

113TH CONGRESS
1ST SESSION

H. R. 2767

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2013

Mr. GARRETT (for himself, Mr. HENSARLING, Mr. NEUGEBAUER, Mrs. CAPITO, and Mr. MCHENRY) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century.

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.**

4 This Act may be cited as the “Protecting American
5 Taxpayers and Homeowners Act of 2013”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—WIND-DOWN OF FANNIE MAE AND FREDDIE MAC

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Termination of current conservatorship; mandatory receivership.
- Sec. 104. Limitations on enterprise authority.
- Sec. 105. Modifications to increases in conforming loan limits.
- Sec. 106. Mandatory risk-sharing.
- Sec. 107. Limitation of enterprise mortgage purchases to qualified mortgages.
- Sec. 108. Prohibition relating to use of power of eminent domain.
- Sec. 109. Receiver's discretionary authority to create receivership entity.
- Sec. 110. Authority of receiver to repeal enterprise charter.

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- Sec. 201. Short title.
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- Sec. 211. Establishment.
- Sec. 212. Purposes.
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- Sec. 214. Board of Directors.
- Sec. 215. Officers and personnel.
- Sec. 216. Financial, underwriting, and operations systems.
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- Sec. 219. Evaluation.
- Sec. 220. Funding.
- Sec. 221. Effective date.

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- Sec. 231. Authority to carry out FHA and other business.
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- Sec. 238. Effective date.

Subtitle C—Financial Safety and Soundness

- Sec. 251. Authority of Director.
- Sec. 252. Budgets and business plans.
- Sec. 253. Annual business plan; use of GAAP.
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- Sec. 265. Indemnification by mortgagees.
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- Sec. 282. Authority during transition period.
- Sec. 283. Advisory Board.
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1 **TITLE I—WIND-DOWN OF FANNIE**
2 **MAE AND FREDDIE MAC**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “GSE Bailout Elimination and Taxpayer Protection Act”.

6 **SEC. 102. DEFINITIONS.**

7 For purposes of this title, the following definitions
8 shall apply:

9 (1) CHARTER.—The term “charter” means—

10 (A) with respect to the Federal National
11 Mortgage Association, the Federal National
12 Mortgage Association Charter Act (12 U.S.C.
13 1716 et seq.); and

14 (B) with respect to the Federal Home
15 Loan Mortgage Corporation, the Federal Home
16 Loan Mortgage Corporation Act (12 U.S.C.
17 1451 et seq.).

18 (2) DIRECTOR.—The term “Director” means
19 the Director of the Federal Housing Finance Agency.
20

21 (3) ENTERPRISE.—The term “enterprise”
22 means—

23 (A) the Federal National Mortgage Association;
24 and

1 (B) the Federal Home Loan Mortgage
2 Corporation.

3 **SEC. 103. TERMINATION OF CURRENT CONSERVATORSHIP;**
4 **MANDATORY RECEIVERSHIP.**

5 Upon the expiration of the 5-year period beginning
6 upon the date of the enactment of this Act, the Director
7 shall, with respect to each enterprise, immediately appoint
8 the Federal Housing Finance Agency as receiver under
9 section 1367 of the Federal Housing Enterprises Finan-
10 cial Safety and Soundness Act of 1992 and carry out such
11 receivership under the authority of such section.

12 **SEC. 104. LIMITATIONS ON ENTERPRISE AUTHORITY.**

13 (a) PORTFOLIO LIMITATIONS.—Subtitle B of title
14 XIII of the Housing and Community Development Act of
15 1992 (12 U.S.C. 4611 et seq.) is amended by adding at
16 the end the following new section:

17 **“SEC. 1369E. RESTRICTION ON MORTGAGE ASSETS OF EN-**
18 **TERPRISES.**

19 “(a) RESTRICTION.—Subject to subsection (b), no
20 enterprise shall own, as of any applicable date in this sub-
21 section or thereafter, mortgage assets in excess of—

22 “(1) as of December 31, 2013,
23 \$550,000,000,000; or

24 “(2) as of December 31 of each year thereafter,
25 85 percent of the aggregate amount of mortgage as-

1 sets that the enterprise was permitted to own pursu-
2 ant to this section as of December 31 of the imme-
3 diately preceding calendar year.

4 “(b) LIMITATION.—In no event shall an enterprise be
5 required under this section to own less than
6 \$250,000,000,000 in mortgage assets.

7 “(c) DEFINITION OF MORTGAGE ASSETS.—For pur-
8 poses of this section, the term ‘mortgage assets’ means,
9 with respect to an enterprise, assets of such enterprise
10 consisting of mortgages, mortgage loans, mortgage-related
11 securities, participation certificates, mortgage-backed
12 commercial paper, obligations of real estate mortgage in-
13 vestment conduits and similar assets, in each case to the
14 extent such assets would appear on the balance sheet of
15 such enterprise in accordance with generally accepted ac-
16 counting principles in effect in the United States as of
17 September 7, 2008 (as set forth in the opinions and pro-
18 nouncements of the Accounting Principles Board and the
19 American Institute of Certified Public Accountants and
20 statements and pronouncements of the Financial Account-
21 ing Standards Board from time to time; and without giv-
22 ing any effect to any change that may be made after Sep-
23 tember 7, 2008, in respect of Statement of Financial Ac-
24 counting Standards No. 140 or any similar accounting
25 standard).”.

1 (b) **EQUITABILITY IN GUARANTEE FEES.**—Section
2 1327 of Federal Housing Enterprises Financial Safety
3 and Soundness Act of 1992 (12 U.S.C. 4547) is amended
4 by adding at the end the following new subsection:

5 “(f) **EQUITABILITY IN GUARANTEE FEES.**—

6 “(1) **REQUIREMENT.**—Notwithstanding any
7 other provision of this section, the Director shall en-
8 sure, pursuant to the annual review conducted under
9 paragraph (2), that each enterprise charges a guar-
10 antee fee, in connection with any mortgage guaran-
11 teed after the date of the enactment of the Pro-
12 tecting American Taxpayers and Homeowners Act of
13 2013, in an amount that the Director determines is
14 equivalent to the amount that the enterprise would
15 charge if the enterprise were held to the same cap-
16 ital standards as private banks or financial institu-
17 tions.

18 “(2) **ANNUAL DETERMINATION.**—Not less often
19 than annually, the Director shall review the guar-
20 antee fees charged by each enterprise and determine
21 how such fees compare to the amount determined by
22 the Director under paragraph (1). If the Director
23 determines that such fees charged by an enterprise
24 are less than such amount, the Director shall, by
25 order, require the enterprise to increase such fees in

1 such amount as the Director determines necessary to
2 comply with paragraph (1).

3 “(3) FLEXIBILITY IN DETERMINATION OF IN-
4 CREASE.—To determine the amount of any increase
5 under this subsection, the Director shall establish a
6 pricing mechanism as the Director considers appro-
7 priate, taking into consideration current market con-
8 ditions, including the current market share of an en-
9 terprise, and any data collected pursuant to section
10 1601 of the Housing and Economic Recovery Act of
11 2008 (12 U.S.C. 4514a).”.

12 (c) REPEAL OF MANDATORY HOUSING ACTIVI-
13 TIES.—

14 (1) REPEAL OF HOUSING GOALS.—The Federal
15 Housing Enterprises Financial Safety and Sound-
16 ness Act of 1992 is amended by striking sections
17 1331 through 1336 (12 U.S.C. 4561–6).

18 (2) CONFORMING AMENDMENTS.—Federal
19 Housing Enterprises Financial Safety and Sound-
20 ness Act of 1992 is amended—

21 (A) in section 1303(28) (12 U.S.C.
22 4502(28)), by striking “, and, for the purposes”
23 and all that follows through “designated dis-
24 aster areas”;

1 (B) in section 1324(b)(1)(A) (12 U.S.C.
2 4544(b)(1)(A)), by striking clauses (i), (ii), and
3 (iv);

4 (C) in section 1339(h) (12 U.S.C.
5 4569(h)), by striking paragraph (7);

6 (D) in section 1341 (12 U.S.C. 4581)—

7 (i) in subsection (a)—

8 (I) in paragraph (1), by inserting
9 “or” after the semicolon at the end;

10 (II) in paragraph (2), by striking
11 the semicolon at the end and inserting
12 a period; and

13 (III) by striking paragraphs (3)
14 and (4); and

15 (ii) in subsection (b)(2)—

16 (I) in subparagraph (A), by in-
17 serting “or” after the semicolon at the
18 end;

19 (II) by striking subparagraphs
20 (B) and (C); and

21 (III) by redesignating subpara-
22 graph (D) as subparagraph (B);

23 (E) in section 1345(a) (12 U.S.C.
24 4585(a))—

1 (i) in paragraph (1), by inserting “or”
2 after the semicolon at the end;

3 (ii) in paragraph (2), by striking the
4 semicolon at the end and inserting a pe-
5 riod; and

6 (iii) by striking paragraphs (3) and
7 (4); and

8 (F) in section 1371(a)(2) (12 U.S.C.
9 4631(a)(2)), by striking “with any housing goal
10 established under subpart B of part 2 of sub-
11 title A of this title, with section 1336 or 1337
12 of this title,”.

13 (3) REPEAL OF HOUSING TRUST FUND.—

14 (A) REPEAL.—The Federal Housing En-
15 terprises Financial Safety and Soundness Act
16 of 1992 is amended by striking sections 1337
17 and 1338 (12 U.S.C. 4567, 4568).

18 (B) CONFORMING AMENDMENTS.—The
19 Federal Housing Enterprises Financial Safety
20 and Soundness Act of 1992 is amended—

21 (i) in section 1303(24)(B) (12 U.S.C.
22 4502(24)(B)), by striking “1338 and”;

23 (ii) in section 1324(b)(1)(A) (12
24 U.S.C. 4544(b)(1)(A)), as amended by the
25 preceding provisions of this Act—

- 1 (I) by striking clause (iii);
- 2 (II) by striking the dash after
- 3 “which” and inserting the text of
- 4 clause (v) and a period; and
- 5 (III) by striking clause (v);
- 6 (iii) in section 1339(b)—
- 7 (I) by striking paragraph (1);
- 8 (II) by striking the dash after
- 9 “consist of” and inserting the text of
- 10 paragraph (2) and a period; and
- 11 (III) by striking paragraph (2);
- 12 and
- 13 (iv) in section 1345 (12 U.S.C. 4585),
- 14 by striking subsection (f).

15 **SEC. 105. MODIFICATIONS TO INCREASES IN CONFORMING**

16 **LOAN LIMITS.**

17 (a) FANNIE MAE.—Section 302(b)(2) of the Federal

18 National Mortgage Association Charter Act (12 U.S.C.

19 1717(b)(2)) is amended—

20 (1) in the 8th sentence—

21 (A) in inserting “or subtracting from”

22 after “adding to”; and

23 (B) by inserting “or decrease, respectively”

24 before the first comma;

25 (2) by striking the 9th and 10th sentences;

1 (3) by striking the last sentence;

2 (4) by inserting “(A)” after the paragraph des-
3 ignation; and

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

6 “(B) HIGH-COST AREAS.—

7 “(i) MAXIMUM ORIGINAL PRINCIPAL LIMITA-
8 TION.—Subject to clause (ii), the limitations estab-
9 lished pursuant to subparagraph (A) shall also be in-
10 creased, with respect to properties of a particular
11 size located in any area for which 115 percent of the
12 median house price for such size residence exceeds
13 the limitation under subparagraph (A) for such size
14 residence, to the lesser of—

15 “(I)(aa) for the first year beginning after
16 the date of the enactment of the Protecting
17 American Taxpayers and Homeowners Act of
18 2013, the difference between—

19 “(AA) 150 percent of the limitation
20 under subparagraph (A) for such size resi-
21 dence; and

22 “(BB) \$20,000 in the case of a 1-
23 family residence, \$25,604 in the case of a
24 2-family residence, \$30,950 in the case of

1 a 3-family residence, and \$38,463 in the
2 case of a 4-family residence;

3 “(bb) for the second year beginning after
4 the date of the enactment of the Protecting
5 American Taxpayers and Homeowners Act of
6 2013, the difference between—

7 “(AA) 150 percent of the limitation
8 under subparagraph (A) for such size resi-
9 dence; and

10 “(BB) \$40,000 in the case of a 1-
11 family residence, \$51,208 in the case of a
12 2-family residence, \$61,900 in the case of
13 a 3-family residence, and \$76,926 in the
14 case of a 4-family residence;

15 “(cc) for the third year beginning after the
16 date of the enactment of the Protecting Amer-
17 ican Taxpayers and Homeowners Act of 2013,
18 the difference between—

19 “(AA) 150 percent of the limitation
20 under subparagraph (A) for such size resi-
21 dence; and

22 “(BB) \$60,000 in the case of a 1-
23 family residence, \$76,812 in the case of a
24 2-family residence, \$92,850 in the case of

1 a 3-family residence, and \$103,389 in the
2 case of a 4-family residence;

3 “(dd) for the fourth year beginning after
4 the date of the enactment of the Protecting
5 American Taxpayers and Homeowners Act of
6 2013, the difference between—

7 “(AA) 150 percent of the limitation
8 under subparagraph (A) for such size resi-
9 dence; and

10 “(BB) \$80,000 in the case of a 1-
11 family residence, \$102,416 in the case of a
12 2-family residence, \$123,800 in the case of
13 a 3-family residence, and \$153,852 in the
14 case of a 4-family residence; and

15 “(ee) for the fifth year beginning after the
16 date of the enactment of the Protecting Amer-
17 ican Taxpayers and Homeowners Act of 2013,
18 the difference between—

19 “(AA) 150 percent of the limitation
20 under subparagraph (A) for such size resi-
21 dence; and

22 “(BB) \$100,000 in the case of a 1-
23 family residence, \$128,020 in the case of a
24 2-family residence, \$154,750 in the case of

1 a 3-family residence, and \$192,315 in the
2 case of a 4-family residence;

3 “(II) the amount that is equal to 115 per-
4 cent of the median house price in such area for
5 such size residence; or

6 “(III) the limitation in effect for such size
7 residence for such area, pursuant to the last
8 sentence of this paragraph as in effect imme-
9 diately before the enactment of the Protecting
10 American Taxpayers and Homeowners Act of
11 2013, as of the date of such enactment.

12 “(ii) PROHIBITION ON NEW HIGH-COST
13 AREAS.—The limitations established pursuant to
14 subparagraph (A) may not be increased, with respect
15 to properties of any size located in a particular area
16 unless, as of the date of the enactment of the Pro-
17 tecting American Taxpayers and Homeowners Act of
18 2013, such foregoing limitations in effect for such
19 area for any size residence were determined under
20 the authority provided in the last sentence of this
21 paragraph, as in effect immediately before such en-
22 actment.”.

23 (b) FREDDIE MAC.—Section 305(a)(2) of the Fed-
24 eral Home Loan Mortgage Corporation Act (12 U.S.C.
25 1454(a)(2)) is amended—

1 (1) in the 7th sentence—

2 (A) in inserting “or subtracting from”
3 after “adding to”; and

4 (B) by inserting “or decrease, respectively”
5 before the first comma; and

6 (2) by striking the 8th and 9th sentences;

7 (3) by striking the last sentence;

8 (4) by inserting “(A)” after the paragraph des-
9 ignation; and

10 (5) by adding at the end the following new sub-
11 paragraph:

12 “(B) HIGH-COST AREAS.—

13 “(i) MAXIMUM ORIGINAL PRINCIPAL LIMITA-
14 TION.—Subject to clause (ii), the limitations estab-
15 lished pursuant to subparagraph (A) shall also be in-
16 creased, with respect to properties of a particular
17 size located in any area for which 115 percent of the
18 median house price for such size residence exceeds
19 the limitation under subparagraph (A) for such size
20 residence, to the lesser of—

21 “(I)(aa) for the first year beginning after
22 the date of the enactment of the Protecting
23 American Taxpayers and Homeowners Act of
24 2013, the difference between—

1 “(AA) 150 percent of the limitation
2 under subparagraph (A) for such size resi-
3 dence; and

4 “(BB) \$20,000 in the case of a 1-
5 family residence, \$25,604 in the case of a
6 2-family residence, \$30,950 in the case of
7 a 3-family residence, and \$38,463 in the
8 case of a 4-family residence;

9 “(bb) for the second year beginning after
10 the date of the enactment of the Protecting
11 American Taxpayers and Homeowners Act of
12 2013, the difference between—

13 “(AA) 150 percent of the limitation
14 under subparagraph (A) for such size resi-
15 dence; and

16 “(BB) \$40,000 in the case of a 1-
17 family residence, \$51,208 in the case of a
18 2-family residence, \$61,900 in the case of
19 a 3-family residence, and \$76,926 in the
20 case of a 4-family residence;

21 “(cc) for the third year beginning after the
22 date of the enactment of the Protecting Amer-
23 ican Taxpayers and Homeowners Act of 2013,
24 the difference between—

1 “(AA) 150 percent of the limitation
2 under subparagraph (A) for such size resi-
3 dence; and

4 “(BB) \$60,000 in the case of a 1-
5 family residence, \$76,812 in the case of a
6 2-family residence, \$92,850 in the case of
7 a 3-family residence, and \$103,389 in the
8 case of a 4-family residence;

9 “(dd) for the fourth year beginning after
10 the date of the enactment of the Protecting
11 American Taxpayers and Homeowners Act of
12 2013, the difference between—

13 “(AA) 150 percent of the limitation
14 under subparagraph (A) for such size resi-
15 dence; and

16 “(BB) \$80,000 in the case of a 1-
17 family residence, \$102,416 in the case of a
18 2-family residence, \$123,800 in the case of
19 a 3-family residence, and \$153,852 in the
20 case of a 4-family residence; and

21 “(ee) for the fifth year beginning after the
22 date of the enactment of the Protecting Amer-
23 ican Taxpayers and Homeowners Act of 2013,
24 the difference between—

1 “(AA) 150 percent of the limitation
2 under subparagraph (A) for such size resi-
3 dence; and

4 “(BB) \$100,000 in the case of a 1-
5 family residence, \$128,020 in the case of a
6 2-family residence, \$154,750 in the case of
7 a 3-family residence, and \$192,315 in the
8 case of a 4-family residence;

9 “(II) the amount that is equal to 115 per-
10 cent of the median house price in such area for
11 such size residence; or

12 “(III) the limitation in effect for such size
13 residence for such area, pursuant to the last
14 sentence of this paragraph as in effect imme-
15 diately before the enactment of the Protecting
16 American Taxpayers and Homeowners Act of
17 2013, as of the date of such enactment.

18 “(ii) PROHIBITION ON NEW HIGH-COST
19 AREAS.—The limitations established pursuant to
20 subparagraph (A) may not be increased, with respect
21 to properties of any size located in a particular area
22 unless, as of the date of the enactment of the Pro-
23 tecting American Taxpayers and Homeowners Act of
24 2013, such foregoing limitations in effect for such
25 area for any size residence were determined under

1 the authority provided in the last sentence of this
2 paragraph, as in effect immediately before such en-
3 actment.”.

4 **SEC. 106. MANDATORY RISK-SHARING.**

5 Subpart A of part 2 of subtitle A of the Federal
6 Housing Enterprises Financial Safety and Soundness Act
7 of 1992 is amended by adding after section 1327 (12
8 U.S.C. 4547) the following new section:

9 **“SEC. 1328. MANDATORY RISK-SHARING TRANSACTIONS.**

10 “(a) IN GENERAL.—The Director shall require each
11 enterprise to develop and undertake transactions involving
12 the guarantee by the enterprises of securities and obliga-
13 tions based on or backed by mortgages on residential real
14 properties designed principally for occupancy of from 1 to
15 4 families that provide for private market participants to
16 share or assume credit risk associated with such mort-
17 gages, as follows:

18 “(1) REQUIRED PERCENTAGE OF BUSINESS.—

19 The Director shall require that not less than 10 per-
20 cent of the annual business of each enterprise (as
21 measured in such manner as the Director shall de-
22 termine) in guaranteeing such securities and obliga-
23 tions involve such transactions.

24 “(2) MULTIPLE TYPES OF TRANSACTIONS.—

25 The Director shall require that in complying with

1 paragraph (1), each enterprise undertake multiple
2 types of the various transactions and structures de-
3 scribed in subsection (b).

4 “(b) TYPES OF TRANSACTIONS.—The risk-sharing
5 transactions referred to in subsection (a) may include
6 transactions involving increased mortgage insurance re-
7 quirements, credit-linked notes and securities, senior and
8 subordinated security structures, and such other struc-
9 tures and transactions as the Director considers appro-
10 priate to increase private market assumption of credit
11 risk.”.

12 **SEC. 107. LIMITATION OF ENTERPRISE MORTGAGE PUR-**
13 **CHASES TO QUALIFIED MORTGAGES.**

14 (a) FANNIE MAE.—Section 302(b) of the Federal
15 National Mortgage Association Charter Act (12 U.S.C.
16 1717(b)) is amended by adding at the end the following
17 new paragraph:

18 “(7) Effective for mortgages with application dates
19 on or after January 10, 2014, the corporation may only
20 purchase, make commitments to purchase, service, sell,
21 lend on the security of, or otherwise deal in a mortgage
22 that is a qualified mortgage (as such term is defined in
23 section 129C(b) of the Truth in Lending Act (15 U.S.C.
24 1639c(b); as added by section 1412 of the Dodd-Frank
25 Wall Street Reform and Consumer Protection Act (124

1 Stat. 2145)), in accordance with the regulations issued by
2 the Bureau of Consumer Financial Protection to carry out
3 such section.”.

4 (b) FREDDIE MAC.—Section 305(a) of the Federal
5 Home Loan Mortgage Corporation Act (12 U.S.C.
6 1454(a)) is amended by adding at the end the following
7 new paragraph:

8 “(6) Effective for mortgages with application dates
9 on or after January 10, 2014, the Corporation may only
10 purchase, make commitments to purchase, service, sell,
11 lend on the security of, or otherwise deal in a mortgage
12 that is a qualified mortgage (as such term is defined in
13 section 129C(b) of the Truth in Lending Act (15 U.S.C.
14 1639c(b); as added by section 1412 of the Dodd-Frank
15 Wall Street Reform and Consumer Protection Act (124
16 Stat. 2145)), in accordance with the regulations issued by
17 the Bureau of Consumer Financial Protection to carry out
18 such section.”.

19 **SEC. 108. PROHIBITION RELATING TO USE OF POWER OF**
20 **EMINENT DOMAIN.**

21 (a) FANNIE MAE.—Subsection (b) of section 302 of
22 the Federal National Mortgage Association Charter Act
23 (12 U.S.C. 1717(b)) is amended by adding at the end the
24 following new paragraph:

1 “(7)(A) Notwithstanding any other provision of law,
2 the corporation may not purchase or guarantee any mort-
3 gage that is secured by a structure or dwelling unit that
4 is located within a county that contains any structure or
5 dwelling unit that secures or secured a residential mort-
6 gage loan which mortgage loan was obtained by the State
7 during the preceding 120 months by exercise of the power
8 of eminent domain.

9 “(B) For purposes of this paragraph, the following
10 definitions shall apply:

11 “(i) The term ‘residential mortgage loan’ means
12 a mortgage loan that is evidenced by a promissory
13 note and secured by a mortgage, deed of trust, or
14 other security instrument on a residential structure
15 or a dwelling unit in a residential structure. Such
16 term includes a first mortgage loan or any subordi-
17 nate mortgage loan.

18 “(ii) The term ‘State’ includes the District of
19 Columbia, the Commonwealth of Puerto Rico, and
20 any territory or possession of the United States, and
21 includes any agency or political subdivision of a
22 State.”.

23 (b) FREDDIE MAC.—Subsection (a) of section 305 of
24 the Federal Home Loan Mortgage Corporation Act (12

1 U.S.C. 1454(a)) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(6)(A) Notwithstanding any other provision of law,
4 the Corporation may not purchase or guarantee any mort-
5 gage that is secured by a structure or dwelling unit that
6 is located within a county that contains any structure or
7 dwelling unit that secures or secured a residential mort-
8 gage loan which mortgage loan was obtained by the State
9 during the preceding 120 months by exercise of the power
10 of eminent domain.

11 “(B) For purposes of this paragraph, the following
12 definitions shall apply:

13 “(i) The term ‘residential mortgage loan’ means
14 a mortgage loan that is evidenced by a promissory
15 note and secured by a mortgage, deed of trust, or
16 other security instrument on a residential structure
17 or a dwelling unit in a residential structure. Such
18 term includes a first mortgage or any subordinate
19 mortgage.

20 “(ii) The term ‘State’ includes the District of
21 Columbia, the Commonwealth of Puerto Rico, and
22 any territory or possession of the United States, and
23 includes any agency or political subdivision of a
24 State.”.

1 **SEC. 109. RECEIVER'S DISCRETIONARY AUTHORITY TO**
2 **CREATE RECEIVERSHIP ENTITY.**

3 Section 1367 of the Federal Housing Enterprises Fi-
4 nancial Safety and Soundness Act of 1992 (12 U.S.C.
5 4617) is amended by striking subsection (i) and inserting
6 the following:

7 “(i) RECEIVERSHIP ENTITY.—

8 “(1) AUTHORITY; ORGANIZATION.—The Agen-
9 cy, as receiver appointed pursuant to subsection (a),
10 may establish a receivership entity in such form or
11 structure as the Agency deems appropriate to meet
12 the purposes of receivership and this section.

13 “(2) POWERS.—Upon creation of such receiver-
14 ship entity, the Agency may transfer to it any assets
15 or liabilities of the regulated entity in default as the
16 Agency, in its discretion, determines to be appro-
17 priate, and may authorize the receivership entity to
18 perform any temporary function that the Agency, in
19 its discretion, prescribes in accordance with this sec-
20 tion. The transfer of any assets or liabilities of a
21 regulated entity for which the Agency has been ap-
22 pointed receiver shall be effective without any fur-
23 ther approval under Federal or State law, assign-
24 ment, or consent with respect thereto. Such author-
25 ity is in addition to any other power the Agency may

1 have as receiver or may confer on the receivership
2 entity.

3 “(3) EXEMPTION FROM TAXATION.—Notwith-
4 standing any other provision of Federal or State
5 law, any receivership entity established by the Agen-
6 cy pursuant to this section, its franchise, property
7 and income, shall be exempt from all taxation now
8 or hereafter imposed by the United States, by any
9 territory, dependency, or possession thereof, or by
10 any State, county, municipality, or local taxing au-
11 thority.

12 “(4) REGULATIONS.—The Agency may promul-
13 gate such regulations as the Agency determines to
14 be necessary or appropriate to implement this sub-
15 section.

16 “(5) NO FEDERAL STATUS.—A receivership en-
17 tity established pursuant to this section shall not be
18 an agency, establishment, or instrumentality of the
19 United States.”.

20 **SEC. 110. AUTHORITY OF RECEIVER TO REPEAL ENTER-**
21 **PRISE CHARTER.**

22 Section 1367 of the Federal Housing Enterprises Fi-
23 nancial Safety and Soundness Act of 1992 (12 U.S.C.
24 4617) is amended by striking subsection (k) and inserting
25 the following new subsection:

1 “(k) REPEAL OF ENTERPRISE CHARTERS.—

2 “(1) FANNIE MAE.—Effective five years after
3 the date of the enactment of the Protecting Amer-
4 ican Taxpayers and Homeowners Act of 2013, the
5 charter of the Federal National Mortgage Associa-
6 tion is repealed and the Federal National Mortgage
7 Association shall have no authority to conduct new
8 business under such charter, except that the provi-
9 sions of such charter in effect immediately before
10 such repeal shall continue to apply with respect to
11 the rights and obligations of any holders of—

12 “(A) outstanding debt obligations of the
13 Federal National Mortgage Association, includ-
14 ing any—

15 “(i) bonds, debentures, notes, or other
16 similar instruments;

17 “(ii) capital lease obligations; or

18 “(iii) obligations in respect of letters
19 of credit, bankers’ acceptances, or other
20 similar instruments; or

21 “(B) mortgage-backed securities guaran-
22 teed by the Federal National Mortgage Associa-
23 tion.

24 “(2) FREDDIE MAC.—Effective five years after
25 the date of the enactment of the Protecting Amer-

1 ican Taxpayers and Homeowners Act of 2013, the
2 charter of the Federal Home Loan Mortgage Cor-
3 poration is repealed and the Federal Home Loan
4 Mortgage Corporation shall have no authority to
5 conduct new business under such charter, except
6 that the provisions of such charter in effect imme-
7 diately before such repeal shall continue to apply
8 with respect to the rights and obligations of any
9 holders of—

10 “(A) outstanding debt obligations of the
11 Federal Home Loan Mortgage Corporation, in-
12 cluding any—

13 “(i) bonds, debentures, notes, or other
14 similar instruments;

15 “(ii) capital lease obligations; or

16 “(iii) obligations in respect of letters
17 of credit, bankers’ acceptances, or other
18 similar instruments; or

19 “(B) mortgage-backed securities guaran-
20 teed by the Federal Home Loan Mortgage Cor-
21 poration.

22 “(3) EXISTING GUARANTEE OBLIGATIONS.—

23 “(A) EXPLICIT GUARANTEE.—The full
24 faith and credit of the United States is pledged
25 to the payment of all amounts which may be re-

1 required to be paid under any obligation de-
2 scribed in paragraph (1) or (2).

3 “(B) CONTINUED DIVIDEND PAYMENTS.—

4 Notwithstanding any other provision of law,
5 provision 2(a) (relating to Dividend Payment
6 Dates and Dividend Periods) and provision 2(c)
7 (relating to Dividend Rates and Dividend
8 Amount) of the Senior Preferred Stock Pur-
9 chase Agreement, or any provision of any cer-
10 tificate in connection with such Agreement cre-
11 ating or designating the terms, powers, pref-
12 erences, privileges, limitations, or any other
13 conditions of the Variable Liquidation Pref-
14 erence Senior Preferred Stock of an enterprise
15 issued pursuant to such Agreement—

16 “(i) shall not be amended, restated, or
17 otherwise changed to reduce the rate or
18 amount of dividends in effect pursuant to
19 such Agreement as of the Third Amend-
20 ment to such Agreement dated August 17,
21 2012, except that any amendment to such
22 Agreement to facilitate the sale of assets of
23 the enterprises shall be permitted; and

24 “(ii) shall remain in effect until the
25 guarantee obligations described under

1 paragraphs (1)(B) and (2)(B) of this sub-
2 section are fully extinguished.

3 “(C) APPLICABILITY.—All guarantee fee
4 amounts derived from the single-family mort-
5 gage guarantee business of the enterprises in
6 existence as of five years after the date of the
7 enactment of the Protecting American Tax-
8 payers and Homeowners Act of 2013 shall be
9 deposited into the United States Treasury, for
10 purposes of deficit reduction.

11 “(D) SENIOR PREFERRED STOCK PUR-
12 CHASE AGREEMENT DEFINED.—For purposes
13 of this paragraph, the term ‘Senior Preferred
14 Stock Purchase Agreement’ means—

15 “(i) the Amended and Restated Senior
16 Preferred Stock Purchase Agreement,
17 dated September 26, 2008, as such Agree-
18 ment has been amended on May 6, 2009,
19 December 24, 2009, and August 17, 2012,
20 respectively, and as such Agreement may
21 be further amended and restated, entered
22 into between the Department of the Treas-
23 ury and each enterprise, as applicable; and

24 “(ii) any provision of any certificate in
25 connection with such Agreement creating

1 or designating the terms, powers, pref-
2 erences, privileges, limitations, or any
3 other conditions of the Variable Liquidation Preference Senior Preferred Stock of
4 an enterprise issued or sold pursuant to
5 such Agreement.”.

7 **TITLE II—FHA REFORM**

8 **SEC. 201. SHORT TITLE.**

9 This title may be cited as the “FHA Reform and
10 Modernization Act of 2013”.

11 **SEC. 202. DEFINITIONS.**

12 For purposes of this title, the following definitions
13 shall apply:

14 (1) **BOARD.**—The term “Board” means the
15 Board of Directors of the FHA established under
16 section 214.

17 (2) **DIRECTOR.**—The term “Director” means
18 the Director of the Federal Housing Finance Agency.
19

20 (3) **FHA.**—The term “FHA” means the Federal
21 Housing Administration established under this
22 title.

23 (4) **FIRST-TIME HOMEBUYER.**—The term “first-
24 time homebuyer” means an individual who meets
25 any of the following criteria:

1 (A) An individual, and his or her spouse,
2 who has never had ownership in a principal res-
3 idence.

4 (B) A single parent (as such term is de-
5 fined in section 956 of the Cranston-Gonzalez
6 National Affordable Housing Act (42 U.S.C.
7 12713)) who has only owned a principal resi-
8 dence with a former spouse while married.

9 (C) An individual who is a displaced home-
10 maker (as such term is defined in such section
11 956 of the Cranston-Gonzalez National Afford-
12 able Housing Act) and has only owned a prin-
13 cipal residence with a spouse.

14 (D) An individual who has only owned a
15 principal residence not permanently affixed to a
16 permanent foundation in accordance with appli-
17 cable regulations.

18 (E) An individual who has only owned a
19 property that was not in compliance with state,
20 local or model building codes and which cannot
21 be brought into compliance for less than the
22 cost of constructing a permanent structure.

23 (5) NATIVE AMERICAN GOVERNMENT.—The
24 term “Native American government” means the gov-
25 ernment of any Indian or Alaska native tribe, band,

1 nation, pueblo, village or community that the Sec-
2 retary of the Interior acknowledges to exist as an In-
3 dian Tribe, pursuant to the Federally Recognized
4 Indian Tribe List Act of 1994.

5 (6) RESIDENTIAL HEALTH CARE FACILITY.—
6 The term “residential health care facility” includes
7 a nursing home, a facility for long-term care, an in-
8 termediate care facility, a board and care home, an
9 assisted living facility, a public health center, an out-
10 patient facility, and a rehabilitation facility.

11 (7) SECRETARY.—The term “Secretary” means
12 the Secretary of Housing and Urban Development.

13 (8) UNITED STATES.—The term “United
14 States” includes the States, the District of Colum-
15 bia, the Commonwealth of Puerto Rico, the Com-
16 monwealth of the Northern Mariana Islands, Guam,
17 the Virgin Islands, American Samoa, and Native
18 American governments.

19 **Subtitle A—Organization**

20 **SEC. 211. ESTABLISHMENT.**

21 (a) IN GENERAL.—There is hereby established the
22 Federal Housing Administration, which shall be a body
23 corporate without capital stock and shall have succession
24 until dissolved by Act of Congress.

1 (b) GOVERNMENT CORPORATION.—The FHA shall
2 be established as a wholly owned Government corporation
3 subject to chapter 91 of title 31, United States Code (com-
4 monly referred to as the Government Corporation Control
5 Act), except as otherwise provided in this subtitle.

6 (c) FEDERAL AGENCY.—

7 (1) IN GENERAL.—The FHA shall be an agency
8 of the United States, except that the FHA shall not
9 be considered an agency for purposes of holding,
10 managing, and disposing of assets acquired by the
11 FHA under the provisions of this title or the Na-
12 tional Housing Act.

13 (2) HOLDING, MANAGEMENT, AND DISPOSAL
14 AUTHORITY.—For purposes of this subsection, the
15 term “holding, managing, and disposing of assets”
16 includes the powers to—

17 (A) deal with, complete, reconstruct, rent,
18 renovate, modernize, insure, make contracts for
19 the management of, establish suitable agencies
20 for the management of, or exercise discretion to
21 sell for cash or credit or lease, any acquired
22 property;

23 (B) pursue collection by way of com-
24 promise or otherwise all assigned and trans-
25 ferred claims; and

1 (C) at any time, upon default, foreclose on
2 any property secured by any assigned or trans-
3 ferred mortgage.

4 (d) SELF-SUFFICIENT ENTITY.—The FHA shall op-
5 erate and conduct its business as a self-sufficient entity
6 in accordance with section 235(c).

7 (e) CORPORATE OFFICES AND RESIDENCY.—The
8 FHA shall maintain its principal office in the District of
9 Columbia and shall be deemed, for purposes of venue in
10 civil actions, to be a resident of the District of Columbia.
11 The FHA may establish other offices in such other places
12 as the FHA considers appropriate in the conduct of its
13 business.

14 (f) TAX STATUS.—The FHA, including its franchise,
15 activities, income, and assets, shall be exempt from all tax-
16 ation now or hereafter imposed by any taxing authority
17 in the United States, except that any real property of the
18 FHA (other than real property that the FHA uses as an
19 office) shall be subject to taxation to the same extent ac-
20 cording to its value as any taxing authority taxes other
21 real property.

22 (g) PROTECTION OF NAME.—

23 (1) PROHIBITION.—No person shall, except the
24 body corporate established under this section, after
25 the date of the enactment of this Act, use the words

1 “Federal Housing Administration” or the initials
2 “FHA” as the name or part thereof under which
3 such person shall do business.

4 (2) ENFORCEMENT.—Violations of paragraph
5 (1) may be enjoined by any court of general jurisdic-
6 tion at the suit of the FHA. In any such suit, the
7 FHA may recover any actual damages resulting
8 from such violation, and, in addition, shall be enti-
9 tled to punitive damages (regardless of the existence
10 or nonexistence of actual damages) of not more than
11 \$100 for each day during which such violation is
12 committed or repeated.

13 **SEC. 212. PURPOSES.**

14 The FHA is established for the following purposes:

15 (1) To provide mortgage insurance and other
16 credit enhancement and related activities, for—

17 (A) single family homeownership to first-
18 time homebuyers, low- and moderate-income
19 homebuyers, homebuyers in areas subject to
20 counter-cyclical markets or Presidentially de-
21 clared disasters;

22 (B) the provision of affordable rental hous-
23 ing; and

24 (C) the provision of residential health care
25 facilities.

1 (2) To supplement private sector activity by
2 serving hard-to-serve markets, developing new mort-
3 gage products, and filling gaps in the provision and
4 delivery of mortgage credit.

5 (3) To deliver housing mortgage insurance and
6 credit enhancement and provide other services in a
7 non-discriminatory manner.

8 (4) To promote liquidity and provide stability to
9 the single family and multifamily housing finance
10 market, by continuing to provide mortgage insurance
11 and credit enhancement on a sound basis during
12 times of regional and national economic downturn.

13 (5) To engage in research, development, and
14 testing of new products designed to make single
15 family and multifamily housing and residential
16 health care facility credit available to hard-to-serve
17 markets.

18 (6) To establish uniformity in operations and
19 risk management and loss mitigation in housing
20 mortgage insurance and rural housing loan pro-
21 grams.

22 **SEC. 213. GENERAL POWERS.**

23 To further the purposes of this subtitle, in accordance
24 with chapter 91 of title 31 of the United States Code (re-
25 lating to government corporations), the FHA—

1 (1) may adopt, amend, and repeal by-laws, and
2 other written administrative guidance;

3 (2) may adopt, alter, and use a corporate seal,
4 which shall be judicially noted;

5 (3) may insure, and make commitments to in-
6 sure mortgages, to the extent authorized under this
7 title, and enhance and make commitments to other-
8 wise enhance credit, and in providing such insurance
9 may reinsure, advance, incur liabilities, pool loans,
10 and risk share;

11 (4) may acquire, hold, use, improve, deal in, or
12 dispose of, by any means, any interests in any real
13 property or any personal property;

14 (5) may execute contracts, and make other
15 agreements in its own name, with any agency, public
16 or private entity, or other person, and carry out any
17 lawful requirement of such contracts, grants, or
18 other agreements;

19 (6) may take any actions, including the restruc-
20 turing of debt, that the FHA determines are nec-
21 essary to manage any portfolio (including the port-
22 folio of the FHA) of property, assets, and obliga-
23 tions;

24 (7) may—

1 (A) create and supply, alone or in coopera-
2 tion with public or private entities or persons,
3 any product or service consistent with its cor-
4 porate purposes; and

5 (B) assess fees and charges for such prod-
6 ucts, information, and services in amounts, as
7 determined by the FHA, that—

8 (i) do not exceed their value in the
9 market;

10 (ii) permit the FHA to recover its
11 fully allocated long-term costs; and

12 (iii) permit the FHA to maintain the
13 level of capital determined by the FHA to
14 be necessary and sufficient to carry out the
15 public purposes of the FHA and as re-
16 quired under subtitle C;

17 (8) may create distinct insurance funds or other
18 devices to segregate or permit limitations on liability
19 for business activities or accounts;

20 (9) may qualify any person or entity to engage
21 in business with the FHA and may enforce and im-
22 pose penalties for the breach of any duties, obliga-
23 tions, and other commitments made by such persons
24 or entities;

1 (10) shall take actions necessary to administer
2 its business in a nondiscriminatory manner;

3 (11) may use the services or obtain the goods
4 of any Federal agency, including the Department of
5 Housing and Urban Development, under working or
6 cooperation agreements or contracts with such agen-
7 cies and make or receive payment for the cost of
8 such activities;

9 (12) shall have the power, in its corporate
10 name, to sue and be sued, and to complain and de-
11 fend, in any court of competent jurisdiction, State or
12 Federal, but no attachment, garnishment, injunc-
13 tion, or other similar process, mesne or final, shall
14 be issued against the property of the FHA or
15 against the FHA with respect to its property, and
16 the FHA shall not be liable for interest prior to
17 judgment, for punitive or exemplary damages, for
18 penalties, or for claims based upon unjust enrich-
19 ment, quasi-contract, or contracts implied-in-law,
20 nor shall the FHA be subject to trial by jury;

21 (13) notwithstanding any other provision of
22 law—

23 (A) shall be an agency of the United
24 States Government and the officers and employ-
25 ees of the FHA shall be officers and employees

1 of the United States Government for purposes
2 of part IV of title 28, United States Code;

3 (B) shall have all civil actions to which the
4 FHA is a party deemed to arise under the laws
5 of the United States; and

6 (C) may, at any time before trial and with-
7 out bond or security, remove any civil or crimi-
8 nal action or proceeding in a State court to
9 which the FHA is a party to the United States
10 district court for the District of Columbia or to
11 the United States district court with jurisdic-
12 tion over the place where the civil action or pro-
13 ceeding is pending, by following any procedure
14 for removal of actions in effect at the time of
15 such removal;

16 (14) may—

17 (A) accept and use voluntary and uncom-
18 pensated services and accept, hold, administer,
19 and use gifts and bequests of property, both
20 real and personal, for the purpose of aiding or
21 facilitating the work of the FHA, and

22 (B) hold gifts and bequests of money and
23 the proceeds from sales of other property re-
24 ceived as gifts or bequests in a separate ac-

1 count, and such amounts shall be disbursed as
2 provided by the FHA;

3 except that property accepted pursuant to this para-
4 graph, and the proceeds thereof, shall be used as
5 nearly as possible in accordance with the terms of
6 the gift or bequest and, for the purpose of Federal
7 income, estate, and gift taxes, property accepted
8 under this paragraph shall be considered as a gift or
9 bequest to or for the use of the United States;

10 (15) shall have any transaction in which it par-
11 ticipates be exempt from the terms of any State or
12 other law or prohibition against payment of usurious
13 interest;

14 (16) may act as a fiduciary in connection with
15 any of its undertakings;

16 (17) may foreclose any single family mortgages
17 held by the FHA pursuant to the same procedures
18 and authority applicable to the Secretary under the
19 Single Family Mortgage Foreclosure Act of 1994;

20 (18) may foreclose any multifamily housing
21 mortgages held by the FHA pursuant to the same
22 procedures and authority applicable to the Secretary
23 under the Multifamily Mortgage Foreclosure Act of
24 1981;

1 (19) shall have the priority of the United States
2 with respect to the payment of debts out of bank-
3 rupt, insolvent, and decedents' estates;

4 (20) may invest in systems, technology, or other
5 capital resources, to enhance its ability to carry out
6 the purposes of this title; and

7 (21) shall have and exercise all powers nec-
8 essary or appropriate to effect any of the purposes
9 of this title, including the power to carry out any au-
10 thority delegated to the FHA by the Secretary.

11 **SEC. 214. BOARD OF DIRECTORS.**

12 (a) IN GENERAL.—The powers of the FHA shall be
13 vested in the Board of Directors of the FHA.

14 (b) MEMBERS AND APPOINTMENT.—The Board of
15 Directors shall consist of 9 individuals appointed by the
16 President, who shall include the following individuals:

17 (1) The Secretary of Housing and Urban Devel-
18 opment.

19 (2) The Secretary of Agriculture.

20 (3) Not less than 5 individuals who have exper-
21 tise in mortgage finance.

22 (4) Not less than 2 individuals who have exper-
23 tise in affordable housing serving low- and mod-
24 erate-income populations.

1 (c) CHAIRPERSON.—The Secretary of Housing and
2 Urban Development shall serve as the chairperson of the
3 Board.

4 (d) TERMS.—

5 (1) IN GENERAL.—Each member of the Board
6 appointed under paragraph (3) or (4) of subsection
7 (b) shall be appointed for a term of 3 years, except
8 as provided in paragraphs (2) and (3).

9 (2) TERMS OF INITIAL APPOINTEES.—As des-
10 ignated by the President at the time of appointment,
11 of the members first appointed to the Board pursu-
12 ant to paragraphs (3) and (4) of subsection (b)—

13 (A) 3 shall be appointed for terms of 1
14 year; and

15 (B) 4 shall be appointed for terms of 2
16 years.

17 (3) VACANCIES.—Any member appointed to fill
18 a vacancy on the Board occurring before the expira-
19 tion of the term for which the member's predecessor
20 was appointed shall be appointed only for the re-
21 mainder of that term. A member may serve after the
22 expiration of that member's term until a successor
23 has taken office. A vacancy on the Board shall be
24 filled in the manner in which the original appoint-
25 ment was made.

1 (e) MEETINGS AND QUORUM.—The Board shall meet
2 at any time pursuant to the call of the Chairperson or
3 a majority of its members and as provided by the bylaws
4 of the FHA, but not less than quarterly. A majority of
5 the members of the Board shall constitute a quorum.

6 (f) POWERS.—The Board shall be responsible for the
7 general management of the FHA and shall have the same
8 authority, privileges, and responsibilities as the board of
9 directors of a private corporation incorporated under the
10 District of Columbia Business Corporation Act.

11 (g) DUTIES.—In performing its duties, the Board
12 shall—

13 (1) obtain guidance from participants in the
14 mortgage markets served by the FHA;

15 (2) assess the housing and mortgage insurance
16 needs of consumers and providers of single family
17 and multifamily housing and communities, and the
18 mortgage insurance needs of providers of residential
19 health care facilities;

20 (3) obtain information concerning housing fi-
21 nance markets in order to better assess how the
22 FHA can complement the roles of public and private
23 participants in such markets; and

24 (4) assist the Secretary of Housing and Urban
25 Development and the Secretary of Agriculture in co-

1 ordinating the roles of Federal housing, banking,
2 and credit agencies generally, and particularly in the
3 delivery of housing credit enhancement to families,
4 communities, and hard-to-serve markets.

5 (h) COMPENSATION.—Members of the Board shall
6 serve on a part-time basis and shall serve without pay.

7 (i) TRAVEL EXPENSES.—Each member shall receive
8 travel expenses, including per diem in lieu of subsistence,
9 in accordance with sections 5702 and 5703 of title 5,
10 United States Code.

11 **SEC. 215. OFFICERS AND PERSONNEL.**

12 (a) APPOINTMENT OF OFFICERS.—The Board shall
13 appoint a president and vice president of the FHA, and,
14 except as provided in subsections (b) and (c), such other
15 officers as are provided for in the bylaws of the FHA.

16 (b) CHIEF RISK OFFICER.—There shall be in the
17 FHA a Chief Risk Officer, who—

18 (1) shall be appointed by the Board of Direc-
19 tors of the FHA;

20 (2) shall be selected from among individuals
21 who possess demonstrated ability in the general
22 management of, and knowledge of and extensive
23 practical experience in, risk evaluation practices in
24 large governmental or business entities;

25 (3) shall be—

1 (A) responsible for all matters relating to
2 managing and mitigating risk to the mortgage
3 insurance programs of the FHA and ensuring
4 the performance of mortgages insured by the
5 FHA; and

6 (B) responsible for all matters relating to
7 managing and mitigating risk to the housing
8 loans made, insured, or guaranteed under title
9 V of the Housing Act of 1949 (42 U.S.C. 1471
10 et seq.) and ensuring the performance of such
11 housing loans;

12 (4) shall not be subject to the review or ap-
13 proval of the Board of Directors of the FHA or the
14 Secretary of Agriculture with respect to the exercise
15 of the responsibilities under subparagraph (A) or
16 (B), respectively, of paragraph (3); and

17 (5) shall not be required to obtain the prior ap-
18 proval, comment, or review of any officer or agency
19 of the United States before submitting to the Con-
20 gress, or any committee or subcommittee thereof,
21 any reports, recommendations, testimony, or com-
22 ments if such submissions include a statement indi-
23 cating that the views expressed therein are those of
24 the Chief Risk Officer of the FHA and do not nec-

1 essarily represent the views of the Board of Direc-
2 tors of the FHA or the Secretary of Agriculture.

3 (c) CHIEF TECHNOLOGY OFFICER.—There shall be
4 in the FHA a Chief Technology Officer, who—

5 (1) shall be appointed by the Board of Direc-
6 tors of the FHA;

7 (2) shall be selected from among individuals
8 who possess demonstrated ability in the general
9 management of, and knowledge of and extensive
10 practical experience in, information technology man-
11 agement practices in, large governmental or business
12 entities;

13 (3) shall be—

14 (A) responsible for all matters relating to
15 information technology management relating to
16 the mortgage insurance programs of the FHA;
17 and

18 (B) responsible for all matters relating to
19 information technology management relating to
20 the programs for making, insuring, and guaran-
21 teeing housing loans under title V of the Hous-
22 ing Act of 1949 (42 U.S.C. 1471 et seq.);

23 including analysis and assessment of the information
24 technology infrastructures, information technology
25 strategy, and use of information technology, ensur-

1 ing the security and privacy of information tech-
2 nology infrastructure and networks, and promoting
3 technological innovation;

4 (4) shall not be subject to the review or ap-
5 proval of the Board of Directors of the FHA or the
6 Secretary of Agriculture with respect to the exercise
7 of the responsibilities under subparagraph (A) or
8 (B), respectively of paragraph (3); and

9 (5) shall not be required to obtain the prior ap-
10 proval, comment, or review of any officer or agency
11 of the United States before submitting to the Con-
12 gress, or any committee or subcommittee thereof,
13 any reports, recommendations, testimony, or com-
14 ments if such submissions include a statement indi-
15 cating that the views expressed therein are those of
16 the Chief Technology Officer of the FHA and do not
17 necessarily represent the views of the Board of Di-
18 rectors of the FHA or the Secretary of Agriculture.

19 (d) APPOINTMENT OF EMPLOYEES.—Subject to sub-
20 title D, the Board shall appoint such other employees of
21 the FHA as the Board considers necessary for the trans-
22 action of the FHA’s business.

23 (e) COMPENSATION, DUTIES, AND REMOVAL.—

24 (1) IN GENERAL.—The Board shall fix the com-
25 pensation of all officers and employees of the FHA

1 and define their duties. Officers and employees shall
2 be appointed, promoted, assigned, and removed on
3 the basis of qualifications, and any such actions
4 taken shall be consistent with the principles of fair-
5 ness, nondiscrimination, and due process.

6 (2) CONSIDERATIONS IN FIXING COMPENSA-
7 TION.—In fixing and directing compensation for offi-
8 cers and employees of the FHA, the Board shall
9 consult and maintain comparability with the com-
10 pensation provided by the Government National
11 Mortgage Association, the Federal Housing Finance
12 Agency, the Comptroller of Currency, the Board of
13 Governors of the Federal Reserve System, and the
14 Federal Deposit Insurance Corporation to officers
15 and employees of such entities.

16 (f) APPLICABILITY OF CERTAIN CIVIL SERVICE
17 LAWS.—The officers and employees of the FHA shall be
18 appointed without regard to the provisions of title 5,
19 United States Code, governing appointments in the com-
20 petitive service, and may be paid without regard to the
21 provisions of chapter 51 and subchapter III of chapter 53
22 of that title relating to classification and General Schedule
23 pay rates.

24 (g) USE OF FEDERAL AGENCIES.—In carrying out
25 its purposes, the FHA may use information, services,

1 staff, and facilities of any executive agency, independent
2 agency, or department (including the Department of
3 Housing and Urban Development), with the consent of the
4 agency or department, and shall reimburse the agency or
5 department for the cost of such information, services,
6 staff, and facilities.

7 (h) INDEMNIFICATION.—The FHA may provide for
8 the indemnification of any officer, employee, contractor,
9 or agent of the FHA on such terms as the FHA deter-
10 mines proper, except that, to the extent that the FHA self-
11 insures for any indemnification—

12 (1) the aggregate maximum amount of indem-
13 nification outstanding at any time shall not exceed
14 5 percent of the amount of capital required under
15 section 256 to be maintained by the Mutual Mort-
16 gage Insurance Fund; and

17 (2) not more than \$1,000,000 may be paid as
18 an indemnity for any single event.

19 (i) AMENDMENTS TO HOUSING ACT OF 1949.—Sec-
20 tion 501 of the Housing Act of 1949 (42 U.S.C. 1471)
21 is amended by adding at the end the following new sub-
22 sections:

23 “(k) AUTHORITY OF CHIEF RISK OFFICER OF
24 FHA.—The Chief Risk Officer of the FHA appointed pur-
25 suant to section 215(b) of the FHA Reform and Mod-

1 ernization Act of 2013 shall be solely responsible for all
2 matters relating to evaluating, managing, and mitigating
3 risk to the programs under this title for making, insuring,
4 and guaranteeing housing loans and ensuring the perform-
5 ance of such housing loans, and such authority shall not
6 be subject to the review or approval of the Secretary.

7 “(1) **AUTHORITY OF CHIEF TECHNOLOGY OFFICER**
8 **OF FHA.**—The Chief Technology Officer of the FHA ap-
9 pointed pursuant to section 215(c) of the FHA Reform
10 and Modernization Act of 2013 shall be solely responsible
11 for all matters relating to information technology manage-
12 ment relating to the programs under this title for making,
13 insuring, and guaranteeing housing loans, and such au-
14 thority shall not be subject to the review or approval of
15 the Secretary.”

16 **SEC. 216. FINANCIAL, UNDERWRITING, AND OPERATIONS**
17 **SYSTEMS.**

18 (a) **IN GENERAL.**—The FHA shall develop and main-
19 tain such financial, underwriting, and operations systems
20 as may be necessary to carry out the responsibilities of
21 the FHA. Such systems shall be designed and developed
22 in a manner so that such systems shall also be used for
23 the financial, underwriting, and operations systems, re-
24 spectively, of the programs under title V of the Housing

1 Act of 1949 for making, guaranteeing, and insuring rural
2 housing loan programs.

3 (b) USE BY RURAL HOUSING SERVICE PROGRAMS.—

4 (1) AVAILABILITY.—All financial, underwriting,
5 and operations systems of the FHA shall be avail-
6 able to the Secretary of Agriculture to the extent
7 necessary to ensure compliance with section 501(m)
8 of the Housing Act of 1949 (42 U.S.C. 1471(l)).

9 (2) USE.—Section 501 of the Housing Act of
10 1949 (42 U.S.C. 1471), as amended by the pre-
11 ceding provisions of this title, is further amended by
12 adding at the end the following new subsection:

13 “(m) USE OF FHA SYSTEMS.—The Secretary, the
14 Chief Risk Officer of the FHA, and the Chief Technology
15 Officer of the FHA shall utilize the financial, under-
16 writing, and operations systems of the FHA in carrying
17 out all financial, underwriting, and operations functions
18 with respect to the programs under this title for making,
19 insuring, or guaranteeing housing loans.”.

20 **SEC. 217. PROCUREMENT.**

21 (a) IN GENERAL.—The FHA shall establish an eco-
22 nomical and results-oriented system for the procurement,
23 supply, and disposition by the FHA of personal property
24 and services, which shall include performance measures
25 and standards for determining the extent to which the

1 FHA’s procurement of property and services satisfies the
2 objective for which the procurement was undertaken. The
3 system shall be consistent with the principles of impar-
4 tiality and competitiveness.

5 (b) EXEMPTION FROM FEDERAL PROPERTY AND AD-
6 MINISTRATIVE SERVICE ACT REQUIREMENTS.—Section
7 113(e) of title 40, United States Code, is amended—

8 (1) in paragraph (19), by striking “or” at the
9 end;

10 (2) in paragraph (20), by striking the period at
11 the end and inserting “; or” ; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(21) The Federal Housing Administration;
15 and”.

16 (c) EXEMPTION FROM PROCUREMENT PROTEST SYS-
17 TEM.—Subchapter V of chapter 35 of title 31, United
18 States Code, relating to the procurement protest system,
19 shall not apply to the FHA.

20 **SEC. 218. APPLICABILITY OF LAWS.**

21 (a) EXEMPTION FROM NOTICE AND COMMENT
22 RULEMAKING.—Any matter relating to credit enhance-
23 ment or other business activities of the FHA authorized
24 under this title shall be considered a matter relating to
25 agency management or personnel or to public property,

1 loans, grants, benefits, or contracts, for purposes of sec-
2 tion 553(a) of title 5, United States Code.

3 (b) **SUBSIDY LAYERING.**—For purposes of section
4 102(d) of the Department of Housing and Urban Develop-
5 ment Reform Act of 1989, mortgage insurance and other
6 credit enhancement provided under this title shall not be
7 considered assistance within the jurisdiction of the De-
8 partment.

9 (c) **GOVERNMENT CORPORATION CONTROL ACT.**—
10 Section 9101(3) of title 31, United States Code, is amend-
11 ed by adding at the end the following new subparagraph:

12 “(S) the Federal Housing Administra-
13 tion.”.

14 (d) **TAX EXEMPT STATUS OF FHA.**—Section 501(l)
15 of the Internal Revenue Code of 1986 (26 U.S.C. 501(l))
16 is amended by adding at the end the following new para-
17 graph:

18 “(5) The Federal Housing Administration es-
19 tablished under the FHA Reform and Modernization
20 Act of 2013.”.

21 **SEC. 219. EVALUATION.**

22 (a) **IN GENERAL.**—The Director shall conduct a
23 study and submit a report to the President and the Con-
24 gress on—

1 (1) whether this title provides sufficient author-
2 ity to permit the FHA to accomplish its public pur-
3 poses efficiently and effectively, and in a safe and
4 sound manner;

5 (2) the impact of the limitations on business ac-
6 tivities as to mortgage amounts and aggregate com-
7 mitments, and any other statutory limitations, on
8 the current and anticipated business activity of the
9 FHA; and

10 (3) whether the provisions of subtitle C appro-
11 priately provide that the FHA will be operated in a
12 safe and sound manner and will fulfill the public
13 purposes of its establishment.

14 (b) **TIMING.**—The report required by this section
15 shall be submitted on the third January 1st occurring
16 after the conclusion of the transition period under section
17 281.

18 **SEC. 220. FUNDING.**

19 (a) **FUNDING OF SALARIES AND EXPENSES.**—There
20 is authorized to be appropriated for each fiscal year to
21 the FHA, for salaries, expenses, and technology for the
22 management and operations of the FHA an amount not
23 exceeding the amount of the negative subsidy credited to
24 the negative subsidy receipt account not needed for re-

1 serves of the funds of the FHA pursuant to sections 256
2 and 259.

3 (b) FUNDING OF CLAIMS.—

4 (1) AVAILABILITY OF FUNDS.—Amounts cred-
5 ited to the financing account of the FHA, estab-
6 lished pursuant to title V of the Congressional
7 Budget Act of 1974, shall be permanently and in-
8 definitely available for payment of any claim that
9 the FHA approves under a contract of insurance or
10 other credit enhancement instrument pursuant to
11 this title.

12 (2) BORROWING AUTHORITY.—

13 (A) IN GENERAL.—To the extent that such
14 amounts are insufficient for such purpose, the
15 FHA may borrow from the Treasury pursuant
16 to title V of the Congressional Budget Act of
17 1974.

18 (B) NOTICE TO CONGRESS.—Upon exer-
19 cising the authority referred to in subparagraph
20 (A), the FHA shall submit to the Congress—

21 (i) notice of such exercise of authority
22 and the extent of the borrowing under-
23 taken;

24 (ii) a plan for repayment to the
25 Treasury of the amounts borrowed, speci-

1 fying the time and amounts of such pay-
2 ments; and

3 (iii) if such borrowing is for the Mu-
4 tual Mortgage Insurance Fund, how the
5 FHA will comply with the capital restora-
6 tion plan required under section 257(c).

7 **SEC. 221. EFFECTIVE DATE.**

8 This subtitle shall take effect on the date of the en-
9 actment of this Act.

10 **Subtitle B—Business Authority and**
11 **Requirements**

12 **SEC. 231. AUTHORITY TO CARRY OUT FHA AND OTHER**
13 **BUSINESS.**

14 (a) IN GENERAL.—After the expiration of the transi-
15 tion period under section 281—

16 (1) the FHA may exercise (in addition to pow-
17 ers set forth in section 282) any authority and un-
18 dertake any responsibilities of the Secretary of
19 Housing and Urban Development under the Na-
20 tional Housing Act (as amended by this title) relat-
21 ing to mortgage insurance, except as otherwise pro-
22 vided in this title and except that any authority that
23 requires an appropriation may be conducted only to
24 the extent that amounts are so appropriated;

1 (2) any amounts in the Mutual Mortgage Insur-
2 ance Fund under section 202(a) of the National
3 Housing Act (12 U.S.C. 1708(a)), any amounts in
4 the General Insurance Fund and Special Risk Insur-
5 ance Fund under sections 519 and 238(b), respec-
6 tively, of such Act (12 U.S.C. 1735c, 1715z-3(b)),
7 and any amounts in the Cooperative Management
8 Housing Insurance Fund under section 213(k) of
9 such Act (12 U.S.C. 1715e(k)), shall be used by the
10 FHA only—

11 (A) for meeting any obligations of such
12 Funds entered into before such transition date;
13 and

14 (B) for carrying out the mortgage insur-
15 ance obligations of the FHA pursuant to sec-
16 tion 282(1) of this title and paragraph (1) of
17 this section; and

18 (3) the FHA may exercise any authority of the
19 FHA under this title.

20 (b) TERMINATION OF SECRETARY'S FHA AUTHOR-
21 ITY.—After the expiration of the transition period under
22 section 281, the Secretary may not exercise any authority
23 under the National Housing Act relating to mortgage in-
24 surance. This subsection may not be construed to limit

1 or otherwise affect the Secretary's authority under title
2 I of the National Housing Act (12 U.S.C. 1702 et seq.).

3 (c) CONTINUATION OF OBLIGATIONS.—This section
4 and section 282(1) may not be construed to affect the va-
5 lidity of any right, duty, or obligation of the United States
6 or other person arising under or pursuant to any commit-
7 ment or agreement lawfully entered into with the Sec-
8 retary of Housing and Urban Development under the Na-
9 tional Housing Act.

10 **SEC. 232. ELIGIBLE SINGLE-FAMILY MORTGAGES.**

11 (a) IN GENERAL.—Notwithstanding section 203 of
12 the National Housing Act (12 U.S.C. 1709) or any other
13 provision of law, the FHA may insure, and make commit-
14 ments to insure, a mortgage on a 1- to 4-family residential
15 property only if the mortgage complies with the following
16 requirements:

17 (1) MORTGAGE AMOUNT.—The mortgage shall
18 involve a principal obligation (including such initial
19 service charges, appraisal, inspection, and other fees
20 as the FHA shall approve) in an amount not to ex-
21 ceed the following amounts:

22 (A) APPRAISED VALUE.—100 percent of
23 the appraised value of the property.

24 (B) AREA LIMITATION.—

1 (i) MAXIMUM LIMIT.—The lesser of
2 the following amounts:

3 (I) In the case of—

4 (aa) a 1-family residence,
5 115 percent of the median 1-fam-
6 ily house price in the area in
7 which such residence is located,
8 as determined by the FHA; and

9 (bb) in the case of a 2-, 3-
10 , or 4-family residence, the per-
11 centage of such median price
12 that bears the same ratio to such
13 median price as the dollar
14 amount limitation determined
15 under the sixth sentence of sec-
16 tion 305(a)(2) of the Federal
17 Home Loan Mortgage Corpora-
18 tion Act (12 U.S.C. 1454(a)(2))
19 for a 2-, 3-, or 4-family resi-
20 dence, respectively, bears to the
21 dollar amount limitation deter-
22 mined under such section for a 1-
23 family residence; or

24 (II) 150 percent of the dollar
25 amount limitation determined under

1 the sixth sentence of such section
2 305(a)(2) for a residence of the appli-
3 cable size.

4 For purposes of the preceding sentence,
5 the term “area” means a metropolitan sta-
6 tistical area as established by the Office of
7 Management and Budget; and the median
8 1-family house price for an area shall be
9 equal to the median 1-family house price of
10 the county within the area that has the
11 highest such median price.

12 (ii) MINIMUM LIMIT.—Notwith-
13 standing clause (i), the principal obligation
14 limitation in effect for any area under this
15 subparagraph may not be less than the
16 greater of—

17 (I) 375 percent of the median in-
18 come for the area, as determined by
19 the FHA; or

20 (II) \$200,000.

21 (2) DOWNPAYMENT.—The mortgage shall be
22 executed by a mortgagor who shall have paid on ac-
23 count of the property subject to the mortgage an
24 amount, in cash or its equivalent, equal to or exceed-
25 ing—

1 (A) 5 percent of the cost of acquisition of
2 the property, as determined by the FHA; or

3 (B) in the case of a mortgage under which
4 the mortgagor is a first-time homebuyer and for
5 which such credit enhancement as the FHA
6 shall determine has been provided, 3.5 percent
7 of the cost of acquisition of the property, as de-
8 termined by the FHA.

9 (3) PUBLIC PURPOSE REQUIREMENT.—The
10 mortgage shall meet the requirements of any one of
11 the following subparagraphs:

12 (A) FIRST-TIME HOMEBUYER.—The mort-
13 gator under the mortgage is a first-time home-
14 buyer (as such term is defined in section 202)
15 of the property subject to the mortgage and the
16 property is used as the principal residence of
17 the mortgagor.

18 (B) LOW- OR MODERATE-INCOME MORT-
19 GAGOR.—The mortgagor under the mortgage is
20 a member of a family as follows:

21 (i) IN GENERAL.—A family having an
22 income that is less than 115 percent of the
23 median income, as determined by the
24 FHA, for the area in which the property
25 subject to the mortgage is located, except

1 that the FHA may establish income ceil-
2 ings higher or lower than 115 percent of
3 the median for the area to take into con-
4 sideration various sizes of families.

5 (ii) HIGH-COST AREAS.—A family
6 that—

7 (I) resides in any area for which
8 the median 1-family house price ex-
9 ceeds the maximum dollar amount
10 limitation in effect for that year on
11 the original principal obligation of a
12 mortgage on a 1-family residence that
13 may be purchased by the Federal
14 Home Loan Mortgage Corporation, as
15 determined under section 305(a)(2) of
16 the Federal Home Loan Mortgage
17 Corporation Act (12 U.S.C.
18 1454(a)(2)); and

19 (II) has an income that is less
20 than 150 percent of the median in-
21 come, as determined by the FHA, for
22 the area in which the property subject
23 to the mortgage is located, except that
24 the FHA may establish income ceil-
25 ings higher or lower than 150 percent

1 of the median for the area to take
2 into consideration various sizes of
3 families.

4 For purposes of this subparagraph, the term
5 “area” has the meaning given such term in the
6 last sentence of paragraph (1)(B)(i).

7 (C) COUNTER-CYCLICAL MARKET ADJUST-
8 MENT.—The property subject to the mortgage
9 is located in a county or counties for which a
10 determination under this subparagraph has
11 been made, as follows:

12 (i) DETERMINATION.—A mortgage
13 may be insured pursuant to this subpara-
14 graph only upon a joint determination by
15 the Director and the Chief Risk Officer
16 that—

17 (I) available credit for the pur-
18 chase of 1- to 4-family homes located
19 in such county or counties has con-
20 tracted significantly, as measured by
21 the credit availability measure of the
22 Office of the Comptroller of the Cur-
23 rency;

24 (II) housing prices in such coun-
25 ty or counties have declined signifi-

1 cantly, as measured by the applicable
2 housing price index of the Federal
3 Housing Finance Agency; or

4 (III) available credit for the pur-
5 chase of housing or such other eco-
6 nomic conditions exist sufficient to
7 evidence a significant contraction of
8 capital in such county or counties, as
9 measured by a metric identified by the
10 Director and the Chief Risk Officer in
11 a written notice made publicly avail-
12 able, and provided to the Congress, in
13 advance of such determination.

14 (ii) CONDITIONS OF TERMINATION.—

15 Upon making a determination under clause
16 (i), the Director and the Chief Risk Officer
17 shall also identify measurable criteria for
18 determining that the conditions determined
19 under clause (i) for such county or coun-
20 ties have ceased to exist.

21 (iii) NOTICE TO CONGRESS.—Upon
22 making a determination under clause (i),
23 the Director and the Chief Risk Officer
24 shall provide written notice to the Congress
25 of such determination and the specific

1 measurable criteria identified pursuant to
2 clause (ii).

3 (iv) TERMINATION.—The authority to
4 insure mortgages pursuant to this subpara-
5 graph on properties located in a county or
6 counties shall terminate upon the earlier
7 of—

8 (I) the expiration of the 18-
9 month period beginning upon the date
10 that notification under clause (iii) is
11 provided to the Congress of the deter-
12 mination under clause (i) with respect
13 to such county or counties; or

14 (II) the occurrence of the condi-
15 tions identified pursuant to clause (ii)
16 with respect to such county or coun-
17 ties.

18 (v) MULTIPLE DETERMINATIONS.—
19 Nothing in this subparagraph may be con-
20 strued to prevent multiple or consecutive
21 periods for a county or counties during
22 which mortgages on properties located in
23 such county or counties may be insured
24 pursuant to this subparagraph.

1 (D) DISASTER AREA.—The Board of Di-
2 rectors exercises the authority to insure mort-
3 gages under this subparagraph, subject to the
4 following requirements:

5 (i) IMPLEMENTATION.—The Board of
6 Directors may implement authority to in-
7 sure mortgages under this subparagraph
8 only if the Board—

9 (I) by a vote of the majority of
10 its members, approves such implemen-
11 tation for a specific disaster area
12 under clause (iii) and a specific dis-
13 aster period under clause (iv); and

14 (II) notifies the Congress and the
15 President in writing of such approval,
16 such disaster period, and such dis-
17 aster area not less than 30 days be-
18 fore the commencement of the dis-
19 aster period.

20 (ii) ELIGIBLE MORTGAGES.—The
21 FHA may insure, or make a commitment
22 to insure, a mortgage under authority
23 under this subparagraph only if—

24 (I) the mortgage is made for the
25 purchase of a principal residence by a

1 mortgagor whose home (that the
2 mortgagor occupied as an owner or
3 tenant) was located in a disaster area
4 described under clause (iii) and was
5 destroyed or damaged to such an ex-
6 tent that reconstruction is required,
7 as a result of a major disaster de-
8 clared by the President under the
9 Robert T. Stafford Disaster Relief
10 and Emergency Assistance Act; and

11 (ii) the commitment for mort-
12 gage insurance is made during the
13 disaster period established under
14 clause (iv) for such disaster area.

15 (iii) DISASTER AREA.—A disaster
16 area may be established for purposes of
17 this subparagraph only for the area af-
18 fected by a major disaster, as declared by
19 the President under the Robert T. Stafford
20 Disaster Relief and Emergency Assistance
21 Act, or a portion of such area, as deter-
22 mined by the FHA.

23 (iv) DISASTER PERIOD.—A disaster
24 period established for purposes of this sub-
25 paragraph shall—

1 (I) commence upon or after the
2 declaration of the major disaster re-
3 ferred to in clause (iii); and

4 (II) terminate on the date certain
5 approved by the Board of Directors
6 under clause (i)(I) and contained in
7 the notice under clause (i)(II), which
8 shall not be later than 18 months
9 after the commencement of the period.

10 (b) CONFORMING AMENDMENTS.—Section 203(b) of
11 the National Housing Act (12 U.S.C. 1709(b)) is amend-
12 ed—

13 (1) by striking paragraph (2); and

14 (2) in paragraph (9)—

15 (A) by striking subparagraph (A); and

16 (B) in subparagraph (B), by striking “this
17 paragraph” and inserting “section 202(a)(2) of
18 the FHA Reform and Modernization Act of
19 2013”.

20 **SEC. 233. RISK-SHARING.**

21 (a) DEVELOPMENT OF DEMONSTRATION MODEL.—

22 Not later than the expiration of the 2-year period begin-
23 ning on the date of the enactment of this Act, the FHA
24 shall develop and implement a model and standards for
25 entering into risk-sharing agreements with respect to

1 mortgages insured by the FHA, under which the FHA
2 shall insure a portion of the amount of the mortgage and
3 persons or entities determined under the guidelines estab-
4 lished pursuant to subsection (b) to be qualified to partici-
5 pate in such an agreement shall insure the remainder (or
6 another) portion of the amount of the eligible mortgage.

7 (b) QUALIFICATIONS OF RISK-SHARING PART-
8 NERS.—

9 (1) ESTABLISHMENT.—The model and stand-
10 ards established under this section shall include
11 guidelines for the qualification of persons or entities
12 to participate in risk-sharing and other credit en-
13 hancement activities with the FHA.

14 (2) PROCEDURES.—In establishing such guide-
15 lines, the FHA shall review the guidelines estab-
16 lished by the Director for qualification of persons or
17 entities to participate in risk-sharing and other cred-
18 it enhancement activities with the Federal National
19 Mortgage Association or the Federal Home Loan
20 Mortgage Corporation. The FHA shall determine
21 whether such guidelines for such enterprises are suf-
22 ficient for purposes of the FHA, including whether
23 such guidelines meet the requirements under para-
24 graph (3), and—

1 (A) if the FHA determines that such
2 guidelines are so sufficient, the FHA shall
3 adopt such guidelines for purposes of this sec-
4 tion, to the extent appropriate, with any
5 changes necessary to account for differences be-
6 tween the mortgages insured under this title
7 and the National Housing Act and the business
8 under such provisions and the business of such
9 enterprises; or

10 (B) if the FHA determines that such
11 guidelines are not so sufficient, the FHA shall
12 adopt such guidelines for purposes of this sec-
13 tion, to the extent appropriate and with changes
14 referred to in subparagraph (A), together with
15 additional criteria sufficient to address any
16 such insufficiency.

17 (3) CONTENT.—Such guidelines shall ensure
18 that—

19 (A) persons or entities participating in
20 risk-sharing and other credit enhancement ac-
21 tivities pursuant to this section have sufficient
22 capital, credit worthiness, and liquidity, and are
23 otherwise capable of fulfilling their obligations
24 to the FHA;

1 (B) such persons or entities and their prin-
2 cipals or officers are not engaged in a business
3 the goals of which would conflict with the pur-
4 poses of the FHA or the National Housing Act;
5 and

6 (C) product or service delivery will be con-
7 ducted in a manner that is efficient and effec-
8 tive, and that will comply with the requirement
9 under section 211(d).

10 (c) RISK-SHARING REQUIREMENT.—

11 (1) REQUIREMENT.—After the expiration of the
12 2-year period referred to in subsection (a), the FHA
13 shall ensure that, in each fiscal year, not less than
14 10 percent of any new business in mortgages on 1-
15 to 4-family residential property is insured pursuant
16 to a risk-sharing agreement with respect to such
17 mortgage that complies with the standards estab-
18 lished pursuant to subsection (a).

19 (2) LIMITATION.—In any fiscal year, the FHA
20 may not comply with paragraph (1) by entering into
21 risk-sharing agreements with respect only to one or
22 a limited number of types or categories of mort-
23 gages, or mortgages having only particular, or a par-
24 ticular range of, original principal obligation
25 amounts, but shall enter into risk-sharing agree-

1 ments for all types and amounts of mortgages in-
2 sured by the FHA, to the extent required under
3 paragraph (1).

4 (3) NEW BUSINESS.—For purposes of this sub-
5 section, with respect to a fiscal year, the term “new
6 business” means the aggregate dollar amount of the
7 principal obligations of mortgages for which a com-
8 mitment to insure is made pursuant to the National
9 Housing Act or this title, as applicable, during such
10 fiscal year.

11 (d) REPORTS TO CONGRESS.—Upon the expiration of
12 each of the 3- and 5-year periods beginning on the date
13 of the enactment of this Act, the FHA shall submit a re-
14 port to the Congress on the findings and results of risk-
15 sharing activities under this section. Such reports shall de-
16 scribe the model and standards for entering into risk-shar-
17 ing agreements, analyze appropriate dollar amount limits
18 for the original principal obligations of mortgages that
19 should be subject to a risk-sharing requirement, identify
20 the effects of such risk-sharing activities on the Mutual
21 Mortgage Insurance Fund, and make recommendations
22 regarding expanding the risk-sharing requirement under
23 subsection (c).

24 (e) EFFECTIVE DATE.—This section shall take effect
25 on the date of the enactment of this Act. During the tran-

1 sition period under section 281, any reference in this sec-
2 tion to the FHA shall be construed to refer to the Sec-
3 retary to the extent the Secretary has not delegated au-
4 thority under this section to the FHA pursuant to section
5 282(1).

6 **SEC. 234. LIMITATION ON MORTGAGE INSURANCE COV-**
7 **ERAGE.**

8 (a) LIMITATION.—Notwithstanding any other provi-
9 sion of this title or the National Housing Act, the FHA
10 may not insure, or make any commitment to insure, any
11 portion of any mortgage on a 1- to 4-family residential
12 property in excess of the amount equal to the following
13 percentage of the original principal obligation of the mort-
14 gage:

15 (1) In the case of any such mortgage insured
16 after the expiration of the 1-year period beginning
17 on the date of the enactment of this Act, 90 percent
18 of such original principal obligation, subject to para-
19 graphs (2) through (5).

20 (2) In the case of any such mortgage insured
21 after the expiration of the 2-year period beginning
22 on the date of the enactment of this Act, 80 percent
23 of such original principal obligation, subject to para-
24 graphs (3) through (5).

1 (3) In the case of any such mortgage insured
2 after the expiration of the 3-year period beginning
3 on the date of the enactment of this Act, 70 percent
4 of such original principal obligation, subject to para-
5 graphs (4) and (5).

6 (4) In the case of any such mortgage insured
7 after the expiration of the 4-year period beginning
8 on the date of the enactment of this Act, 60 percent
9 of such original principal obligation, subject to para-
10 graph (5).

11 (5) In the case of any such mortgage insured
12 after the expiration of the 5-year period beginning
13 on the date of the enactment of this Act, 50 percent
14 of such original principal obligation.

15 (b) EFFECTIVE DATE.—This section shall take effect
16 on the date of the enactment of this Act. During the tran-
17 sition period under section 281, any reference in this sec-
18 tion to the FHA shall be construed to refer to the Sec-
19 retary to the extent the Secretary has not delegated au-
20 thority under this section to the FHA pursuant to section
21 282(1).

22 **SEC. 235. PREMIUMS.**

23 (a) ESTABLISHMENT.—The FHA shall establish and
24 collect premium payments for mortgage insurance pro-
25 vided pursuant to this title and the amendments made by

1 this title, and shall provide for sharing of premiums with
2 entities entering into risk-sharing agreements with the
3 FHA pursuant to section 233 based on the relative portion
4 of the mortgage insured and the risk of loss borne.

5 (b) MINIMUM PREMIUMS.—In the case of mortgages
6 on 1- to 4-family residential properties insured by the
7 FHA, the premiums established and collected by the FHA
8 shall include an annual premium payment in an amount
9 not less than 0.55 percent of the remaining insured prin-
10 cipal balance (excluding the portion of the remaining bal-
11 ance attributable to any premium collected at the time of
12 insurance and without taking into account delinquent pay-
13 ments or prepayments) for the entire term of the mort-
14 gage.

15 (c) SELF-SUFFICIENT OPERATIONS.—Notwith-
16 standing section 203(c) of the National Housing Act (12
17 U.S.C. 1709(c)) or any other provision of law, premium
18 rates established under this section shall be established in
19 amounts sufficient to cover—

20 (1) costs of providing mortgage insurance cov-
21 erage under this title;

22 (2) costs for administration, operations, man-
23 agement, and technology systems for the FHA for
24 carrying out this title;

1 (3) the capital ratio required for the Mutual
2 Mortgage Insurance Fund under section 256(b) and
3 under section 259 with respect to mortgage insur-
4 ance for mortgages on multifamily properties; and

5 (4) salaries and expenses for officers and per-
6 sonnel of the FHA.

7 (d) RISK-BASED PREMIUMS.—The FHA may, with
8 respect to mortgages on 1- to 4-family residential prop-
9 erties insured by the FHA, establish a mortgage insurance
10 premium structure involving a single premium payment
11 collected prior to the insurance of the mortgage or annual
12 payments (which may be collected on a periodic basis), or
13 both. Under such structure, the rate of premiums for such
14 a mortgage may vary according to the credit risk associ-
15 ated with the mortgage and the rate of any annual pre-
16 mium for such a mortgage may vary during the mortgage
17 term, except that the basis for determining the variable
18 rate shall be established before the execution of the mort-
19 gage. The FHA may change a premium structure estab-
20 lished under this subsection, but only to the extent that
21 such change is not applied to any mortgage already exe-
22 cuted.

23 (e) SAVINGS PROVISION.—Nothing in this section
24 may be construed to affect premiums charged for mort-

1 gage insurance provided for mortgages insured before the
2 date of the enactment of this Act.

3 **SEC. 236. DEFAULT AND FORECLOSURE STATEMENT.**

4 (a) WRITTEN STATEMENT.—The FHA shall ensure
5 that each mortgagor under a mortgage on a 1- to 4-family
6 residential property insured by the FHA is provided, by
7 the mortgagee at the time that such mortgage is origi-
8 nated, with a written statement containing the informa-
9 tion required under subsection (b).

10 (b) DEFAULT AND FORECLOSURE INFORMATION.—
11 The information required under this subsection with re-
12 spect to a mortgage is information identifying the percent-
13 age (as determined according to historical rates of default
14 and foreclosure) of mortgages on 1- to 4-family residential
15 properties that were insured pursuant to this title and the
16 National Housing Act and that had mortgagors who have
17 the same risk profile and mortgage product as the mort-
18 gagor receiving the written statement pursuant to this sec-
19 tion (as determined in accordance with guidelines estab-
20 lished by the FHA) that—

21 (1) during the terms of such mortgages, experi-
22 enced a default on payments due under such mort-
23 gages; and

24 (2) were foreclosed upon during the terms of
25 such mortgages.

1 **SEC. 237. OCCUPANCY AND RENT LIMITATIONS FOR MULTI-**
2 **FAMILY MORTGAGE INSURANCE.**

3 (a) IN GENERAL.—Notwithstanding any provision of
4 the National Housing Act or any other provision of law,
5 the FHA may not insure any mortgage on a residential
6 property having 5 or more dwelling units unless the prop-
7 erty is subject to such binding terms and conditions, in-
8 cluding such occupancy and rent restrictions, as are satis-
9 factory to the FHA to ensure that the property includes
10 dwelling units, to the extent determined by the FHA to
11 be appropriate, for which occupancy is restricted during
12 the entire term of the mortgage to only the following fami-
13 lies:

14 (1) IN GENERAL.—A family having an income
15 that is less than 115 percent of the median income,
16 as determined by the FHA, for the area in which the
17 property subject to the mortgage is located, except
18 that the FHA may establish income ceilings higher
19 or lower than 115 percent of the median for the area
20 to take into consideration various sizes of families.

21 (2) HIGH-COST AREAS.—A family that—

22 (A) resides in any area in which the me-
23 dian 1-family house price exceeds the maximum
24 dollar amount limitation in effect for that year
25 on the original principal obligation of a mort-
26 gage on a 1-family residence that may be pur-

1 chased by the Federal Home Loan Mortgage
2 Corporation, as determined under section
3 305(a)(2) of the Federal Home Loan Mortgage
4 Corporation Act (12 U.S.C. 1454(a)(2)); and

5 (B) has an income that is less than 150
6 percent of the median income, as determined by
7 the FHA, for the area in which the property
8 subject to the mortgage is located, except that
9 the FHA may establish income ceilings higher
10 or lower than 150 percent of the median for the
11 area to take into consideration various sizes of
12 families.

13 (b) LOWER INCOMES.—Subsection (a) may not be
14 construed to prevent the FHA from establishing occu-
15 pancy, income, and rent restrictions that establish limits
16 on incomes for families occupying income-restricted units
17 in a property that are lower than the incomes specified
18 in subsection (a).

19 (c) AREA.—For purposes of this section, the term
20 “area” has the meaning given such term in the last sen-
21 tence of section 232(a)(1)(b)(i).

22 **SEC. 238. EFFECTIVE DATE.**

23 This subtitle and the amendments made by this sub-
24 title, except for sections 233 and 234, shall take effect

1 upon the expiration of the transition period under section
2 281.

3 **Subtitle C—Financial Safety and**
4 **Soundness**

5 **SEC. 251. AUTHORITY OF DIRECTOR.**

6 (a) DUTY.—The Director of the Federal Housing Fi-
7 nance Agency shall supervise and regulate the safety and
8 soundness of the FHA and the programs of the Rural
9 Housing Service of the Department of Agriculture for
10 housing loans made, insured, or guaranteed under title V
11 of the Housing Act of 1949, and it shall be the duty of
12 the Director to ensure that the FHA and such Rural
13 Housing Service programs are adequately capitalized and
14 operating safely.

15 (b) AUTHORITY.—The Director may make such de-
16 terminations, take such actions, and perform such func-
17 tions as the Director determines necessary to meet the re-
18 sponsibilities of the Director under this subtitle.

19 **SEC. 252. BUDGETS AND BUSINESS PLANS.**

20 (a) SUBMISSION OF BUSINESS-TYPE BUDGET.—In
21 each year, the FHA shall prepare and submit an annual
22 budget as required under section 9103 of title 31, United
23 States Code, and shall submit such budget to the Director
24 by a date sufficient to enable the Director to produce, pur-
25 suant to section 255(e) of this title, the credit subsidy cost

1 estimates that are required for the budget of the United
2 States Government under section 1105(a) of title 31,
3 United States Code.

4 (b) SUBMISSION OF BUDGET AND CREDIT COST ES-
5 TIMATES TO OMB.—For purposes of inclusion in the
6 budget of the United States Government, the FHA shall
7 submit the annual budget of the FHA and the annual
8 credit subsidy cost estimates produced pursuant to section
9 255(c) of this title to the Director of the Office of Manage-
10 ment and Budget.

11 (c) RESERVES.—

12 (1) ESTABLISHMENT.—Subject to sections 256
13 and 259, the FHA may establish any reserve that
14 the FHA determines is necessary for the business
15 operations of the FHA.

16 (2) AMOUNTS.—The FHA may hold as a re-
17 serve in any financing account, as defined in section
18 502 of the Congressional Budget Act of 1974 (2
19 U.S.C. 661a), such amounts as the FHA considers
20 necessary to comply with the capital requirements
21 established for the FHA under sections 256 and 259
22 of this title and to fulfill the purposes of this title.

23 **SEC. 253. ANNUAL BUSINESS PLAN; USE OF GAAP.**

24 (a) ANNUAL BUSINESS PLAN.—The FHA shall es-
25 tablish a business plan on an annual basis and shall make

1 such plan available for review by the Director. Such plan
2 shall specify the products and operational strategy of the
3 FHA, including plans to address compliance with the safe-
4 ty and soundness requirements applicable to the FHA.

5 (b) USE OF GAAP.—Any financial reporting of the
6 FHA, including the preparation of the annual business
7 plan required by subsection (a), the annual budget re-
8 quired in accordance with section 252(a), and any finan-
9 cial statements of the FHA, shall be conducted in accord-
10 ance with generally accepted accounting principles applica-
11 ble to the private sector.

12 **SEC. 254. EXAMINATIONS, REPORTS, AND COST ESTIMATES.**

13 (a) EXAMINATIONS.—The Director shall conduct
14 such examinations of the FHA and the Rural Housing
15 Service programs referred to in section 251(a) as the Di-
16 rector determines necessary to evaluate the safety and
17 soundness of the FHA and such programs. Such examina-
18 tions shall be subject to and governed by subsections (c)
19 through (h) of section 1317 of the Federal Housing Enter-
20 prises Financial Safety and Soundness Act of 1992 (12
21 U.S.C. 4517), except that the last sentence of subsection
22 (c) shall not apply and any reimbursements referred to
23 in such sentence shall be made from amounts collected
24 under section 255 of this title.

1 (b) REPORTS.—The Director may require the FHA
2 and the Rural Housing Service to submit, within a reason-
3 able period of time, any regular or special report, data,
4 or other information whenever, in the judgment of the Di-
5 rector, such report, data, or information is necessary to
6 carry out the Director’s responsibilities under this title.

7 (c) CREDIT SUBSIDY COST ESTIMATES.—

8 (1) IN GENERAL.—The Director shall produce
9 and submit to the Director of the Office of Manage-
10 ment and Budget the annual credit subsidy cost esti-
11 mates for the FHA and the Rural Housing Service
12 programs referred to in section 251(a) required for
13 the President’s budget. Such estimates shall be con-
14 sistent with the estimates of performance generated
15 by the risk-based capital model developed in accord-
16 ance with section 257(b), and with the President’s
17 economic forecast.

18 (2) UNIFIED ESTIMATES.—The annual credit
19 subsidy cost estimates produced under this sub-
20 section by the Director shall be reported on a unified
21 basis, which shall be based upon the business of the
22 FHA, and the Rural Housing Service programs re-
23 ferred to in section 251(a), as a whole.

24 (d) ANNUAL REPORT ON SAFETY AND SOUND-
25 NESS.—The Director shall submit an annual report to

1 Congress and the Director of the Office of Management
2 and Budget on the financial safety and soundness of the
3 FHA and the Rural Housing Service programs referred
4 to in section 251(a), as measured pursuant to this subtitle.

5 **SEC. 255. REIMBURSEMENT OF COSTS.**

6 (a) ASSESSMENT AND COLLECTION.—The Director
7 shall assess and collect from the FHA and the Secretary
8 of Agriculture annual assessments in such amounts deter-
9 mined by the Director as necessary to reimburse the Fed-
10 eral Housing Finance Agency for the reasonable costs and
11 expenses of the activities undertaken by such Agency to
12 carry out the duties of the Director under this subtitle,
13 including the costs of examination, enforcement, and over-
14 sight expenses.

15 (b) REQUIREMENTS.—Annual assessments imposed
16 by the Director shall be—

- 17 (1) imposed prior to October 1 of each year;
- 18 (2) allocated among the FHA and the Secretary
19 of Agriculture proportionally based on the costs and
20 expenses of the Agency of carrying out the duties
21 under this subtitle with respect to FHA and the
22 Rural Housing Service program referred to in sec-
23 tion 251(a), respectively;

1 (2) Capital attributable to mortgages that be-
2 come insured before the expiration of the transition
3 period under section 281.

4 (b) CAPITAL RATIO FOR NEW BUSINESS.—The FHA
5 shall ensure that the account for the Mutual Mortgage In-
6 surance Fund that is established pursuant to subsection
7 (a)(1) of this section at all times maintains a capital ratio
8 of not less than 4.0 percent.

9 (c) DEFINITIONS.—For purposes of this section, the
10 following definitions shall apply:

11 (1) CAPITAL.—The term “capital” means the
12 economic net worth of the account of the Fund that
13 is established pursuant to subsection (a)(1) of this
14 section, as determined by the FHA under the annual
15 audit required under section 538 of the National
16 Housing Act (12 U.S.C. 1735f–16).

17 (2) CAPITAL RATIO.—The term “capital ratio”
18 means the ratio of capital to unamortized insurance-
19 in-force.

20 (3) ECONOMIC NET WORTH.—The term “eco-
21 nomic net worth” means the current cash available
22 to the account of the Fund that is established pursu-
23 ant to subsection (a)(1) of this section, plus the net
24 present value of all future cash inflows and outflows
25 expected to result from outstanding new business.

1 (4) FUND.—The term “Fund” means the Mu-
2 tual Mortgage Insurance Fund established under
3 section 205 of the National Housing Act (12 U.S.C.
4 1711).

5 (5) NEW BUSINESS.—The term “new business”
6 means mortgages that are obligations of the Mutual
7 Mortgage Insurance Fund that become insured by
8 the FHA after the expiration of the transition period
9 under section 281.

10 (6) UNAMORTIZED INSURANCE IN FORCE.—The
11 term “unamortized insurance-in-force” means the
12 remaining obligation on outstanding new business,
13 as estimated by the FHA.

14 (d) TREATMENT OF EXISTING CAPITAL RATIO.—
15 Paragraph (4) of section 205(f) of the National Housing
16 Act (12 U.S.C. 1711(f)(4)) is amended—

17 (1) in subparagraph (A), by striking “Mutual
18 Mortgage Insurance Fund” and inserting “account
19 of the Mutual Mortgage Insurance Fund that is es-
20 tablished pursuant to subsection (a)(2) of the FHA
21 Reform and Modernization Act of 2013”;

22 (2) in subparagraph (C)—

23 (A) by striking “Fund” the first place such
24 term appears and inserting “account of the Mu-
25 tual Mortgage Insurance Fund that is estab-

1 lished pursuant to subsection (a)(2) of the
 2 FHA Reform and Modernization Act of 2013”;
 3 and

4 (B) by striking “the Fund.” and inserting
 5 the following: “such account that become in-
 6 sured by the Secretary of Housing and Urban
 7 Development (or the FHA, pursuant to subtitle
 8 D of the FHA Reform and Modernization Act
 9 of 2013) before the expiration of the transition
 10 period under section 281 of such Act.”; and

11 (3) in subparagraph (D), by inserting before
 12 the comma the following: “and become insured be-
 13 fore the expiration of the transition period under
 14 section 281 of the FHA Reform and Modernization
 15 Act of 2013”.

16 **SEC. 257. CAPITAL CLASSIFICATIONS AND PERFORMANCE**
 17 **MEASURES FOR MUTUAL MORTGAGE INSUR-**
 18 **ANCE FUND.**

19 (a) CAPITAL CLASSIFICATION; EFFECT ON INSUR-
 20 ANCE AUTHORITY.—

21 (1) ADEQUATELY CAPITALIZED.—At any time
 22 that the capital ratio (as such term is defined in sec-
 23 tion 256(c)(2) of this title) is greater than 4.0 per-
 24 cent, the account for the Mutual Mortgage Insur-
 25 ance Fund established pursuant to section 256(a)(1)

1 shall be classified as adequately capitalized for pur-
2 poses of this subtitle.

3 (2) UNDERCAPITALIZED.—At any time that the
4 capital ratio is less than 4.0 percent—

5 (A) the account for the Mutual Mortgage
6 Insurance Fund established pursuant to section
7 256(a)(1) shall be classified as undercapitalized
8 for purposes of this subtitle; and

9 (B) if such capital ratio is—

10 (i) equal to or greater than 2.0 per-
11 cent, the FHA may not enter into any new
12 commitment to insure any mortgage on a
13 1- to 4-family residential property that in-
14 volves a principal obligation (including
15 such initial service charges, appraisal, in-
16 spection, and other fees as the FHA shall
17 approve) in an amount exceeding 90 per-
18 cent of the appraised value of the property;
19 and

20 (ii) less than 2.0 percent but equal to
21 or greater than 0.0 percent, the FHA may
22 not enter into any new commitment to in-
23 sure any mortgage on a 1- to 4-family resi-
24 dential property that involves a principal
25 obligation (including such initial service

1 charges, appraisal, inspection, and other
2 fees as the FHA shall approve) in an
3 amount exceeding 80 percent of the ap-
4 praised value of the property.

5 (3) SIGNIFICANTLY UNDERCAPITALIZED.—At
6 any time that the capital ratio is less than 0.0 per-
7 cent—

8 (A) the account for the Mutual Mortgage
9 Insurance Fund established pursuant to section
10 256(a)(1) shall be classified as significantly
11 undercapitalized for purposes of this subtitle;
12 and

13 (B) the Director may, pursuant to section
14 258(a)(1), take actions under section 258(b).

15 (4) QUARTERLY DETERMINATION OF CAPITAL
16 RATIO.—The Director shall determine the capital
17 ratio and the capital classification of the account for
18 the Mutual Mortgage Insurance Fund established
19 pursuant to section 256(a)(1) for purposes of this
20 subtitle not less frequently than each calendar quar-
21 ter.

22 (b) STRESS TEST.—

23 (1) IN GENERAL.—The Director shall develop a
24 risk-based capital model to determine the amount of
25 capital that is sufficient for the FHA to maintain

1 positive capital during a period of economic stress.
2 The model shall incorporate the assumptions under
3 paragraphs (2) and (3).

4 (2) CREDIT RISK.—For purposes of paragraph
5 (1), the Director shall assume that, during the pe-
6 riod of economic stress referred to in paragraph (1),
7 credit losses occur at a rate consistent with a nation-
8 wide economic recession of average severity based on
9 nationwide economic recessions since 1950.

10 (3) OTHER RISKS.—For purposes of paragraph
11 (1), the Director shall make assumptions about such
12 other aspects of the period of economic stress as the
13 Director determines are appropriate and consistent.

14 (c) CAPITAL RESTORATION PLAN REQUIREMENT.—
15 If the account for the Mutual Mortgage Insurance Fund
16 established pursuant to section 256(a)(1) is classified as
17 undercapitalized or significantly undercapitalized, the
18 FHA shall—

19 (1) submit to the Director a capital restoration
20 plan meeting the requirements of section 258(d) for
21 raising or restoring the capital of such account to an
22 amount not less than the amount required for such
23 account to be classified as adequately capitalized;
24 and

1 (2) upon approval by the Director, carry out
2 such plan.

3 If the Director disapproves a capital restoration plan sub-
4 mitted under this subsection, the Director shall convey in
5 writing reasons for such disapproval and shall provide for
6 the FHA to resubmit a revised plan for approval by the
7 Director.

8 **SEC. 258. ENFORCEMENT.**

9 (a) GROUND.—The Director may take actions under
10 subsection (b) only if—

11 (1) the account for the Mutual Mortgage Insur-
12 ance Fund established pursuant to section 256(a)(1)
13 is classified under section 257(a) as significantly
14 undercapitalized;

15 (2) the account for the Mutual Mortgage Insur-
16 ance Fund established pursuant to section 256(a)(1)
17 is classified under section 257(a) as undercapitalized
18 and—

19 (A) the FHA does not submit a capital
20 restoration plan that is substantially in compli-
21 ance with section 257(c) within the applicable
22 period, or the Director disapproves the capital
23 restoration plan submitted by the FHA; or

1 (B) the FHA has failed to make, in good
2 faith, reasonable efforts necessary to comply
3 with the capital restoration plan; or

4 (3) the FHA is engaging or has engaged, or the
5 Director has reasonable cause to believe that the
6 FHA is about to engage in—

7 (A) any conduct that is likely to threaten
8 the adequacy of the capital of the account for
9 the Mutual Mortgage Insurance Fund estab-
10 lished pursuant to section 256(a)(1);

11 (B) any failure to comply with any written
12 agreement entered into by the FHA with the
13 Director; or

14 (C) any failure to comply with any request
15 by the Director for a report, data, or informa-
16 tion under section 254(b).

17 (b) ACTIONS.—The Director may, under this sub-
18 section, require the FHA—

19 (1) to cease and desist from any conduct or ac-
20 tivity that—

21 (A) with respect to the account for the
22 Mutual Mortgage Insurance Fund established
23 pursuant to section 256(a)(1), is described in
24 paragraph (2) or (3) of subsection (a), or that

1 contributes to the condition described in sub-
2 section (a)(1); and

3 (B) with respect to any other Fund, con-
4 tributes to a failure to meet a capital reserve
5 requirement established pursuant to section
6 259(a) or is likely to threaten the adequacy of
7 the capital of such Fund; and

8 (2) to take corrective or remedial action, includ-
9 ing—

10 (A) restricting the growth of, or con-
11 tracting, any category of assets or liabilities;

12 (B) reducing, modifying, or terminating
13 any activity that the Director determines cre-
14 ates excessive risk to the FHA;

15 (C) terminating agreements or contracts;

16 (D) engaging or employing qualified em-
17 ployees (who may be subject to approval by the
18 Director at the direction of the Director); or

19 (E) submitting to the Director for review
20 and approval a detailed and complete operating
21 plan.

22 (c) REPORTS.—If the Director is authorized under
23 subsection (a) of this section or section 259(b) to take ac-
24 tion under subsection (b) of this section and determines
25 not to take any such action, the Director shall prepare

1 a report detailing the basis of the Director's decision not
2 to take such action and shall, within 30 days of the deci-
3 sion, submit the report to the President, the Director of
4 the Office of Management and Budget, the Comptroller
5 General of the United States, the Committee on Banking
6 and Financial Services of the House of Representatives,
7 and the Committee on Banking, Housing, and Urban Af-
8 fairs of the Senate.

9 (d) CAPITAL RESTORATION PLANS.—A capital res-
10 toration plan submitted pursuant to section 257(c),
11 259(b), or 260(d)(3) shall—

12 (1) set forth a feasible plan for raising or re-
13 storing the capital of the Fund for which it is pre-
14 pared;

15 (2) specify the level of capital to be achieved
16 and maintained;

17 (3) be submitted to the Director within 45 days
18 from the date of notification, or if the Director de-
19 termines that an extension is necessary, within such
20 additional time as the Director so determines;

21 (4) describe the actions that the FHA shall
22 take for such Fund to become classified as ade-
23 quately capitalized;

24 (5) establish a schedule for completing the ac-
25 tions set forth in the plan; and

1 (6) specify the types and levels of activities (in-
2 cluding existing and new business activities) in
3 which the FHA shall engage during the term of the
4 plan.

5 **SEC. 259. CAPITAL RESERVE REQUIREMENTS FOR OTHER**
6 **FUNDS.**

7 (a) REQUIREMENTS.—The Director shall establish
8 capital reserve requirements for—

9 (1) the General Insurance Fund established
10 under section 519 of the National Housing Act (12
11 U.S.C. 1735c);

12 (2) the Special Risk Insurance Fund estab-
13 lished under section 238(b) of such Act (12 U.S.C.
14 1715z-3(b));

15 (3) the Cooperative Management Housing In-
16 surance Fund established under section 213(k) of
17 such Act (12 U.S.C. 1715e(k)); and

18 (4) the Rural Housing Insurance Fund estab-
19 lished under title V of the Housing Act of 1949 (42
20 U.S.C. 1471), or the various accounts of such Fund.

21 (b) ENFORCEMENT.—The Director may enforce com-
22 pliance with the requirements under subsection (a) of this
23 section with respect to a Fund by taking action under sec-
24 tion 258(b) or by requiring submission of a capital res-

1 toration plan for such Fund meeting the requirements of
2 section 258(d).

3 **SEC. 260. AUTHORITY TO ESTABLISH TEMPORARY CAPITAL**
4 **RATIOS IN CASES OF NATIONWIDE COUNTER-**
5 **CYCLICAL MARKET ADJUSTMENT.**

6 (a) **AUTHORITY; DETERMINATION.**—The Director
7 may suspend the applicability of the capital ratio under
8 section 256(b) for the Mutual Mortgage Insurance Fund
9 or any capital reserve requirement established pursuant
10 to section 259 for any Fund specified under such section
11 and establish a temporary alternative capital ratio with
12 respect to such Fund for a specified period of time, but
13 only upon a joint determination by the Director and the
14 Chief Risk Officer that—

15 (1) available credit throughout the United
16 States or a significant portion of the United States
17 for the purchase of the types of residences for which
18 mortgages that obligations of such Fund are made
19 has contracted significantly, as measured by the
20 credit availability measure of the Office of the
21 Comptroller of the Currency;

22 (2) housing prices throughout the United States
23 or a significant portion of the United States have
24 declined significantly, as measured by the applicable

1 housing price index of the Federal Housing Finance
2 Agency; or

3 (3) available credit for the purchase of housing
4 or such other economic conditions exist sufficient to
5 evidence a significant contraction of capital through-
6 out the United States or a significant portion of the
7 United States, as measured by a metric identified by
8 the Director and the Chief Risk Officer in a written
9 notice made publicly available, and provided to the
10 Congress, in advance of such determination.

11 (b) CONDITIONS OF TERMINATION.—Upon making a
12 determination under subsection (a), the Director and the
13 Chief Risk Officer shall also identify measurable criteria
14 for determining that the conditions determined under sub-
15 section (a) have ceased to exist.

16 (c) NOTICE TO CONGRESS.—Upon making a deter-
17 mination under subsection (a), the Director and the Chief
18 Risk Officer shall provide written notice to the Congress
19 of such determination and the specific measurable criteria
20 identified pursuant to subsection (b).

21 (d) EFFECT OF TEMPORARY ALTERNATIVE CAPITAL
22 RATIO.—During any period that a temporary alternative
23 capital ratio is in effect pursuant to subsection (a) with
24 respect to any Fund—

1 (1) in the case of a temporary capital ratio for
2 the Mutual Mortgage Insurance Fund, subsections
3 (a) and (c) of section 257 and section 258 shall not
4 apply;

5 (2) such temporary and alternative capital clas-
6 sifications as the Director shall establish shall be in
7 effect with respect to such Fund; and

8 (3) the Director shall require the FHA or the
9 Secretary of Agriculture (as appropriate) to submit
10 and carry out a capital restoration plan for such
11 Fund meeting the requirements under section
12 258(d) and may take actions under section 258(b)
13 with respect to such Fund only in accordance with
14 such standards relating to such temporary and alter-
15 native capital classifications for such Fund as the
16 Director shall establish.

17 (e) TERMINATION.—Any temporary alternative cap-
18 ital ratio established pursuant to subsection (a) shall ter-
19minate upon the earlier of—

20 (1) the expiration of the 18-month period begin-
21 ning upon the date that notification under sub-
22 section (c) is provided to the Congress of the deter-
23 mination under subsection (a); or

24 (2) the occurrence of the conditions identified
25 pursuant to subsection (b).

1 (f) MULTIPLE DETERMINATIONS.—Nothing in this
2 section may be construed to prevent multiple or consecu-
3 tive periods during which temporary alternative capital ra-
4 tios are in effect pursuant to this section.

5 **SEC. 261. 7-YEAR BORROWER SUSPENSION FOR FORE-**
6 **CLOSURE.**

7 (a) FHA.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), with respect to any mortgage on a 1- to
10 4-family residential property that is foreclosed upon,
11 during the 7-year period beginning upon the date of
12 such foreclosure, the FHA may not newly insure,
13 under any provision of this title, the National Hous-
14 ing Act, or any FHA program, any other mortgage
15 under which the mortgagor is the individual who was
16 the mortgagor under the mortgage that was fore-
17 closed upon.

18 (2) WAIVER.—The FHA shall provide, by regu-
19 lation, for the FHA to waive the applicability of
20 paragraph (1) with respect to a mortgagor in cases
21 in which hardship circumstances materially contrib-
22 uted to the default and foreclosure of the mortgage.
23 For purposes of this subsection, such hardship cir-
24 cumstances may include divorce, job or other income

1 loss, health problems, death in the family, and such
2 other situations as the FHA may prescribe.

3 (b) RURAL HOUSING.—Section 505 of the Housing
4 Act of 1949 (42 U.S.C. 1475) is amended by adding at
5 the end the following new subsection:

6 “(c) 7-YEAR BORROWER SUSPENSION FOR FORE-
7 CLOSURE.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), with respect to any mortgage on a 1- to
10 4-family residential property that is foreclosed upon,
11 during the 7-year period beginning upon the date of
12 such foreclosure, the Secretary may not newly make,
13 insure, or guarantee, under any provision of this
14 title, any other loan under which the borrower is in-
15 dividual who was the mortgagor under the mortgage
16 that was foreclosed upon.

17 “(2) WAIVER.—The Secretary shall provide, by
18 regulation, for waiver of the applicability of para-
19 graph (1) with respect to a borrower in cases in
20 which hardship circumstances materially contributed
21 to the default and foreclosure of the mortgage. For
22 purposes of this subsection, such hardship cir-
23 cumstances may include divorce, job or other income
24 loss, health problems, death in the family, and such
25 other situations as the Secretary may prescribe.”.

1 (c) REGULATIONS.—The FHA and the Secretary of
2 Agriculture shall jointly issue regulations required under
3 subsection (a) of this section and section 505(c) of the
4 Housing Act of 1949, as added by subsection (b) of this
5 section.

6 **SEC. 262. BORROWER INELIGIBILITY UPON SECOND FORE-**
7 **CLOSURE.**

8 (a) FHA.—If any individual is the mortgagor under
9 any two mortgages on 1- to 4-family residential properties
10 that have been foreclosed upon, the FHA may not newly
11 insure, under any provision of this title, the National
12 Housing Act, or any FHA program, any other mortgage
13 under which such individual is the mortgagor.

14 (b) RURAL HOUSING.—Section 505 of the Housing
15 Act of 1949 (42 U.S.C. 1475), as amended by the pre-
16 ceding provisions of this title, is further amended by add-
17 ing at the end the following new subsection:

18 “(d) BORROWER INELIGIBILITY UPON SECOND
19 FORECLOSURE.—If any individual is the mortgagor under
20 any two mortgages for 1- to 4-family residential properties
21 that have been foreclosed upon, the Secretary may not
22 newly make, insure, or guarantee, under any provision of
23 this title, any other loan under which such individual is
24 the borrower.”.

1 **SEC. 263. LIMITATION ON SELLER CONCESSIONS.**

2 (a) FHA.—The FHA may not newly insure, under
3 any provision of this title, the National Housing Act, or
4 any FHA program, any mortgage on a 1- to 4-family resi-
5 dential property with respect to which the seller of the
6 property subject to such mortgage (or any third party or
7 entity that is reimbursed directly or indirectly by the sell-
8 er) contributes toward the acquisition of the property by
9 the mortgagor any amount in excess of 3 percent of the
10 total closing costs (as determined by the FHA) in connec-
11 tion with such acquisition.

12 (b) RURAL HOUSING.—Section 501 of the Housing
13 Act of 1949 (42 U.S.C. 1471), as amended by the pre-
14 ceding provisions of this title, is further amended by add-
15 ing at the end the following new subsection:

16 “(n) LIMITATION ON SELLER CONCESSIONS.—The
17 Secretary may not newly make, insure, or guarantee,
18 under any provision of this title, any loan for a 1- to 4-
19 family residential property with respect to which the seller
20 of the property for which the loan is made (or any third
21 party or entity that is reimbursed directly or indirectly by
22 the seller) contributes toward the acquisition of the prop-
23 erty by the borrower any amount in excess of 3 percent
24 of the total closing costs (as determined by the Secretary)
25 in connection with such acquisition.”.

1 **SEC. 264. LENDER REPURCHASE REQUIREMENT.**

2 (a) REQUIREMENT.—The FHA may not newly in-
3 sure, under any provision of this title, the National Hous-
4 ing Act, or any FHA program, any mortgage on a 1- to
5 4-family residential property unless the mortgagee under
6 such mortgage enters into such binding agreements as the
7 FHA considers necessary to ensure that, if the mortgagor
8 is in default with respect to the mortgagor's obligation to
9 make payments under the mortgage for 60 or more con-
10 secutive days during the 24-month period beginning upon
11 origination of the mortgage, the mortgagee will, upon no-
12 tice by the FHA, repurchase such mortgage in an amount
13 equal to the remaining principal obligation under the
14 mortgage, as determined in accordance with guidelines
15 issued by the FHA.

16 (b) EFFECTIVE DATE.—This section shall take effect
17 upon the date of the enactment of this Act.

18 **SEC. 265. INDEMNIFICATION BY MORTGAGEES.**

19 (a) IN GENERAL.—If the FHA determines that at or
20 before the time of loan closing the mortgagee knew, or
21 should have known based on the information then reason-
22 ably available to the mortgagee, of a serious and material
23 violation of the requirements established by the FHA with
24 respect to a mortgage executed after the date of the enact-
25 ment of this Act by such mortgagee approved by the FHA
26 under the direct endorsement program or insured by a

1 mortgagee pursuant to the delegation of authority under
2 section 256 of the National Housing Act (12 U.S.C.
3 1715z-21) such that the mortgage loan should not have
4 been approved and endorsed for insurance, and the FHA
5 pays an insurance claim with respect to the mortgage
6 within a reasonable period specified by the FHA, the FHA
7 may require the mortgagee approved by the FHA under
8 the direct endorsement program or the mortgagee dele-
9 gated authority under such section 256 to indemnify the
10 FHA for the loss, or any portion thereof, if the violation
11 was a materially contributing factor to the cause of the
12 mortgage default.

13 (b) FRAUD OR MATERIAL MISREPRESENTATION.—If
14 fraud or material misrepresentation was involved in con-
15 nection with the origination or underwriting of a mortgage
16 executed after enactment by the mortgagee and the FHA
17 determines that at or before the time of loan closing such
18 mortgagee knew or should have known, based on the infor-
19 mation then reasonably available to such mortgagee, of the
20 fraud or material misrepresentation such that the mort-
21 gage loan should not have been approved and endorsed
22 for insurance, the FHA shall require the mortgagee ap-
23 proved by the FHA under the direct endorsement program
24 or the mortgagee delegated authority under such section
25 256 to indemnify the FHA for the loss, or any portion

1 thereof, if the fraud or material misrepresentation was a
2 materially contributing factor to the cause of the mortgage
3 default.

4 (c) APPEALS PROCESS.—The FHA shall, by regula-
5 tion, establish an appeals process for mortgagees to appeal
6 indemnification determinations made pursuant to sub-
7 section (a) or (b).

8 (d) REQUIREMENTS AND PROCEDURES.—The FHA
9 shall issue regulations establishing appropriate require-
10 ments and procedures governing the indemnification of the
11 FHA by the mortgagee, including public reporting on—

12 (1) the number of loans that—

13 (A) were not originated or underwritten in
14 accordance with the requirements established by
15 the FHA;

16 (B) involved fraud or material misrepre-
17 sentation in connection with the origination or
18 underwriting that was a material contributing
19 factor to the cause of the mortgage default; and

20 (C) the financial impact on the Mutual
21 Mortgage Insurance Fund when indemnification
22 is required.

23 (e) QUALITY CONTROL AND ASSURANCE.—

24 (1) MANUAL.—The FHA shall, pursuant to its
25 existing regulatory authority, issue and update an-

1 nually a manual, handbook, or guide that collects all
2 of the origination and underwriting requirements
3 that a mortgagee must follow to make residential
4 mortgage loans eligible for insurance by the FHA
5 which shall—

6 (A) provide clear and concise directions so
7 that a mortgagee can reasonably know what is
8 expected of it;

9 (B) identify examples of specific serious
10 and material violations that could be the basis
11 for an indemnification demand under this sec-
12 tion;

13 (C) apply nationally and be interpreted by
14 the FHA uniformly with respect to all mort-
15 gages endorsed for insurance; and

16 (D) permit prospective changes with rea-
17 sonable advance notice to mortgagees, which
18 such changes must be incorporated into the fol-
19 lowing year's revised version of the manual,
20 handbook, or guide and may not provide for
21 retroactive changes to mortgages previously en-
22 dored for insurance.

23 (2) REQUIREMENTS.—The FHA shall—

24 (A) make prompt initial determinations of
25 a mortgagee's potential liability for either in-

1 demnification under this section or other ad-
2 ministrative remedies or sanctions that may be
3 available under the National Housing Act or
4 other applicable laws, based on either self-re-
5 ports by the mortgagee or other findings by the
6 FHA through its examination processes of po-
7 tential serious and material violations of such
8 origination and underwriting requirements es-
9 tablished under paragraph (1) or other fraud
10 and material misrepresentations;

11 (B) promptly notify the mortgagee of such
12 initial determination and afford the lender the
13 opportunity to provide additional information
14 and analysis before a final determination is
15 made; and

16 (C) not pursue indemnification under sub-
17 sections (a) and (b) with respect to those mort-
18 gages reviewed under this subsection unless an
19 initial determination of mortgagee liability is
20 made and communicated to the mortgagee with-
21 in six months of the FHA's receipt of informa-
22 tion that is reasonably sufficient to enable the
23 FHA to determine initially that a serious and
24 material violation or fraud or material mis-
25 representation may have occurred.

1 (f) EFFECTIVE DATE.—This section shall take effect
2 on the date of the enactment of this Act. During the tran-
3 sition period under section 281, any reference in this sec-
4 tion to the FHA shall be construed to refer to the Sec-
5 retary to the extent the Secretary has not delegated au-
6 thority under this section to the FHA pursuant to section
7 282(1).

8 **SEC. 266. PROHIBITIONS RELATING TO USE OF POWER OF**
9 **EMINENT DOMAIN.**

10 (a) FHA.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law, neither the Secretary nor the FHA
13 may newly insure, under any provision of this title,
14 the National Housing Act, or any FHA program,
15 any mortgage that is secured by a structure or
16 dwelling unit that is located within a county that
17 contains any structure or dwelling unit that secures
18 or secured a residential mortgage loan which mort-
19 gage loan was obtained by the State during the pre-
20 ceding 120 months by exercise of the power of emi-
21 nent domain.

22 (2) DEFINITIONS.—For purposes of this para-
23 graph, the following definitions shall apply:

24 (A) RESIDENTIAL MORTGAGE LOAN.—The
25 term “residential mortgage loan” means a

1 mortgage loan that is evidenced by a promis-
2 sory note and secured by a mortgage, deed of
3 trust, or other security instrument on a residen-
4 tial structure or a dwelling unit in a residential
5 structure. Such term includes a first mortgage
6 or any subordinate mortgage.

7 (B) STATE.—The term “State” includes
8 the District of Columbia, the Commonwealth of
9 Puerto Rico, and any territory or possession of
10 the United States, and includes any agency or
11 political subdivision of a State.

12 (b) RURAL HOUSING.—Section 501 of the Housing
13 Act of 1949 (42 U.S.C. 1471), as amended by the pre-
14 ceding provisions of this title, is further amended by add-
15 ing at the end the following new subsection:

16 “(o) PROHIBITION RELATING TO USE OF POWER OF
17 EMINENT DOMAIN.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of law, the Secretary may not newly guar-
20 antee, make, or insure under this title any mortgage
21 that is secured by a structure or dwelling unit that
22 is located within a county that contains any struc-
23 ture or dwelling unit that secures or secured a resi-
24 dential mortgage loan which mortgage loan was ob-

1 tained by the State during the preceding 120
2 months by exercise of the power of eminent domain.

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section, the following definitions shall apply:

5 “(A) RESIDENTIAL MORTGAGE LOAN.—
6 The term ‘residential mortgage loan’ means a
7 mortgage loan that is evidenced by a promis-
8 sory note and secured by a mortgage, deed of
9 trust, or other security instrument on a residen-
10 tial structure or a dwelling unit in a residential
11 structure. Such term includes a first mortgage
12 or any subordinate mortgage.

13 “(B) STATE.—The term ‘State’ has the
14 meaning given such term in section 502(h)(12),
15 and includes any agency or political subdivision
16 of a State.”.

17 (c) EFFECTIVE DATE.—This section and the amend-
18 ment made by this section shall take effect upon the date
19 of the enactment of this Act.

20 **SEC. 267. RESIDUAL INCOME REQUIREMENT.**

21 (a) IN GENERAL.—The FHA may not newly insure,
22 under any provision of this title, the National Housing
23 Act, or any FHA program, any mortgage on a 1- to 4-
24 family residential property unless the mortgagor under
25 such mortgage meets such requirements as the FHA shall,

1 by regulation, establish to ensure that the mortgagor has
2 sufficient residual income.

3 (b) RESIDUAL INCOME.—For purposes of this sec-
4 tion, the term “residual income” means, with respect to
5 a mortgagor, the net monthly income of the mortgagor,
6 as provided by regulation by the FHA, after taking into
7 consideration—

8 (1) any assets of the mortgagor other than the
9 property subject to such mortgage; and

10 (2) any monthly obligations of the mortgagor
11 with respect to mortgage payments, insurance pay-
12 ment, and taxes for the property subject to the
13 mortgage, income and other taxes, maintenance, and
14 utility expenses for the property, child care expenses,
15 auto, consumer, and any other debt obligations, ali-
16 mony and child support expenses, and such other ex-
17 penses as the FHA may provide.

18 (c) EFFECTIVE DATE.—This section and the amend-
19 ment made by this section shall take effect upon the date
20 of the enactment of this Act.

21 **SEC. 268. EFFECTIVE DATE.**

22 This subtitle and the amendments made by this sub-
23 title (except for sections 264, 265, 266, and 267, and any
24 amendments made by such sections) shall take effect upon
25 the expiration of the transition period under section 281.

Subtitle D—Transition

SEC. 281. TRANSITION PERIOD.

(a) IN GENERAL.—For purposes of this subtitle, the term “transition period” means the period that—

(1) begins on the date of the enactment of this Act; and

(2) ends upon the earlier of—

(A) the date that the Director publishes notice in the Federal Register that the Director has determined that all of the requirements under subsection (b) have been completed; or

(B) the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) REQUIREMENTS FOR ENDING TRANSITION PERIOD.—The requirements under this subsection are the following:

(1) APPROVAL OF INITIAL ANNUAL BUDGET AND BUSINESS PLAN.—The FHA has submitted to the Director of the Federal Housing Finance Agency an initial annual budget and business plan and the Director has approved the budget and plan.

(2) DETERMINATION OF CORPORATE CAPACITY.—The Director of the Office of Management and Budget has determined, and notified the Direc-

1 tor, that the staff, systems, and administrative infra-
2 structure of the FHA are sufficient to permit the
3 FHA to fully conduct the operation of its business.

4 **SEC. 282. AUTHORITY DURING TRANSITION PERIOD.**

5 During the transition period the FHA may—

6 (1) carry out any power or responsibility of the
7 Secretary relating to mortgage insurance programs
8 under the National Housing Act that the Secretary
9 delegates to the FHA, using the staff, systems, and
10 administrative infrastructure that the FHA engages
11 or acquires during the transition period, or the per-
12 sonnel and other resources of the Secretary;

13 (2) incur any obligation consistent with—

14 (A) the carrying out of a power or respon-
15 sibility delegated under paragraph (1); or

16 (B) the acquisition, engagement, or devel-
17 opment of staff, systems (including technology
18 to enhance the ability of the FHA to engage in
19 the business authorized by the title), and ad-
20 ministrative structure; and

21 (3) engage in any activity or undertake any re-
22 sponsibility (not including entering into, or making
23 any commitment to enter into, any contract of insur-
24 ance under this title) that the FHA determines to
25 be consistent with the establishment of the FHA.

1 **SEC. 283. ADVISORY BOARD.**

2 (a) ESTABLISHMENT.—The Secretary of Housing
3 and Urban Development shall establish an advisory board
4 to provide advice to the Board of Directors of the FHA
5 regarding establishing and organizing the FHA and cre-
6 ating the business plan, premium structure, and product
7 lines of the FHA.

8 (b) FUNCTIONS.—In carrying out its responsibilities
9 under subsection (a) the advisory board may—

10 (1) obtain guidance from participants in the
11 mortgage markets to be served by the FHA;

12 (2) assess the housing and mortgage credit
13 needs;

14 (3) obtain information concerning single family
15 housing finance markets to assess how the FHA can
16 complement the roles of public and private partici-
17 pants in such markets; and

18 (4) consult with the relevant Federal agencies
19 generally regarding how the FHA can improve the
20 delivery of single family housing credit enhancement
21 to families, communities, and hard-to-serve markets.

22 (c) MEMBERSHIP.—The advisory board shall consist
23 of—

24 (1) the Assistant Secretary of Housing and
25 Urban Development who is the Federal Housing
26 Commissioner;

1 (2) the Administrator of the Rural Housing
2 Service of the Department of Agriculture;

3 (3) not less than 5 individuals appointed by the
4 Secretary who are representatives of the mortgage
5 finance industry; and

6 (4) not less than 2 individuals who have exper-
7 tise in affordable housing serving low- and mod-
8 erate-income populations.

9 Members of the advisory board shall serve at the pleasure
10 of the Secretary.

11 (d) **TERMINATION.**—The advisory board shall termi-
12 nate upon the expiration of the transition period under
13 section 281.

14 **SEC. 284. TRANSFER OF HUD AUTHORITY.**

15 (a) **TRANSFER.**—Except as provided in subsections
16 (c) and (d), effective upon the expiration of the transition
17 period, the functions of, authority provided to, and the re-
18 sponsibilities of the Secretary of Housing and Urban De-
19 velopment and the Department of Housing and Urban De-
20 velopment under the following provisions of law are trans-
21 ferred to the FHA:

22 (1) Titles II and V of the National Housing Act
23 (12 U.S.C. 1707 et seq., 1735a et seq.).

24 (2) Section 3 of Public Law 99–289 (12 U.S.C.
25 1721 note; relating to estimates of use of insuring

1 authority), except that this paragraph shall not ter-
2minate or transfer any authority of the Secretary
3 under such section relating to section 306(g) of the
4 National Housing Act (12 U.S.C. 1721(g)).

5 (3) Section 801 of the Housing Act of 1954 (12
6 U.S.C. 1701j-1; relating to builders warranties).

7 (4) Section 424 of the Housing and Community
8 Development Act of 1987 (12 U.S.C. 1715z-1e; re-
9 lating to residential water treatment).

10 (5) Section 328 of the Cranston-Gonzalez Na-
11 tional Affordable Housing Act (12 U.S.C. 1713
12 note; relating to delegation of processing).

13 (6) Section 106 of the Energy Policy Act of
14 1992 (12 U.S.C. 1701z-16; relating to energy effi-
15 cient mortgages pilot program).

16 (7) Section 542 of the Housing and Community
17 Development Act of 1992 (12 U.S.C. 1715z-22; re-
18 lating to multifamily mortgage credit programs).

19 (8) Section 103(h) of the Multifamily Housing
20 Property Disposition Reform Act of 1994 (12 U.S.C.
21 1715z-1a note; relating to alternative uses of multi-
22 family projects to prevent default).

23 (b) REPEAL OF ASSIGNMENT PROVISIONS.—Effec-
24 tive upon the date of the enactment of this Act, section

1 204(a)(1)(B) of the National Housing Act (12 U.S.C.
2 1710(a)) is amended by striking the last sentence.

3 (c) APPLICABILITY.—The repeals under subsections
4 (a) and (b) shall not affect any legally binding obligations
5 entered into pursuant to the provisions repealed before the
6 applicable effective date under such subsections. Any
7 mortgage insurance, funds, or activities subject, before re-
8 peal, to a provision of law repealed by such subsections
9 shall continue to be governed by the provision as it existed
10 immediately before repeal, except that the FHA may exer-
11 cise any authority under such provision otherwise trans-
12 ferred to the FHA by this title.

13 (d) REFERENCES.—After the expiration of the tran-
14 sition period, any reference in Federal law to the Secretary
15 of Housing and Urban Development, in connection with
16 any function of the Secretary transferred under subsection
17 (a) or any other provision of this subtitle, shall be deemed
18 to be a reference to the FHA.

19 **SEC. 285. WIND-UP OF HUD AFFAIRS.**

20 (a) ABOLISHMENT OF POSITIONS.—Effective upon
21 the expiration of the transition period, any offices of the
22 Department of Housing and Urban Development respon-
23 sible for functions transferred pursuant to section 284(a),
24 to the extent of such functions, and the position of the

1 Federal Housing Commissioner in the Department of
2 Housing and Urban Development, are abolished.

3 (b) DISPOSITION OF AFFAIRS.—During the transi-
4 tion period, the Secretary, solely for the purpose of wind-
5 ing up the affairs of the Department relating to the func-
6 tions transferred under section 284—

7 (1) shall manage the employees of the Depart-
8 ment responsible for such functions and provide for
9 the payment of the compensation and benefits of any
10 such employee which accrue before the effective date
11 of the transfer of such employee under section 287;
12 and

13 (2) may take any other action necessary for the
14 purpose of winding up the affairs of the Department
15 relating to such functions.

16 (c) STATUS OF EMPLOYEES BEFORE TRANSFER.—
17 The provisions of and amendments made by this title and
18 the abolishments under subsection (a) of this section may
19 not be construed to affect the status of any employee of
20 the Department as an employee of an agency of the United
21 States for purposes of any other provision of law before
22 the effective date of the transfer of any such employee
23 under section 287.

24 (d) USE OF PROPERTY AND SERVICES.—

1 (1) PROPERTY.—The FHA may use the prop-
2 erty of the Department of Housing and Urban De-
3 velopment to perform functions which have been
4 transferred to the FHA for such time as is reason-
5 able to facilitate the orderly transfer of functions
6 transferred under any other provision of this title or
7 any amendment made by this title to any other pro-
8 vision of law.

9 (2) AGENCY SERVICES.—Any agency, depart-
10 ment, or other instrumentality of the United States,
11 and any successor to any such agency, department,
12 or instrumentality, which was providing supporting
13 services to the Department of Housing and Urban
14 Development before the expiration of the transition
15 period under subsection (a) in connection with func-
16 tions that are transferred under section 284 to the
17 FHA shall—

18 (A) continue to provide such services, on a
19 reimbursable basis, until the transfer of such
20 functions is complete; and

21 (B) consult with the FHA to coordinate
22 and facilitate a prompt and reasonable transi-
23 tion.

24 (e) CONTINUATION OF SERVICES.—The FHA may
25 use the services of employees and other personnel of the

1 Department of Housing and Urban Development relating
2 to the functions transferred under section 284, on a reim-
3 bursable basis, to perform functions which have been
4 transferred to the FHA for such time as is reasonable to
5 facilitate the orderly transfer of functions pursuant to any
6 other provision of this title or any amendment made by
7 this title to any other provision of law.

8 (f) SAVINGS PROVISIONS.—

9 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
10 TIONS NOT AFFECTED.—Subsection (a) shall not af-
11 fect the validity of any right, duty, or obligation of
12 the United States, the Secretary of Housing and
13 Urban Development, or any other person, which—

14 (A) arises under—

15 (i) the National Housing Act; or

16 (ii) any other provision of law applica-
17 ble with respect to the functions of the De-
18 partment of Housing and Urban Develop-
19 ment transferred under section 284; and

20 (B) existed on the day before the date of
21 abolishment under subsection (a).

22 (2) CONTINUATION OF SUITS.—No action or
23 other proceeding commenced by or against the Sec-
24 retary of Housing and Urban Development in con-
25 nection with functions transferred to the FHA under

1 section 284 shall abate by reason of the enactment
2 of this title, except that the FHA shall be sub-
3 stituted for the Secretary as a party to any such ac-
4 tion or proceeding.

5 **SEC. 286. CONTINUATION AND COORDINATION OF CERTAIN**
6 **ACTIONS.**

7 (a) IN GENERAL.—All regulations, orders, and deter-
8 minations described in subsection (b) shall remain in ef-
9 fect according to the terms of such regulations, orders,
10 and determinations, and shall be enforceable by or against
11 the FHA, until modified, terminated, set aside, or super-
12 seded in accordance with applicable law by the FHA, as
13 the case may be, any court of competent jurisdiction, or
14 operation of law.

15 (b) APPLICABILITY.—A regulation, order, or deter-
16 mination is described in this subsection if it—

17 (1) was issued, made, prescribed, or allowed to
18 become effective by—

19 (A) the Secretary of Housing and Urban
20 Development and relates to a function of the
21 Secretary transferred under section 284; or

22 (B) a court of competent jurisdiction, and
23 relates to functions transferred under section
24 284; and

1 (2) is in effect upon the expiration of the tran-
2 sition period.

3 **SEC. 287. TRANSFER AND RIGHTS OF HUD EMPLOYEES.**

4 (a) TRANSFER.—Each employee of the Department
5 of Housing and Urban Development who performs func-
6 tions transferred under section 284 shall be transferred
7 to the FHA for employment, not later than the date of
8 the expiration of the transition period, and such transfer
9 shall be deemed a transfer of function for purposes of sec-
10 tion 3503 of title 5, United States Code.

11 (b) GUARANTEED POSITIONS.—

12 (1) IN GENERAL.—Each employee transferred
13 under subsection (a) shall be guaranteed a position
14 with the same status, tenure, grade, and pay as the
15 position held by such employee on the day imme-
16 diately preceding the transfer.

17 (2) NO INVOLUNTARY SEPARATION OR REDUC-
18 TION.—An employee transferred under subsection
19 (a) holding a permanent position on the day imme-
20 diately preceding the transfer may not be involun-
21 tarily separated or reduced in grade or compensation
22 during the 12-month period beginning on the date of
23 transfer, except for cause, or, in the case of a tem-
24 porary employee, separated in accordance with the
25 terms of the appointment of the employee.

1 (c) APPOINTMENT AUTHORITY FOR EXCEPTED AND
2 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

3 (1) IN GENERAL.—In the case of an employee
4 occupying a position in the excepted service or the
5 Senior Executive Service, any appointment authority
6 established under law or by regulations of the Office
7 of Personnel Management for filling such position
8 shall be transferred, subject to paragraph (2).

9 (2) DECLINE OF TRANSFER.—The FHA may
10 decline a transfer of authority under paragraph (1)
11 to the extent that such authority relates to—

12 (A) a position excepted from the competi-
13 tive service because of its confidential, policy-
14 making, policy-determining, or policy-advocating
15 character; or

16 (B) a noncareer position in the Senior Ex-
17 ecutive Service (within the meaning of section
18 3132(a)(7) of title 5, United States Code).

19 (d) REORGANIZATION.—If the FHA determines, after
20 the end of the 1-year period beginning on the expiration
21 of the transition period, that a reorganization of the com-
22 bined workforce is required, that reorganization shall be
23 deemed a major reorganization for purposes of affording
24 affected employee retirement under section 8336(d)(2) or
25 8414(b)(1)(B) of title 5, United States Code.

1 (e) EMPLOYEE BENEFIT PROGRAMS.—

2 (1) IN GENERAL.—Any employee of the Depart-
3 ment of Housing and Urban Development accepting
4 employment with the FHA as a result of a transfer
5 under subsection (a) may retain, for 12 months after
6 the date on which such transfer occurs, membership
7 in any employee benefit program of the FHA or the
8 Department of Housing and Urban Development, as
9 applicable, including insurance, to which such em-
10 ployee belongs on the date of the expiration of the
11 transition period, if—

12 (A) the employee does not elect to give up
13 the benefit or membership in the program; and

14 (B) the benefit or program is continued by
15 the FHA.

16 (2) COST DIFFERENTIAL.—

17 (A) IN GENERAL.—The difference in the
18 costs between the benefits which would have
19 been provided by the Department of Housing
20 and Urban Development and those provided by
21 this section shall be paid by the FHA.

22 (B) HEALTH INSURANCE.—If any em-
23 ployee elects to give up membership in a health
24 insurance program or the health insurance pro-
25 gram is not continued by the FHA, the em-

1 ployee shall be permitted to select an alternate
2 Federal health insurance program not later
3 than 30 days after the date of such election or
4 notice, without regard to any other regularly
5 scheduled open season.

6 **SEC. 288. TRANSFER OF PROPERTY AND FACILITIES.**

7 Upon the expiration of the transition period, all prop-
8 erty of the Department of Housing and Urban Develop-
9 ment relating to the functions transferred under section
10 284 shall transfer to the FHA.

11 **SEC. 289. EFFECTIVE DATE.**

12 This subtitle shall take effect on the date of the en-
13 actment of this Act.

14 **Subtitle E—Related Amendments**
15 **and Provisions**

16 **SEC. 291. GNMA AUTHORITY.**

17 Title III of the National Housing Act is amended—

18 (1) in section 301(5) (12 U.S.C. 1716(5)), by
19 inserting after “federally owned mortgage portfolios”
20 the following: “(including any owned by the Federal
21 Housing Administration)”;

22 (2) in section 302 (12 U.S.C. 1717)—

23 (A) in subsection (b)(1), by inserting “,
24 the FHA Reform and Modernization Act of

1 2013,” after “National Housing Act” each
2 place such term appears; and

3 (B) in subsection (c)(2), by inserting after
4 subparagraph (F) the following new subpara-
5 graph:

6 “(G) The Federal Housing Administration.”;

7 and

8 (3) in section 306(g) (12 U.S.C. 1721(g))—

9 (A) in the clause (ii) of the first sentence
10 of paragraph (1), by inserting “or the FHA Re-
11 form and Modernization Act of 2013” before “,
12 or which are insured”; and

13 (B) in paragraph (3)(A), by inserting
14 “under the FHA Reform and Modernization
15 Act of 2013 or are insured” after “Federal
16 Housing Administration”.

17 **SEC. 292. REPEAL OF CERTAIN FHA PROGRAMS.**

18 (a) REPEALS.—Effective upon the expiration of the
19 2-year period that begins upon the date of the enactment
20 of this Act, the following sections are repealed:

21 (1) HOME EQUITY CONVERSION MORTGAGE
22 PROGRAM.—Section 255 of the National Housing
23 Act (12 U.S.C. 1715z–20).

24 (2) MORTGAGE INSURANCE FOR HOSPITALS.—
25 Section 242 (12 U.S.C. 1715z–7).

1 (b) CONFORMING AMENDMENTS.—

2 (1) The penultimate sentence of section 212(a)
3 (12 U.S.C. 1715c(a)) is amended by inserting after
4 “section 242” each place such term appears the fol-
5 lowing: “(as such section was in effect immediately
6 before the effective date under section 292(a) of the
7 FHA Reform and Modernization Act of 2013)”.

8 (2) Section 223 (12 U.S.C. 1715n) is amend-
9 ed—

10 (A) in subsection (a)(7), in the matter pre-
11 ceding subparagraph (A), by inserting before
12 the first comma the following: “but not includ-
13 ing a mortgage insured under section 242 ‘(as
14 such section was in effect immediately before
15 the effective date under section 292(a) of the
16 FHA Reform and Modernization Act of
17 2013)’”;

18 (B) in subsection (d)(2)(A)—

19 (i) in clause (i) by striking “and” at
20 the end; and

21 (ii) by inserting before the semicolon
22 at the end the following: “and (iii) shall
23 not be insured under section 242 (as such
24 section was in effect immediately before
25 the effective date under section 292(a) of

1 the FHA Reform and Modernization Act
2 of 2013)”; and

3 (C) in subsection (f)—

4 (i) in paragraph (1)—

5 (I) by striking “existing hospital
6 (or”); and

7 (II) by striking “thereof)” and
8 inserting “thereof”; and

9 (ii) in paragraph (4)—

10 (I) in the matter preceding sub-
11 paragraph (A), by striking “existing
12 hospital (or”);

13 (II) in the matter preceding sub-
14 paragraph (A), by striking “thereof)”
15 and inserting “thereof,”;

16 (III) in subparagraphs (A), (B),
17 and (C)—

18 (aa) by striking “existing
19 hospital (or” each place such
20 term appears; and

21 (bb) by striking “thereof)”
22 each place such term appears
23 and inserting “thereof”; and

24 (IV) in subparagraph (D), by
25 striking “or of section 242 (for the

1 existing hospital proposed to be re-fi-
2 nanced)”.
3

4 (3) Section 541(a) (12 U.S.C. 1735f–19(a)) is
5 amended by inserting after “section 242 of this Act”
6 the following: “, as such section was in effect imme-
7 diately before the effective date under section 292(a)
8 of the FHA Reform and Modernization Act of
9 2013”.

10 (c) SAVINGS PROVISIONS.—

11 (1) EFFECT OF REPEALS.—The repeals under
12 subsection (a) shall not affect any legally binding ob-
13 ligations entered before the effective date of such re-
14 peals.

15 (2) INSURANCE AUTHORITY.—Notwithstanding
16 the repeals under subsection (a), the Secretary (or
17 the FHA, pursuant to subtitle D of this title) may
18 insure any mortgage for which a commitment to in-
19 sure under section 242 or 255 of the National Hous-
20 ing Act was made before the expiration of the period
21 referred to in subsection (a). Any such mortgage in-
22 sured under such section 242 or 255 shall be subject
23 to the terms of such section as in effect immediately
24 before the expiration of such period.

25 (3) SAVINGS PROVISION.—Any funds or activi-
ties subject, before the effective date of the repeals

1 under subsection (a) of this section, to section 242
2 or 255 of the National Housing Act shall continue
3 to be governed by such sections as in effect imme-
4 diately before such effective date.

5 **SEC. 293. CONFORMING AMENDMENTS.**

6 (a) **PENALTIES FOR EQUITY SKIMMING.**—Paragraph
7 (1) of section 912 of the Housing and Urban Development
8 Act of 1970 (12 U.S.C. 1709–2(1)) is amended by insert-
9 ing “or Federal Housing Administration” after “Housing
10 and Urban Development”.

11 (b) **FRAUDULENTLY MISAPPROPRIATED MORTGAGE**
12 **PROCEEDS.**—Section 819 of the Housing and Community
13 Development Act of 1974 (12 U.S.C. 1701l–1) is amend-
14 ed—

15 (1) by inserting “or the Federal Housing Ad-
16 ministration” after “Secretary of Housing and
17 Urban Development”; and

18 (2) by inserting “or such Administration, as ap-
19 propriate,” before “has reason”.

20 (c) **UNAUTHORIZED USE OF MULTIFAMILY HOUSING**
21 **ASSETS AND INCOME.**—Section 421 of the Housing and
22 Community Development Act of 1987 (12 U.S.C. 1715z–
23 4a) is amended—

24 (1) in subsection (a)—

25 (A) in paragraph (1)—

1 (i) by inserting “or the FHA, as ap-
2 plicable,” after “Secretary”);

3 (ii) by inserting “or by the FHA pur-
4 suant to the FHA Reform and Moderniza-
5 tion Act of 2013” after “National Housing
6 Act”; and

7 (iii) in the last sentence, by inserting
8 “or the FHA” after “Secretary” each
9 place such term appears;

10 (B) in paragraph (2), by inserting “or the
11 FHA Reform and Modernization Act of 2013”
12 before the first comma; and

13 (2) in subsections (b) through (e)—

14 (A) by inserting “or the FHA, as applica-
15 ble,” after “Secretary,” each place such term
16 appears; and

17 (B) by inserting “or the FHA, as applica-
18 ble,” after “Secretary” each place such term
19 appears (except the penultimate occurrence in
20 subsection (c)).

21 (d) SINGLE FAMILY MORTGAGE FORECLOSURE.—
22 The Single Family Mortgage Foreclosure Act of 1994 (12
23 U.S.C. 3751 et seq.) is amended—

24 (1) in section 802(b)(1) (12 U.S.C.
25 3751(b)(1)), by inserting “or by the FHA pursuant

1 to the FHA Reform and Modernization Act of
2 2013” before the semicolon;

3 (2) in section 803(10)(A) (12 U.S.C.
4 3752(10)(A))—

5 (A) in subparagraph (A), by striking “or”
6 at the end;

7 (B) by redesignating subparagraph (B) as
8 subparagraph (C); and

9 (C) by inserting after subparagraph (A)
10 the following new subparagraph:

11 “(B) is held by the FHA pursuant to the
12 FHA Reform and Modernization Act of 2013;
13 or”; and

14 (3) by adding at the end the following new sec-
15 tion:

16 **“SEC. 820. AUTHORITY OF FHA.**

17 “After the expiration of the transition period under
18 section 281 of the FHA Reform and Modernization Act
19 of 2013, any reference in sections 804 through 819 of this
20 Act to the Secretary shall be considered to also refer to
21 the FHA (as established pursuant to subtitle A of such
22 Act), but only with respect to single family mortgages de-
23 scribed in section 803(10)(B).”.

1 (e) MULTIFAMILY MORTGAGE FORECLOSURE.—The
2 Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C.
3 3701 et seq.) is amended—

4 (1) in section 363(2) (12 U.S.C. 3702(2)), by
5 adding after and below subparagraph (E) the fol-
6 lowing:

7 “Such term includes a mortgage on a property consisting
8 of 5 or more dwelling units that is held by the FHA pursu-
9 ant to the FHA Reform and Modernization Act of 2013.”.

10 (2) by adding at the end the following new sec-
11 tion:

12 “AUTHORITY OF FHA

13 “SEC. 369J. After the expiration of the transition pe-
14 riod under section 281 of the FHA Reform and Mod-
15 ernization Act of 2013, any reference in sections 364
16 through 369I of this Act to the Secretary shall be consid-
17 ered to also refer to the FHA (as established pursuant
18 to subtitle A of such Act), but only with respect to multi-
19 family mortgages described in the last sentence of section
20 363(2).”.

21 **SEC. 294. RULE OF CONSTRUCTION.**

22 Notwithstanding any other evidence of the intent of
23 the Congress, it is hereby declared to be the intent of Con-
24 gress that the provisions of this title shall be construed
25 broadly to achieve the purposes of the title, and the provi-
26 sions of any other Act that must be construed with any

1 provision of this title shall similarly be construed to
2 achieve the purposes of this title to the extent reasonably
3 possible. This section shall take effect on the date of the
4 enactment of this Act.

5 **SEC. 295. EFFECTIVE DATE.**

6 The amendments made by this subtitle shall be made,
7 and shall apply beginning on, the expiration of the transi-
8 tion period under section 281.

9 **TITLE III—BUILDING A NEW**
10 **MARKET STRUCTURE**
11 **Subtitle A—National Mortgage**
12 **Market Utility**

13 **SEC. 301. SHORT TITLE.**

14 This subtitle may be cited as the “National Mortgage
15 Market Utility Act of 2013”.

16 **SEC. 302. FINDINGS AND PURPOSES.**

17 (a) FINDINGS.—The Congress finds that—

18 (1) the liquidity and efficiency of the national
19 housing finance market is enhanced by a robust sec-
20 ondary market for residential mortgage loans, in-
21 cluding securities backed by residential mortgage
22 loans;

23 (2) the financial crisis that began in 2007 re-
24 vealed weaknesses in the market infrastructure re-

1 lated to residential mortgage-backed securities, in-
2 cluding—

3 (A) weaknesses in standards—

4 (i) for underwriting and servicing resi-
5 dential mortgage loans that may be collat-
6 eral for mortgage-backed securities; and

7 (ii) for issuers and trustees of such
8 securities;

9 (B) weaknesses in the manner of recording
10 and registering ownership and security interests
11 in residential mortgage loans that backed pools
12 of securities; and

13 (C) weaknesses in the availability of infor-
14 mation to assess performance of pools;

15 (3) weaknesses revealed in the financial crisis
16 created uncertainty and impeded timely and success-
17 ful resolution of troubled residential mortgage loans,
18 and have impeded the return of private capital to
19 the market for securities backed by residential mort-
20 gage loans in the absence of a Federal guarantee of
21 timely payment of principal and interest to investors;
22 and

23 (4) improved standards and information avail-
24 ability and a national system for registering mort-
25 gage-related documents, including notes, mortgages

1 and deeds of trust, and ownership and security in-
2 terests established therein, with standard procedures
3 for demonstrating the right to act with regard to
4 such notes or other registered data, would assist in
5 addressing these weaknesses.

6 (b) PURPOSES.—The purposes of the national mort-
7 gage market utility created by this title are—

8 (1) to enhance efficiency, liquidity, and security
9 in the secondary market for residential mortgages,
10 including mortgage-backed securities;

11 (2) to establish standards related to originating
12 and servicing eligible collateral and for issuers and
13 trustees of qualified securities, which would be ex-
14 empt from the Securities Act of 1933;

15 (3) to improve uniformity, quality and accessi-
16 bility of information related to the performance of
17 residential mortgage loans;

18 (4) to operate a common securitization platform
19 that could be available to issuers of residential mort-
20 gage-backed securities;

21 (5) to foster the use and uniformity of elec-
22 tronic methods for the creation, authentication,
23 transmission, storage, and availability of materials
24 relating to mortgages;

1 (6) to provide a central repository for notes,
2 mortgages, and other mortgage-related information,
3 and address problems that can arise when paper
4 notes cannot be produced, due to loss or destruction
5 as a result of natural disaster or other causes; and

6 (7) to provide a uniform procedure for dem-
7 onstrating the right to act with regard to such notes
8 or other registered data for all actions in any State
9 or Federal proceeding, judicial or nonjudicial, involv-
10 ing such notes or other data.

11 **SEC. 303. DEFINITIONS.**

12 For purposes of this subtitle, the following definitions
13 shall apply:

14 (1) **AFFILIATE.**—With respect to the Utility,
15 the term “affiliate” means any entity that controls,
16 is controlled by, or is under common control with,
17 the Utility.

18 (2) **AGENCY.**—The term “Agency” means the
19 Federal Housing Finance Agency.

20 (3) **DEPOSITOR.**—The term “depositor”
21 means—

22 (A) any person authorized to submit docu-
23 ments or data for registration with the Reposi-
24 tory; and

1 (B) any person qualified pursuant to sec-
2 tion 331 (relating to organization and operation
3 of the Repository) to inform the Repository
4 of—

5 (i) newly identified interest holders,
6 whether through creation, assignment, or
7 transfer; or

8 (ii) changes to interests of existing
9 holders, including through modification,
10 amendment, or restatement of, or dis-
11 charge related to, any registered mortgage-
12 related document.

13 (4) DIRECTOR.—The term “Director” means
14 the Director of the Federal Housing Finance Agen-
15 cy.

16 (5) ELIGIBLE COLLATERAL.—The term “eligi-
17 ble collateral” means a residential mortgage loan
18 that meets any standard for mortgage classification
19 established pursuant to section 322 (relating to
20 standards for qualified securities).

21 (6) ENTERPRISE.—The term “enterprise”
22 means—

23 (A) the Federal National Mortgage Asso-
24 ciation and any affiliate thereof, and

1 (B) the Federal Home Loan Mortgage
2 Corporation and any affiliate thereof.

3 (7) MORTGAGE-RELATED DOCUMENT.—The
4 term “mortgage-related document” means any docu-
5 ment or other information or data related to the use
6 of residential real estate as security for a loan, in-
7 cluding documents establishing an obligation to
8 repay a loan secured by residential real estate, es-
9 tablishing a security interest in real estate, estab-
10 lishing the value of the real estate at the time the
11 security interest is created, and insuring clear title
12 to residential real estate pledged as security, or as
13 the Director by regulation may define. Such docu-
14 ments may include electronic documents.

15 (8) ORGANIZER.—The term “organizer” means
16 the person or entity that establishes the Utility.

17 (9) PARTICIPANT.—The term “participant”
18 means any person authorized to use data maintained
19 or created by the Repository that is not otherwise
20 available to the public.

21 (10) PLATFORM.—The term “Platform” means
22 the securitization infrastructure announced by the
23 Federal Housing Finance Agency on October 4,
24 2012, and as developed by an enterprise or the en-
25 terprises in conservatorship, under authority of the

1 Federal Housing Finance Agency pursuant to the
2 Federal Housing Enterprises Financial Safety and
3 Soundness Act of 1992.

4 (11) REPOSITORY.—The term “Repository”
5 means the national mortgage data repository orga-
6 nized under section 331.

7 (12) UTILITY.—The term “Utility” means the
8 national mortgage market utility established under
9 section 311.

10 (13) UTILITY-AFFILIATED PARTY.—The term
11 “utility-affiliated party” means—

12 (A) any director, officer, employee or con-
13 trolling stockholder of, or agent for, the Utility;

14 (B) any shareholder, affiliate, consultant,
15 or joint venture partner of the Utility, and any
16 other person, as determined by the Director (by
17 regulation or on a case-by-case basis) that par-
18 ticipates in the conduct of the affairs of the
19 Utility;

20 (C) any independent contractor of the Util-
21 ity (including any attorney, appraiser or ac-
22 countant) if—

23 (i) the independent contractor know-
24 ingly or recklessly participates in any viola-
25 tion of law or regulation, any breach of fi-

1 duciary duty or any unsafe or unsound
2 practice; and

3 (ii) such violation, breach or practice
4 caused, or is likely to cause, more than a
5 minimal financial loss to, or a significant
6 adverse effect on, the Utility.

7 **PART 1—ESTABLISHMENT AND AUTHORITY OF**
8 **THE UTILITY**

9 **SEC. 311. ESTABLISHMENT.**

10 (a) **AUTHORITY OF DIRECTOR.**—Under such regula-
11 tions as the Director may prescribe, the Director shall pro-
12 vide for the organization, incorporation, examination, op-
13 eration, and regulation of a national mortgage market
14 utility (“Utility”), and issuance of a charter for such Util-
15 ity. The Utility shall be organized, operated, and managed
16 as a not-for-profit entity.

17 (b) **FORMATION OF UTILITY; APPLICATION.**—

18 (1) **FORMATION.**—Subject to the terms of this
19 subtitle and any regulations issued by the Director,
20 a person or entity may file an application with the
21 Director to establish the Utility. The Utility may be
22 chartered as a corporation, mutual association, part-
23 nership, limited liability corporation, cooperative, or
24 any other organizational form that the applicant
25 may deem appropriate.

1 (2) CONTENTS OF APPLICATION.—An applica-
2 tion for establishment of the Utility shall include—

3 (A) the proposed articles of association;

4 (B) a statement of the general object and
5 purpose of the Utility, consistent with the provi-
6 sions of this subtitle;

7 (C) the proposed capitalization and busi-
8 ness plan for the Utility;

9 (D) the proposed State whose law would
10 govern, by election of the applicant, the oper-
11 ation of the Utility to the extent not otherwise
12 covered by this subtitle;

13 (E) information on the financial resources
14 of the applicant;

15 (F) a statement of the relevant housing fi-
16 nance experience of the applicant;

17 (G) identification of the proposed senior
18 managers of the Utility, and the relevant expe-
19 rience of such individuals; and

20 (H) any other information the Director de-
21 termines to be necessary to evaluate the back-
22 ground, experience, and integrity of the appli-
23 cant and the proposed senior managers, or in-
24 formation otherwise relevant to determine the
25 likely success of the proposed Utility.

1 (c) ISSUANCE OF CHARTER AND CHARTERING CRI-
2 TERIA.—

3 (1) CHARTER.—Not later than the end of the
4 2-year period following the date of the enactment of
5 this Act, the Director shall issue a charter for the
6 Utility to the applicant that the Director determines,
7 in the Director’s sole discretion, has the managerial,
8 financial, and operational resources to succeed, con-
9 sistent with the purposes of this subtitle. At the dis-
10 cretion of the Director, the charter may require the
11 Utility to obtain specific approval from the Director
12 before commencing any business operation, including
13 operations related to the Platform or the Repository,
14 which approval shall be provided when the Director
15 determines, in the Director’s sole discretion, that the
16 Utility demonstrates appropriate operational, mana-
17 gerial, and governance capability with regard to such
18 operation, including successful completion of testing
19 and transition periods.

20 (2) CHARTERING CRITERIA.—In making a de-
21 termination under paragraph (1), the Director shall
22 consider the competence, experience, and integrity of
23 the applicant and proposed senior managers of the
24 Utility, and the financial and operational resources

1 and future prospects of the Utility. The Director
2 may not issue a charter if the applicant fails to—

3 (A) comply with all applicable formation
4 requirements;

5 (B) provide all information requested by
6 the Director;

7 (C) demonstrate the competence, experi-
8 ence, and integrity necessary to operate the
9 Utility in a safe and sound manner;

10 (D) demonstrate sufficient financial re-
11 sources necessary to operate the Utility in a
12 safe and sound manner;

13 (E) provide the Director with assurances
14 that it will operate and maintain the Platform
15 in an open-access manner that does not dis-
16 criminate against eligible loan originators,
17 aggregators, or qualified issuers; or

18 (F) provide the Director with assurances
19 that the Utility will make available to the Di-
20 rector, on an on-going basis, such information
21 on the operation and activities of the Utility, or
22 any affiliate of the Utility, that the Director
23 deems necessary to ensure the safe and sound
24 operation of the Utility and to enforce compli-
25 ance with this subtitle.

1 (3) EXPLANATION FOR DENIAL.—Within 30
2 days of denying any application for the issuance of
3 a charter under this section, the Director shall pro-
4 vide the applicant with a written explanation of the
5 basis for the denial.

6 (d) AUTHORITY TO SUSPEND.—

7 (1) IN GENERAL.—The authority of the Direc-
8 tor shall include the authority to suspend the charter
9 of the Utility, if the Director determines, in the Di-
10 rector’s discretion, that—

11 (A) the organizers have failed to make ade-
12 quate progress in establishing the Utility or any
13 business operation;

14 (B) the organizers engaged in waste of ap-
15 propriated funds made available for establish-
16 ment of the Repository; or

17 (C) such suspension is necessary for any
18 other reason related to safe and sound oper-
19 ation of the Utility.

20 (2) RULEMAKING.—The Director shall issue
21 regulations to address suspension of the charter, in-
22 cluding a process for remediation.

23 (e) STATUS.—

24 (1) NOT A FEDERAL GOVERNMENT INSTRUMEN-
25 TIALITY.—The Utility is not, and shall not be

1 deemed to be, a department, agency, or instrumen-
2 tality of the United States Government and shall not
3 be subject to title 5 or 31 of the United States Code.

4 (2) SUPERVISION.—Notwithstanding any other
5 provision of law, the Utility shall be subject to the
6 exclusive supervision and regulation by the Agency,
7 and shall not be subject to supervision or regulation
8 by any other Federal department or agency or by
9 any State. The Utility is authorized to conduct its
10 business without regard to any qualification or simi-
11 lar statute in any State.

12 (3) EXEMPTION FROM TAXATION.—The Utility
13 shall be exempt from all taxation imposed by the
14 United States, any territory, dependency, or posses-
15 sion of the United States or any State, county, mu-
16 nicipality, or local taxing authority, except that any
17 real property of the Repository shall be subject to
18 State, territorial, county, municipal, or local taxation
19 to the same extent according to its value as other
20 real property.

21 (f) DIRECTORS.—The Utility shall be governed by a
22 board of directors, which shall consist of a number of di-
23 rectors determined by the Director to meet the needs of
24 the Utility, of which—

1 (1) not less than two members shall be from
2 larger financial institutions;

3 (2) not less than two members shall be from
4 smaller financial institutions;

5 (3) not less than two members shall have exper-
6 tise in residential mortgage securitizations,

7 (4) not less than two members shall have exper-
8 tise in legal and electronic documentation and sys-
9 tems; and

10 (5) such other members as the Director may
11 provide, who shall have such qualifications as the
12 Director may establish in the charter or by regula-
13 tion to meet the requirements for independence and
14 any provisions of applicable State law.

15 (g) REPORTS TO CONGRESS.—Commencing with the
16 first annual report of the Director following the date of
17 the enactment of this Act, the annual report of the Direc-
18 tor under section 1319B of the Federal Housing Enter-
19 prises Financial Safety and Soundness Act of 1992 (12
20 U.S.C. 4521) shall include a description of the Agency’s
21 activities with regard to organization, incorporation, ex-
22 amination, operation, and regulation of the Utility.

23 **SEC. 312. GENERAL POWERS; AUTHORIZED AND PROHIB-**
24 **ITED ACTIVITIES.**

25 (a) GENERAL POWERS.—The Utility may—

- 1 (1) adopt and use a corporate seal;
 - 2 (2) determine a State whose law will govern the
3 corporate business activities of the Utility;
 - 4 (3) adopt, amend, and repeal by-laws;
 - 5 (4) sue or be sued, subject to section 334 (re-
6 lating to judicial review);
 - 7 (5) make contracts, incur liabilities, borrow
8 money, and issue notes, bonds, or other obligations;
 - 9 (6) purchase, receive, hold, and use real and
10 personal property and other assets necessary for the
11 conduct of its operations;
 - 12 (7) elect or appoint directors, officers, employ-
13 ees and agents, subject to section 311(f); and
 - 14 (8) upon receipt of the Director's prior written
15 approval, establish subsidiaries or affiliates that
16 shall be subject to the same rights, duties and re-
17 sponsibilities as the Utility.
- 18 (b) AUTHORIZED ACTIVITIES.—In addition to the
19 general powers under subsection (a), the Utility shall—
- 20 (1) develop standards related to originating,
21 servicing, pooling, and securitizing residential mort-
22 gage loans in accordance with part 2;
 - 23 (2) operate and maintain the Platform and es-
24 tablish fees for use of the Platform;

1 (3) establish the Repository and establish fees
2 for registration of mortgage-related documents and
3 maintenance and use of data of the Repository, in
4 accordance with part 3;

5 (4) perform any other service or engage in any
6 other activity that the Director determines, by regu-
7 lation or order, to be incidental to the activities enu-
8 merated in this subsection; and

9 (5) establish fees for the provision of other re-
10 lated or incidental services not inconsistent with the
11 purposes of this subtitle.

12 (c) PROHIBITED ACTIVITIES.—The Utility shall
13 not—

14 (1) originate, service, insure, or guarantee any
15 residential mortgage or other financial instrument
16 that is associated with a residential mortgage;

17 (2) guarantee timely payment of principal or in-
18 terest on any mortgage-related security;

19 (3) adopt access rules or fees for the Platform
20 the effect of which is to discriminate against eligible
21 loan originators, aggregators, or qualified issuers
22 based on size, composition, business line, or loan vol-
23 ume; or

24 (4) perform any service or engage in any activ-
25 ity other than those authorized under this subtitle,

1 unless such activity has been determined by the Di-
2 rector to be incidental to an authorized activity.

3 **SEC. 313. TRANSFER OF OWNERSHIP OF PLATFORM.**

4 (a) VALUATION.—Not later than the end of the 6-
5 month period beginning on the date of the enactment of
6 this Act, the Director shall determine a method for recov-
7 ering the cost to each enterprise of developing the Plat-
8 form, in consultation with Treasury, and agree on a valu-
9 ation of the Platform upon transfer to the Utility.

10 (b) TRANSFER.—Not later than the end of the 1-year
11 period beginning on the date of the issuance of the charter
12 of the Utility by the Director, the Director shall oversee
13 the transfer to the Utility of ownership of the Platform.
14 At the time of such transfer, the value of the Platform
15 as established in accordance with subsection (a) shall be
16 deemed transferred to the Utility, and shall be repaid to
17 the Treasury of the United States by the Utility within
18 10 years after such transfer.

19 (c) AVAILABILITY TO DIRECTOR.—After transfer of
20 the Platform to the Utility, to the extent feasible the Plat-
21 form shall be made available to the Agency on terms and
22 conditions applicable to other users, to assist with man-
23 aging the wind-down of any enterprise for which the Agen-
24 cy has been appointed conservator or receiver pursuant to

1 section 1367 of the Federal Housing Enterprises Finan-
2 cial Safety and Soundness Act of 1992 (12 U.S.C. 4617).

3 **SEC. 314. FUNDING.**

4 (a) INITIAL FUNDING.—There is authorized to be ap-
5 propriated \$150,000,000 for the establishment and initial
6 oversight, regulation, and supervision of the Utility and
7 its operation.

8 (b) REPAYMENT OF INITIAL FUNDING.—The Utility
9 shall repay to the Treasury of the United States the
10 amount of the initial funding provided in subsection (a)
11 within the 10-year period beginning on the date that the
12 Utility is chartered.

13 (c) ONGOING FUNDING.—

14 (1) COLLECTION OF FEES.—After establish-
15 ment, all expenses of the Utility shall be paid for by
16 fees collected based on services provided by and op-
17 erations of the Utility.

18 (2) ESTABLISHMENT OF FEE SCHEDULE.—The
19 Utility shall—

20 (A) establish, subject to the approval of
21 the Director, a fee schedule and may differen-
22 tiate fees based on classes or types of services,
23 operations, and users of services or operations,
24 and such differentiation shall not be deemed
25 discriminatory; and

1 (B) review and publish the fee schedule not
2 less frequently than annually, but may review,
3 revise, and publish the schedule more frequently
4 than annually.

5 **SEC. 315. REGULATION, SUPERVISION, AND ENFORCEMENT.**

6 (a) GENERAL OVERSIGHT.—The Director shall exer-
7 cise, by rule, order, or guidance, oversight of the Utility,
8 which shall include the authority to regulate, supervise,
9 and examine the Utility and take enforcement actions
10 against the Utility or any Utility-affiliated party, con-
11 sistent with the provisions of the Federal Housing Enter-
12 prise Financial Safety and Soundness Act of 1992.

13 (b) SCOPE OF AUTHORITY.—The authority of the Di-
14 rector under this section shall include the authority to ex-
15 ercise such incidental powers as may be necessary or ap-
16 propriate to fulfill the duties and responsibilities of the
17 Director in the oversight, supervision, and regulation of
18 the Utility.

19 (c) DIVISION OF UTILITY REGULATION.—The Direc-
20 tor shall establish within the Agency a Division of Utility
21 Regulation, which shall—

22 (1) be headed by a Deputy Director designated
23 by the Director from among individuals who are citi-
24 zens of the United States who have a demonstrated
25 understanding of financial management or oversight

1 and of mortgage securities markets and housing fi-
2 nance; and

3 (2) as requested by the Director, conduct exam-
4 ination and supervision activities, gather any infor-
5 mation attendant to such activities, and provide rec-
6 ommendations to the Director regarding the safe
7 and sound operation of the Utility and regarding
8 any requests to revise, alter, or amend existing or
9 proposed activities.

10 (d) CONSULTATION WITH OTHER AGENCIES.—In ex-
11 ercising authority to regulate and supervise the Utility, the
12 Director shall consult with other Federal departments and
13 agencies that regulate or supervise entities, institutions,
14 or companies that are or may become subject to stand-
15 ards, rules, processes, or procedures developed by the Util-
16 ity (including issuers through the Platform and depositors
17 or participants in the Repository), including the Bureau
18 of Consumer Financial Protection and any appropriate
19 Federal banking agency (as defined under section 3 of the
20 Federal Deposit Insurance Act).

21 (e) ANNUAL ASSESSMENT.—The Director shall es-
22 tablish and collect from the Utility an annual assessment
23 in an amount not exceeding the amount sufficient to pro-
24 vide for reasonable costs (including administrative costs)
25 and expenses of the Agency related to its oversight of the

1 Utility. The amounts received by the Director from assess-
2 ments under this section shall not be construed to be Gov-
3 ernment or public funds or appropriated money. Notwith-
4 standing any other provision of law, the amounts received
5 by the Director from assessments under this section shall
6 not be subject to apportionment for the purpose of chapter
7 15 of title 31, United States Code, or under any other
8 authority.

9 **SEC. 316. CIVIL AND CRIMINAL LIABILITY.**

10 (a) USE OF NAMES.—

11 (1) IN GENERAL.—Except as expressly author-
12 ized by statute of the United States, no person or
13 organization (except the Repository, Utility, and
14 Platform) shall use the term “National Mortgage
15 Market Utility”, “Common Securitization Platform”,
16 or “National Mortgage Data Repository”, or such
17 other name as the Director may establish in the
18 charter of the Utility or any combination of words
19 that appears to indicate that such use of the term
20 conflicts with the operation of the Utility or any
21 function created herein. No individual or organiza-
22 tion shall use or display—

23 (A) any sign, device, or insignia prescribed
24 or approved by the Utility for use of display by
25 the Utility;

1 (B) any copy, reproduction or colorable
2 imitation of any such sign, device, or insignia;
3 or

4 (C) any sign, device or insignia reasonably
5 calculated to convey the impression that it is a
6 sign, device or insignia used by the Utility or
7 prescribed by the Utility contrary to policies or
8 procedures of the Utility prohibiting, limiting or
9 restricting such use by any individual or organi-
10 zation.

11 (2) RELIEF.—The Agency or Utility may seek
12 to enjoin or recover damages for any breach of this
13 section and refer to the Attorney General any mat-
14 ters that may constitute criminal activity for a
15 breach of this section.

16 (b) EXCLUSIVE OPERATION OF THE REPOSITORY.—
17 Except as expressly authorized by statute of the United
18 States, no person or organization (except the Utility) shall
19 operate a national registry or repository of mortgage-re-
20 lated documents. Any State of the United States may op-
21 erate a State registry or repository system, subject to the
22 laws of that State, provided that any such State registry
23 or repository system does not conflict with the Repository
24 or the purposes of this subtitle.

1 (c) ACTIONS FOR BREACH.—In any action for breach
2 of contract, including breach of representation or war-
3 ranty, or breach of privacy related to data collected and
4 maintained by the Repository, no prevailing party may re-
5 cover more than an amount established by the Director,
6 by regulation. When issuing any such regulation, the Di-
7 rector shall take into consideration intentional, willful,
8 reckless, or negligent actions or omissions. Such regula-
9 tions shall be reviewed not less frequently than annually,
10 and may be revised in the Director’s discretion.

11 **PART 2—STANDARDS FOR QUALIFIED**

12 **SECURITIES**

13 **SEC. 321. QUALIFIED SECURITIES.**

14 For purposes of this subtitle, the term “qualified se-
15 curity” means a security that—

16 (1) is collateralized by a class, or multiple class-
17 es, of residential mortgages established under sec-
18 tion 322(a);

19 (2) is issued in accordance with a standard
20 form securitization agreement under section 322(b);

21 (3) is issued by a qualified issuer in accordance
22 with section 322(g);

23 (4) is issued through the Platform; and

24 (5) is not guaranteed, in whole or in part, by
25 the United States Government.

1 **SEC. 322. STANDARDS FOR QUALIFIED SECURITIES.**

2 (a) STANDARD MORTGAGE CLASSIFICATIONS.—

3 (1) ESTABLISHMENT OF MORTGAGE CLASSI-
4 FICATIONS.—The Utility shall prescribe classifica-
5 tions for residential mortgages having various de-
6 grees of credit risk, ranging from a classification of
7 mortgages having little to no credit risk to a classi-
8 fication of mortgages having higher credit risk. In
9 prescribing such classifications the Utility shall seek
10 to allow for the pricing of credit risk, allow for the
11 trading of securities collateralized by each classifica-
12 tion of mortgages established pursuant to this sub-
13 section in the forward market, and maintain well-
14 functioning liquid markets in securities collateralized
15 by each of the classifications of mortgages estab-
16 lished pursuant to this subsection.

17 (2) UNDERWRITING CRITERIA.—For each clas-
18 sification of mortgages established under paragraph
19 (1), the Utility shall establish standards for each of
20 the following underwriting criteria:

21 (A) DEBT-TO-INCOME RATIO.—The ratio
22 of the amount of the total monthly debt of the
23 mortgagor to the amount of the monthly income
24 of the mortgagor.

25 (B) LOAN-TO-VALUE RATIO.—The ratio of
26 the principal obligation under the mortgage to

1 the value of the residence subject to the mort-
2 gage, at the time of mortgage origination.

3 (C) CREDIT HISTORY.—Information on the
4 credit history of the mortgagor, including credit
5 scores of the mortgagor.

6 (D) LOAN DOCUMENTATION.—The extent
7 of loan documentation and verification of the fi-
8 nancial resources of the mortgagor used to
9 qualify the mortgagor for the mortgage, includ-
10 ing any appraisal.

11 (E) OCCUPANCY.—Whether the residence
12 subject to the mortgage is occupied by the
13 mortgagor.

14 (F) CREDIT ENHANCEMENT.—Whether
15 any mortgage insurance or other type of insur-
16 ance or credit enhancement was obtained at the
17 time of origination.

18 (G) LOAN PAYMENT TERMS.—

19 (i) IN GENERAL.—The terms of the
20 mortgage that determine the magnitude
21 and timing of payments due from the
22 mortgagor, including the term to maturity
23 of the mortgage, the frequency of payment,
24 the type of amortization, any prepayment

1 penalties, and whether the interest rate is
2 fixed or may vary.

3 (ii) INCLUSION OF 30-YEAR FIXED IN-
4 TEREST RATE.—Terms established under
5 clause (i) shall include a 30-year fixed in-
6 terest rate mortgage.

7 (H) OTHER.—Such other underwriting cri-
8 teria as the Utility may establish, consistent
9 with the goals of this subtitle.

10 (3) DEFINITIONS.—The Utility shall, for pur-
11 poses of this subsection, prescribe definitions for
12 each of the following terms:

13 (A) MORTGAGE.—The term “mortgage”,
14 which definition shall include only mortgages on
15 residential properties.

16 (B) DEFAULT.—The term “default”, with
17 respect to a mortgage.

18 (C) DELINQUENCY.—The term “delin-
19 quency”, with respect to a mortgage.

20 (D) LOAN DOCUMENTATION.—The term
21 “loan documentation”, with respect to a mort-
22 gage.

23 (E) ADDITIONAL TERMS.—Such other
24 terms as the Utility may establish.

1 (b) STANDARD FORM SECURITIZATION AGREE-
2 MENTS.—

3 (1) IN GENERAL.—The Utility shall develop,
4 adopt, and publish standard form securitization
5 agreements for eligible collateral.

6 (2) REQUIRED CONTENT.—The standard form
7 securitization agreements to be developed under
8 paragraph (1) shall include terms relating to—

9 (A) pooling and servicing;

10 (B) purchase and sale;

11 (C) representations and warranties, includ-
12 ing representations and warranties as to com-
13 pliance or conformity with standards estab-
14 lished by the Utility, as appropriate;

15 (D) indemnification and remedies, includ-
16 ing principles of a repurchase program that will
17 ensure an appropriate amount of risk retention
18 under the representations and warranties set
19 forth under subparagraph (C); and

20 (E) the qualification, responsibilities, and
21 duties of trustees.

22 (c) REGISTRATION WITH THE REPOSITORY.—The
23 Utility shall require that any mortgage-related document
24 associated with eligible collateral for qualified securities be
25 registered with the Repository.

1 (d) STANDARDS FOR SERVICING.—The Utility shall
2 develop, adopt, and publish—

3 (1) servicing standards, including for the modi-
4 fication, restructuring, or work-out of any mortgage
5 that serves as collateral for a qualified security; and

6 (2) a servicer succession plan, which may in-
7 clude provisions for—

8 (A) a specialty servicer that can replace
9 the existing servicer if the performance of the
10 mortgage pool deteriorates to specified levels;
11 and

12 (B) a plan to achieve consistency in serv-
13 icing systems related to systematic note-taking,
14 consistent mailing addresses, and other points
15 of contact for borrowers to use, among other
16 items.

17 (e) STANDARDS FOR SERVICER REPORTING.—The
18 Utility shall develop, adopt, and publish standards for the
19 reporting obligations of servicers of any mortgage that
20 serves as collateral for a qualified security.

21 (f) STANDARDS FOR AGGREGATORS.—The Utility
22 may develop, adopt, and publish standards for aggregation
23 of eligible collateral by entities, institutions, or companies
24 other than an issuer. Notwithstanding any such standards
25 developed by the Utility, any Federal Home Loan Bank

1 may act as an aggregator and offer the service of aggrega-
2 tion to any member of such Bank, subject to regulations
3 prescribed by the Director.

4 (g) STANDARDS FOR QUALIFIED ISSUERS.—

5 (1) IN GENERAL.—The Utility shall develop,
6 adopt, and publish standards for an issuer to qualify
7 as a qualified issuer. Such standards shall only in-
8 clude—

9 (A) the experience, financial resources, and
10 integrity of the issuer and its principals, includ-
11 ing compliance history with Federal and State
12 laws;

13 (B) the adequacy of insurance and fidelity
14 coverage of the issuer with respect to errors
15 and omissions; and

16 (C) a requirement that the issuer submit
17 audited financial statements to the Utility, who
18 shall make such statements publicly available
19 through the Utility's Web site.

20 (2) APPLICATION PROCESS.—

21 (A) IN GENERAL.—The Utility shall estab-
22 lish an application process for the qualification
23 of issuers, in such form and manner and requir-
24 ing such information as the Utility may pre-

1 scribe, in accordance with standards adopted
2 under paragraph (1).

3 (B) APPROVAL.—The Utility shall approve
4 any application made pursuant to subparagraph
5 (A) unless the issuer does not meet the stand-
6 ards adopted under paragraph (1).

7 (C) PUBLICATION.—The Agency shall pub-
8 lish a list of newly qualified issuers in the Fed-
9 eral Register and the Utility shall maintain an
10 updated list of qualified issuers on the Utility’s
11 Web site.

12 (3) REVIEW AND REVOCATION OF QUALIFIED
13 STATUS.—

14 (A) IN GENERAL.—The Utility may review
15 the status of a qualified issuer if the Utility is
16 notified that a claim has been made against the
17 issuer by a trustee with respect to a violation
18 of a contractual term in a securitization docu-
19 ment of the issuer.

20 (B) REVOCATION.—

21 (i) IN GENERAL.—Subject to subpara-
22 graph (C), if the Utility determines, sub-
23 ject to the approval of the Director, in a
24 review pursuant to subparagraph (A), that
25 an issuer no longer meets the standards

1 for qualification, the Utility shall revoke
2 the issuer's qualified status.

3 (ii) CONSTRUCTION.—The revocation
4 of an issuer's qualified status under this
5 subparagraph shall—

6 (I) have no effect on the qualified
7 status of any security issued before
8 such revocation; and

9 (II) not relieve the issuer of any
10 obligation associated with any rep-
11 resentation or warranty or any repur-
12 chase obligations related to any quali-
13 fied security issued before such rev-
14 ocation.

15 (C) GRACE PERIOD.—The Utility shall es-
16 tablish standards by which a qualified issuer
17 who no longer meets the standards for quali-
18 fication may remediate and return to meeting
19 the standards, without losing the issuer's quali-
20 fied status.

21 (D) PUBLICATION.—The Agency shall pub-
22 lish a list of issuers who are no longer qualified
23 in the Federal Register and the Utility shall
24 maintain an updated list of such issuers on the
25 Utility's Web site.

1 (h) STANDARDS FOR TRUSTEES.—

2 (1) IN GENERAL.—There shall at all times be
3 one or more trustee for each pool of mortgages that
4 acts as collateral for a qualified security.

5 (2) RULEMAKING.—The Director shall issue
6 regulations regarding the qualifications of trustees
7 under paragraph (1) that shall, to the extent prac-
8 ticable, be consistent with the qualification provi-
9 sions applicable to trustees under section 310(a) of
10 the Trust Indenture Act of 1934 (15 U.S.C.
11 77jjj(a)).

12 (3) CONFLICTS OF INTEREST.—The Director
13 shall issue conflict of interest regulations that apply
14 to a qualified trustee. Such regulations shall, to the
15 extent practicable, be consistent with those conflict
16 of interest provisions applicable to an indenture
17 trustee under section 310(b) of the Trust Indenture
18 Act of 1934 (15 U.S.C. 77jjj(b)).

19 (4) REPORTING OF CLAIMS.—Any time a trust-
20 ee brings a claim against a qualified issuer on behalf
21 of investors with respect to a standard form
22 securitization agreement, the trustee shall notify the
23 Director of such claim.

1 (5) PROTECTION OF INVESTOR RIGHTS.—For
2 the purpose of protecting investor rights, each trust-
3 ee shall—

4 (A) maintain a list of all investors (bene-
5 ficial owners) in a qualified security;

6 (B) update such list from time to time;

7 (C) not make such list available to inves-
8 tors (beneficial owners); and

9 (D) act as a means to communicate infor-
10 mation about the qualified security to investors
11 (beneficial owners) and act as a means for in-
12 vestors (beneficial owners) to communicate with
13 each other.

14 (6) NO LIABILITY FOR CERTAIN COMMUNICA-
15 TIONS.—A trustee shall not be liable for the content
16 of any information provided to the trustee by an in-
17 vestor (beneficial owner) that the trustee commu-
18 nicates to another investor (beneficial owner).

19 (7) INVESTOR (BENEFICIAL OWNER) NOTIFICA-
20 TION OF TRUSTEE.—A person who becomes an in-
21 vestor (beneficial owner) in a qualified security shall
22 promptly notify the trustee of such security of the
23 change in ownership.

24 (i) INDEPENDENT THIRD PARTY.—If the majority of
25 investors (beneficial owners) in a pool of qualified securi-

1 ties chooses to hire an independent third party to act on
2 behalf of the best interests of the investors (beneficial own-
3 ers), such party shall—

4 (1) be granted access to the loan documents for
5 the mortgage loans backing such security and all
6 servicing reports the servicer provides to investors
7 (beneficial owners) or the trustee;

8 (2) be granted access to the list of investors
9 (beneficial owners) maintained by the trustee, on the
10 condition that the independent third party will not
11 make the list available to the investors (beneficial
12 owners); and

13 (3) have the right, on behalf of the investors
14 (beneficial owners), to inform the trustee of such se-
15 curities of any breach of the securitization agree-
16 ment identified by the third party.

17 (j) MANDATORY ARBITRATION.—

18 (1) IN GENERAL.—All disputes between an
19 owner of a qualified security and the qualified issuer
20 of such security relating to representations and war-
21 ranties shall be subject to mandatory arbitration
22 procedures established by the Utility, in accordance
23 with current market practices.

24 (2) SELECTION OF ARBITRATOR.—Investors
25 (beneficial owners) and issuers subject to a dispute

1 described under paragraph (1) shall have the right
2 to agree on an independent arbitrator. If the parties
3 cannot agree on an independent arbitrator, the Util-
4 ity shall select an independent arbitrator for the par-
5 ties.

6 (3) REPORTING DUTY OF ARBITRATOR.—

7 (A) UPON COMMENCEMENT.—The arbi-
8 trator shall provide the Utility with notice upon
9 commencement of any arbitration under this
10 subsection.

11 (B) UPON CONCLUSION.—Upon conclusion
12 of any arbitration under this subsection, the ar-
13 bitrator shall provide the Utility with—

14 (i) the decision reached by the arbi-
15 trator; and

16 (ii) the basis for the arbitrator's deci-
17 sion, including any evidence or testimony
18 received during the arbitration process.

19 (k) DATA STANDARDS; DISCLOSURE STANDARDS.—

20 (1) DATA STANDARDS.—The Utility shall de-
21 velop, adopt, and publish standard data definitions
22 for all aspects of loan origination, appraisals, and
23 servicing. In developing such definitions, the Utility
24 shall consider the data standard-setting work under-
25 taken by the Mortgage Industry Standards Mainte-

1 nance Organization through the enterprises' Uni-
2 form Mortgage Data Program announced by the
3 Agency on May 24, 2010.

4 (2) DISCLOSURE STANDARDS.—The Utility
5 shall develop, adopt, and publish standards for dis-
6 closure of loan origination, appraisal, and servicing
7 data, including data required in subsection (a)(2)
8 (relating to underwriting criteria) for residential
9 mortgage loans that comprise qualified securities,
10 and that allow for trading of qualified securities
11 under this subtitle in a forward market.

12 (3) COORDINATION.—In developing the data
13 and disclosure standards required by this subsection,
14 the Utility shall ensure that such standards are co-
15 ordinated.

16 (4) PRIVACY PROTECTIONS.—In prescribing the
17 definitions and standards required under this sub-
18 section, the Utility shall take into consideration
19 issues of consumer privacy and all statutes, rules,
20 and regulations related to privacy of consumer credit
21 information and personally identifiable information.
22 Such standards shall expressly prohibit the identi-
23 fication of specific borrowers.

24 (5) CONSULTATION.—When reviewing any dis-
25 closure standards established under this subsection,

1 the Director shall consult with the Securities and
2 Exchange Commission.

3 (1) TIMING OF ISSUANCE; AGENCY REVIEW; AUTHOR-
4 ITY TO REVISE STANDARDS.—

5 (1) TIMING.—The Director shall issue any reg-
6 ulations required by this section not later than the
7 end of the 12-month period beginning on the date of
8 the enactment of this Act. The Utility shall issue
9 any definitions, standards, rules, processes, or proce-
10 dures required by this section not later than the end
11 of the 12-month period beginning on the date of
12 issuance of the charter by the Director.

13 (2) AGENCY REVIEW.—Any definition, stand-
14 ard, rule, process or procedure established by the
15 Utility shall be submitted to the Director for review
16 and approval prior to its implementation if, in the
17 Director's discretion, the Director requires such sub-
18 mission. Any definition, standard, rule, process or
19 procedure that the Director requires be submitted to
20 the Agency for review and approval shall be reviewed
21 within three months of submission.

22 (3) AUTHORITY TO REVISE.—

23 (A) IN GENERAL.—The Utility may review,
24 revise, and, if revised, re-publish any standard
25 form securitization agreement or other defini-

1 tion, standard, rule, process, or procedure re-
2 quired to be developed by this subtitle if the
3 Utility determines review or revision to be nec-
4 essary or appropriate to satisfy the goals of this
5 subtitle.

6 (B) APPLICATION OF REVISIONS.—Any re-
7 visions made pursuant to subparagraph (A)
8 shall apply only to securitizations made after
9 the date of such revision.

10 (m) EFFECT OF CONFLICT.—In the event a defini-
11 tion, standard, rule, process, or procedure established by
12 the Utility is in conflict with any definition, standard, rule,
13 process, or procedure established by another Federal de-
14 partment or agency, the Director shall consult with the
15 other Federal department or agency, and provide prompt
16 written notification to the Committee on Banking, Hous-
17 ing, and Urban Affairs of the Senate and the Committee
18 on Financial Services of the House of Representatives, of
19 the conflict.

20 (n) PUBLIC INVOLVEMENT.—In developing defini-
21 tions, standards, rules, processes, and procedures required
22 by this subtitle, the Utility shall work with market partici-
23 pants, including servicers, originators, and mortgage in-
24 vestors, and develop methods for gathering information
25 and comment from such groups.

1 **SEC. 323. LIABILITY FOR MISLEADING STATEMENTS.**

2 (a) IN GENERAL.—Any person who shall make or
3 cause to be made any statement in any application, report,
4 or document filed with the Agency or Utility pursuant to
5 any provisions of this subtitle, or any rule, regulation, or
6 order thereunder, which statement was at the time and
7 in light of the circumstances under which it was made
8 false or misleading with respect to any material fact, or
9 who shall omit to state any material fact required to be
10 stated therein or necessary to make the statements therein
11 not misleading, shall be liable to any person (not knowing
12 that such statement was false or misleading or of such
13 omission) who, in reliance upon such statement or omis-
14 sion, shall have purchased or sold a qualified security
15 issued under the indenture to which such application, re-
16 port, or document relates, for damages caused by such re-
17 liance, unless the person sued shall prove that such person
18 acted in good faith and had no knowledge that such state-
19 ment was false or misleading or of such omission. A per-
20 son seeking to enforce such liability may sue at law or
21 in equity in any court of competent jurisdiction. In any
22 such suit the court may, in its discretion, require an un-
23 dertaking for the payment of the costs of such suit and
24 assess reasonable costs, including reasonable attorneys'
25 fees, against either party litigant, having due regard for
26 the merits and good faith of the suit or defense. No action

1 shall be maintained to enforce any liability created under
2 this section unless brought within one year after the dis-
3 covery of the facts constituting the cause of action and
4 within three years after such cause of action accrued.

5 (b) RIGHTS AND REMEDIES UNDER OTHER LAWS.—
6 The rights and remedies provided by this part shall be
7 in addition to any and all other rights and remedies that
8 may exist under the Securities Act of 1933 or the Securi-
9 ties Exchange Act of 1934 or otherwise at law or in equity;
10 but no person permitted to maintain a suit for damages
11 under the provisions of this subtitle shall recover, through
12 satisfaction of judgment in one or more actions, a total
13 amount in excess of the person's actual damages on ac-
14 count of the act complained of.

15 **SEC. 324. UNLAWFUL REPRESENTATIONS.**

16 It shall be unlawful for any person in offering, selling,
17 or issuing any qualified security pursuant to this subtitle
18 to represent or imply in any manner whatsoever that any
19 action or failure to act by the Agency or Utility in the
20 administration of this subtitle means that the Agency or
21 Utility has in any way passed upon the merits of, or given
22 approval to, any trustee, indenture, or security, or any
23 transaction or transactions therein, or that any such ac-
24 tion or failure to act with regard to any statement or re-
25 port files or examined by the Agency or Utility pursuant

1 to this subtitle or any rule, regulation, or order there-
2 under, has the effect of a finding by the Agency or Utility
3 that such statement or report is true and accurate on its
4 face or that it is not false or misleading.

5 **SEC. 325. CONTRARY STIPULATIONS VOID.**

6 Any condition, stipulation, or provision binding any
7 person to waive compliance with any provision of this sub-
8 title or with any rule, regulation, or order thereunder shall
9 be void.

10 **PART 3—NATIONAL MORTGAGE DATA**
11 **REPOSITORY**

12 **SEC. 331. ORGANIZATION AND OPERATION.**

13 (a) ORGANIZATION AND OPERATION.—Under such
14 regulations as the Director may prescribe, the Utility shall
15 organize and operate a national mortgage data repository
16 (“Repository”).

17 (b) AUTHORIZED ACTIVITIES.—In addition to orga-
18 nizing and operating the Repository, the Utility shall—

19 (1) establish and operate a repository for mort-
20 gage-related documents;

21 (2) establish standards for qualification of any
22 depositor of mortgage-related documents to the Re-
23 pository;

24 (3) establish standards and procedures for sub-
25 mission of mortgage-related documents to the Re-

1 pository, including required information and the type
2 and format of information and data;

3 (4) establish procedures for validation of mort-
4 gage-related documents and the data contained in
5 the Repository;

6 (5) establish standards and procedures for ac-
7 ceptance of mortgage-related documents (including
8 electronic copies), and notice of acceptance, by the
9 Repository;

10 (6) establish standards and procedures for reg-
11 istration of any mortgage-related document with the
12 Repository, including notice of registration and the
13 assignment of a unique identifier;

14 (7) establish standards and procedures for re-
15 cording the creation, assignment, or transfer of an
16 interest in any registered mortgage-related docu-
17 ment;

18 (8) establish standards and procedures for qual-
19 ification of depositors and participants in the Repos-
20 itory;

21 (9) establish procedures for proper demonstra-
22 tion of registration of mortgage-related documents
23 with the Repository and recordation of an interest
24 by the holder of an interest in any such document,
25 subject to regulations issued by the Director in ac-

1 cordance with section 332 (relating to legal effect of
2 registration with the Repository);

3 (10) establish and maintain a catalog of the
4 mortgage-related documents registered with the Re-
5 pository;

6 (11) establish standards and procedures for dis-
7 position of mortgage-related documents, including
8 safekeeping, long-term storage, or destruction of
9 paper documents;

10 (12) establish standards and procedures for
11 making data publicly available;

12 (13) ensure that data collected and maintained
13 by the Repository are kept secure and protected
14 against unauthorized disclosure, including disclosure
15 of personally identifiable information that is not oth-
16 erwise available as part of any public record;

17 (14) establish a process, including notification
18 from the public, for identification and correction of
19 incorrect information submitted to or maintained by
20 the Repository;

21 (15) establish fees for registration of mortgage-
22 related documents and maintenance and use of data,
23 and for the provision of other related services not in-
24 consistent with the purposes of this subtitle; and

1 (16) perform any other service or engage in any
2 other activity that the Director determines, by regu-
3 lation or order, to be incidental to the activities enu-
4 merated in this subsection.

5 (c) REQUIREMENTS ON PARTICIPANTS.—Each par-
6 ticipant shall—

7 (1) comply with such requirements as may be
8 set by the Repository for using data maintained or
9 created by the Repository; and

10 (2) use such designation as the Repository may
11 provide, such as a unique identifier.

12 **SEC. 332. LEGAL EFFECT OF REGISTRATION WITH REPOSI-**
13 **TORY.**

14 Notwithstanding any provision of State or Federal
15 law to the contrary, by proper demonstration of registra-
16 tion with the Repository, any holder of an interest in any
17 mortgage-related note shall satisfy any requirement for
18 demonstration of a right to act regarding such note or
19 other registered data that exists in State or Federal law,
20 including any obligation to produce or possess an original
21 note. The Director shall provide for the establishment of
22 procedures for proper demonstration of registration of any
23 mortgage-related document and of an interest by the hold-
24 er of an interest in any such document with the Reposi-
25 tory. Once registered with the Repository, such registra-

1 tion shall be a legal right enforceable in any judicial or
2 nonjudicial process.

3 **SEC. 333. GRANTS TO STATES; REPAYMENT.**

4 (a) GRANTS TO STATES.—There is hereby authorized
5 to be appropriated \$50,000,000 to the Director for the
6 establishment of a fund to be administered by the Agency
7 for providing grants to States, on application to the Agen-
8 cy, to facilitate participation in the Repository by any de-
9 positor or participant or class of depositors or partici-
10 pants, or any other person upon appropriate demonstra-
11 tion to the Agency that such a grant would assist in the
12 accomplishment of the purposes of this subtitle. Any such
13 amounts appropriated and not granted by the Agency
14 within five years of the date of the enactment of this Act
15 shall be returned to the Treasury of the United States.

16 (b) REPAYMENT.—The Director shall cause to be col-
17 lected from the Utility and deposit in the Treasury of the
18 United States an amount equal to the aggregate amount
19 provided as grants to States pursuant to subsection (a)
20 within the 10-year period beginning on the date that the
21 first grant is made pursuant to subsection (a).

22 **SEC. 334. JUDICIAL REVIEW.**

23 Except as otherwise expressly provided under this
24 part, no person other than the Director or the Attorney
25 General of the United States, or any duly authorized rep-

1 representative of the Director or the Attorney General, may
2 proceed against the Repository in any State or Federal
3 court. The prohibition in the preceding sentence shall not
4 apply to a civil action against the Repository or any duly
5 authorized agent thereof for breach of a contract, includ-
6 ing breach of a representation or warranty, or breach of
7 privacy related to data collected and maintained by the
8 Repository or any duly authorized agent thereof.

9 **SEC. 335. TRANSITION PROVISIONS.**

10 (a) **IN GENERAL.**—The Agency shall provide for a
11 transition period to permit the efficient implementation of
12 the provisions of this part. Such transition may include
13 periods for testing, early adoption, and final mandatory
14 adoption for all recorded mortgages.

15 (b) **ELECTRONIC SUBMISSIONS.**—The Repository
16 shall accept electronic submissions and paper-based docu-
17 ments submitted electronically subject to rules of the Re-
18 pository. After the expiration of the 10-year period that
19 begins upon the date of the enactment of this Act, subject
20 to an extension of such period for up to 5 additional years
21 if the Director determines appropriate, the Repository
22 shall require only electronic submission.

1 **PART 4—CONFORMING AMENDMENTS**

2 **SEC. 341. CONFORMING AMENDMENT TO FEDERAL HOME**
3 **LOAN BANK ACT.**

4 Section 11 of the Federal Home Loan Bank Act (12
5 U.S.C. 1431) is amended by adding at the end the fol-
6 lowing new subsection:

7 “(m) **AGGREGATION OF LOANS ORIGINATED BY**
8 **MEMBERS.**—Any Federal Home Loan Bank may aggre-
9 gate for securitization through the common securitization
10 platform (as such term is defined in section 303 of the
11 National Mortgage Market Utility Act of 2013) residential
12 mortgage loans originated by any member of such Bank,
13 pursuant to regulations issued by the Director.”.

14 **SEC. 342. CONFORMING AMENDMENTS TO THE DODD-**
15 **FRANK WALL STREET REFORM AND CON-**
16 **SUMER PROTECTION ACT.**

17 Section 803(8)(A) of the Dodd-Frank Wall Street
18 Reform and Consumer Protection Act (12 U.S.C.
19 5462(8)(A)) is amended—

20 (1) redesignating clause (iv) as clause (v); and
21 (2) inserting after clause (iii) the following new
22 clause:

23 “(iv) The Federal Housing Finance
24 Agency, with respect to a designated finan-
25 cial market utility that is subject to the ex-
26 clusive supervision of that Agency pursu-

1 ant to the National Mortgage Market Util-
2 ity Act of 2013.”.

3 **SEC. 343. CONFORMING AMENDMENTS TO SECURITIES ACT**
4 **OF 1933.**

5 (a) EXEMPTED SECURITIES.—Section 3(a) of the Se-
6 curities Act of 1933 (15 U.S.C. 77c(a)) is amended by
7 adding at the end the following new paragraph:

8 “(15) Any qualified security, as such term is
9 defined in section 321 of the National Mortgage
10 Market Utility Act of 2013.”.

11 (b) REMOVAL OF CREDIT RISK RETENTION REF-
12 ERENCE.—Section 27B of the Securities Act of 1933 (15
13 U.S.C. 77z–2a) is amended by striking subsection (d).

14 **SEC. 344. CONFORMING AMENDMENTS TO TITLE 18, UNITED**
15 **STATES CODE.**

16 (a) FALSE ADVERTISING.—Section 709 of title 18,
17 United States Code, is amended by inserting after “a Fed-
18 eral Home Loan Bank; or” the following: “Whoever uses
19 the words ‘National Mortgage Data Repository’ or such
20 other name as the Director of the Federal Housing Fi-
21 nance Agency may establish in the charter of the reposi-
22 tory or any combination of words that appears to indicate
23 that such use of the term conflicts with the exclusive oper-
24 ation of the repository created by part 3 of the National
25 Mortgage Market Utility Act of 2013 as a business name

1 or any part of a business name, or falsely publishes, adver-
2 tises, or represents by any device or symbol or other means
3 reasonably calculated to convey the impression that he or
4 it is the repository created by such part; or”.

5 (b) FRAUD AND FALSE STATEMENTS.—Chapter 47
6 of title 18, United States Code, is amended—

7 (1) by adding at the end the following new sec-
8 tion:

9 **“§ 1041. Information security; false statements and**
10 **concealment of facts related to the Na-**
11 **tional Mortgage Market Utility Act of**
12 **2013**

13 “Whoever, with regard to any mortgage-related docu-
14 ment (as such term is defined in section 303 of the Na-
15 tional Mortgage Market Utility Act of 2013) or the reg-
16 istration of any document or any interest in any such doc-
17 ument pursuant to that Act, makes any false statement
18 or representation of fact, knowing it to be false, or know-
19 ingly conceals, covers up or fails to disclose any material
20 fact the disclosure of which is required by such Act or
21 regulation, shall be fined under this title, or imprisoned
22 not more than five years, or both.”; and

23 (2) in the table of contents for such chapter, by
24 inserting after the item relating to section 1040 the
25 following:

“1041. Information security; false statements and concealment of facts related to the National Mortgage Market Utility Act of 2013.”.

1 **Subtitle B—Covered Bonds**

2 **SEC. 351. SHORT TITLE.**

3 This subtitle may be cited as the “United States Cov-
4 ered Bond Act of 2013”.

5 **SEC. 352. DEFINITIONS.**

6 For purposes of this subtitle, the following definitions
7 shall apply:

8 (1) **ANCILLARY ASSET.**—The term “ancillary
9 asset” means—

10 (A) any interest rate or currency swap as-
11 sociated with 1 or more eligible assets, sub-
12 stitute assets, or other assets in a cover pool;

13 (B) any credit enhancement or liquidity ar-
14 rangement associated with 1 or more eligible
15 assets, substitute assets, or other assets in a
16 cover pool;

17 (C) any guarantee, letter-of-credit right, or
18 other secondary obligation that supports any
19 payment or performance of 1 or more eligible
20 assets, substitute assets, or other assets in a
21 cover pool; and

22 (D) any proceeds of, or other property in-
23 cident to, 1 or more eligible assets, substitute
24 assets, or other assets in a cover pool.

1 (2) CORPORATION.—The term “Corporation”
2 means the Federal Deposit Insurance Corporation.

3 (3) COVER POOL.—The term “cover pool”
4 means a dynamic pool of assets that is comprised
5 of—

6 (A) in the case of any eligible issuer de-
7 scribed in subparagraph (A), (B), or (C) of
8 paragraph (9)—

9 (i) 1 or more eligible assets from a
10 single eligible asset class; and

11 (ii) 1 or more substitute assets or an-
12 cillary assets; and

13 (B) in the case of any eligible issuer de-
14 scribed in paragraph (9)(D)—

15 (i) the covered bonds issued by each
16 sponsoring eligible issuer; and

17 (ii) 1 or more substitute assets or an-
18 cillary assets.

19 (4) COVERED BOND.—The term “covered
20 bond” means any recourse debt obligation of an eli-
21 gible issuer that—

22 (A) has an original term to maturity of not
23 less than 1 year;

24 (B) is secured by a perfected security in-
25 terest in or other perfected lien on a cover pool

1 that is owned directly or indirectly by the issuer
2 of the obligation;

3 (C) is issued under a covered bond pro-
4 gram that has been approved by the applicable
5 covered bond regulator;

6 (D) is identified in a register of covered
7 bonds that is maintained by the Secretary; and

8 (E) is not a deposit (as defined in section
9 3(l) of the Federal Deposit Insurance Act (12
10 U.S.C. 1813(l))).

11 (5) COVERED BOND PROGRAM.—The term
12 “covered bond program” means any program of an
13 eligible issuer under which, on the security of a sin-
14 gle cover pool, 1 or more series of covered bonds
15 may be issued.

16 (6) COVERED BOND REGULATOR.—The term
17 “covered bond regulator” means—

18 (A) for any eligible issuer that is subject to
19 the jurisdiction of an appropriate Federal bank-
20 ing agency (as defined in section 3(q) of the
21 Federal Deposit Insurance Act (12 U.S.C.
22 1813(q))), the appropriate Federal banking
23 agency;

24 (B) for any eligible issuer that is described
25 in paragraph (9)(D), that is not subject to the

1 jurisdiction of an appropriate Federal banking
2 agency, and that is sponsored by only 1 eligible
3 issuer, the covered bond regulator for the spon-
4 sor;

5 (C) for any eligible issuer that is described
6 in paragraph (9)(D), that is not subject to the
7 jurisdiction of an appropriate Federal banking
8 agency, and that is sponsored by more than 1
9 eligible issuer, the covered bond regulator for
10 the sponsor whose covered bonds constitute the
11 largest share of the cover pool of the issuer;
12 and

13 (D) for any other eligible issuer that is not
14 subject to the jurisdiction of an appropriate
15 Federal banking agency, the Secretary.

16 (7) ELIGIBLE ASSET.—The term “eligible
17 asset” means—

18 (A) in the case of the residential mortgage
19 asset class, any first-lien mortgage loan that—

20 (i) is secured by 1- to 4-family resi-
21 dential property; and

22 (ii) is not made, insured, or guaran-
23 teed by the Government;

1 (B) in the case of the commercial mort-
2 gage asset class, any commercial mortgage loan
3 (including any multifamily mortgage loan);

4 (C) in the case of the public sector asset
5 class—

6 (i) any security issued by a State, mu-
7 nicipality, or other governmental authority;

8 (ii) any loan made to a State, munic-
9 ipality, or other governmental authority;
10 and

11 (iii) any loan, security, or other obli-
12 gation that is insured or guaranteed, in
13 full or substantially in full, by the full faith
14 and credit of the United States Govern-
15 ment (whether or not such loan, security,
16 or other obligation is also part of another
17 eligible asset class);

18 (D) in the case of the auto asset class, any
19 auto loan or lease;

20 (E) in the case of the student loan asset
21 class, any student loan (whether guaranteed or
22 nonguaranteed);

23 (F) in the case of the credit or charge card
24 asset class, any extension of credit to a person
25 under an open-end credit plan;

1 (G) in the case of the small business asset
2 class, any loan that is made or guaranteed
3 under a program of the Small Business Admin-
4 istration; and

5 (H) in the case of any other eligible asset
6 class, any asset designated by the Secretary, by
7 rule and in consultation with the covered bond
8 regulators, as an eligible asset for purposes of
9 such class.

10 (8) ELIGIBLE ASSET CLASS.—The term “eligi-
11 ble asset class” means—

12 (A) a residential mortgage asset class;

13 (B) a commercial mortgage asset class;

14 (C) a public sector asset class;

15 (D) an auto asset class;

16 (E) a student loan asset class;

17 (F) a credit or charge card asset class;

18 (G) a small business asset class; and

19 (H) any other eligible asset class des-
20 igned by the Secretary, by rule and in con-
21 sultation with the covered bond regulators.

22 (9) ELIGIBLE ISSUER.—The term “eligible
23 issuer” means—

24 (A) any insured depository institution and
25 any subsidiary of such institution;

1 (B) any bank holding company, any sav-
2 ings and loan holding company, and any sub-
3 sidiary of any of such companies;

4 (C) any nonbank financial company (as de-
5 fined in section 102(a)(4) of the Dodd-Frank
6 Wall Street Reform and Consumer Protection
7 Act (12 U.S.C. 5311(a)(4))) that is supervised
8 by the Board of Governors of the Federal Re-
9 serve System under section 113 of the Dodd-
10 Frank Wall Street Reform and Consumer Pro-
11 tection Act (12 U.S.C. 5323), including any in-
12 termediate holding company supervised as a
13 nonbank financial company, and any subsidiary
14 of such a nonbank financial company; and

15 (D) any issuer that is sponsored by 1 or
16 more eligible issuers for the sole purpose of
17 issuing covered bonds on a pooled basis.

18 (10) OVERSIGHT PROGRAM.—The term “over-
19 sight program” means the covered bond regulatory
20 oversight program established under section 353(a).

21 (11) SECRETARY.—The term “Secretary”
22 means the Secretary of the Department of the
23 Treasury.

24 (12) SUBSTITUTE ASSET.—The term “sub-
25 stitute asset” means—

1 (A) cash;

2 (B) any direct obligation of the United
3 States Government, and any security or other
4 obligation whose full principal and interest are
5 insured or guaranteed by the full faith and
6 credit of the United States Government;

7 (C) any direct obligation of a United
8 States Government corporation or Government-
9 sponsored enterprise of the highest credit qual-
10 ity, and any other security or other obligation
11 of the highest credit quality whose full principal
12 and interest are insured or guaranteed by such
13 corporation or enterprise, except that the out-
14 standing principal amount of these obligations
15 in any cover pool may not exceed an amount
16 equal to 20 percent of the outstanding principal
17 amount of all assets in the cover pool without
18 the approval of the applicable covered bond reg-
19 ulator;

20 (D) any overnight investment in Federal
21 funds;

22 (E) any other substitute asset designated
23 by the Secretary, by rule and in consultation
24 with the covered bond regulators; and

1 (F) any deposit account or securities ac-
2 count into which only an asset described in sub-
3 paragraph (A), (B), (C), (D), or (E) may be de-
4 posited or credited.

5 **SEC. 353. REGULATORY OVERSIGHT OF COVERED BOND**
6 **PROGRAMS ESTABLISHED.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of the enactment of this Act, the Sec-
10 retary shall, by rule and in consultation with the
11 covered bond regulators, establish a covered bond
12 regulatory oversight program that provides for—

13 (A) covered bond programs to be evaluated
14 according to reasonable and objective standards
15 in order to be approved under paragraph (2),
16 including any additional eligibility standards for
17 eligible assets and any other criteria determined
18 appropriate by the Secretary to further the pur-
19 poses of this subtitle;

20 (B) covered bond programs to be main-
21 tained in a manner that is consistent with this
22 subtitle and safe and sound asset-liability man-
23 agement and other financial practices; and

24 (C) any estate created under section 354
25 to be administered in a manner that is con-

1 sistent with maximizing the value and the pro-
2 ceeds of the related cover pool in a resolution
3 under this subtitle.

4 (2) APPROVAL OF EACH COVERED BOND PRO-
5 GRAM.—

6 (A) IN GENERAL.—A covered bond shall be
7 subject to this subtitle only if the covered bond
8 is issued by an eligible issuer under a covered
9 bond program that is approved by the applica-
10 ble covered bond regulator.

11 (B) APPROVAL PROCESS.—Each covered
12 bond regulator shall apply the standards estab-
13 lished by the Secretary under the oversight pro-
14 gram to evaluate a covered bond program that
15 has been submitted by an eligible issuer for ap-
16 proval. Each covered bond regulator also shall
17 take into account relevant supervisory factors,
18 including safety and soundness considerations,
19 in evaluating a covered bond program that has
20 been submitted for approval. Each covered bond
21 regulator, promptly after approving a covered
22 bond program, shall provide the Secretary with
23 the name of the covered bond program, the
24 name of the eligible issuer, and all other infor-
25 mation reasonably requested by the Secretary in

1 order to update the registry under paragraph
2 (3)(A). Each eligible issuer, promptly after
3 issuing a covered bond under an approved cov-
4 ered bond program, shall provide the Secretary
5 with all information reasonably requested by
6 the Secretary in order to update the registry
7 under paragraph (3)(B).

8 (C) EXISTING COVERED BOND PRO-
9 GRAMS.—A covered bond regulator may approve
10 a covered bond program that is in existence on
11 the date of the enactment of this Act. Upon
12 such approval, each covered bond under the
13 covered bond program shall be subject to this
14 subtitle, regardless of when the covered bond
15 was issued.

16 (D) MULTIPLE COVERED BOND PROGRAMS
17 PERMITTED.—An eligible issuer may have more
18 than 1 covered bond program.

19 (E) CEASE AND DESIST AUTHORITY.—The
20 applicable covered bond regulator may direct an
21 eligible issuer to cease issuing covered bonds
22 under an approved covered bond program if the
23 covered bond program is not maintained in a
24 manner that is consistent with this subtitle and
25 the oversight program and if, after notice that

1 is reasonable under the circumstances, the
2 issuer does not remedy all deficiencies identified
3 by the applicable covered bond regulator.

4 (F) CAP ON THE AMOUNT OF OUT-
5 STANDING COVERED BONDS.—

6 (i) IN GENERAL.—With respect to
7 each eligible issuer that submits a covered
8 bond program for approval, the applicable
9 covered bond regulator shall set, consistent
10 with safety and soundness considerations
11 and the financial condition of the eligible
12 issuer, the maximum amount, as a percent-
13 age of the eligible issuer's total assets, of
14 outstanding covered bonds that the eligible
15 issuer may issue.

16 (ii) REVIEW OF CAP.—The applicable
17 covered bond regulator may, not more fre-
18 quently than quarterly, review the percent-
19 age set under clause (i) and, if safety and
20 soundness considerations or the financial
21 condition of the eligible issuer has
22 changed, increase or decrease such per-
23 centage. Any decrease made pursuant to
24 this clause shall have no effect on existing
25 covered bonds issued by the eligible issuer.

1 (3) REGISTRY.—Under the oversight program,
2 the Secretary shall maintain a registry that is pub-
3 lished on a Web site available to the public and that,
4 for each covered bond program approved by a cov-
5 ered bond regulator, contains—

6 (A) the name of the covered bond program,
7 the name of the eligible issuer, and all other in-
8 formation that the Secretary considers nec-
9 essary to adequately identify the covered bond
10 program and the eligible issuer; and

11 (B) all information that the Secretary con-
12 siders necessary to adequately identify all out-
13 standing covered bonds issued under the cov-
14 ered bond program (including the reports de-
15 scribed in paragraphs (3) and (4) of subsection
16 (b)).

17 (4) FEES.—Each covered bond regulator may
18 levy, on the issuers of covered bonds under the pri-
19 mary supervision of such covered bond regulator,
20 reasonably apportioned fees that such covered bond
21 regulator considers necessary, in the aggregate, to
22 defray the costs of such covered bond regulator car-
23 rying out the provisions of this subtitle. Such funds
24 shall not be construed to be Government funds or
25 appropriated monies and shall not be subject to ap-

1 portionment for purposes of chapter 15 of title 31,
2 United States Code, or any other provision of law.

3 (b) MINIMUM OVER-COLLATERALIZATION REQUIRE-
4 MENTS.—

5 (1) REQUIREMENTS ESTABLISHED.—The Sec-
6 retary, by rule and in consultation with the covered
7 bond regulators, shall establish minimum over-
8 collateralization requirements for covered bonds
9 backed by each of the eligible asset classes. The min-
10 imum over-collateralization requirements shall be de-
11 signed to ensure that sufficient eligible assets and
12 substitute assets are maintained in the cover pool to
13 satisfy all principal and interest payments on the
14 covered bonds when due through maturity and shall
15 be based on the credit, collection, and interest rate
16 risks (excluding the liquidity risks) associated with
17 the eligible asset class.

18 (2) ASSET COVERAGE TEST.—The eligible as-
19 sets and the substitute assets in any cover pool shall
20 be required, in the aggregate, to meet at all times
21 the applicable minimum over-collateralization re-
22 quirements.

23 (3) MONTHLY REPORTING.—On a monthly
24 basis, each issuer of covered bonds shall submit a re-
25 port on whether the cover pool that secures the cov-

1 ered bonds meets the applicable minimum over-
2 collateralization requirements to—

3 (A) the Secretary;

4 (B) the applicable covered bond regulator;

5 (C) the applicable indenture trustee;

6 (D) the applicable covered bondholders;

7 and

8 (E) the applicable independent asset mon-
9 itor.

10 (4) INDEPENDENT ASSET MONITOR.—

11 (A) APPOINTMENT.—Each issuer of cov-
12 ered bonds shall appoint the indenture trustee
13 for the covered bonds, or another unaffiliated
14 entity, as an independent asset monitor for the
15 applicable cover pool.

16 (B) DUTIES.—An independent asset mon-
17 itor appointed under subparagraph (A) shall, on
18 an annual or other more frequent periodic basis
19 determined by the Secretary under the over-
20 sight program—

21 (i) verify whether the cover pool meets
22 the applicable minimum over-collateraliza-
23 tion requirements; and

24 (ii) report to the Secretary, the appli-
25 cable covered bond regulator, the applica-

1 ble indenture trustee, and the applicable
2 covered bondholders on whether the cover
3 pool meets the applicable minimum over-
4 collateralization requirements.

5 (5) NO LOSS OF STATUS.—Covered bonds shall
6 remain subject to this subtitle regardless of whether
7 the applicable cover pool ceases to meet the applica-
8 ble minimum over-collateralization requirements.

9 (6) FAILURE TO MEET REQUIREMENTS.—

10 (A) IN GENERAL.—If a cover pool fails to
11 meet the applicable minimum over-collateraliza-
12 tion requirements, and if the failure is not
13 cured within the time specified in the related
14 transaction documents, the failure shall be an
15 uncured default for purposes of section 354(a).

16 (B) NOTICE REQUIRED.—An issuer of cov-
17 ered bonds shall promptly give the Secretary
18 and the applicable covered bond regulator writ-
19 ten notice if the cover pool securing the covered
20 bonds fails to meet the applicable minimum
21 over-collateralization requirements, if the failure
22 is cured within the time specified in the related
23 transaction documents, or if the failure is not
24 so cured.

25 (c) REQUIREMENTS FOR ELIGIBLE ASSETS.—

1 (1) REQUIREMENTS.—

2 (A) LOANS.—A loan shall not qualify as an
3 eligible asset for so long as the loan is delin-
4 quent for more than 60 consecutive days.

5 (B) SECURITIES.—A security shall not
6 qualify as an eligible asset for so long as the se-
7 curity does not meet any credit-quality require-
8 ment under this subtitle.

9 (C) ORIGINATION.—An asset shall not
10 qualify as an eligible asset if the asset was not
11 originated in compliance with any rule or super-
12 visory guidance of a Federal agency applicable
13 to the asset at the time of origination.

14 (D) NO DOUBLE PLEDGE.—An asset shall
15 not qualify as an eligible asset for so long as
16 the asset is subject to a prior perfected security
17 interest or other prior perfected lien that has
18 been granted in an unrelated transaction. Noth-
19 ing in this subtitle shall affect such a prior per-
20 fected security interest or other prior perfected
21 lien, and the rights of such lien holders.

22 (2) FAILURE TO MEET REQUIREMENTS.—Sub-
23 ject to paragraph (1)(D), if an asset in a cover pool
24 does not satisfy any applicable requirement de-
25 scribed in paragraph (1) or any other applicable

1 standard or criterion described in this subtitle, the
2 oversight program, or the related transaction docu-
3 ments, the asset shall not qualify as an eligible asset
4 for purposes of the asset coverage test described in
5 subsection (b)(2). A disqualified asset shall remain
6 in the cover pool unless and until removed by the
7 issuer in compliance with the provisions of this sub-
8 title, the oversight program, and the related trans-
9 action documents. No disqualified asset may be re-
10 moved from the cover pool after an estate has been
11 created for the related covered bond program under
12 section 354(b)(1) or 354(c)(2), except in connection
13 with the management of the cover pool under section
14 354(d)(1)(E).

15 (d) OTHER REQUIREMENTS.—

16 (1) BOOKS AND RECORDS OF ISSUER.—Each
17 issuer of covered bonds shall clearly mark its books
18 and records to identify the assets that comprise the
19 cover pool securing the covered bonds.

20 (2) SCHEDULE OF ELIGIBLE ASSETS AND SUB-
21 STITUTE ASSETS.—Each issuer of covered bonds
22 shall deliver to the applicable indenture trustee and
23 the applicable independent asset monitor, on at least
24 a monthly basis, a schedule that identifies all eligible

1 assets and substitute assets in the cover pool secur-
2 ing the covered bonds.

3 (3) SINGLE ELIGIBLE ASSET CLASS.—No cover
4 pool described in section 352(3)(A) may include eli-
5 gible assets from more than 1 eligible asset class. No
6 cover poll described in section 2(3)(B) may include
7 covered bonds backed by more than 1 eligible asset
8 class.

9 **SEC. 354. RESOLUTION UPON DEFAULT OR INSOLVENCY.**

10 (a) UNCURED DEFAULT DEFINED.—For purposes of
11 this section, the term “uncured default” means a default
12 on a covered bond that has not been cured within the time,
13 if any, specified in the related transaction documents.

14 (b) DEFAULT ON COVERED BONDS PRIOR TO CON-
15 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
16 RUPTCY.—

17 (1) CREATION OF SEPARATE ESTATE.—If an
18 uncured default occurs on a covered bond before the
19 issuer of the covered bond enters conservatorship,
20 receivership, liquidation, or bankruptcy, an estate
21 shall be immediately and automatically created by
22 operation of law and shall exist and be administered
23 separate and apart from the issuer or any subse-
24 quent conservatorship, receivership, liquidating agen-
25 cy, or estate in bankruptcy for the issuer or any

1 other assets of the issuer. A separate estate shall be
2 created for each affected covered bond program.

3 (2) ASSETS AND LIABILITIES OF ESTATE.—Any
4 estate created under paragraph (1) shall be com-
5 prised of the cover pool (including over-collateraliza-
6 tion in the cover pool) that secures the covered bond.
7 The cover pool shall be immediately and automati-
8 cally released to and held by the estate free and
9 clear of any right, title, interest, or claim of the
10 issuer or any conservator, receiver, liquidating agent,
11 or trustee in bankruptcy for the issuer or any other
12 assets of the issuer. The estate shall be fully liable
13 on the covered bond and all other covered bonds and
14 related obligations of the issuer (including obliga-
15 tions under related derivative transactions) that are
16 secured by a perfected security interest in or other
17 perfected lien on the cover pool when the estate is
18 created. The estate shall not be liable on any obliga-
19 tion of the issuer that is not secured by a perfected
20 security interest in or other perfected lien on the
21 cover pool when the estate is created. No conser-
22 vator, receiver, liquidating agent, or trustee in bank-
23 ruptcy for the issuer may charge or assess the estate
24 for any claim of the conservator, receiver, liquidating
25 agent, or trustee in bankruptcy or the conservator-

1 ship, receivership, liquidating agency, or estate in
2 bankruptcy and may not obtain or perfect a security
3 interest in or other lien on the cover pool to secure
4 such a claim.

5 (3) RETENTION OF CLAIMS.—Any holder of a
6 covered bond or related obligation for which an es-
7 tate has become liable under paragraph (2) shall re-
8 tain a claim against the issuer for any deficiency
9 with respect to the covered bond or related obliga-
10 tion. If the issuer enters conservatorship, receiver-
11 ship, liquidation, or bankruptcy, any contingent
12 claim for such a deficiency shall be allowed as a
13 provable claim in the conservatorship, receivership,
14 liquidating agency, or bankruptcy case. The contin-
15 gent claim shall be estimated by the conservator, re-
16 ceiver, liquidating agent, or bankruptcy court for
17 purposes of allowing the claim as a provable claim
18 if awaiting the fixing of the contingent claim would
19 unduly delay the resolution of the conservatorship,
20 receivership, liquidating agency, or bankruptcy case.

21 (4) RESIDUAL INTEREST.—

22 (A) ISSUANCE OF RESIDUAL INTEREST.—

23 Upon the creation of an estate under paragraph
24 (1), a residual interest in the estate shall be im-

1 mediately and automatically issued by operation
2 of law to the issuer.

3 (B) NATURE OF RESIDUAL INTEREST.—

4 The residual interest under subparagraph (A)
5 shall—

6 (i) be an exempted security as de-
7 scribed in section 355;

8 (ii) represent the right to any surplus
9 from the cover pool after the covered bonds
10 and all other liabilities of the estate have
11 been fully and irrevocably paid; and

12 (iii) be evidenced by a certificate exe-
13 cuted by the trustee of the estate.

14 (5) OBLIGATIONS OF ISSUER.—

15 (A) IN GENERAL.—After the creation of an
16 estate under paragraph (1), the issuer shall—

17 (i) transfer to or at the direction of
18 the trustee for the estate all property of
19 the estate that is in the possession or
20 under the control of the issuer, including
21 all tangible or electronic books, records,
22 files, and other documents or materials re-
23 lating to the assets and liabilities of the es-
24 tate; and

1 (ii) at the election of the trustee or a
2 servicer or administrator for the estate,
3 continue servicing the applicable cover pool
4 for 120 days after the creation of the es-
5 tate in return for a fair-market-value fee,
6 as determined by the trustee in consulta-
7 tion with the applicable covered bond regu-
8 lator, that shall be payable from the estate
9 as an administrative expense.

10 (B) OBLIGATIONS ABSOLUTE.—Neither
11 the issuer, whether acting as debtor in posses-
12 sion or in any other capacity, nor any conser-
13 vator, receiver, liquidating agent, or trustee in
14 bankruptcy for the issuer or any other assets of
15 the issuer may disaffirm, repudiate, or reject
16 the obligation to turn over property or to con-
17 tinue servicing the cover pool as provided in
18 subparagraph (A).

19 (c) DEFAULT ON COVERED BONDS UPON CON-
20 SERVATORSHIP, RECEIVERSHIP, LIQUIDATION, OR BANK-
21 RUPTCY.—

22 (1) CORPORATION CONSERVATORSHIP OR RE-
23 CEIVERSHIP.—

24 (A) IN GENERAL.—If the Corporation is
25 appointed as conservator or receiver for an

1 issuer of covered bonds before an uncured de-
2 fault results in the creation of an estate under
3 subsection (b), the Corporation as conservator
4 or receiver shall have an exclusive right, during
5 the 1-year period beginning on the date of the
6 appointment, to transfer any cover pool owned
7 by the issuer in its entirety, together with all
8 covered bonds and related obligations that are
9 secured by a perfected security interest in or
10 other perfected lien on the cover pool, to an-
11 other eligible issuer that meets all conditions
12 and requirements specified in the related trans-
13 action documents. The Corporation as conser-
14 vator or receiver may not remove any asset
15 from the cover pool, except to the extent other-
16 wise agreed by a transferee that has assumed
17 the covered bond program pursuant to subpara-
18 graph (C).

19 (B) OBLIGATIONS DURING 1-YEAR PE-
20 RIOD.—During the 1-year period described in
21 subparagraph (A), the Corporation as conser-
22 vator or receiver shall fully and timely satisfy
23 all monetary and nonmonetary obligations of
24 the issuer under all covered bonds and the re-
25 lated transaction documents and shall fully and

1 timely cure all defaults by the issuer (other
2 than its conservatorship or receivership) under
3 the applicable covered bond program, in each
4 case, until the earlier of—

5 (i) the transfer of the applicable cov-
6 ered bond program to another eligible
7 issuer as provided in subparagraph (A); or

8 (ii) the delivery to the Secretary, the
9 applicable covered bond regulator, the ap-
10 plicable indenture trustee, and the applica-
11 ble covered bondholders of a written notice
12 from the Corporation as conservator or re-
13 ceiver electing to cease further perform-
14 ance under the applicable covered bond
15 program.

16 (C) ASSUMPTION BY TRANSFEREE.—If the
17 Corporation as conservator or receiver transfers
18 a covered bond program to another eligible
19 issuer within the 1-year period as provided in
20 subparagraph (A), the transferee shall take
21 ownership of the applicable cover pool and shall
22 become fully liable on all covered bonds and re-
23 lated obligations of the issuer that are secured
24 by a perfected security interest in or other per-
25 fected lien on the cover pool.

1 (2) OTHER CIRCUMSTANCES.—An estate shall
2 be immediately and automatically created by oper-
3 ation of law and shall exist and be administered sep-
4 arate and apart from an issuer of covered bonds and
5 any conservatorship, receivership, liquidating agency,
6 or estate in bankruptcy for the issuer or any other
7 assets of the issuer, if—

8 (A) a conservator, receiver, liquidating
9 agent, or trustee in bankruptcy, other than the
10 Corporation, is appointed for the issuer before
11 an uncured default results in the creation of an
12 estate under subsection (b); or

13 (B) in the case of the appointment of the
14 Corporation as conservator or receiver as de-
15 scribed in paragraph (1)(A), the Corporation as
16 conservator or receiver—

17 (i) does not complete the transfer of
18 the applicable covered bond program to an-
19 other eligible issuer within the 1-year pe-
20 riod as provided in paragraph (1)(A);

21 (ii) delivers to the Secretary, the ap-
22 plicable covered bond regulator, the appli-
23 cable indenture trustee, and the applicable
24 covered bondholders a written notice elect-

1 ing to cease further performance under the
2 applicable covered bond program; or

3 (iii) fails to fully and timely satisfy all
4 monetary and nonmonetary obligations of
5 the issuer under the covered bonds and the
6 related transaction documents or to fully
7 and timely cure all defaults by the issuer
8 (other than its conservatorship or receiver-
9 ship) under the applicable covered bond
10 program.

11 A separate estate shall be created for each affected
12 covered bond program.

13 (3) ASSETS AND LIABILITIES OF ESTATE.—Any
14 estate created under paragraph (2) shall be com-
15 prised of the cover pool (including over-collateraliza-
16 tion in the cover pool) that secures the covered
17 bonds. The cover pool shall be immediately and
18 automatically released to and held by the estate free
19 and clear of any right, title, interest, or claim of the
20 issuer or any conservator, receiver, liquidating agent,
21 or trustee in bankruptcy for the issuer or any other
22 assets of the issuer. The estate shall be fully liable
23 on the covered bonds and all other covered bonds
24 and related obligations of the issuer (including obli-
25 gations under related derivative transactions) that

1 are secured by a perfected security interest in or
2 other perfected lien on the cover pool when the es-
3 tate is created. The estate shall not be liable on any
4 obligation of the issuer that is not secured by a per-
5 fected security interest in or other perfected lien on
6 the cover pool when the estate is created. No conser-
7 vator, receiver, liquidating agent, or trustee in bank-
8 ruptcy for the issuer may charge or assess the estate
9 for any claim of the conservator, receiver, liquidating
10 agent, or trustee in bankruptcy or the conservator-
11 ship, receivership, liquidating agency, or estate in
12 bankruptcy and may not obtain or perfect a security
13 interest in or other lien on the cover pool to secure
14 such a claim.

15 (4) CONTINGENT CLAIM.—Any contingent claim
16 against an issuer for a deficiency with respect to a
17 covered bond or related obligation for which an es-
18 tate has become liable under paragraph (3) shall be
19 allowed as a provable claim in the conservatorship,
20 receivership, liquidating agency, or bankruptcy case
21 for the issuer. The contingent claim shall be esti-
22 mated by the conservator, receiver, liquidating
23 agent, or bankruptcy court for purposes of allowing
24 the claim as a provable claim if awaiting the fixing
25 of the contingent claim would unduly delay the reso-

1 lution of the conservatorship, receivership, liqui-
2 dating agency, or bankruptcy case.

3 (5) RESIDUAL INTEREST.—

4 (A) ISSUANCE OF RESIDUAL INTEREST.—

5 Upon the creation of an estate under paragraph
6 (2), and regardless of whether any contingent
7 claim described in paragraph (4) becomes fixed
8 or is estimated, a residual interest in the estate
9 shall be immediately and automatically issued
10 by operation of law to the conservator, receiver,
11 liquidating agent, or trustee in bankruptcy for
12 the issuer.

13 (B) NATURE OF RESIDUAL INTEREST.—

14 The residual interest under subparagraph (A)
15 shall—

16 (i) be an exempted security as de-
17 scribed in section 355;

18 (ii) represent the right to any surplus
19 from the cover pool after the covered bonds
20 and all other liabilities of the estate have
21 been fully and irrevocably paid; and

22 (iii) be evidenced by a certificate exe-
23 cuted by the trustee of the estate.

24 (6) OBLIGATIONS OF ISSUER.—

1 (A) IN GENERAL.—After the creation of an
2 estate under paragraph (2), the issuer and its
3 conservator, receiver, liquidating agent, or
4 trustee in bankruptcy shall—

5 (i) transfer to or at the direction of
6 the trustee for the estate all property of
7 the estate that is in the possession or
8 under the control of the issuer or its con-
9 servator, receiver, liquidating agent, or
10 trustee in bankruptcy, including all tan-
11 gible or electronic books, records, files, and
12 other documents or materials relating to
13 the assets and liabilities of the estate; and

14 (ii) at the election of the trustee or a
15 servicer or administrator for the estate,
16 continue servicing the applicable cover pool
17 for 120 days after the creation of the es-
18 tate in return for a fair-market-value fee,
19 as determined by the trustee in consulta-
20 tion with the applicable covered bond regu-
21 lator, that shall be payable from the estate
22 as an administrative expense.

23 (B) OBLIGATIONS ABSOLUTE.—Neither
24 the issuer, whether acting as debtor in posses-
25 sion or in any other capacity, nor any conser-

1 vator, receiver, liquidating agent, or trustee in
2 bankruptcy for the issuer or any other assets of
3 the issuer may disaffirm, repudiate, or reject
4 the obligation to turn over property or to con-
5 tinue servicing the cover pool as provided in
6 subparagraph (A).

7 (d) ADMINISTRATION AND RESOLUTION OF ES-
8 TATES.—

9 (1) TRUSTEE, SERVICER, AND ADMINIS-
10 TRATOR.—

11 (A) IN GENERAL.—Upon the creation of
12 any estate under subsection (b)(1) or (c)(2), the
13 applicable covered bond regulator shall—

14 (i) appoint the trustee for the estate;

15 (ii) appoint 1 or more servicers or ad-
16 ministrators for the cover pool held by the
17 estate; and

18 (iii) give the Secretary, the applicable
19 indenture trustee, the applicable covered
20 bondholders, and the owner of the residual
21 interest written notice of the creation of
22 the estate.

23 (B) TERMS AND CONDITIONS OF APPOINT-
24 MENT.—All terms and conditions of any ap-
25 pointment under paragraph (1), including the

1 terms and conditions relating to compensation,
2 shall conform to the requirements of this sub-
3 title and the oversight program and otherwise
4 shall be determined by the applicable covered
5 bond regulator.

6 (C) QUALIFICATION.—The applicable cov-
7 ered bond regulator may require the trustee or
8 any servicer or administrator for an estate to
9 post in favor of the United States, for the ben-
10 efit of the estate, a bond that is conditioned on
11 the faithful performance of the duties of the
12 trustee or the servicer or administrator. The
13 covered bond regulator shall determine the
14 amount of any bond required under this sub-
15 paragraph and the sufficiency of the surety on
16 the bond. A proceeding on a bond required
17 under this subparagraph may not be com-
18 menced after two years after the date on which
19 the trustee or the servicer or administrator was
20 discharged.

21 (D) POWERS AND DUTIES OF TRUSTEE.—
22 The trustee for an estate is the representative
23 of the estate and, subject to the provisions of
24 this subtitle, has capacity to sue and be sued.
25 The trustee shall—

1 (i) administer the estate in compliance
2 with this subtitle, the oversight program,
3 and the related transaction documents;

4 (ii) be accountable for all property of
5 the estate that is received by the trustee;

6 (iii) make a final report and file a
7 final account of the administration of the
8 estate with the applicable covered bond
9 regulator; and

10 (iv) after the estate has been fully ad-
11 ministered, close the estate.

12 (E) POWERS AND DUTIES OF SERVICER OR
13 ADMINISTRATOR.—Any servicer or adminis-
14 trator for an estate—

15 (i) shall—

16 (I) collect, realize on (by liquida-
17 tion or other means), and otherwise
18 manage the cover pool held by the es-
19 tate for the purpose of winding down
20 the related cover bond program in
21 compliance with this subtitle, the
22 oversight program, and the related
23 transaction documents and in a man-
24 ner consistent with maximizing the

1 value and the proceeds of the cover
2 pool;

3 (II) deposit or invest all proceeds
4 and funds received in compliance with
5 this subtitle, the oversight program,
6 and the related transaction documents
7 and in a manner consistent with maxi-
8 mizing the net return to the estate,
9 taking into account the safety of the
10 deposit or investment; and

11 (III) apply, or direct the trustee
12 for the estate to apply, all proceeds
13 and funds received and the net return
14 on any deposit or investment to make
15 distributions in compliance with para-
16 graphs (3) and (4);

17 (ii) may borrow funds or otherwise ob-
18 tain credit, for the benefit of the estate, in
19 compliance with paragraph (2) on a se-
20 cured or unsecured basis and on a priority,
21 pari passu, or subordinated basis;

22 (iii) shall, at the times and in the
23 manner required by the applicable covered
24 bond regulator, submit to the covered bond
25 regulator, the Secretary, the applicable in-

1 denture trustee, the applicable covered
2 bondholders, the owner of the residual in-
3 terest, and any other person designated by
4 the covered bond regulator, reports that
5 describe the activities of the servicer or ad-
6 ministrator on behalf of the estate, the
7 performance of the cover pool held by the
8 estate, and distributions made by the es-
9 tate; and

10 (iv) shall assist the trustee in pre-
11 paring the final report and the final ac-
12 count of the administration of the estate.

13 (F) SUPERVISION OF TRUSTEE, SERVICER,
14 AND ADMINISTRATOR.—The applicable covered
15 bond regulator shall supervise the trustee and
16 any servicer or administrator for an estate. The
17 covered bond regulator shall require that all re-
18 ports submitted under subparagraph (E)(iii) do
19 not contain any untrue statement of a material
20 fact and do not omit to state a material fact
21 necessary in order to make the statements
22 made, in light of the circumstances under which
23 they are made, not misleading.

24 (G) REMOVAL AND REPLACEMENT OF
25 TRUSTEE, SERVICER, AND ADMINISTRATOR.—If

1 the covered bond regulator determines that it is
2 in the best interests of an estate, the covered
3 bond regulator may remove or replace the trust-
4 ee or any servicer or administrator for the es-
5 tate. The removal of the trustee or any servicer
6 or administrator does not abate any pending ac-
7 tion or proceeding involving the estate, and any
8 successor or other trustee, servicer, or adminis-
9 trator shall be substituted as a party in the ac-
10 tion or proceeding.

11 (H) PROFESSIONALS.—The trustee or any
12 servicer or administrator for an estate may em-
13 ploy 1 or more attorneys, accountants, apprais-
14 ers, auctioneers, or other professional persons
15 to represent or assist the trustee or the servicer
16 or administrator in carrying out its duties. The
17 employment of any professional person and all
18 terms and conditions of employment, including
19 the terms and conditions relating to compensa-
20 tion, shall conform to the requirements of this
21 subtitle and the oversight program and other-
22 wise shall be subject to the approval of the ap-
23 plicable covered bond regulator.

24 (I) APPROVED FEES AND EXPENSES.—Un-
25 less otherwise provided in the applicable terms

1 and conditions of appointment or employment,
2 all approved fees and expenses of the trustee,
3 any servicer or administrator, or any profes-
4 sional person employed by the trustee or any
5 servicer or administrator shall be payable from
6 the estate as administrative expenses.

7 (J) ACTIONS BY OR ON BEHALF OF ES-
8 TATE.—The trustee or any servicer or adminis-
9 trator for an estate may commence or continue
10 judicial, administrative, or other actions, in the
11 name of the estate or in its own name on behalf
12 of the estate, for the purpose of collecting, real-
13 izing on, or otherwise managing the cover pool
14 held by the estate or exercising its other powers
15 or duties on behalf of the estate.

16 (K) ACTIONS AGAINST ESTATE.—No court
17 may issue an attachment or execution on any
18 property of an estate. Except at the request of
19 the applicable covered bond regulator or as oth-
20 erwise provided in this subparagraph or sub-
21 paragraph (J), no court may take any action to
22 restrain or affect the resolution of an estate
23 under this subtitle. No person (including the
24 applicable indenture trustee and any applicable
25 covered bondholder) may commence or continue

1 any judicial, administrative, or other action
2 against the estate, the trustee, or any servicer
3 or administrator or take any other act to affect
4 the estate, the trustee, or any servicer or ad-
5 ministrator that is not expressly permitted by
6 this subtitle, the oversight program, and the re-
7 lated transaction documents, except for a judi-
8 cial or administrative action to compel the re-
9 lease of funds that—

10 (i) are available to the estate;

11 (ii) are permitted to be distributed
12 under this subtitle and the oversight pro-
13 gram; and

14 (iii) are permitted and required to be
15 distributed under the related transaction
16 documents and any contracts executed by
17 or on behalf of the estate.

18 (L) SOVEREIGN IMMUNITY.—Except in
19 connection with a guarantee provided under
20 paragraph (4) or any other contract executed
21 by the applicable covered bond regulator under
22 this section 354, the Secretary and the covered
23 bond regulator shall be entitled to sovereign im-
24 munity in carrying out the provisions of this
25 subtitle.

1 (2) BORROWINGS AND CREDIT.—

2 (A) IN GENERAL.—Any servicer or admin-
3 istrator for an estate created under subsection
4 (b)(1) or (c)(2) may borrow funds or otherwise
5 obtain credit, on behalf of and for the benefit
6 of the estate, from any person in compliance
7 with this paragraph (2) solely for the purpose
8 of providing liquidity in the case of timing
9 mismatches among the assets and the liabilities
10 of the estate. Except with respect to an under-
11 writer, section 5 of the Securities Act of 1933,
12 the Trust Indenture Act of 1939, and any State
13 or local law requiring registration for an offer
14 or sale of a security or registration or licensing
15 of an issuer of, underwriter of, or broker or
16 dealer in a security does not apply to the offer
17 or sale under this paragraph (2) of a security
18 that is not an equity security.

19 (B) CONDITIONS.—A servicer or adminis-
20 trator may borrow funds or otherwise obtain
21 credit under subparagraph (A)—

22 (i) on terms affording the lender only
23 claims or liens that are fully subordinated
24 to the claims and interests of the applica-
25 ble indenture trustee and the applicable

1 covered bondholders and all other claims
2 against and interests in the estate, except
3 for the residual interest, if the servicer or
4 administrator certifies to the applicable
5 covered bond regulator that, in the busi-
6 ness judgment of the servicer or adminis-
7 trator, the borrowing or credit is in the
8 best interests of the estate and is expected
9 to maximize the value and the proceeds of
10 the cover pool held by the estate; or

11 (ii) on terms affording the lender
12 claims or liens that have priority over or
13 are pari passu with the claims or interests
14 of the applicable indenture trustee or the
15 applicable covered bondholders or other
16 claims against or interests in the estate,
17 if—

18 (I) the servicer or administrator
19 certifies to the applicable covered
20 bond regulator that, in the business
21 judgment of the servicer or adminis-
22 trator, the borrowing or credit is in
23 the best interests of the estate and is
24 expected to maximize the value and

1 the proceeds of the cover pool held by
2 the estate; and

3 (II) the applicable covered bond
4 regulator authorizes the borrowing or
5 credit.

6 (C) LIMITED LIABILITY.—A servicer or ad-
7 ministrator shall not be liable for any error in
8 business judgment when borrowing funds or
9 otherwise obtaining credit under this paragraph
10 (2) unless the servicer or administrator acted in
11 bad faith or in willful disregard of its duties.

12 (D) LIMITS ON BORROWINGS AND CRED-
13 IT.—Funds may not be borrowed or credit oth-
14 erwise obtained under subparagraph (A)—

15 (i) for the purpose of investing in ad-
16 ditional portfolios of eligible assets through
17 the issuance of new covered bonds; or

18 (ii) otherwise for a purpose other than
19 winding down the related covered bond
20 program in compliance with this Act, the
21 oversight program, and the related trans-
22 action documents.

23 (E) STUDY ON BORROWINGS AND CRED-
24 IT.—The Comptroller General of the United
25 States shall conduct a study on whether the

1 Federal reserve banks should be authorized to
2 lend funds or otherwise extend credit to an es-
3 tate under this paragraph (2) and, if so, what
4 conditions and limits should be established to
5 mitigate any risk that the United States Gov-
6 ernment could absorb credit losses on the cover
7 pool held by the estate. The Comptroller Gen-
8 eral shall submit a report to the Committee on
9 Banking, Housing, and Urban Affairs of the
10 Senate and the Committee on Financial Serv-
11 ices of the House of Representatives on the re-
12 sults of the study not later than 6 months after
13 the date of enactment of this Act.

14 (3) DISTRIBUTIONS BY ESTATE.—All payments
15 or other distributions by an estate shall be made at
16 the times, in the amounts, and in the manner set
17 forth in the covered bonds, the related transaction
18 documents, and any contracts executed by or on be-
19 half of the estate in compliance with this subtitle
20 and the oversight program. To the extent that the
21 relative priority of the liabilities of the estate are not
22 specified in or otherwise ascertainable from their
23 terms, distributions shall be made on each distribu-
24 tion date under the covered bonds, the related trans-

1 action documents, or any contracts executed by or
2 on behalf of the estate—

3 (A) first, to pay accrued and unpaid super-
4 priority claims under paragraph (2)(B)(ii);

5 (B) second, to pay accrued and unpaid ad-
6 ministrative expense claims under paragraph
7 (1)(I), paragraph (2)(B)(ii), section
8 354(b)(5)(A), or section 354(c)(6)(A);

9 (C) third, to pay—

10 (i) accrued and unpaid claims under
11 the covered bonds and the related trans-
12 action documents according to their terms;
13 and

14 (ii) accrued and unpaid pari passu
15 claims under paragraph (2)(B)(ii); and

16 (D) fourth, to pay accrued and unpaid
17 subordinated claims under paragraph (2)(B)(i).

18 (4) DISTRIBUTIONS ON RESIDUAL INTEREST.—

19 After all other claims against and interests in an es-
20 tate have been fully and irrevocably paid or
21 defeased, the trustee shall or shall cause a servicer
22 or administrator to distribute the remainder of the
23 estate to or at the direction of the owner of the re-
24 sidual interest. No interim distribution on the resid-

1 ual interest may be made before that time, unless
2 the applicable covered bond regulator—

3 (A) approves the distribution after deter-
4 mining that all other claims against and inter-
5 ests in the estate will be fully, timely, and irrev-
6 ocably paid according to their terms; and

7 (B) provides an indemnity, for the benefit
8 of the estate, assuring that all other claims
9 against and interests in the estate will be fully,
10 timely, and irrevocably paid according to their
11 terms.

12 (5) CLOSING OF ESTATE.—After an estate has
13 been fully administered, the trustee shall close the
14 estate and, except as otherwise directed by the appli-
15 cable covered bond regulator, shall destroy all
16 records of the estate.

17 (6) NO LOSS TO TAXPAYERS.—Taxpayers shall
18 bear no losses from the resolution of an estate under
19 this subtitle. To the extent that the Secretary and
20 the Corporation jointly determine that the Deposit
21 Insurance Fund incurred actual losses that are high-
22 er because the covered bond program of an insured
23 depository institution was subject to resolution
24 under this subtitle rather than as part of the receiv-
25 ership of the institution under the Federal Deposit

1 Insurance Act (12 U.S.C. 1811 et seq.), the Cor-
2 poration may exercise the powers available under
3 section 7(b) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1817(b)) to recover an amount equal to
5 those losses after consulting with the Secretary.

6 **SEC. 355. SECURITIES LAW PROVISIONS.**

7 (a) EXISTING EXEMPTIONS APPLICABLE TO COV-
8 ERED BONDS.—

9 (1) TREATMENT OF CERTAIN BANKS AND
10 OTHER ENTITIES.—Any covered bond issued or
11 guaranteed by a bank or by an eligible issuer de-
12 scribed in section 352(9)(D) and sponsored solely by
13 1 or more banks for the sole purpose of issuing cov-
14 ered bonds is and shall be treated as a security
15 issued or guaranteed by a bank under section
16 3(a)(2) of the Securities Act of 1933 (15 U.S.C.
17 77c(a)(2)), section 3(c)(3) of the Investment Com-
18 pany Act of 1940 (15 U.S.C. 80a-3(c)(3)), and sec-
19 tion 304(a)(4)(A) of the Trust Indenture Act of
20 1939 (15 U.S.C. 77ddd(a)(4)(A)). No covered bond
21 issued or guaranteed by a bank or by an eligible
22 issuer described in section 352(9)(D) and sponsored
23 solely by 1 or more banks for the sole purpose of
24 issuing covered bonds shall be treated as an asset-
25 backed security (as defined in section 3 of the Secu-

1 rities and Exchange Act of 1934 (15 U.S.C. 78c)).
2 Each covered bond regulator for 1 or more banks
3 shall adopt disclosure and reporting regulations for
4 offers or sales of covered bonds by a bank or an eli-
5 gible issuer described in this paragraph. Such regu-
6 lations shall provide for uniform and consistent
7 standards for such covered bond issuers, to the ex-
8 tent possible, and shall be consistent with existing
9 regulations governing offers or sales of nonconvert-
10 ible debt.

11 (2) TREATMENT OF CERTAIN ASSOCIATIONS
12 AND COOPERATIVE BANKS.—Any covered bond
13 issued by an entity described in section 3(a)(5)(A)
14 of the Securities Act of 1933 (15 U.S.C.
15 77c(a)(5)(A)) or by an eligible issuer described in
16 section 352(9)(D) and sponsored solely by 1 or more
17 such entities for the sole purpose of issuing covered
18 bonds is and shall be treated as a security issued by
19 such an entity under section 3(a)(5)(A) of the Secu-
20 rities Act of 1933 (15 U.S.C. 77c(a)(5)(A)), section
21 3(c)(3) of the Investment Company Act of 1940 (15
22 U.S.C. 80a-3(c)(3)), and section 304(a)(4)(A) of the
23 Trust Indenture Act of 1939 (15 U.S.C.
24 77ddd(a)(4)(A)). No covered bond issued by an enti-
25 ty described in section 3(a)(5)(A) of the Securities

1 Act of 1933 (15 U.S.C. 77c(a)(5)(A)) or by an eligi-
2 ble issuer described in section 352(9)(D) and spon-
3 sored solely by 1 or more such entities for the sole
4 purpose of issuing covered bonds shall be treated as
5 an asset-backed security (as defined in section 3 of
6 the Securities and Exchange Act of 1934 (15 U.S.C.
7 78c)). Each covered bond regulator for 1 or more
8 entities described in section 3(a)(5)(A) of the Securi-
9 ties Act of 1933 (15 U.S.C. 77c(a)(5)(A)) shall
10 adopt, as part of the securities regulations of the
11 covered bond regulator, a separate scheme of reg-
12 istration, disclosure, and reporting obligations and
13 exemptions for offers or sales of covered bonds that
14 are described in this paragraph. Such regulations
15 shall provide for uniform and consistent standards
16 for such covered bond issuers, to the extent possible,
17 and shall be consistent with regulations governing
18 offers or sales of similar securities.

19 (3) CONSTRUCTION.—No provision of this sub-
20 title, including paragraph (1) or (2), may be con-
21 strued or applied in a manner that impairs or limits
22 any other exemption that is available under applica-
23 ble securities laws.

1 (b) EXEMPTIONS FOR ESTATES.—Any estate that is
2 or may be created under section 354(b)(1) or 354(c)(2)
3 shall be exempt from all securities laws but—

4 (1) shall be subject to the reporting require-
5 ments established by the applicable covered bond
6 regulator under section 354(d)(1)(E)(iii); and

7 (2) shall succeed to any requirement of the
8 issuer to file such periodic information, documents,
9 and reports in respect of the covered bonds as speci-
10 fied in section 13(a) of the Securities and Exchange
11 Act of 1934 (15 U.S.C. 78m(a)) or rules established
12 by an appropriate Federal banking agency.

13 (c) EXEMPTIONS FOR RESIDUAL INTERESTS.—Any
14 residual interest in an estate that is or may be created
15 under section 354(b)(1) or 354(c)(2) shall be exempt from
16 all securities laws.

17 **SEC. 356. MISCELLANEOUS PROVISIONS.**

18 (a) DOMESTIC SECURITIES.—Section 106(a)(1) of
19 the Secondary Mortgage Market Enhancement Act of
20 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

21 (1) in subparagraph (C), by striking “or” at
22 the end;

23 (2) in subparagraph (D), by adding “or” at the
24 end; and

1 (3) by inserting after subparagraph (D) the fol-
2 lowing:

3 “(E) covered bonds (as defined in section 352
4 of the United States Covered Bond Act of 2013),”.

5 (b) TAX TREATMENT OF COVERED BOND PRO-
6 GRAMS.—

7 (1) TREATMENT OF ESTATES CREATED UNDER
8 COVERED BOND PROGRAMS.—Section 7701 of the
9 Internal Revenue Code of 1986 is amended by redес-
10 ignating subsection (p) as subsection (q) and by in-
11 serting after subsection (o) the following new sub-
12 section:

13 “(p) TREATMENT OF ESTATES CREATED UNDER
14 COVERED BOND PROGRAMS.—For purposes of this title—

15 “(1) TREATMENT AS DISREGARDED ENTITY.—
16 Any estate created with respect to a covered bond
17 program—

18 “(A) shall not be treated as an entity sub-
19 ject to taxation separate from the owner of the
20 residual interest with respect to such estate;
21 and

22 “(B) shall be treated as a disregarded enti-
23 ty that is owned by the owner of such residual
24 interest.

1 “(2) LIMITATIONS ON TREATMENT AS DIS-
2 REGARDED ENTITY.—

3 “(A) MAXIMUM DURATION.—Paragraph
4 (1) shall not apply with respect to an estate
5 after the earlier of—

6 “(i) the end of the 30-year period be-
7 ginning on the date of the creation of such
8 estate; or

9 “(ii) the end of the 180-day period be-
10 ginning on the date of the final payment
11 on the last outstanding covered bond that
12 is secured by the cover pool held by such
13 estate.

14 “(B) RESTRICTIONS ON OWNER OF RESID-
15 UAL INTEREST.—Paragraph (1) shall apply
16 with respect to an estate for any period only
17 if—

18 “(i) at no time during such period
19 does more than one person hold a residual
20 interest with respect to such estate;

21 “(ii) such person is—

22 “(I) subject to tax under subtitle
23 A on the net income of such estate for
24 the taxable year of such person which
25 includes such period; or

1 “(II) a conservator, receiver, liq-
2 uidating agent, or trustee in bank-
3 ruptcy with respect to the issuer for
4 such period; and

5 “(iii) such person is not a regulated
6 investment company (as defined in section
7 851) or real estate investment trust (as de-
8 fined in section 856) for the taxable year
9 which includes such period.

10 “(3) TREATMENT AS CORPORATION.—With re-
11 spect to any period for which paragraph (1) does not
12 apply to an estate created with respect to a covered
13 bond program, such estate shall be treated as a cor-
14 poration.

15 “(4) COORDINATION WITH RULES FOR TAX-
16 ABLE MORTGAGE POOLS.—No portion of any estate
17 created with respect to a covered bond program shall
18 be treated as a taxable mortgage pool for purposes
19 of subsection (i) during any period for which para-
20 graph (1) applies to such estate.

21 “(5) DEFINITIONS.—For purposes of this sub-
22 section, the terms ‘covered bond program’, ‘cover
23 pool’, ‘estate’, and ‘residual interest’ shall each have
24 the same respective meanings as when used for pur-

1 poses of the United States Covered Bond Act of
2 2013.

3 “(6) CROSS REFERENCES.—

4 “(A) For nonrecognition with respect to
5 certain transfers under covered bond programs,
6 see section 1001(f).

7 “(B) For excise tax on estates created
8 under covered bond programs by reason of de-
9 fault, see section 4475.”.

10 (2) TREATMENT OF CERTAIN TRANSFERS
11 UNDER COVERED BOND PROGRAMS.—Section 1001
12 of such Code is amended by adding at the end the
13 following new subsection:

14 “(f) CERTAIN TRANSFERS UNDER COVERED BOND
15 PROGRAMS.—

16 “(1) IN GENERAL.—With respect to any cov-
17 ered bond program, none of the following shall be
18 treated as a taxable exchange of a covered bond to
19 a covered bond holder or to a notional principal con-
20 tract counterparty:

21 “(A) The transfer of all of the assets and
22 liabilities of such program.

23 “(B) The creation of an estate with respect
24 to such program.

1 “(C) The transfer of the residual interest
2 in such estate.

3 “(2) DEFINITIONS.—For purposes of this sub-
4 section, the terms ‘covered bond program’, ‘estate’,
5 and ‘residual interest’ shall each have the same re-
6 spective meanings as when used for purposes of the
7 United States Covered Bond Act of 2013.”.

8 (3) EXCISE TAX ON ESTATES CREATED UNDER
9 COVERED BOND PROGRAMS BY REASON OF DE-
10 FAULT.—

11 (A) IN GENERAL.—Chapter 36 of such
12 Code is amended by inserting after subchapter
13 B the following new subchapter:

14 **“Subchapter C—Tax on Certain Estates**
15 **Created Under Covered Bond Programs**

 “Sec. 4475. Tax on estates created under covered bond programs by reason of
 default.

16 **“SEC. 4475. TAX ON ESTATES CREATED UNDER COVERED**
17 **BOND PROGRAMS BY REASON OF DEFAULT.**

18 “(a) IMPOSITION OF TAX.—A tax is hereby imposed
19 on the creation of an estate by operation of section
20 354(b)(1) of the United States Covered Bond Act of 2013.

21 “(b) AMOUNT OF TAX.—The tax imposed under sub-
22 section (a) with respect to the creation of any estate shall
23 be equal to 1 percent of the principal amount of the cov-
24 ered bonds secured by the cover pool with respect to such

1 estate determined as of the close of the day before the
2 creation of such estate.

3 “(c) BY WHOM PAID.—The tax imposed under sub-
4 section (a) shall be paid by the issuer of the covered bonds
5 with respect to the covered bond program with respect to
6 which the estate referred to in subsection (a) is created.

7 “(d) NO EFFECT ON COVER POOL.—The tax im-
8 posed under subsection (a) shall not reduce the assets of
9 the cover pool and no liability for such tax shall attach
10 to the estate or to the assets of the cover pool.

11 “(e) REFUND IN CASE OF BANKRUPTCY, ETC.—If an
12 issuer liable for the tax imposed under subsection (a) en-
13 ters conservatorship, receivership, liquidation, or bank-
14 ruptcy during the 5-year period beginning on the date of
15 the creation of the estate referred to in subsection (a),
16 such liability shall be extinguished and any such tax paid
17 shall refunded to the issuer immediately upon such event.

18 “(f) DEFINITIONS.—For purposes of this section, the
19 terms ‘covered bond program’, ‘cover pool’, and ‘estate’
20 shall each have the same respective meanings as when
21 used for purposes of the United States Covered Bond Act
22 of 2013.”.

23 (B) CLERICAL AMENDMENT.—The table of
24 subchapters for chapter 36 of such Code is

1 amended by inserting after the item relating to
2 subchapter B the following new item:

“SUBCHAPTER C—TAX ON CERTAIN ESTATES CREATED UNDER COVERED
BOND PROGRAMS”.

3 (4) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to estates created, and
5 transfers made, after the date of the enactment of
6 this Act.

7 (c) STATE AND LOCAL TAXES.—The Secretary may
8 promulgate regulations under this subtitle that are similar
9 to the provisions of section 346 of title 11, United States
10 Code, including regulations to provide that—

11 (1) if an estate created under section 354(b)(1)
12 or 354(c)(2) is not treated as an entity subject to
13 taxation separate from the owner of the residual in-
14 terest for purposes of the Internal Revenue Code of
15 1986 (26 U.S.C. 1 et seq.), no separate taxable enti-
16 ty shall be created with respect to the estate for pur-
17 poses of any State or local law imposing a tax on
18 or measured by income; and

19 (2) if a transfer or assumption of an asset or
20 liability to or by an estate or an eligible issuer under
21 section 354(b) or 354(c) does not cause or constitute
22 an event in which gain or loss is recognized under
23 section 1001 of the Internal Revenue Code of 1986
24 (26 U.S.C. 1001), the transfer or assumption shall

1 not cause or constitute a disposition for purposes of
2 any provision assigning tax consequences to a dis-
3 position in connection with any State or local law
4 imposing a tax on or measured by income.

5 (d) NO CONFLICT.—The provisions of this subtitle
6 shall apply, notwithstanding any provision of the Federal
7 Deposit Insurance Act (12 U.S.C. 1811 et seq.), title 11,
8 United States Code, title II of the Dodd-Frank Wall
9 Street Reform and Consumer Protection Act (12 U.S.C.
10 5381 et seq.), or any other provision of Federal law with
11 respect to conservatorship, receivership, liquidation, or
12 bankruptcy. No provision of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1811 et seq.), title 11, United States
14 Code, title II of the Dodd-Frank Wall Street Reform and
15 Consumer Protection Act (12 U.S.C. 5381 et seq.), or any
16 other provision of Federal law with respect to conservator-
17 ship, receivership, liquidation, or bankruptcy may be con-
18 strued or applied in a manner that defeats or interferes
19 with the purpose or operation of this subtitle.

20 (e) ANNUAL REPORT TO CONGRESS.—The covered
21 bond regulators shall, annually—

22 (1) submit a joint report to the Congress de-
23 scribing the current state of the covered bond mar-
24 ket in the United States; and

1 (2) testify on the current state of the covered
2 bond market in the United States before the Com-
3 mittee on Financial Services of the House of Rep-
4 resentatives and the Committee on Banking, Hous-
5 ing, and Urban Affairs of the Senate.

6 **TITLE IV—REMOVING BARRIERS**
7 **TO NEW INVESTMENT**

8 **SEC. 401. BASEL III IMPACT STUDY.**

9 (a) IN GENERAL.—The Board of Governors of the
10 Federal Reserve System, the Federal Deposit Insurance
11 Corporation, and the Office of the Comptroller of the Cur-
12 rency (in this section collectively referred to as the “Fed-
13 eral banking agencies”) shall conduct an empirical study
14 on the Regulatory Capital Rules finalized by the Board
15 of Governors of the Federal Reserve on July 2, 2013
16 (“Final Rule”) in accordance with subsection (b) and re-
17 lease a final report in accordance with subsection (d).

18 (b) ISSUES TO BE STUDIED.—The study required
19 under subsection (a) shall include—

20 (1) the potential impact of the Final Rule on
21 the financial services sector of the United States,
22 and specifically covered financial institutions, includ-
23 ing changes to required capital levels in the aggre-
24 gate, per asset class and institution size;

1 (2) the long-term potential impact of the Final
2 Rule, including changes to the current risk weight
3 framework;

4 (3) the potential cost and complexity of the
5 Final Rule for covered financial institutions;

6 (4) the potential indicators of covered financial
7 institutions having to maintain higher leverage cap-
8 ital ratios and higher total risk-based capital ratios
9 than non-covered financial institutions, and if such
10 capital levels are commensurate with higher histor-
11 ical losses or greater risk;

12 (5) whether the Final Rule will cause capital
13 levels at covered financial institutions to fluctuate
14 with more frequency or by greater amounts than the
15 current capital rules and what, if any, safety and
16 soundness issues such fluctuations raise for covered
17 financial institutions or the financial system includ-
18 ing whether such fluctuations will make the United
19 States financial system more or less safe than the
20 current rules;

21 (6) whether the Final Rule will result in the
22 discontinuation of the use of certain risk manage-
23 ment tools by covered financial institutions and
24 thereby undermine the safety and soundness of cov-
25 ered financial institutions and the financial system;

1 (7) the cumulative impact that the Final Rule
2 will have on—

3 (A) United States economic growth, in
4 general, and specifically, on the Gross Domestic
5 Product;

6 (B) the availability and cost of credit, both
7 generally and in low- and moderate-income
8 areas;

9 (C) the availability and cost of residential
10 mortgages and home equity lines of credit, auto
11 loans, student loans, and commercial loans, in-
12 cluding small business loans; and

13 (D) regulatory capital levels, capital qual-
14 ity, asset quality, and risk management at cov-
15 ered financial institutions.

16 (c) VOLUNTARY PARTICIPATION.—Any financial in-
17 stitution may voluntarily provide information for the study
18 upon the request of the Federal banking agencies, but may
19 not be required to provide such information.

20 (d) FINAL REPORT.—

21 (1) AVAILABILITY TO THE PUBLIC.—A final re-
22 port on the completed study required under sub-
23 section (a) shall be made available to the public for
24 notice and comment for a period of not less than 90
25 days.

1 (2) REPORT TO CONGRESS.—The Federal bank-
2 ing agencies shall issue a report to the Committee
3 on Banking, Housing, and Urban Affairs of the Sen-
4 ate and the Committee on Financial Services of the
5 House of Representatives, and testify before such
6 committees, on the results of the study required
7 under subsection (a) and a summary of the com-
8 ments received under paragraph (1).

9 (3) REVIEW.—The Federal banking agencies
10 shall review any comments submitted under para-
11 graphs (1) and (2) and considerations provided pur-
12 suant to paragraphs (1) and (2), and following such
13 review, shall prescribe new rules, if appropriate,
14 based on the results of the study and such com-
15 ments and considerations. Notwithstanding any
16 other provision of law, a new rulemaking following
17 such comment period shall include an additional
18 comment period of not less than 90 days.

19 (e) DELAY OF RULEMAKING.—The Final Rule may
20 not take effect for a covered financial institution until the
21 later of—

22 (1) 2 years after the date of the enactment of
23 this Act; and

24 (2) 1 year after the promulgation of revised
25 rules in accordance with subsection (d)(3) or a de-

1 termination by the Federal banking agencies that no
2 revised rules are needed in accordance with that sub-
3 section, which shall be published in the Federal Reg-
4 ister.

5 (f) DEFINITION OF COVERED FINANCIAL INSTITU-
6 TION.—For purposes of this section, the term “covered fi-
7 nancial institution” means any bank, thrift, bank holding
8 company, and savings and loan holding company (as such
9 terms are defined under section 3 of the Federal Deposit
10 Insurance Act) other than a bank, thrift, bank holding
11 company, or savings and loan holding company identified
12 by the Financial Stability Board as a “global systemically
13 important bank”, as of the date of the enactment of this
14 Act.

15 **SEC. 402. BASEL III LIQUIDITY COVERAGE RATIO AMEND-**
16 **MENTS.**

17 (a) IN GENERAL.—In implementing the Basel III Li-
18 quidity Coverage Ratio amendments, the Board of Gov-
19 ernors of the Federal Reserve System, the Federal Deposit
20 Insurance Corporation, and the Office of the Comptroller
21 of the Currency may not require, as a condition for status
22 as a high quality liquid asset, that residential mortgage-
23 backed securities be collateralized only by (or be
24 collateralized by a certain percentage of) full recourse
25 mortgage loans.

1 (b) DEFINITION.—The term “Basel III Liquidity
2 Coverage Ratio amendments” means the amendments to
3 the Liquidity Coverage Ratio endorsed by the Basel Com-
4 mittee on Banking Supervision on January 6, 2013.

5 **SEC. 403. DEFINITION OF POINTS AND FEES.**

6 (a) AMENDMENT TO SECTION 103 OF TILA.—Sec-
7 tion 103(bb)(4) of the Truth in Lending Act (15 U.S.C.
8 1602(bb)(4)) is amended—

9 (1) by striking “paragraph (1)(B)” and insert-
10 ing “paragraph (1)(A) and section 129C”;

11 (2) in subparagraph (A), by striking “except in-
12 terest or the time-price differential” and inserting
13 the following:

14 “except—

15 “(i) interest and the time-price dif-
16 ferential; and

17 “(ii) the amount of any loan level
18 price adjustment payment set by the Fed-
19 eral National Mortgage Association, the
20 Federal Home Loan Mortgage Corpora-
21 tion, the Federal Housing Administration,
22 or similar governmental entity or govern-
23 ment-sponsored enterprise”;

24 (3) by striking subparagraph (B) and inserting
25 the following new subparagraph:

1 “(B) all compensation paid directly by a
2 consumer to a mortgage originator, including a
3 mortgage originator that is also the creditor in
4 a table-funded transaction, but not including
5 compensation paid by a mortgage originator or
6 a creditor to an individual employed by the
7 mortgage originator or creditor”;

8 (4) in subparagraph (C)—

9 (A) by inserting “and insurance” after
10 “taxes”;

11 (B) in clause (ii), by inserting “, except as
12 retained by a creditor or its affiliate as a result
13 of their participation in an affiliated business
14 arrangement (as defined in section 2(7) of the
15 Real Estate Settlement Procedures Act of 1974
16 (12 U.S.C. 2602(7))” after “compensation”;
17 and

18 (C) by striking clause (iii) and inserting
19 the following:

20 “(iii) the charge is—

21 “(I) a bona fide third-party
22 charge not retained by the mortgage
23 originator, creditor, or an affiliate of
24 the creditor or mortgage originator; or

1 “(II) a charge set forth in section
2 106(e)(1);” and
3 (5) in subparagraph (D)—
4 (A) by striking “accident;” and
5 (B) by striking “or any payments” and in-
6 serting “and any payments”.

7 (b) AMENDMENT TO SECTION 129C OF TILA.—Sec-
8 tion 129C of the Truth in Lending Act (15 U.S.C. 1639c)
9 is amended—

10 (1) in subsection (a)(5)(C), by striking “103”
11 and all that follows through “or mortgage origi-
12 nator” and inserting “103(bb)(4)”; and

13 (2) in subsection (b)(2)(C)(i), by striking “103”
14 and all that follows through “or mortgage origi-
15 nator)” and inserting “103(bb)(4)”.

16 **SEC. 404. EXCLUSION OF ISSUERS OF ASSET-BACKED SECURITIES FROM COVERED FUNDS.**
17

18 Section 13(h)(2) of the Bank Holding Company Act
19 of 1956 (12 U.S.C. 1851(h)(2)) is amended—

20 (1) by striking “‘private equity fund’ mean an
21 issuer” and inserting the following: “‘private equity
22 fund’—

23 “(A) mean an issuer”;

24 (2) by striking the period and inserting “;
25 and”;

1 (3) by adding at the end the following:

2 “(B) does not include an issuer, if such
3 issuer is described under subparagraph (A)
4 solely because such issuer issues asset-backed
5 securities (as such term is defined under section
6 3(a) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78c(a))).”.

8 **SEC. 405. SUSPENSION OF REGULATION AB II RULE-**
9 **MAKING.**

10 Section 4 of the Securities Act of 1933 (15 U.S.C.
11 77d) is amended—

12 (1) by redesignating the two subsections fol-
13 lowing subsection (a) (each designated as subsection
14 (b)) as subsections (c) and (d), respectively; and

15 (2) by inserting after subsection (a) the fol-
16 lowing new subsection:

17 “(b) With respect to paragraphs (1) and (2) of sub-
18 section (a), or any rule or regulation promulgated there-
19 under or in furtherance thereof (including Rule 144, Rule
20 144A and Rule 506), the Commission shall not condition
21 the availability of the exemptions afforded by any such
22 paragraph, rule, or regulation upon an issuer’s under-
23 taking to provide to investors, in connection with initial
24 offers or sales or on an ongoing basis thereafter, the same

1 or substantially similar information as would be required
2 in a transaction to which section 5 applies.”.

3 **SEC. 406. EFFECTIVE DATE OF CERTAIN MORTGAGE RE-**
4 **FORM REGULATIONS.**

5 (a) IN GENERAL.—Section 1400(c) of the Dodd-
6 Frank Wall Street Reform and Consumer Protection Act
7 (15 U.S.C. 1601 note) is amended—

8 (1) in paragraph (1), by amending subpara-
9 graph (B) to read as follows:

10 “(B) take effect 24 months after the
11 issuance of the regulations in final form, or
12 such later time as specified by regulation.”; and

13 (2) by striking paragraph (3).

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall take effect on the date of the enact-
16 ment of the Dodd-Frank Wall Street Reform and Con-
17 sumer Protection Act, as if included in such Act.

18 **SEC. 407. REPEAL OF CREDIT RISK RETENTION REGULA-**
19 **TIONS.**

20 (a) IN GENERAL.—

21 (1) DODD-FRANK.—The Dodd-Frank Wall
22 Street Reform and Consumer Protection Act (12
23 U.S.C. 5301 et seq.) is amended—

24 (A) by striking section 941; and

1 (B) in the table of contents for such Act,
2 by striking the item relating to section 941.

3 (2) SECURITIES EXCHANGE ACT OF 1934.—The
4 Securities Exchange Act of 1934 (15 U.S.C. 78a et
5 seq.) is amended—

6 (A) in section 3(a), by striking paragraph
7 (77) (relating to asset-backed security), as
8 added by section 941(a) of the Dodd-Frank
9 Wall Street Reform and Consumer Protection
10 Act; and

11 (B) by striking section 15G.

12 (b) PROHIBITION ON RISK RETENTION AND PRE-
13 MIUM CAPTURE CASH RESERVE ACCOUNTS.—The Comp-
14 troller of the Currency, the Board of Governors of the
15 Federal Reserve System, the Federal Deposit Insurance
16 Corporation, the Bureau of Consumer Financial Protec-
17 tion, and the Securities and Exchange Commission may
18 not issue any rule or regulation to require risk retention,
19 the creation or maintenance of a premium capture cash
20 reserve account, or any similar mechanism, unless directly
21 authorized by an Act of Congress.

22 (c) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of the Dodd-Frank Wall Street Reform and Con-
25 sumer Protection Act, as if included in such Act.

1 **SEC. 408. MORTGAGES IN QUALIFIED SECURITIES.**

2 Section 129C of the Truth in Lending Act (15 U.S.C.
3 1639c), as amended by section 411(1), is further amended
4 by inserting after subsection (e) the following:

5 “(f) MORTGAGES IN QUALIFIED SECURITIES.—This
6 section and any regulations promulgated under this sec-
7 tion do not apply to a mortgage serving as collateral for
8 a qualified security, as such term is defined under section
9 321 of the Protecting American Taxpayers and Home-
10 owners Act of 2013.”.

11 **SEC. 409. MORTGAGE LOANS HELD IN PORTFOLIO.**

12 (a) HOME MORTGAGE DISCLOSURE ACT OF 1975.—
13 Section 304(g) of the Home Mortgage Disclosure Act of
14 1975 (12 U.S.C. 2803(g)) is amended—

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

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

19 (3) by adding at the end the following:

20 “(3) made by the creditor, so long as such loan
21 appears on the balance sheet of such creditor.”.

22 (b) TRUTH IN LENDING ACT.—The Truth in Lend-
23 ing Act (15 U.S.C. 1601 et seq.) is amended—

24 (1) in section 129C (15 U.S.C. 1639c), as
25 amended by section 408, by inserting after sub-
26 section (f) the following:

1 “(g) MORTGAGE LOANS HELD IN PORTFOLIO.—This
2 section and any regulations promulgated under this sec-
3 tion do not apply to a residential mortgage loan made by
4 the creditor so long as such loan appears on the balance
5 sheet of such creditor.”; and

6 (2) in section 129D (15 U.S.C. 1639d), by add-
7 ing at the end the following:

8 “(k) MORTGAGE LOANS HELD IN PORTFOLIO.—This
9 section and any regulations promulgated under this sec-
10 tion do not apply to a residential mortgage loan made by
11 the creditor so long as such loan appears on the balance
12 sheet of such creditor.”.

13 **SEC. 410. REPEAL OF CERTAIN MORTGAGE-RELATED PRO-**
14 **VISIONS.**

15 (a) REPEAL.—Sections 1413, 1431, and 1432 of the
16 Dodd-Frank Wall Street Reform and Consumer Protec-
17 tion Act are hereby repealed, and the provisions of law
18 amended or repealed by such sections are restored or re-
19 vived as if such sections had not been enacted.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 for the Dodd-Frank Wall Street Reform and Consumer
22 Protection Act is amended by striking the items relating
23 to sections 1413, 1431, and 1432.

1 **SEC. 411. AMENDMENTS TO THE TRUTH IN LENDING ACT.**

2 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
3 is amended—

4 (1) in section 129 (15 U.S.C. 1639)—

5 (A) in subsection (b)(3), by adding at the
6 end the following: “The Bureau may not, by
7 regulation or otherwise, prohibit a consumer
8 from modifying or waiving the rights provided
9 to the consumer under this subsection.”; and

10 (B) in subsection (u), by adding at the end
11 the following:

12 “(4) **ENSURING ACCESS TO COUNSELING SERV-**
13 **ICES FOR RURAL COMMUNITIES.**—Certification de-
14 scribed under paragraph (1) may be provided by a
15 person who operates an online or telephone-operated
16 counseling service approved by the Secretary of
17 Housing and Urban Development or by an online or
18 telephone-operated counseling service operated by
19 the Department of Housing and Urban Develop-
20 ment.

21 “(5) **EFFECTIVE DATE.**—Notwithstanding sec-
22 tion 1400(c) of the Mortgage Reform and Anti-Pred-
23 atory Lending Act, this subsection shall take effect
24 after the end of the 1-year period beginning on the
25 earlier of—

1 “(A) the date on which the first online or
2 telephone-operated counseling service is ap-
3 proved under paragraph (4); and

4 “(B) the date on which the Department of
5 Housing and Urban Development begins pro-
6 viding online or telephone-operated counseling
7 services described under paragraph (4).”;

8 (2) in section 129C (15 U.S.C. 1639c)—

9 (A) in subsection (b)(2)(A)(viii), by strik-
10 ing “30” and inserting “40”;

11 (B) by striking subsections (c), (d), and
12 (e); and

13 (C) by redesignating subsections (f), (g),
14 (h), and (i) as subsections (c), (d), (e), and (f),
15 respectively; and

16 (3) in section 129E(k)(1) (15 U.S.C.
17 1639e(k)(1)) by inserting after “this section” the
18 following: “, other than subsection (e),”.

19 **SEC. 412. FINANCIAL INSTITUTIONS EXAMINATION FAIR-**
20 **NESS AND REFORM.**

21 (a) **TIMELINESS OF EXAMINATION REPORTS.**—The
22 Federal Financial Institutions Examination Council Act of
23 1978 (12 U.S.C. 3301 et seq.) is amended by adding at
24 the end the following:

1 **“SEC. 1012. TIMELINESS OF EXAMINATION REPORTS.**

2 “(a) IN GENERAL.—

3 “(1) FINAL EXAMINATION REPORT.—A Federal
4 financial institutions regulatory agency shall provide
5 a final examination report to a financial institution
6 not later than 60 days after the later of—

7 “(A) the exit interview for an examination
8 of the institution; or

9 “(B) the provision of additional informa-
10 tion by the institution relating to the examina-
11 tion.

12 “(2) EXIT INTERVIEW.—If a financial institu-
13 tion is not subject to a resident examiner program,
14 the exit interview shall occur not later than the end
15 of the 9-month period beginning on the commence-
16 ment of the examination, except that such period
17 may be extended by the Federal financial institu-
18 tions regulatory agency by providing written notice
19 to the institution and the Office of Examination
20 Ombudsman describing with particularity the rea-
21 sons that a longer period is needed to complete the
22 examination.

23 “(b) EXAMINATION MATERIALS.—Upon the request
24 of a financial institution, the Federal financial institutions
25 regulatory agency shall include with the final report an
26 appendix listing all examination or other factual informa-

1 tion relied upon by the agency in support of a material
2 supervisory determination.”.

3 (b) EXAMINATION STANDARDS.—

4 (1) IN GENERAL.—The Federal Financial Insti-
5 tutions Examination Council Act of 1978 is further
6 amended by adding after section 1012 the following:

7 **“SEC. 1013. EXAMINATION STANDARDS.**

8 “(a) IN GENERAL.—In the examination of financial
9 institutions—

10 “(1) a commercial loan shall not be placed in
11 non-accrual status solely because the collateral for
12 such loan has deteriorated in value;

13 “(2) a modified or restructured commercial loan
14 shall be removed from non-accrual status if the bor-
15 rower demonstrates the ability to perform on such
16 loan over a maximum period of 6 months, except
17 that with respect to loans on a quarterly, semi-
18 annual, or longer repayment schedule such period
19 shall be a maximum of 3 consecutive repayment pe-
20 riods;

21 “(3) a new appraisal on a performing commer-
22 cial loan shall not be required unless an advance of
23 new funds is involved;

24 “(4) in classifying a commercial loan in which
25 there has been deterioration in collateral value, the

1 amount to be classified shall be the portion of the
2 deficiency relating to the decline in collateral value
3 and repayment capacity of the borrower.

4 “(b) WELL CAPITALIZED INSTITUTIONS.—The Fed-
5 eral financial institutions regulatory agencies may not re-
6 quire a financial institution that is well capitalized to raise
7 additional capital in lieu of an action prohibited under
8 subsection (a).

9 “(c) CONSISTENT LOAN CLASSIFICATIONS.—The
10 Federal financial institutions regulatory agencies shall de-
11 velop and apply identical definitions and reporting require-
12 ments for non-accrual loans.”.

13 (2) DEFINITION OF MATERIAL SUPERVISORY
14 DETERMINATION.—Section 309(f)(1)(A) of the Rie-
15 gle Community Development and Regulatory Im-
16 provement Act of 1994 (12 U.S.C. 4806(f)(1)(A)) is
17 amended—

18 (A) in clause (ii), by striking “and” at the
19 end; and

20 (B) by inserting after clause (iii) the fol-
21 lowing:

22 “(iv) any issue specifically listed in an
23 exam report as a matter requiring atten-
24 tion by the institution’s management or
25 board of directors; and”.

1 (c) EXAMINATION OMBUDSMAN.—

2 (1) IN GENERAL.—The Federal Financial Insti-
3 tutions Examination Council Act of 1978 is further
4 amended by adding after section 1013 the following:

5 **“SEC. 1014. OFFICE OF EXAMINATION OMBUDSMAN.**

6 “(a) ESTABLISHMENT.—There is established in the
7 Council an Office of Examination Ombudsman.

8 “(b) HEAD OF OFFICE.—There is established the po-
9 sition of the Ombudsman, who shall serve as the head of
10 the Office of Examination Ombudsman, and who shall be
11 hired separately by the Council and shall be independent
12 from any member agency of the Council.

13 “(c) STAFFING.—The Ombudsman is authorized to
14 hire staff to support the activities of the Office of Exam-
15 ination Ombudsman.

16 “(d) DUTIES.—The Ombudsman shall—

17 “(1) receive and, at the Ombudsman’s discre-
18 tion, investigate complaints from financial institu-
19 tions, their representatives, or another entity acting
20 on behalf of such institutions, concerning examina-
21 tions, examination practices, or examination reports;

22 “(2) hold meetings, at least once every three
23 months and in locations designed to encourage par-
24 ticipation from all sections of the United States,
25 with financial institutions, their representatives, or

1 another entity acting on behalf of such institutions,
2 to discuss examination procedures, examination
3 practices, or examination policies;

4 “(3) review examination procedures of the Fed-
5 eral financial institutions regulatory agencies to en-
6 sure that the written examination policies of those
7 agencies are being followed in practice and adhere to
8 the standards for consistency established by the
9 Council;

10 “(4) conduct a continuing and regular program
11 of examination quality assurance for all examination
12 types conducted by the Federal financial institutions
13 regulatory agencies;

14 “(5) process any supervisory appeal initiated
15 under section 1015 or section 309(e) of the Riegle
16 Community Development and Regulatory Improve-
17 ment Act of 1994; and

18 “(6) report annually to the Committee on Fi-
19 nancial Services of the House of Representatives, the
20 Committee on Banking, Housing, and Urban Affairs
21 of the Senate, and the Council, on the reviews car-
22 ried out pursuant to paragraphs (3) and (4), includ-
23 ing compliance with the requirements set forth in
24 section 1012 regarding timeliness of examination re-
25 ports, and the Council’s recommendations for im-

1 provements in examination procedures, practices,
2 and policies.

3 “(e) CONFIDENTIALITY.—The Ombudsman shall
4 keep confidential all meetings, discussions, and informa-
5 tion provided by financial institutions.”.

6 (2) DEFINITION.—Section 1003 of the Federal
7 Financial Institutions Examination Council Act of
8 1978 is amended—

9 (A) in paragraph (2), by striking “and” at
10 the end;

11 (B) in paragraph (3), by adding “and” at
12 the end; and

13 (C) by adding at the end the following:

14 “(4) the term ‘Ombudsman’ means the Om-
15 budsman established under section 1014(a).”.

16 (d) RIGHT TO APPEAL BEFORE AN INDEPENDENT
17 ADMINISTRATIVE LAW JUDGE.—The Federal Financial
18 Institutions Examination Council Act of 1978 is further
19 amended by adding after section 1014 the following:

20 **“SEC. 1015. RIGHT TO APPEAL BEFORE AN INDEPENDENT**
21 **ADMINISTRATIVE LAW JUDGE.**

22 “(a) IN GENERAL.—A financial institution shall have
23 the right to appeal a material supervisory determination
24 contained in a final report of examination.

25 “(b) NOTICE.—

1 “(1) TIMING.—A financial institution seeking
2 an appeal under this section shall file a written no-
3 tice with the Ombudsman within 60 days after re-
4 ceiving the final report or examination that is the
5 subject of such appeal.

6 “(2) IDENTIFICATION OF DETERMINATION.—
7 The written notice shall identify the material super-
8 visory determination that is the subject of the ap-
9 peal, and a statement of the reasons why the institu-
10 tion believes that the determination is incorrect or
11 should otherwise be modified.

12 “(3) INFORMATION TO BE PROVIDED TO INSTI-
13 TUTION.—Any information relied upon by the agen-
14 cy in the final report that is not in the possession
15 of the financial institution may be requested by the
16 financial institution and shall be delivered promptly
17 by the agency to the financial institution.

18 “(c) HEARING BEFORE INDEPENDENT ADMINISTRA-
19 TIVE LAW JUDGE.—

20 “(1) IN GENERAL.—The Ombudsman shall de-
21 termine the merits of the appeal on the record, after
22 an opportunity for a hearing before an independent
23 administrative law judge.

1 “(2) HEARING PROCEDURES.—If a hearing is
2 requested by the financial institution, the hearing
3 shall—

4 “(A) take place not later than 60 days
5 after the notice of the appeal was received by
6 the Ombudsman; and

7 “(B) be conducted pursuant to the proce-
8 dures set forth under sections 556 and 557 of
9 title 5, United States Code.

10 “(3) JUDGE RECOMMENDATION; STANDARD OF
11 REVIEW.—In any hearing under this subsection—

12 “(A) the administrative law judge shall
13 recommend to the Ombudsman what determina-
14 tion should be made; and

15 “(B) in making such recommendation, the
16 administrative law judge shall not defer to the
17 opinions of the examiner or agency, but shall
18 independently determine the appropriateness of
19 the agency’s decision based upon the relevant
20 statutes, regulations, and other appropriate
21 guidance.

22 “(d) FINAL DECISION.—A decision by the Ombuds-
23 man on an appeal under this section shall—

24 “(1) be made not later than 60 days after the
25 record has been closed; and

1 “(2) be final agency action and shall bind the
2 agency whose supervisory determination was the
3 subject of the appeal and the financial institution
4 making the appeal.

5 “(e) REPORT.—The Ombudsman shall report annu-
6 ally to the Committee on Financial Services of the House
7 of Representatives, the Committee on Banking, Housing,
8 and Urban Affairs of the Senate on actions taken on ap-
9 peals under this section, including the types of issues that
10 financial institutions have appealed and the results of
11 those appeals. In no case shall such a report contain infor-
12 mation about individual financial institutions or any con-
13 fidential or privileged information shared by financial in-
14 stitutions.

15 “(f) RETALIATION PROHIBITED.—A Federal finan-
16 cial institution’s regulatory agency may not—

17 “(1) retaliate against a financial institution, in-
18 cluding service providers, or any institution-affiliated
19 party, for exercising appellate rights under this sec-
20 tion; or

21 “(2) delay or deny any agency action that
22 would benefit a financial institution or any institu-
23 tion-affiliated party on the basis that an appeal
24 under this section is pending under this section.”.

25 (e) ADDITIONAL AMENDMENTS.—

1 (1) RIEGLE COMMUNITY DEVELOPMENT AND
2 REGULATORY IMPROVEMENT ACT OF 1994.—Section
3 309 of the Riegle Community Development and Reg-
4 ulatory Improvement Act of 1994 (12 U.S.C. 4806),
5 is amended—

6 (A) in subsection (a), by inserting after
7 “appropriate Federal banking agency” the fol-
8 lowing: “, the Bureau of Consumer Financial
9 Protection,”;

10 (B) in subsection (b)—

11 (i) in paragraph (2), by striking “the
12 appellant from retaliation by agency exam-
13 iners” and inserting “the insured deposi-
14 tory institution or insured credit union
15 from retaliation by the agencies referred to
16 in subsection (a)”;

17 (ii) by adding at the end the following
18 flush-left text:

19 “For purposes of this subsection and subsection (e), retal-
20 iation includes delaying consideration of, or withholding
21 approval of, any request, notice, or application that other-
22 wise would have been approved, but for the exercise of the
23 institution’s or credit union’s rights under this section.”;
24 and

25 (C) in subsection (e)(2)—

1 (i) in subparagraph (B), by striking
2 “and” at the end;

3 (ii) in subparagraph (C), by striking
4 the period and inserting “; and”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(D) ensure that appropriate safeguards
8 exist for protecting the insured depository insti-
9 tution or insured credit union from retaliation
10 by any agency referred to in subsection (a) for
11 exercising its rights under this subsection.”.

12 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
13 tion 18(x) of the Federal Deposit Insurance Act (12
14 U.S.C. 1828(x)) is amended by inserting “the Bu-
15 reau of Consumer Financial Protection,” before
16 “any Federal banking agency” each place such term
17 appears.

18 (3) FEDERAL CREDIT UNION ACT.—Section
19 205(j) of the Federal Credit Union Act (12 U.S.C.
20 1785(j)) is amended by inserting “the Bureau of
21 Consumer Financial Protection,” before “the Ad-
22 ministration” each place such term appears.

23 (4) TECHNICAL CORRECTIONS.—The Federal
24 Financial Institutions Examination Council Act of
25 1978 (12 U.S.C. 3301 et seq.) is amended—

1 (A) in section 1003(1), by striking “the
2 Office of Thrift Supervision,”; and

3 (B) in section 1005, by striking “One-
4 fifth” and inserting “One-fourth”.

5 **SEC. 413. NOTICE OF JUNIOR MORTGAGE OR LIEN.**

6 With respect to the dwelling of a borrower that serves
7 as security for a securitized senior mortgage loan, if the
8 borrower enters into any credit transaction that would re-
9 sult in the creation of a new mortgage or other lien on
10 such dwelling, the creditor of such new mortgage or other
11 lien shall notify the servicer of the senior mortgage loan
12 of the existence of the new mortgage or other lien.

13 **SEC. 414. LIMITATION ON MORTGAGES HELD BY LOAN**
14 **SERVICERS.**

15 (a) LIMITATION.—Neither the servicer of a residen-
16 tial mortgage loan, nor any affiliate of such servicer, may
17 own, or hold any interest in, any other residential mort-
18 gage loan that is secured by a mortgage, deed of trust,
19 or other equivalent consensual security interest on the
20 same dwelling or residential real property that is subject
21 to the mortgage, deed of trust, or other security interest
22 that secures the residential mortgage loan serviced by the
23 servicer.

24 (b) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

1 (1) AFFILIATE.—The term “affiliate” has the
2 meaning given such term under section 104(g) of
3 the Gramm-Leach-Bliley Act (15 U.S.C. 6701(g)).

4 (2) RESIDENTIAL MORTGAGE LOAN.—The term
5 “residential mortgage loan” means any consumer
6 credit transaction that is secured by a mortgage,
7 deed of trust, or other equivalent consensual security
8 interest on a dwelling or on residential real property
9 that includes a dwelling, other than a consumer
10 credit transaction under an open end credit plan or
11 an extension of credit relating to a plan described in
12 section 101(53D) of title 11, United States Code.

13 (3) SERVICER.—The term “servicer” has the
14 meaning provided such term in section 129A of the
15 Truth in Lending Act, except that such term in-
16 cludes a person who makes or holds a residential
17 mortgage loan (including a pool of residential mort-
18 gage loans) if such person also services the loan.

19 (c) INTERESTS.—For purposes of subsection (a),
20 ownership of, or holding an interest in, a residential mort-
21 gage loan includes ownership of, or holding an interest
22 in—

23 (1) a pool of residential mortgage loans that
24 contains such residential mortgage loan; or

1 (2) any security based on or backed by a pool
2 of residential mortgage loans that contains such res-
3 idential mortgage loan.

4 (d) EFFECTIVE DATE.—This section shall apply—

5 (1) with respect to the servicer (or affiliate of
6 the servicer) of a residential mortgage loan that is
7 originated after the date of the enactment of this
8 Act, on such date of enactment; and

9 (2) with respect to the servicer (or affiliate of
10 the servicer) of a residential mortgage loan that is
11 originated on or before the date of the enactment of
12 this Act, upon the expiration of the 12-month period
13 beginning upon such date of enactment.

14 **TITLE V—MISCELLANEOUS**
15 **PROVISIONS**

16 **SEC. 501. PRESERVING ACCESS TO MANUFACTURED HOUS-**
17 **ING.**

18 (a) AMENDMENT TO MORTGAGE ORIGINATOR DEFINI-
19 TION.—Section 1401 of the Dodd-Frank Wall Street
20 Reform and Consumer Protection Act is amended, in
21 paragraph (2)(C)(ii) of the matter proposed to be added
22 to section 103 of the Truth in Lending Act, by striking
23 “an employee of a retailer of manufactured homes who
24 is not described in clause (i) or (iii) of subparagraph (A)
25 and who does not advise a consumer on loan terms (in-

1 cluding rates, fees, and other costs)” and inserting “a re-
2 tailer of manufactured or modular homes or its employees
3 unless such retailer or its employees receive compensation
4 or gain for engaging in activities described in subpara-
5 graph (A) that is in excess of any compensation or gain
6 received in a comparable cash transaction”.

7 (b) TECHNICAL AMENDMENTS.—Section 1401 of the
8 Dodd-Frank Wall Street Reform and Consumer Protec-
9 tion Act is amended, in the matter proposed to be added
10 to section 103 of the Truth in Lending Act, by redesign-
11 ating subsection (cc) as subsection (dd).

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as if included in the provisions
14 of the Dodd-Frank Wall Street Reform and Consumer
15 Protection Act to which they relate.

16 **SEC. 502. COMMON SENSE ECONOMIC RECOVERY.**

17 (a) SHORT TITLE.—This section may be cited as the
18 “Common Sense Economic Recovery Act of 2013”.

19 (b) TREATMENT OF CERTAIN LOANS.—

20 (1) IN GENERAL.—For purposes of determining
21 capital requirements or measuring capital of an in-
22 sured depository institution under section 38 of the
23 Federal Deposit Insurance Act (12 U.S.C. 1831o) or
24 any other provision of law or regulatory guidance, an
25 insured depository institution that would otherwise

1 be required to treat a loan as a non-accrual loan
2 may treat such loan as an accrual loan, if—

3 (A) the loan is current;

4 (B) during the previous 6-month period, no
5 monthly payment on the loan has been more
6 than 30 days delinquent; and

7 (C) the payments on the loan are being
8 made pursuant to the contractual terms of the
9 loan agreement and any refinances and modi-
10 fications that are agreed to by all of the parties.

11 (2) DEMONSTRATION OF ABILITY TO PERFORM
12 ON A LOAN.—Notwithstanding paragraph (1), a
13 modified or restructured loan may not be treated as
14 a non-accrual loan if the borrower demonstrates the
15 ability to perform on such a loan—

16 (A) over a period of 6 months; or

17 (B) with respect to a loan on a quarterly,
18 semi-annual, or longer repayment schedule, over
19 a period of 3 consecutive payments.

20 (3) NO ADDITIONAL ADVERSE TREATMENT.—
21 With respect to a loan held by an insured depository
22 institution and treated as an accrual loan by reason
23 of paragraph (1), an appropriate Federal banking
24 agency may not impose any additional accounting
25 requirements on such institution with respect to

1 such loan compared to the requirements that would
2 otherwise have been placed on such institution with
3 respect to such loan if such loan were not being
4 treated as an accrual loan by reason of paragraph
5 (1), if the result of such additional requirement
6 would adversely impact the measurement of capital
7 of the institution.

8 (4) PROHIBITION ON THE RE-CLASSIFICATION
9 OF LOANS BASED SOLELY ON COLLATERAL
10 VALUE.—An appropriate Federal banking agency
11 may not require an insured depository institution to
12 treat a loan as a non-accrual loan solely on the basis
13 that the collateral of such loan has reduced in value.

14 (5) PROVISIONS NOT APPLICABLE TO PUBLICLY
15 TRADED INSTITUTIONS.—This subsection shall not
16 apply with respect to any issuer of a security reg-
17 istered pursuant to section 12 of the Securities Ex-
18 change Act of 1934 (15 U.S.C. 78l).

19 (c) STUDY.—

20 (1) IN GENERAL.—The Financial Stability
21 Oversight Council shall conduct a study of how best
22 to prevent contradictory guidance from being issued
23 by appropriate Federal banking agencies to insured
24 depository institutions with respect to loan classifica-
25 tions and capital requirements.

1 (2) REPORT.—Not later than the end of the 60-
2 day period beginning on the date of the enactment
3 of this Act, the Financial Stability Oversight Council
4 shall issue a report to the Congress containing—

5 (A) all determinations and conclusions
6 made by the Council in carrying out the study
7 required under paragraph (1); and

8 (B) legislative recommendations that the
9 Council believe will prevent contradictory guid-
10 ance from being issued by appropriate Federal
11 banking agencies to insured depository institu-
12 tions with respect to loan classifications and
13 capital requirements.

14 (d) DEFINITIONS.—For purposes of this section:

15 (1) APPROPRIATE FEDERAL BANKING AGEN-
16 CY.—The term “appropriate Federal banking agen-
17 cy”—

18 (A) has the meaning given such term
19 under section 3 of the Federal Deposit Insur-
20 ance Act (12 U.S.C. 1813); and

21 (B) means the National Credit Union Ad-
22 ministration Board, in the case of a credit
23 union.

24 (2) INSURED DEPOSITORY INSTITUTION.—The
25 term “insured depository institution” means—

1 (A) an insured depository institution, as
2 defined under section 3 of the Federal Deposit
3 Insurance Act (12 U.S.C. 1813); and

4 (B) a credit union.

5 (e) SUNSET.—Effective after the end of the 2-year
6 period beginning on the date of the enactment of this Act,
7 this section shall cease to have any force or effect.

8 **SEC. 503. TECHNICAL AMENDMENTS TO FEDERAL HOME**
9 **LOAN BANK ACT.**

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

12 (1) in subsection (a)—

13 (A) by redesignating paragraph (6) as
14 paragraph (7); and

15 (B) by inserting after paragraph (5) the
16 following:

17 “(6) REPORT ON COLLATERAL.—The Director
18 shall annually report to the Committee on Banking,
19 Housing, and Urban Affairs of the Senate and the
20 Committee on Financial Services of the House of
21 Representatives on the collateral pledged to the
22 Banks, including an analysis of collateral by type
23 and by Bank district.”;

24 (2) by striking subsection (g); and

1 (3) in subsection (j)(12), by striking subpara-
2 graphs (C) and (D).

3 (b) INITIAL REPORT.—The Director of the Federal
4 Housing Finance Agency shall make the first report re-
5 quired under section 10(a)(7) of the Federal Home Loan
6 Bank Act, as added by subsection (a), not later than the
7 end of the 180-day period beginning on the date of the
8 enactment of this Act.

9 **SEC. 504. PRESERVATION OF ATTORNEY-CLIENT PRIVI-**
10 **LEGE FOR INFORMATION PROVIDED TO**
11 **FHFA.**

12 Section 1317 of the Federal Housing Enterprises Fi-
13 nancial Safety and Soundness Act of 1992 (12
14 U.S.C.4517) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO
17 AGENCY.—

18 “(1) IN GENERAL.—The submission by any per-
19 son of any information to the Agency for any pur-
20 pose in the course of any supervisory or regulatory
21 process of the Agency shall not be construed as
22 waiving, destroying, or otherwise affecting any privi-
23 lege such person may claim with respect to such in-
24 formation under Federal or State law as to any per-
25 son or entity other than such Agency.

1 “(2) RULE OF CONSTRUCTION.—No provision
2 of paragraph (1) may be construed as implying or
3 establishing that—

4 “(A) any person waives any privilege appli-
5 cable to information that is submitted or trans-
6 ferred under any circumstance to which para-
7 graph (1) does not apply; or

8 “(B) any person would waive any privilege
9 applicable to any information by submitting the
10 information to the Agency, but for this sub-
11 section.”.

12 **SEC. 505. FHFA LIAISON MEMBERSHIP IN FEDERAL FINAN-**
13 **CIAL INSTITUTIONS EXAMINATION COUNCIL.**

14 Section 1007 of the Federal Financial Institutions
15 Examination Council Act of 1978 (12 U.S.C. 3306) is
16 amended—

17 (1) in the section heading, by inserting after
18 “STATE” the following: “AND FEDERAL HOUSING
19 FINANCE AGENCY”;

20 (2) in the first sentence, by inserting after “fi-
21 nancial institutions” the following: “, and one rep-
22 resentative of the Federal Housing Finance Agen-
23 cy,”; and

24 (3) in the last sentence, by inserting “State”
25 after “among the”.

1 **SEC. 506. RECOGNITION OF FHFA ENFORCEMENT AUTHOR-**
2 **ITY WITH REGARD TO REGULATED ENTITIES.**

3 Section 1125(c) of the Financial Institution Reform,
4 Recovery and Enforcement Act of 1989 (12 U.S.C.
5 3354(c); as added by section 1473(q) of the Dodd Frank
6 Wall Street Reform and Consumer Protection Act) is
7 amended—

8 (1) in paragraph (1), by striking “and” at the
9 end;

10 (2) by redesignating paragraph (2) as para-
11 graph (3); and

12 (3) by inserting after paragraph (1) the fol-
13 lowing new paragraph:

14 “(2) with respect to any regulated entity (as
15 such term is defined in section 1303 of the Federal
16 Housing Enterprises Financial Safety and Sound-
17 ness Act of 1992 (12 U.S.C. 4502)), the Federal
18 Housing Finance Agency; and”.

19 **SEC. 507. EXCEPTION FROM RIGHT TO FINANCIAL PRIVACY**
20 **ACT FOR FHFA AS CONSERVATOR OR RE-**
21 **CEIVER.**

22 Section 1113(o) of the Right to Financial Privacy Act
23 of 1978 (12 U.S.C. 3413(o)) is amended—

24 (1) by striking “(o)” and inserting “(o)(1)”;
25 and

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

3 “(2) This title shall not apply to the examination by
4 or disclosure to the Federal Housing Finance Agency or
5 its employees or agents of financial records or information
6 in the exercise of its supervisory or regulatory functions,
7 including conservatorship and receivership functions, with
8 respect to any regulated entity or other person partici-
9 pating in the conduct of the affairs thereof.”.

10 **SEC. 508. TECHNICAL AMENDMENT TO FEDERAL HOUSING**
11 **ENTERPRISES FINANCIAL SAFETY AND**
12 **SOUNDNESS ACT OF 1992.**

13 Section 1368(d) of the Federal Housing Enterprises
14 Financial Safety and Soundness Act of 1992 (12 U.S.C.
15 4618(d)) is amended by striking “Committee on Banking,
16 Finance and Urban Affairs” and inserting “Committee on
17 Financial Services”.

18 **SEC. 509. APPLICATION OF PRESUMPTION TO ENTERPRISE**
19 **STREAMLINED REFINANCINGS.**

20 Section 129C(b)(3)(B)(ii) of the Truth in Lending
21 Act (15 U.S.C. 1639c(b)(3)(B)(ii); as added by section
22 1412 of the Dodd Frank Wall Street Reform and Con-
23 sumer Protection Act) is amended—

1 (1) by inserting after “administer,” the fol-
2 lowing: “or that are owned or guaranteed by an enti-
3 ty regulated or supervised by such agency,”; and

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

6 “(V) The Federal Housing Fi-
7 nance Agency, with regard to mort-
8 gages owned or guaranteed by an en-
9 tity regulated or supervised by such
10 agency.”.

11 **SEC. 510. FHFA AUTHORITY TO REGULATE AND EXAMINE**
12 **CONTRACTUAL COUNTERPARTIES.**

13 Section 1317 of the Federal Housing Enterprises Fi-
14 nancial Safety and Soundness Act of 1992, as amended
15 by the preceding provisions of this Act, is further amended
16 (12 U.S.C. 4517) by adding at the end the following new
17 subsection:

18 “(k) **REGULATION AND EXAMINATION OF CONTRAC-**
19 **TUAL COUNTERPARTIES.—**

20 “(1) **AUTHORITY.—**When a regulated entity or
21 the Office of Finance causes to be performed for
22 itself, by contract or otherwise and whether on or off
23 its premises, any services authorized to that regu-
24 lated entity or the Office of Finance by its author-

1 izing statute or the Federal Housing Enterprises Fi-
2 nancial Safety and Soundness Act of 1992—

3 “(A) such performance shall be subject to
4 regulation and examination by the Federal
5 Housing Finance Agency to the same extent as
6 if such services were being performed by the
7 regulated entity or the Office of Finance itself
8 on its own premises, and

9 “(B) the regulated entity or the Office of
10 Finance shall notify the Director of the exist-
11 ence of the service relationship within thirty
12 days after the making of such service contract
13 or the performance of the service, whichever oc-
14 curs first.

15 “(2) REGULATIONS AND ORDERS.—The Direc-
16 tor may issue such regulations and orders as may be
17 necessary to enable the Agency to administer and to
18 carry out the purposes of this subsection and to pre-
19 vent evasions thereof.”.

20 **SEC. 511. ELECTION OF DIRECTORS OF A MERGED FED-**
21 **ERAL HOME LOAN BANK.**

22 Section 7 of the Federal Home Loan Bank Act (12
23 U.S.C. 1427) is amended—

24 (1) in subsection (a)(1), by inserting “and sub-
25 section (d)” after “paragraphs (2) through (4)”;

1 (2) in subsection (b)—

2 (A) in the matter preceding paragraph

3 (2)—

4 (i) by striking “Each” and inserting

5 “(1)(A) Except as provided in subsection

6 (d), each”;

7 (ii) by inserting “(B)” before “No

8 person”;

9 (iii) by inserting “(C)” before “As

10 used”; and

11 (iv) in the third sentence—

12 (I) by striking “this subsection”

13 and inserting “subparagraph (A)”;

14 and

15 (II) by striking “home loan

16 bank” and inserting “Home Loan

17 Bank”; and

18 (B) in paragraph (2)(A)(ii), by inserting

19 “or subsection (d)(4), if applicable,” after

20 “paragraph (1)”;

21 (3) by striking subsections (c), (d), and (h);

22 (4) by redesignating subsections (d), (e), (f),

23 and (g) as subsections (e), (f), (g), and (h), respec-

24 tively; and

1 (5) by inserting after subsection (b) the fol-
2 lowing:

3 “(c) ALLOCATION OF MEMBER DIRECTORSHIPS
4 AMONG STATES IN BANK DISTRICT.—

5 “(1) DESIGNATION OF MEMBER LOCATION.—

6 The Director shall designate the State in which each
7 member of each Federal Home Loan Bank shall be
8 deemed to be located for the purposes of this sub-
9 section and subsections (b) and (d), and may from
10 time to time change any such designation. If the
11 principal place of business of any Bank member is
12 located in a State within the district of the Bank of
13 which it is a member, the Director shall designate
14 that State as the State in which the member shall
15 be deemed to be located for those purposes.

16 “(2) STOCK-BASED ALLOCATION OF DES-
17 IGNATED MEMBER DIRECTORSHIPS.—The number of
18 member directorships designated as representing the
19 members located in each separate State in a Federal
20 Home Loan Bank district shall be determined by the
21 Director in the approximate ratio of the percentage
22 of the required stock, as prescribed by regulation of
23 the Director, of the members located in that State
24 at the end of the calendar year next preceding the
25 date of the election to the total required stock, as so

1 determined, of all members of the Bank as of that
2 same date.

3 “(3) LIMITATIONS ON STOCK-BASED ALLOCA-
4 TIONS.—Except as provided in subsection (d), the
5 following provisions shall apply to the allocation of
6 member directorships among the States of a Bank
7 district, notwithstanding the requirements of para-
8 graph (2):

9 “(A) In the case of each State, the number
10 of member directorships designated as rep-
11 resenting the members located in that State
12 shall not be less than one and shall not be more
13 than six.

14 “(B) If at any time the number of member
15 directorships designated as representing the
16 members located in any State would not be at
17 least equal to the total number of member di-
18 rectorships which, on December 31, 1960, were
19 filled by officers or directors of members whose
20 principal places of business were located in that
21 State, the Director shall add to the board of di-
22 rectors of the Bank of the district in which that
23 State is located such number of member direc-
24 torships, and shall so designate the directorship
25 or directorships thus added, that the number of

1 member directorships designated as rep-
2 resenting the members located in that State will
3 equal said total number. Any member director-
4 ship so added shall exist only until the expira-
5 tion of its first term.

6 “(d) BOARD SIZE, COMPOSITION, AND ELECTIONS
7 FOR COMBINED BANKS.—Notwithstanding any other pro-
8 vision of this section, the following requirements shall
9 apply to the size and composition of, and the election of
10 directors to, the board of any Bank created as result of
11 the combination of two or more Banks under section 26:

12 “(1) BOARD SIZE.—The management of a com-
13 bined Bank shall be vested in a board of 15 direc-
14 tors, or such lesser number as the Director deter-
15 mines appropriate, consistent with the safe and
16 sound operation of the combined Bank.

17 “(2) BOARD MAKEUP.—The Director shall es-
18 tablish the respective number of member director-
19 ships and independent directorships for the board of
20 the combined Bank such that—

21 “(A) member directors shall comprise at
22 least the majority of the members of the board
23 of directors; and

1 “(B) independent directors shall comprise
2 not fewer than $\frac{2}{5}$ of the members of the board
3 of directors.

4 “(3) ALLOCATION OF MEMBER DIRECTOR-
5 SHIPS.—The Director shall allocate the member di-
6 rectorships of the board of a combined Bank among
7 the States of the Bank district in accordance with
8 the requirements of subsection (c)(2), except that—

9 “(A) no State shall be allocated more than
10 two member directorships until every state has
11 been allocated at least one member directorship;
12 and

13 “(B) if, after the Director has allocated all
14 but one of the member directorships, there re-
15 main any States to which no member director-
16 ship has yet been allocated, then the Director
17 shall allocate the remaining member director-
18 ship to represent the members located in all of
19 the States that have not otherwise been allo-
20 cated a member directorship.

21 “(4) ELECTION OF DIRECTORS.—The directors
22 of a combined Bank shall be nominated and elected
23 as provided in subsection (b), except that, in the
24 case of a member directorship that has been des-
25 ignated as representing the members of two or more

1 States pursuant to paragraph (3)(B), the following
2 requirements shall apply in lieu of those set forth in
3 subsection (b)(1)(A):

4 “(A) The directorship shall be filled by a
5 person who is an officer or director of a mem-
6 ber located in one of the States represented.

7 “(B) Each member located in each State
8 represented shall be entitled to nominate an eli-
9 gible person to fill the directorship, and the
10 member director shall be elected from persons
11 so nominated by a plurality of the votes that
12 those members may cast under subparagraph
13 (C).

14 “(C) Each member located in each State
15 represented may cast a number of votes equal
16 to the number of shares of stock in the Bank
17 required to be held by the member at the end
18 of the calendar year next preceding the election,
19 but not in excess of the average number of
20 shares of stock in the Bank required to be held
21 at the end of that year by the respective mem-
22 bers of the Bank located in those States.

23 “(5) INITIAL DIRECTORS FOR NEWLY COM-
24 BINED BANKS.—The following requirements shall
25 apply to the selection of the individuals to serve as

1 the initial directors of a combined Bank as of the ef-
2 fective date of the combination:

3 “(A) The terms of office of any directors
4 of the combining Banks who do not become di-
5 rectors of the combined Bank shall terminate as
6 of the effective date of the combination.

7 “(B) The individuals to serve as the initial
8 directors of a newly combined Bank shall be
9 chosen from among the incumbent directors of
10 the predecessor Banks serving immediately
11 prior to the effective date of the combination of
12 those Banks and shall be—

13 “(i) as designated by the Director in
14 the case of a Bank created from a com-
15 bination of two or more Banks pursuant to
16 a reorganization under section 26(a); and

17 “(ii) as agreed upon among the merg-
18 ing Banks and approved by the Director in
19 the case of a Bank created from a vol-
20 untary merger of two or more Banks pur-
21 suant to section 26(b).

22 “(C) Each initial director of the combined
23 Bank shall be entitled to serve for the remain-
24 der of the term of office that the director had
25 with the predecessor Bank. Terms served as a

1 director of a predecessor Bank shall be counted
2 as being served as a director of the combined
3 Bank for purposes of determining term limits
4 under subsection (e)(3).

5 “(D) Beginning with the first election of
6 directors occurring after the combination of the
7 predecessor Banks, the Director shall adjust the
8 term of any directorship of the combined Bank
9 as necessary to achieve and maintain the stag-
10 gering of terms that is required under sub-
11 section (e)(2).

12 “(e) TERMS; RULES AND REGULATIONS GOVERNING
13 NOMINATIONS AND ELECTIONS.—

14 “(1) TERMS.—Except as provided in paragraph
15 (2), the term of each Federal Home Loan Bank di-
16 rector shall be 4 years.

17 “(2) ADJUSTMENT OF TERMS.—The Director
18 shall adjust the terms of members from time to time
19 as necessary to ensure that the terms of the mem-
20 bers of the board of directors are staggered with ap-
21 proximately $\frac{1}{4}$ of the terms expiring each year.

22 “(3) TERM LIMITS.—If any person has been
23 elected to each of three consecutive full terms as a
24 director of a Federal Home Loan Bank and has
25 served for all or part of each of those terms, that

1 person shall not be eligible for election to a director-
2 ship of that Bank for a term which begins earlier
3 than two years after the expiration of the last expir-
4 ing of the three terms.

5 “(4) RULES AND REGULATIONS GOVERNING
6 NOMINATIONS AND ELECTIONS.—The Director is
7 hereby authorized to prescribe such rules and regu-
8 lations as the Director may deem necessary or ap-
9 propriate for the nomination and election of direc-
10 tors of Federal Home Loan Banks, including, with-
11 out limitation on the generality of the foregoing,
12 rules and regulations with respect to the breaking of
13 ties and with respect to the inclusion of more than
14 one directorship on a single ballot and the methods
15 of voting and of determining the results of voting in
16 such cases.”;

17 (6) in subsection (f), as so redesignated, by
18 striking the first and second sentences;

19 (7) in subsection (h), as so redesignated—

20 (A) by striking “home loan bank” each
21 place such term appears and inserting “Home
22 Loan Bank”; and

23 (B) in paragraph (1), by striking “such
24 bank” and “the bank” and inserting “such
25 Bank” and “the Bank”, respectively;

1 (8) in subsection (i)(1)—

2 (A) by striking “bank” and inserting

3 “Bank”; and

4 (B) by striking “board” and inserting “Di-
5 rector”;

6 (9) in subsection (j), by striking “bank” and in-
7 sserting “Bank”; and

8 (10) by striking the second subsection (l), as
9 added by section 1202(8) of the Housing and Eco-
10 nomic Recovery Act of 2008.

○