Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—17

Bishop (GA)
Boswell
Brown-Waite, Ginny
Diaz-Balart, L.
Diaz-Balart, M.
Emanuel
Foley
Meek (FL)
Platts
Reyes
Reynolds
Ros-Lehtinen
Roybal-Allard
Shaw
Wasserman Schultz
Wexler
Young (FL)

□ 1232

Messrs. CARDIN, CUMMINGS, and BERRY, and Ms. CARSON changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal on which the yeas and nays are ordered.

The question is on agreeing to the Speaker's approval of the Journal.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 349, nays 62, answered ''present'' 2, not voting 20, as follows:

[Roll No. 540]

YEAS—349

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Dent
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Green, Al
Gutierrez
Hall
Harman
Harris
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (WI)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Rangel
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Sullivan
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tierney
Towns
Turner
Upton
Van Hollen
Walden (OR)
Walsh
Wamp
Waters
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)

NAYS—62

Baird
Baldwin
Barrow
Berry
Brady (PA)
Capuano
Chandler
Costello
Davis (KY)
DeFazio
English (PA)
Filner
Fitzpatrick (PA)
Fossella
Graves
Grijalva
Gutknecht
Hart
Hastings (FL)
Hefley
Holt
Jones (OH)
Kennedy (MN)
Kucinich
Larsen (WA)
Latham
Lewis (GA)
LoBiondo
Matheson
McCotter
McDermott
McNulty
Miller, George
Moore (KS)
Moran (KS)
Oberstar
Olver
Otter
Pastor
Peterson (MN)
Ramstad
Sabo
Sanchez, Loretta
Schakowsky
Shuster
Slaughter
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiberi
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Watson
Weller
Wu

ANSWERED ''PRESENT''—2

Carson
Tancredo

NOT VOTING—20

Bishop (GA)
Boswell
Brown-Waite, Ginny
Diaz-Balart, L.
Diaz-Balart, M.
Feeney
Foley
Green, Gene
Leach
Meek (FL)
Moran (VA)
Platts
Reyes
Reynolds
Ros-Lehtinen
Roybal-Allard
Shaw
Wasserman Schultz
Wexler
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1241

So the Journal was approved.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1461, the Federal Housing Finance Reform Act of 2005.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FEDERAL HOUSING FINANCE REFORM ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 509 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1461.

□ 1243

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole

House on the State of the Union for the consideration of the bill (H.R. 1461) to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House will consider H.R. 1461, the Federal Housing Finance Reform Act of 2005. This legislation creates a world-class regulator for the housing Government-Sponsored Enterprises, or GSEs, Fannie Mae, Freddie Mac, and the Federal home loan banks.

Last May, the Committee on Financial Services overwhelmingly approved H.R. 1461 by a vote of 65 to 5.

We have worked a long time on GSE regulatory reform. Since the 106th Congress, we have had over 20 hearings and received testimony from more than 100 witnesses on GSE-related matters. Capital Markets Subcommittee Chairman BAKER has worked hard on these issues for many, many years. He should be commended for his many efforts.

I also want to thank Housing Subcommittee Chairman NEY for taking a leadership role in developing the housing goals and Affordable Housing Fund sections of the bill, as well as our ranking member, Mr. FRANK, for his constructive input on many of the bill's key provisions.

The GSEs are among the largest financial institutions, with $2.5 trillion in assets. Fannie Mae and Freddie Mac own or guarantee nearly half of the residential mortgage market. Eight thousand banks, thrifts, and credit unions have $550 billion in loans from the 12 Federal home loan banks. For decades the GSEs have served the housing finance system well.

We have heard from some that Congress should be cautious in creating a GSE regulator and mindful not to harm the housing market. However, we are here today largely because we have learned over the past 2 years about multiple accounting violations and widespread corporate mismanagement by the GSEs, resulting in billion-dollar earnings restatements.

□ 1245

This has brought to light the fact that current GSE regulators lack many of the supervisory and enforcement powers bank regulators currently have. H.R. 1461 will remedy this troublesome situation by consolidating GSE regulation and providing all of the tools needed to oversee these huge, complex institutions.

It is time for a new GSE regulator who can prevent problems from developing and take swift action if the problems arise, thus ensuring that the housing market and financial system remains strong. Some believe that the GSEs should be more tightly controlled. Federal Reserve Chairman Greenspan has called for a mandatory reduction in their $1.5 trillion in mortgage portfolio holdings.

He is concerned about the systemic risk posed by the GSEs, based on investor perception that GSE debtholders are backed by the Federal Government. I do not take this concern lightly, nor the potential for any taxpayer financial liability.

Today OFHEO can reduce a GSE's portfolio only if the company is already seriously undercapitalized. H.R. 1461 gives a new regulator broad discretionary authority to require portfolio adjustments depending on the circumstances at the time, even if the GSE meets minimum capital standards.

Such action must be consistent with the GSE's safe and sound operations or mission, relying on the regulator's expertise. H.R. 1461 strikes the right balance by fully empowering the GSE regulator, while at the same time allowing the GSEs to pursue their mission in the housing market.

Specifically, the bill merges OFHEO, FHFB, and part of HUD into a new independent regulatory agency, the Federal Housing Finance Agency, to oversee the GSEs. It is funded by annual assessments on the GSEs, not subject to the congressional appropriations process. The agency is headed by a director appointed by the President and confirmed by the Senate for a 5-year term.

There are three deputy directors for divisions of enterprise regulation, Federal Home Loan bank regulation, and housing. A housing finance oversight board advises the agency on overall strategies and policies, but has no executive authority. The board is comprised of the Secretaries of the Treasury and HUD, two appointed members and the director as chairman.

The agency's director is authorized to determine minimum and risk-based capital standards, review and adjust portfolio holdings, approve new programs and business activities, establish credential management and operation standards, take prompt corrective and enforcement actions, put a critically undercapitalized GSE into receivership, require corporate governance improvements, and hire examination and accounting experts.

H.R. 1461 also greatly expands the affordable housing role of Fannie and Freddie. By charter, they must assist in providing mortgages for low- and moderate-income families. The bill includes new single-family and multifamily housing goals, duty to serve lower income markets and a new affordable housing fund with contributions from the enterprises.

The bill establishes a fund to finance construction of houses for underserved people. It is modeled after the successful Affordable Housing Program of the Federal Home Loan Bank system. Fannie Mae and Freddie Mac will manage programs funded by a percentage of their after-tax earnings, initially 3.5 percent, then 5 percent, or $450 to $650 million annually combined.

In comparison, CBO estimated that in 2003, GSE status provided Fannie Mae and Freddie Mac a $20 billion Federal subsidy, one-third of which was retained by stockholders and management, not passed through to borrowers.

Twenty-five percent of the GSEs' contributions will go to the Treasury Department to help pay off REFCorp, that is the old S&L bonds, with the remainder going to the fund. Funds will be awarded through a competitive, transparent application process to for-profit builders, State, and local housing agencies and nonprofit organizations.

This should result in Fannie and Freddie leading the market rather than lagging behind private sector lenders as HUD has found in promoting affordable housing for underserved communities. Moreover, a greater amount of the GSE subsidy will go where Congress intended.

I intend to offer a manager's amendment that includes a number of important changes to the fund, which I will specify at that time.

Mr. Chairman, H.R. 1461 is of great importance to the safety and soundness of the housing mission of the GSEs, as well as to the stability of this Nation's housing and financial system. I urge Members to support its passage.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I agree with a great deal of what the gentleman from Ohio (Mr. OXLEY) has said, as I agree with a great deal of what is in the bill. In the nature of parliamentary debate, we will be focusing on some specific points where I disagree, but I do not want that to obscure the fact that there is a great deal of agreement.

Mr. Chairman, I yield 4½ minutes to the gentlewoman from California (Ms. WATERS) who as ranking member of the minority on the Housing Subcommittee has had a major role in shaping our position and in the impact of the affordable housing front.

Ms. WATERS. Mr. Chairman, I would like to thank the gentleman from Massachusetts (Mr. FRANK) for yielding me the time and for the job he has done to shape this legislation.

I would like to thank the gentleman from Ohio (Mr. OXLEY) for the tremendous cooperation and the leadership that has been shown that helped to get bipartisan support for this legislation. When it left our committee, it was a good bill. It was a bill that even some people who had not wanted to support it went along with, because in the final analysis, it was going to bring about reform of the GSEs.

Now, some of us know that there is a need for reform with the GSEs. We are concerned. We do not want them carrying debt that is not shown, that we do not understand, because we do not want these humongous general services enterprises to somehow get in trouble and we have to bail them out the way we did with the S&Ls.

So despite the fact that we think there was an effort by some on the opposite side of the aisle to basically deal with the some of the arguments of the banks and savings and loans about the GSEs being too big, getting too retail, basically taking over their markets, we support reform; and we voted for the bill because we support reform.

Because of the vision of the gentleman from Massachusetts (Mr. FRANK), we were able to do something for working people and for poor people by creating this very, very special arrangement that could be used for the production and preservation of low-income affordable housing, this kind of set aside.

It would be the after-tax profit from these GSEs that will be used to produce low-income housing. And so despite the fact that for years there has been kind of a confrontation between the GSEs and the banks and S&Ls about market share and all of that, we thought it made good sense to make sure that the GSEs were not too big, carrying too much debt. So this reform is good.

But what is absolutely mind-boggling about what has happened, from the time the bill left committee until the time it has reached the floor today, is this politicizing of the fund by some of those on the opposite side of the aisle who never supported this fund for low- and moderate-income housing to begin with.

What did they do? After the bill left committee, they decided that they were going to try to put some unconstitutional boundaries on nonprofits, and I guess profit-making organizations alike, that would not allow them to participate in the production of low- and moderate-income housing no matter what the need, no matter what the crisis, if, in fact, they exercised their constitutional rights to assist people and lead people in doing voter registration.

That is so unbelievable because, number one, it is unconstitutional. It is absolutely unconstitutional. This government has shown that it indeed supports reaching out to the citizens of this country to encourage them to be involved in voting and participating in this democracy. We have the Motor Voter Act, which says motor vehicle departments all over the country, when people register their vehicles, encourage them to vote; give them voter regulation slips; do whatever you can to get them involved in the political process. We are on record with doing that.

And now to have those Members from the opposite side of the aisle say that you cannot produce low-income housing if you exercise your constitutional right by helping people to get registered to vote is absolutely mind-boggling. And let me tell you what is even more mind-boggling about this. We know that we have gone through some terrible, terrible times recently here in this country, down in Florida, where there were databases that were developed of people supposedly who had been incarcerated and committed felonies that were supposedly not allowed to vote. But it turned out to be fraudulent databases.

We have had attempts to stop people and discourage them from voting by having uniformed officers question them when they come into the polling place. I would think that they would not want to continue with that kind of reputation.

I will not vote for this bill no matter how much it is needed, as long as the constitutional rights are violated.

Mr. OXLEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me the time. I thank the gentleman for his great leadership on this bill, H.R. 1461. This has clearly been a long, long time in the making. It has taken unbelievable negotiation, incredible legislation, incredible patience from our chairman. I want to congratulate the gentleman from Louisiana (Mr. BAKER), as well, for his steadfast work, his incredible leadership in bringing this bill to the floor, something, frankly, that has been in the making for well over a decade.

I think it would be good, Mr. Chairman, to remind people why we are here in the first place. For a lot of Americans they do not quite understand what the GSEs are, Fannie and Freddie. Admittedly they play a very critical role in our housing market, in helping produce what we now enjoy, the highest rate of homeownership in the history of America.

But at the same time, we have given them a very special charter. We have given them unique government-granted benefits that we do not grant their competitors, and we give them these benefits so that they can create liquidity in the secondary mortgage market and help create the American Dream for so many people.

But, unfortunately, there have been abuses, a number of abuses. We have now seen in recent years the largest financial restatement in history, dwarfing the financial restatements that we saw at Enron and WorldCom.

Now, when we saw all of these accounting irregularities earlier on with the Enrons and WorldComs of the world, Congress was outraged. And Congress rightly answered with critical legislation, Sarbanes-Oxley, to address these types of corporate abuses.

But all of a sudden, there seems to have been a deafening silence when we see Fannie and Freddie engaged in activities that with respect to the financial restatements rival those that I have described. And so these people play an incredible role in our marketplace, but we have given them incredible powers as well, and there must be increased accountability.

So I think that this legislation takes a very significant step forward in bringing about a significant regulator for these enterprises, because we know that we have been warned by the Chairman of our Federal Reserve that particularly with respect to the portfolio holdings of their own mortgage-backed securities that this represents a systemic risk to our economy.

This is not something that we can leave unregulated and unabated. And I think this legislation takes a very good step forward. I hope in conference with the other body that we can came up with something that will help address this. I am also concerned about their mission creep.

Again, when we see them engaging in activities like airplane leasing and activities related to loan originations, and the list goes on, if they are going to receive government-granted benefits, we need to ensure that they use their charter to provide this liquidity in the secondary-mortgage market.

Now we know that there is a debate over the affordable housing fund. Again, I would ask my colleagues from the other side of the aisle, if we want to create more affordable housing, why do we not go directly to the people who need it? Why do we not simply increase that section 8 voucher?

□ 1300

Are we trying to have affordable housing, or are we trying to have affordable lobbyists and lawyers? I think we should have affordable housing and support the manager's amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds to welcome the conversion of the gentleman from Texas to an increased section 8 voucher program. We on our side have several times offered amendments to do that in the appropriations bill. I did not remember him as a supporter. But conversion is a great thing, and I celebrate it, and I look forward to the gentleman from Texas voting with us the next time we move to increase the section 8 voucher program. But it does not solve all of the problems.

Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LEE), someone who has been very hard-working, both on voter registration and on housing.

Ms. LEE. Mr. Chairman, I want to thank the gentleman for yielding me time.

I want to thank Chairman OXLEY and Ranking Member FRANK for their leadership and their really tireless efforts on this bipartisan bill that we reported out of committee. It is really tragic that it has unraveled and that the spirit of bipartisanship has been totally eroded.

Sadly, Mr. Chairman, the bill that I supported, like all of us supported,

coming out of the committee, a product that struck a fair balance, a fair balance between regulatory oversight and the GSEs' housing mission and goals, would be turned on its head and gutted by the undemocratic provisions of the manager's amendment that would be offered today.

It is rare that this House considers housing bills, given our enormous housing crisis in our country. It is shameful, especially given those left homeless by Katrina, that our bipartisan efforts to support increased home ownership and wealth building through the creation of an affordable housing trust fund have fallen victim to the rights wing's ongoing assault on democracy and programs designed to help the poor, the elderly, the disabled, the communities of color, and our underserved community.

Mr. Chairman, once again we have found ourselves in a situation where some of the Republicans giveth, and then they taketh away. They give us a vote on a housing bill, but then they ensure that it will be undercut by an extremist provision inserted into the manager's amendment at the bidding of right-wing ideologues. Then, just to ensure that these provisions prevail, the Republicans deny a fair vote on the Frank amendment to strike it.

The nonprofit gag provision is not only extreme and undemocratic, it is possibly unconstitutional. It would gag nonpartisan speech and civic engagement and participation in our most fundamental of democratic activities.

Let us be clear about the exact consequences of this outrageous gag provision. It prohibits nonprofits that build affordable housing from engaging in nonpartisan voter registration. It prohibits nonprofits from engaging in nonpartisan get-out-to-vote efforts. It prohibits nonprofits from engaging in nonpartisan election activities period.

What does that mean? For example, it means a preacher whose church received affordable housing funds would be prohibited from calling on his parishioners to vote or even identify voting locations. It means that residents of a building constructed with affordable housing funds will not be able to host a debate or an election watch party if their housing units are affiliated with the supportive housing program.

These measures are unconscionable. They hurt the very people we are trying to help, the poor, the low-income communities, the elderly, the disabled and our underserved communities.

Mr. Chairman, it is a testament to just how far right this House has tilted that the gentleman from Massachusetts and Democrats have been denied a fair vote. That is all we ask for is a fair vote on this critical issue that goes to the core of our democracy and has such dire consequences for our communities. This is un-American. It is shameful. And I am left with no choice but to reject the extreme provisions of this amendment.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Chairman, I would like to congratulate the chairman and Mr. BAKER and Mr. FRANK and Mr. NEY and the many Members who have worked so hard on this issue for years now.

This is a strong bill that creates a world-class regulator for Fannie Mae, Freddie Mac and the Federal home loan bank at a time when one is much needed.

I rise today, Mr. Chairman, because I am concerned about specific provisions in the manager's amendment which could have unintended consequences on members of our senior population and the ability of nonprofits to work together to serve low-income communities. Specifically, Mr. Chairman, I would like to receive some assurance from you that you will work with me on these issues as we move toward a final bill in conference. And first I would like to work to clarify language in the amendment so it does not disqualify nonprofits from participating in the Affordable Housing Fund if they transport their own senior housing residents to the polls. That is with the understanding that many of these seniors have no other option to get to the polls but for their own nursing home's transportation facilities.

Mr. OXLEY. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE of Ohio. I yield to the gentleman from Ohio.

Mr. OXLEY. I look forward to working with the gentlewoman on that issue.

Ms. PRYCE of Ohio. I thank you very much, Mr. Chairman.

Secondly, I would like to see clarification that the intention of the language in the manager's amendment pertaining to ''overlapping board membership'' was not to disallow single individuals from serving on the board of two organizations. Rather, the language was sought to disqualify affiliated organizations from participating in the fund where clear control of one organization is maintained by another which is participating in election activities.

Mr. OXLEY. I look forward to clarifying this language with the help of the gentlewoman from Ohio.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 1 minute. I would be glad to yield the gentlewoman from Ohio further time to point out the weaknesses in the manager's amendment. I share her appreciation of the extremely excessive language there. I think she is more optimistic than I about some of these little tweaks, but I do appreciate her understanding of its problems.

There are further problems, and there are other ways that we will get at it, but I welcome the gentlewoman's expression of disagreement with the extreme sweep of the manager's amendment.

Ms. PRYCE of Ohio. I am not in need of any further time, and I thank the chairman for his understanding of these issues.

Mr. FRANK of Massachusetts. When the gentlewoman says she is not in need of further time, I think she is being very kind to her colleagues in the Republican Study Committee. She is being very kind to our colleagues who miswrote this amendment.

The only thing that I would differ with the gentlewoman is she said there are unintended consequences. No, to her they are unintended. To the people who think poor people vote too much, they were intended. But we can work together to fix it.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the ranking member of the subcommittee of jurisdiction here, who has been one of the major architects of what we believe is mostly a very good piece of legislation.

Mr. KANJORSKI. Mr. Chairman, the Committee on Financial Services has studied the need to reform the regulation of housing Government-Sponsored Enterprises for nearly 6 years.

Since convening our first government hearing on GSE reform in March 2000, we have examined these matters extensively. As the ranking Democratic member on the subcommittee of jurisdiction, I have also had the opportunity to participate in more than 20 hearings and to hear scores of witnesses.

The legislation to address these matters that the Committee on Financial Services ultimately reported earlier this year was a very, very good piece of legislation. It would, as long as I have advocated, created a strong, world-class, independent regulatory for housing GSEs. The bill also received the overwhelming backing of my colleagues on the committee, passing by a vote of 65 to 5.

While I still believe this base legislative package is a good bill, I am concerned about some of the amendments that we will debate today. For example, the manager's amendment that we will shortly consider will add a number of new provisions that will severely restrict the ability of faith-based groups to participate in the new Affordable Housing Fund created by this bill and to participate in our democracy.

These changes are controversial, unconstitutional, and immoral. These revisions which were not previously debated in committee, which have generated considerable disagreement, deserve close scrutiny. Because the rule does not allow a clean vote to remove these troubling provisions from the legislation, I must regretfully oppose this bill on final passage.

Beyond the concerns I have with the manager's amendment, I have concerns about those amendments which would alter the delicate balance we crafted in committee to create a strong, world-class, and independent safety and soundness regulator for GSEs. These

amendments, which I will oppose, would remove the Treasury line of credit for the GSEs, impose capital standards based on competition rather than risk, create arbitrary limitations on GSE portfolios for reasons other than safety and soundness, and alter provisions of the bill that will help middle-income families purchase homes in high-cost areas.

Still, there are also a number of good amendments which I will support, including my own amendment to restore the Presidential and regulatory board appointment systems for the GSEs.

I hope all of my colleagues will support this target amendment to retain an independent public voice on Government-Sponsored Enterprise boards. This amendment also has the support of the National Association of Home Builders and the National Association of Realtors.

In closing, Mr. Chairman, while this bill has many admirable aspects, the process by which we have brought it to the floor is flawed. As a result, I will oppose this bill at the end of the day, but hope to work to improve the legislation as it moves on in the process.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT), who was an instrumental participant in the construction of the reform legislation under consideration.

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today to compliment both Chairman BAKER and Chairman OXLEY for their work in order to put together a bill that the main purpose which is to regulate and strengthen the regulation of Fannie Mae and Freddie Mac.

If anyone here questions the need for additional remedies such as regulations, all we have to do is look at a brief history going back a couple of years of these two entities.

Back in January of 2003, Freddie Mac issued a press release and stated it will issue an unaudited statement of earnings for the year 2002 and restate accounting results for prior years.

November of the next year, November 2003, Freddie issues a restatement of past accounting results for the year 2000, 2001, 2002, and revises its net earnings upwards by $4.4 billion that they were off in their records.

September of 2004, OFHEO makes public a report highly critical of accounting methods of Fannie Mae. November of 2004, Fannie announces that it is unable again to file a third-quarter earning statement because its auditor, KPMG, refused to sign off on the accounting results.

December of 2004, the Securities and Exchange Commission, the SEC, issues a statement supporting OFHEO's report and orders Fannie to restate its financial results. Again, in December of 2004, the Fannie CEO Franklin Raines and CFO Tim Howard have to resign from those entities.

Finally, in June of 2005, after 3 years, finally Freddie issues its first audited annual report since the year 2002. And now we are here in October, and we look back about a week or so ago, and press reports are out again suggesting that investigators have uncovered again new accounting violations of Fannie Mae, possibly including overvalued assets, underreported credit losses, and misused tax credits.

Mr. Chairman, if there was ever a need of entities that need additional regulation, it is Fannie Mae and Freddie Mac. If there are ever two entities that need to be limited in their size, it is these two entities. If there were every two entities that need not grow, it is these two entities. I applaud the chairmen for their work to regulate them.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. LEWIS). Since this is a bill which in its form in the manager's amendment would interfere with voter registration efforts, there can be no more appropriate speaker on our side than the gentleman from Georgia, who, 40 years ago and more, literally risked his life to advance the rights of people to vote. And I do not think he will be deterred any more today than he was by Bull Connor.

Mr. LEWIS of Georgia. Mr. Chairman, I want to thank my friend and my colleague from Massachusetts for yielding me time.

Today we should be doing one thing, providing housing for people who need it. I must tell you, Mr. Chairman, I am deeply disturbed that we would add language to this bill to prohibit nonprofit organizations and groups, churches, synagogues, mosques, from engaging in civic participation, activity like nonpartisan voter regulation and get-out-the-vote drives. That is wrong. That is dead wrong.

The right to vote, the right to participate in the democratic process in our country is almost sacred. The churches, the synagogues, religious institutions, nonprofits have a long history of being involved in efforts to get people to participate, to register and to vote.

□ 1315

Many faith-based groups will be prohibited from providing housing to people who desperately need it, simply because part of their moral mission is to encourage people to vote, to become participants in a democratic process. This provision would stifle people and organizations from engaging in their civic responsibilities.

These groups are engaging in lawful, nonpartisan, civic activity, and I cannot believe that in 2005, this is not 1964, this is not 1965, this is not the OEO. This is not going back to the Nixon administration. What are we saying to the people around the world, telling the people in Iraq they can register, they can vote, they can participate, but we are saying here in America that our own people, nonprofit, churches, synagogues, faith-based groups cannot engage in nonpartisan voter registration and voter turnout? What kind of example are we sending for an emerging democracy?

Voter identification, voter registration and get-out-the-vote activities are fundamental activities protected by the first amendment, the cornerstone of our democracy.

To strengthen our democracy, we need to increase voter registration and increase voter turnout. We must promote these activities, not discourage them or penalize people for engaging in them.

This provision will take us back to the dark past. This is undemocratic and unconstitutional. In my estimation, it is dead wrong. We can do better, much better.

Mr. BAKER. Mr. Chairman, I yield myself such time as I may consume.

I think it important to realize how we came to this point with just the briefest of look-backs over historical performance of the three enterprises that will be subject to the new regulatory standards.

In May of 1996, both HUD and the Treasury agencies issued reports to the committee which were suggestive of reforms which ought to be considered and adopted by the Congress, to which the then-acting Vice President for Corporate Relations at Fannie Mae made the following professional comment: ''This is the work of economic pencil brains who wouldn't recognize something that works for ordinary home buyers if it bit them in their erasers.''

To which the CBO responded to the criticisms: Not only do the managements of Fannie Mae and Freddie Mac have a fiduciary responsibility to defend shareholder interest, but their own financial interests and compensation are closely linked to the continued flow of subsidies to the enterprises.

How prescient were those observations of the CBO in 1996. It required almost a decade longer before it was discovered that earnings manipulations not only had led to significant restatements, they had triggered another consequence.

Bonuses paid by the corporations to management at Fannie Mae were tied directly to earnings per share, and there were categories of earnings that triggered highest, moderate and lowest bonuses that could be paid. Apparently in a given year, the earnings per share target was hit to one-thousandths of a cent accuracy, I was later told by mathematical probability it just happened, that triggered the payment of $65 million in bonuses in a single year. Over the period of 2001 to 2003, the period of time for which financials have still not been certified, total bonuses paid amounted to $154.3 million. These bonuses are in addition to base salaries and other benefits, and represent money provided by the American taxpayers through guarantees of obligations that the agencies are able to use in the business world to yield profits

for shareholders and evidently profits for themselves.

Further examination of the ability of the regulator to intervene even in the matter of the unwarranted bonuses was later proven in court to be insufficient to bar payment of the bonuses until criminal illegality is proved. That matter is still under examination at the moment.

The bill, however, is important for other reasons to taxpayers. This enterprise will stand between the agencies who issue debt and engage in housing activities and significant potential losses to taxpayers should either of the enterprises ever be found under significant financial duress.

The regulator historically has been impaired. It is the only financial regulator in the United States which must come to the Congress for its funding. All other regulators are funded by assessments on the regulated entities. We fixed that problem. All other regulators have the ability to reach inside the organization of a financial enterprise and adjust its capital requirements. That is money put in the sock drawer for a rainy day. In case something goes bad, you need to have capital.

For the OFHEO-regulated enterprises, you had to come to the Congress and pass an act of Congress to adjust the capital. If any other financial enterprise were to get into financial duress and be unwound in the marketplace, that process is called receivership. Not so for Fannie Mae and Freddie Mac. There are special provisions that allow the Congress to intervene in protection of their financial interest. This bill remedies that problem.

There are a host of other matters that the 360 pages of the bill address, but probably the most important is a tool used by regulators today in financial enterprises known as prompt corrective action. That means if a regulator sees an activity that could lead to injury of shareholders and taxpayers, it can intercede at a very early time and require a cessation of those activities or simply prohibit them from doing it again. We provide for prompt corrective action.

What we enable with the passage of this bill is the creation of an independently funded regulator, with all the tools a modern financial regulator should have to oversee vastly complex financial enterprises to protect the American taxpayer from unwarranted losses.

Besides the criticism leveled at the bill today relative to affordable housing, there is another issue which I feel appropriate to address, and that is relative to the growth constraints on the investment portfolios of the two enterprises.

They have, in the aggregate, $1.6 trillion invested in the two portfolios. Under the prudential management and operations standards of the bill, the director of the new enterprise shall examine counterparty risks; management of interest rate risks; adequacy and maintenance of liquidity and reserves; management of asset and investment portfolios; investments and acquisitions; overall risk management processes; and, if we did not cover it in that list, such other operational and management standards as the director determines to be appropriate. That translates into, if you do not see it on our list, Mr. Director, go do it anyway, because we are giving you the authority.

Finally, as to the ability to establish how the portfolio should be reduced and to what level, Secretary Snow testified before our committee he could not tell us how to do it or to what level they should be adjusted, but he did go on to say it should be the subject of professional examination and recommendation.

Finally, on page 273 of the bill, we read: ''An analysis of the potential systemic risk implications for the enterprises, the housing and capital markets, and the financial system of portfolio holdings, and whether such holdings should be limited or reduced over time,'' is the director's obligation to engage in professional study, make recommendations to the Congress if congressional action is needed, or otherwise act in the best interest of the United States taxpayer.

Finally, with regard to the concerns over the affordable housing disposition, it should be pointed out these funds are not available today. This is a new fund. If people are engaged in assistance as a charitable activity in affording housing to low-income individuals and registering people to vote, this bill will not preclude that activity from going forward. What it merely says is that in an instance where we have limited funds available, estimated to be perhaps $500 million spread across the entire country, that those funds first and foremost should be utilized to help people in true need of housing, not political activism.

If one is engaged in political activism and building houses as of today's date, you can continue to do it. If you wish to be engaged in this fund going forward, you will have to make a policy decision, do I wish to continue political activism, or do I really want to help people get in homes?

Mr. Chairman, I represent to the House this is a fair bill, fair compromise and responsible action on the part of this House, and I urge Members to support its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 15 seconds to say the gentleman from Louisiana has phrased that conundrum for groups exactly correctly.

I agree with the Roman Catholic Church of the United States that they should not have to make that choice, and the Episcopal Church and the Baptist. That is exactly what the Catholic Church says: We have been doing housing; do not make us choose.

Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentlewoman from California (Ms. ZOE LOFGREN).

(Ms. ZOE LOFGREN of California asked and was given permission to revise and extend her remarks.)

Ms. ZOE LOFGREN of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am concerned about two provisions in this bill, raising the conforming loan limit and the attempt to limit the ability of American citizens to engage in our democratic process currently contained in the manager's amendment offered by Mr. OXLEY.

Mr. Chairman, in my district, the median price for a home in Santa Clara County is $715,000, yes I said $715,000. The current conforming loan limit is $359,650, about 50 percent of what the median home price is. Mr. Chairman, there are simply not enough homes at or near the conforming loan limit to meet the needs of my constituents.

As a result of this shortage of homes priced near the conforming loan limit, many first-time homebuyers are either forced into taking out jumbo loans or are more likely simply priced out of the market altogether.

Some argue that the conforming loan limit will not make a meaningful cost difference for homebuyers. Currently there is a .25 percent to .40 percent difference between interest rates on a conforming loan versus a jumbo loan. In today's market that difference can be as much as $135.00 per month. That matters to hardworking families.

I remind my Republican colleagues that this administration, in testimony before the House Financial Services Committee spoke in favor of raising the conforming loan limit.

Part of Mr. OXLEY's amendment is simply un-American. Mr. OXLEY seeks to prohibit nonprofit organizations from engaging in nonpartisan, I repeat nonpartisan, voter registration efforts and get out the vote drives in the 12-month period prior to applying for funds made available through the Affordable Housing Fund. If that wasn't bad enough, the amendment further prohibits nonprofits that receive grant funds from subsequently engaging in these important activities.

This Congress should be about promoting the values and the processes of democratic government, not trying to limit or suppress them. What are you afraid of, more Americans exercising their right to participate in their government?

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. BACA), one of our most energetic members on the committee, fully familiar with the need for housing in particular.

Mr. BACA. Mr. Chairman, I thank the gentleman from Massachusetts for the time.

I think we have put together a good bill. It was a bipartisan bill. It addressed a lot of the concerns that a lot of us had about affordable housing for minorities, low-income individuals who have an opportunity to obtain a home, but with the poison pill that has been put in in its final package, it makes the bill very difficult to support.

All of us believe that affordable homes should be available for individuals. This does strengthen regulatory

oversight on Freddie Mac, Fannie Mae and the Federal home loan banks. I think that is positive, and it presents an opportunity for many individuals, especially in my area, San Bernardino County, the Inland Empire, where we have a lot of growth in the area. We have people that are moving from Orange County, L.A., San Diego. They are looking at buying affordable homes. This bill would give many individuals, low income, an opportunity to do that, especially when the average cost of a home in L.A. is $475,000, and in San Bernardino it is $352,000. Many individuals cannot afford to buy a home.

Now that they have that first opportunity, I know what it is like because I came from a family of 15, and I know for the very first time when we were able to buy a home. Had we not bought a home, I would not have had stability in my roots in the immediate area. That is why provisions of this bill are great.

What I do not like about the bill is a poison pill that has been put on there, which I believe it is unconstitutional and restrictions aimed at suppressing the civil rights engaged in by poor minorities for voting. We believe that every person should have the right to vote and to participate, and we say that that does not preclude them, and you have to put a priority whether it is for affordable housing or whether you will be involved in engaging, encouraging individuals.

America has always encouraged individuals to participate in our American democracy, and that is the democracy of voting. We have our veterans who have fought for this country and are now fighting in Iraq, are fighting for the freedoms that we enjoy today. One of those freedoms is the right to get out and vote, to allow every individual to participate and vote, not to restrict individuals, but to allow them to vote.

This would restrict these individuals who are getting funded for the housing to say you are not going to participate in this American democracy by registering individuals to vote. We should allow them. It is part of democracy. This is anti-civil rights, especially when we just have Rosa Parks who just died and fought hard for civil rights. We have Alice Paul who fought for the suffrage of women and others to encourage to make sure that women had the right to vote.

Now what we are saying is, minorities, you are voting in higher numbers; we are not going to include you in part of that process because if you do, and if you get involved in part of that process, we are going to cut out your funding. I believe this is not fair. That is why the National Council of La Raza, NAACP, NALEO, LULAC, Puerto Rican Association, faith-based initiatives are all opposing the restriction of this anti-poison pill that has been put into this bill.

I hope we can make a correction in the Senate and do justice for every individual. We talk about Leave No Child Behind. Now we are saying leave every individual who wants to participate from low-income minority families behind because we do not want them to participate in our American democracy.

This is about America. We are proud Americans, and we should allow every American to participate. We should not deny one organization from going to them and asking them to participate in that process. What we are doing is saying, you will not be involved in that process, you will not be involved in that process. No, that is unfair. It is un-American.

As an American and a Member who served in the Armed Forces, which we fought for many individuals, we have that responsibility, Mr. Chairman. We have the responsibility to make sure that every American has that right.

Let us not go backwards. Let us go forward. Together we can make a difference.

Mr. Chairman, I rise in support of H.R. 1461 to strengthen the regulatory oversight of Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.

I comment my colleagues on the Financial Services Committee for their bipartisan approach and hard work in drafting this important bill.

This bill keeps the Government Sponsored Enterprises (GSEs) safe, sound and focused on their mission while preserving their mission to support financing for low- and moderate- income housing.

Also, this bill includes provisions that will increase housing opportunities for low income families by: establishing a specific requirement for GSEs to serve underserved areas, enhancing the GSEs affordable housing goals and increasing loan limits for high cost areas.

This bill includes an affordable housing fund that will increase affordable housing for low income communities.

This fund is particularly important to me because of its potential to increase affordable housing for many hard-working families in my district. Housing costs in Southern California have skyrocketed. Many families have moved to the San Bernardino area where housing is considered less expensive. But even here, we have seen home prices rise quickly, and I am concerned that many working couples cannot afford a home.

Last week, the Los Angeles Times reported that the median price paid for a Southern California home was $475,000 in September, up 16.1 percent from a year earlier. In San Bernardino County, the median price has risen 32.8 percent in the past year to $352,000.

This issue has great meaning to me personally. I grew up in a family with 15 children without a lot of money. I have been fortunate enough to have worked hard and been able to achieve the American dream of owning a home. But I know that this dream remains unattainable for millions of families.

Hispanic families especially face difficulties buying a home as their incomes on average are lower, and they might not have the same access to or understanding of financial institutions. I hope the Affordable Housing Fund will increase rental and homeownership opportunities for these and other working class families.

As a Catholic, I have learned of our obligation to serve the poor. I am proud of the work that Catholic Charities and other faith-based groups engage in. Their mission to help those in need includes providing shelter and also helping citizens fully participate in America's political process.

While I support the bill for its merits, I am strongly opposed to the restrictions added after it passed the committee that place severe restrictions on nonprofit entities and faith based groups applying for affordable housing grants.

The language inserted would undermine and severely limit the fund by excluding nonprofits involved in non-partisan voter registration efforts.

Republicans are trying to prevent church groups and other respected non-profit organizations from providing important services. They are engaged in yet another backdoor scheme to sneak in unconstitutional restrictions aimed at suppressing the civic engagement of working class and minority families.

These non-partisan community groups often serve as the main point of contact and, in many cases, are the only local groups addressing the social, civic, and educational needs of the people they serve. Yet Conservative Republicans want to force these trusted organizations to choose between providing civic education and affordable housing.

Why? Why do Republicans want to deny low income and minority voters participation in the political process? What do they fear? Do they fear democracy?

During the presidential campaign, Republican leaders made aggressive efforts to woo Black and Hispanic voters who have historically supported Democrats. Now Republicans are determined to deny affordable housing to these same minority groups. Is this payback?

I hope that we would all agree our country is stronger if more Americans register to vote and show up at the polls, whichever party or candidate they support. We need to encourage participation in our great democracy not limit it. I want to mention an American hero, Alice Paul, who made our country better, fairer, more Democratic by leading the struggle for women's rights—including the right to vote.

By the way, she was a Republican, but she was committed to promoting political participation.

So we should encourage community organizations to help register voters and praise them for doing so, not penalize them or prevent them.

The restrictions added by Republicans serve no other purpose than to reduce access to voting by low income people, and I urge my colleagues to vote against the restrictions.

If however, they pass, I am committed to working with my colleagues to strip away these horrible provisions as the bill goes through the Conference Committee Process.

Mr. BAKER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Delaware (Mr. CASTLE), who is a long-term co-contributor to the preparation of the legislation before us.

□ 1330

Mr. CASTLE. Mr. Chairman, I thank Chairman BAKER for yielding me this time; and to call me a co-contributor, when one considers all the effort he has put into this, is a vast overstatement. I have never seen, during the time I

have been here, which is a number of years now, a legislator work so hard on a particular issue; and I congratulate Chairman BAKER for getting it this far.

And I would like to thank the ranking member. The gentleman from Massachusetts (Mr. FRANK) has been extremely helpful. I do not know where this is going to come out in the end because of the discussion and dispute over the affordable housing fund. But, basically, I think the underlying bill is a heck of a sound bill. I would like to credit both sides.

We do not have a lot of legislation on this floor which is really done with the best interests of America at heart without any consideration for politics, Republican or Democrat; and I think this is one piece of legislation that does this.

I doubt there are those, other than the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Louisiana (Mr. BAKER), and maybe three or four other people in Congress, a few on the outside, who can really describe all that this means in terms of the GSEs.

When you are dealing with Fannie Mae and Freddie Mac and the Home Loan banks, virtually any mortgage out there is in some way touching on them. They have vast investments. They have vast sums of dollars that they are handling on a regular basis. If there are any organizations that need close scrutiny and regulation in this country, to me it is these GSEs. That is what this bill does.

I am not critical of those who have been doing the regulation before, but the bottom line is there were some problems. We do need the most sophisticated kind of regulation that we can have, because they are participating in some of the most sophisticated kinds of investments that one can make. We are dealing with a housing market; and while I hope there will not be a bubble or anything of that nature, there are problems potentially in that area that we will have to deal with, and we want to make sure that they are closely monitored so they will not contribute to that particular problem.

I appreciate the affordable housing fund. I am sorry there is a dispute over it. I think the concept of the affordable housing fund makes a heck of a lot of sense as well.

I would strongly recommend this legislation. I hope it will pass in the House and we can achieve this as final legislation that the President can sign and all of us can take a great deal of pride in doing something that is constructive for America.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

First, let me say that I am glad that the gentleman from Louisiana (Mr. BAKER) indicated the status of the gentleman from Delaware (Mr. CASTLE), because I would not have wanted him to have been an unindicated co-contributor. I think that was very helpful.

Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. MEEKS), a very active member of the Committee on Financial Services who is very aware of the need for housing.

Mr. MEEKS of New York. Mr. Chairman, as a member of the Committee on Financial Services, I am shocked and disappointed in the result of what up until now has been a true bipartisan policy-making effort.

We in this committee this past May passed a bill, H.R. 1461, by a vote of 65–5. There was true bipartisanship. In fact, just yesterday I was talking about how the committee was working collectively together and there was really bipartisanship and we would come up with a bill that we could agree upon. How wrong, how wrong I am.

Unfortunately, the Republican Study Committee got involved and has pushed for an unjust and unnecessary amendment that restricts nonprofits that do not have housing as their primary purpose or engage in nonpartisan voter registration or education programs from receiving funds and grants. Just look at it. I look at my district. My predecessor at Allen AME is known for developing public-private housing that is affordable to people, and they would not be able to participate. Look at what would be left out with this ridiculous amendment.

Furthermore, if you read this amendment, it clearly states in its language that the restrictions for not-for-profits are not the same restrictions as for-profits. I wonder if for-profits can engage in whatever they want to and still be able to participate in these fundings, but not-for-profits would not.

It seems to me there is a lot of talk, talk about democracy; but we truly do not want democracy. We are trying to lock out a whole group of people from having the opportunity to vote. When we look at the numbers of people who come out to vote, the numbers are far less than the percentages any place else. We should be doing everything in our power to encourage people to come out to vote.

I wonder why the Republicans are doing this. For if they feel so strong and righteous about their manager's amendment, they surely would have allowed the Frank amendment which would have stripped this destructive language before a vote. They did not do this because they are afraid their own Republican Members that support the CDCs and faith-based affordable housing programs would vote in favor of the Frank amendment. There is no democracy for the Republican Caucus. This was an excellent bill that the radical right wing of the Republican Caucus has destroyed.

Mr. BAKER. Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. LYNCH), who has worked in the building trades and knows this issue very well.

Mr. LYNCH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the measure before us today. Specifically, I stand in this House to condemn the language in this bill which would prohibit faith-based organizations, our churches, my church, our temples and synagogues and mosques, from helping the homeless by providing housing for the thousands of families in this country who are either homeless or in shelters or forced to live in substandard housing.

Under the express terms of this manager's amendment, nonprofit groups that engage in voter participation activities will be prohibited from applying for a grant under the affordable housing fund. I am frustrated as well with the whole process here because my friend and colleague from Massachusetts (Mr. FRANK) was denied the opportunity to offer an amendment to strike these egregious provisions.

In this day and age when we are beset by major crises such hurricanes Katrina and Rita and Wilma, which have destroyed literally hundreds of thousands of homes across the southern part of this country, it is no time to shackle the hands of our nonprofit, faith-based organizations from doing what Americans have always taken pride in, and that is helping their neighbor.

While like most Members I deeply respect the separation of church and State in matters of worship and the freedom to practice religion without government influence, there has always been in this country a recognition, at least until now, that we have faith-based institutions; and when they have sought to provide basic assistance, such as food for the hungry and health care for the sick and elderly and housing for the homeless, free of any effort to persuade or proselytize, they are in the business of solely reducing suffering, and we have recognized the goodness in that.

That would end today if the manager's amendment succeeds. We would have a departure in this country from that long tradition, and for those reasons I oppose this bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. CROWLEY), one of the most active members of the committee and very familiar with needs for housing.

Mr. CROWLEY. Mr. Chairman, I rise to tell my colleagues of the good bipartisan bill that was crafted by the Financial Services Committee, by Chairman OXLEY and by ranking member BARNEY FRANK.

The members of that committee crafted a bill that passed the committee on a vote of 65–5 that would finally create a tough new regulator for the Federal housing GSEs and the Federal Home Loan Banks, something that was needed after some accounting missteps at the GSEs.

At the same time, this bill also created a massive new Federal housing trust fund, using a percentage of the profits of these housing GSEs to ensure a new stock of affordable housing in every section of this country and providing millions of families the opportunity of attaining the American dream of homeownership. But that is not the bill that is before us under this manager's amendment.

This bill went before the Committee on Rules where it was hijacked by the extremist wing of the Republican Party that holds a grip over the House of Representatives. They added language to ban churches and other houses of worship the ability to tap into these funds if they take part in any type of nonpartisan voter activity, such as helping register people to vote or taking people to the polls.

What this bill really is is an utter disregard for our Constitution. This is not a gray area. This is a limitation on free speech. I am amazed that the same people who champion legislation by the gentleman from North Carolina (Mr. JONES) known as the Houses of Worship Free Speech Restoration Act, which would allow churches and other houses of worship to discuss politics and endorse candidates from the pulpit without losing their tax-exempt status, will now be the same people who are stripping their churches from any of this funding to help their congregations.

This bill could be the greatest housing construction legislation ever passed by Congress and will help people in every district in America and benefit almost every church and house of worship in our country, but the far right wing is opposed to it. They are hypocritically opposed to it and so stuck in ideology that they refuse to debate this bill for the issue it is.

Like scared children, they tuck the provisions into the manager's amendment and refuse any opportunity in the rule to strike it because they know they cannot win.

We are a religious country and we have many members of the cloth in Congress, most of whom, I point out, are Democrats, and the far right knows that their anti-religious language cannot pass on the merits. That is why I regretfully ask all members of faith and all Members who respect the independence of religion and the pulpit to oppose the manager's amendment.

As the gentleman from Massachusetts (Mr. FRANK) has stated, if the manager's amendment is defeated, all of the good sections will be restored, such as targeting this aid to the hurricane-ravaged areas, in the motion to recommit.

Mr. Chairman, stand up for your constituents, stand up for the American dream of homeownership, stand up for people of faith, and stand up to the far right wing extremists who are hijacking this bill for their own purposes.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. NEY), the chairman of the housing subcommittee.

Mr. NEY. Mr. Chairman, I rise today in support of the bill. As chairman of the Subcommittee on Housing and Community Opportunity, I have had a keen interest in the strength of the mortgage market. The mortgage market has single-handedly kept the economy afloat during these difficult economic times.

Passage of this bill sends an important signal that we understand the importance of GSEs and the secondary-mortgage markets in maintaining a stable economy.

More importantly, I want to comment on the issues of affordable housing and the effect of the affordable housing fund, which is a great fund to have, and we have worked with the minority on this issue and the gentleman from Ohio (Mr. OXLEY) and his staff and our staff. I believe that we will have a profound impact on the country with the fund.

As Members know, it is very difficult to achieve the delicate balance between meeting public policy goals and ensuring a free market business climate. The creation of the government-sponsored enterprises was one such feat that provides an invaluable public service of creating and maintaining a secondary market for the mortgage markets. As a result, our homeownership rates and our access to capital are the best in the world.

On the other hand, I also understand that because these financial institutions are creatures of the Federal Government, we also have a responsibility to ensure they achieve a public-policy purpose. Homeownership rates among minority families are increasing, but we can obviously do much better than the current average of 50 percent for African Americans, Hispanic urban and rural communities, just to name a few. We have to ensure that these communities that have not been full participants in the pursuit of the American Dream can be reached.

Fannie Mae and Freddie Mac own or guarantee nearly half of this country's residential mortgage market. The legislation we are considering today would markedly improve GSE performance of their housing mission. The Committee on Financial Services approved major sections on new single-family and multi-family housing goals; the duty to serve lower income markets, and I stress duty to serve them; and a new affordable housing fund with contributions from the enterprises.

Of course, there are other parts of this bill that are good, and I give credit to the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) in strengthening oversight.

Today, I just wanted to speak freely on the actual housing fund. I urge my colleagues to support this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey (Mr. PASCRELL) to speak regarding a very important provision of the bill as it now exists.

Mr. PASCRELL. Mr. Chairman, I first of all commend the chairman and the ranking member for putting a great bipartisan bill together concerning government-sponsored enterprises.

In addition to establishing a very strong, independent regulator, the legislation will also create a sorely needed affordable housing fund.

The housing fund will help people with low incomes who face the greatest difficulty in finding housing that is available and affordable; but as we put forward this new housing fund, I do not think the manager's amendment is a very good one. We should never force nonprofits to choose between providing affordable housing and encouraging full participation in the American Dream.

The housing trust fund will provide a much-needed stimulus to our American economy, but it is not only low-income Americans who suffer from lack of affordable housing. I would ask the gentleman to please be cognizant of what I am saying. I know my district and the area within my district. A recent study has found that 4.8 million working families, many of them middle-income, have faced critical housing needs in recent years, spending more than half of their income on rent or living in substandard housing.

To help struggling middle-class families, it is essential that we preserve section 123 of this bill, which raises the conforming loan limit by up to 50 percent for certain high-cost housing areas. Without raising that limit, the benefits of the GSE housing subsidies are not distributed evenly or fairly across geographical lines.

In 2003, Fannie Mae and Freddie Mac purchased 35 percent of all mortgages originated nationwide. In several high-cost housing areas, these institutions were able to purchase fewer than 30 percent of the new mortgages. In my area, a large portion of real estate transactions take place over the conforming loan limit.

In my own district, my own area, Bergen, Passaic, and Essex counties, the median price of housing is 125 percent above the existing loan limit, one of the highest rates in the country.

□ 1345

This is an unfair limit. It prevents many middle-class families in New Jersey from being able to own a home in the State.

At a time, Mr. Chairman, when wages are stagnant, energy prices soaring, college tuition skyrocketing, we are well aware of just how much these hardworking families are being squeezed financially. This is common sense. This is not Democrat or Republican. This is common sense that we help middle-class folks out to purchase the homes. And I am not going to talk personally to the gentleman from New Jersey, but on this he is dead wrong.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. GARY G. MILLER).

Mr. GARY G. MILLER of California. Mr. Chairman, Chairman OXLEY and Ranking Member FRANK have worked very hard to come up with a very good bill. The goal is to make sure we find liquidity in the secondary marketplace so people in this country have a home. The more liquidity we have in the marketplace, the more stability we have in the marketplace, the better it is for the Nation and the overall vibrant housing market.

GSEs have been at the forefront of creating affordable housing opportunity throughout our Nation for American families. There is an amendment that is coming up later that guts something we tried to do in this bill, and that is to make sure that GSEs can adequately provide loans in the markets throughout this country. And people who happen to live in certain areas that are considered high-cost areas, such as California; New York; Massachusetts, Mr. FRANK's State, currently are not able to acquire Freddie and Fannie loans because the housing market has grown so much and the costs have grown so much that they have exceeded the limits that GSEs can lend in. And it is a shame that if people live in Hawaii, Guam, and places like that, they can still get a Freddie and Fannie loan, yet in California they cannot. And what we have done through this bill, thanks to Chairman OXLEY, is provide for those needs and turned out a very good bill.

I strongly urge my colleagues to support this bill.

I rise in strong support of H.R. 1461, the Federal Housing Finance Reform Act of 2005.

I commend Chairman OXLEY and Ranking Member FRANK for their tireless efforts to produce a balanced bill, that ensures that the housing GSEs are adequately regulated without disrupting our nation's strong and vibrant housing markets.

Government Sponsored Enterprises (GSEs) have been at the forefront of creating affordable housing opportunities for American families.

In my district, for example, Fannie Mae has created employer-assisted housing programs for the City of Brea Police Department to allow police officers to live in the communities they serve.

They have helped to finance affordable housing initiatives in Anaheim, California.

Across the district, they have been able to offer innovative programs to allow those with blemished credit to afford the dream of homeownership, to help seniors convert the equity in their homes into cash to help them meet their needs, and to help families and individuals with special needs become homeowners.

All of this, in partnership with lenders, is intended to meet the ever-growing needs of our communities.

As we have addressed deficiencies in GSE supervision, we worked hard to ensure H.R. 1461 does not lose sight of Congress' original goal in chartering GSEs.

The mission of Fannie Mae and Freddie Mac is to provide stability and on-going assistance to the secondary market for residential mortgages, and to promote access to mortgage credit and homeownership in the United States.

While we make these regulatory reforms, we are also unwavering in our commitment to help Americans achieve the dream of homeownership.

H.R. 1461 seeks to improve regulation of the GSEs while continuing to ensure the accessibility of mortgage funds at the lowest cost.

While there is no question that regulatory changes must be made to ensure the safety and soundness of the secondary mortgage market, H.R. 1461 recognizes that strong regulation provides a means to achieve our ultimate goal of expanding the supply of affordable mortgage credit across this nation.

For generations, the goal of owning a home has been the bedrock of our economy and a fundamental part of the American Dream.

The bill we consider today is about homeownership in this country.

Homeownership benefits our communities and national economy. Indeed, it is the key to promoting long-term economic stability for our citizens and nation. That is why this bill is so important.

H.R. 1461 provides for a strong regulator for the GSEs so that investors and the markets are assured that these companies are sound and that their investments in America's housing markets are safe.

LOAN LIMIT LANGUAGE

I am especially grateful that the bill includes language that recognizes that housing costs differ widely throughout the country.

While GSEs are chartered to operate in every district across the country, their effectiveness in certain areas has been seriously hindered because high housing prices have caused fewer and fewer mortgages to fall within the conforming loan limit.

Those who live in high-cost areas of the country should be able to participate in federal efforts to provide affordable housing opportunities.

This is a simple issue of fairness. It is unacceptable for the federal government to tell my constituents that federal programs exist to increase homeownership in America, but they cannot qualify simply because of where they happen to live and work.

The language in the bill increases loan limits in high cost areas to the median home price of the area, not to exceed the limit for Alaska, Hawaii, Guam, and the Virgin Islands (150 percent of national loan limit). This does not impact the portfolios of the GSEs as all loans made in high-cost areas must be securitized.

By adjusting conforming loan limits in high-cost areas, we can create nearly 250,000 new homeowners at no cost to taxpayers.

I urge my colleagues to support this important provision and reject efforts to remove it during the amendment process.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me this time. And I particularly want to thank the gentleman from Louisiana (Mr. BAKER) for his efforts for years in this area and for the gentleman from Ohio's (Mr. OXLEY) work and the gentleman from Massachusetts' (Mr. FRANK) work as well.

When Enron was collapsing and Sarbanes-Oxley was created, the gentleman from Louisiana (Mr. BAKER) said to me, But you know what? Fannie Mae and Freddie Mac do not even come under these laws because they do not come under the 1933 Securities Act and the 1934 Securities Exchange Act.

So we thought let us try to get them under it. And I cannot tell the Members the grief that ensued after that. All of a sudden Fannie Mae and Freddie Mac considered us enemies because we wanted them to play by the same rules that everyone else had to play by. And through the work of the gentleman from Louisiana (Mr. BAKER) and others, Fannie Mae was forced to come under, voluntarily as they said, the 1934 act. And when they did that, all of a sudden all this information about all of their problems started to come out because information was being provided to us. This action we are taking today is in response to the information that we have learned about Fannie Mae and Freddie Mac.

I am grateful that the new administrations of these agencies are no longer arrogant like the previous ones. I am grateful that we are starting to say that they should have to play by the same rules as everyone else. And because of that, the taxpayers will be protected, and the investors will be protected.

There are parts of this law that I would like strengthened, but this is a good act. It deserves our support. And, again, I thank our chairman for moving forward, as he always does, in a bipartisan way and for listening to the wisdom of the gentleman from Louisiana (Mr. BAKER).

I rise in strong support of this legislation and appreciate Chairman OXLEY and Chairman BAKER's efforts. Fannie Mae and Freddie Mac play a vital role in our housing finance market, yet for far too long these companies have been playing by their own set of rules. During this time we've witnessed massive earning restatements, accounting irregularities, frequent challenges to their regulator's judgment and authority, and a cookie jar reserve. These were all part of a culture of arrogance at the GSEs, and were enabled by a weak and ineffective regulator. With this legislation, we are beginning to correct this very serious situation.

How serious is the issue of GSE oversight? What's at stake if one or both companies fail? Fannie Mae and Freddie Mac have $1.6 trillion in combined assets; $1.4 trillion in retained mortgages in portfolio; $1.5 trillion in outstanding debt; and $1.5 trillion in notional derivatives. In addition, outstanding mortgage-backed securities guaranteed by Fannie and Freddie, but held by third parties, total $1.7 trillion. Mr. Chairman, in the absence of a world-class regulator to oversee these institutions, we are truly playing Russian roulette.

Creating a new regulator is not about punishing the GSEs—it is in fact vital to the safety and soundness of our Nation's housing market. Both investors and taxpayers have a right to know the financial condition of the GSEs and they deserve a strong, independent regulator that has the resources to oversee their operations.

There has been and will continue to be vigorous debate about this legislation. I want to address a few key issues surrounding this legislation, and share my thoughts on what I

hope is ultimately included in the bill that is sent to the President.

Currently, Fannie Mae and Freddie Mac are the only two publicly-traded companies in the Fortune 500 that are exempt from regulation by the SEC. The only reason Fannie Mae and Freddie Mac were forced to reveal their accounting errors is because in July 2002, under pressure from Congress and the Administration, the two companies finally agreed to comply with certain reporting requirements of the Securities Exchange Act of 1934. Fannie Mae followed through and registered in 2003, but failed to file a report in the third quarter of 2004, and is now in the process of restating those reports it did file. Freddie Mac simply never lived up to the agreement.

I believe all publicly traded firms should play by the same set of rules, and am pleased this legislation codifies the 2002 agreement. This legislation should go even further by requiring Fannie Mae and Freddie Mac to comply fully with the Securities Act of 1933 and the Securities Exchange Act of 1934.

Regarding the powers of the new regulator, due to the enormity of the GSEs' holdings, it seems to me we should go even further in empowering this new office. Economic experts, most notably Federal Reserve Board Chairman Alan Greenspan, have warned this Congress that the tremendous concentration of mortgage assets at Fannie Mae and Freddie Mac coupled with the dangers associated with interest rate risk may pose a systemic risk, not only to the U.S. capital markets, but indeed the global financial system. Later today, I intend to support an amendment to empower the regulator to reduce Fannie and Freddie's mortgage assets if it determines these assets pose a systemic risk. I oppose placing statutory or hard caps on the GSEs' portfolios, but consistent with the Treasury Department's recommendation, it is prudent we provide the new regulator with the authority to consider systemic risk.

Finally, regarding the affordable housing fund, despite my concern that creating this fund will only deepen the perception the GSEs are backed by the Federal government, those concerns are outweighed by the pressing need for more affordable housing in Connecticut and around the country. Year after year, we vigorously debate the amount of Federal funds to allocate for public housing, Section 8 and other housing programs, and it is my strong conviction that we must creatively address the affordable housing crisis. It seems to me this fund is a worthy solution.

Non-profit organizations and social service providers in Connecticut do an amazing job and are continually finding ways to do more with less. But the needs are tremendous, and families continue to struggle to find housing where they can safely raise their children and still afford to feed them too. It's time we empowered housing organizations with additional resources to build more affordable units, including in the Gulf Coast region devastated by Hurricanes Katrina and Rita.

Mr. Chairman, while there is more work to be done before Congress sends this legislation to the President, I support what we have before us today and encourage my colleagues to do so as well.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have noticed a certain level of discomfort on some of my friends on the Republican side and some of my not so good friends on the Republican side. So I want to be very generous and ease their discomfort.

There are people who are not happy with everything in the manager's amendment. A lot of what is in the manager's amendment a lot of us like, the preference for the gulf areas, some of the restrictions on what people do with the use of funds.

There are three small provisions in the manager's amendment that are controversial. The one that says no faith-based groups can go in there, the principal purpose; and the one that says nonpartisan voter registration and nonpartisan get out the vote are not possible.

So I want to tell people this: If the manager's amendment is defeated, I will offer as the recommittal motion the exact manager's amendment minus those three specifics. So if they like the manager's amendment but do not want to keep the Catholic Church out of affordable housing, do not want to have the problem that the gentlewoman from Ohio (Ms. PRYCE) mentioned where they cannot take old people to the polls, and do not want to restrict nonpartisan voter registration, if the manager's amendment is defeated, everything except those three things that were in the manager's amendment will be in the recommit.

And as proof of that, I have given a copy of what the recommit would then be over to the Republican side. They can look it up, as Casey Stengel used to say. They will be able to see that they can then carefully and in good conscience vote against the manager's amendment and then vote for the recommit because it will be their amendment; so they will get permission to vote for the recommit, and they will get everything in the manager's amendment except the one thing that keeps out faith-based, restricting it to people whose primary purpose is here, and the nonpartisan restriction on voter registration. All the other restrictions and everything else will be in it. So do not worry. I am making their life easier.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

This has been an excellent debate, and we appreciate the efforts on both sides of the aisle for this legislation.

Mr. Chairman, this is historic legislation, the first time that any Congress has reached a stage where we are debating a major reform effort for the GSEs. It is a long time coming. The gentleman from Louisiana (Mr. BAKER) has toiled in the vineyards for all of these years, and we have finally reached a situation where we can finally pass legislation that will improve the regulatory structure of the GSEs, ultimately make them stronger and more accountable, provide affordable housing funds through the GSEs throughout the country and particularly related to the hurricane-affected areas.

This is well balanced. It makes a lot of sense, something that we have been working on for a long time. And I know a lot of the debate has been about one particular part of the manager's amendment that I will be offering next, but at the end of the day, when this bill comes up for final passage, most Members will support it because it makes good sense from a regulatory standpoint, it makes good sense from an affordable housing standpoint.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, September 14, 2005.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On July 14, 2005, the Committee on Financial Services filed its report on H.R. 1461, ''Federal Housing Finance Reform Act of 2005.'' The bill was then sequentially referred to the Committee on the Judiciary until September 16, 2005. I am writing to confirm our mutual understanding with respect to the further consideration of H.R. 1461.

I am pleased that our staffs have been working together during this period and have reached an agreement on an amendment regarding independent litigation authority (copy attached). I agree that I will request the Rules Committee make this amendment in order as part of a manager's amendment during consideration of the bill, and to consult with your Committee in providing an explanation of its contents. It is my understanding that with this commitment, no further action by the Judiciary Committee on this bill will be required and the time period for the sequential referral will thereby lapse. It is also understood that this procedure is without prejudice to the jurisdictional interests of the Judiciary Committee on this or similar legislation. I will also support the request of the Judiciary Committee for an appropriate appointment of conferees should H.R. 1461 or a similar Senate bill be considered in conference. I will also include this exchange of letters in the Congressional Record during consideration of the bill.

Thank you for your cooperation and your attention to this important matter.

Yours truly,

MICHAEL G. OXLEY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 14, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, House Committee on Financial Services, Rayburn House Office Building, Washington DC.

DEAR CHAIRMAN OXLEY: This letter responds to your recent letter concerning H.R. 1461, the ''Federal Housing Finance Reform Act of 2005,'' which was ordered reported to the House by the Committee on Financial Services on July 14, 2005 and sequentially referred to the Committee on the Judiciary.

As you know the Committee on the Judiciary has jurisdiction over matters concerning independent litigation, bankruptcy laws, civil judicial matters, and other subject matter contained in the bill. I am pleased to acknowledge the agreement between our Committees to address changes that you will include in a manager's amendment to the bill concerning independent litigating authority. In order to expedite this legislation for floor consideration, the Judiciary Committee agrees to forgo action on this bill based on the agreement reached by our Committees

and with the understanding that no other provisions affecting the jurisdiction of the Judiciary Committee are included in the amendment to H.R. 1461. The Judiciary Committee takes this action with the understanding that it in no way prejudices the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. I also request that you include this exchange of letters in the Congressional Record during floor consideration of this bill.

Thank you for your attention to this matter and for the cooperation of your staff.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, October 25, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY: I am writing with respect to H.R. 1461, the ''Federal Housing Finance Reform Act of 2005,'' which was reported to the House by the Committee on Financial Services on Thursday, July 14, 2005.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning taxes and the Internal Revenue Code of 1986. A provision in Section 144 of H.R. 1461 would provide an exemption for a limited-life enterprise from Federal taxes, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 1461, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, October 26, 2005.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your letter concerning H.R. 1461, the ''Federal Housing Finance Reform Act of 2005''. This bill was reported by the Committee on Financial Services on July 14, 2005. It is my expectation that this bill will be scheduled for floor consideration in the near future.

I acknowledge your committee's interest in a provision contained in section 144 of the bill which would provide an exemption for a limited-life enterprise from Federal taxes. Such matters concerning Federal taxation fall under the exclusive jurisdiction of the Committee on Ways and Means. However, I appreciate your willingness to forego action on H.R. 1461 in order to allow the bill to come to the floor expeditiously. I agree that your decision to forego further action on this bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I would support your request for conferees on those provisions within your jurisdiction should this bill be the subject of a House-Senate conference.

I will include this exchange of correspondence in the Congressional Record when this bill is considered by the House. Thank you again for your assistance.

Yours truly,

MICHAEL G. OXLEY,
Chairman.

Mr. WEINER. Mr. Chairman, despite the divisiveness of the term ''faith-based,'' most Americans are united in their support of religious organizations. Across the country, these organizations do great work, feeding the hungry, caring for the sick, and in many cases providing affordable housing to those most in need.

That's why it's surprising that the Republicans are using an otherwise worthy effort to reform Government Sponsored Enterprises like Fannie Mae and Freddie Mac to throw a wrench in the relationship between government and the religious community. The Affordable Housing Fund created by the bill will commit 5 percent of Fannie and Freddie profits toward a grant program to build, maintain, and rehabilitate housing for low-income families. Yet language passed in the Managers Amendment stops that money from flowing to faith-based organizations. That amounts to $500 million a year that Republicans don't believe should go to organizations like Catholic Charities.

Today in Brooklyn and Queens alone Catholic Charities operates 3,000 units of affordable housing including 2,090 units for senior citizens, 480 units of family housing and 377 units of supportive housing for formerly homeless individuals. But the Church, the largest non-profit provider of low income housing in Brooklyn and Queens, will be shut out of the new program.

Faith should never be used to divide an electorate or play a political game. I believe that is exactly what Republicans have done in order to take the teeth out of a program designed to help those most in need.

We should all embrace the principle of Tikkun Olam which says that those who have a little more, should do a little more. That is exactly what the Affordable Housing Fund would have allowed faith-based organizations to do in partnership with the Federal Government until Republicans inserted their limiting provisions.

In the words of the Most Rev. Nicholas DiMarzio, Bishop of Brooklyn, in a letter to the Speaker dated October 3, ''There are ample ways to write safeguards into the legislation to prevent the diversion of affordable housing funds to uses other than what they are intended without requiring recipients to forego their constitutionally protected rights as a condition for participating in Affordable Housing Fund programs.''

I include the Bishop's letter for the RECORD.

DEPARTMENT OF SOCIAL
DEVELOPMENT
AND WORLD PEACE,
Washington, DC, October 3, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I write as Chairman of the Domestic Policy Committee of the United States Conference of Catholic Bishops (USCCB) to urge you to retain the Affordable Housing Fund as part of the Federal Housing Finance Reform Act of 2005 (H.R. 1461) and bring the bill to a vote forthwith. The Catholic Bishops have historically urged the federal government to help meet our nation's promise of a decent home for every American family, especially those families with extremely low incomes.

As I noted in my June 10 letter to the House of Representatives, the Catholic Community—through our Charities agencies, dioceses, and parishes—serves tens of thousands of men, women, and children who struggle to maintain adequate housing. Besides sheltering homeless people who turn to us for help, we have built, and continue to maintain, thousands of affordable housing units. All of these experiences have demonstrated to us how inadequate, substandard housing hurts human life, undermines families, destroys communities, and weakens the social fabric of our nation. Despite our efforts—and the efforts of so many others—there just is not enough affordable housing available.

Proposals that would limit eligible recipients to organizations that have as their primary purpose the provision of affordable housing would effectively prevent Catholic dioceses, parishes and Catholic Charities agencies from participating in Affordable Housing Fund programs. Similarly, proposals that would prohibit recipients from engaging in voter registration and lobbying activities with their own funds during the period they are utilizing affordable housing funds would force Catholic agencies to choose between participating in Affordable Housing Fund programs or engaging in constitutionally protected voter registration and lobbying activities with their own funds. I urge you to oppose inclusion of these kinds of unnecessary limitations and prohibitions in H.R. 1461 as it moves to the House floor for a vote. There are ample ways to write safeguards into the legislation to prevent the diversion of affordable housing funds to uses other than what they are intended without requiring recipients to forego their constitutionally protected rights as a condition for participating in Affordable Housing Fund programs.

The Bishops' statement, Putting Children and Families First, notes: ''Many families cannot find or afford decent housing, or must spend so much of their income for shelter that they forego other necessities, such as food and medicine.... [The Catholic bishops] support housing policies which seek to preserve and increase the supply of affordable housing and help families pay for it.'' We must put in place a sustainable source of funds to build affordable housing and this new fund would do that.

As I said in my June letter, this legislation presents Congress with a genuine opportunity to make the shelter needs of extremely low-income families a national priority. I believe that such families who need housing the most should be targeted to receive these limited funds.

With every best wish, I am,

Sincerely,

MOST REV. NICHOLAS
DIMARZIO, PHD, DD
Bishop of Brooklyn, Chairman, Domestic Policy Committee, United States Conference of Catholic Bishops.

Ms. KILPATRICK of Michigan. Mr. Chairman, it is with some reluctance I rise now in opposition to H.R. 1461, the Federal Housing Finance Reform Act. In its amended form, the legislation no longer puts the best interest of our Nation at heart, but instead holds a precious resource hostage for the sake of partisan politics.

The provision restricting non-profit organizations, and their affiliates, from using their own funds to engage in non-partisan voter registration or get-out-the-vote activities if they want

to apply for the much-needed affordable housing funds is entirely inappropriate. Election activities promoting good citizenship conducted by unbiased, non-profit organizations should be encouraged, not restricted. To add insult to injury, the new provision imposes a new burden of requiring these groups to list housing assistance as their ''primary purpose'' if they want to apply for funds. The effect of this constraint will be to reduce the diversity of assistance that will be available.

With such a growing need for affordable housing, and for competent groups capable of connecting people with the already scarce resources, I cannot imagine why my colleagues would want to handicap these organizations from providing assistance to our Nation's most vulnerable populations.

It is for these reasons I cannot support this otherwise sound and reasonable measure to improve the regulation of our Nation's largest source of mortgages. I urge my colleagues to vote ''no'' on H.R. 1461.

Mr. NADLER. Mr. Chairman, I rise in opposition to this legislation.

I support increasing oversight of Fannie Mae and Freddie Mac. It is a worthwhile goal, one that the recent scandals at these institutions and on Wall Street illustrate is sorely needed. And I support the creation of a budget-neutral Affordable Housing Fund. Indeed, that this kind of program should be created, given the proclivity of this Republican House of gutting programs for the poor, is nothing short of miraculous.

However, I cannot support a program whose benefits come at the expense of the rights of nonprofit organizations. The provision in question would disqualify any nonprofit group that engages in voter participation activities, such as voter registration and get-out-the-vote efforts, from applying for a grant under the Affordable Housing Fund. This would apply even if the activities are non-partisan and even if they are paid for with non-federal monies. This provision would have a chilling effect on the Constitutional speech and association rights of all nonprofits.

How can the Republicans, in good faith, claim to work with us on the reauthorization of the Voting Rights Act, and turn around and tie the hands of those groups who are trying to incorporate the disenfranchised into the democratic process? What's worse, this provision is entirely superfluous. Nonprofits are already prohibited from using federal funds to lobby. However, they are free to engage in lobbying and nonpartisan voter registration with non-federal dollars. This bill is a slap in the face to those groups who need this money most. What's more, this restriction only applies to non-profit organizations, not any for-profit entities seeking grants from the Fund.

This bill also essentially bars non-profits whose mission extends beyond the provision of affordable housing. Many organizations develop and manage effective affordable housing programs alongside programs that provide food, closing, counseling, and other health and social services. Those who claim to work on behalf of the faith-based community should take a close look at this bill, and should watch this vote closely. By voting aye you are barring church groups from affordable housing funds if their primary mission goes beyond affordable housing.

This is a typical piece of Republican legislation. Once again, my friends from across the aisle have poisoned legislation that would otherwise have received bipartisan support by picking on those who can least afford to defend themselves. I encourage my colleagues to join me in opposing this bill, and supporting the motion to recommit. We can and should do better.

Mr. FOSSELLA. Mr. Chairman as we consider H.R. 1461, the Federal Housing Finance Reform Act, I would like to urge my colleagues to support the inclusion of a provision to provide an increase in Conforming Loan Limits for high cost Metropolitan Service Areas, MSAs.

Since 1980, the price of homeownership in New York has increased by 492 percent, and continues to escalate in the current housing market. With drastically higher prices than other parts of the country, homeownership in the area has limited access for lower and middle income New Yorkers.

The GSE's chartered mission is to expand homeownership for low to middle income Americans, and this should apply to Americans regardless of the geographic region in which they reside. In working towards achieving this mission, Fannie Mae and Freddie Mac are restricted in their ability to participate in these high cost areas because significantly fewer mortgages fall within the conforming loan limit.

The current loan limit is set at $359,650. The median price of a home in the New York area, however, is $435,200—considerably higher even for entry level home prices. While the current loan limit has been raised to the lesser of 150 percent of the statutory limit or the median home price in Alaska, Hawaii, Guam and the Virgin Islands, high cost metropolitan areas like New York City have been left out.

Language included in HR 1461 would increase loan limits in high cost areas to the maximum of the area's median home purchase price, capped at 150 percent of the current limit. Raising these limits will help lower to middle income residents in high cost areas like Staten Island gain access to the lower interest mortgage rates Fannie and Freddie are able to provide—mortgage rates that, compared to jumbo loans, can save my constituents as much as $135 a month.

Fannie and Freddie are able to provide lower interest rates to homebuyers and expand homeownership through the contributions of the American taxpayer. It is time the taxpayers in high cost areas like New York City realize the benefits of their contributions through access to lower interest mortgages. The current disparity is undeniable.

I urge my colleagues to support the Conforming Loan Limits language and vote no on attempts to remove it from the Federal Housing Finance Reform Act.

Mr. RAHALL. Mr. Chairman, today, the House of Representatives voted on H.R. 1461, the GSE Federal Housing Finance Reform Act of 2005. This bill will not only substantially overhaul the safety and soundness of the housing government-sponsored enterprises, but it will also establish an Affordable Housing Fund.

I voted in favor of this legislation, but with some reservation.

The Affordable Housing Fund provides funds to grantees to build housing that is affordable to low income families. This is an important goal, and while I support the bill and the establishment of the Affordable Housing Fund, I do not support the inclusion of language that blocks non-profit organizations from non-partisan activities that encourage citizens to participate in our democratic process. This is why I voted against the manager's amendment to H.R. 1461 earlier today.

The amendment included language that will prohibit grantees from using even their own funds to encourage citizens to exercise their right to vote and would retroactively penalize organizations that have done so in the past. This language would restrict non-profits who engage in first amendment political activity, with their own funds, from receiving Affordable Housing Fund grants. In short, it will have a chilling effect on the free speech rights of non-profit organizations.

By keeping funding out of the hands of non-profit and faith-based organizations that are associated with any kind of voter registration activities and exempting for-profit companies from the same restrictions, I ask, what legitimate governmental interest is there in preventing nonpartisan voter participation activities? Political participation is a foundation of our Constitution.

I hope that when H.R. 1461 reaches Conference, a bi-partisan effort will come together to strike this language from an otherwise worthy piece of legislation. I will continue to protect our citizens' ability to register to vote and have a voice in the political process.

Mrs. MALONEY. Mr. Chairman, when this bill left the Financial Services Committee on a 65 to 5 vote, I felt we were on the way to a great accomplishment. I was truly impressed with the hard work that Chairman OXLEY, Ranking Member FRANK, Congressman BAKER, and others had done to bring the GSEs into this century.

It is no less than tragic that the majority leadership and the administration have deep sixed this bipartisan legislation.

The bill creates the sort of regulator that the GSEs have long lacked and that they demonstrably need, without destroying their housing mission.

I was particularly excited by the Affordable Housing Fund provided by this bill. The Fund is a critical and long-overdue step toward addressing the very real housing crisis that confronts low-income families.

It would be the first concrete step the Congress has taken in support of housing in this administration.

We know that without Federal assistance, housing for low-income families does not get built or made available. Yet each year this administration has cut its support for housing. In this bill, we found a bipartisan way to support housing using a new funding source.

The GSEs were chartered by the Federal government for the purpose of providing housing to more Americans, and they enjoy a benefit as a result of their Federal charter. Thus, it is uniquely appropriate that they plow a percentage of their profits—up to 5 percent—back into the low-income end of the housing market.

This would be $500 million or more annually. That is serious money.

We built on success: the Fund is modelled after the successful Affordable Housing Program of the Federal Home Loan Bank Program.

We wanted all players involved. Funds would be awarded through a competitive process to for profit builders, State housing organizations, and non-profits.

We put in place safeguards to prevent abuse. The funds must be used for low-income housing. They may not be used to lobby or to conduct partisan political activities. Recipients who misuse funds will not be allowed to participate again.

This bill is the best thing that has come along for housing in a very long time.

Therefore it is particularly tragic that the majority has injected a poison pill into the bipartisan bill that left our Committee: the provision that prevents any nonprofit recipient of a housing grant from conducting nonpartisan voter registration or get-out-the-vote activities.

This is an outrageously bad provision that imposes unconstitutional restrictions on promoting the most fundamental of our civil liberties: the right to vote.

It is profoundly disturbing that the majority and the administration are willing to use any tool available to kill this bill and prevent the Housing Fund from becoming a reality.

I urge my colleagues on both sides of the aisle to repudiate these provisions that strike at faith based organizations and the fundamental right to vote.

I cannot in good conscience vote for this bill with this provision in it. Even the promise of housing money comes at too high a price when we must compromise the principles on which this Nation is built.

Ms. PELOSI. Mr. Chairman, I thank the gentlemen from the Financial Services Committee, Mr. FRANK and Mr. OXLEY for working in a bipartisan way to build broad support for the GSE reform bill they bring to the Floor today. This bill was reported from the Committee by a vote of 65–5.

But today that spirit of working together for common sense reforms and for the good of the people seems to have vanished.

The first order of business will be to consider a manager's amendment that will eviscerate a provision of the bill that is central to the broad support it enjoys—the Affordable Housing program funded through a small percentage of the profits of Fannie Mae and Freddie Mac. If enacted, it will be the first affordable housing resource created without using Federal dollars since Congress established the Federal Home Loan Banks Affordable Housing Program in 1989.

Mr. Chairman, for too long many of America's low-income families have struggled to find affordable, safe, decent housing. Budget cuts and rising development costs mean that fewer units are built under existing programs each year. We are losing more affordable housing than we are building. Therefore it is vital that a new dedicated funding stream for affordable housing be created.

Unfortunately, my Republican conservative colleagues hijacked this bill in an effort to strip away the bipartisan housing fund. When they were not able to completely get rid of it, they limited its use by blocking nonprofit organizations and faith-based groups, who engage in vote registration with their own funds, from even applying for grants to build affordable housing. There are no similar restrictions on ''for-profit'' organizations.

This is not fair. As Catholic Charities has pointed out, ''Encouraging citizens to exercise their right to vote is an integral part of the Catholic Church's religious and moral mission and reinforces individual responsibility for the common good . . . Catholic Charities agencies should not be forced to choose between affordable housing funds and fulfillment of their religious mission.''

It is unacceptable to force a poisoned choice on these entities: to help fill critical housing needs or to exercise their basic civic responsibilities. Most importantly, it is an unacceptable barrier to Americans' right to vote.

Our democracy depends on protecting the right of every American citizen to vote—and to register to vote—in every election. As the Supreme Court noted: ''No right is more precious in a free country than that of having a voice in the election of those who make the law, under which, as good citizens, we must live.''

We dare not, we must not create barriers on the right to vote and undermine 40 years of progress. It is a chilling precedent and a path we should refuse to walk. No church, no religious order, no faith-based group or non-profit organization should face the prospect of being deemed ineligible for money to help low-income, elderly, or disabled individuals find affordable homes simply because they offer a full range of services, including counseling, clothing, mentoring, and—yes—helping people fulfill their right to participate in their government.

Mr. Chairman, today we honor the life of Rosa Parks. We must use the opportunity in this bill to recommit ourselves to the ideals of equality and opportunity that are both our hope and our future. We must defeat this cynical, political strategy to divide us once again. I urge my colleagues to support our effort to strip these mean-spirited restrictions from the bill.

Mr. GUTIERREZ. Mr. Chairman, I am very proud of the committee print of H.R. 1461, legislation designed to improve the regulatory structure of the Government Sponsored Enterprises, GSEs. I am pleased that two amendments I offered at markup are part of the bill. One of my amendments preserves the minority component of the single family housing goals relating to underserved areas, with a major improvement in its implementation. My other amendment provides protection from liability for a GSE that makes reports to its regulator concerning transactions involving fraudulent loans or financial instruments. This provision was modeled after the protection from potential liability for such reports that banking institutions currently have under the Bank Secrecy Act.

H.R. 1461 also contains a much-needed expansion of Fannie and Freddie's affordable housing goals. The legislation directs each company to establish and manage an affordable housing fund to promote affordable housing and assist victims of Hurricane Katrina. The GSEs would devote 3.5 percent of after tax profits to the fund beginning in 2006, which increases to 5 percent annually beginning in 2007.

In 1989, in the FIRREA legislation, we created a similar Affordable Housing Program in the Federal Home Loan Bank System. The AHP requires the FHLBs to devote 10 percent of each year's net profits as grants for affordable housing projects sponsored by their member financial institutions. The AHP's success can be measured by the fact that today it constitutes the largest private source of funding for affordable housing and community development projects.

In my hometown of Chicago, the Federal Home Loan Bank of Chicago's AHP plays a key role in local efforts to address the housing needs of low- and moderate-income families by providing financial assistance for rental and owner-occupied housing, assisted living facilities, senior housing developments, homeless shelters and group homes.

In 2004 alone, the Chicago FHLB awarded $32.1 million of subsidies to 109 projects in Illinois and Wisconsin, and another 15 projects in other States. As a result, 5,680 housing units were created or rehabilitated, of which 58 percent were for very low-income households. Another $10.4 million was funded in downpayment assistance to help 2,278 families buy their first home in Illinois or Wisconsin.

While these figures are impressive, numbers do not quite tell the whole story. Let me describe one AHP project in the Humboldt Park/West Town area of Chicago to provide a better sense of the impact these programs can have in their local communities.

Joly Hernandez and Jose Rodriguez, with their children Imani and Albert, lived in Chicago's Humboldt Park/West Town community. Like many, they wanted a larger apartment, but could not afford the higher rent due the dramatic rise in the cost of housing in the area. In the 1990s, with increased recognition of Humboldt Park as an attractive, artist-friendly neighborhood and historic district, property values soared, and affordable rental housing was lost to speculators and developers of expensive luxury condos and single-family homes.

In 1994, Bickerdike Redevelopment Corporation, BRC, a nonprofit, community-based affordable housing developer and property manager began the arduous task of planning the Harold Washington Unity Cooperative to address the loss of affordable housing in the Humboldt Park/West Town area. Despite the increase of new construction and housing renovation in the area, a few pockets remained undeveloped. BRC knew that if the vacant land and neglected buildings were not immediately claimed for affordable housing, more long-time residents would be displaced.

A project was planned to develop 87 housing units in 18 buildings over 10 sites in a formerly blighted four-block area bordered by Kedzie Avenue, Albany Avenue, Chicago Avenue and Ohio Street. All 87 units in the Cooperative will remain affordable to households earning 50 percent or less of the area median income for at least 15 years.

The total cost of the project was almost $14 million. The Chicago FHLB, working through Bank One, which sponsored the project's application, provided an AHP grant of $500,000. In addition, the project received financing from CDBG funds through the City of Chicago, Trust Funds from the Illinois Housing and Development Agency, Federal Low Income Housing Tax Credits, Illinois State Tax Credits, an Empowerment Zone grant, a Tax Increment Financing, TIF, loan and first mortgage financing.

Ten years after its original conception, the Harold Washington Unity Cooperative stands as an enviable display of community pride, determination and opportunity.

Because of the hard work and dedication of BRC, Joly, Jose and their two children now live in a new home in their old neighborhood. They also belong to the Bickerdike Residents Council and feel a strong sense of community and camaraderie with their neighbors.

Extending this program to Fannie and Freddie is long overdue, has overwhelming bipartisan support, and I look forward to similar success stories once this legislation is implemented.

Those of us on the Committee have worked very hard to ensure that the fund can only be used for affordable housing purposes. It cannot be used for political advocacy or lobbying either by the receiving entity or a third party affiliated with them. It cannot be used for counseling services or tax preparation or travel expenses, administrative costs or anything that is outside of the GSE charter. It can only be used for affordable housing purposes. But apparently that was not enough for a small minority of radical conservative members, who insisted on inserting a provision restricting non-partisan civic activities by non-profits. This language would prohibit non-profit organizations (as well as any affiliate of the non-profit) from using their own funds to engage in non-partisan voter registration or get-out-the-vote activities. Profit earning entities are not similarly restricted.

Low-income housing groups and faith-based groups would be forced to choose between obtaining funding for low-income housing and using other funds to engage in non-partisan voter registration and get-out-the-vote activities. This provision is likely unconstitutional.

The manager's amendment also contains language that would require that a faith-based or social welfare non-profit entity applying for a grant must have as its sole ''primary purpose'' the provision of affordable housing. This restriction is particularly problematic for social welfare and faith-based groups, which have a broader mission than exclusively affordable housing.

These provisions are not only offensive substantively, but I have a real procedural problem with the way these provisions are being inserted in the bill. They are a part of the manager's amendment, which also contains important provisions that were worked out on a bipartisan basis, and provisions designed to help hurricane victims. The Rules Committee has unconscionably denied us an opportunity to vote to strike these offensive provisions on a stand alone basis. They did this because they knew we would win such a vote and they needed to bow to a tiny minority of conservatives who apparently have little regard for the Constitution.

Regretfully, I must oppose H.R. 1461 due to the inclusion of these provisions and the fact that we were not even allowed an opportunity to vote to strike it. I sincerely hope that these provisions are stripped in conference and, if that is the case, I look forward to enthusiastically supporting the conference report so that this otherwise excellent legislation can become law.

Mr. PAUL. Mr. Chairman, H.R. 1461 fails to address the core problems with the Government Sponsored Enterprises, GSEs. Furthermore, since this legislation creates new government programs that will further artificially increase the demand for housing, H.R. 1461 increases the economic damage that will occur when the housing bubble bursts. The main problem with the GSEs is the special privileges the Federal Government gives the GSEs. According to the Congressional Budget Office, the housing-related GSEs received almost 20 billion dollars worth of indirect federal subsidies in fiscal year 2004 alone.

One of the major privileges the Federal Government grants to the GSEs is a line of credit from the United States Treasury. According to some estimates, the line of credit may be worth over two billion dollars. GSEs also benefit from an explicit grant of legal authority given to the Federal Reserve to purchase the debt of the GSEs. GSEs are the only institutions besides the United States Treasury granted explicit statutory authority to monetize their debt through the Federal Reserve. This provision gives the GSEs a source of liquidity unavailable to their competitors.

This implicit promise by the government to bail out the GSEs in times of economic difficulty helps the GSEs attract investors who are willing to settle for lower yields than they would demand in the absence of the subsidy. Thus, the line of credit distorts the allocation of capital. More importantly, the line of credit is a promise on behalf of the government to engage in a massive unconstitutional and immoral income transfer from working Americans to holders of GSE debt. This is why I am offering an amendment to cut off this line of credit. I hope my colleagues join me in protecting taxpayers from having to bail out Fannie Mae and Freddie Mac when the housing bubble bursts.

The connection between the GSEs and the government helps isolate the GSEs' managements from market discipline. This isolation from market discipline is the root cause of the mismanagement occurring at Fannie and Freddie. After all, if investors did not believe that the Federal Government would bail out Fannie and Freddie if the GSEs faced financial crises, then investors would have forced the GSEs to provide assurances that the GSEs are following accepted management and accounting practices before investors would consider Fannie and Freddie to be good investments.

Federal Reserve Chairman Alan Greenspan has expressed concern that the government subsidies provided to the GSEs makes investors underestimate the risk of investing in Fannie Mae and Freddie Mac. Although he has endorsed many of the regulatory ''solutions'' being considered here today, Chairman Greenspan has implicitly admitted the subsidies are the true source of the problems with Fannie and Freddie.

Mr. Chairman, H.R. 1461 compounds these problems by further insulating the GSEs from market discipline. By creating a ''world-class'' regulator, Congress would send a signal to investors that investors need not concern themselves with investigating the financial health and stability of Fannie and Freddie since a ''world-class'' regulator is performing that function.

However, one of the forgotten lessons of the financial scandals of a few years ago is that the market is superior at discovering and punishing fraud and other misbehavior than are government regulators. After all, the market discovered, and began to punish, the accounting irregularities of Enron before the government regulators did.

Concerns have been raised about the new regulator's independence from the Treasury Department. This is more than a bureaucratic ''turf battle'' as there are legitimate worries that isolating the regulator from Treasury oversight may lead to regulatory capture. Regulatory capture occurs when regulators serve the interests of the businesses they are supposed to be regulating instead of the public interest. While H.R. 1461 does have some provisions that claim to minimize the risk of regulatory capture, regulatory capture is always a threat where regulators have significant control over the operations of an industry. After all, the industry obviously has a greater incentive than any other stakeholder to influence the behavior of the regulator.

The flip side of regulatory capture is that mangers and owners of highly subsidized and regulated industries are more concerned with pleasing the regulators than with pleasing consumers or investors, since the industries know that investors will believe all is well if the regulator is happy. Thus, the regulator and the regulated industry may form a symbiosis where each looks out for the other's interests while ignoring the concerns of investors.

Furthermore, my colleagues should consider the constitutionality of an ''independent regulator.'' The Founders provided for three branches of government—an executive, a judiciary, and a legislature. Each branch was created as sovereign in its sphere, and there were to be clear lines of accountability for each branch. However, independent regulators do not fit comfortably within the three branches; nor are they totally accountable to any branch. Regulators at these independent agencies often make judicial-like decisions, but they are not part of the judiciary. They often make rules, similar to the ones regarding capital requirements, that have the force of law, but independent regulators are not legislative. And, of course, independent regulators enforce the laws in the same way, as do other parts of the executive branch; yet independent regulators lack the day-to-day accountability to the executive that provides a check on other regulators.

Thus, these independent regulators have a concentration of powers of all three branches and lack direct accountability to any of the democratically chosen branches of government. This flies in the face of the Founders' opposition to concentrations of power and government bureaucracies that lack accountability. These concerns are especially relevant considering the remarkable degree of power and autonomy this bill gives to the regulator. For example, in the scheme established by H.R. 1461 the regulator's budget is not subject to appropriations. This removes a powerful mechanism for holding the regulator accountable to Congress. While the regulator is accountable to a board of directors, this board may conduct all deliberations in private because it is not subject to the sunshine act.

Ironically, by transferring the risk of widespread mortgage defaults to the taxpayers through government subsidies and convincing investors that all is well because a ''world-class'' regulator is ensuring the GSEs' soundness, the government increases the likelihood of a painful crash in the housing market. This is because the special privileges of Fannie and Freddie have distorted the housing market by allowing Fannie and Freddie to attract capital they could not attract under pure market conditions. As a result, capital is diverted from its most productive uses into housing. This reduces the efficacy of the entire market and thus reduces the standard of living of all Americans.

Despite the long-term damage to the economy inflicted by the government's interference in the housing market, the government's policy

of diverting capital into housing creates a short-term boom in housing. Like all artificially created bubbles, the boom in housing prices cannot last forever. When housing prices fall, homeowners will experience difficulty as their equity is wiped out. Furthermore, the holders of the mortgage debt will also have a loss. These losses will be greater than they would have been had government policy not actively encouraged over-investment in housing.

H.R. 1461 further distorts the housing market by artificially inflating the demand for housing through the creation of a national housing trust fund. This fund further diverts capital to housing that, absent government intervention, would be put to a use more closely matching the demands of consumers. Thus, this new housing program will reduce efficacy and create yet another unconstitutional redistribution program.

Perhaps the Federal Reserve can stave off the day of reckoning by purchasing the GSEs' debt and pumping liquidity into the housing market, but this cannot hold off the inevitable drop in the housing market forever. In fact, postponing the necessary and painful market corrections will only deepen the inevitable fall. The more people are invested in the market, the greater the effects across the economy when the bubble bursts.

Instead of addressing government polices encouraging the misallocation of resources to the housing market, H.R. 1461 further introduces distortion into the housing market by expanding the authority of Federal regulators to approve the introduction of new products by the GSEs. Such regulation inevitability delays the introduction of new innovations to the market, or even prevents some potentially valuable products from making it to the market. Of course, these new regulations are justified in part by the GSEs' government subsidies. We once again see how one bad intervention in the market (the GSEs' government subsidies) leads to another (the new regulations).

In conclusion, H.R. 1461 compounds the problems with the GSEs and may increases the damage that will be inflicted by a bursting of the housing bubble. This is because this bill creates a new unaccountable regulator and introduces further distortions into the housing market via increased regulatory power. H.R. 1461 also violates the Constitution by creating yet another unaccountable regulator with quasi-executive, judicial, and legislative powers. Instead of expanding unconstitutional and market distorting government bureaucracies, Congress should act to remove taxpayer support from the housing GSEs before the bubble bursts and taxpayers are once again forced to bailout investors who were misled by foolish government interference in the market.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Housing Finance Reform Act of 2005''.

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

SEC. 2. DEFINITIONS.

Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) is amended—

(1) in paragraph (7), by striking ''an enterprise'' and inserting ''a regulated entity'';

(2) by striking ''the enterprise'' each place such term appears (except in paragraphs (4) and (18)) and inserting ''the regulated entity'';

(3) in paragraph (5), by striking ''Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Federal Housing Finance Agency'';

(4) in each of paragraphs (8), (9), (10), and (19), by striking ''Secretary'' each place that term appears and inserting ''Director'';

(5) in paragraph (13), by inserting '', with respect to an enterprise,'' after ''means'';

(6) by redesignating paragraphs (16) through (19) as paragraphs (20) through (23), respectively;

(7) by striking paragraphs (14) and (15) and inserting the following new paragraphs:

''(18) REGULATED ENTITY.—The term 'regulated entity' means—

''(A) the Federal National Mortgage Association and any affiliate thereof;

''(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof; and

''(C) each Federal home loan bank.

''(19) REGULATED ENTITY-AFFILIATED PARTY.—The term 'regulated entity-affiliated party' means—

''(A) any director, officer, employee, or controlling stockholder of, or agent for, a regulated entity;

''(B) any shareholder, affiliate, consultant, or joint venture partner of a regulated entity, and any other person, as determined by the Director (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of a regulated entity;

''(C) any independent contractor for a regulated entity (including any attorney, appraiser, or accountant); and

''(D) any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity.'';

(8) by redesignating paragraphs (8) through (13) as paragraphs (12) through (17), respectively; and

(9) by inserting after paragraph (7) the following new paragraph:

''(11) FEDERAL HOME LOAN BANK.—The term 'Federal home loan bank' means a bank established under the authority of the Federal Home Loan Bank Act.'';

(10) by redesignating paragraphs (2) through (7) as paragraphs (5) through (10), respectively; and

(11) by inserting after paragraph (1) the following new paragraphs:

''(2) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency.

''(3) AUTHORIZING STATUTES.—The term 'authorizing statutes' means—

''(A) the Federal National Mortgage Association Charter Act;

''(B) the Federal Home Loan Mortgage Corporation Act; and

''(C) the Federal Home Loan Bank Act.

''(4) BOARD.—The term 'Board' means the Housing Finance Oversight Board established under section 1313B.''.

TITLE I—REFORM OF REGULATION OF ENTERPRISES AND FEDERAL HOME LOAN BANKS

Subtitle A—Improvement of Safety and Soundness

SEC. 101. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by striking sections 1311 and 1312 and inserting the following:

''SEC. 1311. ESTABLISHMENT OF THE FEDERAL HOUSING FINANCE AGENCY.

''(a) ESTABLISHMENT.—There is established the Federal Housing Finance Agency, which shall be an independent agency of the Federal Government.

''(b) GENERAL SUPERVISORY AND REGULATORY AUTHORITY.—

''(1) IN GENERAL.—Each regulated entity shall, to the extent provided in this title, be subject to the supervision and regulation of the Agency.

''(2) AUTHORITY OVER FANNIE MAE, FREDDIE MAC, AND FEDERAL HOME LOAN BANKS.—The Director of the Federal Housing Finance Agency shall have general supervisory and regulatory authority over each regulated entity and shall exercise such general regulatory authority, including such duties and authorities set forth under section 1313 of this Act, to ensure that the purposes of this Act, the authorizing statutes, and any other applicable law are carried out.

''(c) SAVINGS PROVISION.—The authority of the Director to take actions under subtitles B and C shall not in any way limit the general supervisory and regulatory authority granted to the Director.

''SEC. 1312. DIRECTOR.

''(a) ESTABLISHMENT OF POSITION.—There is established the position of the Director of the Federal Housing Finance Agency, who shall be the head of the Agency.

''(b) APPOINTMENT; TERM.—

''(1) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

''(2) TERM AND REMOVAL.—The Director shall be appointed for a term of 5 years and may be removed by the President only for cause.

''(3) VACANCY.—A vacancy in the position of Director that occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established under paragraph (1), and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

''(4) SERVICE AFTER END OF TERM.—An individual may serve as the Director after the expiration of the term for which appointed until a successor has been appointed.

''(5) TRANSITIONAL PROVISION.—Notwithstanding paragraphs (1) and (2), the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development shall serve as the Director until a successor has been appointed under paragraph (1).

''(c) DEPUTY DIRECTOR OF THE DIVISION OF ENTERPRISE REGULATION.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director of the Division of Enterprise Regulation, who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight and of mortgage securities markets and housing finance.

''(2) FUNCTIONS.—The Deputy Director of the Division of Enterprise Regulation shall have such functions, powers, and duties with respect to the oversight of the enterprises as the Director shall prescribe.

''(d) DEPUTY DIRECTOR OF THE DIVISION OF FEDERAL HOME LOAN BANK REGULATION.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director of the Division of Federal Home Loan Bank Regulation, who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight and of the Federal Home Loan Bank System and housing finance.

''(2) FUNCTIONS.—The Deputy Director of the Division of Federal Home Loan Bank Regulation shall have such functions, powers, and duties with respect to the oversight of the Federal home loan banks as the Director shall prescribe.

''(e) DEPUTY DIRECTOR FOR HOUSING.—

''(1) IN GENERAL.—The Agency shall have a Deputy Director for Housing, who shall be appointed by the Director from among individuals who are citizens of the United States, and have a demonstrated understanding of the housing markets and housing finance.

''(2) FUNCTIONS.—The Deputy Director for Housing shall have such functions, powers, and duties with respect to the oversight of the housing mission and goals of the enterprises, and with respect to oversight of the housing mission of the Federal home loan banks, as the Director shall prescribe.

''(f) LIMITATIONS.—The Director and each of the Deputy Directors may not—

''(1) have any direct or indirect financial interest in any regulated entity or regulated entity-affiliated party;

''(2) hold any office, position, or employment in any regulated entity or regulated entity-affiliated party; or

''(3) have served as an executive officer or director of any regulated entity, or regulated entity-affiliated party, at any time during the 3-year period ending on the date of appointment of such individual as Director or Deputy Director.''.

(b) APPOINTMENT OF DIRECTOR.—Notwithstanding any other provision of law or of this Act, the President may, any time after the date of the enactment of this Act, appoint an individual to serve as the Director of the Federal Housing Finance Agency, as such office is established by the amendment made by subsection (a). This subsection shall take effect on the date of the enactment of this Act.

SEC. 102. DUTIES AND AUTHORITIES OF DIRECTOR.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 (12 U.S.C. 4513) is amended by striking section 1313 and inserting the following new sections:

''SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.

''(a) DUTIES.—

''(1) PRINCIPAL DUTIES.—The principal duties of the Director shall be—

''(A) to oversee the operations of each regulated entity; and

''(B) to ensure that—

''(i) each regulated entity operates in a safe and sound manner, including maintenance of adequate capital and internal controls;

''(ii) the operations and activities of each regulated entity foster liquid, efficient, competitive, and resilient national housing finance markets that minimize the cost of housing finance (including activities relating to mortgages on housing for low- and moderate- income families involving a reasonable economic return that may be less than the return earned on other activities);

''(iii) each regulated entity complies with this title and the rules, regulations, guidelines, and orders issued under this title and the authorizing statutes; and

''(iv) each regulated entity carries out its statutory mission only through activities that are consistent with this title and the authorizing statutes.

''(2) SCOPE OF AUTHORITY.—The authority of the Director shall include the authority—

''(A) to review and, if warranted based on the principal duties described in paragraph (1), reject any acquisition or transfer of a controlling interest in an enterprise; and

''(B) to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the supervision and regulation of each regulated entity.

''(b) DELEGATION OF AUTHORITY.—The Director may delegate to officers or employees of the Agency, including each of the Deputy Directors, any of the functions, powers, or duties of the Director, as the Director considers appropriate.

''(c) LITIGATION AUTHORITY.—

''(1) IN GENERAL.—In enforcing any provision of this title, any regulation or order prescribed under this title, or any other provision of law, rule, regulation, or order, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys.

''(2) SUBJECT TO SUIT.—Except as otherwise provided by law, the Director shall be subject to suit (other than suits on claims for money damages) by a regulated entity or director or officer thereof with respect to any matter under this title or any other applicable provision of law, rule, order, or regulation under this title, in the United States district court for the judicial district in which the regulated entity has its principal place of business, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

''SEC. 1313A. PRUDENTIAL MANAGEMENT AND OPERATIONS STANDARDS.

''(a) STANDARDS.—The Director shall establish standards, by regulation, guideline, or order, for each regulated entity relating to—

''(1) adequacy of internal controls and information systems taking into account the nature and scale of business operations;

''(2) independence and adequacy of internal audit systems;

''(3) management of credit and counterparty risk, including systems to identify concentrations of credit risk and prudential limits to restrict exposure of the regulated entity to a single counterparty or groups of related counterparties;

''(4) management of interest rate risk exposure;

''(5) management of market risk, including standards that provide for systems that accurately measure, monitor, and control market risks and, as warranted, that establish limitations on market risk;

''(6) adequacy and maintenance of liquidity and reserves;

''(7) management of any asset and investment portfolio;

''(8) investments and acquisitions by a regulated entity, to ensure that they are consistent with the purposes of this Act and the authorizing statutes;

''(9) maintenance of adequate records, in accordance with consistent accounting policies and practices that enable the Director to evaluate the financial condition of the regulated entity;

''(10) issuance of subordinated debt by that particular regulated entity, as the Director considers necessary;

''(11) overall risk management processes, including adequacy of oversight by senior management and the board of directors and of processes and policies to identify, measure, monitor, and control material risks, including reputational risks, and for adequate, well-tested business resumption plans for all major systems with remote site facilities to protect against disruptive events; and

''(12) such other operational and management standards as the Director determines to be appropriate.

''(b) FAILURE TO MEET STANDARDS.—

''(1) PLAN REQUIREMENT.—

''(A) IN GENERAL.—If the Director determines that a regulated entity fails to meet any standard established under subsection (a)—

''(i) if such standard is established by regulation, the Director shall require the regulated entity to submit an acceptable plan to the Director within the time allowed under subparagraph (C); and

''(ii) if such standard is established by guideline, the Director may require the regulated entity to submit a plan described in clause (i).

''(B) CONTENTS.—Any plan required under subparagraph (A) shall specify the actions that the regulated entity will take to correct the deficiency. If the regulated entity is undercapitalized, the plan may be a part of the capital restoration plan for the regulated entity under section 1369C.

''(C) DEADLINES FOR SUBMISSION AND REVIEW.—The Director shall by regulation establish deadlines that—

''(i) provide the regulated entities with reasonable time to submit plans required under subparagraph (A), and generally require a regulated entity to submit a plan not later than 30 days after the Director determines that the entity fails to meet any standard established under subsection (a); and

''(ii) require the Director to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

''(2) REQUIRED ORDER UPON FAILURE TO SUBMIT OR IMPLEMENT PLAN.—If a regulated entity fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the Director, the following shall apply:

''(A) REQUIRED CORRECTION OF DEFICIENCY.—The Director shall, by order, require the regulated entity to correct the deficiency.

''(B) OTHER AUTHORITY.—The Director may, by order, take one or more of the following actions until the deficiency is corrected:

''(i) Prohibit the regulated entity from permitting its average total assets (as such term is defined in section 1316(b)) during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the entity may increase from one calendar quarter to another.

''(ii) Require the regulated entity—

''(I) in the case of an enterprise, to increase its ratio of core capital to assets.

''(II) in the case of a Federal home loan bank, to increase its ratio of total capital (as such term is defined in section 6(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(5)) to assets.

''(iii) Require the regulated entity to take any other action that the Director determines will better carry out the purposes of this section than any of the actions described in this subparagraph

''(3) MANDATORY RESTRICTIONS.—In complying with paragraph (2), the Director shall take one or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

''(A) the Director determines that the regulated entity fails to meet any standard prescribed under subsection (a);

''(B) the regulated entity has not corrected the deficiency; and

''(C) during the 18-month period before the date on which the regulated entity first failed to meet the standard, the entity underwent extraordinary growth, as defined by the Director.

''(c) OTHER ENFORCEMENT AUTHORITY NOT AFFECTED.—The authority of the Director under this section is in addition to any other authority of the Director.''.

(b) INDEPENDENCE IN CONGRESSIONAL TESTIMONY AND RECOMMENDATIONS.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''the Federal Housing Finance Board'' and inserting ''the Director of the Federal Housing Finance Agency''.

SEC. 103. HOUSING FINANCE OVERSIGHT BOARD.

(a) IN GENERAL.—Title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.) is amended by inserting after section 1313A, as added by section 102 of this Act, the following new section:

''SEC. 1313B. HOUSING FINANCE OVERSIGHT BOARD.

''(a) IN GENERAL.—There is established the Housing Finance Oversight Board.

''(b) DUTIES.—

''(1) IN GENERAL.—The Board shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this title, at the request of the Director and at the initiative of the Board, and shall carry out such functions as otherwise provided by law.

''(2) LIMITATION.—The Director may not delegate to the Board any of the functions, powers, or duties of the Director.

''(c) COMPOSITION.—The Board shall be comprised of 5 members, as follows:

''(1) One member shall be the Director, who shall serve as the Chairperson of the Board.

''(2) One member shall be the Secretary of the Treasury or the designee of the Secretary.

''(3) One member shall be the Secretary of Housing and Urban Development or the designee of the Secretary.

''(4) Two members shall be appointed by the President, by and with the advice and consent of the Senate, who shall include—

''(A) one individual who has extensive experience and expertise in the capital markets (including debt markets), the secondary mortgage market, and mortgage-backed securities; and

''(B) one individual who has extensive experience and expertise in mortgage finance (including single family and multifamily housing mortgage finance), development of affordable housing, and economic development and revitalization.

''(d) TERMS AND VACANCIES.—

''(1) TERMS.—Each member of the Board pursuant to paragraph (4) shall be appointed for a term of 3 years, and may be removed by the President only for cause.

''(2) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member of the Board may serve after the expiration of the member's term until a successor has been appointed.

''(e) PROHIBITION OF ADDITIONAL COMPENSATION.—Notwithstanding any other provision of law, members of Board pursuant to paragraphs (1), (2), and (3) shall not receive additional compensation by reason of service on the Board.

''(f) LIMITATIONS.—Each member of the Board may not—

''(1) have any direct or indirect financial interest in any regulated entity or regulated entity-affiliated party; or

''(2) hold any office, position, or employment in any regulated entity or regulated entity-affiliated party.

''(g) FULL-TIME MEMBERS AND STAFF.—

''(1) FULL-TIME MEMBERS.—The members of the Board pursuant to subsection (c)(4) shall serve on a full-time basis.

''(2) STAFF.—The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that each member of the Board pursuant to paragraph (4) may appoint one staff member without regard to the such provisions governing appointments in the competitive service and such staff members may be paid by the Board without regard to the such provisions relating to classification and General Schedule pay rates.

''(h) MEETINGS.—

''(1) IN GENERAL.—The Board shall meet upon notice by the Director, but in no event shall the Board meet less frequently than once every 3 months.

''(2) SPECIAL MEETINGS.—Any member of the Board may, upon giving written notice to the Director, require a special meeting of the Board, which shall be convened by the Director within 30 days after such notice.

''(i) TESTIMONY.—On an annual basis, the Board shall testify before Congress regarding—

''(1) the safety and soundness of the regulated entities;

''(2) any material deficiencies in the conduct of the operations of the regulated entities;

''(3) the overall operational status of the regulated entities;

''(4) an evaluation of the performance of the regulated entities in carrying out their respective missions;

''(5) operations, resources, and performance of the Agency and the Board; and

''(6) such other matters relating to the Agency, the Board, and the regulated entities, and their fulfillment of their missions, as the Board determines appropriate.

''(j) COSTS.—Costs of the Board, including staff, shall be paid by the Agency as a cost and expense of the Agency.

''(k) EXEMPTION.—Notwithstanding any other provision of law, the provisions of section 552b of title 5, United States Code, shall not apply to the Board.''.

(b) ANNUAL REPORT OF THE DIRECTOR.—Section 1319B(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 4521 (a)) is amended—

(1) in paragraph (3), by striking ''and'' at the end; and

(2) by striking paragraph (4) and inserting the following new paragraphs:

''(4) an assessment of the Board with respect to—

''(A) the safety and soundness of the regulated entities;

''(B) any material deficiencies in the conduct of the operations of the regulated entities;

''(C) the overall operational status of the regulated entities;

''(D) an evaluation of the performance of the regulated entities in carrying out their missions, including compliance of the enterprises with the housing goals under subpart B of part 2 of this subtitle and compliance of the Federal home loan banks with the community investment and affordable housing programs under subsections (i) and (j) of section 10 of the Federal Home Loan Bank Act;

''(E) an evaluation of the performance of the Agency in fulfilling its duties and responsibilities under law; and

''(F) such other matters relating to the Board and the fulfillment of its duties as the Board considers appropriate;

''(5) operations, resources, and performance of the Agency; and

''(6) such other matters relating to the Agency and its fulfillment of its mission.''.

SEC. 104. AUTHORITY TO REQUIRE REPORTS BY REGULATED ENTITIES.

Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514) is amended—

(1) in the section heading, by striking ''**ENTERPRISES**'' and inserting ''**REGULATED ENTITIES**'';

(2) in subsection (a)—

(A) in the subsection heading, by striking ''Special Reports and Reports of Financial Condition'' and inserting ''Regular and Special Reports'';

(B) in paragraph (1)—

(i) in the paragraph heading, by striking ''FINANCIAL CONDITION'' and inserting ''REGULAR REPORTS''; and

(ii) by striking ''reports of financial condition and operations'' and inserting ''regular reports on the condition (including financial condition), management, activities, or operations of the regulated entity, as the Director considers appropriate''; and

(C) in paragraph (2), after ''submit special reports'' insert ''on any of the topics specified in paragraph (1) or such other topics''; and

(3) by adding at the end the following new subsection:

''(c) REPORTS OF FRAUDULENT FINANCIAL TRANSACTIONS.—

''(1) REQUIREMENT TO REPORT.—The Director shall require a regulated entity to submit to the Director a timely report upon discovery by the regulated entity that it has purchased or sold a fraudulent loan or financial instrument or suspects a possible fraud relating to a purchase or sale of any loan or financial instrument. The Director shall require the regulated entities to establish and maintain procedures designed to discover any such transactions.

''(2) PROTECTION FROM LIABILITY FOR REPORTS.—

''(A) IN GENERAL.—If a regulated entity makes a report pursuant to paragraph (1), or a regulated entity-affiliated party makes, or requires another to make, such a report, and such report is made in a good faith effort to comply with the requirements of paragraph (1), such regulated entity or regulated entity-affiliated party shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such report or for any failure to provide notice of such report to the person who is the subject of such report or any other person identified in the report.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

''(i) any inference that the term 'person', as used in such subparagraph, may be construed more broadly than its ordinary usage so as to include any government or agency of government; or

''(ii) any immunity against, or otherwise affecting, any civil or criminal action brought by any government or agency of government to enforce any constitution, law, or regulation of such government or agency.''.

SEC. 105. DISCLOSURE OF CHARITABLE CONTRIBUTIONS BY ENTERPRISES.

Section 1314 of the Housing and Community Development Act of 1992 (12 U.S.C. 4514), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

''(d) DISCLOSURE OF CHARITABLE CONTRIBUTIONS BY ENTERPRISES.—

''(1) REQUIRED DISCLOSURE.—The Director shall, by regulation, require each enterprise to submit a report annually, in a format designated by the Director, containing the following information:

''(A) TOTAL VALUE.—The total value of contributions made by the enterprise to nonprofit organizations during its previous fiscal year.

''(B) SUBSTANTIAL CONTRIBUTIONS.—If the value of contributions made by the enterprise to any nonprofit organization during its previous fiscal year exceeds the designated amount, the name of that organization and the value of contributions.

''(C) SUBSTANTIAL CONTRIBUTIONS TO INSIDER-AFFILIATED CHARITIES.—Identification of each contribution whose value exceeds the designated amount that were made by the enterprise during the enterprise's previous fiscal year to any nonprofit organization of which a director, officer, or controlling person of the enterprise, or a spouse thereof, was a director or trustee, the name of such nonprofit organization, and the value of the contribution.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'designated amount' means such amount as may be designated by the Director by regulation, consistent with the public interest and the protection of investors for purposes of this subsection; and

''(B) the Director may, by such regulations as the Director deems necessary or appropriate in the public interest, define the terms officer and controlling person.

''(3) PUBLIC AVAILABILITY.—The Director shall make the information submitted pursuant to this subsection publicly available.''.

SEC. 106. ASSESSMENTS.

Section 1316 of the Housing and Community Development Act of 1992 (12 U.S.C. 4516) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) ANNUAL ASSESSMENTS.—The Director shall establish and collect from the regulated entities annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Agency, including—

''(1) the expenses of any examinations under section 1317 of this Act and under section 20 of the Federal Home Loan Bank Act;

''(2) the expenses of obtaining any reviews and credit assessments under section 1319; and

''(3) such amounts in excess of actual expenses for any given year as deemed necessary by the Director to maintain a working capital fund in accordance with subsection (e).'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''ENTERPRISES'' and inserting ''REGULATED ENTITIES'' ;

(B) by realigning paragraph (2) two ems from the left margin, so as to align the left margin of such paragraph with the left margins of paragraph (1);

(C) in paragraph (1)—

(i) by striking ''Each enterprise'' and inserting ''Each regulated entity'';

(ii) by striking ''each enterprise'' and inserting ''each regulated entity''; and

(iii) by striking ''both enterprises'' and inserting ''all of the regulated entities''; and

(D) in paragraph (3)—

(i) in subparagraph (B), by striking ''subparagraph (A)'' and inserting ''clause (i)'';

(ii) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii) and (ii), respectively, and realigning such clauses, as so redesignated, so as to be indented 6 ems from the left margin;

(iii) by striking the matter that precedes clause (i), as so redesignated, and inserting the following:

''(3) DEFINITION OF TOTAL ASSETS.—For purposes of this section, the term 'total assets' means as follows:

''(A) ENTERPRISES.—With respect to an enterprise, the sum of—''; and

(iv) by adding at the end the following new subparagraph:

''(B) FEDERAL HOME LOAN BANKS.—With respect to a Federal home loan bank, the total assets of the Bank, as determined by the Director in accordance with generally accepted accounting principles.'';

(3) by striking subsection (c) and inserting the following new subsection:

''(c) INCREASED COSTS OF REGULATION.—

''(1) INCREASE FOR INADEQUATE CAPITALIZATION.—The semiannual payments made pursuant to subsection (b) by any regulated entity that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the regulated entity.

''(2) ADJUSTMENT FOR ENFORCEMENT ACTIVITIES.—The Director may adjust the amounts of any semiannual assessments for an assessment under subsection (a) that are to be paid pursuant to subsection (b) by a regulated entity, as necessary in the discretion of the Director, to ensure that the costs of enforcement activities under subtitle B and C for a regulated entity are borne only by such regulated entity.

''(3) ADDITIONAL ASSESSMENT FOR DEFICIENCIES.—If at any time, as a result of increased costs of regulation of a regulated entity that is not classified (for purposes of subtitle B) as adequately captitalized or as the result of supervisory or enforcement activities under subtitle B or C for a regulated entity, the amount available from any semiannual payment made by such regulated entity pursuant to subsection (b) is insufficient to cover the costs of the Agency with respect to such entity, the Director may make and collect from such regulated entity an immediate assessment to cover the amount of such deficiency for the semiannual period. If, at the end of any semiannual period during which such an assessment is made, any amount remains from such assessment, such remaining amount shall be deducted from the assessment for such regulated entity for the following semiannual period.'';

(4) in subsection (d), by striking ''If'' and inserting ''Except with respect to amounts collected pursuant to subsection (a)(3), if''; and

(5) by striking subsections (e) through (g) and inserting the following new subsections:

''(e) WORKING CAPITAL FUND.—At the end of each year for which an assessment under this section is made, the Director shall remit to each regulated entity any amount of assessment collected from such regulated entity that is attributable to subsection (a)(3) and is in excess of the amount the Director deems necessary to maintain a working capital fund.

''(f) TREATMENT OF ASSESSMENTS.—

''(1) DEPOSIT.—Amounts received by the Director from assessments under this section may be deposited by the Director in the manner provided in section 5234 of the Revised Statutes (12 U.S.C. 192) for monies deposited by the Comptroller of the Currency.

''(2) NOT GOVERNMENT FUNDS.—The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

''(3) NO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

''(4) USE OF FUNDS.—The Director may use any amounts received by the Director from assessments under this section for compensation of the Director and other employees of the Agency and for all other expenses of the Director and the Agency.

''(5) AVAILABILITY OF OVERSIGHT FUND AMOUNTS.—Notwithstanding any other provision of law, any amounts remaining in the Federal Housing Enterprises Oversight Fund established under this section (as in effect before the effective date under section 185 of the Federal Housing Finance Reform Act of 2005), and any amounts remaining from assessments on the Federal Home Loan banks pursuant to section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)), shall, upon such effective date, be treated for purposes of this subsection as amounts received from assessments under this section.

''(g) BUDGET AND FINANCIAL MANAGEMENT.—

''(1) FINANCIAL OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the Director's financial operating plans and forecasts as prepared by the Director in the ordinary course of the Agency's operations, and copies of the quarterly reports of the Agency's financial condition and results of operations as prepared by the Director in the ordinary course of the Agency's operations.

''(2) FINANCIAL STATEMENTS.—The Agency shall prepare annually a statement of assets and liabilities and surplus or deficit; a statement of income and expenses; and a statement of sources and application of funds.

''(3) FINANCIAL MANAGEMENT SYSTEMS.—The Agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and that uses a general ledger system that accounts for activity at the transaction level.

''(4) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Agency, using the standards established in section 3512 (c) of title 31, United States Code.

''(5) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or any jurisdiction or oversight over the affairs or operations of the Agency.

''(h) AUDIT OF AGENCY.—

''(1) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Agency in accordance with the U.S. generally accepted government auditing standards as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Agency are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Agency pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Agency shall remain in possession and custody of the Agency. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General and the Comptroller General's right of access to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

''(2) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Agency, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Agency at the time submitted to the Congress.

''(3) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 5 of title 41, United States Code, professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Agency shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.''.

SEC. 107. EXAMINERS AND ACCOUNTANTS.

(a) EXAMINATIONS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended——

(1) in subsection (a), by adding after the period at the end the following: ''Each examination under this subsection of a regulated entity shall include a review of the procedures required to be established and maintained by the regulated entity pursuant to section 1314(c) (relating to fraudulent financial transactions) and the report regarding each such examination shall describe any problems with such procedures maintained by the regulated entity.'';

(2) in subsection (b)—

(A) by inserting ''of a regulated entity'' after ''under this section''; and

(B) by striking ''to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness'' and inserting ''or appropriate'' ; and

(3) in subsection (c)—

(A) in the second sentence, by inserting ''to conduct examinations under this section'' before the period; and

(B) in the third sentence, by striking ''from amounts available in the Federal Housing Enterprises Oversight Fund''.

(b) ENHANCED AUTHORITY TO HIRE EXAMINERS AND ACCOUNTANTS.—Section 1317 of the Housing and Community Development Act of 1992 (12 U.S.C. 4517) is amended by adding at the end the following new subsection:

''(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS, SPECIALISTS, AND EXAMINERS.—

''(1) APPLICABILITY.—This section applies with respect to any position of examiner, accountant, specialist in financial markets, specialist in technology, and economist at the Agency, with respect to supervision and regulation of the regulated entities, that is in the competitive service.

''(2) APPOINTMENT AUTHORITY.—The Director may appoint candidates to any position described in paragraph (1)—

''(A) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

''(B) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.''.

(c) REPEAL.—Section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440) is amended—

(1) in the section heading, by striking ''***REPORTS***'' and inserting ''***GAO AUDITS***'';

(2) in the third sentence, by striking ''the Board and'' each place such term appears; and

(3) by striking the first two sentences and inserting the following: ''The Federal home loan banks shall be subject to examinations by the Director to the extent provided in section 1317 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4517).''.

SEC. 108. PROHIBITION AND WITHHOLDING OF EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Section 1318 of the Housing and Community Development Act of 1992 (12 U.S.C. 4518) is amended—

(1) in the section heading, by striking ''***OF EXCESSIVE***'' and inserting ''***AND WITHHOLDING OF EXECUTIVE***'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following new subsections:

''(b) FACTORS.—In making any determination under subsection (a), the Director may take into consideration any factors the Director considers relevant, including any wrongdoing on the part of the executive officer, and such wrongdoing shall include any fraudulent act or omission, breach of trust or fiduciary duty, violation of law, rule, regulation, order, or written agreement, and insider abuse with respect to the regulated entity. The approval of an agreement or contract pursuant to section 309(d)(3)(B) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)(3)(B)) or section 303(h)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)(2)) shall not preclude the Director from making any subsequent determination under subsection (a).

''(c) WITHHOLDING OF COMPENSATION.—In carrying out subsection (a), the Director may require a regulated entity to withhold any payment, transfer, or disbursement of compensation to an executive officer, or to place such compensation in an escrow account, during the review of the reasonableness and comparability of compensation.''.

(b) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended by adding at the end the following new paragraph:

''(4) Notwithstanding any other provision of this section, the corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).''.

(2) FREDDIE MAC.—Section 303(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(h)) is amended by adding at the end the following new paragraph:

''(4) Notwithstanding any other provision of this section, the Corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section

1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).''.

(3) FEDERAL HOME LOAN BANKS.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended by adding at the end the following new subsection:

''(l) WITHHOLDING OF COMPENSATION.—Notwithstanding any other provision of this section, a Federal home loan bank shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 1318 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518).''.

SEC. 109. REVIEWS OF REGULATED ENTITIES.

Section 1319 of the Housing and Community Development Act of 1992 (12 U.S.C. 4519) is amended—

(1) by striking the section designation and heading and inserting the following:

***''SEC. 1319. REVIEWS OF REGULATED ENTITIES.''**; and*

(2) by inserting after ''any entity'' the following: ''that the Director considers appropriate, including an entity''.

SEC. 110. REGULATIONS AND ORDERS.

Section 1319G of the Housing and Community Development Act of 1992 (12 U.S.C. 4526) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) AUTHORITY.—The Director shall issue any regulations, guidelines, and orders necessary to carry out the duties of the Director under this title and each of the authorizing statutes to ensure that the purposes of this title and such Acts are accomplished.'';

(2) in subsection (b), by inserting '', this title, or any of the authorizing statutes'' after ''under this section''; and

(3) by striking subsection (c).

SEC. 111. RISK-BASED CAPITAL REQUIREMENTS.

(a) IN GENERAL.—Section 1361 of the Housing and Community Development Act of 1992 (12 U.S.C. 4611) is amended to read as follows:

''SEC. 1361. RISK-BASED CAPITAL LEVELS FOR REGULATED ENTITIES.

''(a) IN GENERAL.—

''(1) ENTERPRISES.—The Director shall, by regulation, establish risk-based capital requirements for the enterprises to ensure that the enterprises operate in a safe and sound manner, maintaining sufficient capital and reserves to support the risks that arise in the operations and management of the enterprises.

''(2) FEDERAL HOME LOAN BANKS.—The Director shall establish risk-based capital standards under section 6 of the Federal Home Loan Bank Act for the Federal home loan banks.

''(b) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or a regulated entity to enable the risk-based capital requirements established under this section to be applied shall—

''(1) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the regulated entity; and

''(2) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

''(c) NO LIMITATION.—Nothing in this section shall limit the authority of the Director to require other reports or undertakings, or take other action, in furtherance of the responsibilities of the Director under this Act.''.

(b) FEDERAL HOME LOAN BANKS RISK-BASED CAPITAL.—Section 6(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) RISK-BASED CAPITAL STANDARDS.—The Director shall, by regulation, establish risk-based capital standards for the Federal home loan banks to ensure that the Federal home loan banks operate in a safe and sound manner, with sufficient permanent capital and reserves to support the risks that arise in the operations and management of the Federal home loans banks.''; and

(2) in subparagraph (B), by striking ''(A)(ii)'' and inserting ''(A)''.

SEC. 112. MINIMUM AND CRITICAL CAPITAL LEVELS.

(a) MINIMUM CAPITAL LEVEL.—Section 1362 of the Housing and Community Development Act of 1992 (12 U.S.C. 4612) is amended—

(1) in subsection (a), by striking ''IN GENERAL'' and inserting ''ENTERPRISES'' ; and

(2) by striking subsection (b) and inserting the following new subsections:

''(b) FEDERAL HOME LOAN BANKS.—For purposes of this subtitle, the minimum capital level for each Federal home loan bank shall be the minimum capital required to be maintained to comply with the leverage requirement for the bank established under section 6(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(a)(2)).

''(c) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—Notwithstanding subsections (a) and (b) and notwithstanding the capital classifications of the regulated entities, the Director may, by regulations issued under section 1319G(b), establish a minimum capital level for the enterprises, for the Federal home loan banks, or for both the enterprises and the banks, that is higher than the level specified in subsection (a) for the enterprises or the level specified in subsection (b) for the Federal home loan banks, to the extent needed to ensure that the regulated entities operate in a safe and sound manner.

''(d) AUTHORITY TO REQUIRE TEMPORARY INCREASE.—Notwithstanding subsections (a) and (b) and any minimum capital level established pursuant to subsection (c), the Director may, by order, increase the minimum capital level for a regulated entity for such period as the Director may provide if the Director—

''(1) makes any of the determinations specified in subparagraphs (A) through (C) of section 1364(c)(1); or

''(2) determines that the regulated entity has violated any of the prudential management and operations standards established pursuant to section 1313A and, as a result of such violation, is operating in an unsafe and unsound manner.

''(e) AUTHORITY TO ESTABLISH ADDITIONAL CAPITAL AND RESERVE REQUIREMENTS FOR PARTICULAR PROGRAMS.—The Director may, at any time by order or regulation, establish such capital or reserve requirements with respect to any program or activity of a regulated entity as the Director considers appropriate to ensure that the regulated entity operates in a safe and sound manner, with sufficient capital and reserves to support the risks that arise in the operations and management of the regulated entity.

''(f) PERIODIC REVIEW.—The Director shall periodically review the amount of core capital maintained by the enterprises, the amount of capital retained by the Federal home loan banks, and the minimum capital levels established for such regulated entities pursuant to this section. The Director may, by regulations issued under section 1319G(b), adjust the minimum capital levels as necessary, based on the Director's review.''.

(b) CRITICAL CAPITAL LEVELS.—

(1) IN GENERAL.—Section 1363 of the Housing and Community Development Act of 1992 (12 U.S.C. 4613) is amended—

(A) by striking ''For'' and inserting ''(a) Enterprises.—For''; and

(B) by adding at the end the following new subsection:

''(b) FEDERAL HOME LOAN BANKS.—

''(1) IN GENERAL.—For purposes of this subtitle, the critical capital level for each Federal home loan bank shall be such amount of capital as the Director shall, by regulation require.

''(2) CONSIDERATION OF OTHER CRITICAL CAPITAL LEVELS.—In establishing the critical capital level under paragraph (1) for the Federal home loan banks, the Director shall take due consideration of the critical capital level established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises.''.

(2) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Housing and Community Development Act of 1992 (as added by paragraph (1) of this subsection) establishing the critical capital level under such section.

SEC. 113. REVIEW OF AND AUTHORITY OVER ENTERPRISE ASSETS AND LIABILITIES.

Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended—

(1) by striking the subtitle designation and heading and inserting the following:

***''Subtitle B—Required Capital Levels for Regulated Entities, Special Enforcement Powers, and Reviews of Assets and Liabilities''**; and*

(2) by adding at the end the following new section:

''SEC. 1369E. REVIEWS OF ENTERPRISE ASSETS AND LIABILITIES.

''(a) IN GENERAL.—The Director shall conduct, on a periodic basis, a review of the on-balance sheet and off-balance sheet assets and liabilities of each enterprise.

''(b) AUTHORITY TO REQUIRE DISPOSITION OR ACQUISITION.—Pursuant to such a review and notwithstanding the capital classifications of the enterprises, the Director may by order require an enterprise, under such terms and conditions as the Director determines to be appropriate, to dispose of or acquire any asset or liability, if the Director determines that such action is consistent with the safe and sound operation of the enterprise or with the purposes of this Act or any of the authorizing statutes.''.

SEC. 114. CORPORATE GOVERNANCE OF ENTERPRISES.

The Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

''SEC. 1322A. CORPORATE GOVERNANCE OF ENTERPRISES.

''(a) BOARD OF DIRECTORS.—

''(1) INDEPENDENCE.—A majority of seated members of the board of directors of each enterprise shall be independent board members, as defined under rules set forth by the New York Stock Exchange, as such rules may be amended from time to time.

''(2) FREQUENCY OF MEETINGS.—To carry out its obligations and duties under applicable laws, rules, regulations, and guidelines, the board of directors of an enterprise shall meet at least eight times a year and not less than once a calendar quarter.

''(3) NON-MANAGEMENT BOARD MEMBER MEETINGS.—The non-management directors of an enterprise shall meet at regularly scheduled executive sessions without management participation.

''(4) QUORUM; PROHIBITION ON PROXIES.—For the transaction of business, a quorum of the board of directors of an enterprise shall be at least a majority of the seated board of directors and a board member may not vote by proxy.

''(5) INFORMATION.—The management of an enterprise shall provide a board member of the enterprise with such adequate and appropriate information that a reasonable board member would find important to the fulfillment of his or her fiduciary duties and obligations.

''(6) ANNUAL REVIEW.—At least annually, the board of directors of each enterprise shall review, with appropriate professional assistance,

the requirements of laws, rules, regulations, and guidelines that are applicable to its activities and duties.

''(b) COMMITTEES OF BOARDS OF DIRECTORS.—

''(1) FREQUENCY OF MEETINGS.—Any committee of the board of directors of an enterprise shall meet with sufficient frequency to carry out its obligations and duties under applicable laws, rules, regulations, and guidelines.

''(2) REQUIRED COMMITTEES.—Each enterprise shall provide for the establishment, however styled, of the following committees of the board of directors:

''(A) Audit committee.

''(B) Compensation committee.

''(C) Nominating/corporate governance committee.

Such committees shall be in compliance with the charter, independence, composition, expertise, duties, responsibilities, and other requirements set forth under section 10A(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1(m)), with respect to the audit committee, and under rules issued by the New York Stock Exchange, as such rules may be amended from time to time.

''(c) COMPENSATION.—

''(1) IN GENERAL.—The compensation of board members, executive officers, and employees of an enterprise—

''(A) shall not be in excess of that which is reasonable and appropriate;

''(B) shall be commensurate with the duties and responsibilities of such persons,

''(C) shall be consistent with the long-term goals of the enterprise;

''(D) shall not focus solely on earnings performance, but shall take into account risk management, operational stability and legal and regulatory compliance as well; and

''(E) shall be undertaken in a manner that complies with applicable laws, rules, and regulations.

''(2) REIMBURSEMENT.—If an enterprise is required to prepare an accounting restatement due to the material noncompliance of the enterprise, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the enterprise shall reimburse the enterprise as provided under section 304 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7243). This provision does not otherwise limit the authority of the Agency to employ remedies available to it under its enforcement authorities.

''(d) CODE OF CONDUCT AND ETHICS.—

''(1) IN GENERAL.—An enterprise shall establish and administer a written code of conduct and ethics that is reasonably designed to assure the ability of board members, executive officers, and employees of the enterprise to discharge their duties and responsibilities, on behalf of the enterprise, in an objective and impartial manner, and that includes standards required under section 406 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7264) and other applicable laws, rules, and regulations.

''(2) REVIEW.—Not less than once every three years, an enterprise shall review the adequacy of its code of conduct and ethics for consistency with practices appropriate to the enterprise and make any appropriate revisions to such code.

''(e) CONDUCT AND RESPONSIBILITIES OF BOARD OF DIRECTORS.—The board of directors of an enterprise shall be responsible for directing the conduct and affairs of the enterprise in furtherance of the safe and sound operation of the enterprise and shall remain reasonably informed of the condition, activities, and operations of the enterprise. The responsibilities of the board of directors shall include having in place adequate policies and procedures to assure its oversight of, among other matters, the following:

''(1) Corporate strategy, major plans of action, risk policy, programs for legal and regulatory compliance and corporate performance, including prudent plans for growth and allocation of adequate resources to manage operations risk.

''(2) Hiring and retention of qualified executive officers and succession planning for such executive officers.

''(3) Compensation programs of the enterprise.

''(4) Integrity of accounting and financial reporting systems of the enterprise, including independent audits and systems of internal control.

''(5) Process and adequacy of reporting, disclosures, and communications to shareholders, investors, and potential investors.

''(6) Extensions of credit to board members and executive officers.

''(7) Responsiveness of executive officers in providing accurate and timely reports to Federal regulators and in addressing the supervisory concerns of Federal regulators in a timely and appropriate manner.

''(f) PROHIBITION OF EXTENSIONS OF CREDIT.—An enterprise may not directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any board member or executive officer of the enterprise, as provided by section 13(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(k)).

''(g) CERTIFICATION OF DISCLOSURES.—The chief executive officer and the chief financial officer of an enterprise shall review each quarterly report and annual report issued by the enterprise and such reports shall include certifications by such officers as required by section 302 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241).

''(h) CHANGE OF AUDIT PARTNER.—An enterprise may not accept audit services from an external auditing firm if the lead or coordinating audit partner who has primary responsibility for the external audit of the enterprise, or the external audit partner who has responsibility for reviewing the external audit has performed audit services for the enterprise in each of the five previous fiscal years.

''(i) COMPLIANCE PROGRAM.—

''(1) REQUIREMENT.—Each enterprise shall establish and maintain a compliance program that is reasonably designed to assure that the enterprise complies with applicable laws, rules, regulations, and internal controls.

''(2) COMPLIANCE OFFICER.—The compliance program of an enterprise shall be headed by a compliance officer, however styled, who reports directly to the chief executive officer of the enterprise. The compliance officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current compliance policies and procedures of the enterprise, and shall recommend any adjustments to such policies and procedures that the compliance officer considers necessary and appropriate.

''(j) RISK MANAGEMENT PROGRAM.—

''(1) REQUIREMENT.—Each enterprise shall establish and maintain a risk management program that is reasonably designed to manage the risks of the operations of the enterprise.

''(2) RISK MANAGEMENT OFFICER.—The risk management program of an enterprise shall be headed by a risk management officer, however styled, who reports directly to the chief executive officer of the enterprise. The risk management officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current risk management policies and procedures of the enterprise, and shall recommend any adjustments to such policies and procedures that the risk management officer considers necessary and appropriate.

''(k) COMPLIANCE WITH OTHER LAWS.—

''(1) DEREGISTERED OR UNREGISTERED COMMON STOCK.—If an enterprise deregisters or has not registered its common stock with the Securities and Exchange Commission under the Securities Exchange Act of 1934, the enterprise shall comply or continue to comply with sections 10A(m) and 13(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(m), 78m(k)) and sections 302, 304, and 406 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7241, 7243, 7264), subject to such requirements as provided by subsection (l) of this section.

''(2) REGISTERED COMMON STOCK.—An enterprise that has its common stock registered with the Securities and Exchange Commission shall maintain such registered status, unless it provides 60 days prior written notice to the Director stating its intent to deregister and its understanding that it will remain subject to the requirements of the sections of the Securities Exchange Act of 1934 and the Sarbanes-Oxley Act of 2002, subject to such requirements as provided by subsection (l) of this section.

''(l) OTHER MATTERS.—The Director may from time to time establish standards, by regulation, order, or guideline, regarding such other corporate governance matters of the enterprises as the Director considers appropriate.

''(m) MODIFICATION OF STANDARDS.—In connection with standards of Federal or State law (including the Revised Model Corporation Act) or New York Stock Exchange rules that are made applicable to an enterprise by section 1710.10 of the Director's rules (12 C.F.R. 1710.10) and by subsections (a), (b), (g), (i), (j), and (k) of this section, the Director, in the Director's sole discretion, may modify the standards contained in this section or in part 1710 of the Director's rules (12 U.S.C. Part 1710) in accordance with section 553 of title 5, United States Code, and upon written notice to the enterprise.''.

SEC. 115. REQUIRED REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934.

The Housing and Community Development Act of 1992 is amended by adding after section 1322A, as added by the preceding provisions of this Act, the following new section:

''SEC. 1322B. REQUIRED REGISTRATION UNDER SECURITIES EXCHANGE ACT OF 1934.

''(a) IN GENERAL.—Each regulated entity shall register at least one class of the capital stock of such regulated entity, and maintain such registration with the Securities and Exchange Commission, under the Securities Exchange Act of 1934.

''(b) ENTERPRISES.—Each enterprise shall comply with sections 14 and 16 of the Securities Exchange Act of 1934.''.

SEC. 116. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council Act of 1978 is amended—

(1) in section 1003 (12 U.S.C. 3302)—

(A) in paragraph (1), by inserting ''Director of the Federal Housing Finance Agency,'' after ''Supervision,''; and

(B) in paragraph (3), by striking ''or a credit union;'' and inserting ''a credit union, or a regulated entity (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502)).'';

(2) in section 1004 (12 U.S.C. 3303)—

(A) in paragraph (4), by inserting a semicolon at the end;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

''(5) the Director of the Federal Housing Finance Agency; and''; and

(3) in section 1006(d) (12 U.S.C. 3305(d)), by striking ''and employees of the Federal Housing Finance Board''.

SEC. 117. GUARANTEE FEE STUDY.

(a) IN GENERAL.—The Comptroller General of the United States, in consultation with the heads of the federal banking agencies and the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, shall, not later than one year after the date of the enactment of this Act, submit to the Congress a study concerning the pricing, transparency and reporting of the

Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal home loan banks with regard to guarantee fees and concerning analogous practices, transparency and reporting requirements (including advances pricing practices by the Federal Home Loan Banks) of other participants in the business of mortgage purchases and securitization.

(b) FACTORS.—The study required by this section shall examine various factors such as credit risk, counterparty risk considerations, economic value considerations, and volume considerations used by the regulated entities (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) included in the study in setting the amount of fees they charge.

(c) CONTENTS OF REPORT.—The report required under subsection (a) shall identify and analyze—

(1) the factors used by each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) in determining the amount of the guarantee fees it charges;

(2) the total revenue the enterprises earn from guarantee fees;

(3) the total costs incurred by the enterprises for providing guarantees;

(4) the average guarantee fee charged by the enterprises;

(5) an analysis of how and why the guarantee fees charged differ from such fees charged during the previous year;

(6) a breakdown of the revenue and costs associated with providing guarantees, based on product type and risk classifications; and

(7) other relevant information on guarantee fees with other participants in the mortgage and securitization business.

(d) PROTECTION OF INFORMATION.—Nothing in this section may be construed to require or authorize the Government Accounting Office, in connection with the study mandated by this section, to disclose information of the enterprises or other organization that is confidential or proprietary.

SEC. 118. CONFORMING AMENDMENTS.

(a) 1992 Act.—Part 1 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4511 et seq.), as amended by the preceding provisions of this Act, is further amended—

(1) by striking ''an enterprise'' each place such term appears in such part (except in sections 1313(a)(2)(A), 1313A(b)(2)(B)(ii)(I), and 1316(b)(3)) and inserting ''a regulated entity'';

(2) by striking ''the enterprise'' each place such term appears in such part (except in section 1316(b)(3)) and inserting ''the regulated entity'';

(3) by striking ''the enterprises'' each place such term appears in such part (except in sections 1312(c)(2), 1312(e)(2), and 1319B(a)(4)(D)) and inserting ''the regulated entities'';

(4) by striking ''each enterprise'' each place such term appears in such part and inserting ''each regulated entity'';

(5) by striking ''Office'' each place such term appears in such part (except in sections 1312(b)(5), 1315(b), and 1316(g), and section 1317(c)) and inserting ''Agency'';

(6) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) in the subsection heading, by striking ''Office Personnel'' and inserting ''In General''; and

(ii) by striking ''The'' and inserting ''Subject to titles III and IV of the Federal Housing Finance Reform Act of 2005, the'';

(B) by striking subsections (d) and (f); and

(C) by redesignating subsection (e) as subsection (d);

(7) in section 1319A (12 U.S.C. 4520)—

(A) by striking ''(a) In General.—Each enterprise'' and inserting ''Each regulated entity''; and

(B) by striking subsection (b);

(8) in section 1319B (12 U.S.C. 4521), by striking ''Committee on Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Committee on Financial Services''; and

(9) in section 1319F (12 U.S.C. 4525), striking all that follows ''United States Code'' and inserting '', the Agency shall be considered an agency responsible for the regulation or supervision of financial institutions.''.

(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place such term appears, and inserting ''Director of the Federal Housing Finance Agency'', in—

(A) section 303(c)(2) (12 U.S.C. 1718(c)(2));

(B) section 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)); and

(C) section 309(k)(1); and

(2) in section 309—

(A) in subsections (d)(3)(A) and (n)(1), by striking ''Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Financial Services''; and

(B) in subsection (m)—

(i) in paragraph (1), by striking ''Secretary'' the second place such term appears and inserting ''Director'';

(ii) in paragraph (2), by striking ''Secretary'' the second place such term appears and inserting ''Director''; and

(iii) by striking ''Secretary'' each other place such term appears and inserting ''Director of the Federal Housing Finance Agency''; and

(C) in subsection (n), by striking ''Secretary'' each place such term appears and inserting ''Director of the Federal Housing Finance Agency''.

(c) AMENDMENTS TO FREDDIE MAC ACT.—The Federal Home Loan Mortgage Corporation Act is amended—

(1) by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place such term appears, and inserting ''Director of the Federal Housing Finance Agency'', in—

(A) section 303(b)(2) (12 U.S.C. 1452(b)(2));

(B) section 303(h)(2) (12 U.S.C. 1452(h)(2)); and

(C) section 307(c)(1) (12 U.S.C. 1456(c)(1));

(2) in sections 303(h)(1) and 307(f)(1) (12 U.S.C. 1452(h)(1), 1456(f)(1)), by striking ''Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Financial Services'';

(3) in section 306(i) (12 U.S.C. 1455(i))—

(A) by striking ''1316(c)'' and inserting ''306(c)''; and

(B) by striking ''section 106'' and inserting ''section 1316''; and

(4) in section 307 (12 U.S.C. 1456))—

(A) in subsection (e)—

(i) in paragraph (1), by striking ''Secretary'' the second place such term appears and inserting ''Director'';

(ii) in paragraph (2), by striking ''Secretary'' the second place such term appears and inserting ''Director''; and

(iii) by striking ''Secretary'' each other place such term appears and inserting ''Director of the Federal Housing Finance Agency''; and

(B) in subsection (f), by striking ''Secretary'' each place such term appears and inserting ''Director of the Federal Housing Finance Agency''.

Subtitle B—Improvement of Mission Supervision

SEC. 121. TRANSFER OF PROGRAM AND ACTIVITIES APPROVAL AND HOUSING GOAL OVERSIGHT.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking the designation and heading for the part and inserting the following:

***''PART 2—PROGRAM AND ACTIVITIES APPROVAL BY DIRECTOR, CORPORATE GOVERNANCE, AND ESTABLISHMENT OF HOUSING GOALS''**; and*

(2) by striking sections 1321 and 1322.

SEC. 122. REVIEW BY DIRECTOR OF NEW PROGRAMS AND ACTIVITIES OF ENTERPRISES.

(a) IN GENERAL.—Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 is amended by inserting before section 1323 (12 U.S.C. 4543) the following new section:

''SEC. 1321. REVIEW AND APPROVAL BY DIRECTOR OF NEW PROGRAMS AND BUSINESS ACTIVITIES OF ENTERPRISES.

''(a) LIMITATION ON AUTHORITY TO UNDERTAKE PROGRAMS AND ACTIVITIES.—An enterprise may not undertake any new program, including a pilot program, or any new business activity except in accordance with the procedures set forth in this section and orders and regulations issued under this section.

''(b) NEW PROGRAMS.—

''(1) PRIOR APPROVAL REQUIREMENT.—An enterprise may not commence any new program before it has obtained the approval of the Director, pursuant to this subsection, for the new program.

''(2) APPLICATION.—The Director shall, by order or regulation, require that an enterprise shall, to obtain a determination by the Director regarding approval of a new program by the enterprise, submit to the Director a written application for the new program in a format as prescribed by the Director.

''(3) NOTICE.—Immediately upon receipt of a complete application for a new program, the Director shall cause to be published in the Federal Register notice of the receipt of such application and of the period for public comment pursuant to paragraph (4) regarding such new program, and a description of the new program proposed by the application.

''(4) PUBLIC COMMENT PERIOD.—During the 30-day period beginning upon publication pursuant to paragraph (3) of a notice regarding such an application, the Director shall receive public comments regarding the new program.

''(5) DETERMINATION.—Not less than 15 days after the conclusion of the public comment period pursuant to paragraph (4) regarding an application but not more than 30 days after the conclusion of such comment period, the Director shall approve, conditionally approve, or reject such program, in writing.

''(6) STANDARD FOR APPROVAL.—The Director may approve, or conditionally approve, a new program of an enterprise only if the Director determines, taking into consideration any relevant information and comments received during the public comment period, that such new program—

''(A) does not contravene and is not inconsistent with the purposes of this title, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act, as such purposes are determined taking into consideration the definitions of the terms 'mortgage loan origination' and 'secondary mortgage market' pursuant to section 1303;

''(B) is not otherwise inconsistent with the safety and soundness of the enterprise; and

''(C) is in the public interest.

''(7) LIMITATION.—The Director, in implementing this subsection, may not prevent an enterprise from continuing to offer the automated loan underwriting system in existence on the date of the enactment of the Federal Housing Finance Reform Act of 2005 or continuing to engage in counseling and education activities.

''(c) NEW BUSINESS ACTIVITIES.—

''(1) AUTHORITY OF DIRECTOR TO PROHIBIT NEW BUSINESS ACTIVITIES.—The Director shall

have authority to prohibit any new business activity by an enterprise if the Director determines, in writing, that such activity—

''(A) contravenes or is inconsistent with the purposes of this title, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act;

''(B) is otherwise inconsistent with the safety and soundness of the enterprise; or

''(C) is not in the public interest.

''(2) NOTIFICATION OF NEW BUSINESS ACTIVITIES.—An enterprise that undertakes any new business activity shall provide written notice of the activity to the Director and may commence the new business activity only in accordance with paragraph (4).

''(3) DIRECTOR DETERMINATION OF APPLICABLE PROCEDURE.—

''(A) TIMING.—Immediately upon receipt of any notice under paragraph (2) regarding a new business activity, the Director shall undertake a determination under subparagraph (B) of this paragraph regarding the new business activity.

''(B) DETERMINATION AND TREATMENT AS NEW PROGRAM.—If the Director determines that any new business activity consists of, relates to, or involves any new program—

''(i) the Director shall notify the enterprise of the determination;

''(ii) the new business activity described in the notice shall be considered a new program for purposes of this section; and

''(iii) the Director shall prohibit the enterprise from carrying out the activity except to the extent that approval for the activity is obtained pursuant to subsection (b).

''(4) COMMENCEMENT.—An enterprise may commence a new business activity—

''(A) if the Director issues a written approval regarding such new business activity, immediately upon such issuance or at such other time as provided by the Director in such letter; or

''(B) if, during the 30-day period beginning upon receipt by the Director of notice pursuant to paragraph (2) regarding a new business activity, the Director has not issued to the enterprise a written approval or denial of the new business activity, upon the expiration of such 30-day period.

''(d) APPROVAL AND CONDITIONAL APPROVAL.—The Director may at any time conditionally approve the undertaking of a particular new program or new business activity by an enterprise and set forth the terms and conditions that apply to the program or activity with which the enterprise shall comply if it undertakes the new program or activity. Such approval may, in the discretion of the Director, be in the form of a written agreement between the enterprise and the Director and shall be subject to such terms and conditions therein. Such a written agreement or conditional approval shall be enforceable under subtitle C.

''(e) DETERMINATION AND TREATMENT OF ACTIVITY AS NEW BUSINESS ACTIVITY.—If the Director determines that any activity of an enterprise consists of, relates to, or involves any new business activity—

''(1) the Director shall notify the enterprise of the determination;

''(2) such activity shall be considered a new business activity for purposes of this section; and

''(3) the Director shall prohibit the enterprise from carrying out the activity except to the extent that approval for the activity is obtained pursuant to subsection (c).

''(f) EFFECT ON OTHER AUTHORITIES.—

''(1) EXAMINATIONS.—Nothing in this section may be construed to limit, in any manner, any other authority or right the Director may have under other provisions of law to conduct an examination of an enterprise.

''(2) REQUESTS FOR INFORMATION.—Nothing in this section may be construed to limit the right of the Director at any time to request additional information from an enterprise concerning any business activity.

''(3) NO IMPLIED RIGHT OF ACTION.—This section shall not create any private right of action against an enterprise or any director or executive officer of an enterprise, or impair any private right of action under other applicable law.

''(4) NO LIMITATION.—Nothing in this section may be construed to restrict the general supervisory and regulatory authority of the Director over all programs, products, activities, or business operations of any kind.

''(g) REPORT ON PROGRAMS AND BUSINESS ACTIVITIES.—Not later than the expiration of the 180-day period beginning on the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, each enterprise shall submit to the Director a report identifying and describing each program and business activity of the enterprise engaged in or existing as of the submission of the report.

''(h) REGULATIONS.—The Director shall by order or regulation issue rules and procedures to implement this section, including in the discretion of the Director, such definitions, interpretations, forms, and other guidances as the Director considers appropriate.''.

(b) DEFINITIONS.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502), as amended by section 2 of this Act, is further amended—

(1) by redesignating paragraphs (17) through (23) as paragraphs (20) through (26), respectively;

(2) by inserting after paragraph (16) the following new paragraph:

''(19) NEW BUSINESS ACTIVITY.—The term 'new business activity' means, with respect to an enterprise, a business activity that—

''(A) is materially changed or materially different from any of the business activities that the enterprise was engaging in on the effective date under section 185 of the Federal Housing Finance Reform Act of 2005; and

''(B) the enterprise has not previously obtained authorization, pursuant to the provisions of section 1321(c), to offer, undertake, transact, conduct, or engage in.'';

(3) by redesignating paragraphs (15) and (16) as paragraphs (17) and (18), respectively;

(4) by inserting after paragraph (14) the following new paragraph:

''(16) MORTGAGE MARKETS.—The terms 'mortgage loan origination' and 'secondary mortgage market' shall have such meanings as the Director shall, by regulation, prescribe consistent with the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act. The Director shall issue such regulations not later than the expiration of the 12-month period beginning on the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, and the Director shall review such regulations on a periodic basis.'';

(5) by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively; and

(6) by inserting after paragraph (4) the following new paragraph:

''(5) BUSINESS ACTIVITY.—The term 'business activity' means, with respect to an enterprise, any offering, undertaking, transacting, conducting, or engaging in any conduct, activity, or product by the enterprise, as the Director shall provide.''.

(c) CONFORMING AMENDMENTS.—

(1) FANNIE MAE.—Section 302(b)(6) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(6)) is amended—

(A) by striking ''new program (as such term is'' and inserting ''new program or new business activity (as such terms are''; and

(B) by striking ''before obtaining the approval of the Secretary under section 1322'' and inserting ''except in accordance with section 1321''.

SEC. 123. CONFORMING LOAN LIMITS.

(a) FANNIE MAE.—

(1) GENERAL LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking the 7th and 8th sentences and inserting the following new sentences: ''Such limitations shall not exceed $359,650 for a mortgage secured by a single-family residence, $460,400 for a mortgage secured by a 2-family residence, $556,500 for a mortgage secured by a 3-family residence, and $691,600 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, subject to the limitations in this paragraph. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or fourth-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Housing and Community Development Act of 1992 (12 U.S.C. 4541)).''.

(2) HIGH-COST AREA LIMIT.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act is (12 U.S.C. 1717(b)(2)) is amended by adding after the period at the end the following: ''Such foregoing limitations shall also be increased with respect to properties of a particular size located in any area for which the median price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such foregoing limitation for such size residence or the amount that is equal to the median price in such area for such size residence, except that, subject to the order, if any, issued by the Director of the Federal Housing Finance Agency pursuant to section 123(d)(3) of the Federal Housing Finance Reform Act of 2005, such increase shall apply only with respect to mortgages on which are based securities issued and sold by the corporation.''

(b) FREDDIE MAC.—

(1) GENERAL LIMIT.— Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking the 6th and 7th sentences and inserting the following new sentences: ''Such limitations shall not exceed $359,650 for a mortgage secured by a single-family residence, $460,400 for a mortgage secured by a 2-family residence, $556,500 for a mortgage secured by a 3-family residence, and $691,600 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, subject to the limitations in this paragraph. Each adjustment shall be made by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recent 12-month or fourth-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 1322 of the Housing and Community Development Act of 1992 (12 U.S.C. 4541)).''.

(2) HIGH-COST AREA LIMIT.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by adding after the period at the end the following: ''Such foregoing limitations shall also be increased with respect to properties of a particular size located in any area for which the median price for such size

residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such foregoing limitation for such size residence or the amount that is equal to the median price in such area for such size residence, except that, subject to the order, if any, issued by the Director of the Federal Housing Finance Agency pursuant to section 123(d)(3) of the Federal Housing Finance Reform Act of 2005, such increase shall apply only with respect to mortgages on which are based securities issued and sold by the Corporation.''

(c) HOUSING PRICE INDEX.—Subpart A of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (as amended by the preceding provisions of this Act) is amended by inserting after section 1321 (as added by section 122 of this Act) the following new section:

''SEC. 1322. HOUSING PRICE INDEX.

''(a) IN GENERAL.—The Director shall establish and maintain a method of assessing the national average 1-family house price for use for adjusting the conforming loan limitations of the enterprises. In establishing such method, the Director shall take into consideration the monthly survey of all major lenders conducted by the Federal Housing Finance Agency to determine the national average 1-family house price, the House Price Index maintained by the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development before the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, any appropriate house price indexes of the Bureau of the Census of the Department of Commerce, and any other indexes or measures that the Director considers appropriate.

''(b) GAO AUDIT.—

''(1) IN GENERAL.—At such times as are required under paragraph (2), the Comptroller General of the United States shall conduct an audit of the methodology established by the Director under subsection (a) to determine whether the methodology established is an accurate and appropriate means of measuring changes to the national average 1-family house price.

''(2) TIMING.—An audit referred to in paragraph (1) shall be conducted and completed not later than the expiration of the 180-day period that begins upon each of the following dates:

''(A) ESTABLISHMENT.—The date upon which such methodology is initially established under subsection (a) in final form by the Director.

''(B) MODIFICATION OR AMENDMENT.—Each date upon which any modification or amendment to such methodology is adopted in final form by the Director.

''(3) REPORT.—Within 30 days of the completion of any audit conducted under this subsection, the Comptroller General shall submit a report detailing the results and conclusions of the audit to the Director, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.''.

(d) CONDITIONS ON CONFORMING LOAN LIMIT FOR HIGH-COST AREAS.—

(1) STUDY.—The Director of the Federal Housing Finance Agency shall conduct a study under this subsection during the six-month period beginning on the effective date under section 185 of this Act.

(2) ISSUES.—The study under this subsection shall determine—

(A) the effect that restricting the conforming loan limits for high-cost areas only to mortgages on which are based securities issued and sold by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (as provided in the last sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act and the last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, pursuant to the amendments made by subsections (a)(2) and (b)(2) of this section) would have on the cost to borrowers for mortgages on housing in such high-cost areas;

(B) the effects that such restrictions would have on the availability of mortgages for housing in such high-cost areas; and

(C) the extent to which the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation will be able to issue and sell securities based on mortgages for housing located in such high-cost areas.

(3) DETERMINATION.—

(A) IN GENERAL.—Not later than the expiration of the six-month period specified in paragraph (1), the Director of the Federal Housing Finance Agency shall make a determination, based on the results of the study under this subsection, of whether the restriction of conforming loan limits for high-cost areas only to mortgages on which are based securities issued and sold by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (as provided in the amendments made by subsections (a)(2) and (b)(2) of this section) will result in an increase in the cost to borrowers for mortgages on housing in such high-cost areas.

(B) ORDER.— If such determination is that costs to borrowers on housing in such high-cost areas will be increased by such restrictions, the Director may issue an order terminating such restrictions, in whole or in part.

(4) PUBLICATION.— Not later than the expiration of the six-month period specified in paragraph (1), the Director of the Federal Housing Finance Agency shall cause to be published in the Federal Register—

(A) a report that—

(i) describes the study under this subsection; and

(ii) sets forth the conclusions of the study regarding the issues to be determined under paragraph (2); and

(B) notice of the determination of the Director under paragraph (3); and

(C) the order of the Director under paragraph (3).

(5) DEFINITION.—For purposes of this subsection, the term ''conforming loan limits for high-cost areas'' means the dollar amount limitations applicable under the section 302(b)(2) of the Federal National Mortgage Association Charter Act and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as amended by subsections (a) and (b) of this section) for areas described in the last sentence of such sections (as so amended).

(e) REGULAR ADJUSTMENT OF CONFORMING LOAN LIMITS.—

(1) ADJUSTMENT FOR YEAR INTERVENING BEFORE EFFECTIVE DATE.—Notwithstanding section 302(b)(2) of the Federal National Mortgage Association Charter Act and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, as amended by this section, the maximum dollar amount limitations in such sections shall be adjusted on the effective date under section 185 of this Act, and the limitations as so adjusted shall be immediately effective, so that the limitations under such sections applicable to the year in which such effective date occurs are equal to the limitations in effect under such sections immediately before such effective date.

(2) FURTHER ADJUSTMENTS.—After such effective date, the dollar amount limitations as adjusted pursuant to paragraph (1) shall be considered ''such amount (as it may have been previously adjusted'' for purposes of section 302(b)(2) of the Federal National Mortgage Association Charter Act and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act.

SEC. 124. ANNUAL HOUSING REPORT REGARDING REGULATED ENTITIES.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking section 1324 (12 U.S.C. 4544) and inserting the following new section:

''SEC. 1324. ANNUAL HOUSING REPORT REGARDING REGULATED ENTITIES.

''(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act, section 307(f) of the Federal Home Loan Mortgage Corporation Act, and section 10(j)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(11)), the Director shall submit a report, not later than October 30 of each year, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on the activities of each regulated entity.

''(b) CONTENTS.—The report shall—

''(1) discuss the extent to which—

''(A) each enterprise is achieving the annual housing goals established under subpart B of this part;

''(B) each enterprise is complying with section 1337;

''(C) each Federal home loan bank is complying with section 10(j) of the Federal Home Loan Bank Act; and

''(D) each regulated entity is achieving the purposes of the regulated entity established by law;

''(2) aggregate and analyze relevant data on income to assess the compliance by each enterprise with the housing goals established under subpart B;

''(3) aggregate and analyze data on income, race, and gender by census tract and other relevant classifications, and compare such data with larger demographic, housing, and economic trends;

''(4) examine actions that—

''(A) each enterprise has undertaken or could undertake to promote and expand the annual goals established under subpart B and the purposes of the enterprise established by law; and

''(B) each Federal home loan bank has taken or could undertake to promote and expand the community investment program and affordable housing program of the bank established under section subsections (i) and (j) of section 10 of the Federal Home Loan Bank Act;

''(5) examine the primary and secondary multifamily housing mortgage markets and describe—

''(A) the availability and liquidity of mortgage credit;

''(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

''(C) any factors inhibiting such standardization and securitization;

''(6) examine actions each regulated entity has undertaken and could undertake to promote and expand opportunities for first-time homebuyers;

''(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures;

''(8) discuss and analyze existing conditions and trends, including conditions and trends relating to pricing, in the housing markets and mortgage markets; and

''(9) identify the extent to which each enterprise is involved in mortgage purchases and secondary market activities involving subprime loans (as identified in accordance with the regulations issued pursuant to section 124(b) of the Federal Housing Finance Reform Act of 2005) and compare the characteristics of subprime loans purchased and securitized by the enterprises to other loans purchased and securitized by the enterprises

''(c) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—To assist the Director in analyzing the matters described in subsection (b) and establishing the methodology described in section 1322, the Director shall conduct, on a monthly basis, a survey of mortgage markets in accordance with this subsection.

''(2) DATA POINTS.—Each monthly survey conducted by the Director under paragraph (1) shall collect data on—

''(A) the characteristics of individual mortgages that are eligible for purchase by the enterprises and the characteristics of individual

mortgages that are not eligible for purchase by the enterprises including, in both cases, information concerning—

''(i) the price of the house that secures the mortgage;

''(ii) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

''(iii) the terms of the mortgage;

''(iv) the creditworthiness of the borrower or borrowers; and

''(v) whether the mortgage, in the case of a conforming mortgage, was purchased by an enterprise; and

''(B) such other matters as the Director determines to be appropriate.

''(3) PUBLIC AVAILABILITY.—The Director shall make any data collected by the Director in connection with the conduct of a monthly survey available to the public in a timely manner, provided that the Director may modify the data released to the public to ensure that the data is not released in an identifiable form.

''(4) DEFINITION.—For purposes of this subsection, the term 'identifiable form' means any representation of information that permits the identity of a borrower to which the information relates to be reasonably inferred by either direct or indirect means.''.

(b) STANDARDS FOR SUBPRIME LOANS.—The Director shall, not later than one year after the effective date under section 185, by regulations issued under section 1316G of the Housing and Community Development Act of 1992, establish standards by which mortgages purchased and mortgages purchased and securitized shall be characterized as subprime for the purpose of, and only for the purpose of, complying with the reporting requirement under section 1324(b)(9) of such Act.

SEC. 125. REVISION OF HOUSING GOALS.

(a) HOUSING GOALS.—The Housing and Community Development Act of 1992 is amended by striking sections 1331 through 1334 (12 U.S.C. 4561–4) and inserting the following new sections:

''SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.

''(a) IN GENERAL.—The Director shall establish, effective for the first year that begins after the effective date under section 185 of the Federal Housing Finance Reform Act of 2005 and each year thereafter, annual housing goals, with respect to the mortgage purchases by the enterprises, as follows:

''(1) SINGLE FAMILY HOUSING GOALS.—Three single-family housing goals under section 1332.

''(2) MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOALS.—A multifamily special affordable housing goal under section 1333.

''(b) ELIMINATING INTEREST RATE DISPARITIES.—

''(1) IN GENERAL.—In establishing and implementing the housing goals under this subpart, the Director shall require the enterprises to disclose appropriate information to allow the Director to assess if there are any disparities in interest rates charged on mortgages to borrowers who are minorities as compared with borrowers of similar creditworthiness who are not minorities, as evidenced in reports pursuant to the Home Mortgage Disclosure Act of 1975.

''(2) REPORT AND REMEDY.—Upon a finding by the Director, pursuant to the information provided by an enterprise in paragraph (1), that a pattern of disparities in interest rates exists, the Director shall—

''(A) submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report detailing the disparities; and

''(B) require the enterprise to take such action as the Director deems appropriate pursuant to this Act to remedy the interest rate disparities identified.

''(3) PROTECTION OF IDENTITY.—In carrying out this subsection, the Director shall ensure that no information is made public that would reasonably allow identification, directly or indirectly, of an individual borrower.

''(c) TIMING.—The Director shall establish an annual deadline by which the Director shall establish the annual housing goals under this subpart for each year, taking into consideration the need for the enterprises to reasonably and sufficiently plan their operations and activities in advance, including operations and activities necessary to meet such annual goals.

''SEC. 1332. SINGLE-FAMILY HOUSING GOALS.

''(a) IN GENERAL.—The Director shall establish an annual goal for the purchase by each enterprise of conventional, conforming, single-family, owner-occupied, purchase money mortgages financing housing for each of the following categories of families:

''(1) Low-income families.

''(2) Families that reside in low-income areas.

''(3) Very low-income families.

''(b) DETERMINATION OF COMPLIANCE.—The Director shall determine, for each year that the housing goal under this section is in effect pursuant to section 1331(a), whether each enterprise has complied with the single-family housing goal established under this section for such year. An enterprise shall be considered to be in compliance with such a goal for a year only if—

''(1) for each of the types of families described in subsection (a), the percentage of the number of conventional, conforming, single-family, owner-occupied, purchase money mortgages purchased by each enterprise in such year that serve such families, meets or exceeds

''(2) the target for the year for such type of family that is established under subsection (c).

''(c) ANNUAL TARGETS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), for each of the types of families described in subsection (a), the target under this subsection for a year shall be the average percentage, for the three years that most recently precede such year and for which information under the Home Mortgage Disclosure Act of 1975 is publicly available, of the number of conventional, conforming, single-family, owner-occupied, purchase money mortgages originated in such year that serves such type of family, as determined by the Director using the information obtained and determined pursuant to paragraphs (3) and (4).

''(2) AUTHORITY TO INCREASE TARGETS.—

''(A) IN GENERAL.—The Director may, for any year, establish by regulation, for any or all of the types of families described in subsection (a), percentage targets that are higher than the percentages for such year determined pursuant to paragraph (1), to reflect expected changes in market performance related to such information under the Home Mortgage Disclosure Act of 1975.

''(B) FACTORS.—In establishing any targets pursuant to subparagraph (A), the Director shall consider the following factors:

''(i) National housing needs.

''(ii) Economic, housing, and demographic conditions.

''(iii) The performance and effort of the enterprises toward achieving the housing goals under this section in previous years.

''(iv) The size of the conventional mortgage market serving each of the types of families described in subsection (a) relative to the size of the overall conventional mortgage market.

''(v) The need to maintain the sound financial condition of the enterprises.

''(3) HMDA INFORMATION.—The Director shall annually obtain information submitted in compliance with the Home Mortgage Disclosure Act of 1975 regarding conventional, conforming, single-family, owner-occupied, purchase money mortgages originated and purchased for the previous year.

''(4) CONFORMING MORTGAGES.—In determining whether a mortgage is a conforming mortgage for purposes of this paragraph, the Director shall consider the original principal balance of the mortgage loan to be the principal balance as reported in the information referred to in paragraph (3), as rounded to the nearest thousand dollars.

''(d) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (b) regarding a compliance of an enterprise for a year with the housing goal established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

''(e) USE OF BORROWER INCOME.—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Director shall consider a mortgagor's income to be such income at the time of origination of the mortgage.

''SEC. 1333. MULTIFAMILY SPECIAL AFFORDABLE GOAL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish, by regulation, an annual goal for the purchase by each enterprise of each of the following types of mortgages on multifamily housing:

''(A) Mortgages that finance dwelling units for very low-income families.

''(B) Mortgages that finance dwelling units assisted by the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986.

''(2) ADDITIONAL REQUIREMENTS FOR SMALLER PROJECTS.—The Director shall establish, within the goal under this section, additional requirements for the purchase by each enterprise of mortgages described in paragraph (1) for multifamily housing projects of a smaller or limited size, which may be based on the number of dwelling units in the project or the amount of the mortgage, or both, and shall include multifamily housing projects of such smaller sizes as are typical among such projects that serve rural areas.

''(3) FACTORS.—In establishing the goal under this section relating to mortgages on multifamily housing for an enterprise, the Director shall consider—

''(A) national multifamily mortgage credit needs;

''(B) the performance and effort of the enterprise in making mortgage credit available for multifamily housing in previous years;

''(C) the size of the multifamily mortgage market;

''(D) the ability of the enterprise to lead the industry in making mortgage credit available, especially for underserved markets, such as for small multifamily projects of 5 to 50 units, multifamily properties in need of rehabilitation, and multifamily properties located in rural areas; and

''(E) the need to maintain the sound financial condition of the enterprise.

''(b) UNITS FINANCED BY HOUSING FINANCE AGENCY BONDS.—The Director shall give full credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 1336) to dwelling units in multifamily housing that otherwise qualifies under such goal and that is financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, but only if—

''(1) such bonds are secured by a guarantee of the enterprise; or

''(2) are not investment grade and are purchased by the enterprise.

''(c) USE OF TENANT INCOME OR RENT.—The Director shall monitor the performance of each enterprise in meeting the goals established under this section and shall evaluate such performance (for purposes of section 1336) based on—

''(1) the income of the prospective or actual tenants of the property, where such data are available; or

''(2) where the data referred to in paragraph (1) are not available, rent levels affordable to low-income and very low-income families.

A rent level shall be considered to be affordable for purposes of this subsection for an income category referred to in this subsection if it does not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.

''(d) DETERMINATION OF COMPLIANCE.—The Director shall, for each year that the housing goal under this section is in effect pursuant to section 1331(a), determine whether each enterprise has complied with such goal and the additional requirements under subsection (a)(2).

''SEC. 1334. DISCRETIONARY ADJUSTMENT OF HOUSING GOALS.

''(a) AUTHORITY.—An enterprise may petition the Director in writing at any time during a year to reduce the level of any goal for such year established pursuant to this subpart.

''(b) STANDARD FOR REDUCTION.—The Director may reduce the level for a goal pursuant to such a petition only if—

''(1) market and economic conditions or the financial condition of the enterprise require such action; or

''(2) efforts to meet the goal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of this subpart, or section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(3)) or section 301(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

''(c) DETERMINATION.—The Director shall make a determination regarding any proposed reduction within 30 days of receipt of the petition regarding the reduction. The Director may extend such period for a single additional 15-day period, but only if the Director requests additional information from the enterprise. A denial by the Director to reduce the level of any goal under this section may be appealed to the United States District Court for the District of Columbia or the United States district court in the jurisdiction in which the headquarters of an enterprise is located.''.

(b) CONFORMING AMENDMENTS.—The Housing and Community Development Act of 1992 is amended——

(1) in section 1335(a) (12 U.S.C. 4565(a)), in the matter preceding paragraph (1), by striking ''low- and moderate-income housing goal'' and all that follows through ''section 1334'' and inserting ''housing goals established under this subpart''; and

(2) in section 1336(a)(1) (12 U.S.C. 4566(a)(1)), by striking ''sections 1332, 1333, and 1334,'' and inserting ''this subpart'' .

(c) DEFINITIONS.—Section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502), as amended by the preceding provisions of this Act, is further amended—

(1) in paragraph (26), by striking ''60 percent'' each place such term appears and inserting ''50 percent'';

(2) by redesignating paragraphs (23) through (26) as paragraphs (27) through (30), respectively;

(3) by inserting after paragraph (22) the following new paragraph:

''(26) RURAL AREAS.—The term 'rural areas' means any areas that are non-metropolitan areas (as such term is defined by the Director of the Office of Management and Budget), including micropolitan areas and tribal trust lands.''.

(4) by redesignating paragraphs (14) through (22) as paragraphs (17) through (25), respectively; and

(5) by inserting after paragraph (13) the following new paragraph:

''(16) LOW-INCOME AREA.—The term 'low income area' means a census tract or block numbering area in which the median income does not exceed 80 percent of the median income for the area in which such census tract or block numbering area is located, and, for the purposes of section 1332(a)(2), shall include families having incomes not greater than 100 percent of the area median income who reside in minority census tracts.'';

(6) by redesignating paragraphs (12) and (13) as paragraphs (14) and (15), respectively;

(7) by inserting after paragraph (11) the following new paragraph:

''(13) EXTREMELY LOW-INCOME.—The term 'extremely low-income' means—

''(A) in the case of owner-occupied units, income not in excess of 30 percent of the area median income; and

''(B) in the case of rental units, income not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.'';

(8) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively; and

(9) by inserting after paragraph (7) the following new paragraph:

''(8) CONFORMING MORTGAGE.—The term 'conforming mortgage' means, with respect to an enterprise, a conventional mortgage having an original principal obligation that does not exceed the dollar limitation, in effect at the time of such origination, under, as applicable—

''(A) section 302(b)(2) of the Federal National Mortgage Association Charter Act; or

''(B) section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act.''.

SEC. 126. DUTY TO SERVE UNDERSERVED MARKETS.

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Housing and Community Development Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting ''***DUTY TO SERVE UNDERSERVED MARKETS AND***'' before ''***OTHER***'';

(2) by striking subsection (b);

(3) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''and to carry out the duty under subsection (a) of this section'' before '', each enterprise shall'';

(B) in paragraph (3), by inserting ''and'' after the semicolon at the end;

(C) in paragraph (4), by striking ''; and'' and inserting a period;

(D) by striking paragraph (5); and

(E) by redesignating such subsection as subsection (b);

(4) by inserting before subsection (b) (as so redesignated by paragraph (3)(E) of this subsection) the following new subsection:

''(a) DUTY TO SERVE UNDERSERVED MARKETS.—

''(1) DUTY.—In accordance with the purpose of the enterprises under section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) to undertake activities relating to mortgages on housing for very low-, low-, and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities, each enterprise shall have the duty to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets.

''(2) UNDERSERVED MARKETS.—To meet its duty under paragraph (1), each enterprise shall comply with the following requirements with respect to the following underserved markets:

''(A) MANUFACTURED HOUSING.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.

''(B) AFFORDABLE HOUSING PRESERVATION.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to very low-, low-, and moderate-income families, including housing projects subsidized under—

''(i) the project-based and tenant-based rental assistance programs under section 8 of the United States Housing Act of 1937;

''(ii) the program under section 236 of the National Housing Act;

''(iii) the below-market interest rate mortgage program under section 221(d)(4) of the National Housing Act;

''(iv) the supportive housing for the elderly program under section 202 of the Housing Act of 1959;

''(v) the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act; and

''(vi) the rural rental housing program under section 515 of the Housing Act of 1949.

''(C) RURAL AND OTHER UNDERSERVED MARKETS.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in rural areas, and for mortgages for housing for any other underserved market for very low-, low-, and moderate-income families that the Secretary identifies as lacking adequate credit through conventional lending sources. Such underserved markets may be identified by borrower type, market segment, or geographic area.''; and

(5) by adding at the end the following new subsection:

''(c) EVALUATION AND REPORTING OF COMPLIANCE.—

''(1) IN GENERAL.—Not later than 6 months after the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, the Director shall establish a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets and for rating the extent of such compliance. Using such method, the Director shall, for each year, evaluate such compliance and rate the performance of each enterprise as to extent of compliance. The Director shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 1319B(a).

''(2) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration—

''(A) the development of loan products and more flexible underwriting guidelines;

''(B) the extent of outreach to qualified loan sellers in each of such underserved markets; and

''(C) the volume of loans purchased in each of such underserved markets.''.

(b) ENFORCEMENT.—Subsection (a) of section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (1), by inserting ''and with the duty under section 1335A of each enterprise with respect to underserved markets,'' before ''as provided in this section,''; and

(2) by adding at the end of such subsection, as amended by the preceding provisions of this title, the following new paragraph:

''(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—The duty under section 1335(a) of each enterprise to serve underserved markets (as determined in accordance with section 1335(c)) shall

be enforceable under this section to the same extent and under the same provisions that the housing goals established under sections 1332, 1333, and 1334 are enforceable. Such duty shall not be enforceable under any other provision of this title (including subpart C of this part) other than this section or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.''.

SEC. 127. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

Section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting ''Preliminary'' before ''Determination'';

(B) by striking paragraph (1) and inserting the following new paragraph:

''(1) NOTICE.—If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.'';

(C) in paragraph (2)—

(i) in subparagraph (A), by inserting ''finally'' before ''determining'';

(ii) by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) EXTENSION OR SHORTENING OF PERIOD.—The Director may—

''(i) extend the period under subparagraph (A) for good cause for not more than 30 additional days; and

''(ii) shorten the period under subparagraph (A) for good cause.''; and

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(D) in paragraph (3)—

(i) in subparagraph (A), by striking ''determine'' and inserting ''issue a final determination of'';

(ii) in subparagraph (B), by inserting ''final'' before ''determinations''; and

(iii) in subparagraph (C)—

(I) by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services''; and

(II) by inserting ''final'' before ''determination'' each place such term appears; and

(2) in subsection (c)—

(A) by striking the subsection designation and heading and all that follows through the end of paragraph (1) and inserting the following:

''(c) CEASE AND DESIST ORDERS, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

''(1) REQUIREMENT.—If the Director finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed, to meet any housing goal under this subpart and that the achievement of the housing goal was or is feasible, the Director may require that the enterprise submit a housing plan under this subsection. If the Director makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, fails to comply with the plan or the Director finds that the enterprise has failed to meet any housing goal under this subpart, in addition to requiring an enterprise to submit a housing plan, the Director may issue a cease and desist order in accordance with section 1341, impose civil money penalties in accordance with section 1345, or order other remedies as set forth in paragraph (7) of this subsection.'';

(B) in paragraph (2)—

*(i) by striking ''**CONTENTS**.—Each housing plan'' and inserting ''**HOUSING PLAN**.—If the Director requires a housing plan under this section, such a plan''; and*

(ii) in subparagraph (B), by inserting ''and changes in its operations'' after ''improvements'';

(C) in paragraph (3)—

(i) by inserting ''comply with any remedial action or'' before ''submit a housing plan''; and

(ii) by striking ''under subsection (b)(3) that a housing plan is required'';

(D) in paragraph (4), by striking the first two sentences and inserting the following: ''The Director shall review each submission by an enterprise, including a housing plan submitted under this subsection, and not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines such extension necessary.''; and

(E) by adding at the end the following new paragraph:

''(7) ADDITIONAL REMEDIES FOR FAILURE TO MEET GOALS.—In addition to ordering a housing plan under this section, issuing cease and desist orders under section 1341, and ordering civil money penalties under section 1345, the Director may seek other actions when an enterprise fails to meet a goal, and exercise appropriate enforcement authority available to the Director under this Act to prohibit the enterprise from entering into new programs and new business activities and to order the enterprise to suspend programs and business activities pending its achievement of the goal.''.

SEC. 128. AFFORDABLE HOUSING FUND.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking sections 1337 and 1338 (12 U.S.C. 4562 note) and inserting the following new section:

''SEC. 1337. AFFORDABLE HOUSING FUND.

''(a) ESTABLISHMENT AND PURPOSE.—Each enterprise shall establish and manage an affordable housing fund in accordance with this section. The purpose of the affordable housing fund shall be—

''(1) to increase homeownership for extremely low-and very low-income families;

''(2) to increase investment in housing in low-income areas, and areas designated as qualified census tracts or an area of chronic economic distress pursuant to section 143(j) of the Internal Revenue Code of 1986 (26 U.S.C. 143(j));

''(3) to increase and preserve the supply of rental and owner-occupied housing for extremely low- and very low-income families; and

''(4) to increase investment in economic and community development in economically underserved areas.

''(b) ALLOCATION OF AMOUNTS BY ENTERPRISES.—

''(1) IN GENERAL.—In accordance with regulations issued by the Director under subsection (l) and subject to paragraph (2) of this subsection, each enterprise shall allocate to the affordable housing fund established under subsection (a) by the enterprise, in each year beginning after the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, 5 percent of the after-tax income of the enterprise for the preceding year.

''(2) LIMITATION.—An enterprise shall not be required to make an allocation for a year to the affordable housing fund of the enterprise established under subsection (a) unless—

''(A) the enterprise is classified by the Director at the time of such allocation as adequately capitalized; and

''(B) the enterprise generated after-tax income for the preceding year.

''(3) DETERMINATION OF AFTER-TAX INCOME.—For purposes of this section, the term 'after-tax income' means, with respect to an enterprise for a year, the amount reported by the enterprise for such year in the enterprise's annual report for such year that is filed with the Securities and Exchange Commission, except that for any year in which no such filing is made by an enterprise or such filing is not timely made, such term means the amount determined by the Director based on the income tax return filings of the enterprise.

''(c) SELECTION OF ACTIVITIES FUNDED USING AFFORDABLE HOUSING FUND AMOUNTS.—Amounts from the affordable housing fund of the enterprise may be used, or committed for use, only for activities that—

''(1) are eligible under subsection (d) for such use; and

''(2) are selected for funding by the enterprise in accordance with the process and criteria for such selection established pursuant to subsection (l)(2)(C).

''(d) ELIGIBLE ACTIVITIES.—Amounts from the affordable housing fund of an enterprise shall be eligible for use, or for commitment for use, only for assistance for—

''(1) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B), except that amounts provided from the Fund may be used for the benefit only of extremely low- and very low-income families;

''(2) the production, preservation, and rehabilitation of housing for homeownership, including such forms as downpayment assistance, closing cost assistance, and assistance for interest-rate buy-downs, that—

''(A) is available for purchase only for use as a principal residence by families that qualify both as—

''(i) extremely low- and very-low income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

''(ii) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this section be considered to refer to assistance from the affordable housing fund of the enterprise;

''(B) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act; and

''(C) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

''(3) leveraged grants under subsection (e).

''(e) LEVERAGED GRANTS.—

''(1) IN GENERAL.—Pursuant to regulations issued by the Director, each enterprise shall carry out a program under this subsection to make leveraged grants from amounts in the affordable housing fund of the enterprise, subject to the requirements under this subsection.

''(2) ELIGIBLE PURPOSES.—Amounts from the affordable housing fund of an enterprise may be used only for leveraged grants under paragraph (4) for—

''(A) the development, preservation, rehabilitation, or purchase of affordable housing that meets underserved needs for affordable housing;

''(B) community or economic development activities in economically underserved areas; or

''(C) a combination of the activities identified in subparagraphs (A) and (B).

''(3) ELIGIBLE SPONSORS.—A leveraged grant under this subsection may be made only on behalf of a sponsor that meets such requirements as the Director shall establish for experience and success in carrying out the types of activities proposed under the application of the sponsor, such as the following entities:

''(A) A low-income housing fund.

''(B) A housing finance agency of a State or unit of general local government.

''(C) A non-profit organization having as one of its principal purposes the development or management of affordable housing.

''(D) A community development financial institution.

''(E) A national non-profit housing intermediary.

''(F) A community development corporation.

''(G) A community development entity.

''(4) ELIGIBLE USES.—Amounts from the affordable housing fund of an enterprise may be used under this subsection only for the following types of leveraged grants:

''(A) To provide loan loss reserves.

''(B) To capitalize a revolving loan fund.

''(C) To provide equity capitalization of an affordable housing fund.

''(D) To provide equity capitalization of a community development or economic development fund.

''(E) For risk sharing loans.

''(F) For the funding of a specific, detailed investment plan that identifies the specific types of uses and the expected timeframes with respect to such uses.

''(5) APPLICATIONS.—The Director shall provide, in the application process established pursuant to subsection (l)(2)(C), for eligible sponsors under paragraph (3) of this subsection to submit applications to an enterprise for leveraged grants pursuant to this subsection, which shall include a detailed description of—

''(A) the types of affordable housing or community or economic development activities for which the leveraged grant is made;

''(B) the type of eligible leveraged grants under paragraph (4) to be made in the project;

''(C) the types, sources, and amounts of other funding for the project;

''(D) and the expected time frame of the leveraged grant under this subsection.

''(6) LIMITATIONS.—The Director shall by regulation—

''(A) ensure that leveraged grants pursuant to this subsection are designed to alleviate need for affordable housing in underserved markets identified in section 1335(a) having the greatest need for such housing or to address community and economic development needs in economically underserved areas having the greatest need; and

''(B) ensure that any returns from leveraged grants under this subsection accrue to the affordable housing fund of the enterprise and are available for use only as provided under this section.

''(f) LIMITATIONS ON USE.—

''(1) AMOUNTS FOR HOMEOWNERSHIP.—Of any amounts allocated pursuant to subsection (b) in each year to the affordable housing fund of an enterprise, not less than 10 percent shall be used for activities under paragraph (2) of subsection (d).

''(2) AMOUNTS FOR LEVERAGED GRANTS.—Of any amounts allocated pursuant to subsection (b) in each year to the affordable housing fund of an enterprise, not more than 12.5 percent shall be used for leveraged grants under subsection (e).

''(3) DEADLINE FOR COMMITMENT OR USE.—Any amounts allocated to the affordable housing fund of an enterprise shall be used or committed for use within two years of the date of such allocation.

''(4) USE OF RETURNS.—Any return on investment of any amounts allocated pursuant to subsection (b) to the affordable housing fund of an enterprise shall be available for use by the enterprise only for eligible activities under subsection (d).

''(5) ADMINISTRATIVE COSTS.—The Director shall, by regulation—

''(A) provide that, except as provided in subparagraph (B), amounts allocated to the affordable housing fund of an enterprise may not be used for administrative, outreach, or other costs of—

''(i) the enterprise; or

''(ii) any recipient of amounts from the affordable housing fund; and

''(B) limit the amount of any such contributions that may be used for administrative costs of the enterprise of maintaining the affordable housing fund and carrying out the program under this section.

''(6) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS.—In determining compliance with the housing goals under this subpart, the Director may not consider amounts used under this section for eligible activities under subsection (d). The Director shall give credit toward the achievement of such housing goals to purchases of mortgages for housing that receives funding under this section, but only to the extent that such purchases are funded other than under this section.

''(7) PROHIBITION OF CERTAIN SUBGRANTS.—The Director shall, by regulation, ensure that amounts from the affordable housing fund of an enterprise awarded under this section to a national non-profit housing intermediary are not used for the purpose of distributing subgrants to other non-profit entities.

''(g) CONSISTENCY OF USE WITH HOUSING NEEDS.—

''(1) QUARTERLY REPORTS.—The Director shall require each enterprise to submit a report, on a quarterly basis, to the Director and the affordable housing board established under subsection (j) describing the activities funded under this section during such quarter with amounts from the affordable housing fund of the enterprise established under this section. The Director shall make such reports publicly available. The affordable housing board shall review each report by an enterprise to determine the consistency of such activities funded with the criteria for selection of such activities established pursuant to subsection (l)(2)(C).

''(2) REPLENISHMENT.—If the affordable housing board determines that an activity funded by an enterprise with amounts from the affordable housing fund of the enterprise is not consistent with the criteria established pursuant to subsection (l)(2)(C), the board shall notify the Director and the Director shall require the enterprise to allocate to such affordable housing fund (in addition to amounts allocated in compliance with subsection (b)) an amount equal to the sum of the amounts from the affordable housing fund used and further committed for use for such activity.

''(h) CAPITAL REQUIREMENTS.—The utilization or commitment of amounts from the affordable housing fund of an enterprise shall not be subject to the risk-based capital requirements established pursuant to section 1361(a).

''(i) REPORTING REQUIREMENT.—Each enterprise shall include, in the report required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act, as applicable, a description of the actions taken by the enterprise to utilize or commit amounts allocated under this section to the affordable housing fund of the enterprise established under this section.

''(j) AFFORDABLE HOUSING BOARD.—

''(1) APPOINTMENT.—The Director shall appoint an affordable housing board of 7, 9, or 11 persons, who shall include—

''(A) the Director, or the Director's designee;

''(B) the Secretary of Housing and Urban Development, or the Secretary's designee;

''(C) the Secretary of Agriculture, or the Secretary's designee;

''(D) 2 persons from for-profit organizations or businesses actively involved in providing or promoting affordable housing for extremely low- and very low-income households; and

''(E) 2 persons from nonprofit organizations actively involved in providing or promoting affordable housing for extremely low- and very low-income households.

''(2) TERMS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term of each member of the affordable housing board appointed pursuant to paragraph (1) (but not including members appointed pursuant to subparagraphs (A), (B), and (C)) shall be 3 years.

''(B) INITIAL APPOINTEES.—The Director shall appoint the initial members of the affordable housing board not later than the expiration of the 60-day period beginning on the date of the enactment of this Act. As designated by the Director at the time of appointment, of the members of the affordable housing board first appointed pursuant to paragraph (1) (but not including members appointed pursuant to subparagraphs (A), (B), and (C))—

''(i) in the case of a board having 7 members—

''(I) one shall be appointed for a term of one year; and

''(II) one shall be appointed for a term of two years;

''(ii) in the case of a board having 9 members—

''(I) two shall be appointed for a term of one year; and

''(II) two shall be appointed for a term of two years; and

''(iii) in the case of a board having 11 members—

''(I) two shall be appointed for a term of one year; and

''(II) three shall be appointed for a term of two years;

''(3) DUTIES.—The affordable housing board shall meet not less than quarterly—

''(A) to determine extremely low- and very low-income housing needs;

''(B) to advise the Director with respect to—

''(i) establishment of the selection criteria under subsection (l)(2)(C) that provide for appropriate use of amounts from the affordable housing funds of the enterprises to meet such needs; and

''(ii) operation of, and changes to, the program under this section appropriate to meet such needs; and

''(C) to review the reports submitted by the enterprises pursuant to subsection (g)(1) to determine whether the activities funded using amounts from the affordable housing funds of the enterprises comply with the regulations issued pursuant to subsection (l)(2)(C) and inform the Director of such determinations, for purposes of subsection (g)(2).

''(4) EXPENSES AND PER DIEM.—Members of the board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''(5) ADVISORY COMMITTEE.—The board shall be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

''(6) DURATION.— The board shall have continued existence until terminated by law.

''(k) DEFINITION.—For purposes of this section, the term 'economically underserved area' means an area that predominantly includes census tracts for which—

''(1) at least 20 percent of the population is below the poverty line (as such term is defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), including any revision required by such section), applicable to a family of the size involved; or

''(2) median family income does not exceed the greater of—

''(A) 80 percent of the median family income for the metropolitan statistical area in which such census tracts are located; or

''(B) 80 percent of the median family income for the State in which such census tracts are located.

''(l) REGULATIONS.—

''(1) IN GENERAL.—The Director shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) authority for the Director to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

''(B) a requirement that the Director ensure that the affordable housing fund of each enterprise is audited not less than annually to ensure compliance with this section;

''(C) requirements for a process for application to, and selection by, an enterprise for activities

to be funded with amounts from the affordable housing fund, which shall provide that—

''(i) selection shall based upon specific criteria, including a prioritization of funding based upon—

''(I) greatest impact;

''(II) geographic diversity;

''(III) ability to obligate amounts and undertake activities so funded in a timely manner;

''(IV) in the case of rental housing projects under subsection (d)(1), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families; and

''(V) in the case of rental housing projects under subsection (d)(1), the extent of the duration for which such rents will remain affordable; and

''(ii) an enterprise may not require for such selection that an activity involve financing or underwriting of any kind by the enterprise (other than funding through the affordable housing fund of the enterprise) and may not give preference in such selection to activities that involve such financing; and

''(D) requirements to ensure that amounts from the affordable housing funds of the enterprises used for rental housing under subsection (d)(1) are used only for the benefit of extremely low- and very-low income families.

''(3) LIMITATION.—Any regulations issued by the Director pursuant to this section shall be no more restrictive on the enterprises' activities in connection with the allocation of after-tax income under this section than the regulations issued to implement the affordable housing program of the Federal home loan banks pursuant to section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)).''.

(b) CONTRIBUTIONS FOR 2006.—

(1) RESERVATION AND CONTRIBUTION.—In 2006, each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) shall reserve for contribution to the affordable housing fund to be established by the enterprise pursuant to section 1337 of such Act (as amended by subsection (a) of this section), an amount equal to 3.5 percent of the after-tax income of the enterprise for 2005. Upon the establishment of such affordable housing fund, each enterprise shall allocate to such fund the amounts reserved under this subsection by the enterprise.

(2) EXCEPTION TO DEADLINE FOR COMMITMENT.—Section 1337(e)(2) of the Housing and Community Development Act of 1992 (as amended by subsection (a) of this section) shall not apply to amounts allocated to the affordable housing fund of an enterprise pursuant to paragraph (1).

(3) AFTER-TAX INCOME.—For purposes of this subsection, the term ''after-tax income'' has the meaning provided in subsection (b)(3) of the new section 1337 to be inserted by the amendment made by subsection (a) of this section.

(4) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

SEC. 129. CONSISTENCY WITH MISSION.

Subpart B of part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4561 et seq.) is amended by adding after section 1337, as added by section 127 of this Act, the following new section:

''SEC. 1338. CONSISTENCY WITH MISSION.

''This subpart may not be construed to authorize an enterprise to engage in any program or activity that contravenes or is inconsistent with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.''.

SEC. 130. ENFORCEMENT.

(a) CEASE-AND-DESIST PROCEEDINGS.—Section 1341 of the Housing and Community Development Act of 1992 (12 U.S.C. 4581) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines—

''(1) the enterprise has failed to meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336;

''(2) the enterprise has failed to submit a report under section 1314, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

''(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

''(4) the enterprise has violated any provision of this part or any order, rule or regulation under this part;

''(5) the enterprise has failed to submit a housing plan that complies with section 1336(c) within the applicable period; or

''(6) the enterprise has failed to comply with a housing plan under section 1336(c).'';

(2) in subsection (b)(2), by striking ''requiring the enterprise to'' and all that follows through the end of the paragraph and inserting the following: ''requiring the enterprise to—

''(A) comply with the goal or goals;

''(B) submit a report under section 1314;

''(C) comply with any provision this part or any order, rule or regulation under such part;

''(D) submit a housing plan in compliance with section 1336(c);

''(E) comply with a housing plan submitted under section 1336(c); or

''(F) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, as applicable.'';

(3) in subsection (c), by inserting ''date of the'' before ''service of the order''; and

(4) by striking subsection (d).

(b) AUTHORITY OF DIRECTOR TO ENFORCE NOTICES AND ORDERS.—Section 1344 of the Housing and Community Development Act of 1992 (12 U.S.C. 4584) is amended by striking subsection (a) and inserting the following new subsection:

''(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the enterprise is located, for the enforcement of any effective and outstanding notice or order issued under section 1341 or 1345, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order.''.

(c) CIVIL MONEY PENALTIES.—Section 1345 of the Housing and Community Development Act of 1992 (12 U.S.C. 4585) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY.—The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

''(1) meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336(b);

''(2) submit a report under section 1314, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

''(3) submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

''(4) comply with any provision of this part or any order, rule or regulation under this part;

''(5) submit a housing plan pursuant to section 1336(c) within the required period; or

''(6) comply with a housing plan for the enterprise under section 1336(c).

''(b) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Director, may not exceed—

''(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), $50,000 for each day that the failure occurs; and

''(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), $20,000 for each day that the failure occurs.'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ''and'' after the semicolon at the end;

(ii) in subparagraph (B), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (C); and

(B) in paragraph (2), by inserting after the period at the end the following: ''In determining the penalty under subsection (a)(1), the Director shall give consideration to the length of time the enterprise should reasonably take to achieve the goal.'';

(3) in the first sentence of subsection (d)—

(A) by striking ''request the Attorney General of the United States to'' and inserting '', in the discretion of the Director,''; and

(B) by inserting '', or request that the Attorney General of the United States bring such an action'' before the period at the end;

(4) by striking subsection (f); and

(5) by redesignating subsection (g) as subsection (f).

(d) ENFORCEMENT OF SUBPOENAS.—Section 1348(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4588(c)) is amended—

(1) by striking ''request the Attorney General of the United States to'' and inserting '', in the discretion of the Director,''; and

(2) by inserting ''or request that the Attorney General of the United States bring such an action,'' after ''District of Columbia,''

(e) CONFORMING AMENDMENT.—The heading for subpart C of part 2 of subtitle A of the Housing and Community Development Act of 1992 is amended to read as follows:

''Subpart C—Enforcement''.

SEC. 131. CONFORMING AMENDMENTS.

Part 2 of subtitle A of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4541 et seq.) is amended—

(1) by striking ''Secretary'' each place such term appears in such part and inserting ''Director'';

(2) in the section heading for section 1323 (12 U.S.C. 4543), by inserting ''***OF ENTERPRISES***'' before the period at the end;

(3) by striking section 1327 (12 U.S.C. 4547);

(4) by striking section 1328 (12 U.S.C. 4548);

(5) in sections 1345(c)(1)(A) and 1346(b) (12 U.S.C. 4585(c)(1)(A), 4586(b)), by striking ''Secretary's'' each place such term appears and inserting ''Director's''; and

(6) by striking section 1349 (12 U.S.C. 4589).

Subtitle C—Prompt Corrective Action

SEC. 141. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—Section 1364 of the Housing and Community Development Act of 1992 (12 U.S.C. 4614) is amended—

(1) in the heading for subsection (a) by striking ''In General'' and inserting ''Enterprises'';

(2) in subsection (c)—

(A) by striking ''subsection (b)'' and inserting ''subsection (c)'';

(B) by striking ''enterprises'' and inserting ''regulated entities''; and

(C) by striking the last sentence;

(3) by redesignating subsections (c) (as so amended by paragraph (2) of this subsection) and (d) as subsections (d) and (f), respectively;

(4) by striking subsection (b) and inserting the following new subsections:

''(b) FEDERAL HOME LOAN BANKS.—

''(1) ESTABLISHMENT AND CRITERIA.—For purposes of this subtitle, the Director shall, by regulation—

''(A) establish the capital classifications specified under paragraph (2) for the Federal home loan banks;

''(B) establish criteria for each such capital classification based on the amount and types of capital held by a bank and the risk-based, minimum, and critical capital levels for the banks and taking due consideration of the capital classifications established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises; and

''(C) shall classify the Federal home loan banks according to such capital classifications.

''(2) CLASSIFICATIONS.—The capital classifications specified under this paragraph are—

''(A) adequately capitalized;

''(B) undercapitalized;

''(C) significantly undercapitalized; and

''(D) critically undercapitalized.

''(c) DISCRETIONARY CLASSIFICATION.—

''(1) GROUNDS FOR RECLASSIFICATION.—The Director may reclassify a regulated entity under paragraph (2) if—

''(A) at any time, the Director determines in writing that the regulated entity is engaging in conduct that could result in a rapid depletion of core or total capital or, in the case of an enterprise, that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly;

''(B) after notice and an opportunity for hearing, the Director determines that the regulated entity is in an unsafe or unsound condition; or

''(C) pursuant to section 1371(b), the Director deems the regulated entity to be engaging in an unsafe or unsound practice.

''(2) RECLASSIFICATION.—In addition to any other action authorized under this title, including the reclassification of a regulated entity for any reason not specified in this subsection, if the Director takes any action described in paragraph (1) the Director may classify a regulated entity—

''(A) as undercapitalized, if the regulated entity is otherwise classified as adequately capitalized;

''(B) as significantly undercapitalized, if the regulated entity is otherwise classified as undercapitalized; and

''(C) as critically undercapitalized, if the regulated entity is otherwise classified as significantly undercapitalized.''; and

(5) by inserting after subsection (d) (as so redesignated by paragraph (3) of this subsection), the following new subsection:

''(e) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

''(1) IN GENERAL.—A regulated entity shall make no capital distribution if, after making the distribution, the regulated entity would be undercapitalized.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may permit a regulated entity, to the extent appropriate or applicable, to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

''(A) is made in connection with the issuance of additional shares or obligations of the regulated entity in at least an equivalent amount; and

''(B) will reduce the financial obligations of the regulated entity or otherwise improve the financial condition of the entity.''.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Housing and Community Development Act of 1992 (as added by paragraph (4) of this subsection), relating to capital classifications for the Federal home loan banks.

SEC. 142. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED REGULATED ENTITIES.

Section 1365 of the Housing and Community Development Act of 1992 (12 U.S.C. 4615) is amended—

(1) in the section heading, by striking ''***ENTERPRISES***'' and inserting ''***REGULATED ENTITIES***'';

(2) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting before paragraph (2) the following paragraph:

''(1) REQUIRED MONITORING.—The Director shall—

''(A) closely monitor the condition of any regulated entity that is classified as undercapitalized;

''(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed under this section; and

''(C) periodically review the plan, restrictions, and requirements applicable to the undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.''; and

(C) by inserting at the end the following new paragraphs:

''(4) RESTRICTION OF ASSET GROWTH.—A regulated entity that is classified as undercapitalized shall not permit its average total assets (as such term is defined in section 1316(b) during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity;

''(B) any increase in total assets is consistent with the plan; and

''(C) the ratio of total capital to assets for the regulated entity increases during the calendar quarter at a rate sufficient to enable the entity to become adequately capitalized within a reasonable time.

''(5) PRIOR APPROVAL OF ACQUISITIONS, NEW PROGRAMS, AND NEW BUSINESS ACTIVITIES.—A regulated entity that is classified as undercapitalized shall not, directly or indirectly, acquire any interest in any entity or engage in any new program or new business activity unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity, the entity is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

''(B) the Director determines that the proposed action will further the purpose of this section.'';

(3) in the subsection heading for subsection (b), by striking ''FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED''; and

(4) by striking subsection (c) and inserting the following new subsection:

''(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to a regulated entity that is classified as undercapitalized, any of the actions authorized to be taken under section 1366 with respect to a regulated entity that is classified as significantly undercapitalized, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.''.

SEC. 143. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED REGULATED ENTITIES.

Section 1366 of the Housing and Community Development Act of 1992 (12 U.S.C. 4616) is amended—

(1) in the section heading, by striking ''***ENTERPRISES***'' and inserting ''***ENTITIES***'';

(2) in subsection (a)(2)(A), by striking ''enterprise'' the last place such term appears;

(3) in subsection (b)—

(A) in the subsection heading, by striking ''Discretionary Supervisory Actions'' and inserting ''Specific Actions'';

(B) in the matter preceding paragraph (1), by striking ''may, at any time, take any'' and inserting ''shall carry out this section by taking, at any time, one or more'';

(C) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(D) by inserting after paragraph (4) the following new paragraph:

''(5) IMPROVEMENT OF MANAGEMENT.—Take one or more of the following actions:

''(A) NEW ELECTION OF BOARD.—Order a new election for the board of directors of the regulated entity.

''(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS.—Require the regulated entity to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the entity became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director's enforcement powers provided in section 1377.

''(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the regulated entity to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director).''; and

(E) by inserting at the end the following new paragraph:

''(8) OTHER ACTION.—Require the regulated entity to take any other action that the Director determines will better carry out the purpose of this section than any of the actions specified in this paragraph.'';

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

''(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—A regulated entity that is classified as significantly undercapitalized may not, without prior written approval by the Director—

''(1) pay any bonus to any executive officer; or

''(2) provide compensation to any executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the regulated entity became undercapitalized.''.

SEC. 144. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

(a) IN GENERAL.—Section 1367 of the Housing and Community Development Act of 1992 (12 U.S.C. 4617) is amended to read as follows:

''SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

''(a) APPOINTMENT OF AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, if any of the grounds under paragraph (3) exist, at the discretion of the Director, the Director may establish a conservatorship or receivership, as appropriate, for the purpose of reorganizing, rehabilitating, or winding up the affairs of a regulated entity.

''(2) APPOINTMENT.—In any conservatorship or receivership established under this section, the Director shall appoint the Agency as conservator or receiver.

''(3) GROUNDS FOR APPOINTMENT.—The grounds for appointing a conservator or receiver for a regulated entity are as follows:

''(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The assets of the regulated entity are less than the obligations of the regulated entity to its creditors and others.

''(B) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

''(i) any violation of any provision of Federal or State law; or

''(ii) any unsafe or unsound practice.

''(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

''(D) CEASE-AND-DESIST ORDERS.—Any willful violation of a cease-and-desist order that has become final.

''(E) CONCEALMENT.—Any concealment of the books, papers, records, or assets of the regulated entity, or any refusal to submit the books, papers, records, or affairs of the regulated entity, for inspection to any examiner or to any lawful agent of the Director.

''(F) INABILITY TO MEET OBLIGATIONS.—The regulated entity is likely to be unable to pay its obligations or meet the demands of its creditors in the normal course of business.

''(G) LOSSES.—The regulated entity has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the regulated entity to become adequately capitalized (as defined in section 1364(a)(1)).

''(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

''(i) cause insolvency or substantial dissipation of assets or earnings; or

''(ii) weaken the condition of the regulated entity.

''(I) CONSENT.—The regulated entity, by resolution of its board of directors or its shareholders or members, consents to the appointment.

''(J) UNDERCAPITALIZATION.—The regulated entity is undercapitalized or significantly undercapitalized (as defined in section 1364(a)(3) or in regulations issued pursuant to section 1364(b), as applicable), and—

''(i) has no reasonable prospect of becoming adequately capitalized;

''(ii) fails to become adequately capitalized, as required by—

''(I) section 1365(a)(1) with respect to an undercapitalized regulated entity; or

''(II) section 1366(a)(1) with respect to a significantly undercapitalized regulated entity;

''(iii) fails to submit a capital restoration plan acceptable to the Agency within the time prescribed under section 1369C; or

''(iv) materially fails to implement a capital restoration plan submitted and accepted under section 1369C.

''(K) CRITICAL UNDERCAPITALIZATION.—The regulated entity is critically undercapitalized, as defined in section 1364(a)(4) or in regulations issued pursuant to section 1364(b), as applicable.

''(L) MONEY LAUNDERING.—The Attorney General notifies the Director in writing that the regulated entity has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code.

''(4) JUDICIAL REVIEW.—

''(A) IN GENERAL.—If the Agency is appointed conservator or receiver under this section, the regulated entity may, within 30 days of such appointment, bring an action in the United States District Court for the judicial district in which the principal place of business of such regulated entity is located, or in the United States District Court for the District of Columbia, for an order requiring the Agency to remove itself as conservator or receiver.

''(B) REVIEW.—Upon the filing of an action under subparagraph (A), the court shall, upon the merits, dismiss such action or direct the Agency to remove itself as such conservator or receiver.

''(5) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of a regulated entity shall not be liable to the shareholders or creditors of the regulated entity for acquiescing in or consenting in good faith to the appointment of the Agency as conservator or receiver for that regulated entity.

''(6) AGENCY NOT SUBJECT TO ANY OTHER FEDERAL AGENCY.—When acting as conservator or receiver, the Agency shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers, and privileges of the Agency.

''(b) POWERS AND DUTIES OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) RULEMAKING AUTHORITY OF THE AGENCY.—The Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships.

''(2) GENERAL POWERS.—

''(A) SUCCESSOR TO REGULATED ENTITY.—The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to—

''(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity; and

''(ii) title to the books, records, and assets of any other legal custodian of such regulated entity.

''(B) OPERATE THE REGULATED ENTITY.—The Agency may, as conservator or receiver—

''(i) take over the assets of and operate the regulated entity with all the powers of the shareholders, the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

''(ii) collect all obligations and money due the regulated entity;

''(iii) perform all functions of the regulated entity in the name of the regulated entity which are consistent with the appointment as conservator or receiver; and

''(iv) preserve and conserve the assets and property of such regulated entity.

''(C) FUNCTIONS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF A REGULATED ENTITY.—The Agency may, by regulation or order, provide for the exercise of any function by any stockholder, director, or officer of any regulated entity for which the Agency has been named conservator or receiver.

''(D) POWERS AS CONSERVATOR.—The Agency may, as conservator, take such action as may be—

''(i) necessary to put the regulated entity in a sound and solvent condition; and

''(ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.

''(E) ADDITIONAL POWERS AS RECEIVER.—The Agency may, as receiver, place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity, having due regard to the conditions of the housing finance market.

''(F) ORGANIZATION OF NEW REGULATED ENTITIES.—The Agency may, as receiver, organize a successor regulated entity that will operate pursuant to subsection (i).

''(G) TRANSFER OF ASSETS AND LIABILITIES.—The Agency may, as conservator or receiver, transfer any asset or liability of the regulated entity in default without any approval, assignment, or consent with respect to such transfer. Any Federal home loan bank may, with the approval of the Agency, acquire the assets of any Bank in conservatorship or receivership, and assume the liabilities of such Bank

''(H) PAYMENT OF VALID OBLIGATIONS.—The Agency, as conservator or receiver, shall, to the extent of proceeds realized from the performance of contracts or sale of the assets of a regulated entity, pay all valid obligations of the regulated entity in accordance with the prescriptions and limitations of this section.

''(I) SUBPOENA AUTHORITY.—

''(i) IN GENERAL.—

''(I) IN GENERAL.—The Agency may, as conservator or receiver, and for purposes of carrying out any power, authority, or duty with respect to a regulated entity (including determining any claim against the regulated entity and determining and realizing upon any asset of any person in the course of collecting money due the regulated entity), exercise any power established under section 1348.

''(II) APPLICABILITY OF LAW.—The provisions of section 1348 shall apply with respect to the exercise of any power exercised under this subparagraph in the same manner as such provisions apply under that section.

''(ii) AUTHORITY OF DIRECTOR.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Director, or the designee of the Director.

''(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit any rights that the Agency, in any capacity, might otherwise have under section 1317 or 1379D.

''(J) CONTRACTING FOR SERVICES.—The Agency may, as conservator or receiver, provide by contract for the carrying out of any of its functions, activities, actions, or duties as conservator or receiver.

''(K) INCIDENTAL POWERS.—The Agency may, as conservator or receiver—

''(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this section, and such incidental powers as shall be necessary to carry out such powers; and

''(ii) take any action authorized by this section, which the Agency determines is in the best interests of the regulated entity or the Agency.

''(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

''(A) IN GENERAL.—The Agency may, as receiver, determine claims in accordance with the requirements of this subsection and any regulations prescribed under paragraph (4).

''(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed regulated entity, shall—

''(i) promptly publish a notice to the creditors of the regulated entity to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

''(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

''(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the books of the regulated entity—

''(i) at the last address of the creditor appearing in such books; or

''(ii) upon discovery of the name and address of a claimant not appearing on the books of the regulated entity within 30 days after the discovery of such name and address.

''(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—Subject to subsection (c), the Director may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

''(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

''(A) DETERMINATION PERIOD.—

''(i) IN GENERAL.—Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

''(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Agency.

''(iii) MAILING OF NOTICE SUFFICIENT.—The notification requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

''(I) on the books of the regulated entity;

''(II) in the claim filed by the claimant; or

''(III) in documents submitted in proof of the claim.

''(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

''(I) a statement of each reason for the disallowance; and

''(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

''(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i), or the date specified in the notice required under paragraph (3)(C), which is proved to the satisfaction of the receiver.

''(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—Claims filed after the date specified in the notice published under paragraph (3)(B)(i), or the date specified under paragraph (3)(C), shall be disallowed and such disallowance shall be final.

''(D) AUTHORITY TO DISALLOW CLAIMS.—

''(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

''(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against a regulated entity which is secured by any property or other asset of such regulated entity, the receiver—

''(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the regulated entity; and

''(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the regulated entity.

''(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to any extension of credit from any Federal Reserve Bank, Federal home loan bank, or the Treasury of the United States.

''(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the determination of the Agency under subparagraph (D) to disallow a claim. This subparagraph shall not effect the authority of a claimant to obtain de novo judicial review of a claim pursuant to paragraph (6).

''(F) LEGAL EFFECT OF FILING.—

''(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

''(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of the appointment of the receiver, subject to the determination of claims by the receiver.

''(6) PROVISION FOR JUDICIAL DETERMINATION OF CLAIMS.—

''(A) IN GENERAL.—The claimant may file suit on a claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the principal place of business of the regulated entity is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim), before the end of the 60-day period beginning on the earlier of—

''(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a regulated entity for which the Agency is receiver; or

''(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i).

''(B) STATUTE OF LIMITATIONS.—A claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver), and such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim, if the claimant fails, before the end of the 60-day period described under subparagraph (A), to file suit on such claim (or continue an action commenced before the appointment of the receiver).

''(7) REVIEW OF CLAIMS.—

''(A) OTHER REVIEW PROCEDURES.—

''(i) IN GENERAL.—The Agency shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

''(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Agency shall strive for procedures which are expeditious, fair, independent, and low cost.

''(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Agency may establish both binding and nonbinding processes, which may be conducted by any government or private party. All parties, including the claimant and the Agency, must agree to the use of the process in a particular case.

''(B) CONSIDERATION OF INCENTIVES.—The Agency shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

''(8) EXPEDITED DETERMINATION OF CLAIMS.—

''(A) ESTABLISHMENT REQUIRED.—The Agency shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

''(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any regulated entity for which the Agency has been appointed receiver; and

''(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

''(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established under subparagraph (A), the Director shall—

''(i) determine—

''(I) whether to allow or disallow such claim; or

''(II) whether such claim should be determined pursuant to the procedures established under paragraph (5); and

''(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

''(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the receiver, seeking a determination of the rights of the claimant with respect to such security interest after the earlier of—

''(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

''(ii) the date the Agency denies the claim.

''(D) STATUTE OF LIMITATIONS.—If an action described under subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed under subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

''(E) LEGAL EFFECT OF FILING.—

''(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

''(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action that was filed before the appointment of the receiver, subject to the determination of claims by the receiver.

''(9) PAYMENT OF CLAIMS.—

''(A) IN GENERAL.—The receiver may, in the discretion of the receiver, and to the extent funds are available from the assets of the regulated entity, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

''(i) allowed by the receiver;

''(ii) approved by the Agency pursuant to a final determination pursuant to paragraph (7) or (8); or

''(iii) determined by the final judgment of any court of competent jurisdiction.

''(B) AGREEMENTS AGAINST THE INTEREST OF THE AGENCY.—No agreement that tends to diminish or defeat the interest of the Agency in any asset acquired by the Agency as receiver under this section shall be valid against the Agency unless such agreement is in writing, and executed by an authorized official of the regulated entity, except that such requirements for qualified financial contracts shall be applied in a manner consistent with reasonable business trading practices in the financial contracts market.

''(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the sole discretion of the receiver, pay from the assets of the regulated entity dividends on proved claims at any time, and no liability shall attach to the Agency, by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

''(D) RULEMAKING AUTHORITY OF THE DIRECTOR.—The Director may prescribe such rules, including definitions of terms, as the Director deems appropriate to establish a single uniform interest rate for, or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estates of regulated entities following satisfaction by the receiver of the principal amount of all creditor claims.

''(10) SUSPENSION OF LEGAL ACTIONS.—

''(A) IN GENERAL.—After the appointment of a conservator or receiver for a regulated entity, the conservator or receiver may, in any judicial action or proceeding to which such regulated entity is or becomes a party, request a stay for a period not to exceed—

''(i) 45 days, in the case of any conservator; and

''(ii) 90 days, in the case of any receiver.

''(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or receiver under subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

''(11) ADDITIONAL RIGHTS AND DUTIES.—

''(A) PRIOR FINAL ADJUDICATION.—The Agency shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Agency as conservator or receiver.

''(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Agency as conservator or receiver shall—

''(i) have all the rights and remedies available to the regulated entity (before the appointment of such conservator or receiver) and the Agency, including removal to Federal court and all appellate rights; and

''(ii) not be required to post any bond in order to pursue such remedies.

''(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the receiver.

''(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

''(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any regulated entity for which the Agency has been appointed receiver; or

''(ii) any claim relating to any act or omission of such regulated entity or the Agency as receiver.

''(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of a regulated entity for which the Agency has been appointed conservator or receiver, the Agency shall conduct its operations in a manner which maintains stability in the housing finance markets and, to the extent consistent with that goal—

''(i) maximizes the net present value return from the sale or disposition of such assets;

''(ii) minimizes the amount of any loss realized in the resolution of cases; and

''(iii) ensures adequate competition and fair and consistent treatment of offerors.

''(12) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

''(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Agency as conservator or receiver shall be—

''(i) in the case of any contract claim, the longer of—

''(I) the 6-year period beginning on the date the claim accrues; or

''(II) the period applicable under State law; and

''(ii) in the case of any tort claim, the longer of—

''(I) the 3-year period beginning on the date the claim accrues; or

''(II) the period applicable under State law.

''(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

''(i) the date of the appointment of the Agency as conservator or receiver; or

''(ii) the date on which the cause of action accrues.

''(13) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

''(A) IN GENERAL.—In the case of any tort claim described under subparagraph (B) for which the statute of limitations applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Agency as conservator or receiver, the Agency may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

''(B) CLAIMS DESCRIBED.—A tort claim referred to under subparagraph (A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the regulated entity.

''(14) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

''(A) IN GENERAL.—The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

''(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

''(C) AVAILABILITY OF REPORTS.—Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

''(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date that the conservatorship or receivership is terminated by the Director, the Agency may destroy any records of such regulated entity which the Agency, in the discretion of the Agency, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

''(15) FRAUDULENT TRANSFERS.—

''(A) IN GENERAL.—The Agency, as conservator or receiver, may avoid a transfer of any interest of a regulated entity-affiliated party, or any person who the conservator or receiver determines is a debtor of the regulated entity, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Agency was appointed conservator or receiver, if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the regulated entity, the Agency, the conservator, or receiver.

''(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the conservator or receiver may recover, for the benefit of the regulated entity, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

''(i) the initial transferee of such transfer or the regulated entity-affiliated party or person for whose benefit such transfer was made; or

''(ii) any immediate or mediate transferee of any such initial transferee.

''(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The conservator or receiver may not recover under subparagraph (B) from—

''(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

''(ii) any immediate or mediate good faith transferee of such transferee.

''(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the conservator or receiver described under subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.

''(16) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (17), any court of competent jurisdiction may, at the request of the conservator or receiver, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Agency or such conservator under the control of the court, and appointing a trustee to hold such assets.

''(17) STANDARDS OF PROOF.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (16) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

''(18) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE RECEIVER OR CONSERVATOR.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against a receiver or conservator for the breach of an agreement executed or approved in writing by such receiver or conservator after the date of its appointment, shall be paid as an administrative expense of the receiver or conservator.

''(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of a receiver or conservator to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

''(19) GENERAL EXCEPTIONS.—

''(A) LIMITATIONS.—The rights of a conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402 through 4407).

''(B) MORTGAGES HELD IN TRUST.—

''(i) IN GENERAL.—Any mortgage, pool of mortgages, or interest in a pool of mortgages, held in trust, custodial, or agency capacity by a regulated entity for the benefit of persons other than the regulated entity shall not be available to satisfy the claims of creditors generally.

''(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages, described under clause (i) shall be held by the conservator or receiver appointed under this section for the beneficial owners of such mortgage, pool of mortgages, or interest in a pool of mortgages in accordance with the terms of the agreement creating such trust, custodial, or other agency arrangement.

''(iii) LIABILITY OF RECEIVER.—The liability of a receiver appointed under this section for damages shall, in the case of any contingent or unliquidated claim relating to the mortgages held in trust, be estimated in accordance set forth in the regulations of the Director.

''(c) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

''(1) IN GENERAL.—Unsecured claims against a regulated entity, or a receiver, that are proven to the satisfaction of the receiver shall have priority in the following order:

''(A) Administrative expenses of the receiver.

''(B) Any other general or senior liability of the regulated entity and claims of other Federal home loan banks arising from their payment obligations (including joint and several payment obligations).

''(C) Any obligation subordinated to general creditors.

''(D) Any obligation to shareholders or members arising as a result of their status as shareholder or members.

''(2) CREDITORS SIMILARLY SITUATED.—All creditors that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the Agency may make such other payments to creditors necessary to maximize the present value return from the sale or disposition or such regulated entity's assets or to minimize the amount of any loss realized in the resolution of cases so long as all creditors similarly situated receive not less than the amount provided under subsection (e)(2).

''(3) DEFINITION.—The term 'administrative expenses of the receiver' shall include the actual, necessary costs and expenses incurred by the receiver in preserving the assets of the regulated entity or liquidating or otherwise resolving the affairs of the regulated entity. Such expenses shall include obligations that are incurred by the receiver after appointment as receiver that the Director determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the regulated entity.

''(d) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

''(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any regulated entity may disaffirm or repudiate any contract or lease—

''(A) to which such regulated entity is a party;

''(B) the performance of which the conservator or receiver, in its sole discretion, determines to be burdensome; and

''(C) the disaffirmance or repudiation of which the conservator or receiver determines, in its sole discretion, will promote the orderly administration of the affairs of the regulated entity.

''(2) TIMING OF REPUDIATION.—The conservator or receiver shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

''(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

''(A) IN GENERAL.—Except as otherwise provided under subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

''(i) limited to actual direct compensatory damages; and

''(ii) determined as of—

''(I) the date of the appointment of the conservator or receiver; or

''(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

''(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' shall not include—

''(i) punitive or exemplary damages;

''(ii) damages for lost profits or opportunity; or

''(iii) damages for pain and suffering.

''(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

''(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

''(ii) paid in accordance with this subsection and subsection (e), except as otherwise specifically provided in this section.

''(4) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSEE.—

''(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the regulated entity was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined under subparagraph (B)) for the disaffirmance or repudiation of such lease.

''(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which that subparagraph applies shall—

''(i) be entitled to the contractual rent accruing before the later of the date—

''(I) the notice of disaffirmance or repudiation is mailed; or

''(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

''(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

''(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment, which shall be paid in accordance with this subsection and subsection (e).

''(5) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSOR.—

''(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the regulated entity under which the regulated entity is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

''(i) treat the lease as terminated by such repudiation; or

''(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

''(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described under subparagraph (A) remains in possession of a leasehold interest under clause (ii) of such subparagraph—

''(i) the lessee—

''(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

''(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, and any damages which accrue after such date due to the nonperformance of any obligation of the regulated entity under the lease after such date; and

''(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

''(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

''(A) IN GENERAL.—If the conservator or receiver repudiates any contract for the sale of real property and the purchaser of such real property under such contract is in possession, and is not, as of the date of such repudiation, in default, such purchaser may either—

''(i) treat the contract as terminated by such repudiation; or

''(ii) remain in possession of such real property.

''(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described under subparagraph (A) remains in possession of such property under clause (ii) of such subparagraph—

''(i) the purchaser—

''(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

''(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the regulated entity under the contract; and

''(ii) the conservator or receiver shall—

''(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

''(II) deliver title to the purchaser in accordance with the provisions of the contract; and

''(III) have no obligation under the contract other than the performance required under subclause (II).

''(C) ASSIGNMENT AND SALE ALLOWED.—

''(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described under subparagraph (A), and sell the property subject to the contract and the provisions of this paragraph.

''(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described under clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described under subparagraph (A), or with respect to the real property which was the subject of such contract.

''(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

''(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any regulated entity for which the Agency has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or the receiver shall be—

''(i) a claim to be paid in accordance with subsections (b) and (e); and

''(ii) deemed to have arisen as of the date the conservator or receiver was appointed.

''(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described under subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

''(i) the other party shall be paid under the terms of the contract for the services performed; and

''(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

''(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or receiver of services referred to under subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

''(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

''(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraphs (9) and (10) and notwithstanding any other provision of this Act, any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

''(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity that arises upon the appointment of the Agency as receiver for such regulated entity at any time after such appointment;

''(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more qualified financial contracts described in clause (i); or

''(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

''(B) APPLICABILITY OF OTHER PROVISIONS.—Paragraph (10) of subsection (b) shall apply in the case of any judicial action or proceeding brought against any receiver referred to under subparagraph (A), or the regulated entity for which such receiver was appointed, by any party to a contract or agreement described under subparagraph (A)(i) with such regulated entity.

''(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

''(i) IN GENERAL.—Notwithstanding paragraph (11) or any other Federal or State laws relating to the avoidance of preferential or fraudulent transfers, the Agency, whether acting as such or as conservator or receiver of a regulated entity, may not avoid any transfer of money or other property in connection with any qualified financial contract with a regulated entity.

''(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a regulated entity if the Agency determines that the transferee had actual intent to hinder, delay, or defraud such regulated entity, the creditors of such regulated entity, or any conservator or receiver appointed for such regulated entity.

''(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—In this subsection:

''(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Agency determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Agency determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash,

securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Agency determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term `qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial

contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the regulated entity's equity of redemption.

''(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (13) of this subsection), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

''(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

''(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more such qualified financial contracts; or

''(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Agency, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Agency to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (d)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a regulated entity in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a regulated entity in default which includes any qualified financial contract, the conservator or receiver for such regulated entity shall either—

''(A) transfer to 1 person—

''(i) all qualified financial contracts between any person (or any affiliate of such person) and the regulated entity in default;

''(ii) all claims of such person (or any affiliate of such person) against such regulated entity under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such regulated entity);

''(iii) all claims of such regulated entity against such person (or any affiliate of such person) under any such contract; and

''(iv) all property securing or any other credit enhancement for any contract described in clause (i) or any claim described in clause (ii) or (iii) under any such contract; or

''(B) transfer none of the financial contracts, claims, or property referred to under subparagraph (A) (with respect to such person and any affiliate of such person).

''(10) NOTIFICATION OF TRANSFER.—

''(A) IN GENERAL.—If—

''(i) the conservator or receiver for a regulated entity in default makes any transfer of the assets and liabilities of such regulated entity, and

''(ii) the transfer includes any qualified financial contract,

the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the regulated entity (or the insolvency or financial condition of the regulated entity for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the regulated entity (or the insolvency or financial condition of the regulated entity for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Agency as receiver or conservator of a regulated entity shall be deemed to have notified a person who is a party to a qualified financial contract with such regulated entity if the Agency has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which a regulated entity is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the regulated entity in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

''(12) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any regulated entity, except where such an interest is taken in contemplation of the insolvency of the regulated entity, or with the intent to hinder, delay, or defraud the regulated entity or the creditors of such regulated entity.

''(13) AUTHORITY TO ENFORCE CONTRACTS.—

''(A) IN GENERAL.—Notwithstanding any provision of a contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or receiver, the conservator or receiver may enforce any contract or regulated entity bond entered into by the regulated entity.

''(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a director's or officer's liability insurance contract or surety bond under other applicable law.

''(C) CONSENT REQUIREMENT.—

''(i) IN GENERAL.—Except as otherwise provided under this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which a regulated entity is a party, or to obtain possession of or exercise control over any property of the regulated entity, or affect any contractual rights of the regulated entity, without the consent of the conservator or receiver, as appropriate, for a period of—

''(I) 45 days after the date of appointment of a conservator; or

''(II) 90 days after the date of appointment of a receiver.

''(ii) EXCEPTIONS.—This paragraph shall—

''(I) not apply to a director's or officer's liability insurance contract;

''(II) not apply to the rights of parties to any qualified financial contracts under subsection (d)(8); and

''(III) not be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contracts.

''(14) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act

''(15) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

''(A) any extension of credit from any Federal home loan bank or Federal Reserve Bank to any regulated entity; or

''(B) any security interest in the assets of the regulated entity securing any such extension of credit.

''(e) VALUATION OF CLAIMS IN DEFAULT.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method which the Agency determines to utilize with respect to a regulated entity in default or in danger of default, including transactions authorized under subsection (i), this subsection shall govern the rights of the creditors of such regulated entity.

''(2) MAXIMUM LIABILITY.—The maximum liability of the Agency, acting as receiver or in any other capacity, to any person having a claim against the receiver or the regulated entity for which such receiver is appointed shall equal the lesser of—

''(A) the amount such claimant would have received if the Agency had liquidated the assets and liabilities of such regulated entity without exercising the authority of the Agency under subsection (i) of this section; or

''(B) the amount of proceeds realized from the performance of contracts or sale of the assets of the regulated entity.

''(f) LIMITATION ON COURT ACTION.—Except as provided in this section or at the request of the Director, no court may take any action to restrain or affect the exercise of powers or functions of the Agency as a conservator or a receiver.

''(g) LIABILITY OF DIRECTORS AND OFFICERS.—

''(1) IN GENERAL.—A director or officer of a regulated entity may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Agency, which action is prosecuted wholly or partially for the benefit of the Agency—

''(A) acting as conservator or receiver of such regulated entity, or

''(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law.

''(2) NO LIMITATION.—Nothing in this paragraph shall impair or affect any right of the Agency under other applicable law.

''(h) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a regulated entity, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the regulated entity shall include principal losses and appropriate interest.

''(i) LIMITED-LIFE REGULATED ENTITIES.—

''(1) ORGANIZATION.—

''(A) PURPOSE.—If a regulated entity is in default, or if the Agency anticipates that a regulated entity will default, the Agency may organize a limited-life regulated entity with those powers and attributes of the regulated entity in default or in danger of default that the Director determines necessary, subject to the provisions of this subsection. The Director shall grant a temporary charter to the limited-life regulated entity, and the limited-life regulated entity shall operate subject to that charter.

''(B) AUTHORITIES.—Upon the creation of a limited-life regulated entity under subparagraph (A), the limited-life regulated entity may—

''(i) assume such liabilities of the regulated entity that is in default or in danger of default as the Agency may, in its discretion, determine to be appropriate, provided that the liabilities assumed shall not exceed the amount of assets of the limited-life regulated entity;

''(ii) purchase such assets of the regulated entity that is in default, or in danger of default, as the Agency may, in its discretion, determine to be appropriate; and

''(iii) perform any other temporary function which the Agency may, in its discretion, prescribe in accordance with this section.

''(2) CHARTER.—

''(A) CONDITIONS.—The Agency may grant a temporary charter if the Agency determines that the continued operation of the regulated entity in default or in danger of default is in the best interest of the national economy and the housing markets.

''(B) TREATMENT AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A limited-life regulated entity shall be treated as a regulated entity in default at such times and for such purposes as the Agency may, in its discretion, determine.

''(C) MANAGEMENT.—A limited-life regulated entity, upon the granting of its charter, shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Agency.

''(D) BYLAWS.—The board of directors of a limited-life regulated entity shall adopt such bylaws as may be approved by the Agency.

''(3) CAPITAL STOCK.—No capital stock need be paid into a limited-life regulated entity by the Agency.

''(4) INVESTMENTS.—Funds of a limited-life regulated entity shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Agency, or any Federal Reserve bank.

''(5) EXEMPT STATUS.—Notwithstanding any other provision of Federal or State law, the limited-life regulated entity, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

''(6) WINDING UP.—

''(A) IN GENERAL.—Subject to subparagraph (B), unless Congress authorizes the sale of the capital stock of the limited-life regulated entity, not later than 2 years after the date of its organization, the Agency shall wind up the affairs of the limited-life regulated entity.

''(B) EXTENSION.—The Director may, in the discretion of the Director, extend the status of the limited-life regulated entity for 3 additional 1-year periods.

''(7) TRANSFER OF ASSETS AND LIABILITIES.—

''(A) IN GENERAL.—

''(i) TRANSFER OF ASSETS AND LIABILITIES.—The Agency, as receiver, may transfer any assets and liabilities of a regulated entity in default, or in danger of default, to the limited-life regulated entity in accordance with paragraph (1).

''(ii) SUBSEQUENT TRANSFERS.—At any time after a charter is transferred to a limited-life regulated entity, the Agency, as receiver, may transfer any assets and liabilities of such regulated entity in default, or in danger in default, as the Agency may, in its discretion, determine to be appropriate in accordance with paragraph (1).

''(iii) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities of a regulated entity in default, or in danger of default, transferred to a limited-life regulated entity shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

''(8) PROCEEDS.—To the extent that available proceeds from the limited-life regulated entity exceed amounts required to pay obligations, such proceeds may be paid to the regulated entity in default, or in danger of default.

''(9) POWERS.—

''(A) IN GENERAL.—Each limited-life regulated entity created under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, the regulated entity in default or in danger of default to which it relates, except that—

''(i) the Agency may—

''(I) remove the directors of a limited-life regulated entity; and

''(II) fix the compensation of members of the board of directors and senior management, as determined by the Agency in its discretion, of a limited-life regulated entity;

''(ii) the Agency may indemnify the representatives for purposes of paragraph (1)(B), and the directors, officers, employees, and agents of a limited-life regulated entity on such terms as the Agency determines to be appropriate; and

''(iii) the board of directors of a limited-life regulated entity—

''(I) shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Agency; and

''(II) may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Agency.

''(B) STAY OF JUDICIAL ACTION.—Any judicial action to which a limited-life regulated entity becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a regulated entity in default shall be stayed from further proceedings for a period of up to 45 days at the request of the limited-life regulated entity. Such period may be modified upon the consent of all parties.

''(10) OBTAINING OF CREDIT AND INCURRING OF DEBT.—

''(A) IN GENERAL.—The limited-life regulated entity may obtain unsecured credit and incur unsecured debt in the ordinary course of business.

''(B) INABILITY TO OBTAIN CREDIT.—If the limited-life regulated entity is unable to obtain unsecured credit the Director may authorize the obtaining of credit or the incurring of debt—

''(i) with priority over any or all administrative expenses;

''(ii) secured by a lien on property that is not otherwise subject to a lien; or

''(iii) secured by a junior lien on property that is subject to a lien.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—The Director, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt secured by a senior or equal lien on property that is subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by the regulated entity) only if—

''(I) the limited-life regulated entity is unable to obtain such credit otherwise; and

''(II) there is adequate protection of the interest of the holder of the lien on the property which such senior or equal lien is proposed to be granted.

''(ii) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

''(D) AFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this paragraph to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

''(11) ISSUANCE OF PREFERRED DEBT.—A limited-life regulated entity may, subject to the approval of the Director and subject to such terms and conditions as the Director may prescribe, issue notes, bonds, or other debt obligations of a class to which all other debt obligations of the limited-life regulated entity shall be subordinate in right and payment.

''(12) NO FEDERAL STATUS.—

''(A) AGENCY STATUS.—A limited-life regulated entity is not an agency, establishment, or instrumentality of the United States.

''(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a limited-life regulated entity are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Agency or of any Federal instrumentality who serves at the request of the Agency as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a limited-life regulated entity shall not—

''(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

''(ii) receive any salary or benefits for service in any such capacity with respect to a limited-life regulated entity in addition to such salary or benefits as are obtained through employment with the Agency or such Federal instrumentality.

''(13) ADDITIONAL POWERS.—In addition to any other powers granted under this subsection, a limited-life regulated entity may—

''(A) extend a maturity date or change in an interest rate or other term of outstanding securities;

''(B) issue securities of the limited-life regulated entity, for cash, for property, for existing securities, or in exchange for claims or interests, or for any other appropriate purposes; and

''(C) take any other action not inconsistent with this section.

''(j) OTHER EXEMPTIONS.—When acting as a receiver, the following provisions shall apply with respect to the Agency:

''(1) EXEMPTION FROM TAXATION.—The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, country, municipality, or local taxing authority, except that any real property of the Agency shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, and the tax thereon, shall be determined as of the period for which such tax is imposed.

''(2) EXEMPTION FROM ATTACHMENT AND LIENS.—No property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency, nor shall any involuntary lien attach to the property of the Agency.

''(3) EXEMPTION FROM PENALTIES AND FINES.—The Agency shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

''(k) PROHIBITION OF CHARTER REVOCATION.—In no case may a receiver appointed pursuant to this section revoke, annul, or terminate the charter of a regulated entity.''.

(b) CONFORMING AMENDMENTS.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 is amended by striking sections 1369 (12 U.S.C. 4619), 1369A (12 U.S.C. 4620), and 1369B (12 U.S.C. 4621).

SEC. 145. CONFORMING AMENDMENTS.

Title XIII of the Housing and Community Development Act of 1992, as amended by the preceding provisions of this Act, is further amended—

(1) in sections 1365 (12 U.S.C. 4615) through 1369D (12 U.S.C. 4623), but not including section 1367 (12 U.S.C. 4617) as added by section 144 of this Act—

(A) by striking ''An enterprise'' each place such term appears and inserting ''A regulated entity'';

(B) by striking ''an enterprise'' each place such term appears and inserting ''a regulated entity''; and

(C) by striking ''the enterprise'' each place such term appears and inserting ''the regulated entity'';

(2) in section 1366 (12 U.S.C. 4616)—

(A) in subsection (b)(7), by striking ''section 1369 (excluding subsection (a)(1) and (2))'' and inserting ''section 1367''; and

(B) in subsection (d), by striking ''the enterprises'' and inserting ''the regulated entities'';

(3) in section 1368(d) (12 U.S.C. 4618(d)), by striking ''Committee on Banking, Finance and Urban Affairs'' and inserting ''Committee on Financial Services'';

(4) in section 1369C(c) (12 U.S.C. 4622(c)), by striking ''any enterprise'' and inserting ''any regulated entity''; and

(5) in subsections (a) and (d) of section 1369D, by striking ''section 1366 or 1367 or action under section 1369)'' each place such phrase appears and inserting ''section 1367)''.

Subtitle D—Enforcement Actions

SEC. 161. CEASE-AND-DESIST PROCEEDINGS.

Section 1371 of the Housing and Community Development Act of 1992 (12 U.S.C. 4631) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS OF RULES OR LAWS.—If, in the opinion of the Director, a regulated entity or any regulated entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated entity or any regulated entity-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the regulated entity or is violating or has violated, or the Director has reasonable cause to believe that the regulated entity or any regulated entity-affiliated party is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the regulated entity or any written agreement entered into with the Director, the Director may issue and serve upon the regulated entity or such party a notice of charges in respect thereof. The Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) of section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)).

''(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a regulated entity receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the Director may (if the deficiency is not corrected) deem the regulated entity to be engaging in an unsafe or unsound practice for purposes of this subsection.'';

(2) in subsection (c)(2), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party''; and

(3) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party'';

(B) in paragraph (1)—

(i) by striking ''an executive officer or director'' and inserting ''a regulated entity affiliated party''; and

(ii) by inserting ''(including reimbursement of compensation under section 1318)'' after ''reimbursement'';

(C) in paragraph (6), by striking ''and'' at the end;

(D) by redesignating paragraph (7) as paragraph (8); and

(E) by inserting after paragraph (6) the following new paragraph:

''(7) to effect an attachment on a regulated entity or regulated entity-affiliated party subject to an order under this section or section 1372; and''.

SEC. 162. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.

Section 1372 of the Housing and Community Development Act of 1992 (12 U.S.C. 4632) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) GROUNDS FOR ISSUANCE.—Whenever the Director determines that the violation or threatened violation or the unsafe or unsound practice or practices specified in the notice of charges served upon the regulated entity or any regulated entity-affiliated party pursuant to section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of the regulated entity, or is likely to weaken the condition of the regulated entity prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may issue a temporary order requiring the regulated entity or such party to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).'';

(2) in subsection (b), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party'';

(3) in subsection (d)—

(A) by striking ''An enterprise, executive officer, or director'' and inserting ''A regulated entity or regulated entity-affiliated party''; and

(B) by striking ''the enterprise, executive officer, or director'' and inserting ''the regulated entity or regulated entity-affiliated party''; and

(4) by striking subsection (e) and in inserting the following new subsection:

''(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this section, the Director may apply to the United States District Court for the District of Columbia or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for an injunction to enforce such order, and, if the court determines that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.''.

SEC. 163. PREJUDGMENT ATTACHMENT.

The Housing and Community Development Act of 1992 is amended by inserting after section 1375 (12 U.S.C. 4635) the following new section:

''SEC. 1375A. PREJUDGMENT ATTACHMENT.

''(a) IN GENERAL.—In any action brought pursuant to this title, or in actions brought in aid of, or to enforce an order in, any administrative or other civil action for money damages, restitution, or civil money penalties brought pursuant to this title, the court may, upon application of the Director or Attorney General, as applicable, issue a restraining order that—

''(1) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

''(2) appoints a person on a temporary basis to administer the restraining order.

''(b) STANDARD.—

''(1) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subsection (a) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

''(2) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to a party's right to due process as Rule 65 (as modified with respect to such proceeding by paragraph (1)), the relief sought under subsection (a) may be requested under the laws of such State.''.

SEC. 164. ENFORCEMENT AND JURISDICTION.

Section 1375 of the Housing and Community Development Act of 1992 (12 U.S.C. 4635) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for the enforcement of any effective and outstanding notice or order issued under this subtitle or subtitle B, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order.''; and

(2) in subsection (b), by striking ''or 1376'' and inserting ''1376, or 1377''.

SEC. 165. CIVIL MONEY PENALTIES.

Section 1376 of the Housing and Community Development Act of 1992 (12 U.S.C. 4636) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''or any executive officer or'' and inserting ''any executive officer of a regulated entity, any regulated entity-affiliated party, or any''; and

(B) in paragraph (1)—

(i) by striking ''the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act'' and inserting ''any provision of any of the authorizing statutes'';

(ii) by striking ''or Act'' and inserting ''or statute'';

(iii) by striking ''or subsection'' and inserting '', subsection''; and

(iv) by inserting '', or paragraph (5) or (12) of section 10(j) of the Federal Home Loan Bank Act'' before the semicolon at the end;

(2) by striking subsection (b) and inserting the following new subsection:

''(b) AMOUNT OF PENALTY.—

''(1) FIRST TIER.—Any regulated entity which, or any regulated entity-affiliated party who—

''(A) violates any provision of this title, any provision of any of the authorizing statutes, or any order, condition, rule, or regulation under any such title or statute, except that the Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) or (12) of section 10(j) of the Federal Home Loan Bank Act;

''(B) violates any final or temporary order or notice issued pursuant to this title;

''(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity;

''(D) violates any written agreement between the regulated entity and the Director; or

''(E) engages in any conduct the Director determines to be an unsafe or unsound practice, shall forfeit and pay a civil penalty of not more than $10,000 for each day during which such violation continues.

''(2) SECOND TIER.—Notwithstanding paragraph (1)—

''(A) if a regulated entity, or a regulated entity-affiliated party—

''(i) commits any violation described in any subparagraph of paragraph (1);

''(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) the violation, practice, or breach—

''(i) is part of a pattern of misconduct;

''(ii) causes or is likely to cause more than a minimal loss to such regulated entity; or

''(iii) results in pecuniary gain or other benefit to such party, the regulated entity or regulated entity-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which such violation, practice, or breach continues.

''(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any regulated entity which, or any regulated entity-affiliated party who—

''(A) knowingly—

''(i) commits any violation or engages in any conduct described in any subparagraph of paragraph (1);

''(ii) engages in any unsafe or unsound practice in conducting the affairs of such regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) knowingly or recklessly causes a substantial loss to such regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach, shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

''(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

''(A) in the case of any person other than a regulated entity, an amount not to exceed $2,000,000; and

''(B) in the case of any regulated entity, $2,000,000.'';

(3) in subsection (c)(1)(B), by striking ''enterprise, executive officer, or director'' and inserting ''regulated entity or regulated entity-affiliated party'';

(4) in subsection (d), by striking the first sentence and inserting the following: ''If a regulated entity or regulated entity-affiliated party fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may, in the discretion of the Director, bring an action in the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, to obtain a monetary judgment against the regulated entity or regulated entity affiliated party and such other relief as may be available, or request that the Attorney General of the United States bring such an action.''; and

(5) in subsection (g), by striking ''subsection (b)(3)'' and inserting ''this section, unless authorized by the Director by rule, regulation, or order''.

SEC. 166. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Subtitle C of title XIII of the Housing and Community Development Act of 1992 is amended—

(1) by redesignating sections 1377, 1378, 1379, 1379A, and 1379B (12 U.S.C. 4637–41) as sections 1379, 1379A, 1379B, 1379C, and 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following new section:

''SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

''(a) AUTHORITY TO ISSUE ORDER.—Whenever the Director determines that—

''(1) any regulated entity-affiliated party has, directly or indirectly—

''(A) violated—

''(i) any law or regulation;

''(ii) any cease-and-desist order which has become final;

''(iii) any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

''(iv) any written agreement between such regulated entity and the Director;

''(B) engaged or participated in any unsafe or unsound practice in connection with any regulated entity; or

''(C) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

''(2) by reason of the violation, practice, or breach described in any subparagraph of paragraph (1)—

''(A) such regulated entity has suffered or will probably suffer financial loss or other damage; or

''(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

''(3) such violation, practice, or breach—

''(A) involves personal dishonesty on the part of such party; or

''(B) demonstrates willful or continuing disregard by such party for the safety or soundness of such regulated entity, the Director may serve upon such party a written notice of the Director's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any regulated entity.

''(b) SUSPENSION ORDER.—

''(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) to any regulated entity-affiliated party of the Director's intention to issue an order under such subsection, the Director may—

''(A) suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the regulated entity, if the Director—

''(i) determines that such action is necessary for the protection of the regulated entity; and

''(ii) serves such party with written notice of the suspension order; and

''(B) prohibit the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with any resignation, removal, retirement, or other termination of employment or office of the party.

''(2) EFFECTIVE PERIOD.—Any suspension order issued under this subsection—

''(A) shall become effective upon service; and

''(B) unless a court issues a stay of such order under subsection (g) of this section, shall remain in effect and enforceable until—

''(i) the date the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

''(ii) the effective date of an order issued by the Director to such party under subsection (a).

''(3) COPY OF ORDER.—If the Director issues a suspension order under this subsection to any regulated entity-affiliated party, the Director shall serve a copy of such order on any regulated entity with which such party is affiliated at the time such order is issued.

''(c) NOTICE, HEARING, AND ORDER.—A notice of intention to remove a regulated entity-affiliated party from office or to prohibit such party from participating in the conduct of the affairs of a regulated entity shall contain a statement of the facts constituting grounds for such action, and shall fix a time and place at which a hearing will be held on such action. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of (1) such party, and for good cause shown, or (2) the Attorney General of the United States. Unless such party shall appear at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Director shall find that any of the grounds specified in such notice have been established, the Director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the regulated entity, as it may deem appropriate, together with an order prohibiting compensation described in subsection (b)(1)(B). Any such order shall become effective at the expiration of 30 days after service upon such regulated entity and such party (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

''(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

''(1) participate in any manner in the conduct of the affairs of any regulated entity;

''(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy,

consent, or authorization with respect to any voting rights in any regulated entity;

''(3) violate any voting agreement previously approved by the Director; or

''(4) vote for a director, or serve or act as a regulated entity-affiliated party.

''(e) INDUSTRY-WIDE PROHIBITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any person who, pursuant to an order issued under this section, has been removed or suspended from office in a regulated entity or prohibited from participating in the conduct of the affairs of a regulated entity may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any regulated entity.

''(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any regulated entity-affiliated party or prohibits such party from participating in the conduct of the affairs of a regulated entity, such party receives the written consent of the Director, the order shall, to the extent of such consent, cease to apply to such party with respect to the regulated entity described in the written consent. If the Director grants such a written consent, it shall publicly disclose such consent.

''(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order described in such subsection shall be treated as a violation of the order.

''(f) APPLICABILITY.—This section shall only apply to a person who is an individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business enterprise.

''(g) STAY OF SUSPENSION AND PROHIBITION OF REGULATED ENTITY-AFFILIATED PARTY.—Within 10 days after any regulated entity-affiliated party has been suspended from office and/or prohibited from participation in the conduct of the affairs of a regulated entity under this section, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the regulated entity is located, for a stay of such suspension and/or prohibition and any prohibition under subsection (b)(1)(B) pending the completion of the administrative proceedings pursuant to the notice served upon such party under this section, and such court shall have jurisdiction to stay such suspension and/or prohibition.

''(h) SUSPENSION OR REMOVAL OF REGULATED ENTITY-AFFILIATED PARTY CHARGED WITH FELONY.—

''(1) SUSPENSION OR PROHIBITION.—

''(A) IN GENERAL.—Whenever any regulated entity-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, by written notice served upon such party—

''(i) suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any regulated entity; and

''(ii) prohibit the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with the period of any such suspension or with any resignation, removal, retirement, or other termination of employment or office of the party.

''(B) PROVISIONS APPLICABLE TO NOTICE.—

''(i) COPY.—A copy of any notice under paragraph (1)(A) shall also be served upon the regulated entity.

''(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Director.

''(2) REMOVAL OR PROHIBITION.—

''(A) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against a regulated entity-affiliated party in connection with a crime described in paragraph (1)(A), at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, issue and serve upon such party an order that—

''(i) removes such party from office or prohibits such party from further participation in any manner in the conduct of the affairs of the regulated entity without the prior written consent of the Director; and

''(ii) prohibits the regulated entity from releasing to or on behalf of the regulated entity-affiliated party any compensation or other payment of money or other thing of current or potential value in connection with the termination of employment or office of the party.

''(B) PROVISIONS APPLICABLE TO ORDER.—

''(i) COPY.—A copy of any order under paragraph (2)(A) shall also be served upon the regulated entity, whereupon the regulated entity-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such regulated entity.

''(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in regulated entity affairs, and to prohibit compensation or other payment of money or other thing of current or potential value in connection with any resignation, removal, retirement, or other termination of employment or office of the party, pursuant to subsections (a), (d), or (e) of this section.

''(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this subsection shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (4) unless terminated by the Director.

''(3) AUTHORITY OF REMAINING BOARD MEMBERS.—If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a regulated entity less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a regulated entity are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the regulated entity and their respective successors take office.

''(4) HEARING REGARDING CONTINUED PARTICIPATION.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2) of this subsection, the regulated entity-affiliated party concerned may request in writing an opportunity to appear before the Director to show that the continued service to or participation in the conduct of the affairs of the regulated entity by such party does not, or is not likely to, pose a threat to the interests of the regulated entity or threaten to impair public confidence in the regulated entity. Upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such party) and place at which such party may appear, personally or through counsel, before one or more members of the Director or designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument. Within 60 days of such hearing, the Director shall notify such party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the regulated entity will be continued, terminated, or otherwise modified, or whether the order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity, and prohibiting compensation in connection with termination will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Director's decision, if adverse to such party. The Director is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.

''(i) HEARINGS AND JUDICIAL REVIEW.—

''(1) VENUE AND PROCEDURE.—Any hearing provided for in this section shall be held in the District of Columbia or in the Federal judicial district in which the headquarters of the regulated entity is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

''(2) REVIEW OF ORDER.—Any party to any proceeding under paragraph (1) may obtain a review of any order served pursuant to paragraph (1) (other than an order issued with the consent of the regulated entity or the regulated entity-affiliated party concerned, or an order issued under subsection (h) of this section) by the filing in the United States Court of Appeals for the District of Columbia Circuit or court of appeals of the United States for the circuit in which the headquarters of the regulated entity is located, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall (except as provided in the last sentence of paragraph (1)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

''(3) PROCEEDINGS NOT TREATED AS STAY.—The commencement of proceedings for judicial review under paragraph (2) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.''.

(b) CONFORMING AMENDMENTS.—

(1) 1992 ACT.—Section 1317(f) of the Housing and Community Development Act of 1992 (12 U.S.C. 4517(f)) is amended by striking ''section 1379B'' and inserting ''section 1379D''.

(2) FANNIE MAE CHARTER ACT.—The second sentence of subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by striking ''The'' and inserting ''Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the''.

(3) FREDDIE MAC ACT.—The second sentence of subparagraph (A) of section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by striking ''The'' and inserting ''Except to the extent that action under section 1377 of the Housing and Community Development Act of 1992 temporarily results in a lesser number, the''.

SEC. 167. CRIMINAL PENALTY.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4631 et seq.) is amended by inserting after section 1377 (as added by the preceding provisions of this Act) the following new section:

''SEC. 1378. CRIMINAL PENALTY.

''Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any regulated entity shall, notwithstanding section 3571 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.''.

SEC. 168. SUBPOENA AUTHORITY.

Section 1379D(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 4641(c)), as so redesignated by section 165(a)(1) of this Act, is further amended—

(1) by striking ''request the Attorney General of the United States to'' and inserting '', in the discretion of the Director,'';

(2) by inserting ''or request that the Attorney General of the United States bring such an action,'' after ''District of Columbia,''; and

(3) by striking ''or may, under the direction and control of the Attorney General, bring such an action''.

SEC. 169. CONFORMING AMENDMENTS.

Subtitle C of title XIII of the Housing and Community Development Act of 1992 is amended—

(1) in section 1372(c)(1) (12 U.S.C. 4632(c)), by striking ''that enterprise'' and inserting ''that regulated entity'';

(2) in section 1379 (12 U.S.C. 4637), as so redesignated by section 165(a)(1) of this Act—

(A) by inserting '', or of a regulated entity-affiliated party,'' before ''shall not affect''; and

(B) by striking ''such director or executive officer'' each place such term appears and inserting ''such director, executive officer, or regulated entity-affiliated party'';

(3) in section 1379A (12 U.S.C. 4638), as so redesignated by section 165(a)(1) of this Act, by inserting ''or against a regulated entity-affiliated party,'' before ''or impair'';

(4) by striking ''An enterprise'' each place such term appears in such subtitle and inserting ''A regulated entity'';

(5) by striking ''an enterprise'' each place such term appears in such subtitle and inserting ''a regulated entity'';

(6) by striking ''the enterprise'' each place such term appears in such subtitle and inserting ''the regulated entity''; and

(7) by striking ''any enterprise'' each place such term appears in such subtitle and inserting ''any regulated entity''.

Subtitle E—General Provisions

SEC. 181. PRESIDENTIALLY APPOINTED DIRECTORS OF ENTERPRISES.

(a) FANNIE MAE.—

(1) IN GENERAL.—Subsection (b) of section 308 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) in the first sentence, by striking ''eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom'' and inserting ''not less than 7 and not more than 15 persons, who'';

(B) in the second sentence, by striking ''appointed by the President'';

(C) in the third sentence—

(i) by striking ''appointed or''; and

(ii) by striking '', except that any such appointed member may be removed from office by the President for good cause'';

(D) in the fourth sentence, by striking ''elective''; and

(E) by striking the fifth sentence.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal National Mortgage Association until the expiration of the annual term for such position during which the effective date under section 185 occurs.

(b) FREDDIE MAC.—

(1) IN GENERAL.—Paragraph (2) of section 303(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)) is amended—

(A) in subparagraph (A)—

(i) in the first sentence, by striking ''18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom'' and inserting ''not less than 7 and not more than 15 persons, who''; and

(ii) in the second sentence, by striking ''appointed by the President of the United States'';

(B) in subparagraph (B)—

(i) by striking ''such or''; and

(ii) by striking '', except that any appointed member may be removed from office by the President for good cause''; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) by striking ''elective''.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the Board of Directors of the Federal Home Loan Mortgage Corporation until the expiration of the annual term for such position during which the effective date under section 185 occurs.

SEC. 182. REPORT ON PORTFOLIO OPERATIONS, SAFETY AND SOUNDNESS, AND MISSION OF ENTERPRISES.

Not later than the expiration of the 12-month period beginning on the effective date under section 185, the Director of the Federal Housing Finance Agency shall submit a report to the Congress which shall include—

(1) a description of the portfolio holdings of the enterprises (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (12 U.S.C. 4502) in mortgages (including whole loans and mortgage-backed securities), non-mortgages, and other assets;

(2) a description of the risk implications for the enterprises of such holdings and the consequent risk management undertaken by the enterprises (including the use of derivatives for hedging purposes), compared with off-balance sheet liabilities of the enterprises (including mortgage-backed securities guaranteed by the enterprises);

(3) an analysis of portfolio holdings for safety and soundness purposes;

(4) an assessment of whether portfolio holdings fulfill the mission purposes of the enterprises under the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act; and

(5) an analysis of the potential systemic risk implications for the enterprises, the housing and capital markets, and the financial system of portfolio holdings, and whether such holdings should be limited or reduced over time.

SEC. 183. CONFORMING AND TECHNICAL AMENDMENTS.

(a) 1992 ACT.—Title XIII of the Housing and Community Development Act of 1992 is amended by striking section 1383 (12 U.S.C. 1451 note).

(b) TITLE 18, UNITED STATES CODE.—Section 1905 of title 18, United States Code, is amended by striking ''Office of Federal Housing Enterprise Oversight'' and inserting ''Federal Housing Finance Agency'' .

(c) FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Director of the Federal Housing Finance Agency''.

(d) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(e) TITLE 5, UNITED STATES CODE.—

(1) DIRECTOR'S PAY RATE.—Section 5313 of title 5, United States Code, is amended by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

'' Director of the Federal Housing Finance Agency.''.

(2) DEPUTY DIRECTORS' PAY RATE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

''Deputy Directors, Federal Housing Finance Agency (3).''.

(3) PAY RATE FOR MEMBERS OF HOUSING FINANCE OVERSIGHT BOARD.—Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

''Members, Housing Finance Oversight Board.''.

(4) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by striking ''the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''the Federal Housing Finance Agency''.

(f) INSPECTOR GENERAL ACT OF 1978.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(g) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(t)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C.1821(t)(2)(A)) is amended by adding at the end the following new clause:

''(vii) The Federal Housing Finance Agency.''.

(h) 1997 EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT.—Section 10001 of the 1997 Emergency Supplemental Appropriations Act for Recovery From Natural Disasters, and for Overseas Peacekeeping Efforts, Including Those In Bosnia (42 U.S.C. 3548) is amended—

(1) by striking ''the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight'' and inserting ''and the Government National Mortgage Association''; and

(2) by striking '', the Government National Mortgage Association, or the Office of Federal Housing Enterprise Oversight'' and inserting ''or the Government National Mortgage Association''.

(i) NATIONAL HOMEOWNERSHIP TRUST ACT .—Section 302(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12851(b)(4)) is amended by striking ''the chairperson of the Federal Housing Finance Board'' and inserting ''the Director of the Federal Housing Finance Agency''.

SEC. 184. STUDY OF ALTERNATIVE SECONDARY MARKET SYSTEMS.

(a) IN GENERAL.—The Director of the Federal Housing Finance Agency, in consultation with the Board of Governors of the Federal Reserve

System, the Secretary of the Treasury, and the Secretary of Housing and Urban Development, shall conduct a comprehensive study of the effects on financial and housing finance markets of alternatives to the current secondary market system for housing finance, taking into consideration changes in the structure of financial and housing finance markets and institutions since the creation of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) CONTENTS.—The study under this section shall—

(1) include, among the alternatives to the current secondary market system analyzed—

(A) repeal of the chartering Acts for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) establishing bank-like mechanisms for granting new charters for limited purposed mortgage securitization entities;

(C) permitting the Director of the Federal Housing Finance Agency to grant new charters for limited purpose mortgage securitization entities, which shall include analyzing the terms on which such charters should be granted, including whether such charters should be sold, or whether such charters and the charters for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should be taxed or otherwise assessed a monetary price; and

(D) such other alternatives as the Director considers appropriate;

(2) examine all of the issues involved in making the transition to a completely private secondary mortgage market system;

(3) examine the technological advancements the private sector has made in providing liquidity in the secondary mortgage market and how such advancements have affected liquidity in the secondary mortgage market; and

(4) examine how taxpayers would be impacted by each alternative system, including the complete privatization of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) REPORT.—The Director of the Federal Housing Finance Agency shall submit a report to the Congress on the study not later than the expiration of the 12-month period beginning on the effective date under section 185.

SEC. 185. EFFECTIVE DATE.

Except as specifically provided otherwise in this title, the amendments made by this title shall take effect on, and shall apply beginning on, the expiration of the 1-year period beginning on the date of the enactment of this Act.

TITLE II—FEDERAL HOME LOAN BANKS

SEC. 201. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1), (10), and (11);

(2) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively;

(3) by redesignating paragraphs (12) and (13) as paragraphs (9) and (10), respectively; and

(4) by adding at the end the following:

''(11) DIRECTOR.—The term 'Director' means the Director of the Federal Housing Finance Agency.

''(12) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency.''.

SEC. 202. DIRECTORS.

(a) ELECTION.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) NUMBER; ELECTION; QUALIFICATIONS; CONFLICTS OF INTEREST.—

''(1) IN GENERAL.—The management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate, each of whom shall be elected by the members and shall be a citizen of the United States.

''(2) MEMBER DIRECTORS.—A majority of the directors of each Bank shall be officers or directors of a member of such Bank that is located in the district in which such Bank is located.

''(3) INDEPENDENT DIRECTORS.—At least one-third of the directors of each Bank shall be independent directors as follows:

''(A) IN GENERAL.—Each independent director shall be a bona fide resident of the district in which such Bank is located.

''(B) PUBLIC INTEREST DIRECTORS.—At least 2 of the independent directors under this paragraph of each Bank shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

''(C) OTHER DIRECTORS.—Each independent director that is not a public interest director under subparagraph (B) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

''(D) CONFLICTS OF INTEREST.—An independent director under this paragraph of a Bank may not, during such director's term of office, serve as an officer of any Federal Home Loan Bank or as a director or officer of any member of a Bank.'';

(2) in subsection (b)—

(A) in the first sentence, by striking ''directorship'' and inserting ''member directorship pursuant to subsection (a)(2)''; and

(B) by inserting after the period at the end of the first sentence the following new sentence: ''Each independent directorship pursuant to subsection (a)(3) shall be filled by election by a plurality of the votes of the members of the Bank at large, in which election each member shall be entitled to nominate candidates and to cast the same number of votes as in an election to fill a directorship allocated to the member's State.'';

(3) in subsection (c), by striking the second, third, and fifth sentences;

(4) in subsection (d)—

(A) in the first sentence, by striking '', whether elected or appointed,'';

(B) in the second sentence, by striking ''or appointed''; and

(C) in the third sentence, by striking ''an elective'' each place such term appears and inserting ''a''; and

(5) by striking ''elective'' each place such term appears (except in subsection (e)).

(b) TERMS.—

(1) IN GENERAL.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended—

(A) in the first sentence, by striking ''3 years'' and inserting ''4 years''; and

(B) in the second sentence—

(i) by striking ''Federal Home Loan Bank System Modernization Act of 1999'' and inserting ''Federal Housing Finance Reform Act of 2005''; and

(ii) by striking ''1/3'' and inserting ''1/4''.

(2) SAVINGS PROVISION.—The amendments made by paragraph (1) shall not apply to the term of office of any director of a Federal home loan bank who is serving as of the effective date of this Act under section 211, including any director elected to fill a vacancy in any such office.

(c) VACANCIES.—Subsection (f) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(f)) is amended to read as follows:

''(f) VACANCIES.—A Bank director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office. In the event of a vacancy in any Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant. ''.

(d) COMPENSATION.—Subsection (i) of section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended to read as follows:

''(i) DIRECTORS' COMPENSATION.—

''(1) IN GENERAL.—Each Federal home loan bank may pay the directors on the board of directors for the bank reasonable and appropriate compensation for the time required of such directors, and reasonable and appropriate expenses incurred by such directors, in connection with service on the board of directors, in accordance with resolutions adopted by the board of directors and subject to the approval of the Director.

''(2) ANNUAL REPORT BY THE BOARD.—The Director shall include, in the annual report submitted to the Congress pursuant to section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, information regarding the compensation and expenses paid by the Federal home loan banks to the directors on the boards of directors of the banks.''.

(e) TRANSITION RULE.—Any member of the board of directors of a Federal Home Loan Bank serving as of the effective date under section 211 may continue to serve as a member of such board of directors for the remainder of the term of such office as provided in section 7 of the Federal Home Loan Bank Act, as in effect before such effective date.

SEC. 203. FEDERAL HOUSING FINANCE AGENCY OVERSIGHT OF FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), other than in provisions of that Act added or amended otherwise by this Act, is amended—

(1) by striking sections 2A and 2B (12 U.S.C. 1422a, 1422b);

(2) in section 6 (12 U.S.C. 1426(b)(1))—

(A) in subsection (b)(1), in the matter preceding subparagraph (A), by striking ''Finance Board approval'' and inserting ''approval by the Director''; and

(B) in each of subsections (c)(4)(B) and (d)(2), by striking ''Finance Board regulations'' each place that term appears and inserting ''regulations of the Director'';

(3) in section 8 (12 U.S.C. 1428), in the section heading, by striking ''BY THE BOARD'';

(4) in section 10(b) (12 U.S.C. 1430), by striking ''by formal resolution'';

(5) in section 11 (12 U.S.C. 1431)—

(A) in subsection (b)—

(i) in the first sentence—

(I) by striking ''The Board'' and inserting ''The Office of Finance, as agent for the Banks,''; and

(II) by striking ''the Board'' and inserting ''such Office''; and

(ii) in the second and fourth sentences, by striking ''the Board'' each place such term appears and inserting ''the Office of Finance'';

(B) in subsection (c)—

(i) by striking ''the Board'' the first place such term appears and inserting ''the Office of Finance, as agent for the Banks,''; and

(ii) by striking ''the Board'' the second place such term appears and inserting ''such Office''; and

(C) in subsection (f)—

(i) by striking the two commas after ''permit'' and inserting ''or''; and

(ii) by striking the comma after ''require'';

(6) in section 15 (12 U.S.C. 1435), by inserting ''or the Director'' after ''the Board'';

(7) in section 18 (12 U.S.C. 1438), by striking subsection (b);

(8) in section 21 (12 U.S.C. 1441)—

(A) in subsection (b)—

(i) in paragraph (5), by striking ''Chairperson of the Federal Housing Finance Board'' and inserting ''Director''; and

(ii) in the heading for paragraph (8), by striking ''FEDERAL HOUSING FINANCE BOARD'' and inserting ''DIRECTOR''; and

(B) in subsection (i), in the heading for paragraph (2), by striking ''FEDERAL HOUSING FINANCE BOARD'' and inserting ''DIRECTOR'';

(9) in section 23 (12 U.S.C. 1443), by striking ''Board of Directors of the Federal Housing Finance Board'' and inserting ''Director'';

(10) by striking ''the Board'' each place such term appears in such Act (except in section 15 (12 U.S.C. 1435), section 21(f)(2) (12 U.S.C. 1441(f)(2)), subsections (a), (k)(2)(B)(i), and (n)(6)(C)(ii) of section 21A (12 U.S.C. 1441a), subsections (e)(7), (f)(2)(C), and (k)(7)(B)(ii) of section 21B (12 U.S.C. 1441b), and the first two places such term appears in section 22 (12 U.S.C. 1442)) and inserting ''the Director'';

(11) by striking ''The Board'' each place such term appears in such Act (except in sections 7(e) (12 U.S.C. 1427(e)), and 11(b) (12 U.S.C. 1431(b)) and inserting ''The Director'';

(12) by striking ''the Board's'' each place such term appears in such Act and inserting ''the Director's'';

(13) by striking ''The Board's'' each place such term appears in such Act and inserting ''The Director's'';

(14) by striking ''The Finance Board'' each place such term appears in such Act and inserting ''The Director'';

(15) by striking ''the Finance Board'' each place such term appears in such Act and inserting ''the Director'';

(16) by striking ''Federal Housing Finance Board'' each place such term appears and inserting ''Director'';

(17) in section 11(i) (12 U.S.C. 1431(i), by striking ''the Chairperson of''; and

(18) in section 21(e)(9) (12 U.S.C. 1441(e)(9)), by striking ''Chairperson of the''.

SEC. 204. JOINT ACTIVITIES OF BANKS.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end the following new subsection:

''(l) JOINT ACTIVITIES.—Subject to the regulation of the Director, any two or more Federal Home Loan Banks may establish a joint office for the purpose of performing functions for, or providing services to, the Banks on a common or collective basis, or may require that the Office of Finance perform such functions or services, but only if the Banks are otherwise authorized to perform such functions or services individually.''.

SEC. 205. SHARING OF INFORMATION BETWEEN FEDERAL HOME LOAN BANKS.

(a) IN GENERAL.— The Federal Home Loan Bank Act is amended by inserting after section 20 (12 U.S.C. 1440) the following new section:

''SEC. 20A. SHARING OF INFORMATION BETWEEN FEDERAL HOME LOAN BANKS.

''(a) REGULATORY AUTHORITY.—The Director shall prescribe such regulations as may be necessary to ensure that each Federal Home Loan Bank has access to information that the Bank needs to determine the nature and extent of its joint and several liability.

''(b) NO WAIVER OF PRIVILEGE.—The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purpose of enabling the recipient to evaluate the nature and extent of its joint and several liability.''.

(b) REGULATIONS.—The regulations required under the amendment made by subsection (a) shall be issued in final form not later than 6 months after the effective date under section 211 of this Act.

SEC. 206. REORGANIZATION OF BANKS AND VOLUNTARY MERGER.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended—

(1) by inserting ''(a) REORGANIZATION.—'' before ''Whenever''; and

(2) by striking ''liquidated or'' each place such phrase appears;

(3) by striking ''liquidation or''; and

(4) by adding at the end the following new subsection:

''(b) VOLUNTARY MERGERS.—Any Bank may, with the approval of the Director, and the approval of the boards of directors of the Banks involved, merge with another Bank. The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any such voluntary merger, including the procedures for Bank member approval.''.

SEC. 207. SECURITIES AND EXCHANGE COMMISSION DISCLOSURE.

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), 14(c), and 17A of the Securities Exchange Act of 1934 and related Commission regulations; and

(2) section 15 of that Act and related Securities and Exchange Commission regulations with respect to transactions in capital stock of the Banks.

(b) MEMBER EXEMPTION.—The members of the Federal Home Loan Banks shall be exempt from compliance with sections 13(d), 13(f), 13(g), 14(d), and 16 of the Securities Exchange Act of 1934 and related Securities and Exchange Commission regulations with respect to their ownership of, or transactions in, capital stock of the Federal Home Loan Banks.

(c) EXEMPTED AND GOVERNMENT SECURITIES.—

(1) CAPITAL STOCK.—The capital stock issued by each of the Federal Home Loan Banks under section 6 of the Federal Home Loan Bank Act are—

(A) exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933; and

(B) ''exempted securities'' within the meaning of section 3(a)(12)(A) of the Securities Exchange Act of 1934.

(2) OTHER OBLIGATIONS.—The debentures, bonds, and other obligations issued under section 11 of the Federal Home Loan Bank Act are—

(A) exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933;

(B) ''government securities'' within the meaning of section 3(a)(42) of the Securities Exchange Act of 1934;

(C) excluded from the definition of ''government securities broker'' within section 3(a)(43) of the Securities Exchange Act of 1934;

(D) excluded from the definition of ''government securities dealer'' within section 3(a)(44) of the Securities Exchange Act of 1934; and

(E) ''government securities'' within the meaning of section 2(a)(16) of the Investment Company Act of 1940.

(d) EXEMPTION FROM REPORTING REQUIREMENTS.—The Federal Home Loan Banks shall be exempt from periodic reporting requirements pertaining to—

(1) the disclosure of related party transactions that occur in the ordinary course of business of the Banks with their members; and

(2) the disclosure of unregistered sales of equity securities.

(e) TENDER OFFERS.—The Securities and Exchange Commission's rules relating to tender offers shall not apply in connection with transactions in capital stock of the Federal Home Loan Banks.

(f) REGULATIONS.—In issuing final regulations to implement provisions of this section, the Securities and Exchange Commission shall consider the distinctive characteristics of the Federal Home Loan Banks when evaluating the accounting treatment with respect to the payment to Resolution Funding Corporation, the role of the combined financial statements of the twelve Banks, the accounting classification of redeemable capital stock, and the accounting treatment related to the joint and several nature of the obligations of the Banks.

SEC. 208. COMMUNITY FINANCIAL INSTITUTION MEMBERS.

(a) TOTAL ASSET REQUIREMENT.—Paragraph (10) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(10)), as so redesignated by section 201(3) of this Act, is amended by striking ''$500,000,000'' each place such term appears and inserting ''$1,000,000,000''.

(b) USE OF ADVANCES FOR COMMUNITY DEVELOPMENT ACTIVITIES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in paragraph (2)(B)—

(A) by striking ''and''; and

(B) by inserting '', and community development activities'' before the period at the end;

(2) in paragraph (3)(E), by inserting ''or community development activities'' after ''agriculture,''; and

(3) in paragraph (6)—

(A) by striking ''and''; and

(B) by inserting '', and 'community development activities'' before ''shall''.

SEC. 209. TECHNICAL AND CONFORMING AMENDMENTS.

(a) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1113(o) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(o)) is amended—

(1) by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''; and

(2) by striking ''Federal Housing Finance Board's'' and inserting ''Federal Housing Finance Agency's''.

(b) RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4716(e)) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(c) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by striking ''Federal Housing Finance Board'' each place such term appears in each of sections 212, 657, 1006, 1014, and inserting ''Federal Housing Finance Agency''.

(d) MAHRA ACT OF 1997.—Section 517(b)(4) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(e) TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(f) ACCESS TO LOCAL TV ACT OF 2000.—Section 1004(d)(2)(D)(iii) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103(d)(2)(D)(iii)) is amended by striking ''Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

SEC. 210. STUDY OF AFFORDABLE HOUSING PROGRAM USE FOR LONG-TERM CARE FACILITIES.

The Comptroller General shall conduct a study of the use of affordable housing programs of the Federal home loan banks under section 10(j) of the Federal Home Loan Bank Act to determine how and the extent to which such programs are used to assist long-term care facilities for low- and moderate-income individuals, and the effectiveness and adequacy of such assistance in meeting the needs of affected communities. The study shall examine the applicability of such use to the affordable housing programs required to be established by the enterprises pursuant to the amendment made by section 128 of this Act. The Comptroller General shall submit a report to the Director of the Federal Housing Finance Agency and the Congress regarding the results of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

SEC. 211. EFFECTIVE DATE.

Except as specifically provided otherwise in this title, the amendments made by this title shall take effect on, and shall apply beginning on, the expiration of the 1-year period beginning on the date of the enactment of this Act.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, FEDERAL HOUSING FINANCE BOARD, AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of Federal Housing Enterprise Oversight

SEC. 301. ABOLISHMENT OF OFHEO.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of the enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of the enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight shall, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

(1) manage the employees of such Office and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee pursuant to section 303; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee pursuant to section 303.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall—

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

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under or pursuant to the title XIII of the Housing and Community Development Act of 1992, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any other provision of law applicable with respect to such Office; and

(B) existed on the day before the abolishment under subsection (a) of this section.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

SEC. 302. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

All regulations, orders, determinations, and resolutions that—

(1) were issued, made, prescribed, or allowed to become effective by—

(A) the Office of Federal Housing Enterprise Oversight; or

(B) a court of competent jurisdiction and that relate to functions transferred by this subtitle; and

(2) are in effect on the date of the abolishment under section 301(a) of this Act, shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such Director, as the case may be, any court of competent jurisdiction, or operation of law.

SEC. 303. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Federal Housing Finance Agency for employment no later than the date of the abolishment under section 301(a) of this Act and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of employees occupying positions in the excepted service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the date of the abolishment under section 201(a), that a reorganization of the combined work force is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Director of the Federal Housing Finance Agency as a result of a transfer under subsection (a) may retain for 12 months after the date such transfer occurs membership in any employee benefit program of the Federal Housing Finance Agency or the Office of Federal Housing Enterprise Oversight, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 201(a) if—

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

(2) the benefit or program is continued by the Director of the Federal Housing Finance Agency;

The difference in the costs between the benefits which would have been provided by such agency and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

SEC. 304. TRANSFER OF PROPERTY AND FACILITIES.

Upon the abolishment under section 301(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Director of the Federal Housing Finance Agency.

Subtitle B—Federal Housing Finance Board

SEC. 321. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Federal Housing Finance Board (in this title referred to as the ''Board'') is abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Board, solely for the purpose of winding up the affairs of the Board—

(1) shall manage the employees of such Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 323; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Board.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of such Board as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 323.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Board to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Board before the expiration of the 1-year period under subsection (a) in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall—

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

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect

the validity of any right, duty, or obligation of the United States, a member of the Board, or any other person, which—

(A) arises under the Federal Home Loan Bank Act or any other provision of law applicable with respect to such Board; and

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

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

SEC. 322. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described under subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such Director, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described under this subsection if it—

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

(A) the Board; or

(B) a court of competent jurisdiction and relates to functions transferred by this subtitle; and

(2) is in effect on the effective date of the abolishment under section 321(a).

SEC. 323. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.

(a) TRANSFER.—Each employee of the Board shall be transferred to the Federal Housing Finance Agency for employment not later than the effective date of the abolishment under section 321(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

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

(1) IN GENERAL.—In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policymaking, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 321(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Board accepting employment with the Federal Housing Finance Agency as a result of a transfer under subsection (a) may retain for 12 months after the date on which such transfer occurs membership in any employee benefit program of the Federal Housing Finance Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 321(a) if—

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

(B) the benefit or program is continued by the Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—The difference in the costs between the benefits which would have been provided by the Board and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or notice, without regard to any other regularly scheduled open season.

SEC. 324. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of the abolishment under section 321(a), all property of the Board shall transfer to the Director of the Federal Housing Finance Agency.

Subtitle C—Department of Housing and Urban Development

SEC. 341. TERMINATION OF ENTERPRISE-RELATED FUNCTIONS.

(a) TERMINATION DATE.—For purposes of this subtitle, the term ''termination date'' means the date that occurs one year after the date of the enactment of this Act.

(b) DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.—

(1) IN GENERAL.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Director of the Office of Federal Housing Enterprise Oversight, shall determine—

(A) the functions, duties, and activities of the Secretary of Housing and Urban Development regarding oversight or regulation of the enterprises under or pursuant to the authorizing statutes, title XIII of the Housing and Community Development Act of 1992, and any other provisions of law, as in effect before the date of the enactment of this Act, but not including any such functions, duties, and activities of the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and such Office; and

(B) the employees of the Department of Housing and Urban Development necessary to perform such functions, duties, and activities.

(2) ENTERPRISE-RELATED FUNCTIONS.—For purposes of this subtitle, the term ''enterprise-related functions of the Department'' means the functions, duties, and activities of the Department of Housing and Urban Development determined under paragraph (1)(A).

(3) ENTERPRISE-RELATED EMPLOYEES.—For purposes of this subtitle, the term ''enterprise-related employees of the Department'' means the employees of the Department of Housing and Urban Development determined under paragraph (1)(B).

(c) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development (in this title referred to as the ''Secretary''), solely for the purpose of winding up the affairs of the Secretary regarding the enterprise-related functions of the Department of Housing and Urban Development (in this title referred to as the ''Department'') —

(1) shall manage the enterprise-related employees of the Department and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of any such employee under section 343; and

(2) may take any other action necessary for the purpose of winding up the enterprise-related functions of the Department.

(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the termination of the enterprise-related functions of the Department under subsection (b) may not be construed to affect the status of any employee of the Department as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 343.

(e) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director of the Federal Housing Finance Agency may use the property of the Secretary to perform functions which have been transferred to the Director of the Federal Housing Finance Agency for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Secretary regarding enterprise-related functions of the Department before the termination date under subsection (a) in connection with such functions that are transferred to the Director of the Federal Housing Finance Agency shall—

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

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(f) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary, or any other person, which—

(A) arises under the authorizing statutes, title XIII of the Housing and Community Development Act of 1992, or any other provision of law applicable with respect to the Secretary, in connection with the enterprise-related functions of the Department; and

(B) existed on the day before the termination date under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Secretary in connection with the enterprise-related functions of the Department shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Secretary or any member thereof as a party to any such action or proceeding.

SEC. 342. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director of the Federal Housing Finance Agency until modified, terminated, set aside, or superseded in accordance with applicable law by such Director, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described under this subsection if it—

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

(A) the Secretary; or

(B) a court of competent jurisdiction and that relate to the enterprise-related functions of the Department; and

(2) is in effect on the termination date under section 341(a).

SEC. 343. TRANSFER AND RIGHTS OF EMPLOYEES.

(a) TRANSFER.—

(1) IN GENERAL.—Except as provided in paragraph (2), each enterprise-related employee of the Department shall be transferred to the Federal Housing Finance Agency for employment not later than the termination date under section 341(a) and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(2) AUTHORITY TO DECLINE.—An enterprise-related employee of the Department may, in the discretion of the employee, decline transfer under paragraph (1) to a position in the Federal Housing Finance Agency and shall be guaranteed a position in the Department with the same status, tenure, grade, and pay as that held on the day immediately preceding the date that such declination was made. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date that the transfer would otherwise have occurred, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

(b) GUARANTEED POSITIONS.—Each enterprise-related employee of the Department transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for 12 months after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

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

(1) IN GENERAL.—In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director of the Federal Housing Finance Agency may decline a transfer of authority under paragraph (1) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policymaking, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director of the Federal Housing Finance Agency determines, after the end of the 1-year period beginning on the termination date under section 341(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any enterprise-related employee of the Department accepting employment with the Federal Housing Finance Agency as a result of a transfer under subsection (a) may retain for 12 months after the date on which such transfer occurs membership in any employee benefit program of the Federal Housing Finance Agency or the Department, as applicable, including insurance, to which such employee belongs on the termination date under section 341(a) if—

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

(B) the benefit or program is continued by the Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—The difference in the costs between the benefits which would have been provided by the Department and those provided by this section shall be paid by the Director of the Federal Housing Finance Agency. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by such Director, the employee shall be permitted to select an alternate Federal health insurance program within 30 days after such election or notice, without regard to any other regularly scheduled open season.

SEC. 344. TRANSFER OF APPROPRIATIONS, PROPERTY, AND FACILITIES.

Upon the termination date under section 341(a), all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department in connection with enterprise-related functions of the Department shall transfer to the Director of the Federal Housing Finance Agency. Unexpended funds transferred by this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–254. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–254.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

Page 6, strike lines 3 through 5 and insert the following new subparagraph:

''(C) any independent contractor for a regulated entity (including any attorney, appraiser, or accountant), if—

''(i) the independent contractor knowingly or recklessly participates in—

''(I) any violation of any law or regulation;

''(II) any breach of fiduciary duty; or

''(III) any unsafe or unsound practice; and

''(ii) such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the regulated entity; and''.

Page 12, line 8, strike the quotations marks and the last period.

Page 12, after line 8, insert the following new subsection:

''(g) OMBUDSMAN.—The Director shall establish, by regulation, an Office of the Ombudsman in the Agency. Such regulations shall provide that the Ombudsman will consider complaints and appeals from any regulated entity and any person that has a business relationship with a regulated entity and shall specify the duties and authority of the Ombudsman.''.

Page 15, line 2, before the period insert '', or request that the Attorney General of the United States act on behalf of the Director''.

Page 15, after line 2, insert the following new paragraph:

''(2) CONSULTATION WITH ATTORNEY GENERAL.—The Director shall provide notice to, and consult with, the Attorney General of the United States before taking an action under paragraph (1) of this subsection or under section 1344(a), 1345(d), 1348(c), 1372(e), 1375(a), 1376(d), or 1379D(c), except that, if the Director determines that any delay caused by such prior notice and consultation may adversely affect the safety and soundness responsibilities of the Director under this title, the Director shall notify the Attorney General as soon as reasonably possible after taking such action.''.

Page 15, line 3, strike ''(2)'' and insert ''(3)''.

Page 25, line 13, after the period insert quotation marks and a period.

Page 25, strike lines 14 through 16.

Page 66, after line 12 add the following new subsection:

(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

Page 102, after line 19, insert the following new subparagraph:

''(A) Mortgages that finance dwelling units for low-income families.''.

Page 102, line 20, strike ''(A)'' and insert ''(B)''.

Page 102, line 22, strike ''(B)'' and insert ''(C)''.

Strike line 17 on page 119 and all that follows through line 9 on page 138 and insert the following:

SEC. 128. AFFORDABLE HOUSING FUND.

(a) IN GENERAL.—The Housing and Community Development Act of 1992 is amended by striking sections 1337 and 1338 (12 U.S.C. 4562 note) and inserting the following new section:

''SEC. 1337. AFFORDABLE HOUSING FUND.

''(a) ESTABLISHMENT AND PURPOSE.—Each enterprise shall establish and manage an affordable housing fund in accordance with this section. The purpose of the affordable housing fund shall be—

''(1) to increase homeownership for extremely low-and very low-income families;

''(2) to increase investment in housing in low-income areas, and areas designated as qualified census tracts or an area of chronic economic distress pursuant to section 143(j) of the Internal Revenue Code of 1986 (26 U.S.C. 143(j));

''(3) to increase and preserve the supply of rental and owner-occupied housing for extremely low- and very low-income families;

''(4) to increase investment in public infrastructure development in connection with housing assisted under this section; and

''(5) to leverage investments from other sources in affordable housing and in public infrastructure development in connection with housing assisted under this section

''(b) ALLOCATION OF AMOUNTS BY ENTERPRISES.—

''(1) IN GENERAL.—In accordance with regulations issued by the Director under subsection (k) and subject to paragraphs (2) and (3) of this subsection and subsection (f)(5), each enterprise shall allocate to the affordable housing fund established under subsection (a) by the enterprise—

''(A) in the year in which the effective date under section 185 of the Federal Housing Finance Reform Act of 2005 occurs, 3.5 percent of the after-tax income of the enterprise for the preceding year;

''(B) in the year after the year referred to in subparagraph (A), 3.5 percent of the after-tax income of the enterprise for the preceding year; and

''(C) in each of the first three years after the year referred to in subparagraph (B), 5 percent of the after-tax income of the enterprise for the preceding year.

''(2) LIMITATION.—An enterprise shall not be required to make an allocation for a year to the affordable housing fund of the enterprise established under subsection (a) unless the enterprise generated after-tax income for the preceding year.

''(3) SUSPENSION OF CONTRIBUTIONS.—The Director shall temporarily suspend the allocation under paragraph (1) by an enterprise to the affordable housing fund of the enterprise upon a finding by the Director that such allocations—

''(A) are contributing, or would contribute, to the financial instability of the enterprise;

''(B) are causing, or would cause, the enterprise to be classified as undercapitalized; or

''(C) are preventing, or would prevent, the enterprise from successfully completing a capital restoration plan under section 1369C.

''(4) 5-YEAR SUNSET AND REPORT.—

''(A) SUNSET.—The enterprises shall not be required to make allocations to the affordable housing funds in the 5th year after the year in which the effective date under section 185 of the Federal Housing Finance Reform Act of 2005 occurs or in any year thereafter.

''(B) REPORT ON PROGRAM CONTINUANCE.—Not later 6 months before the end of the last year in which the allocations are required under paragraph (1), the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report making recommendations on whether the program under this section, including the requirement for the enterprises to make allocations to the affordable housing funds, should be extended and on any modifications for the program.

''(5) DETERMINATION OF AFTER-TAX INCOME.—For purposes of this section, the term 'after-tax income' means, with respect to an enterprise for a year, the amount reported by the enterprise for such year in the enterprise's annual report for such year that is filed with the Securities and Exchange Commission, except that for any year in which no such filing is made by an enterprise or such filing is not timely made, such term means the amount determined by the Director based on the income tax return filings of the enterprise.

''(c) SELECTION OF ACTIVITIES FUNDED USING AFFORDABLE HOUSING FUND AMOUNTS.—Amounts from the affordable housing fund of the enterprise may be used, or committed for use, only for activities that—

''(1) are eligible under subsection (d) for such use; and

''(2) are selected for funding by the enterprise in accordance with the process and criteria for such selection established pursuant to subsection (k)(2)(C).

''(d) ELIGIBLE ACTIVITIES.—Amounts from the affordable housing fund of an enterprise shall be eligible for use, or for commitment for use, only for assistance for—

''(1) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B), except that amounts provided from the Fund may be used for the benefit only of extremely low- and very low-income families;

''(2) the production, preservation, and rehabilitation of housing for homeownership, including such forms as downpayment assistance, closing cost assistance, and assistance for interest-rate buy-downs, that—

''(A) is available for purchase only for use as a principal residence by families that qualify both as—

''(i) extremely low- and very-low income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

''(ii) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this section be considered to refer to assistance from the affordable housing fund of the enterprise;

''(B) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act; and

''(C) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

''(3) public infrastructure development activities in connection with housing activities funded under paragraph (1) or (2).

''(e) ELIGIBLE RECIPIENTS.—

''(1) IN GENERAL.—Amounts from the affordable housing fund of an enterprise may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity, a nonprofit entity, a federally recognized tribe, an Alaskan Native village, and a faith-based organization) that—

''(A) has a demonstrated capacity for carrying out activities of the type that are to be funded with such affordable housing fund amounts; and

''(B) makes such assurances to the enterprise as the Director shall, by regulation, require to ensure that the recipient will comply with the requirements of this section (including, in the case of any organization, agency, or entity subject to paragraph (2), all of the requirements specified under such paragraph) during the entire period that begins upon selection of the recipient to receive amounts from the affordable housing fund of the enterprise and ending upon the conclusion of all activities under subsection (d) that are engaged in by the recipient and funded with such affordable housing fund amounts; and

''(C) in the case of any recipient who is not a for-profit entity or a government agency or authority, complies with all of the requirements under paragraph (2).

''(2) ADDITIONAL REQUIREMENTS FOR RECIPIENTS OTHER THAN FOR-PROFIT ENTITIES.—The requirements under this paragraph with respect to any organization, agency, or entity that is not a for-profit entity or a government agency or authority are that the organization, agency, or entity—

''(A) shall have as its primary purpose the provision of affordable housing, as defined by the Director;

''(B) shall make such assurances to the enterprise as the Director shall, by regulation, require to ensure that such affordable housing fund amounts—

''(i) are used only to supplement, and to the extent practical, to increase the level of funds that would, in the absence of amounts made available from the affordable housing fund, be made available from other sources for the recipient to carry out activities of the type that are eligible under subsection (d) for funding with affordable housing fund amounts; and

''(ii) are not in any case used so as to supplant any funds from other sources that are made available for such activities of the recipient; and

''(C) does not, at the time during the period that begins 12 months before submission of an application for funding from the affordable housing fund of the enterprise and ending upon the expiration of the period referred to in paragraph (1)(B)—

''(i) engage in any Federal election activity, as such term is defined in paragraph (20) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(20)), except that, notwithstanding the 120-day limitation in subparagraph (A)(i) of such paragraph, such term shall include voter registration activity during any period;

''(ii) make any expenditure for any electioneering communication (as such term is defined in section 304(f)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(f)(3));

''(iii) make any lobbying expenditure, (as such term is defined in such section 501(h)(2)), except that this clause shall not apply to any such expenditure by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under subsection (a) of such section 501, to the extent that such expenditure does not exceed the amount under such Code for which such exemption may be denied; or

''(iv) maintain any affiliation with any organization, agency, or other entity that does not comply with clauses (i), (ii), and (iii) of this subparagraph.

''(3) AFFILIATION.—

''(A) IN GENERAL.—A recipient organization, agency, or entity shall be considered to be affiliated with another entity, for purposes of paragraph (2), if such recipient entity controls, is controlled by, or is under common control with such other entity.

''(B) CONTROL.—The existence of any of the following relationships between a recipient entity and another entity shall indicate that control exists for purposes of subparagraph (A):

''(i) OVERLAPPING BOARD MEMBERSHIP.—Individuals serve in a similar capacity as officers, executives, or staff of both the recipient entity and the other entity.

''(ii) SHARED RESOURCES.—The recipient entity and the other entity share office space, staff members, supplies, resources, or marketing materials, including Internet and other forms of public communication.

''(iii) FUNDING.—The recipient entity receives more than 20 percent of its total funding from such other entity or provides more than 20 percent of the total funding of such other entity.

''(iv) OTHER.—The recipient entity or such other entity exhibits any other indicia of substantial overlap or common control as may be set forth in regulation by the Director.

''(4) FOR PROFIT.—For purposes of this subsection, the term 'for-profit entity' means any entity any part of the net earnings of which inure to the benefit of any private shareholder, member, founder, contributor, or individual.

''(f) LIMITATIONS ON USE.—

''(1) REQUIRED AMOUNT FOR REFCORP.—Of any amounts allocated pursuant to subsection (b) in each year to the affordable housing fund of an enterprise, 25 percent shall be used as provided in section 21B(f)(2)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(E)).

''(2) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of any amounts allocated pursuant to subsection (b) in each year to the affordable housing fund of an enterprise, not less than 10 percent shall be used for activities under paragraph (2) of subsection (d).

''(3) MAXIMUM AMOUNT FOR PUBLIC INFRASTRUCTURE DEVELOPMENT ACTIVITIES IN CONNECTION WITH AFFORDABLE HOUSING ACTIVITIES.—Of any amounts allocated pursuant to subsection (b) in each year to the affordable housing fund of an enterprise, not more than 12.5 percent may be used for activities under paragraph (3) of subsection (d).

''(4) DEADLINE FOR COMMITMENT OR USE.—Any amounts allocated to the affordable housing fund of an enterprise shall be used or committed for use within two years of the date of such allocation.

''(5) USE OF RETURNS.—The Director shall, by regulation—

''(A) provide that any return on a loan or other investment of any amounts allocated pursuant to subsection (b) to the affordable housing fund of an enterprise shall count against the allocation required under subsection (b) to be made by the enterprise for the year following such return; and

''(B) establish such limitations as may be necessary to ensure that the amount or likelihood of return is not the primary consideration of awarding of allocated amounts to recipients.

''(6) PROHIBITED USES.—The Director shall—

''(A) by regulation, set forth prohibited uses of amounts from the affordable housing funds of the enterprises, which shall include use for—

''(i) political activities;

''(ii) advocacy;

''(iii) lobbying, whether directly or through other parties;

''(iv) counseling services;

''(v) travel expenses; and

''(vi) preparing or providing advice on tax returns;

''(B) by regulation, provide that, except as provided in subparagraph (C), amounts allocated to the affordable housing fund of an enterprise may not be used for administrative, outreach, or other costs of—

''(i) the enterprise; or

''(ii) any recipient of amounts from the affordable housing fund; and

''(C) by regulation, limit the amount of any such contributions that may be used for administrative costs of the enterprise of maintaining the affordable housing fund and carrying out the program under this section.

''(7) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS.—In determining compliance with the housing goals under this subpart, the Director may not consider amounts used under this section for eligible activities under subsection (d). The Director shall give credit toward the achievement of such housing goals to purchases of mortgages for housing that receives funding under this section, but only to the extent that such purchases are funded other than under this section.

''(8) PROHIBITION ON CERTAIN REDISTRIBUTION OF AMOUNTS.—The Director shall, by regulation, ensure that amounts from the affordable housing fund of an enterprise awarded under this section to a national nonprofit housing intermediary are not redistributed to other nonprofit entities.

''(g) ACCOUNTABILITY OF RECIPIENTS AND ENTERPRISES.—

''(1) RECIPIENTS.—

''(A) TRACKING OF FUNDS.—The Director shall—

''(i) require each enterprise to develop and maintain a system to ensure that each recipient of amounts from the affordable housing fund of the enterprise uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

''(ii) establish minimum requirements for agreements, between the enterprises and recipients, regarding grants from the affordable housing funds of the enterprises, which shall include—

''(I) appropriate continuing financial and project reporting, record retention, and audit requirements for the duration of the grant to ensure compliance with the limitations and requirements of this section and the regulation under this section; and

''(II) any other requirements that the Director determines are necessary to ensure appropriate grant administration and compliance.

''(B) MISUSE OF FUNDS.—If an enterprise determines that any recipient of amounts from the affordable housing fund of the enterprise has used any such amounts in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such amounts were provided—

''(i) the enterprise shall notify the Director of such misuse of amounts and the actions taken under this subparagraph with respect to the recipient;

''(ii) such recipient shall be ineligible in perpetuity to receive of any further amounts from the affordable housing fund of such enterprise; and

''(iii) the enterprise shall require the recipient to reimburse the enterprise for such misused amounts and return to the enterprise any amounts from the affordable housing fund of the enterprise that remain unused or uncommitted for use.

The remedies under this subparagraph are in addition to any other remedies that may be available under law.

''(2) ENTERPRISES.—

''(A) QUARTERLY REPORTS.—The Director shall require each enterprise to submit a report, on a quarterly basis, to the Director and the affordable housing board established under subsection (j) describing the activities funded under this section during such quarter with amounts from the affordable housing fund of the enterprise established under this section. The Director shall make such reports publicly available. The affordable housing board shall review each report by an enterprise to determine the consistency of such activities funded with the criteria for selection of such activities established pursuant to subsection (k)(2)(C).

''(B) REPLENISHMENT.—If the Director determines that an activity funded by an enterprise with amounts from the affordable housing fund of the enterprise is not consistent with the criteria established pursuant to subsection (k)(2)(C), the Director shall require the enterprise to allocate to such affordable housing fund (in addition to amounts allocated in compliance with subsection (b)) an amount equal to the sum of the amounts from the affordable housing fund used and further committed for use for such activity.

''(h) CAPITAL REQUIREMENTS.—The utilization or commitment of amounts from the affordable housing fund of an enterprise shall not be subject to the risk-based capital requirements established pursuant to section 1361(a).

''(i) REPORTING REQUIREMENT.—Each enterprise shall include, in the report required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act, as applicable, a description of the actions taken by the enterprise to utilize or commit amounts allocated under this section to the affordable housing fund of the enterprise established under this section.

''(j) AFFORDABLE HOUSING BOARD.—

''(1) APPOINTMENT.—The Director shall appoint an affordable housing board of 7, 9, or 11 persons, who shall include—

''(A) the Director, or the Director's designee;

''(B) the Secretary of Housing and Urban Development, or the Secretary's designee;

''(C) the Secretary of Agriculture, or the Secretary's designee;

''(D) 2 persons from for-profit organizations or businesses actively involved in providing or promoting affordable housing for extremely low- and very low-income households; and

''(E) 2 persons from nonprofit organizations actively involved in providing or promoting affordable housing for extremely low- and very low-income households.

''(2) TERMS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term of each member of the affordable housing board appointed pursuant to paragraph (1) (but not including members appointed pursuant to subparagraphs (A), (B), and (C)) shall be 3 years.

''(B) INITIAL APPOINTEES.—The Director shall appoint the initial members of the affordable housing board not later than the expiration of the 60-day period beginning on the effective date under section 185 of the Federal Housing Finance Reform Act of 2005. As designated by the Director at the time of appointment, of the members of the affordable housing board first appointed pursuant to paragraph (1) (but not including members appointed pursuant to subparagraphs (A), (B), and (C))—

''(i) in the case of a board having 7 members—

''(I) one shall be appointed for a term of one year; and

''(II) one shall be appointed for a term of two years;

''(ii) in the case of a board having 9 members—

''(I) two shall be appointed for a term of one year; and

''(II) two shall be appointed for a term of two years; and

''(iii) in the case of a board having 11 members—

''(I) two shall be appointed for a term of one year; and

''(II) three shall be appointed for a term of two years;

''(3) DUTIES.—The duties of the affordable housing board shall be—

''(A) to determine extremely low- and very low-income housing needs;

''(B) to advise the Director with respect to—

''(i) establishment of the selection criteria under subsection (k)(2)(C) that provide for appropriate use of amounts from the affordable housing funds of the enterprises to meet such needs; and

''(ii) operation of, and changes to, the program under this section appropriate to meet such needs; and

''(C) to review the reports submitted by the enterprises pursuant to subsection (g)(1) to determine whether the activities funded using amounts from the affordable housing funds of the enterprises comply with the regulations issued pursuant to subsection (k)(2)(C) and inform the Director of such determinations, for purposes of subsection (g)(2).

''(4) MEETINGS.—The board shall meet not less than quarterly, except that during the 2-year period referred to in paragraph (7), the board shall meet only as the Director determines necessary.

''(5) EXPENSES AND PER DIEM.—Members of the board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

''(6) ADVISORY COMMITTEE.—The board shall be considered an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

''(7) TERMINATION.— The board shall terminate upon the expiration of the 2-year period that begins upon the conclusion of the last year referred to in subsection (b)(1)(C).

''(k) REGULATIONS.—

''(1) IN GENERAL.—The Director shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) authority for the Director to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

''(B) a requirement that the Director ensure that the affordable housing fund of each enterprise is audited not less than annually to ensure compliance with this section;

''(C) requirements for a process for application to, and selection by, an enterprise for activities to be funded with amounts from the affordable housing fund, which shall provide that—

''(i) selection shall be based upon specific criteria, which shall provide that—

''(I) in any selection of activities occurring during the 2-year period beginning on the effective date under section 185 of the Federal Housing Finance Reform Act of 2005, additional weight shall be given to applications for eligible activities under subsection (d) that—

''(aa) are to be carried out in any area that was declared by the President as a major disaster area pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act as result of Hurricane Katrina or Hurricane Rita in 2005; or

''(bb) the enterprise determines, in accordance with regulations issued by the Director, serve persons significantly affected by the occurrence of Hurricane Katrina or Hurricane Rita in 2005 (including persons displaced as a result of such hurricanes and persons whose affordable housing opportunities are significantly affected by the presence of persons displaced as a result of such hurricanes); and

''(II) taking into consideration any additional weight afforded applications pursuant to subclause (I), priority in funding shall be based upon—

''(aa) whether activities are to be carried out in any area that, not more than 2 years before such selection, was declared by the President as a major disaster area pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

''(bb) greatest impact;

''(cc) geographic diversity;

''(dd) ability to obligate amounts and undertake activities so funded in a timely manner;

''(ee) in the case of rental housing projects under subsection (d)(1), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families; and

''(ff) in the case of rental housing projects under subsection (d)(1), the extent of the duration for which such rents will remain affordable; and

''(ii) an enterprise may not require for such selection that an activity involve financing or underwriting of any kind by the enterprise (other than funding through the affordable housing fund of the enterprise) and may not give preference in such selection to activities that involve such financing;

''(D) requirements to ensure that amounts from the affordable housing funds of the enterprises used for rental housing under subsection (d)(1) are used only for the benefit of extremely low- and very-low income families; and

''(E) limitations on public infrastructure development activities that are eligible pursuant to subsection (d)(3) for funding with amounts from the affordable housing funds of the enterprises and requirements for the connection between such activities and housing activities funded under paragraph (1) or (2) of subsection (d).

''(l) ENFORCEMENT.—Compliance by the enterprises with the requirements under this section shall be enforceable under subpart C. Any reference in such subpart to this part or to an order, rule, or regulation under this part specifically includes this section and any order, rule, or regulation under this section.''.

(b) CONTRIBUTIONS FOR TRANSITION PERIOD.—

(1) RESERVATION AND CONTRIBUTION; PROHIBITION OF DOUBLE CONTRIBUTIONS.—If the date of the enactment of this Act does not occur in the same calendar year as the effective date under section 185 of this Act, each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992) shall, in the year that such date of enactment occurs, reserve for contribution to the affordable housing fund to be established by the enterprise pursuant to section 1337 of such Act (as amended by subsection (a) of this section) an amount equal to 3.5 percent of the after-tax income of the enterprise for the preceding year. Upon the establishment of such affordable housing fund, each enterprise shall allocate to such fund the amounts reserved under this paragraph by the enterprise.

(2) EXCEPTION TO DEADLINE FOR COMMITMENT.—Section 1337(f)(4) of the Housing and Community Development Act of 1992 (as amended by subsection (a) of this section) shall not apply to any amounts allocated to the affordable housing fund of an enterprise pursuant to paragraph (1) of this subsection.

(3) AFTER-TAX INCOME.—For purposes of this subsection, the term ''after-tax income'' has the meaning provided in subsection (b)(5) of the new section 1337 to be inserted by the amendment made by subsection (a) of this section.

(4) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

(c) REFCORP PAYMENTS.—Section 21B(f)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)) is amended—

(1) in subparagraph (E), by striking ''and (D)'' and inserting ''(D), and (E)'';

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

''(E) PAYMENTS BY FANNIE MAE AND FREDDIE MAC.—To the extent that the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, each enterprise (as such term is defined in section 1303 of the Housing and Community Development Act of 1992 (42 U.S.C. 4502)) shall transfer to the Funding Corporation in each calendar year the amounts allocated for use under this subparagraph pursuant to section 1337(f)(1) of such Act.''.

Page 238, strike line 6 and insert the following:

(b) CONFORMING AMENDMENTS.—

(1) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Subtitle B of title

Page 238, after line 10, insert the following new paragraph:

(2) FEDERAL HOME LOAN BANKS.—Section 25 of the Federal Home Loan Bank Act (12 U.S.C. 1445) is amended by striking ''Board under this Act'' and inserting ''Director under section 1367 of the Housing and Community Development Act of 1992''.

Page 248, line 4, after the semicolon insert ''or''.

Page 248, strike lines 5 through 11 and insert the following:

''(D) violates any written agreement between the regulated entity and the Director; shall forfeit and pay a civil money penalty of not more than $10,000 for each day during which such violation continues.''.

Page 249, strike lines 4 through 10 and insert the following:

''(iii) results in pecuniary gain or other benefit to such party,

the regulated entity or regulated entity-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which such violation, practice, or breach continues.''.

Strike line 22 on page 249 and all that follows through line 5 on page 250, and insert the following:

''(B) knowingly or recklessly causes a substantial loss to such regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.''.

Page 278, line 21, after the comma insert ''this title shall take effect on and''.

Page 278, line 23, strike ''1-year'' and insert ''6-month''.

Page 296, line 19, after the period insert the following: ''This section shall take effect on the date of the enactment of this Act.''

Page 296, line 21, after the comma insert ''this title shall take effect on and''.

Page 296, line 23, strike ''1-year'' and insert ''6-month''.

Page 297, line 13, strike ''1-year'' and insert ''6-month''

Page 297, line 19, strike ''1-year'' and insert ''6-month''.

Page 297, line 22, strike ''solely''.

Page 297, line 24, after ''sight'' insert ''and in addition to carrying out its other responsibilities under law''.

Page 302, line 25, strike ''201(a)'' and insert ''301(a)''.

Page 303, line 14, strike ''201(a)'' and insert ''301(a)''.

Page 304, line 13, strike ''1-year'' and insert ''6-month''.

Page 304, line 17, strike ''1-year'' and insert ''6-month''.

Page 304, line 19, strike ''solely''.

Page 304, line 20, after ''Board'' insert ''and in addition to carrying out its other responsibilities under law''.

Page 305, lines 23 and 24, strike ''1-year''.

Page 311, line 7, strike ''one year'' and insert ''6 months''.

Page 311, line 11, strike ''6-month'' and insert ''3-month''.

Page 312, line 17, strike ''1-year'' and insert ''6-month''.

Page 312, line 20, strike ''solely''.

Page 312, line 24, strike ''ment)'' and insert ''ment') and in addition to carrying out the Secretary's other responsibilities under law regarding such functions''.

The CHAIRMAN. Pursuant to House Resolution 509, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

The manager's amendment that I offer makes a number of substantive and technical changes to H.R. 1461, the Federal Housing Finance Reform Act of 2005.

H.R. 1461, as reported by the Committee on Financial Services, greatly expands the affordable housing role of Fannie and Freddie. There are major sections on new single-family and multifamily housing goals, duty to serve lower-income markets, and a new Affordable Housing Fund with contributions from the enterprises.

The bill establishes a fund to finance construction of houses for underserved

people. It is modeled after the successful Affordable Housing Program of the Federal Home Loan Bank System. Fannie Mae and Freddie Mac will manage programs funded by a percentage of their earnings.

The manager's amendment moves the effective date of the entire bill up from 1 year to 6 months following enactment, including the affordable housing funds. For the first 2 years, Fannie and Freddie will contribute 3.5 percent of after-tax earnings and, subsequent to that, 5 percent of such earnings. Twenty-five percent of the GSEs' contributions will go annually to the Treasury Department to help pay off REFCorp, that is, S and L bonds, with the remainder going to the fund.

The fund will sunset in 5 years, when its extension will be considered. During the first 2 years, priority consideration will be given to areas impacted by Hurricanes Katrina and Rita. Thereafter priority in funding will be based on greatest impact, geographic diversity, timely action, as well as other disaster area needs.

Eligible recipients, for-profit builders, State housing agencies, and nonprofit organizations must have a demonstrated capacity for affordable housing activities and make assurances that they will comply with limits on the use of those funds. Funds may not be used for political activities, advocacy, lobbying, counseling services, travel expenses, and tax return advice.

Nonprofit recipients must have affordable housing as their primary purpose, and beginning 1 year before applying, nonprofits and their affiliates cannot have engaged in Federal election activity, electioneering communication, or lobbying.

Recipient use of funds will be closely tracked. Those misusing funds will be permanently barred from participation and must make reimbursement.

In addition, the manager's amendment includes a request from the Committee on the Judiciary to require consultation with the Attorney General by the GSE regulator when exercising new litigation authority, and from the Committee on Government Reform to remove a Freedom of Information Act exemption for the proceedings of the new agency's oversight board.

The Federal Housing Finance Agency will establish an ombudsman to hear complaints and appeals from the GSEs and those having business relationships with the GSEs.

H.R. 1461 consolidates current GSE regulation by two agencies in HUD into one agency. The manager's amendment clarifies that existing rules and regulations will remain in force during the 6-month transition period and until changed by the new Federal Housing Finance Agency.

I urge adoption of the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I claimed the time in opposition to the manager's amendment because I am in opposition to a small part of the manager's amendment, and, like many Members, I have a dilemma. Much of the manager's amendment is what a manager's amendment ought to be, the result of taking into account in some cases things that happened after the bill came out of committee like the hurricanes, some refinements. It is a very good amendment.

There are two small changes I would like to make. First, the manager's amendment says, unlike the bill that passed committee, that a nonprofit group may only ask for these funds and build housing with these funds if building housing is its primary purpose. Understand that that unequivocally says no faith-based institution may apply unless we have a faith-based institution that worships housing. I am not aware of any, but I do not want to be narrow-minded. There may be one. But any other faith-based institution has as its primary purpose its faith, and this excludes organizations that have been doing work.

The gentleman from Louisiana correctly pointed out, well, if they have been already doing this, this does not stop them. It just means they cannot get the new money.

But we want this money to be used well. There is a wealth of experience in the Catholic Church, in the Episcopal Church, in the Methodist Church, in the Jewish Community Housing For the Elderly. In other groups, the Local Initiative Support Corporation, in other groups, the Enterprise Fund, nonprofit groups, some of which have housing as their primary purpose and some do not, why do we want to say to groups that have a very successful record of building affordable housing, including church groups, that they cannot participate in this program? But that is what it does.

So one thing that I would change in the manager's amendment is to say that they can do this if housing is one of their primary purposes, not their only primary purpose. It lets the faith-based groups back in.

Secondly, we agree that we should prohibit the groups, and, remember, we are not talking about using the money from the Affordable Housing Fund for anything but housing. That is very clear.

□ 1400

The Members have said, well, and I kind of slipped into this, well, political activism, et cetera. Not a penny of the affordable housing funds can be used for anything but housing; and there are strict penalties if you get caught doing that. By the way, there may be some who think that if you participate in affordable housing that it will be so profitable that it will generate funds that you can use elsewhere.

When I mentioned that point yesterday, people from the Catholic Conference and the Episcopal group and all the other groups started to laugh. Anyone who has done subsidized housing knows the organizations usually wind up further subsidizing with their own funds rather than end up making money.

But we are talking about now only what you can do with your own money if you use affordable housing funds for affordable housing. We have agreed to a lot of restrictions. We have agreed that with your own money, if you agree to participate in this fund, you cannot engage in any Federal election activity as it is defined in the Federal Election Campaign Act. You cannot make expenditure for any electioneering communication as defined in the Federal Campaign Act. You cannot make any lobbying expenditure except under the limits of 501(c)3. All of those we have accepted. They are in the manager's amendment as further restrictions, and we accept them.

All we are saying is that nonpartisan voter registration and get-out-the-vote should be permitted uses, in other words, what the gentleman from Ohio talked about. We had the gentleman from Florida read the ACORN Plan. That plan by ACORN would have made them ineligible to participate in this fund. It was partisan. People have every right to be partisan. We have made a concession here, that, yes, we will say that if you are engaged in partisan political activity you cannot do this.

Here is what will be the parliamentary situation. If this manager's amendment is defeated, I will offer as the recommittal motion 99.5 percent, textually, of the manager's amendment. It is over there at the majority's side. We will not touch it from what it now is. The only changes we will make is we will, instead of saying this has to be your primary purpose, which excludes faith-based groups, we will say it has to be one of your primary purposes.

We will continue the restriction on electioneering and lobbying, et cetera, but we will say that electioneering and communications or partisanship are banned, but nonpartisan voter registration and nonpartisan get-out-the-vote are not banned. That is the question.

Should we say that if you do affordable housing, you cannot also do voter registration, nonpartisan voter registration. If you are caught doing it in a partisan way, then you would lose the funds under here.

You cannot do get out the vote.

Again, voting and residence are very closely linked in America. You vote from your home. In some cases you might vote in your home, if you are in an elderly development. What about the people, and the gentleman from Ohio raised this. The gentleman from Ohio said, well, we are going to work on it. Yes, it has to be worked on, because right now, thanks to the demands of the Republican Study Committee, it is not there, the right to do that.

If you have a housing development, you cannot, under this manager's amendment, help the old people in the development vote. You cannot invite somebody in to do voter registration. They can come in on their own, but you cannot cooperate. Again, I want to emphasize and I would say to my Republican friends, this is a bill that has a lot of bipartisan support. We have some partisan differences in other areas than housing, but this one got pretty bipartisan.

What happened is this: there are people who do not like affordable housing. I have to say the gentleman from Texas (Mr. HENSARLING) is not here, but he said why do you not just do vouchers instead of this. He was being honest. He is not really for the affordable housing program at all.

I did look up, on June 29th this year, the House by a majority adopted an amendment to increase section 8 vouchers. The gentleman from Texas (Mr. HENSARLING) voted against that. Thirty Republicans voted for it. He was not one of them.

I think there are people who do not want the housing to go forward, and there are others who do not want to see an increased voter participation by people they do not think will be serious enough voters. If that is what the House wants to vote on, okay.

But procedurally what you have is a bill comes out of committee; it is held up for months because a part of the Republican Party does not want to put this to a fair vote. Well, I regret that. We should have had a fair vote. I am just offering you the next best thing. It is not the same thing. It is not a clean vote, but here is the functional equivalent.

Members can have two choices: they can vote against the manager's amendment and know that I will offer a recommittal motion, which will be everything in the manager's amendment except the one provision that prevents faith-based groups from participating; and the one that says no nonpartisan voter registration or the voter turnout.

Alternatively, if people vote for the manager's amendment, maybe some people will be afraid: well, I do not want to look like I am not helping the people in the hurricane area, then I will offer a recommit. The recommit will make those three small specific changes in the manager's amendment.

In other words, Members will have a chance to vote on everything in the manager's amendment, all the restrictions on what these groups can do with their own money, all the restrictions of what they can do with affordable housing money, put our faith-based groups in and have the voter registration be allowed. That is what will be before us.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), chairman of the GSE subcommittee.

Mr. BAKER. Mr. Chairman, I thank the gentleman for his continuing courtesy and leadership on this issue. I am going to try one more time on this thing. The bill as it is now constructed allocates 3.5 percent of net profit for the first 2 years from the various enterprises into a fund which gives as a priority Katrina victims, Rita victims and natural disaster victims, in that order.

I can tell you if I were to go to the city of Baker, in my district today, walk down Groom Road to the FEMA trailer park and say to them, I am going to buy you a bus to haul you to go vote 2 years from now, or I am going to put money into building you a home, guess which one they would pick. People want out of the FEMA trailers, they want out of their circumstance; and almost every cent of this money, we will guarantee, I promise, to be utilized almost exclusively for Katrina and Rita.

It is estimated as a result of the Katrina disaster, 100,000 homes are impaired or destroyed: 100,000. The guesstimate of what it might take to pay off mortgages, to clean the mess up, and to build homes back is easily $30 billion. That is Katrina. Then we talk about Rita and then welcome back and plug Wilma in as a natural disaster, $500 million in the scope of this debate, concerning ourselves with creating a resource for additional political activism does not make sense.

Now, let us talk about the administration of the program: who is going to run it, what is the program. I know how you check on a house. You go see if it is there. Then you can figure out if somebody is in it and who are they. You can look at their income tax return; and, yes, they are entitled to be here pursuant to the provisions of the program.

How do you regulate a bus acquisition program used for hauling people to the polls? Who is going to do that? What are the rules? How about this? How about you leave Katrina/Rita victims alone, come back with regulations that create a system, something that makes sense. Here is how you do it. Here is how you comply. Then you get the money. No, we want to take the money first and figure it out later. That is what gets this place in trouble.

Now, if we really want to work together and reclaim our bipartisan territory, let us take it one step at a time. Let us figure out what the problem is, figure out a remedy, let us promulgate it, make it subject to hearings, pass it through the Congress, and plug some money in later. Now, I know that may be too logical, but I really want to leave that as a thought before you vote against the manager's amendment.

This is a well-crafted proposal with extremely limited resources aimed at an enormous problem that otherwise will not get resolved in a very cost-effective manner, and we will outstrip the resources of this proposal for 5 years, much less the 2 years for which the money has been officially dedicated for this purpose.

Keep in mind, if you are building houses and hauling voters and registering and engaged in political advocacy as of the date of passage of this bill, you can still do it. You just do not get to back your truck up to the U.S. Treasury and download a bunch of this money. That is all. It is an easy choice, and I suggest to the House that it is a reasonable position for us to take and a responsible position. It is not an attack on the basic civil rights of this country.

Mr. FRANK of Massachusetts. Mr. Chairman, I first yield myself 1 minute to say I do not think it is a fair characterization of the low-income housing activities of the Catholic Church or other organizations that they are trying to back up the truck to the Treasury. In the first place, there is no debate that every penny in the affordable housing fund goes for affordable housing.

The question is, what do you have to give up as a choice of doing the affordable housing. Every faith organization in America, every Protestant denomination, every branch of Judaism, and the Roman Catholic Church says we do housing, and the gentleman is right. They could simply refuse to take any money from this and go forward, because they are not eligible for money from this.

Why do that? Why say to the faith-based organization, whatever happened to your belief in the importance of helping faith-based organizations? Is it over already, that romance? Because that is what we just want to change. All we want is to allow our religious organizations in part to be able to participate without stopping their voter registration and other activity.

Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I think we have debated a tough issue. I am sure there are people on the other side that understand why we feel so strongly on this faith-based issue. We have maybe a chance to resolve this and come out of this House with a resounding victory.

If we vote down the manager's amendment, we will include the entire manager's amendment in the motion to recommit with three exceptions. We will take out that the prime purpose has to be housing, so faith-based organizations can still consider God as a primary challenge and obligation.

Secondly, we will add in the terms that will allow for voter registration and get-out-the vote on a nonpartisan basis. So this will only affect getting out the vote and voter registration in a nonpartisan way. Finally, what I urge my colleagues on the other side to do is vote down the manager's amendment, accept the motion to recommit, have a perfect bill that we can walk out of here today with almost a unanimous approval.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield for the purpose of

making a unanimous consent request to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the manager's amendment because it is a deal breaker with those provisions and certainly because the conference of Catholic bishops has indicated that they want to build houses and participate in democracy too.

Mr. Chairman, I rise in opposition to the instant legislation, H.R. 1461—especially insofar as it fails to remove the unfair and unreasonable language that provides that nonprofits will be prohibited from using their own funds to engage in nonpartisan voter registration and requires that housing be their primary purpose in order to receive funds.

The Motion to Recommit made by Mr. FRANKS seeks to protect our faith-based entities that need these valuable dollars to provide affordable housing.

Not only would the Gentleman's amendment have redeemed this legislation, but his Motion to Recommit would have removed language contained in the current Manager's Amendment that bars organizations with proven experience in mobilizing community support and resources—a nonpartisan initiative. In addition, the Manager's Amendment would constrain the ability of experienced faith-based and community-based organizations to successfully compete for the affordable housing funds that are proposed in the underlying bill.

My District of Houston, Texas, has a plethora of faith-based organizations that have plans that would provide much-needed affordable housing for the surrounding community. Our affordable housing stock has suffered for a long time, and I have been working steadfastly with the Secretary of Housing and Urban Development to facilitate the obtainment of opportunities by these groups. The nugatory provisions in the Manager's Amendment will contravene the hard work that I and many other Members have done to this end.

While I applaud the effort made by the administration to remove barriers to full participation in Federal programs and funding faith-based entities, proposals such as the Manager's Amendment will bar these groups from access to this funding while for-profit agencies remain free to engage in the same voter registration activities. This double-standard must be removed—it contravenes the spirit of the U.S. Constitution.

Existing limits in H.R. 1461 on activities that qualify for affordable housing funds prevent abuse of this funding. Groups, many of which operate in my District of Houston sign certifications to receive Federal, State, and local government funds that prohibit diversion of program funds for political and lobbying purposes. There are multiple vehicles available to ensure that the new Affordable Housing Funds are protected from inappropriate use by grantees.

Our faith-based groups need the proposed Affordable Housing Fund under H.R. 1461, especially in the devastated Gulf Coast region where hundreds of thousands of families have not been able to return to their homes. In such challenging times, it would be unfortunate if experienced faith-based organizations and nonprofits that have performed laudably in meeting the needs of these survivors would be barred from participation in funding that would help meet critical housing needs.

Mr. Chairman, I support the legislation on the above limited basis.

Mr. OXLEY. Mr. Chairman, I would simply say in summary to ask the Members to support the manager's amendment. We need to support the folks down in the gulf region that were affected by the hurricane. The purpose of the manager's amendment was twofold, to insure that money was available as quickly as possible to those victims who are 100,000 homeless, just in Louisiana alone, to make certain that they can get access to that as quickly as possible; secondly, to make certain that the groups that are building those homes are not political front groups for a right or left agenda, but ones who are sincerely interested in building with bricks and mortar to provide that opportunity to those folks.

If you want to help those folks in the gulf region, and you want to make certain that money is used effectively and not in a political way, support the Oxley manager's amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BAKER. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Ohio (Mr. OXLEY) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 109–254.

AMENDMENT NO. 2 OFFERED BY MS. CARSON

Ms. CARSON. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. CARSON:

Page 114, line 6, strike the quotation marks and the last period.

Page 114, after line 6, insert the following new paragraph:

''(3) MANUFACTURED HOUSING MARKET.—In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(2), the Director may consider loans secured by both real and personal property.''.

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentlewoman from Indiana (Ms. CARSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Chairman, I yield myself such time as I may consume. This amendment I am offering today will help low- and moderate-income families fulfill the American dream of homeownership.

This amendment will not mandate, but encourage, the GSEs to purchase personal property loans secured by manufactured housing and will count towards the GSE underserved market goals.

□ 1415

This practice is consistent with the charters of Fannie Mae and Freddie Mac.

In 2004, the average income of those who purchased manufactured homes was $28,000. These homes cost 30 percent less than a site-built house and are equal in quality, amenities, and efficiency. Currently only real property loans are considered for manufactured housing purchases, but the vast majority of manufactured home buyers rent the land on which it rests. Personal property loans are issued for the purchase of a manufactured home, but not tied to any piece of land. While these loans are typically financed as personal property, my amendment would allow for the GSEs to only purchase personal property loans that finance manufactured housing.

In 1992, Congress set a goal for the GSEs to promote mortgage credit in areas where traditional credit opportunities were unavailable, inaccessible, or too costly. My amendment will help the GSEs achieve this goal by encouraging them to purchase personal property loans for manufactured housing.

Mr. Chairman, this amendment will assist GSEs in continuing to serve home buyers in underserved areas and will encourage lenders to offer more and better loans to finance the purchase of new homes. It has the broad support of manufactured housing organizations as well as consumers. It has bipartisan support. I encourage my colleagues to adopt this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. OXLEY. Mr. Chairman, I rise to claim the time in opposition to the amendment but am not opposed and would indicate that we are pleased to accept the amendment offered by the gentlewoman from Indiana and applaud her for her foresight and leadership in the area of manufactured housing.

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentlewoman from Indiana (Ms. CARSON).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109–254.

AMENDMENT NO. 3 OFFERED BY MR. DAVIS OF ALABAMA

Mr. DAVIS of Alabama. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DAVIS of Alabama:

Page 107, strike lines 20 through 24 and insert the following new paragraph:

''(26) RURAL AREA.—The term 'rural area' has the meaning given such term in section

520 of the Housing Act of 1949 (42 U.S.C. 1490), except that such term includes micropolitan areas and tribal trust lands.''.

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentleman from Alabama (Mr. DAVIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one of the goals of this bill is to stimulate affordable housing activity on the part of the GSEs in certain categories and areas that traditionally have been underserved, and one of those happens to be the rural portions of America. There have been various goals that have been added that will require the GSEs to be more proactive in their lending in rural America.

The concern that I have with the underlying bill is that the definition of ''rural'' that has been adopted is one that is, number one, very different from the definition that has historically been used by the Congress beginning with the Housing Act of 1949; and, second of all, I think it is one that is unduly restrictive. The new definition would define ''rural'' as being, among other things, nonmetro areas.

As many of us in this Chamber know, ''metro area'' is very broadly defined in this country, and a number of areas that we would all think of as being rural, that we would all view as being within the ambit of this bill, would certainly fall inside metro areas and thus be excluded from the purview of this bill, and would be excluded from the definition of ''rural.''

So what our amendment, which I believe to be noncontroversial, would do would be to return to the traditional definition of ''rural'' that is contained in the Housing Act of 1949. That definition again is one that has long been accepted and long employed by this body.

I should also note, Mr. Chairman, that we would retain some of the changes made in the substantive bill which would talk about micropolitan and tribal trust lands. Those would be included in the new definition, but we would return to the traditional definition that has been employed since 1949.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I rise to claim the time in opposition, but I also want to say I do not oppose this amendment. As a matter of fact, I want to congratulate the gentleman from Alabama for an excellent amendment and well thought-out. He is a valuable member of the committee. This side has no objections to the amendment.

Mr. DAVIS of Alabama. Mr. Chairman, I thank the chairman for his compliments.

Mr. DAVIS of Alabama. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. DAVIS).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 109–254.

AMENDMENT NO. 4 OFFERED BY MR. LEACH

Mr. LEACH. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

(Amendment No. 4 offered by Mr. LEACH:

Strike line 21 on page 49 and all that follows through line 4 on page 51 and insert the following new subsections:

''(c) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—Notwithstanding subsections (a) and (b) and notwithstanding the capital classifications of the regulated entities, the Director may, by regulations issued under section 1319G(b) or by order—

''(1) establish a minimum capital level, for any particular enterprise, that is higher than the level specified in subsection (a) or, for any particular Federal home loan bank, that is higher than the level specified in subsection (b), as the Director deems necessary or appropriate taking into consideration the particular circumstances of the particular regulated entity, which may include any prudential standards necessary to ensure long-term insitutional viability and competitive equity in the market; or

''(2) establish a minimum capital level for the enterprises, for the Federal home loans banks, or for both the enterprises and the banks, that is higher than the level specified in subsection (a) for the enterprises or the level specified in subsection (b) for the Federal home loan banks, to the extent needed to ensure that the regulated entities operate in a safe and sound manner.

''(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section may be construed to limit the authority of the Director to require a regulated entity to raise or maintain capital under other provisions of law, or pursuant to prompt corrective action or administrative enforcement actions, or in connection with conservatorship or receivership powers.''.

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentleman from Iowa (Mr. LEACH) and the gentleman from Massachusetts (Mr. FRANK) each will control 5 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Chairman, I yield myself such time as I may consume.

My amendment is to strengthen the capital requirements of the bill. But first, let me acknowledge that between passage in the committee and the bringing of the bill to the floor, the capital standard provision has been strengthened, and I congratulate the committee for doing that.

But secondly, let me stress that still at this point in time, even though the bill itself got a strong bipartisan committee vote, it lacks the support of the administration. The principal reason does not relate to some of the debate that has occurred earlier on a very important issue, it relates to the fact that the Department of the Treasury, that is the administration, does not want to have accountability for regulation if it is not given adequate authority. And, lacking adequate authority, it feels that this approach is not one that produces greater safety and soundness for the American financial system.

So what this amendment does is strengthens the capital standard provision. Minimum capital is the amount of capital needed to protect financial institutions against broad categories of business risk, so when a crisis strikes, there is a reserve to fall back upon. Capital is especially important for GSEs because their short-term obligations are large, and they are single-industry-intensive. Fannie Mae and Freddie Mac, for instance, have debt obligations due within a year of about 45 percent of their debt liabilities. Any problem with capital markets affecting these firms could become very large, very quickly.

What might ''very quickly'' mean? Because of the scale of short-term obligations of the GSEs, the GSEs are rolling over many billions of dollars of obligations each week. For this reason, a market crisis could become acute in a matter of days, and this is something the country has to think through.

Today's House vote comes nearly a year after Federal regulators ordered Fannie Mae to restate $10.8 billion in previously reported earnings because of accounting problems several years ago, and this is not long after Freddie Mac restated about $5 billion in earnings. The stakes are significant, given that these two GSEs carry together about $1.5 trillion in debt. The failure of either institution could potentially make the savings and loan crisis of a generation ago look somewhat minor.

I would stress here that Fannie and Freddie are very unique institutions. They are, on the one hand, secondary market institutions serving as intermediaries primary markets as well as a tertiary market. On the other hand, when they hold mortgages in their portfolios, they are, in effect, simply another S&L. Hence, while financial risk management tools are much greater than they were a generation ago when we had the S&L crisis, in one sense, for these two institutions, their use is a little bit more problematic, because in the housing industry risk is transferred to Fannie and Freddie disproportionately. They become receivers of risk and as risk becomes concentrated within these institutions, they disproportionately become on the hook if very extraordinary things happen in the economy, something that is not beyond thinking.

In the 1980s, without sufficient capital, S&Ls grew larger and entered new lines of business as their capital basis shrunk, and, when things got bad, the taxpayer was on the hook for $250 billion. Fannie and Freddie today operate on a capital base much less than S&Ls did just before their collapse in the 1980s.

It has been suggested by some—actually, a ''Dear Colleague'' letter has

been circulated—that opponents believe that my amendment would limit the discretion of the new regulator. I would only suggest that that is not my intent, and it is clearly not the intent of the language.

Let me just describe what the Federal Reserve says about this. In a letter dated October 5, 2005, Chairman Greenspan wrote, ''This amendment would improve the proposed legislation. . . The regulators for the GSEs should have a free hand in determining . . . minimum risk-based capital standards for these enterprises. Your amendment would give the regulator greater discretion in this critical area.''

It is one thing to have institutions established to have an advantage in cost of money provided by the United States Government, and another thing to also have advantage in leverage ratio provided by the United States Congress. So because the growing presence of GSEs in our markets and the possible risk they pose to our financial system are significant, it is clear we need a strong regulator, and I would urge that this regulator be given this additional authority.

The Acting CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the gentleman from Iowa is a thoughtful Member and the former chairman of the committee, who has been very critical of the role of GSEs, and I think this is, frankly, not so much a specific amendment as an expression of a sense that, a view that they have gotten too large. One particular aspect to the amendment seems to me to sum this up when it calls for higher minimum capital requirements as the director deems necessary or appropriate to ensure long-term institutional viability and competitive equity in the market.

Now, we are all for long-term institutional viability, but competitive equity means, look, there are banks who complain that because Fannie and Freddie are perceived to have some back-up from the Congress, and let me say right now, if you are listening, if you are buying Fannie or Freddie's paper because you think I am going to vote to bail you out, sell it, and cash it in, I am not going to do that. I do not think there is a Federal guarantee. I certainly, as a great supporter of their housing role, do not plan to do that. But banks complain that they cannot meet Fannie and Freddie's price because Fannie and Freddie can borrow money more cheaply. That is part of what we are dealing with here when you talk about competitive equity.

I agree that Fannie and Freddie get certain advantages in this. That is why we have virtual unanimity here. There are debates about restrictions on what happens when you go into the Affordable Housing Fund, but there is virtual unanimity about having an Affordable Housing Fund.

What we are saying is there are two ways we can do this. We can reduce what we think is Freddie and Fannie's competitive advantage, or you can make sure that more of that competitive advantage is shared with the housing market, and that is the position that the majority, bipartisan majority of the committee has taken.

When the gentleman from Iowa talks about competitive equity, it seems to me you are inviting the banks to say, wait a minute, that is not fair, and we do not want Fannie and Freddie to be able to do this as cheaply as possible because it is not fair to us.

With regard to the powers of the regulator, the gentleman from Louisiana played a major role in this, and the gentleman from Pennsylvania was with him, and the chair and ranking member of the subcommittee. The regulator is fully empowered. The regulator within the bill is fully empowered to do whatever is necessary for safety and soundness. The regulator can raise capital in general; the regulator can decide that a particular activity is risky, and capital should be raised to compensate for that. But to go beyond and to get into competitive equity, it seems to me to be not so much a concern for safety and soundness as the philosophical question.

I would also say that with all of the misdeeds of Fannie and Freddie, their safety and soundness has not been called into question. Yes, there were accounting misdeeds, and people got money who should not have gotten it, and some are being penalized as they should be, but safety and soundness has not been called into question, and this legislation further enhances what the regulator does.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, first I would like to make clear that what the amendment does is say, ''which may include'' consideration for what the gentleman has just indicated.

Mr. FRANK of Massachusetts. Competitive equity.

Mr. LEACH. That is correct. But secondly, if you do not have concern for competitive equity, you put the taxpayer at greater risk because you will have weaker standards. You also drive a system that we will be putting all assets of a given kind of industry within a governmentally privileged institution. That is what the trends are. So this is both a taxpayer protection and free market protection.

□ 1430

Mr. FRANK of Massachusetts. Well, I would say to the gentleman, we agree on this. Competitive equity has got nothing to do with protecting the taxpayers, except the taxpayers who happen to own banks. That is where competitive equity comes in.

The fact is that safety and soundness is what protects the taxpayers. Competitive equity has to do with fairness to competitors. That does not implicate the Treasury.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Chairman, I rise in opposition to the Leach amendment. H.R. 1461 clearly stipulates that the new regulator for Fannie, Freddie, and the Home Loan Banks has the authority to increase the minimum capital levels ''to the extent needed to ensure that the regulated entities operate in a safe and sound manner.''

This is a broad grant of authority to this new regulator. The Leach amendment, however, begins to limit the discretion of the regulator by adding several competitive issues in the determination of the minimum capital.

The Leach amendment would effectively establish minimum capital at an arbitrary decision, by equating that to banks. Let us be very clear that these entities are not banks. One of the things that we need to make sure of is that if we are going to form a world-class regulator for these entities and that we are going to put in place people to manage that process and to regulate these entities, we need to give them the discretion that they need to make sure that as they set those capital levels that they are considering the economy, the state of the markets at that particular time, and have the ability to regulate to those entities and not try to make those entities something that they are not, and these entities are not banks.

The gentleman's amendment does not do anything to increase the safeness and the soundness of these institutions. By the very fact that the regulators will have the ability to do that, set those minimum capital levels at a level that they need to be, gives them the flexibility to do that.

And so I would urge Members to vote against the Leach amendment.

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from Iowa (Mr. LEACH).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. LEACH. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Iowa (Mr. LEACH) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. OXLEY of Ohio.

Amendment No. 4 by Mr. LEACH of Iowa.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

The Acting CHAIRMAN. The pending business is the demand for a recorded

vote on the amendment offered by the gentleman from Ohio (Mr. OXLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 205, not voting 19, as follows:

[Roll No. 541]

AYES—210

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—205

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boren
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—19

Bishop (GA)
Boswell
Brown-Waite, Ginny
Cannon
Diaz-Balart, L.
Diaz-Balart, M.
Emanuel
Foley
Meek (FL)
Moran (VA)
Platts
Reyes
Reynolds
Ros-Lehtinen
Roybal-Allard
Shaw
Towns
Wexler
Whitfield

□ 1457

Mr. WEINER, Ms. MILLENDER-McDONALD, and Mr. GILCHREST changed their vote from ''aye'' to ''no''.

Mr. SIMPSON changed his vote from ''no'' to ''aye''.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FARR. Mr. Chairman, on rollcall No. 541, I inadvertently voted ''aye.'' I wish the RECORD to show that had I voted correctly, I would have voted ''no.''

AMENDMENT NO. 4 OFFERED BY MR. LEACH

The Acting CHAIRMAN (Mr. PUTNAM). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Iowa (Mr. LEACH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 36, noes 378, not voting 19, as follows:

[Roll No. 542]

AYES—36

Beauprez
Blackburn
Chocola
Cooper
Dicks
Dingell
Duncan
Ehlers
Flake
Franks (AZ)
Garrett (NJ)
Gilchrest
Gillmor
Gutknecht
Hensarling
Hostettler
Johnson (CT)
King (IA)
Kingston
Latham
Leach
Lungren, Daniel E.
Musgrave
Nussle
Paul
Pence
Petri
Rohrabacher
Royce
Ryan (WI)
Shadegg
Shays
Taylor (MS)
Taylor (NC)
Wamp
Wynn

NOES—378

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda

Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—19

Berman
Bishop (GA)
Boswell
Brown-Waite, Ginny
Diaz-Balart, L.
Diaz-Balart, M.
Emanuel
Foley
Markey
Meek (FL)
Moran (VA)
Platts
Reyes
Reynolds
Ros-Lehtinen
Roybal-Allard
Shaw
Wexler
Whitfield

□ 1506

Mr. ADERHOLT changed his vote from ''aye'' to ''no.''

Mr. ROHRABACHER changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. BISHOP of Utah). It is now in order to consider amendment No. 5 printed in House Report 109–254.

AMENDMENT NO. 5 OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROYCE:

Page 53, line 20, after ''enterprise'' insert the following: '', with mitigating systemic risk to the housing or capital markets or the financial system,''.

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentleman from California (Mr. ROYCE) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise in support of this legislation, which strengthens the language with regard to portfolios and GSEs.

The GSEs claim that they are shock absorbers in the system. One of the main reasons that Fannie and Freddie claim they should not have their portfolios limited is that they provide a stable means of support for the residential finance markets at times of crisis.

Fannie's CEO, Dan Mudd, testified that ''our mortgage portfolio allows us to play a shock-absorbing function for the finance system during times of potential difficulty.''

This week, Freddie's president, Eugene McQuade, was quoted as saying that the enterprises provided a source of stability to the mortgage finance market after the September 11 terrorist attacks.

This is a nice thought, Mr. Chairman. However, their statements are not true.

If you look at Fannie's purchases for its portfolio during every month of 2001, you will notice that its purchases in September of 2001, of that year, were the lowest level of anytime during that year.

Fannie might argue that they acted as a shock absorber not by buying mortgages and MBS, but by committing to buy in succeeding months.

Mr. Chairman, I will conclude by saying that we should support these significant portfolio limitations in order to make sure that GSEs are able to be reined in and not become what they have said they are and go out of their range of portfolio.

Mr. KANJORSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GARY G. MILLER).

(Mr. GARY G. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GARY G. MILLER of California. Mr. Chairman, this amendment basically is unnecessary. It interferes with the GSEs' ability to provide stability and liquidity to the residential mortgage market, including during times of crisis, which is mostly important.

The bill already allows the regulator to address safety and soundness concerns through risk-based capital, minimum capital, and portfolio powers. Adding this systemic risk language would likely add uncertainty and instability into the secondary-mortgage market, ultimately resulting in a negative impact on the housing markets.

H.R. 1461 gives the new regulator the same powers and authority that bank regulators have, and more, including the authority to limit the growth of the housing GSEs for safety and soundness reasons.

Bank regulators do not have the authority to limit growth of banks for undefined systemic risk reasons. The Royce amendment goes beyond the bank-like regulation.

Similar to bank regulatory authority, H.R. 1461 gives the GSE regulator the discretion to increase a GSE's capital requirement, particularly the minimum capital requirement, which effectively empowers the regulator to limit the growth of a GSE's portfolio.

H.R. 1461 also gives the regulator the authority to adjust risk-based capital, which provides a risk-related measure by which the regulator evaluates all aspects of a GSE's business.

H.R. 1461 already provides an unprecedented level of authority over the enterprises' portfolios.

The bill gives the regulator broad authority over the size and competition of the GSEs' portfolios.

The regulator could force an enterprise to dispose of any asset or liability if the regulator determines that doing so would be consistent with safety and soundness.

Let me quote from the bill itself. H.R. 1461, page 53: ''Notwithstanding the capital classifications of the GSE, the director may by order require an enterprise, under such terms and conditions as the director determines to be appropriate, to dispose of or acquire any asset or liability, if the director determines that such action is consistent with the safe and sound operation of the GSE.''

By harming the GSEs' ability to support our Nation's mortgage market, the Royce amendment would endanger housing.

Reducing the size of the GSE portfolios for reasons other than those affecting the safety and soundness of the company could negatively impact home buyers and the mortgage market in the following ways: one, increasing mortgage rates for customers; two, limiting the liquidity available to small lenders to sell their mortgages, and many more.

I strongly encourage a ''no'' vote for this amendment.

Limiting the GSEs' ability to sustain the market in time of crises and keep mortgage rates stable.

Reducing new mortgage product innovation—limiting the GSEs' ability to reach underserved populations and achieve their housing goals.

CONCLUSIONS

GSEs are essential to housing market. The GSEs' mortgage investment activities are crucial to fulfilling their mission to provide liquidity, stability and affordability in the residential mortgage market.

Banks are not obligated to provide liquidity, stability or affordability to the mortgage market. They are free to enter or leave the market at any time. When market conditions become less favorable, they will shift into other, more profitable investments.

Royce will reduce liquidity. Arbitrarily forcing the GSEs to reduce their mortgage investments would reduce liquidity in the mortgage market, hinder the GSEs' ability to stabilize the market, and make mortgage credit more expensive.

Mr. ROYCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me time, and I thank him for his amendment.

First, I want to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) for bringing us to this position in the first place.

Clearly, there have been huge accounting irregularities at our GSEs. Clearly, something needs to be done; and with these accounting irregularities, we also know that we have very significant systemic risks to our economy that are involved with the GSEs' portfolio holdings.

Chairman Greenspan has testified before our committee on numerous occasions about this. It is time that we do something.

This is as straightforward an amendment as it can be. It simply adds a sentence to this legislation allowing the new regulator the authority to step in, where necessary, to reduce the size of Fannie and Freddie's portfolios, something that we know has nothing to do with their mission of creating liquidity in the secondary-mortgage market.

Again, as Chairman Greenspan said before, ''Without the needed restrictions on the size of the GSE balance sheets, we put at risk our abilities to preserve safe and sound financial markets in the United States, a key ingredient of support for housing.''

I urge a ''yes'' vote on the amendment.

□ 1515

Mr. KANJORSKI. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise in opposition to the amendment.

Briefly, I want to note that the existing committee print already gives the regulator power to force Freddie Mac and Fannie Mae to sell assets for any possible safety and soundness problems. I am not sure that adding an additional test, one that is ill-defined, will accomplish any additional good.

And it could do some harm. Here is why: under this amendment, a regulator could decide to force a healthy, over-capitalized Freddie or Fannie to sell assets at a time when the housing market could ill afford it. The ripple effects on local homeowners, communities, and economies could suffer, all in the name of this theoretical term of ''systemic risk.''

I should add this approach is not consistent with the banking world. This power to punish a healthy institution in advance of any real safety and soundness problem does not exist in the banking world. And many banks are now the same size as Freddie and Fannie. I urge Members to support the well-balanced committee print language.

Mr. ROYCE. Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, I yield myself the balance of my time.

I have a great deal of respect for the proponent of this amendment. I know he is a very serious and thoughtful Member; but I think this amendment goes overboard from the standpoint of during the 6 years of consideration of this bill, we balanced out very well the structure to create a regulator that would be similar to the bank regulators. The powers involved in this bill allow for the regulator to control safety and soundness and to have direction of the portfolio when systemic risk would occur in these particular organizations.

This amendment goes far beyond that and allows the latitude to the regulator to get involved whenever there are capital-markets instability, not only housing instability, but capital markets or the financial system instability. What it means is we will always be subject to the whim and fancy of a regulator to require these GSEs to sell assets or sell liabilities at the whim of the regulator's thought that there may be some need to regulate systemic risk, when in fact these organizations suffer no systemic risk.

I join with the gentleman from Virginia (Mr. TOM DAVIS) when he analyzes out that what we would be doing is arming a regulator who may not always be the most thoughtful individual in the world to take actions against our housing industry and our housing GSEs at the most inappropriate time and moment, causing destabilization to the housing market and, in effect, causing further destabilization and systemic risk to the financial markets. I urge my colleagues on both sides of the aisle to vote ''no'' on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. ROYCE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise today in support of this amendment dealing with systemic risk to H.R. 1461, the legislation to reform oversight of the Nation's three housing GSEs.

I think most people would assume that Congress would and should create a regulator with the authority to protect the broader financial system with respect to systemic risk, especially in light of the warnings of systemic risk from the Federal Reserve and the Treasury, the $1.5 trillion of mortgage assets concentrated in just two companies, the special ties the GSEs have with the Federal Government, and the over-$2 trillion in GSE debt.

Unfortunately, the fact of the matter is that H.R. 1461 fails to give the regulator the authority to protect the financial system against a potential shock that would seriously undermine the U.S. housing market and the global financial system.

I have just spoken with Alan Greenspan's office this afternoon, and they totally reject the argument that the regulator has this ability to take into account the systemic risk and take the necessary actions in the bill; and also the Bush administration disagrees with that assertion. They think it is not in there.

Furthermore, if the authority is already in the bill, what is wrong with my additional 14 words stating it explicitly. Let me also make the point that my amendment would allow the regulator to review the investment holdings of Fannie Mae and Freddie Mac, and this authority is necessary because the huge concentration of on-balance sheet assets of Fannie Mae and Freddie Mac create too much interest rate risk, in other words, too much exposure to swings in interest rates in the hands of only a few risk managers.

The traditional mortgage guarantee business model at Fannie Mae and Freddie Mac provides liquidity in the mortgage market and helps homeownership without increasing risk to the taxpayer. However, the enterprises' on-balance sheet mortgage assets only benefit Fannie and Freddie shareholders at the expense of the taxpayer.

Taking into account the unequaled levels of debt outstanding and the unprecedented use of derivatives to manage interest rate risk at the enterprises, the Federal Reserve and the Treasury Department believe that the on-balance sheet mortgage assets of the two enterprises create systemic risk to the global financial markets.

Mr. Chairman, Congress failed to rein in the savings and loan industry in the early 1980s. That failure led to hundreds of billions of dollars in taxpayer losses. Today, however, Congress has been forewarned by the Fed, the Treasury, the OECD, and the IMF. I would like to end debate on this amendment with the words of our distinguished chairman of the Federal Reserve, Alan Greenspan, who has publicly urged the House of Representatives to defeat H.R. 1461 unless the threat of systemic risk is addressed. He said: ''To fend off possible future systemic difficulties, which we at the Federal Reserve Board assess as likely if GSE expansion continues unabated, preventative actions are required sooner rather than later.'' I urge my colleagues to support this amendment.

The Acting CHAIRMAN (Mr. BISHOP of Utah). The question is on the amendment offered by the gentleman from California (Mr. ROYCE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. ROYCE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. ROYCE) will be postponed.

It is now in order to consider amendment No. 6 printed in House Report 109–254.

AMENDMENT NO. 6 OFFERED BY MR. PAUL

Mr. PAUL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. PAUL:

Page 64, after line 12, insert the following new section:

SECTION 117. ELIMINATION OF AUTHORITY TO BORROW FROM TREASURY OF THE UNITED STATES.

(a) FANNIE MAE.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended by striking subsection (c).

(b) FREDDIE MAC.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by striking subsection (c).

(c) FEDERAL HOME LOAN BANKS.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by striking subsection (i).

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentleman from Texas (Mr. PAUL) and the gentleman from Massachusetts (Mr. FRANK) each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I yield myself 3 minutes.

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Chairman, my amendment is straightforward. It cuts off a line of credit to the Treasury. The GSEs have a line of credit of $2 billion. It is said that it is not important because they never use it. The answer really to that is if they never use it, why leave it on the books. But we do know they indirectly use it. It has been described as a subsidy, because the GSEs can go into the market and get a discount on their loan costs; therefore, they can out-compete the private sector. My amendment merely eliminates that line of credit, puts a greater burden on the marketplace to regulate the GSEs rather than depending on regulation.

I think Members can see there is a problem with our GSEs. The debt is horrendous. Today, the administration sent a letter around and said that the debt of the GSEs totals $2.5 trillion, and they also guarantee in addition $2.4 trillion. That adds up to more money than the Federal Government has borrowed. So it is a tremendous amount of money and credit that is in the system; and people have become frightened about this, including chairman of the Federal Reserve Board, Alan Greenspan.

But what we are doing here today is not addressing the real problem: Why is it out of control? Why is there a financial housing bubble that everybody is afraid is going to undergo a severe correction?

One of the major reasons is the fact that it has this special line of credit. So if we want to address the real cause of the problem, we have to eliminate the line of credit. So it rather amazes me that we do this much legislating without addressing the real cause of our problem.

Of course, there are other things that contribute to the housing bubble, something that we cannot deal with today, but the fact that there is easy credit and low interest rates, interest rates below the market level, that is then directed into the housing market. This also contributes to the size and the scope of the borrowing capacity of the GSEs.

Also in this bill, of course, we are adding into this a brand new housing program which is said to probably involve another billion dollars in the next 2 years. I guess it is not surprising when The Wall Street Journal editorializes against this. Unfortunately, they are not very kind. They say this bill is another ''Republican policy embarrassment''.

This housing bubble, a housing program that we are starting up, how do we finance it? Well, we tax the GSEs. Instead of arguing the case for the marketplace and letting people earn money legitimately without subsidies, what we do, we keep allowing the system to continue. They do make profits, and then we tax them. We are talking about an additional tax, and this might very well be the reason the administration has come out against this bill, because of this new tax.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first, the administration has been somewhat inconsistent on this. A year ago, Secretary of HUD Jackson boasted about the fact that he was insisting Freddie and Fannie increase the extent to which they do low-income housing because we have always had affordable housing goals enforced by law. So the administration last year was insisting that Fannie and Freddie use more of their money to help low-income people.

Let me say, I am not surprised. The gentleman from Texas (Mr. PAUL) has been straightforward. He is one of the most intellectually honest Members of the House. Sometimes, like on casino gambling and medical marijuana, I am glad to be with him. This time we disagree. He is very clear in saying we should not be doing subsidized housing. He is quite clear.

If his amendment were to pass, we would not be able to have an affordable housing program because the level of profits Fannie and Freddie generate, which we are tapping in part, 5 percent, to do affordable housing, would substantially diminish.

Yes, I think people ought to be able to work to build housing; but low-income people, people working at the minimum wage, a minimum wage the gentleman does not want to raise, are not going to be able to build their own housing.

People in the hurricane area who get priority, if the affordable housing bill goes through, that part of the bill goes through, hundreds of millions of dollars will be available to replace housing literally washed away in Mississippi, Alabama, Texas, and in Florida. There is no way people down there will be able to do it on their own. The gentleman has been quite explicit, and I appreciate his being honest about it.

If this amendment passes, the effect will be to substantially increase the capital cost to Fannie and Freddie. They will have to pay more for capital. Once they pay more for capital, not only would the affordable housing fund disappear, but so will the ability of the Bush administration, through Secretary Jackson, to demand that they meet certain housing goals. And leave aside the affordable housing program, the Bush administration, under Secretary Jackson, is proud of what it did to order Fannie and Freddie to do more to meet affordable housing goals, to buy up mortgages for people at 80 percent of median income. I hope that the gentleman's amendment in this particular case is defeated.

Mr. Chairman, I reserve the balance of my time.

Mr. PAUL. Mr. Chairman, I yield myself such time as I may consume.

If we had a bill that was a little cleaner, we probably would be dealing with the problems we face with the GSEs and we would be dealing with a housing program, a new housing program, probably with a different bill.

I see one attempt is to deal with this problem that we face. Another attempt is we are deciding that we need more money directed into the housing industry, and of course your building friends like this, too. And those are Republican allies as well. The builders love this because we will pump more money into the market so they can make more profits. So it is another government housing project. From a market viewpoint, this is not good because we want the money in the market to be allocated purely by the market and not by government direction.

It is the government direction first from the inflation, the artificial interest rates, and then from the allocation of funds that cause distortion. That is what we are dealing with here, the distortion that people are literally frightened about because nobody can even measure the amount of derivatives that are involved with Fannie Mae and

Freddie Mac. People are holding their breath for an accident to happen.

I see this as an opportunity to talk about the marketplace, why we should move Fannie Mae and Freddie Mac into the market.

A lot of people complained about the problems we had with Enron, and we needed that as an excuse to pass a lot more regulation. The truth is the market dealt with Enron. Enron was dealt with rather cruelly by the marketplace before the regulators got there. What we need to do is not, and especially as Republicans and conservatives, talk about a world-class regulator and that it is going to solve all of these problems.

My argument is if we do not solve the problem of basic underlying inflation distortion of interest rates, allocation of funds through housing programs, as well as this line of credit, believe me, we are not going to solve this problem. Please vote to strike this line of credit to the Treasury.

□ 1530

As it was stated earlier on this floor, we may have some regulations built into this that may even precipitate the puncturing of the housing bubble. That nobody can predict. But without addressing the basic flaw in the system that has created this $5 trillion worth of debt, believe me, we will not have an answer. I urge a ''yes'' vote on this amendment.

The Acting CHAIRMAN (Mr. BISHOP of Utah). The time of the gentleman from Texas has expired.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds.

The gentleman's amendment actually does not go quite far enough, but he has a germaneness problem. What he really wants to do is abolish HUD, given his philosophy. He does not think there should be a Federal housing program. Since he cannot get at HUD, he goes after Fannie and Freddie in ways that would reduce substantially what we do in housing.

And, by the way, the administration's objection to this bill is not, as says the gentleman, that it is too much regulation. It is that we do not give the regulator enough powers. So the administration's position is somewhat opposite to the gentleman from Texas', not for the first time, to his credit.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Chairman, I rise today to strongly oppose the Paul amendment and the civic engagement restrictions in the manager's amendment we previously debated. These will have a disproportionate and disparate impact on the State of Florida.

I just came back from my district, where the damage caused by Hurricane Wilma has been extensive. Its effects will be felt for months, if not years. Thousands of Floridians are living in shelters, as thousands of homes in the State were severely or completely destroyed.

People in Florida, Texas, the Gulf States, and across the country have been affected by these storms and have real life issues to deal with: food, shelter, clothing, fuel, lines for 2 and 3 hours to get fuel. I had to drive 150 miles today before I could find one gas station that only had about a half-hour line.

These people need shelter. They are going to need affordable housing. They could care less about partisan politics. These restrictions are misplaced and unnecessary. They preclude legitimate nonprofits from accessing affordable housing funds at a time when hundreds of thousands of Americans desperately need this assistance. We should not be clouding the need for affordable housing with partisan politics.

I urge my colleagues to stay focussed on the issues that are at the center of people's lives and vote ''no'' on this amendment and ultimately support the gentleman from Massachusetts' motion to recommit.

Mr. FRANK of Massachusetts. Mr. Chairman, we have had very limited time here, so I am going to stray to another topic relative to the bill.

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I thank the gentleman for yielding me this time and for inviting me to address the Garrett amendment, which comes up next, and to urge that we oppose that amendment.

I want to thank the chairman and the ranking member for including in the bill when it left our committee language proposed by the gentleman from California (Mr. GARY G. MILLER) and myself to raise the conforming loan limit in certain areas.

The reason we have these GSEs is to help middle-class families achieve the dream of homeownership. Since the beginning, we recognized that a middle-class family cannot find a home in Alaska and Hawaii at the same amounts with the same level of mortgage as in the other 48 States. So we have always had a higher limit for those States. We now must recognize that in Los Angeles, New York, and certain other areas, housing prices are every bit as high as in some parts of Alaska and Hawaii. And that is why the bill that we need to defend from the Garrett amendment provides for a conforming loan limit, that is either as high as it is in Alaska and Hawaii or such lower amount as equals the average home price in that area.

We have middle-class families in my district, a police officer married to a teacher, trying to get a home. Do not deprive them of the benefits of these GSEs on the theory that they are wealthy. They are not.

The Acting CHAIRMAN (Mrs. CAPITO). The question is on the amendment offered by the gentleman from Texas (Mr. PAUL).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. PAUL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. PAUL) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 109–254.

AMENDMENT NO. 7 OFFERED BY MR. GARRETT OF NEW JERSEY

Mr. GARRETT of New Jersey. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. GARRETT of New Jersey:

Strike line 21 on page 81 and all that follows through line 4 on page 91.

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentleman from New Jersey (Mr. GARRETT) and the gentleman from California (Mr. GARY G. MILLER) each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Madam Chairman, I yield myself 2 minutes.

My amendment would strike the language in the bill that raises the conforming loan limits for certain parts of the United States. H.R. 1461 would raise by 50 percent the maximum size mortgage Fannie Mae and Freddie Mac could buy.

This language hurts the very basic functions of GSEs to provide liquidity and help lower-income home buyers.

While the GSEs are chartered to operate in every district across the country, their effectiveness in serving low-income borrowers has been seriously hindered because they focus instead on bigger and bigger loans to higher and higher-income borrowers. Presently, Fannie and Freddie can buy first mortgages on single-family houses up to $359,000. That limit is the so-called ''conforming loan limit,'' and it rises every year. Next year it will go up to $400,000. But with the bill now, it will go up to $600,000 in 2006. A home buyer would need an income of almost $200,000 to buy that home. Is that what Fannie Mae was intended to help?

According to a study by the Federal Reserve published last January, the interest rate difference between a conforming loan and a jumbo loan fluctuates between .15 percent and .18 percent, most of which is pure profit for Fannie Mae. Based on the current interest rate environment, this means at best Fannie is going to lower monthly costs by simply $60 for someone buying that $200,000 loan who is now paying $3,300 or so a month in mortgage payments.

The problem for Fannie is this extension into jumbo loans for higher-income families and forgetting about

their mission to help lower-income families comes with a an added price, a risk to their balance sheets.

Chairman Greenspan and Secretary Snow have consistently raised their concerns about the systemic risks that the size of Fannie and Freddie's portfolios pose to our Nation's housing market. And if we allow them now to participate in the jumbo loan market as well, they will only continue to further exacerbate this dire situation.

We should ask, why was it even proposed that Fannie get this added power to help high-income home buyers? Was there a problem that needed to be fixed? No such evidence was ever presented at any of the committee hearings.

The private sector has adequate sources of funding for loans that are above the conforming limits. An active private secondary market for larger mortgage loans that did not exist when the enterprises were set up is now active to supplement these sources of funding, and allowing Fannie to take on higher costs in jumbo loans only takes valuable time and resources away from their enterprises.

Madam Chairman, I reserve the balance of my time.

Mr. GARY G. MILLER of California. Madam Chairman, I yield myself such time as I may consume.

GSEs have been at the forefront of creating affordable housing opportunities for American families.

While nationally the homeownership rate is at a record high of 69.2 percent, many high-cost metropolitan areas across the Nation lag behind this national rate. In the second quarter of 2004, the national average was 69.2 percent. Yet in New York, New York it was 36.6; Los Angeles, California, 51.6; Orange County, California 61.4; and Boston, Massachusetts, 59.4.

The high-cost area designation takes median home prices into account, but would be capped at 150 percent of the statutory loan limit, the same limit that now applies to Alaska, Hawaii, Guam, and the Virgin Islands. If it is good enough for Alaska, Guam, Hawaii, and the Virgin Islands, it should also be good enough for California; Michigan; New York; Connecticut; New Jersey; Nevada; Virginia; Washington, D.C.; Pennsylvania; Florida; New Hampshire; and many more. For example, in the North New Jersey Metropolitan Statistical Area, the median home price is $435,200. It this amendment passes, it would drop to $359,650 under the loan limits.

The conforming loan limit provision in this bill will make a meaningful cost difference for home buyers. Based on the current interest rate environment, the current monthly payment difference between a conforming loan and a jumbo loan can save a homeowner up to $171 per month. In high-cost areas a significant majority of entry-level homes exceed the national conforming loan limit. The conforming loan limits language in H.R. 1461 will help nearly 245,000 first-time home buyers. In fact, in the gentleman from New Jersey's (Mr. GARRETT) district alone, it helps 42,987 first-time buyers.

There is broad-based opposition to this amendment. National Association of Realtors oppose it; National Association of Home Builders, National Association of Mortgage Brokers, Independent Community Bankers of America, National Alliance of Independent Bankers. I just received a call from HUD Secretary Jackson, who also opposes this amendment.

There are three parts in section 123. The Garrett amendment deletes all three in this section. I think that is an error on his part.

This section sets conforming loan limits and requires the agency to make annual adjustments to the limits based on increases or decreases in a housing price index maintained by the agency.

Two, the accuracy of the housing price index is required to be audited by the GAO.

And, three, for high-cost metropolitan statistical areas, the conforming loan limit is raised to the lesser of 150 percent of the statutory limit or the median home price in the area.

The Garrett amendment does not just strike the high-cost area provision, it completely strikes the entire conforming loan limits section of the bill: One, how the loan limit is calculated. Two, it creates uncertainty on who is supposed to set the new loan limit every year. Three, it eliminates flexibility in loan limits to reflect market fluctuations, and the GAO study to develop loan limit is deleted by this amendment entirely.

This basically is to make sure that high-cost areas are provided the same flexibility that Guam, Alaska, Hawaii, and Virgin Islands are currently benefiting from. The housing costs are going up across this Nation. This bill was worked in a fashion to allow for that, to allow systematic review yearly of these high-cost areas so GSEs can go out and compete in the jumbo marketplace, decreasing the cost of loans to individuals, decreasing their payments, allowing more individuals in the first-time marketplace to own a home and get the best possible home they can buy, especially during bad times.

When the economy starts to fail, banks sometimes pull out of marketplaces. GSEs at that time pull into them in a heavier fashion to make sure there is liquidity.

There is ample overview within this bill to make sure safety and soundness are taken into consideration. These loans are securitized. These loans just are just not sitting out there floating in the marketplace. These are good, sound loans based on people who need that.

Madam Chairman, I reserve the balance of my time.

Mr. GARRETT of New Jersey. Madam Chairman, I yield myself 1 minute.

We must remember what the original focus of the GSEs was when they were initially chartered by this Congress, they were to do two things, and that is to provide liquidity to the marketplace and also to help provide for facilitating low-income buyers coming into the marketplace.

It is already set up in the law that the amount that GSEs can lend can go up every year. As it is right now, it stands at $359,000. It is set to go up to $400,000 for next year, in 2006. As the bill was amended in committee, it comes out now that that will go up by 50 percent.

I ask the question, how would we define somebody who is about to buy a $600,000 home? That individual would have to be making an income of around $200,000. Even if they are firemen, policemen, teachers, who have you, they would still need an income of $200,000 in order to buy a home at $600,000.

That was not the intent of GSEs. The intent was to help the low-income market to get their homes. By allowing the GSEs to get into this market, what we are doing is distracting them from their purpose and hurting those very people that they were intended to help: low-income people, whether they are in New Jersey or California or other high-interest-rate States, to be able to buy their first time.

Madam Chairman, I reserve the balance of my time.

Mr. GARY G. MILLER of California. Madam Chairman, the gentleman should have been consistent and deleted Alaska, Guam, Hawaii, and the Virgin Islands.

Madam Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Madam Chairman, I rise in strong opposition to the Garrett amendment, which would be devastating for middle-class families across New Jersey and in high-cost areas throughout the country.

While my colleague might argue that this amendment would have no effect on the ability of families to purchase a home, he is gravely mistaken.

The Garrett amendment prohibits Fannie and Freddie from purchasing mortgages at a higher cost than the current limit. This means that in the high-cost areas such as those in New Jersey where the median home price exceeds the national price by at least $200,000 in counties like Bergen and Passaic, families would not have access to an affordable loan. Under this amendment families will be priced out of their own neighborhood.

□ 1545

Those who live in higher-cost areas do not deserve to be punished and should not have to move somewhere else to obtain an affordable home loan; yet that is exactly what this amendment does. This amendment is a step backwards for efforts to open the doors to affordable homeownership. We should be trying to expand opportunities for families who dream of owning a home in the area they want to live in,

not shutting them out of achieving the American Dream.

I urge a ''no'' vote on the amendment.

Mr. GARRETT of New Jersey. Madam Chairman, I yield myself 20 seconds.

Madam Chairman, the assertion that this would be devastating to the market runs contrary to the facts before the committee. There was no evidence whatsoever presented to the committee to say that the system in place in States such as New Jersey or California or elsewhere are in need of GSEs to come in to increase their conforming limits by 50 percent. There is already an additional market out there that allows for people to buy jumbo loans; and there are a number of different variations, adjustable rate loans, that allow people who are in the upper brackets and making $200,000 to be able to afford and to buy these mortgages.

Mr. GARY G. MILLER of California. Madam Chairman, I yield 30 seconds to the gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Madam Chairman, what we are debating here is what is affordable, how much is enough. Middle-class families know the answer. If you are in the middle class, you are too rich to be eligible for Federal programs, but too poor to be able to keep up with the cost of living.

The language that the gentleman from California (Mr. GARY G. MILLER), the gentleman from California (Mr. SHERMAN), and I worked into this bill is a commonsense, bipartisan compromise that keeps up with that middle-class squeeze that makes the American Dream of homeownership possible. With all due respect to the gentleman, this amendment makes the American Dream of homeownership even harder. We should defeat this amendment.

Mr. GARRETT of New Jersey. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, as stated, the purpose of Fannie Mae and Freddie Mac, the GSEs, was to provide liquidity difficult to the market and allow first-time homeowners to get into the market in the first place. However, we want to define who those people are, and I think some things we can agree on: those people who are making $200,000 and who want to expand and go up to larger houses should not be the ones that we define as lower-income individuals.

The statistics also show that came before our committee that even if we put this into place, the differential on mortgage rates would account for around $60 to $70 per mortgage. So if you are buying that $600,000 house and paying $3,000 or $3,300 a month, even if this bill were to pass, you would only see your savings of around $60 or $70.

I think the focus of Congress should be what it was when Fannie and Freddie were first set up, and that is to help those people get into their very first home. We can do that best by limiting their function to what it was prior to this amendment in the committee, and that is to focus on first-time home buyers in every State of the Union to be able to buy that first home, people of low and modest means who need the assistance of a government-backed program such as Fannie and Freddie to be able to know that there is a program there that allows them to get into that loan.

We can allow the other market, which is already in place, which has been functioning properly, where there is no evidence whatsoever to come before our committee that says there was a need to expand in this area, to continue to provide the financing for people who are at the upper-income levels of $200,000 and the like to be able to buy those homes.

Madam Chairman, I believe the best thing in mind is to make sure we remain in place the system that allows first-time home buyers the ability to get into their homes. By voting ''yes'' on this amendment, we be will be able to do that.

Mr. FARR. Madam Chairman, I rise in strong opposition to the Garrett amendment that would prevent an increase in the Conforming Loan Limit.

If the Conforming Loan Limit is not increased, middle income families on the Central Coast of California will not be able to own a piece of the American dream—their own home.

Right now, Fannie Mae and Freddie Mac can purchase single family mortgages up to a nationwide limit of $359,650.

Increasing the Conforming Loan Limit will allow these GSEs greater access to high cost housing markets, which will increase the availability of mortgage capital which will increase homeownership.

I understand a mortgage of $359,650 sounds like a lot in some congressional districts, but in my district, middle class families will be priced out of the housing market if the Conforming Loan Limit is not increased.

Let me give you some examples of housing prices for my district—

Monterey County, the median home sales price in September 2005 was $712,797.

Santa Cruz County, the medium home sales price in September 2005 was $750,000.

For the City of Salinas, in Monterey County, the median home sales price in September was $610,000, while the medium household income was $43,720, according to Census figures compiled for 1999.

For the City of Watsonville, in Santa Cruz County, the median home sales price in September was $654,750, while the median household income was $37,617, according to Census figures compiled in 1999.

There is a huge affordable housing-income gap in my district that will only get worse without an increase in the Conforming Loan Limit.

The American dream—homeownership—should be an opportunity for all Americans.

I urge a ''no'' vote on the Garrett amendment.

Mr. MENENDEZ. Madam Chairman, I rise in strong opposition to the Garrett amendment, which would be devastating for middle-class families across New Jersey and in high cost areas throughout the country.

One of the sensible actions this bill takes is allowing Fannie Mae and Freddie Mac to purchase mortgages that reflect the actual median home price instead of a set national limit.

We all know that the price of purchasing a home is increasing. But Madam Chairman, it is blatantly wrong to pretend that the same loan limits should apply to areas where the average home cost is $75,000 as areas where the median cost is well over $350,000. The reality is, home prices in high-cost areas are skyrocketing at higher rates and to costs that are far above the national average.

While my colleague from New Jersey argues that this amendment would have no affect on the ability of families to purchase a home, he is gravely mistaken.

Because his amendment would prohibit Fannie and Freddie from purchasing mortgages at a cost higher than the current limit, families in high cost areas—such as those in New Jersey where the median home price exceeds the national median home price by at least $200,000—would not have access to any affordable loan. Under this amendment, family will be priced out of their own neighborhood.

These affordable loans help ensure families who seek the dream of homeownership have the same chance to own their own home as those with more means. Families that live in higher cost areas do not serve to be punished and should not have to move somewhere else to obtain an affordable home loan. Yet that is what this amendment would do.

A family living in Bergen or Passaic County, for instance, where the median home price is $390,000, would not be able to get an affordable loan from Fannie or Freddie simply because they live in an area where the cost excess the current limit. So where are they supposed to go?

This amendment is a step backwards for efforts to open the doors to affordable homeownership. We should be trying to expand opportunities for families who dream of owning a home in the area they want to live, not shutting them out from achieving the American dream.

Ms. MALONEY. Madam Chairman, I rise in opposition to the Garrett amendment. This amendment would take out of the bill a provision that I strongly support which raises the permissible loan limits for Fannie Mae and Freddie Mac up to the median home price in high cost areas such as New York City.

This is a simple and common-sense amendment which recognizes that home prices in some parts of the country are higher than in most of the nation.

In these areas middle class families cannot use lower rate GSE loans to buy a median price home, because the price will exceed the nationwide GSE limit. Simple fairness requires that we solve this problem and give middle class families in these areas the same opportunity to use a lower-cost GSE loan as those in other areas enjoy.

This is about whether New York's policemen, firefighters, school teachers, government workers and other middle-class workers can aspire to home ownership.

I strongly supported raising the loan limit in high cost areas and I strongly oppose taking this provision out.

This amendment is critical to New York and other high cost areas. But it does not come at a cost to other areas. This is not a zero sum situation.

So I urge my colleagues from these areas that are not affected by this amendment to join me in voting against it so that middle class workers across this nation will have a chance at the American Dream of owning your own home.

Ms. WOOLSEY. Madam Chairman, my district, the 6th District of California, just north of the Golden Gate Bridge is a "donor" district. We pay a lot more in taxes than we get back, in fact, the median home price is approaching $1 million. This is almost three times the national median home price, and my constituents want their taxes to work for them.

They want middle-class families in their area to be able to secure a GSE loan.

They want teachers, firefighters, and policemen who serve and live in areas of the country where the housing market is soaring, to be eligible for an GSE loan.

Madam Chairman, we can do that. We must preserve the section of the underlying bill that allows for raising conforming loan limits in high cost areas. I urge my colleagues to oppose the Garrett amendment and allow fair home mortgage lending.

The Acting CHAIRMAN (Mrs. CAPITO). The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. GARRETT of New Jersey. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. GARRETT) will be postponed.

It is now in order to consider amendment No. 8 printed in House Report 109–254.

AMENDMENT NO. 8 OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

Ms. LORETTA SANCHEZ of California. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. LORETTA SANCHEZ of California:

Page 93, line 17, before the semicolon insert '', including the use of alternative credit scoring''.

The Acting CHAIRMAN. Pursuant to House Resolution 509, the gentlewoman from California (Ms. LORETTA SANCHEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, my amendment is very simple and straightforward. It merely adds alternative credit scoring as an element of the Annual Housing Report, as outlined in section 1324 of the bill.

Before I continue, however, I would first like to thank the Committee on Rules for making the amendment in order and the Committee on Financial Services for its consideration. In particular I would like to thank the gentleman from Delaware (Mr. CASTLE), who has been a leader on exploring the challenges and the opportunities of alternative credit scoring. I look forward to working with the gentleman on this issue in the future.

My amendment is a modest one, but I think its implications have far-reaching potential. It is currently estimated that there are about 50 million people in the United States who have little or no credit history. Many of these individuals make a solid income, they pay their bills, they have substantial savings and investments. However, these people face tough, if not insurmountable, conditions when they go to secure a loan. Those who do qualify often have to pay excessive fees or elevated interest rates. The irony is that you are more likely to secure credit if you have debt than if you have none.

So the question is, how can these people who are outside the traditional banking system gain access to credit and home loans if they have no traditional credit history? One of the answers may be to use alternative credit scoring and alternative sources of information, such as utility bills and other types of payment systems so that they have a history. If we use that, then we could see that they would most likely pay their mortgage every month.

Much work is being done to develop and automate the use of alternative credit information. Companies such as Fair Isaac, the originator of the FICO score, has an algorithm which it uses to help lenders gain the credit worthiness of unbanked or underbanked applicants. Nevertheless, while the private sector is taking the initiative, I think it needs the support of the Federal Government. Let me tell you why.

Recently, we had Hispanic Heritage Month here in Washington, D.C. where the Congressional Hispanic Caucus Institute does a summit. I did a particular forum on alternative credit scoring. Many of the actors, many of the first originators of loans for homes, for example, said that it would be much easier for them to approve people on alternative credit scoring if in fact the Fannie Maes, for example, of the world actually would buy these in the secondary market. Right now they do not.

So I think it is important for us as the Federal Government to step up and to have Fannie Mae and Freddie Mac and others begin to look at using alternative credit scoring on a more regular basis. It would encourage primary lenders to follow suit; and more people, who should really be eligible for these loans, would be eligible.

My amendment does not mandate nor does it direct GSEs to use alternative credit scoring. It only asks that they report on their use of these methods in the effort to promote greater homeownership, particularly in underserved communities. By raising awareness of alternative credit scoring, we could potentially be helping thousands of qualified home buyers who have always aspired to own their own home.

Madam Chairman, I ask my colleagues for their support on this amendment.

Madam Chairman, I yield back the balance of my time.

Mr. OXLEY. Madam Chairman, I claim the time in opposition, although I am not opposed to the amendment. As a matter of fact, I am very much in favor of the amendment, and I congratulate the gentlewoman from California for her amendment. I know the gentleman from Delaware (Mr. CASTLE) and the gentleman from Michigan (Mr. EHLERS) and others on our side of the aisle have been very interested in this entire issue. I think it is a worthy amendment, and we have no objection on this side.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. LORETTA SANCHEZ).

The amendment was agreed to.

Mr. OXLEY. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BAKER) having assumed the chair, Mrs. CAPITO, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1461) to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes, had come to no resolution thereon.

RESIGNATION AS MEMBER OF COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Energy and Commerce:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 26, 2005.

Hon. J. DENNIS HASTERT,
Speaker of the House, the Capitol,
Washington, DC.

DEAR MR. SPEAKER: Please accept my resignation from the House Energy and Commerce Committee.

It has been my great pleasure to serve on the committee under the fine leadership of Chairman Barton.

Thank you for your attention to this request.

Sincere regards,

ROY BLUNT,
Majority Whip.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.