total deposits of that member bank;
9 or

10 “(ii)(I) had an adjusted attributable
11 deposit amount equal to less than 75 per-
12 cent of the total assessable deposits of that
13 member bank;

14 “(II) had total assessable deposits
15 greater than \$5,000,000,000; and

16 “(III) was owned or controlled by a
17 bank holding company that owned or con-
18 trolled insured depository institutions hav-
19 ing an aggregate amount of deposits in-
20 sured or treated as insured by the Bank
21 Insurance Fund greater than the aggre-
22 gate amount of deposits insured or treated
23 as insured by the Savings Association In-
24 surance Fund.”.

1 (j) ADJUSTMENT OF SPECIAL ASSESSMENT FOR
2 CERTAIN SAVINGS ASSOCIATIONS.—

3 (1) SPECIAL ASSESSMENT REDUCTION.—For
4 purposes of computing the special assessment im-
5 posed under this section, in the case of any con-
6 verted association, the amount of any deposits of
7 such association which were insured by the Savings
8 Association Insurance Fund as of March 31, 1995,
9 shall be reduced by 20 percent.

10 (2) CONVERTED ASSOCIATION.—For purposes
11 of this subsection, the term “converted association”
12 means—

13 (A) any Federal savings association—

14 (i) that is a member of the Savings
15 Association Insurance Fund and that has
16 deposits subject to assessment by that
17 fund which did not exceed \$4,000,000,000,
18 as of March 31, 1995; and

19 (ii) that had been, or is a successor by
20 merger, acquisition, or otherwise to an in-
21 stitution that had been, a State savings
22 bank, the deposits of which were insured
23 by the Federal Deposit Insurance Corpora-
24 tion before August 9, 1989, that converted
25 to a Federal savings association pursuant

1 to section 5(i) of the Home Owners' Loan
2 Act before January 1, 1985;

3 (B) a State depository institution that is a
4 member of the Savings Association Insurance
5 Fund that had been a State savings bank be-
6 fore October 15, 1982, and was a Federal sav-
7 ings association on August 9, 1989;

8 (C) an insured bank that—

9 (i) was established de novo in order to
10 acquire the deposits of a savings associa-
11 tion in default or in danger of default;

12 (ii) did not open for business before
13 acquiring the deposits of such savings as-
14 sociation; and

15 (iii) was a Savings Association Insur-
16 ance Fund member before the date of en-
17 actment of this Act; and

18 (D) an insured bank that—

19 (i) resulted from a savings association
20 before December 19, 1991, in accordance
21 with section 5(d)(2)(G) of the Federal De-
22 posit Insurance Act; and

23 (ii) had an increase in its capital in
24 conjunction with the conversion in an
25 amount equal to more than 75 percent of

1 the capital of the institution on the day be-
2 fore the date of the conversion.

3 (k) EXEMPTION FOR CERTAIN INSTITUTIONS PAYING
4 EXIT AND ENTRANCE FEES.—The Board of Directors of
5 the Federal Deposit Insurance Corporation may, in the
6 sole discretion of the Board of Directors, exempt any in-
7 sured depository institution from paying the special as-
8 sessment imposed under subsection (a) if—

9 (1) the institution participated in a conversion
10 transaction pursuant to section 5(d)(2)(C) of the
11 Federal Deposit Insurance Act during the period be-
12 ginning on March 31, 1995, and ending on the date
13 of the enactment of this Act;

14 (2) exit and entrance fees have been assessed in
15 connection with such conversion transaction in ac-
16 cordance with subparagraphs (E) and (F) of section
17 5(d)(2) of the Federal Deposit Insurance Act; and

18 (3) as of the date of the enactment of this Act,
19 the institution—

20 (A) has paid, in whole or in part, the
21 amount of such exit and entrance fees; and

22 (B) is obligated to pay the balance of any
23 unpaid portion of any such fee in accordance
24 with a schedule agreed to by such Corporation.

1 (l) TREATMENT OF EXISTING INSURED INSTITU-
2 TIONS FOR PURPOSES OF STATE AGE LAWS.—Section
3 3(d)(1)(B) of the Bank Holding Company Act of 1956
4 (12 U.S.C. 1842(d)(1)(B)) is amended by adding at the
5 end the following new clause:

6 “(iii) INAPPLICABILITY TO CONVER-
7 SIONS OF INSURED INSTITUTIONS.—Not-
8 withstanding clause (i), the Board may ap-
9 prove, pursuant to subparagraph (A), the
10 acquisition of a bank which has been
11 formed as the result of the conversion of
12 an existing insured institution subsidiary
13 of a savings and loan holding company to
14 a bank charter, if the existing insured de-
15 pository institution subsidiary, directly or
16 through 1 or more predecessor insured in-
17 stitutions (whether by merger, acquisition,
18 or otherwise), has been in existence for at
19 least 5 years before such acquisition.”.

20 (m) DEPOSIT OF FEES INTO SAIF.—

21 (1) IN GENERAL.—Section 5(d)(2)(E)(i) of the
22 Federal Deposit Insurance Act (12 U.S.C.
23 1815(d)(2)(E)(i)) is amended by striking “subpara-
24 graph (F)) which—” and all that follows through
25 the semicolon at the end and inserting “subpara-

1 graph (F)) which shall be deposited in the Savings
2 Association Insurance Fund before the calculation of
3 the special assessment under section 802 of the De-
4 posit Insurance Funds Act of 1996;”.

5 (2) TREATMENT OF PRIOR FEES.—All fees col-
6 lected by the Federal Deposit Insurance Corporation
7 pursuant to section 5(d)(2)(E)(i) of the Federal De-
8 posit Insurance Act before the date of the enactment
9 of this Act which are held by the Corporation as of
10 such date shall be deposited in the Savings Associa-
11 tion Insurance Fund in accordance with such sec-
12 tion, as amended by paragraph (1) of this sub-
13 section.

14 **SEC. 803. FINANCING CORPORATION FUNDING.**

15 (a) IN GENERAL.—Section 21 of the Federal Home
16 Loan Bank Act (12 U.S.C. 1441) is amended—

17 (1) in subsection (f)(2)—

18 (A) in the matter immediately preceding
19 subparagraph (A)—

20 (i) by striking “To the extent the
21 amounts available pursuant to paragraph
22 (1) are insufficient to cover the amount of
23 interest payments, issuance costs, and cus-
24 todial fees,” and inserting “In addition to

1 the amounts obtained pursuant to para-
2 graph (1),”;

3 (ii) by striking “Savings Association
4 Insurance Fund member” and inserting
5 “insured depository institution”; and

6 (iii) by striking “members” and in-
7 sserting “institutions”; and

8 (B) by striking “, except that—” and all
9 that follows through the end of the paragraph
10 and inserting “, except that—

11 “(A) the assessments imposed on insured
12 depository institutions with respect to any BIF-
13 assessable deposit shall be assessed at a rate
14 equal to $\frac{1}{5}$ of the rate of the assessments im-
15 posed on insured depository institutions with
16 respect to any SAIF-assessable deposit; and

17 “(B) no limitation under clause (i) or (iii)
18 of section 7(b)(2)(A) of the Federal Deposit In-
19 surance Act shall apply for purposes of this
20 paragraph.”; and

21 (2) in subsection (k)—

22 (A) by striking “section—” and inserting
23 “section, the following definitions shall apply:”;

24 (B) by striking paragraph (1);

1 (C) by redesignating paragraphs (2) and
2 (3) as paragraphs (1) and (2), respectively; and

3 (D) by adding at the end the following new
4 paragraphs:

5 “(3) INSURED DEPOSITORY INSTITUTION.—The
6 term ‘insured depository institution’ has the same
7 meaning as in section 3 of the Federal Deposit In-
8 surance Act

9 “(4) DEPOSIT TERMS.—

10 “(A) BIF-ASSESSABLE DEPOSITS.—The
11 term ‘BIF-assessable deposit’ means a deposit
12 that is subject to assessment for purposes of
13 the Bank Insurance Fund under the Federal
14 Deposit Insurance Act (including a deposit that
15 is treated as a deposit insured by the Bank In-
16 surance Fund under section 5(d)(3) of the Fed-
17 eral Deposit Insurance Act).

18 “(B) SAIF-ASSESSABLE DEPOSIT.—The
19 term ‘SAIF-assessable deposit’ has the meaning
20 given to such term in section 810 of the De-
21 posit Insurance Funds Act of 1996.”.

22 (b) CONFORMING AMENDMENT.—Section 7(b)(2) of
23 the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2))
24 is amended by striking subparagraph (D).

25 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—Subsections (a) and (c) and
2 the amendments made by such subsections shall
3 apply with respect to semiannual periods which
4 begin after December 31, 1996.

5 (2) TERMINATION OF CERTAIN ASSESSMENT
6 RATES.—Subparagraph (A) of section 21(f)(2) of
7 the Federal Home Loan Bank Act (as amended by
8 subsection (a)) shall not apply after the earlier of—

9 (A) December 31, 1999; or

10 (B) the date as of which the last savings
11 association ceases to exist.

12 (d) PROHIBITION ON DEPOSIT SHIFTING.—

13 (1) IN GENERAL.—Effective as of the date of
14 the enactment of this Act and ending on the date
15 provided in subsection (c)(2) of this section, the
16 Comptroller of the Currency, the Board of Directors
17 of the Federal Deposit Insurance Corporation, the
18 Board of Governors of the Federal Reserve System,
19 and the Director of the Office of Thrift Supervision
20 shall take such actions as are necessary, including
21 enforcement actions, denial of applications, or im-
22 position of entrance and exit fees as if such trans-
23 actions qualified as conversion transactions pursuant
24 to section 5(d) of the Federal Deposit Insurance
25 Act, to prevent insured depository institutions and

1 depository institution holding companies from facili-
2 tating or encouraging the shifting of deposits from
3 SAIF-assessable deposits to BIF-assessable deposits
4 (as defined in section 21(k) of the Federal Home
5 Loan Bank Act) for the purpose of evading the as-
6 sessments imposed on insured depository institutions
7 with respect to SAIF-assessable deposits under sec-
8 tion 7(b) of the Federal Deposit Insurance Act and
9 section 21(f)(2) of the Federal Home Loan Bank
10 Act.

11 (2) REGULATIONS.—The Board of Directors of
12 the Federal Deposit Insurance Corporation may
13 issue regulations, including regulations defining
14 terms used in paragraph (1), to prevent the shifting
15 of deposits described in such paragraph.

16 (3) RULE OF CONSTRUCTION.—No provision of
17 this subsection shall be construed as prohibiting con-
18 duct or activity of any insured depository institution
19 which—

20 (A) is undertaken in the ordinary course of
21 business of such depository institution; and

22 (B) is not directed towards the depositors
23 of an insured depository institution affiliate (as
24 defined in section 2(k) of the Financial Services

1 Holding Company Act of 1996) of such deposi-
2 tory institution.

3 **SEC. 804. MERGER OF BIF AND SAIF.**

4 (a) IN GENERAL.—

5 (1) MERGER.—The Bank Insurance Fund and
6 the Savings Association Insurance Fund shall be
7 merged into the Deposit Insurance Fund established
8 by section 11(a)(4) of the Federal Deposit Insurance
9 Act, as amended by this section.

10 (2) DISPOSITION OF ASSETS AND LIABIL-
11 ITIES.—All assets and liabilities of the Bank Insur-
12 ance Fund and the Savings Association Insurance
13 Fund shall be transferred to the Deposit Insurance
14 Fund.

15 (3) NO SEPARATE EXISTENCE.—The separate
16 existence of the Bank Insurance Fund and the Sav-
17 ings Association Insurance Fund shall cease.

18 (b) SPECIAL RESERVE OF THE DEPOSIT INSURANCE
19 FUND.—

20 (1) IN GENERAL.—Immediately before the
21 merger of the Bank Insurance Fund and the Sav-
22 ings Association Insurance Fund, if the reserve ratio
23 of the Savings Association Insurance Fund exceeds
24 the designated reserve ratio, the amount by which
25 that reserve ratio exceeds the designated reserve

1 ratio shall be placed in the Special Reserve of the
2 Deposit Insurance Fund, established under section
3 11(a)(5) of the Federal Deposit Insurance Act, as
4 amended by this section.

5 (2) DEFINITION.—For purposes of this sub-
6 section, the term “reserve ratio” means the ratio of
7 the net worth of the Savings Association Insurance
8 Fund to the aggregate estimated amount of deposits
9 insured by the Savings Association Insurance Fund.

10 (c) EFFECTIVE DATE.—This section and the amend-
11 ments made by this section shall become effective on Janu-
12 ary 1, 1999, if no insured depository institution is a sav-
13 ings association on that date.

14 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

15 (1) DEPOSIT INSURANCE FUND.—Section
16 11(a)(4) of the Federal Deposit Insurance Act (12
17 U.S.C. 1821(a)(4)) is amended—

18 (A) by redesignating subparagraph (B) as
19 subparagraph (C);

20 (B) by striking subparagraph (A) and in-
21 serting the following:

22 “(A) ESTABLISHMENT.—There is estab-
23 lished the Deposit Insurance Fund, which the
24 Corporation shall—

25 “(i) maintain and administer;

1 “(ii) use to carry out its insurance
2 purposes in the manner provided by this
3 subsection; and

4 “(iii) invest in accordance with section
5 13(a).

6 “(B) USES.—The Deposit Insurance Fund
7 shall be available to the Corporation for use
8 with respect to Deposit Insurance Fund mem-
9 bers.”; and

10 (C) by striking “(4) GENERAL PROVISIONS
11 RELATING TO FUNDS.—” and inserting the fol-
12 lowing:

13 “(4) ESTABLISHMENT OF THE DEPOSIT INSUR-
14 ANCE FUND.—”.

15 (2) OTHER REFERENCES.—Section 11(a)(4)(C)
16 of the Federal Deposit Insurance Act (12 U.S.C.
17 1821(a)(4)(C), as redesignated by paragraph (1) of
18 this subsection) is amended by striking “Bank In-
19 surance Fund and the Savings Association Insur-
20 ance Fund” and inserting “Deposit Insurance
21 Fund”.

22 (3) DEPOSITS INTO FUND.—Section 11(a)(4) of
23 the Federal Deposit Insurance Act (12 U.S.C.
24 1821(a)(4)) is amended by adding at the end the
25 following new subparagraph:

1 “(D) DEPOSITS.—All amounts assessed
2 against insured depository institutions by the
3 Corporation shall be deposited in the Deposit
4 Insurance Fund.”.

5 (4) SPECIAL RESERVE OF DEPOSITS.—Section
6 11(a)(5) of the Federal Deposit Insurance Act (12
7 U.S.C. 1821(a)(5)) is amended to read as follows:

8 “(5) SPECIAL RESERVE OF DEPOSIT INSUR-
9 ANCE FUND.—

10 “(A) ESTABLISHMENT.—

11 “(i) IN GENERAL.—There is estab-
12 lished a Special Reserve of the Deposit In-
13 surance Fund, which shall be administered
14 by the Corporation and shall be invested in
15 accordance with section 13(a).

16 “(ii) LIMITATION.—The Corporation
17 shall not provide any assessment credit, re-
18 fund, or other payment from any amount
19 in the Special Reserve.

20 “(B) EMERGENCY USE OF SPECIAL RE-
21 SERVE.—Notwithstanding subparagraph (A)(ii),
22 the Corporation may, in its sole discretion,
23 transfer amounts from the Special Reserve to
24 the Deposit Insurance Fund, for the purposes
25 set forth in paragraph (4), only if—

1 “(i) the reserve ratio of the Deposit
2 Insurance Fund is less than 50 percent of
3 the designated reserve ratio; and

4 “(ii) the Corporation expects the re-
5 serve ratio of the Deposit Insurance Fund
6 to remain at less than 50 percent of the
7 designated reserve ratio for each of the
8 next 4 calendar quarters.

9 “(C) EXCLUSION OF SPECIAL RESERVE IN
10 CALCULATING RESERVE RATIO.—Notwithstand-
11 ing any other provision of law, any amounts in
12 the Special Reserve shall be excluded in cal-
13 culating the reserve ratio of the Deposit Insur-
14 ance Fund under section 7.”.

15 (5) FEDERAL HOME LOAN BANK ACT.—Section
16 21B(f)(2)(C)(ii) of the Federal Home Loan Bank
17 Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

18 (A) in subclause (I), by striking “to Sav-
19 ings Associations Insurance Fund members”
20 and inserting “to insured depository institu-
21 tions, and their successors, which were Savings
22 Association Insurance Fund members on Sep-
23 tember 1, 1995”; and

24 (B) in subclause (II), by striking “to Sav-
25 ings Associations Insurance Fund members”

1 and inserting “to insured depository institu-
2 tions, and their successors, which were Savings
3 Association Insurance Fund members on Sep-
4 tember 1, 1995”.

5 (6) REPEALS.—

6 (A) SECTION 3.—Section 3(y) of the Fed-
7 eral Deposit Insurance Act (12 U.S.C. 1813(y))
8 is amended to read as follows:

9 “(y) DEFINITIONS RELATING TO THE DEPOSIT IN-
10 SURANCE FUND.—

11 “(1) DEPOSIT INSURANCE FUND.—The term
12 ‘Deposit Insurance Fund’ means the fund estab-
13 lished under section 11(a)(4).

14 “(2) RESERVE RATIO.—The term ‘reserve ratio’
15 means the ratio of the net worth of the Deposit In-
16 surance Fund to aggregate estimated insured depos-
17 its held in all insured depository institutions.

18 “(3) DESIGNATED RESERVE RATIO.—The des-
19 ignated reserve ratio of the Deposit Insurance Fund
20 for each year shall be—

21 “(A) 1.25 percent of estimated insured de-
22 posits; or

23 “(B) a higher percentage of estimated in-
24 sured deposits that the Board of Directors de-
25 termines to be justified for that year by cir-

1 cumstances raising a significant risk of sub-
2 stantial future losses to the fund.

3 (B) SECTION 7.—Section 7 of the Federal
4 Deposit Insurance Act (12 U.S.C. 1817) is
5 amended—

6 (i) by striking subsection (l);

7 (ii) by redesignating subsections (m)
8 and (n) as subsections (l) and (m), respec-
9 tively;

10 (iii) in subsection (b)(2), by striking
11 subparagraphs (B) and (F), and by redesi-
12 gnating subparagraphs (C), (E), (G), and
13 (H) as subparagraphs (B) through (E), re-
14 spectively.

15 (C) SECTION 11.—Section 11(a) of the
16 Federal Deposit Insurance Act (12 U.S.C.
17 1821(a)) is amended—

18 (i) by striking paragraphs (6) and (7);

19 and

20 (ii) by redesignating paragraph (8) as
21 paragraph (6).

22 (7) SECTION 5136 OF THE REVISED STAT-
23 UTES.—The paragraph designated the “Eleventh” of
24 section 5136 of the Revised Statutes (12 U.S.C. 24)
25 is amended in the fifth sentence, by striking “af-

1 affected deposit insurance fund” and inserting “De-
2 posit Insurance Fund”.

3 (8) INVESTMENTS PROMOTING PUBLIC WEL-
4 FARE; LIMITATIONS ON AGGREGATE INVEST-
5 MENTS.—The twenty-third undesignated paragraph
6 of section 9 of the Federal Reserve Act (12 U.S.C.
7 338a) is amended in the 4th sentence, by striking
8 “affected deposit insurance fund” and inserting
9 “Deposit Insurance Fund”.

10 (9) ADVANCES TO CRITICALLY UNDERCAPITAL-
11 IZED DEPOSITORY INSTITUTIONS.—Section
12 10B(b)(3)(A)(ii) of the Federal Reserve Act (12
13 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking
14 “any deposit insurance fund in” and inserting “the
15 Deposit Insurance Fund of”.

16 (10) AMENDMENTS TO THE BALANCED BUDGET
17 AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—
18 Section 255(g)(1)(A) of the Balanced Budget and
19 Emergency Deficit Control Act of 1985 (2 U.S.C.
20 905(g)(1)(A)) is amended—

21 (A) by striking “Bank Insurance Fund”
22 and inserting “Deposit Insurance Fund”; and

23 (B) by striking “Federal Deposit Insur-
24 ance Corporation, Savings Association Insur-
25 ance Fund;”.

1 (11) FURTHER AMENDMENTS TO THE FEDERAL
2 HOME LOAN BANK ACT.—The Federal Home Loan
3 Bank Act (12 U.S.C. 1421 et seq.) is amended—

4 (A) in section 11(k) (12 U.S.C.
5 1431(k))—

6 (i) in the subsection heading, by strik-
7 ing “SAIF” and inserting “THE DEPOSIT
8 INSURANCE FUND”; and

9 (ii) by striking “Savings Association
10 Insurance Fund” each place such term ap-
11 pears and inserting “Deposit Insurance
12 Fund”;

13 (B) in section 21A(b)(4)(B) (12 U.S.C.
14 1441a(b)(4)(B)), by striking “affected deposit
15 insurance fund” and inserting “Deposit Insur-
16 ance Fund”;

17 (C) in section 21A(b)(6)(B) (12 U.S.C.
18 1441a(b)(6)(B))—

19 (i) in the subparagraph heading, by
20 striking “SAIF-INSURED BANKS” and in-
21 sserting “CHARTER CONVERSIONS”; and

22 (ii) by striking “Savings Association
23 Insurance Fund member” and inserting
24 “savings association”;

1 (D) in section 21A(b)(10)(A)(iv)(II) (12
2 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking
3 “Savings Association Insurance Fund” and in-
4 serting “Deposit Insurance Fund”;

5 (E) in section 21B(e) (12 U.S.C.
6 1441b(e))—

7 (i) in paragraph (5), by inserting “as
8 of the date of funding” after “Savings As-
9 sociation Insurance Fund members” each
10 place such term appears;

11 (ii) by striking paragraph (7); and

12 (iii) by redesignating paragraph (8) as
13 paragraph (7); and

14 (F) in section 21B(k) (12 U.S.C.
15 1441b(k))—

16 (i) by striking paragraph (8); and

17 (ii) by redesignating paragraphs (9)
18 and (10) as paragraphs (8) and (9), re-
19 spectively.

20 (12) AMENDMENTS TO THE HOME OWNERS’
21 LOAN ACT.—The Home Owners’ Loan Act (12
22 U.S.C. 1461 et seq.) is amended—

23 (A) in section 5—

1 (i) in subsection (c)(5)(A), by striking
2 “that is a member of the Bank Insurance
3 Fund”;

4 (ii) in subsection (c)(6), by striking
5 “As used in this subsection—” and insert-
6 ing “For purposes of this subsection, the
7 following definitions shall apply:”;

8 (iii) in subsection (o)(1), by striking
9 “that is a Bank Insurance Fund member”;

10 (iv) in subsection (o)(2)(A), by strik-
11 ing “a Bank Insurance Fund member until
12 such time as it changes its status to a Sav-
13 ings Association Insurance Fund member”
14 and inserting “insured by the Deposit In-
15 surance Fund”;

16 (v) in subsection (t)(5)(D)(iii)(II), by
17 striking “affected deposit insurance fund”
18 and inserting “Deposit Insurance Fund”;

19 (vi) in subsection (t)(7)(C)(i)(I), by
20 striking “affected deposit insurance fund”
21 and inserting “Deposit Insurance Fund”;
22 and

23 (vii) in subsection (v)(2)(A)(i), by
24 striking “, the Savings Association Insur-

1 ance Fund” and inserting “or the Deposit
2 Insurance Fund”; and

3 (B) in section 10—

4 (i) in subsection (e)(1)(A)(iii)(VII), by
5 adding “or” at the end;

6 (ii) in subsection (e)(1)(A)(iv), by
7 adding “and” at the end;

8 (iii) in subsection (e)(1)(B), by strik-
9 ing “Savings Association Insurance Fund
10 or Bank Insurance Fund” and inserting
11 “Deposit Insurance Fund”;

12 (iv) in subsection (e)(2), by striking
13 “Savings Association Insurance Fund or
14 the Bank Insurance Fund” and inserting
15 “Deposit Insurance Fund”; and

16 (v) in subsection (m)(3), by striking
17 subparagraph (E), and by redesignating
18 subparagraphs (F), (G), and (H) as sub-
19 paragraphs (E), (F), and (G), respectively.

20 (13) AMENDMENTS TO THE NATIONAL HOUSING
21 ACT.—The National Housing Act (12 U.S.C. 1701
22 et seq.) is amended—

23 (A) in section 317(b)(1)(B) (12 U.S.C.
24 1723i(b)(1)(B)), by striking “Bank Insurance
25 Fund for banks or through the Savings Asso-

1 ciation Insurance Fund for savings associa-
2 tions” and inserting “Deposit Insurance Fund”;
3 and

4 (B) in section 526(b)(1)(B)(ii) (12 U.S.C.
5 1735f–14(b)(1)(B)(ii)), by striking “Bank In-
6 surance Fund for banks and through the Sav-
7 ings Association Insurance Fund for savings as-
8 sociations” and inserting “Deposit Insurance
9 Fund”.

10 (14) FURTHER AMENDMENTS TO THE FEDERAL
11 DEPOSIT INSURANCE ACT.—The Federal Deposit In-
12 surance Act (12 U.S.C. 1811 et seq.) is amended—

13 (A) in section 3(a)(1) (12 U.S.C.
14 1813(a)(1)), by striking subparagraph (B) and
15 inserting the following:

16 “(B) includes any former savings associa-
17 tion.”;

18 (B) in section 5(b)(5) (12 U.S.C.
19 1815(b)(5)), by striking “the Bank Insurance
20 Fund or the Savings Association Insurance
21 Fund;” and inserting “Deposit Insurance
22 Fund;”;

23 (C) in section 5(d) (12 U.S.C. 1815(d)),
24 by striking paragraphs (2) and (3);

1 (D) in section 5(d)(1) (12 U.S.C.
2 1815(d)(1))—

3 (i) in subparagraph (A), by striking
4 “reserve ratios in the Bank Insurance
5 Fund and the Savings Association Insur-
6 ance Fund” and inserting “the reserve
7 ratio of the Deposit Insurance Fund”;

8 (ii) by striking subparagraph (B) and
9 inserting the following:

10 “(2) FEE CREDITED TO THE DEPOSIT INSUR-
11 ANCE FUND.—The fee paid by the depository insti-
12 tution under paragraph (1) shall be credited to the
13 Deposit Insurance Fund.”;

14 (iii) by striking “(1) UNINSURED IN-
15 STITUTIONS.—”; and

16 (iv) by redesignating subparagraphs
17 (A) and (C) as paragraphs (1) and (3), re-
18 spectively, and moving the margins 2 ems
19 to the left;

20 (E) in section 5(e) (12 U.S.C. 1815(e))—

21 (i) in paragraph (5)(A), by striking
22 “Bank Insurance Fund or the Savings As-
23 sociation Insurance Fund” and inserting
24 “Deposit Insurance Fund”;

25 (ii) by striking paragraph (6); and

1 (iii) by redesignating paragraphs (7),
2 (8), and (9) as paragraphs (6), (7), and
3 (8), respectively;

4 (F) in section 6(5) (12 U.S.C. 1816(5)),
5 by striking “Bank Insurance Fund or the Sav-
6 ings Association Insurance Fund” and inserting
7 “Deposit Insurance Fund”;

8 (G) in section 7(b) (12 U.S.C. 1817(b))—

9 (i) in paragraph (1)(D), by striking
10 “each deposit insurance fund” and insert-
11 ing “the Deposit Insurance Fund”;

12 (ii) in clauses (i)(I) and (iv) of para-
13 graph (2)(A), by striking “each deposit in-
14 surance fund” each place such term ap-
15 pears and inserting “the Deposit Insurance
16 Fund”;

17 (iii) in paragraph (2)(A)(iii), by strik-
18 ing “a deposit insurance fund” and insert-
19 ing “the Deposit Insurance Fund”;

20 (iv) by striking clause (iv) of para-
21 graph (2)(A);

22 (v) in paragraph (2)(C) (as redesign-
23 ated by paragraph (6)(B) of this sub-
24 section)—

1 (I) by striking “any deposit in-
2 surance fund” and inserting “the De-
3 posit Insurance Fund”; and

4 (II) by striking “that fund” each
5 place such term appears and inserting
6 “the Deposit Insurance Fund”;

7 (vi) in paragraph (2)(D) (as redesign-
8 nated by paragraph (6)(B) of this sub-
9 section)—

10 (I) in the subparagraph heading,
11 by striking “FUNDS ACHIEVE” and in-
12 serting “FUND ACHIEVES”; and

13 (II) by striking “a deposit insur-
14 ance fund” and inserting “the Deposit
15 Insurance Fund”;

16 (vii) in paragraph (3)—

17 (I) in the paragraph heading, by
18 striking “FUNDS” and inserting
19 “FUND”;

20 (II) by striking “members of that
21 fund” where such term appears in the
22 portion of subparagraph (A) which
23 precedes clause (i) of such subpara-
24 graph and inserting “insured deposi-
25 tory institutions”;

1 (III) by striking “that fund”
2 each place such term appears (other
3 than in connection with term amended
4 in subclause (II) of this clause) and
5 inserting “the Deposit Insurance
6 Fund”;

7 (IV) in subparagraph (A), by
8 striking “Except as provided in para-
9 graph (2)(F), if” and inserting “If”;

10 (V) in subparagraph (A), by
11 striking “any deposit insurance fund”
12 and inserting “the Deposit Insurance
13 Fund”; and

14 (VI) by striking subparagraphs
15 (C) and (D) and inserting the follow-
16 ing:

17 “(C) AMENDING SCHEDULE.—The Cor-
18 poration may, by regulation, amend a schedule
19 promulgated under subparagraph (B).”; and

20 (viii) in paragraph (6)—

21 (I) by striking “any such assess-
22 ment” and inserting “any such assess-
23 ment is necessary”;

24 (II) by striking “(A) is nec-
25 essary—”;

1 (III) by striking subparagraph
2 (B);

3 (IV) by redesignating clauses (i),
4 (ii), and (iii) as subparagraphs (A),
5 (B), and (C), respectively, and moving
6 the margins 2 ems to the left; and

7 (V) in subparagraph (C) (as re-
8 designated), by striking “; and” and
9 inserting a period;

10 (H) in section 11(f)(1) (12 U.S.C.
11 1821(f)(1)), by striking “, except that—” and
12 all that follows through the end of the para-
13 graph and inserting a period;

14 (I) in section 11(i)(3) (12 U.S.C.
15 1821(i)(3))—

16 (i) by striking subparagraph (B);

17 (ii) by redesignating subparagraph
18 (C) as subparagraph (B); and

19 (iii) in subparagraph (B) (as redesign-
20 ated), by striking “subparagraphs (A)
21 and (B)” and inserting “subparagraph
22 (A)”;

23 (J) in section 11A(a) (12 U.S.C.
24 1821a(a))—

1 (i) in paragraph (2), by striking “LI-
2 ABILITIES.—” and all that follows through
3 “Except” and inserting “LIABILITIES.—
4 Except”;

5 (ii) by striking paragraph (2)(B); and

6 (iii) in paragraph (3), by striking “the
7 Bank Insurance Fund, the Savings Asso-
8 ciation Insurance Fund,” and inserting
9 “the Deposit Insurance Fund”;

10 (K) in section 11A(b) (12 U.S.C.
11 1821a(b)), by striking paragraph (4);

12 (L) in section 11A(f) (12 U.S.C.
13 1821a(f)), by striking “Savings Association In-
14 surance Fund” and inserting “Deposit Insur-
15 ance Fund”;

16 (M) in section 13 (12 U.S.C. 1823)—

17 (i) in subsection (a)(1), by striking
18 “Bank Insurance Fund, the Savings Asso-
19 ciation Insurance Fund,” and inserting
20 “Deposit Insurance Fund, the Special Re-
21 serve of the Deposit Insurance Fund,”;

22 (ii) in subsection (c)(4)(E)—

23 (I) in the subparagraph heading,
24 by striking “FUNDS” and inserting
25 “FUND”; and

1 (II) in clause (i), by striking
2 “any insurance fund” and inserting
3 “the Deposit Insurance Fund”;

4 (iii) in subsection (c)(4)(G)(ii)—

5 (I) by striking “appropriate in-
6 surance fund” and inserting “Deposit
7 Insurance Fund”;

8 (II) by striking “the members of
9 the insurance fund (of which such in-
10 stitution is a member)” and inserting
11 “insured depository institutions”;

12 (III) by striking “each mem-
13 ber’s” and inserting “each insured de-
14 pository institution’s”; and

15 (IV) by striking “the member’s”
16 each place such term appears and in-
17 serting “the institution’s”;

18 (iv) in subsection (c), by striking
19 paragraph (11);

20 (v) in subsection (h), by striking
21 “Bank Insurance Fund” and inserting
22 “Deposit Insurance Fund”;

23 (vi) in subsection (k)(4)(B)(i), by
24 striking “Savings Association Insurance

1 Fund” and inserting “Deposit Insurance
2 Fund”; and

3 (vii) in subsection (k)(5)(A), by strik-
4 ing “Savings Association Insurance Fund”
5 and inserting “Deposit Insurance Fund”;

6 (N) in section 14(a) (12 U.S.C. 1824(a))
7 in the 5th sentence—

8 (i) by striking “Bank Insurance Fund
9 or the Savings Association Insurance
10 Fund” and inserting “Deposit Insurance
11 Fund”; and

12 (ii) by striking “each such fund” and
13 inserting “the Deposit Insurance Fund”;

14 (O) in section 14(b) (12 U.S.C. 1824(b)),
15 by striking “Bank Insurance Fund or Savings
16 Association Insurance Fund” and inserting
17 “Deposit Insurance Fund”;

18 (P) in section 14(c) (12 U.S.C. 1824(c)),
19 by striking paragraph (3);

20 (Q) in section 14(d) (12 U.S.C.
21 1824(d))—

22 (i) by striking “BIF” each place such
23 term appears and inserting “DIF”; and

1 (ii) by striking “Bank Insurance
2 Fund” each place such term appears and
3 inserting “Deposit Insurance Fund”;

4 (R) in section 15(c)(5) (12 U.S.C.
5 1825(c)(5))—

6 (i) by striking “the Bank Insurance
7 Fund or Savings Association Insurance
8 Fund, respectively” each place such term
9 appears and inserting “the Deposit Insur-
10 ance Fund”; and

11 (ii) in subparagraph (B), by striking
12 “the Bank Insurance Fund or the Savings
13 Association Insurance Fund, respectively”
14 and inserting “the Deposit Insurance
15 Fund”;

16 (S) in section 17(a) (12 U.S.C. 1827(a))—

17 (i) in the subsection heading, by strik-
18 ing “BIF, SAIF,” and inserting “THE DE-
19 POSIT INSURANCE FUND”; and

20 (ii) in paragraph (1), by striking “the
21 Bank Insurance Fund, the Savings Asso-
22 ciation Insurance Fund,” each place such
23 term appears and inserting “the Deposit
24 Insurance Fund”;

1 (T) in section 17(d) (12 U.S.C. 1827(d)),
2 by striking “the Bank Insurance Fund, the
3 Savings Association Insurance Fund,” each
4 place such term appears and inserting “the De-
5 posit Insurance Fund”;

6 (U) in section 18(m)(3) (12 U.S.C.
7 1828(m)(3))—

8 (i) by striking “Savings Association
9 Insurance Fund” each place such term ap-
10 pears and inserting “Deposit Insurance
11 Fund”; and

12 (ii) in subparagraph (C), by striking
13 “or the Bank Insurance Fund”;

14 (V) in section 18(p) (12 U.S.C. 1828(p)),
15 by striking “deposit insurance funds” and in-
16 serting “Deposit Insurance Fund”;

17 (W) in section 24 (12 U.S.C. 1831a) in
18 subsections (a)(1) and (d)(1)(A), by striking
19 “appropriate deposit insurance fund” each
20 place such term appears and inserting “Deposit
21 Insurance Fund”;

22 (X) in section 28 (12 U.S.C. 1831e), by
23 striking “affected deposit insurance fund” each
24 place such term appears and inserting “Deposit
25 Insurance Fund”;

1 (Y) by striking section 31 (12 U.S.C.
2 1831h);

3 (Z) in section 36(i)(3) (12 U.S.C.
4 1831m(i)(3)) by striking “affected deposit in-
5 surance fund” and inserting “Deposit Insur-
6 ance Fund”;

7 (AA) in section 38(a) (12 U.S.C.
8 1831o(a)) in the subsection heading, by striking
9 “FUNDS” and inserting “FUND”;

10 (BB) in section 38(k) (12 U.S.C.
11 1831o(k))—

12 (i) in paragraph (1), by striking “a
13 deposit insurance fund” and inserting “the
14 Deposit Insurance Fund”; and

15 (ii) in paragraph (2)(A)—

16 (I) by striking “A deposit insur-
17 ance fund” and inserting “The De-
18 posit Insurance Fund”; and

19 (II) by striking “the deposit in-
20 surance fund’s outlays” and inserting
21 “the outlays of the Deposit Insurance
22 Fund”; and

23 (CC) in section 38(o) (12 U.S.C.
24 1831o(o))—

1 (i) by striking “ASSOCIATIONS.—”
2 and all that follows through “Subsections
3 (e)(2)” and inserting “ASSOCIATIONS.—
4 Subsections (e)(2)”;

5 (ii) by redesignating subparagraphs
6 (A), (B), and (C) as paragraphs (1), (2),
7 and (3), respectively, and moving the mar-
8 gins 2 ems to the left; and

9 (iii) in paragraph (1) (as redesi-
10 gnated), by redesignating clauses (i) and (ii)
11 as subparagraphs (A) and (B), respec-
12 tively, and moving the margins 2 ems to
13 the left.

14 (15) AMENDMENTS TO THE FINANCIAL INSTI-
15 TUTIONS REFORM, RECOVERY, AND ENFORCEMENT
16 ACT OF 1989.—The Financial Institutions Reform,
17 Recovery, and Enforcement Act is amended—

18 (A) in section 951(b)(3)(B) (12 U.S.C.
19 1833a(b)(3)(B)), by striking “Bank Insurance
20 Fund, the Savings Association Insurance
21 Fund,” and inserting “Deposit Insurance
22 Fund”; and

23 (B) in section 1112(c)(1)(B) (12 U.S.C.
24 3341(c)(1)(B)), by striking “Bank Insurance
25 Fund, the Savings Association Insurance

1 Fund,” and inserting “Deposit Insurance
2 Fund”.

3 (16) AMENDMENT TO THE BANK ENTERPRISE
4 ACT OF 1991.—Section 232(a)(1) of the Bank Enter-
5 prise Act of 1991 (12 U.S.C. 1834(a)(1)) is amend-
6 ed by striking “section 7(b)(2)(H)” and inserting
7 “section 7(b)(2)(G)”.

8 (17) AMENDMENT TO THE BANK HOLDING
9 COMPANY ACT.—Section 2(j)(2) of the Bank Hold-
10 ing Company Act of 1956 (12 U.S.C. 1841(j)(2)) is
11 amended by striking “Savings Association Insurance
12 Fund” and inserting “Deposit Insurance Fund”.

13 **SEC. 805. CREATION OF SAIF SPECIAL RESERVE.**

14 Section 11(a)(6) of the Federal Deposit Insurance
15 Act (12 U.S.C. 1821(a)(6)) is amended by adding at the
16 end the following new subparagraph:

17 “(L) ESTABLISHMENT OF SAIF SPECIAL RE-
18 SERVE.—

19 “(i) ESTABLISHMENT.—If, on January 1,
20 1999, the reserve ratio of the Savings Associa-
21 tion Insurance Fund exceeds the designated re-
22 serve ratio, there is established a Special Re-
23 serve of the Savings Association Insurance
24 Fund, which shall be administered by the Cor-

1 poration and shall be invested in accordance
2 with section 13(a).

3 “(ii) AMOUNTS IN SPECIAL RESERVE.—If,
4 on January 1, 1999, the reserve ratio of the
5 Savings Association Insurance Fund exceeds
6 the designated reserve ratio, the amount by
7 which the reserve ratio exceeds the designated
8 reserve ratio shall be placed in the Special Re-
9 serve of the Savings Association Insurance
10 Fund established by clause (i).

11 “(iii) LIMITATION.—The Corporation shall
12 not provide any assessment credit, refund, or
13 other payment from any amount in the Special
14 Reserve of the Savings Association Insurance
15 Fund.

16 “(iv) EMERGENCY USE OF SPECIAL RE-
17 SERVE.—Notwithstanding clause (iii), the Cor-
18 poration may, in its sole discretion, transfer
19 amounts from the Special Reserve of the Sav-
20 ings Association Insurance Fund to the Savings
21 Association Insurance Fund for the purposes
22 set forth in paragraph (4), only if—

23 “(I) the reserve ratio of the Savings
24 Association Insurance Fund is less than 50
25 percent of the designated reserve ratio; and

1 “(II) the Corporation expects the re-
2 serve ratio of the Savings Association In-
3 surance Fund to remain at less than 50
4 percent of the designated reserve ratio for
5 each of the next 4 calendar quarters.

6 “(v) EXCLUSION OF SPECIAL RESERVE IN
7 CALCULATING RESERVE RATIO.—Notwithstand-
8 ing any other provision of law, any amounts in
9 the Special Reserve of the Savings Association
10 Insurance Fund shall be excluded in calculating
11 the reserve ratio of the Savings Association In-
12 surance Fund.”.

13 **SEC. 806. REFUND OF AMOUNTS IN DEPOSIT INSURANCE**
14 **FUND IN EXCESS OF DESIGNATED RESERVE**
15 **AMOUNT.**

16 Subsection (e) of section 7 of the Federal Deposit In-
17 surance Act (12 U.S.C. 1817(e)) is amended to read as
18 follows:

19 “(e) REFUNDS.—

20 “(1) OVERPAYMENTS.—In the case of any pay-
21 ment of an assessment (including any assessment
22 made pursuant to section 802 of the Deposit Insur-
23 ance Funds Act of 1996) by an insured depository
24 institution in excess of the amount due to the Cor-
25 poration, the Corporation may—

1 “(A) refund the amount of the excess pay-
2 ment to the insured depository institution; or

3 “(B) credit such excess amount toward the
4 payment of subsequent semiannual assessments
5 until such credit is exhausted.

6 “(2) BALANCE IN INSURANCE FUND IN EXCESS
7 OF DESIGNATED RESERVE.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graphs (B) and (C), if, as of the end of any
10 semiannual assessment period beginning after
11 the date of the enactment of the Deposit Insur-
12 ance Funds Act of 1996, the amount of the ac-
13 tual reserves in—

14 “(i) the Bank Insurance Fund (until
15 the merger of such fund into the Deposit
16 Insurance Fund pursuant to section 804 of
17 the Deposit Insurance Funds Act of 1996);

18 “(ii) the Savings Association Insur-
19 ance Fund (until the merger of such fund
20 into the Deposit Insurance Fund pursuant
21 to section 804 of the Deposit Insurance
22 Funds Act of 1996); or

23 “(iii) the Deposit Insurance Fund
24 (after the establishment of such fund),

1 exceeds the balance required to meet the des-
2 ignated reserve ratio applicable with respect to
3 such fund, such excess amount shall be re-
4 funded to insured depository institutions by the
5 Corporation on such basis as the Board of Di-
6 rectors determines to be appropriate, taking
7 into account the factors considered under the
8 risk-based assessment system.

9 “(B) REFUND NOT TO EXCEED PREVIOUS
10 SEMIANNUAL ASSESSMENT.—

11 “(i) IN GENERAL.—The amount of
12 any refund under this paragraph to any
13 member of a deposit insurance fund for
14 any semiannual assessment period may not
15 exceed the total amount of assessments
16 paid by such member to the insurance
17 fund with respect to such period.

18 “(ii) SPECIAL ASSESSMENT.—The
19 amount of any refund under this para-
20 graph to any Savings Association Insur-
21 ance Fund member which is attributable to
22 the special assessment imposed under sec-
23 tion 802 of the Deposit Insurance Funds
24 Act of 1996 may not exceed the total
25 amount of assessments paid by such mem-

1 ber to the Savings Association Insurance
2 Fund with respect to such assessment.

3 “(C) REFUND LIMITATION FOR CERTAIN
4 INSTITUTIONS.—No refund may be made under
5 this paragraph with respect to the amount of
6 any assessment paid for any semiannual assess-
7 ment period by any insured depository institu-
8 tion described in clause (v) of subsection
9 (b)(2)(A).”.

10 **SEC. 807. ASSESSMENT RATES FOR SAIF MEMBERS MAY**
11 **NOT BE LESS THAN ASSESSMENT RATES FOR**
12 **BIF MEMBERS.**

13 Section 7(b)(2)(C) of the Federal Deposit Insurance
14 Act (12 U.S.C. 1817(b)(2)(E), as redesignated by section
15 4(d)(6) of this Act) is amended—

16 (1) by striking “and” at the end of clause (i);

17 (2) by striking the period at the end of clause

18 (ii) and inserting “; and”; and

19 (3) by adding at the end the following new
20 clause:

21 “(iii) notwithstanding any other provi-
22 sion of this subsection, during the period
23 beginning on the date of enactment of the
24 Deposit Insurance Funds Act of 1996, and
25 ending on December 31, 1998, the assess-

1 ment rate for a Savings Association Insur-
2 ance Fund member may not be less than
3 the assessment rate for a Bank Insurance
4 Fund member that poses a comparable
5 risk to the deposit insurance fund.”.

6 **SEC. 808. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO**
7 **MAINTAIN THE RESERVE RATIO OF A DE-**
8 **POSIT INSURANCE FUND.**

9 (a) **IN GENERAL.**—Section 7(b)(2)(A)(i) of the Fed-
10 eral Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i))
11 is amended in the matter preceding subclause (I) by in-
12 serting “when necessary, and only to the extent nec-
13 essary” after “insured depository institutions”.

14 (b) **LIMITATION ON ASSESSMENT.**—Section
15 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12
16 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

17 “(iii) **LIMITATION ON ASSESSMENT.**—
18 Except as provided in clause (v), the Board
19 of Directors shall not set semiannual as-
20 sessments with respect to a deposit insur-
21 ance fund in excess of the amount need-
22 ed—

23 “(I) to maintain the reserve ratio
24 of the fund at the designated reserve
25 ratio; or

1 “(II) if the reserve ratio is less
2 than the designated reserve ratio, to
3 increase the reserve ratio to the des-
4 ignated reserve ratio.”.

5 (c) EXCEPTION TO LIMITATION ON ASSESSMENTS.—
6 Section 7(b)(2)(A) of the Federal Deposit Insurance Act
7 (12 U.S.C. 1817(b)(2)(A)) is amended by adding at the
8 end the following new clause:

9 “(v) EXCEPTION TO LIMITATION ON
10 ASSESSMENTS.—The Board of Directors
11 may set semiannual assessments in excess
12 of the amount permitted under clauses (i)
13 and (iii) with respect to insured depository
14 institutions that exhibit financial, oper-
15 ational, or compliance weaknesses ranging
16 from moderately severe to unsatisfactory,
17 or are not well capitalized, as that term is
18 defined in section 38.”.

19 **SEC. 809. TREASURY STUDY OF COMMON DEPOSITORY IN-**
20 **STITUTION CHARTER.**

21 (a) STUDY REQUIRED.—The Secretary of the Treas-
22 ury shall conduct a study of all issues which the Secretary
23 considers to be relevant with respect to the development
24 of a common charter for all insured depository institutions
25 (as defined in section 3 of the Federal Deposit Insurance

1 Act) and the abolition of separate and distinct charters
2 between banks and savings associations.

3 (b) REPORT TO THE CONGRESS.—

4 (1) IN GENERAL.—The Secretary of the Treas-
5 ury shall submit a report to the Congress on or be-
6 fore March 31, 1997, containing the findings and
7 conclusions of the Secretary in connection with the
8 study conducted pursuant to subsection (a).

9 (2) DETAILED ANALYSIS AND RECOMMENDA-
10 TIONS.—The report under paragraph (1) shall in-
11 clude—

12 (A) a detailed analysis of each issue the
13 Secretary considered relevant to the subject of
14 the study;

15 (B) recommendations of the Secretary with
16 regard to the establishment of a common char-
17 ter for insured depository institutions (as de-
18 fined in section 3 of the Federal Deposit Insur-
19 ance Act); and

20 (C) such recommendations for legislative
21 and administrative action as the Secretary de-
22 termines to be appropriate to implement the
23 recommendations of the Secretary under sub-
24 paragraph (B).

1 **SEC. 810. DEFINITIONS.**

2 For purposes of this title, the following definitions
3 shall apply:

4 (1) **BANK INSURANCE FUND.**—The term “Bank
5 Insurance Fund” means the fund established pursu-
6 ant to section (11)(a)(5)(A) of the Federal Deposit
7 Insurance Act, as that section existed on the day be-
8 fore the date of enactment of this Act.

9 (2) **BIF MEMBER, SAIF MEMBER.**—The terms
10 “Bank Insurance Fund member” and “Savings As-
11 sociation Insurance Fund member” have the same
12 meanings as in section 7(l) of the Federal Deposit
13 Insurance Act.

14 (3) **VARIOUS BANKING TERMS.**—The terms
15 “bank”, “Board of Directors”, “Corporation”, “in-
16 sured depository institution”, “Federal savings asso-
17 ciation”, “savings association”, “State savings
18 bank”, and “State depository institution” have the
19 same meanings as in section 3 of the Federal De-
20 posit Insurance Act.

21 (4) **DEPOSIT INSURANCE FUND.**—The term
22 “Deposit Insurance Fund” means the fund estab-
23 lished under section 11(a)(4) of the Federal Deposit
24 Insurance Act (as amended by section 804(d) of this
25 title).

1 (5) DEPOSITORY INSTITUTION HOLDING COM-
2 PANY.—The term “depository institution holding
3 company” has the same meaning as in section 3 of
4 the Federal Deposit Insurance Act.

5 (6) DESIGNATED RESERVE RATIO.—The term
6 “designated reserve ratio” has the same meaning as
7 in section 7(b)(2)(A)(iv) of the Federal Deposit In-
8 surance Act.

9 (7) SAIF.—The term “Savings Association In-
10 surance Fund” means the fund established pursuant
11 to section 11(a)(6)(A) of the Federal Deposit Insur-
12 ance Act, as that section existed on the day before
13 the date of enactment of this Act.

14 (8) SAIF-ASSESSABLE DEPOSIT.—The term
15 “SAIF-assessable deposit”—

16 (A) means a deposit that is subject to as-
17 sessment for purposes of the Savings Associa-
18 tion Insurance Fund under the Federal Deposit
19 Insurance Act (including a deposit that is treat-
20 ed as insured by the Savings Association Insur-
21 ance Fund under section 5(d)(3) of the Federal
22 Deposit Insurance Act); and

23 (B) includes any deposit described in sub-
24 paragraph (A) which is assumed after March
25 31, 1995, if the insured depository institution,

1 the deposits of which are assumed, is not an in-
2 sured depository institution when the special as-
3 sessment is imposed under section 2(a).

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