

NLWJC- Kagan

Counsel - Box 019 - Folder 003

[Untitled Redwell] [Resolution Trust]

[6]

103D CONGRESS	}	HOUSE OF REPRESENTATIVES	REPORT
<i>1st Session</i>		SENATE	103-____

RESOLUTION TRUST CORPORATION COMPLETION ACT

_____ 1933.—Ordered to be printed

_____ from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 714]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 714), to provide for the remaining funds needed to assure that the United States fulfills its obligation for the protection of depositors at savings and loan institutions, to improve the management of the Resolution Trust Corporation (RTC) in order to assure the taxpayers the fairest and most efficient disposition of savings and loan assets, to provide for a comprehensive transition plan to assure an orderly transfer of RTC resources to the Federal Deposit Insurance Corporation, to abolish the RTC, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

ITALIC

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Resolution Trust Corporation Completion Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Final funding for RTC.
- Sec. 3. RTC management reforms.
- Sec. 4. Extension of statute of limitations.
- Sec. 5. Limitation on bonuses and compensation paid by the RTC and the Thrift Depositor Protection Oversight Board.
- Sec. 6. FDIC—RTC transition task force.
- Sec. 7. Amendments relating to the termination of the RTC.
- Sec. 8. SAIF funding authorization amendments.
- Sec. 9. Moratorium extension.
- Sec. 10. Repayment schedule for permanent FDIC borrowing authority.
- Sec. 11. Deposit insurance funds.
- Sec. 12. Maximum dollar limits for eligible condominium and single family properties under RTC affordable housing program.
- Sec. 13. Changes affecting only FDIC affordable housing program.
- Sec. 14. Changes affecting both RTC and FDIC affordable housing programs.
- Sec. 15. Right of first refusal for tenants to purchase single family property.
- Sec. 16. Preference for sales of real property for use for homeless families.
- Sec. 17. Preferences for sales of commercial properties to public agencies and nonprofit organizations for use in carrying out programs for affordable housing.
- Sec. 18. Federal home loan banks housing opportunity hotline program.
- Sec. 19. Conflict of interest provisions applicable to the FDIC.
- Sec. 20. Restrictions on sales of assets to certain persons.
- Sec. 21. Whistle blower protection.
- Sec. 22. FDIC asset disposition division.
- Sec. 23. Presidentially appointed inspector general for FDIC.
- Sec. 24. Deputy chief executive officer.
- Sec. 25. Due process protections relating to attachment of assets.
- Sec. 26. GAO studies regarding Federal real property disposition.
- Sec. 27. Extension of RTC power to be appointed as conservator or receiver.
- Sec. 28. Final report on RTC and SAIF funding.
- Sec. 29. General Counsel of the Resolution Trust Corporation.
- Sec. 30. Authority to execute contracts.
- Sec. 31. RTC contracting.
- Sec. 32. Definition of property.
- Sec. 33. Sense of the Congress relating to participation of disabled Americans in contracting for delivery of services to financial institution regulatory agencies.
- Sec. 34. Report to Congress by Special Counsel.
- Sec. 35. Reporting requirements.
- Sec. 36. Continuation of conservatorships or receiverships.
- Sec. 37. Exceptions for certain transactions.
- Sec. 38. Bank deposit financial assistance program.

ITALIC

ITALIC1 **SEC. 2. FINAL FUNDING FOR RTC.**

2 Section 21A(i) of the Federal Home Loan Bank Act
3 (12 U.S.C. 1441a(i)) is amended—

4 (1) in paragraph (3), by striking “until April 1,
5 1992”; and

6 (2) by adding at the end the following new
7 paragraphs:

8 “(4) **CONDITIONS ON AVAILABILITY OF FINAL**
9 **FUNDING IN EXCESS OF \$10,000,000,000.—**

10 “(A) **CERTIFICATION REQUIRED.—**Of the
11 funds appropriated under paragraph (3) which
12 are provided after April 1, 1993, any amount in
13 excess of \$10,000,000,000 shall not be available
14 to the Corporation before the date on which the
15 Secretary of the Treasury certifies to the Con-
16 gress that, since the date of enactment of the
17 Resolution Trust Corporation Completion Act,
18 the Corporation has taken such action as may
19 be necessary to comply with the requirements of
20 subsection (w) or that, as of the date of the cer-
21 tification, the Corporation is continuing to
22 make adequate progress toward full compliance
23 with such requirements.

24 “(B) **APPEARANCE UPON REQUEST.—**The
25 Secretary of the Treasury shall appear before
26 the Committee on Banking, Finance and Urban

ITALIC

1 Affairs of the House of Representatives or the
2 Committee on Banking, Housing, and Urban
3 Affairs of the Senate, upon the request of the
4 chairman of the committee, to report on any
5 certification made to the Congress under sub-
6 paragraph (A).

7 “(5) RETURN TO TREASURY.—If the aggregate
8 amount of funds transferred to the Corporation pur-
9 suant to this subsection exceeds the amount needed
10 to carry out the purposes of this section or to meet
11 the requirements of section 11(a)(6)(F) of the Fed-
12 eral Deposit Insurance Act, such excess amount
13 shall be deposited in the general fund of the Treas-
14 ury.

15 “(6) FUNDS ONLY FOR DEPOSITORS.—Notwith-
16 standing any provision of law other than section
17 13(c)(4)(G) of the Federal Deposit Insurance Act,
18 funds appropriated under this section shall not be
19 used in any manner to benefit any shareholder of—

20 “(A) any insured depository institution for
21 which the Corporation has been appointed con-
22 servator or receiver, in connection with any type
23 of resolution by the Corporation;

24 “(B) any other insured depository institu-
25 tion in default or in danger of default, in con-

±

1 nection with any type of ~~resolution~~ by the Cor-
2 poration: or

3 “(C) any insured depository institution, in
4 connection with the provision of assistance
5 under section 11 or 13 of the Federal Deposit
6 Insurance Act with respect to such institution,
7 except that this subparagraph shall not prohibit
8 assistance to any insured depository institution
9 that is not in default, or that is not in danger
10 of default, that is acquiring (as defined in sec-
11 tion 13(f)(8)(B) of such Act) another insured
12 depository institution.”.

13 **SEC. 3. RTC MANAGEMENT REFORMS.**

14 (a) **IN GENERAL.**—Section 21A of the Federal Home
15 **Loan Bank Act** (12 U.S.C. 1441a) is amended by adding
16 at the end the following new subsection:

17 “(w) **RTC MANAGEMENT REFORMS.**—

18 “(1) **COMPREHENSIVE BUSINESS PLAN.**—The
19 **Corporation** shall establish and maintain a com-
20 **prehensive business plan** covering the operations of
21 **the Corporation**, including the disposition of assets,
22 **for the remainder of the Corporation’s existence.**

23 “(2) **MARKETING REAL PROPERTY ON AN INDI-**
24 **VIDUAL BASIS.**—The Corporation shall—

ITALIC

1 “(A) market any undivided or controlling
2 interest in real property, whether held directly
3 or indirectly by an institution described in sub-
4 section (b)(3)(A), on an individual basis, includ-
5 ing sales by auction, for no fewer than 120
6 days before such assets may be made available
7 for sale or other disposition on a portfolio basis
8 or otherwise included in a multiasset sales ini-
9 tiative, except that this subparagraph does not
10 apply to assets that are—

11 “(i) sold simultaneously with a resolu-
12 tion in which a buyer purchases a signifi-
13 cant proportion of the assets and assumes
14 a significant proportion of the liabilities, or
15 acts as agent of the Corporation for pur-
16 poses of paying insured deposits, of an in-
17 stitution described in subsection (b)(3)(A);
18 or

19 “(ii) transferred to a new institution
20 organized pursuant to section 11(d)(2)(F)
21 of the Federal Deposit Insurance Act; and
22 “(B) prescribe regulations—

23 “(i) to require that the sale or other
24 disposition of any asset consisting of real
25 property on a portfolio basis or in connec-

1 tion with any multiasset sales initiative
2 after the end of the 120-day period de-
3 scribed in subparagraph (A) be justified in
4 writing; and

5 (ii) to carry out the requirements of
6 subparagraph (A).

7 “(3) DISPOSITION OF REAL ESTATE RELATED
8 ASSETS.—

9 “(A) PROCEDURES FOR DISPOSITION OF
10 REAL ESTATE-RELATED ASSETS.—The Corpora-
11 tion shall not sell real property or any
12 nonperforming real estate loan which the Cor-
13 poration has acquired as receiver or conserva-
14 tor, unless—

15 “(i) the Corporation has assigned re-
16 sponsibility for the management and dis-
17 position of such asset to a qualified person
18 or entity to—

19 “(I) analyze each asset on an
20 asset-by-asset basis and consider al-
21 ternative disposition strategies for
22 such asset;

23 “(II) develop a written manage-
24 ment and disposition plan; and

1 “(III) implement that plan for a
2 reasonable period of time; or

3 “(ii) the Corporation has made a de-
4 termination in writing that a bulk trans-
5 action would maximize net recovery to the
6 Corporation, while providing opportunity
7 for broad participation by qualified bid-
8 ders, including minority- and women-
9 owned businesses.

10 “(B) DEFINITIONS.—In defining any term
11 for purposes of subparagraph (A), the Corpora-
12 tion may, by regulation, define—

13 “(i) the term ‘asset’ so as to include
14 properties or loans which are legally sepa-
15 rate and distinct properties or loans, but
16 which have sufficiently common character-
17 istics such that they may be logically treat-
18 ed as a single asset; and

19 “(ii) the term ‘qualified person or en-
20 tity’ so as to include any employee of the
21 Thrift Depositor Protection Oversight
22 Board or any employee assigned to the
23 Corporation under subsection (b)(8).

24 “(C) EXCEPTIONS.—This paragraph shall
25 not apply to—

8

1 (i) assets that are—

2 (I) sold simultaneously with a
3 resolution in which a buyer purchases
4 a significant proportion of the assets
5 and assumes a significant proportion
6 of the liabilities (or acts as agent of
7 the Corporation for purposes of pay-
8 ing insured deposits) of an institution
9 described in subsection (b)(3)(A); or

10 (II) transferred to a new insti-
11 tution organized pursuant to section
12 11(d)(2)(F) of the Federal Deposit
13 Insurance Act;

14 (ii) nonperforming real estate loans
15 with a book value of not more than
16 \$1,000,000;

17 (iii) real property with a book value
18 of not more than \$400,000; or

19 (iv) real property with a book value
20 of more than \$400,000 or nonperforming
21 real estate loans with a book value of more
22 than \$1,000,000 for which the Corporation
23 determines, in writing, that a disposition
24 not in conformity with the requirements of

1 subparagraph (A) will bring a greater re-
2 turn to the Corporation.

3 “(D) COORDINATION WITH PARAGRAPH
4 (2).—No provision of this paragraph shall su-
5 persede the requirements of paragraph (2).

6 “(4) DIVISION OF MINORITIES AND WOMEN
7 PROGRAMS.—

8 “(A) IN GENERAL.—The Corporation shall
9 maintain a division of minorities and women
10 programs.

11 “(B) VICE PRESIDENT.—The head of the
12 division shall be a vice president of the Cor-
13 poration and a member of the executive com-
14 mittee of the Corporation.

15 “(5) CHIEF FINANCIAL OFFICER.—

16 “(A) IN GENERAL.—The chief executive of-
17 ficer of the Corporation shall appoint a chief fi-
18 nancial officer for the Corporation.

19 “(B) AUTHORITY.—The chief financial of-
20 ficer of the Corporation shall—

21 “(i) have no operating responsibilities
22 with respect to the Corporation other than
23 as chief financial officer;

24 “(ii) report directly to the chief execu-
25 tive officer of the Corporation; and

1 “(iii) have such authority and duties
2 of chief financial officers of agencies under
3 section 902 of title 31, United States
4 Code, as the Thrift Depositor Protection
5 Oversight Board determines to be appro-
6 priate with respect to the Corporation.

7 “(6) BASIC ORDERING AGREEMENTS.—

8 “(A) REVISION OF PROCEDURES.—The
9 Corporation shall revise the procedure for re-
10 viewing and qualifying applicants for eligibility
11 for future contracts in a specified service area
12 (commonly referred to as ‘basic ordering agree-
13 ments’ or ‘task ordering agreements’) in such
14 manner as may be necessary to ensure that
15 small businesses, minorities, and women are not
16 inadvertently excluded from eligibility for such
17 contracts.

18 “(B) REVIEW OF LISTS.—To ensure the
19 maximum participation level possible of
20 minority- and women-owned businesses, the
21 Corporation shall—

22 “(i) review all lists of contractors de-
23 termined to be eligible for future contracts
24 in a specified service area and other con-
25 tracting mechanisms; and

1 “(ii) prescribe appropriate regulations
2 and procedures.

3 “(7) IMPROVEMENT OF CONTRACTING SYSTEMS
4 AND CONTRACTOR OVERSIGHT.—The Corporation
5 shall—

6 “(A) maintain such procedures and uni-
7 form standards for—

8 “(i) entering into contracts between
9 the Corporation and private contractors;
10 and

11 “(ii) overseeing the performance of
12 contractors and subcontractors under such
13 contracts and compliance by contractors
14 and subcontractors with the terms of con-
15 tracts and applicable regulations, orders,
16 policies, and guidelines of the Corporation,
17 as may be appropriate in carrying out the Cor-
18 poration’s operations in as efficient and eco-
19 nomical a manner as may be practicable;

20 “(B) commit sufficient resources, including
21 personnel, to contract oversight and the en-
22 forcement of all laws, regulations, orders, poli-
23 cies, and standards applicable to contracts with
24 the Corporation; and

ITALIC

1 “(C) maintain uniform procurement guide-
 2 lines for basic goods and administrative services
 3 to prevent the acquisition of such goods and
 4 services at widely different prices.

5 “(B) AUDIT COMMITTEE.—

6 “(A) ESTABLISHMENT.—The Thrift De-
 7 positor Protection Oversight Board shall estab-
 8 lish and maintain an audit committee.

9 “(B) DUTIES.—The audit committee shall
 10 have the following duties:

11 “(i) Monitor the internal controls of
 12 the Corporation.

13 “(ii) Monitor the audit findings and
 14 recommendations of the inspector general
 15 of the Corporation and the Comptroller
 16 General of the United States and the Cor-
 17 poration’s response to the findings and rec-
 18 ommendations.

19 “(iii) Maintain a close working rela-
 20 tionship with the inspector general of the
 21 Corporation and the Comptroller General
 22 of the United States.

23 “(iv) Regularly report the findings
 24 and any recommendation of the audit com-

ITALIC

ITALIC

1 mittee to the Corporation and the Thrift
2 Depositor Protection Oversight Board.

3 “(v) Monitor the financial operations
4 of the Corporation and report any incipient
5 problem identified by the audit committee
6 to the Corporation and the Thrift Depositor
7 Protection Oversight Board.

8 “(C) FEDERAL ADVISORY COMMITTEE ACT
9 NOT APPLICABLE.—The audit committee is not
10 an advisory committee within the meaning of
11 section 3(2) of the Federal Advisory Committee
12 Act.

13 “(9) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Corporation shall—
14

15 “(A) respond to problems identified by
16 auditors of the Corporation’s financial and
17 asset-disposition operations, including problems
18 identified in audit reports by the inspector general
19 of the Corporation, the Comptroller General
20 of the United States, and the audit committee; or
21

22 “(B) certify to the Thrift Depositor Protection Oversight Board that no action is necessary or appropriate.
23
24

1 “(10) ASSISTANT GENERAL COUNSEL FOR PRO-
2 FESSIONAL LIABILITY.—

3 “(A) APPOINTMENT.—The Corporation
4 shall appoint, within the division of legal serv-
5 ices of the Corporation, an assistant general
6 counsel for professional liability.

7 “(B) DUTIES.—The assistant general
8 counsel for professional liability shall—

9 “(i) direct the investigation, evalua-
10 tion, and prosecution of all professional li-
11 ability claims involving the Corporation;
12 and

13 “(ii) supervise all legal, investigative,
14 and other personnel and contractors in-
15 volved in the litigation of such claims.

16 “(C) SEMIANNUAL REPORTS TO THE CON-
17 GRESS.—The assistant general counsel for pro-
18 fessional liability shall submit to the Congress
19 a comprehensive litigation report, not later
20 than—

21 “(i) April 30 of each year for the 6-
22 month period ending on March 31 of that
23 year; and

1 “(ii) October 31 of each year for the
2 6-month period ending on September 30 of
3 that year.

4 “(D) CONTENTS OF REPORTS.—The semi-
5 annual reports required under subparagraph
6 (C) shall each address the activities of the
7 counsel for professional liability under subpara-
8 graph (B) and all civil actions—

9 “(i) in which the Corporation is a
10 party, which are filed against—

11 “(I) directors or officers of de-
12 pository institutions described in sub-
13 section (b)(3)(A); or

14 “(II) attorneys, accountants, ap-
15 praisers, or other licensed profes-
16 sionals who performed professional
17 services for such depository institu-
18 tions; and

19 “(ii) which are initiated or pending
20 during the period covered by the report.

21 “(11) MANAGEMENT INFORMATION SYSTEM.—

22 The Corporation shall maintain an effective manage-
23 ment information system capable of providing com-
24 plete and current information to the extent the pro-

1 vision of such information is appropriate and cost-
2 effective.

3 “(12) INTERNAL CONTROLS AGAINST FRAUD,
4 WASTE, AND ABUSE.—The Corporation shall main-
5 tain effective internal controls designed to prevent
6 fraud, waste, and abuse, identify any such activity
7 should it occur, and promptly correct any such
8 activity.

9 “(13) FAILURE TO APPOINT CERTAIN OFFICERS
10 OF THE CORPORATION.—The failure to fill any posi-
11 tion established under this section or any vacancy in
12 any such position, shall be treated as a failure to
13 comply with the requirements of this subsection for
14 purposes of subsection (i)(4).

15 “(14) REPORTS.—

16 “(A) DISCLOSURE OF EXPENDITURES.—
17 The Corporation shall include in the annual re-
18 port submitted pursuant to subsection (k)(4) an
19 itemization of the expenditures of the Corpora-
20 tion during the year for which funds provided
21 pursuant to subsection (i)(3) were used.

22 “(B) PUBLIC DISCLOSURE OF SALARIES.—
23 The Corporation shall include in the annual re-
24 port submitted pursuant to subsection (k)(4) a
25 disclosure of the salaries and other compensa-

ITALIC

1 tion paid during the year covered by the report
2 to directors and senior executive officers at any
3 depository institution for which the Corporation
4 has been appointed conservator or receiver.

5 “(15) MINORITY- AND WOMEN-OWNED BUSI-
6 NESSES CONTRACT PARITY GUIDELINES.—The Cor-
7 poration shall establish guidelines for achieving the
8 goal of a reasonably even distribution of contracts
9 awarded to the various subgroups of the class of
10 minority- and women-owned businesses and minor-
11 ity- and women-owned law firms whose total num-
12 ber of certified contractors comprise not less than 5
13 percent of all minority- and women-owned certified
14 contractors. The guidelines may reflect the regional
15 and local geographic distributions of minority
16 subgroups. The distribution of contracts should not
17 be accomplished at the expense of any eligible
18 minority- or women-owned business or law firm in
19 any subgroup that falls below the 5 percent thresh-
20 old in any region or locality.

21 “(16) CONTRACT SANCTIONS FOR FAILURE TO
22 COMPLY WITH SUBCONTRACT AND JOINT VENTURE
23 REQUIREMENTS.—The Corporation shall prescribe
24 regulations which provide sanctions, including con-
25 tract penalties and suspensions, for violations by

1 contractors of requirements relating to subcontractors and joint ventures.

3 "(17) MINORITY PREFERENCE IN ACQUISITION
4 OF INSTITUTIONS IN PREDOMINANTLY MINORITY
5 NEIGHBORHOODS.—

6 "(A) IN GENERAL.—In considering offers
7 to acquire any insured depository institution, or
8 any branch of an insured depository institution,
9 located in a predominantly minority neighborhood
10 (as defined in regulations prescribed
11 under subsection (s)), the Corporation shall give
12 preference to an offer from any minority individual,
13 minority-owned business, or a minority
14 depository institution, over any other offer that
15 results in the same cost to the Corporation, as
16 determined under section 13(c)(4) of the Federal
17 Deposit Insurance Act.

18 "(B) CAPITAL ASSISTANCE.—

19 "(i) ELIGIBILITY.—In order to effectuate the purposes of this paragraph, any
20 minority individual, minority-owned business, or a minority depository institution
21 shall be eligible for capital assistance
22 under the minority interim capital assistance program established under subsection
23
24
25

1 (u)(1) and subject to the provisions of sub-
2 section (u)(3), to the extent that such as-
3 sistance is consistent with the application
4 of section 13(c)(4) of the Federal Deposit
5 Insurance Act.

6 (ii) TERMS AND CONDITIONS.—Sub-
7 section (u)(4) shall not apply to capital as-
8 sistance provided under this subparagraph.

9 (C) PERFORMING ASSETS.—In the case of
10 an acquisition of any depository institution or
11 branch described in subparagraph (A) by any
12 minority individual, minority-owned business, or
13 a minority depository institution, the Corpora-
14 tion may provide, in connection with such ac-
15 quisition and in addition to performing assets
16 of the depository institution or branch, other
17 performing assets under the control of the Cor-
18 poration in an amount (as determined on the
19 basis of the Corporation's estimate of the fair
20 market value of the assets) not greater than the
21 amount of net liabilities carried on the books of
22 the institution or branch, including deposits,
23 which are assumed in connection with the ac-
24 quisition.

1 “(D) FIRST PRIORITY FOR DISPOSITION OF
2 ASSETS.—In the case of an acquisition of any
3 depository institution or branch described in
4 subparagraph (A) by any minority individual,
5 minority-owned business, or a minority deposi-
6 tory institution, the disposition of the perform-
7 ing assets of the depository institution or
8 branch to such individual, business, or minority
9 depository institution shall have a first priority
10 over the disposition by the Corporation of such
11 assets for any other purpose.

12 “(E) DEFINITIONS.—For purposes of this
13 paragraph, the following definitions shall apply:

14 “(i) ACQUIRE.—The term ‘acquire’
15 has the same meaning as in section
16 13(f)(8)(B) of the Federal Deposit Insur-
17 ance Act.

18 “(ii) MINORITY.—The term ‘minority’
19 has the same meaning as in section
20 1204(c)(3) of the Financial Institutions
21 Reform, Recovery, and Enforcement Act of
22 1989.

23 “(iii) MINORITY DEPOSITORY INSTI-
24 TUTION.—The term ‘minority depository

1
ITALIC

institution' has the same meaning as in subsection (s)(2).

3 (iv) MINORITY-OWNED BUSINESS.—

4 The term 'minority-owned business' has
5 the same meaning as in subsection (r)(4).

6 (18) SUBCONTRACTS WITH MINORITY- AND
7 WOMEN-OWNED BUSINESSES.—

8 (A) GOALS AND PROCEDURES.—

9 (i) REASONABLE GOALS.—The Cor-
10 poration shall establish reasonable goals
11 for contractors for services with the Cor-
12 poration to subcontract with minority- and
13 women-owned businesses and law firms.

14 (ii) PROCEDURES.—The Corporation
15 may not enter into any contract for the
16 provision of services to the Corporation, in-
17 cluding legal services, under which the con-
18 tractor would receive fees or other com-
19 pensation in an amount equal to or greater
20 than \$500,000, unless the Corporation re-
21 quires the contractor to subcontract with
22 minority- or women-owned businesses, in-
23 cluding law firms, and to pay fees or other
24 compensation to such businesses in an

ITALIC

1 amount commensurate with the percentage
2 of services provided by the business.

3 "(iii) EXCEPTIONS.—The Corporation
4 may exclude a contract from the require-
5 ments of clause (ii) if the Chief Executive
6 Officer of the Corporation determines in
7 writing that imposing such a subcontract-
8 ing requirement would—

9 " (I) substantially increase the
10 cost of contract performance; or

11 " (II) undermine the ability of the
12 contractor to perform its obligations
13 under the contract.

14 "(B) LIMITED WAIVER AUTHORITY.—

15 "(i) IN GENERAL.—The Corporation
16 may grant a waiver from the application of
17 this paragraph to any contractor with re-
18 spect to a contract described in subpara-
19 graph (A)(ii), if the contractor certifies to
20 the Corporation that it has determined
21 that no eligible minority- or women-owned
22 business is available to enter into a sub-
23 contract (with respect to such contract)
24 and provides an explanation of the basis
25 for such determination.

1 “(ii) **WAIVER PROCEDURES.**—Any de-
2 termination to grant a waiver under clause
3 (i) shall be made in writing by the Chief
4 Executive Officer of the Corporation.

5 “(C) **REPORT.**—Each quarterly report sub-
6 mitted by the Corporation pursuant to sub-
7 section (k)(7) shall contain a description of
8 each exception granted under subparagraph
9 (A)(iii) and each waiver granted under subpara-
10 graph (B) during the quarter covered by the re-
11 port.

12 “(D) **DEFINITIONS.**—For purposes of this
13 paragraph, the following definitions shall apply:

14 “(i) **MINORITY.**—The term ‘minority’
15 has the same meaning as in section
16 1204(c)(3) of the Financial Institutions
17 Reform, Recovery, and Enforcement Act of
18 1989.

19 “(ii) **MINORITY- AND WOMEN-OWNED**
20 **BUSINESS.**—The terms ‘minority-owned
21 business’ and ‘women-owned business’ have
22 the same meanings as in subsection (r)(4).

23 “(19) **CONTRACTING PROCEDURES.**—

24 “(A) **PROCEDURES.**—In awarding any con-
25 tract subject to the competitive bidding process,

1 the Corporation shall apply competitive bidding
2 procedures that are no less stringent than those
3 in effect on the date of the enactment of the
4 Resolution Trust Corporation Completion Act.

5 “(B) COST TO TAXPAYER.—Nothing in
6 this Act, or any other provision of law, shall su-
7 persede the Corporation’s primary duty of mini-
8 mizing costs to the taxpayer and maximizing
9 the total return to the Government.

10 “(20) MANAGEMENT OF LEGAL SERVICES.—To
11 improve the management of legal services, the
12 Corporation—

13 “(A) shall utilize staff counsel when such
14 utilization would provide the same level of qual-
15 ity in legal services as the use of outside coun-
16 sel at the same or a lower estimated cost; and

17 “(B) may only employ outside counsel—

18 “(i) if the use of outside counsel
19 would provide the most practicable, effi-
20 cient, and cost-effective resolution to the
21 action; and

22 “(ii) under a negotiated fee, contin-
23 gent fee, or competitively bid fee agree-
24 ment.

ITALIC

1 “(21) CLIENT RESPONSIVENESS UNITS.—The
2 Corporation shall ensure that every regional office of
3 the Corporation contains a client responsiveness unit
4 responsible to the Corporation’s ombudsman.”.

5 (b) BORROWER APPEALS.—Section 21A(b)(4) of the
6 Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4))
7 is amended by adding at the end the following new sub-
8 paragraph:

9 “(C) APPEALS.—The Corporation shall im-
10 plement and maintain a program, in a manner
11 acceptable to the Thrift Depositor Protection
12 Oversight Board, to provide an appeals process
13 for business and commercial borrowers to ap-
14 peal decisions by the Corporation (when acting
15 as a conservator) which would have the effect of
16 terminating or otherwise adversely affecting
17 credit or loan agreements, lines of credit, and
18 similar arrangements with such borrowers who
19 have not defaulted on their obligations.”.

20 (c) GAO STUDY OF PROGRESS OF IMPLEMENTATION
21 OF REFORMS.—

22 (1) STUDY REQUIRED.—The Comptroller Gen-
23 eral of the United States shall conduct a study of
24 the manner in which the reforms required pursuant
25 to the amendment made by subsection (a) are being

1 implemented by the Resolution Trust Corporation
2 and the progress being made by the Corporation to-
3 ward the achievement of full compliance with such
4 requirements.

5 (2) INTERIM REPORT TO CONGRESS.—Not later
6 than 6 months after the date of enactment of this
7 Act, the Comptroller General of the United States
8 shall submit an interim report to the Congress con-
9 taining the preliminary findings of the Comptroller
10 General in connection with the study required under
11 paragraph (1).

12 (3) FINAL REPORT TO CONGRESS.—Not later
13 than 1 year after the date of enactment of this Act,
14 the Comptroller General of the United States shall
15 submit a report to the Congress containing—

16 (A) the findings of the Comptroller Gen-
17 eral in connection with the study required
18 under paragraph (1); and

19 (B) such recommendations for legislative
20 and administrative action as the Comptroller
21 General may determine to be appropriate.

22 (4) DISCLOSURE OF PERFORMING ASSET
23 TRANSFERS.—

24 (A) REPORT REQUIRED.—The Comptroller
25 General of the United States shall submit an

1 annual report to the Congress on transfers of
2 performing assets by the Corporation, cat-
3 egorized by institution, to any acquirer during
4 the year covered by the report.

5 (B) CONTENTS.—Each report submitted
6 under subparagraph (A) shall contain—

7 (i) the number and a description of
8 asset transfers during the year covered by
9 the report;

10 (ii) the number of assets provided in
11 connection with each transaction during
12 such year; and

13 (iii) a report of an audit by the Comp-
14 troller General of the determination of the
15 Corporation of the fair market value of
16 transferred assets at the time of transfer.

17 (d) UTILIZATION OF SERVICES.—Section
18 11(d)(2)(K) of the Federal Deposit Insurance Act (12
19 U.S.C. 1821(d)(2)(K)) is amended—

20 (1) by inserting “legal,” after “auction market-
21 ing,”;

22 (2) by striking “if” and inserting “only if”; and

23 (3) by striking “practicable” and inserting “the
24 most practicable”.

25 (e) RTC NOTICE TO GSA.—

1 (1) IN GENERAL.—Within a reasonable period
2 of time after acquiring an undivided or controlling
3 interest in any commercial office property in its ca-
4 pacity as conservator or receiver, the Corporation
5 shall notify the Administrator of General Services of
6 such acquisition.

7 (2) CONTENTS OF NOTICE.—The notice re-
8 quired under paragraph (1) shall contain basic infor-
9 mation about the property, including—

10 (A) the location and condition of the prop-
11 erty;

12 (B) information relating to the estimated
13 fair market value of the property; and

14 (C) the Corporation's schedule, or estimate
15 of the schedule, for marketing and disposing of
16 the property.

17 (3) COMPETITIVE BIDDING.—The Adminis-
18 trator of General Services, in compliance with regu-
19 lations of the Resolution Trust Corporation, may bid
20 on property described in the notice required under
21 paragraph (1) that is otherwise subject to competi-
22 tive bidding.

ITALIC

1 SEC. 4. EXTENSION OF STATUTE OF LIMITATIONS.

2 (a) IN GENERAL.—Section 21A(b) of the Federal
3 Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended
4 by adding at the end the following new paragraph:

5 “(14) EXTENSION OF STATUTE OF LIMITA-
6 TIONS.—

7 “(A) TORT ACTIONS FOR WHICH THE
8 PRIOR LIMITATION HAS RUN.—

9 “(i) IN GENERAL.—In the case of any
10 tort claim—

11 “(I) which is described in clause
12 (ii); and

13 “(II) for which the applicable
14 statute of limitations under section
15 11(d)(14)(A)(ii) of the Federal De-
16 posit Insurance Act has expired before
17 the date of enactment of the Resolu-
18 tion Trust Corporation Completion
19 Act;

20 the statute of limitations which shall apply
21 to an action brought on such claim by the
22 Corporation in the Corporation’s capacity
23 as conservator or receiver of an institution
24 described in paragraph (3)(A) shall be the
25 period determined under subparagraph
26 (C).

1 “(ii) CLAIMS DESCRIBED.—A tort
2 claim referred to in clause (i)(I) with re-
3 spect to an institution described in para-
4 graph (3)(A) is a claim arising from fraud,
5 intentional misconduct resulting in unjust
6 enrichment, or intentional misconduct re-
7 sulting in substantial loss to the institu-
8 tion.

9 “(B) TORT ACTIONS FOR WHICH THE
10 PRIOR LIMITATION HAS NOT RUN.—

11 “(i) IN GENERAL.—Notwithstanding
12 section 11(d)(14)(A) of the Federal De-
13 posit Insurance Act, in the case of any tort
14 claim—

15 “(I) which is described in clause
16 (ii); and

17 “(II) for which the applicable
18 statute of limitations under section
19 11(d)(14)(A)(ii) of the Federal De-
20 posit Insurance Act has not expired as
21 of the date of enactment of the Reso-
22 lution Trust Corporation Completion
23 Act;

24 the statute of limitations which shall apply
25 to an action brought on such claim by the

1 Corporation in the Corporation's capacity
2 as conservator or receiver of an institution
3 described in paragraph (3)(A) shall be the
4 period determined under subparagraph
5 (C).

6 "(ii) CLAIMS DESCRIBED.—A tort
7 claim referred to in clause (i)(I) with re-
8 spect to an institution described in para-
9 graph (3)(A) is a claim arising from gross
10 negligence or conduct that demonstrates a
11 greater disregard of a duty of care than
12 gross negligence, including intentional
13 tortious conduct relating to the institution.

14 "(C) DETERMINATION OF PERIOD.—The
15 period determined under this subparagraph for
16 any claim to which subparagraph (A) or (B) ap-
17 plies shall be the longer of—

18 "(i) the 5-year period beginning on
19 the date the claim accrues (as determined
20 pursuant to section 11(d)(14)(B) of the
21 Federal Deposit Insurance Act); or

22 "(ii) the period applicable under State
23 law for such claim.

24 "(D) SCOPE OF APPLICATION.—Subpara-
25 graphs (A) and (B) shall not apply to any ac-

ITALIC

1 tion which is brought after the date of the ter-
2 mination of the Corporation under subsection
3 (m)(1)."

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—

5 Section 11(d)(14)(A)(ii) of the Federal Deposit Insurance
6 Act (12 U.S.C. 1821(d)(14)(A)(ii)) is amended by insert-
7 ing "(other than a claim which is subject to section
8 21A(b)(14) of the Federal Home Loan Bank Act)" after
9 "any tort claim".

10 **SEC. 5. LIMITATION ON BONUSES AND COMPENSATION**
11 **PAID BY THE RTC AND THE THRIFT DEPOSI-**
12 **TOR PROTECTION OVERSIGHT BOARD.**

13 (a) IN GENERAL.—Section 21A of the Federal Home
14 Loan Bank Act (12 U.S.C. 1441a) is amended by adding
15 after subsection (w) (as added by section 3(a) of this Act)
16 the following new subsection:

17 **"(x) LIMITATION ON EXCESSIVE COMPENSATION**
18 **AND CASH AWARDS.—**

19 **"(1) ESTABLISHMENT OF PERFORMANCE AP-**
20 **PRAISAL SYSTEM REQUIRED.—**The Corporation shall
21 be treated as an agency for purposes of sections
22 4302 and 4304 of title 5, United States Code.

23 **"(2) PROCEDURES FOR PAYMENT OF CASH**
24 **AWARDS.—**

1 “(A) IN GENERAL.—Sections 4502, 4503,
2 and 4505a of title 5, United States Code, shall
3 apply with respect to the Corporation.

4 “(B) LIMITATION ON AMOUNT OF CASH
5 AWARDS.—For purposes of determining the
6 amount of any performance-based cash award
7 payable to any employee of the Corporation
8 under section 4505a of title 5, United States
9 Code, the amount of basic pay of the employee
10 which may be taken into account under such
11 section shall not exceed the amount which is
12 equal to the annual rate of basic pay payable
13 for level I of the Executive Schedule.

14 “(3) ALL OTHER CASH AWARDS AND BONUSES
15 PROHIBITED.—Except as provided in paragraph (2),
16 no cash award or bonus may be made to any em-
17 ployee of the Corporation.

18 “(4) LIMITATIONS ON CASH AWARDS AND BO-
19 NUSES.—No employee shall receive any cash award
20 or bonus if such employee has given notice of an in-
21 tent to resign to take a position in the private sector
22 before the payment of such cash award or bonus or
23 accepts employment in the private sector not later
24 than 60 days after receipt of such award or bonus.

1 “(5) LIMITATION ON EXCESSIVE COMPENSA-
2 TION.—Except as provided in paragraphs (6) and
3 (7), no employee may receive a total amount of al-
4 lowances, benefits, basic pay, and other compensa-
5 tion, including bonuses and other awards, in excess
6 of the total amount of allowances, benefits, basic
7 pay, and other compensation, including bonuses and
8 other awards, which are provided to the chief execu-
9 tive officer of the Corporation.

10 “(6) NO REDUCTION IN RATE OF PAY.—The
11 annual rate of basic pay and benefits, including any
12 regional pay differential, payable to any employee
13 who was an employee as of the date of enactment of
14 the Resolution Trust Corporation Completion Act
15 for any year ending after such date of enactment
16 shall not be reduced, by reason of paragraph (5),
17 below the annual rate of basic pay and benefits, in-
18 cluding any regional pay differential, paid to such
19 employee, by reason of such employment, as of such
20 date.

21 “(7) EMPLOYEES SERVING IN ACTING OR TEM-
22 PORARY CAPACITY.—In the case of any employee
23 who, as of the date of enactment of the Resolution
24 Trust Corporation Completion Act, is serving in an
25 acting capacity or is otherwise temporarily employed

1 at a higher grade than such employee's regular
2 grade or position of employment—

3 “(A) the annual rate of basic pay and ben-
4 efits, including any regional pay differential,
5 payable to such employee in such capacity or at
6 such higher grade shall not be reduced by rea-
7 son of paragraph (5) so long as such employee
8 continues to serve in such capacity or at such
9 higher grade; and

10 “(B) after such employee ceases to serve in
11 such capacity or at such higher grade, para-
12 graph (6) shall be applied with respect to such
13 employee by taking into account only the an-
14 nual rate of basic pay and benefits, including
15 any regional pay differential, payable to such
16 employee in such employee's regular grade or
17 position of employment.

18 “(8) DEFINITIONS.—

19 “(A) ALLOWANCES.—For purposes of
20 paragraph (5), the term ‘allowances’ does not
21 include any allowance for travel and subsistence
22 expenses incurred by an employee while away
23 from home or designated post of duty on offi-
24 cial business.

1 “(B) EMPLOYEE.—For purposes of this
2 subsection and sections 4302, 4502, 4503, and
3 4505a of title 5, United States Code (as appli-
4 cable with respect to this subsection), the term
5 ‘employee’ includes any officer or employee as-
6 signed to the Corporation under subsection
7 (b)(8) and any officer or employee of the Thrift
8 Depositor Protection Oversight Board.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) AMENDMENT TO TITLE 5.—Section 5314 of
11 title 5, United States Code, is amended by striking
12 the following item:

13 “chief executive officer of the Resolution Trust
14 Corporation.”.

15 (2) FEDERAL HOME LOAN BANK ACT AMEND-
16 MENT.—Section 21A(a)(6) of the Federal Home
17 Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended
18 by adding at the end the following new subpara-
19 graph:

20 “(K) To establish the rate of basic pay,
21 benefits, and other compensation for the chief
22 executive officer of the Corporation.”.

23 **SEC. 6. FDIC—BTC TRANSITION TASK FORCE.**

24 (a) ESTABLISHMENT REQUIRED.—The Federal De-
25 posit Insurance Corporation and the Resolution Trust

1 Corporation shall establish an interagency transition task
2 force. The task force shall facilitate the transfer of the
3 assets, personnel, and operations of the Resolution Trust
4 Corporation to the Federal Deposit Insurance Corporation
5 or the FSLIC Resolution Fund, as the case may be, in
6 a coordinated manner.

7 (b) MEMBERS.—

8 (1) IN GENERAL.—The transition task force
9 shall consist of such number of officers and employ-
10 ees of the Federal Deposit Insurance Corporation
11 and the Resolution Trust Corporation as the Chair-
12 person of the Board of Directors of the Federal De-
13 posit Insurance Corporation and the chief executive
14 officer of the Resolution Trust Corporation may
15 jointly determine to be appropriate.

16 (2) APPOINTMENT.—The Chairperson of the
17 Board of Directors of the Federal Deposit Insurance
18 Corporation and the chief executive officer of the
19 Resolution Trust Corporation shall appoint the
20 members of the transition task force.

21 (3) NO ADDITIONAL PAY.—Members of the
22 transition task force shall receive no additional pay,
23 allowances, or benefits by reason of their service on
24 the task force.

1 (c) DUTIES.—The transition task force shall have the
2 following duties:

3 (1) Examine the operations of the Federal De-
4 posit Insurance Corporation and the Resolution
5 Trust Corporation to identify, evaluate, and resolve
6 differences in the operations of the corporations to
7 facilitate an orderly merger of such operations.

8 (2) Recommend which of the management, res-
9 olution, or asset disposition systems of the Resolu-
10 tion Trust Corporation should be preserved for use
11 by the Federal Deposit Insurance Corporation.

12 (3) Recommend procedures to be followed by
13 the Federal Deposit Insurance Corporation and the
14 Resolution Trust Corporation in connection with the
15 transition which will promote—

16 (A) coordination between the corporations
17 before the termination of the Resolution Trust
18 Corporation; and

19 (B) an orderly transfer of assets, person-
20 nel, and operations.

21 (4) Evaluate the management enhancement
22 goals applicable to the Resolution Trust Corporation
23 under section 21A(p) of the Federal Home Loan
24 Bank Act and recommend which of such goals

1 should apply to the Federal Deposit Insurance Cor-
2 poration.

3 (5) Evaluate the management reforms applica-
4 ble to the Resolution Trust Corporation under sec-
5 tion 21A(w) of the Federal Home Loan Bank Act
6 and recommend which of such reforms should apply
7 to the Federal Deposit Insurance Corporation.

8 (d) REPORTS TO BANKING COMMITTEES.—

9 (1) REPORTS REQUIRED.—The transition task
10 force shall submit a report to the Committee on
11 Banking, Finance and Urban Affairs of the House
12 of Representatives and the Committee on Banking,
13 Housing, and Urban Affairs of the Senate not later
14 than January 1, 1995, and a second report not later
15 than July 1, 1995, on the progress made by the
16 transition task force in meeting the requirements of
17 this section.

18 (2) CONTENTS OF REPORT.—The reports re-
19 quired to be submitted under paragraph (1) shall
20 contain the findings and recommendations made by
21 the transition task force in carrying out the duties
22 of the task force under subsection (c) and such rec-
23 ommendations for legislative and administrative ac-
24 tion as the task force may determine to be appro-
25 priate.

1 (e) FOLLOWUP REPORT BY FDIC.—Not later than
2 January 1, 1996, the Federal Deposit Insurance Corpora-
3 tion shall submit a report to the Committee on Banking,
4 Finance and Urban Affairs of the House of Representa-
5 tives and the Committee on Banking, Housing, and Urban
6 Affairs of the Senate containing—

7 (1) a description of the recommendations of the
8 transition task force which have been adopted by the
9 Corporation;

10 (2) a description of the recommendations of the
11 transition task force which have not been adopted by
12 the Corporation;

13 (3) a detailed explanation of the reasons why
14 the Corporation did not adopt each recommendation
15 described in paragraph (2); and

16 (4) a description of the actions taken by the
17 Corporation to comply with section 21A(m)(3) of the
18 Federal Home Loan Bank Act.

19 **SEC. 7. AMENDMENTS RELATING TO THE TERMINATION OF**
20 **THE ETC.**

21 (a) **AMENDMENT RELATING TO TRANSFER OF PER-**
22 **SONNEL AND SYSTEMS.**—Section 21A(m) of the Federal
23 Home Loan Bank Act (12 U.S.C. 1441a(m)) is amended
24 by adding at the end the following new paragraph:

1 “(3) TRANSFER OF PERSONNEL AND SYS-
2 TEMS.—In connection with the assumption by the
3 Federal Deposit Insurance Corporation of
4 conservatorship and receivership functions with re-
5 spect to institutions described in subsection
6 (b)(3)(A) and the termination of the Corporation
7 pursuant to paragraph (1)—

8 “(A) any management, resolution, or asset-
9 disposition system of the Corporation which the
10 Secretary of the Treasury determines, after
11 considering the recommendations of the inter-
12 agency transition task force under section 6(c)
13 of the Resolution Trust Corporation Completion
14 Act, has been of benefit to the operations of the
15 Corporation (including any personal property of
16 the Corporation which is used in operating any
17 such system) shall, notwithstanding paragraph
18 (2), be transferred to and used by the Federal
19 Deposit Insurance Corporation in a manner
20 which preserves the integrity of the system for
21 so long as such system is efficient and cost-ef-
22 fective; and

23 “(B) any personnel of the Corporation in-
24 volved with any such system who are otherwise
25 eligible to be transferred to the Federal Deposit

1 Insurance Corporation shall be transferred to
2 the Federal Deposit Insurance Corporation for
3 continued employment, subject to section
4 404(9) of the Financial Institutions Reform,
5 Recovery, and Enforcement Act of 1989 and
6 other applicable provisions of this section, with
7 respect to such system.”.

8 (b) AMENDMENT RELATING TO DATE OF TERMI-
9 NATION.—Section 21A(m)(1) of the Federal Home Loan
10 Bank Act (12 U.S.C. 1441a(m)(1)) is amended by strik-
11 ing “December 31, 1996” and inserting “December 31,
12 1995”.

13 **SEC. 8. SAIF FUNDING AUTHORIZATION AMENDMENTS.**

14 (a) AMENDMENT TO SAIF FUNDING PROVISION.—
15 Section 11(a)(6)(D) of the Federal Deposit Insurance Act
16 (12 U.S.C. 1821(a)(6)(D)) is amended to read as follows:

17 “(D) TREASURY PAYMENTS TO FUND.—To
18 the extent of the availability of amounts pro-
19 vided in appropriation Acts and subject to sub-
20 paragraphs (E) and (G), the Secretary of the
21 Treasury shall pay to the Savings Association
22 Insurance Fund such amounts as may be need-
23 ed to pay losses incurred by the Fund in fiscal
24 years 1994 through 1998.”.

1 (b) CERTIFICATION OF NEED FOR FUNDS AND
2 OTHER CONDITIONS ON SAIF FUNDING.—Section
3 11(a)(6)(E) of the Federal Deposit Insurance Act (12
4 U.S.C. 1821(a)(6)(E)) is amended to read as follows:

5 “(E) CERTIFICATION CONDITIONS ON
6 AVAILABILITY OF FUNDING.—No amount ap-
7 propriated for payments by the Secretary of the
8 Treasury in accordance with subparagraph (D)
9 for any fiscal year may be expended unless the
10 Chairperson of the Board of Directors certifies
11 to the Congress, at any time before the begin-
12 ning of or during such fiscal year, that—

13 “(i) such amount is needed to pay for
14 losses which have been incurred or can rea-
15 sonably be expected to be incurred by the
16 Savings Association Insurance Fund;

17 “(ii) the Board of Directors has deter-
18 mined that—

19 “(I) Savings Association Insur-
20 ance Fund members, in the aggregate,
21 are unable to pay additional semi-
22 annual assessments under section 7(b)
23 at the assessment rates which would
24 be required in order to cover, from
25 such additional assessments, losses

1 which have been incurred or can rea-
2 sonably be expected to be incurred by
3 the Fund without adversely affecting
4 the ability of such members to raise
5 and maintain capital or to maintain
6 the members' assessment base; and

7 “(II) an increase in the assess-
8 ment rates for Savings Association In-
9 surance Fund members to cover such
10 losses could reasonably be expected to
11 result in greater losses to the Govern-
12 ment;

13 “(iii) the Board of Directors has de-
14 termined that—

15 “(I) Savings Association Insur-
16 ance Fund members, in the aggregate,
17 are unable to pay additional semi-
18 annual assessments under section 7(b)
19 at the assessment rates which would
20 be required in order to meet the re-
21 payment schedule required under sec-
22 tion 14(c) for any amount borrowed
23 under section 14(a) to cover losses
24 which have been incurred or can rea-
25 sonably be expected to be incurred by

ITALIC

1 the Fund without adversely affecting
2 the ability of such members to raise
3 and maintain capital or to maintain
4 the members' assessment base; and
5 “(II) an increase in the assess-
6 ment rates for Savings Association In-
7 surance Fund members to meet any
8 such repayment schedule could rea-
9 sonably be expected to result in great-
10 er losses to the Government;
11 “(iv) as of the date of certification,
12 the Corporation has in effect procedures
13 designed to ensure that the activities of the
14 Savings Association Insurance Fund and
15 the affairs of any Savings Association In-
16 surance Fund member for which a con-
17 servator or receiver has been appointed are
18 conducted in an efficient manner and the
19 Corporation is in compliance with such
20 procedures;
21 “(v) with respect to the most recent
22 audit of the Savings Association Insurance
23 Fund by the Comptroller General of the
24 United States before the date of the
25 certification—

1 “(I) the Corporation has taken or
2 is taking appropriate action to imple-
3 ment any recommendation made by
4 the Comptroller General; or

5 “(II) no corrective action is nec-
6 essary or appropriate;

7 “(vi) the Corporation has provided for
8 the appointment of a chief financial officer
9 who—

10 “(I) does not have other operat-
11 ing responsibilities;

12 “(II) will report directly to the
13 Chairperson of the Corporation; and

14 “(III) will have such authority
15 and duties of chief financial officers
16 under section 902 of title 31, United
17 States Code, as the Board of Direc-
18 tors of the Corporation determines to
19 be appropriate with respect to the
20 Corporation;

21 “(vii) the Corporation has provided
22 for the appointment of a senior officer
23 whose responsibilities shall include setting
24 uniform standards for contracting and con-

1 tracting enforcement in connection with
2 the administration of the Fund:

3 “(viii) the Corporation is implement-
4 ing the minority outreach provisions man-
5 dated by section 1216 of the Financial In-
6 stitutions Reform, Recovery, and Enforce-
7 ment Act of 1989;

8 “(ix) the Corporation has provided for
9 the appointment of a senior attorney, at
10 the assistant general counsel level or
11 above, responsible for professional liability
12 cases; and

13 “(x) the Corporation has improved the
14 management of legal services by—

15 “(I) utilizing staff counsel when
16 such utilization would provide the
17 same level of quality in legal services
18 as the use of outside counsel at the
19 same or a lower estimated cost; and

20 “(II) employing outside counsel
21 only if the use of outside counsel
22 would provide the most practicable,
23 efficient, and cost-effective resolution
24 to the action and only under a nego-

1 tiated fee, contingent fee, or competi-
2 tively bid fee agreement.”

3 (c) AVAILABILITY OF UNEXPENDED RTC FUNDING
4 FOR SAIF.—Section 11(a)(6)(F) of the Federal Deposit
5 Insurance Act (12 U.S.C. 1821(a)(6)(F)) is amended to
6 read as follows:

7 “(F) AVAILABILITY OF RTC FUNDING.—At
8 any time before the end of the 2-year period be-
9 ginning on the date of the termination of the
10 Resolution Trust Corporation, the Secretary of
11 the Treasury shall provide, out of funds appro-
12 priated to the Resolution Trust Corporation
13 pursuant to section 21A(i)(3) of the Federal
14 Home Loan Bank Act and not expended by the
15 Resolution Trust Corporation, to the Savings
16 Association Insurance Fund, for any year such
17 amounts as are needed by the Fund and are
18 not needed by the Resolution Trust Corpora-
19 tion, if the Chairperson of the Board of Direc-
20 tors has certified to the Congress that—

21 “(i) such amount is needed to pay for
22 losses which have been incurred or can rea-
23 sonably be expected to be incurred by the
24 Savings Association Insurance Fund;

ITALIC

IC

1 “(ii) the Board of Directors has deter-
2 mined that—

3 “(I) Savings Association Insur-
4 ance Fund members, in the aggregate,
5 are unable to pay additional semi-
6 annual assessments under section 7(b)
7 at the assessment rates which would
8 be required in order to cover, from
9 such additional assessments, losses
10 which have been incurred or can rea-
11 sonably be expected to be incurred by
12 the Savings Association Insurance
13 Fund without adversely affecting the
14 ability of such members to raise and
15 maintain capital or to maintain the
16 members' assessment base; and

17 “(II) an increase in the assess-
18 ment rates for Savings Association In-
19 surance Fund members to cover such
20 losses could reasonably be expected to
21 result in greater losses to the Govern-
22 ment;

23 “(iii) the Board of Directors has de-
24 termined that—

1 “(I) Savings Association Insur-
2 ance Fund members, in the aggregate,
3 are unable to pay additional semi-
4 annual assessments under section 7(b)
5 at the assessment rates which would
6 be required in order to meet the re-
7 payment schedule required under sec-
8 tion 14(c) for any amount borrowed
9 under section 14(a) to cover losses
10 which have been incurred or can rea-
11 sonably be expected to be incurred by
12 the Savings Association Insurance
13 Fund without adversely affecting the
14 ability of such members to raise and
15 maintain capital or to maintain such
16 members’ assessment base; and

17 “(II) an increase in the assess-
18 ment rates for Savings Association In-
19 surance Fund members to meet any
20 such repayment schedule could rea-
21 sonably be expected to result in great-
22 er losses to the Government;

23 “(iv) the Corporation has provided for
24 the appointment of a chief financial officer
25 who—

1 “(I) does not have other operat-
2 ing responsibilities;

3 “(II) will report directly to the
4 Chairperson of the Corporation; and

5 “(III) will have such authority
6 and duties of chief financial officers
7 under section 902 of title 31, United
8 States Code, as the Board of Direc-
9 tors of the Corporation determines to
10 be appropriate with respect to the
11 Corporation;

12 “(v) the Corporation has provided for
13 the appointment of a senior officer whose
14 responsibilities shall include setting uni-
15 form standards for contracting and con-
16 tracting enforcement in connection with
17 the administration of the Fund;

18 “(vi) the Corporation is implementing
19 the minority outreach provisions mandated
20 by section 1216 of the Financial Institu-
21 tions Reform, Recovery, and Enforcement
22 Act of 1989;

23 “(vii) the Corporation has provided
24 for the appointment of a senior attorney,
25 at the assistant general counsel level or

1 above, responsible for professional liability
2 cases: and

3 "(viii) the Corporation has improved
4 the management of legal services by—

5 "(I) utilizing staff counsel when
6 such utilization would provide the
7 same level of quality in legal services
8 as the use of outside counsel at the
9 same or a lower estimated cost; and

10 "(II) employing outside counsel
11 only if the use of outside counsel
12 would provide the most practicable,
13 efficient, and cost-effective resolution
14 to the action and only under a nego-
15 tiated fee, contingent fee, or competi-
16 tively bid fee agreement."

17 (d) APPEARANCES BEFORE THE BANKING COMMIT-
18 TEES.—Section 11(a)(6)(H) of the Federal Deposit Insur-
19 ance Act (12 U.S.C. 1821(a)(6)(H)) is amended to read
20 as follows:

21 "(H) APPEARANCE UPON REQUEST.—The
22 Secretary of the Treasury and the Chairperson
23 of the Board of Directors of the Federal De-
24 posit Insurance Corporation shall appear before
25 the Committee on Banking, Finance and Urban

1 Affairs of the House of Representatives or the
2 Committee on Banking, Housing, and Urban
3 Affairs of the Senate, upon the request of the
4 chairman of the committee, to report on any
5 certification made to the Congress under sub-
6 paragraph (E) or (F).”.

7 (e) AMENDMENTS TO AUTHORIZATION OF APPRO-
8 PRIATION.—Section 11(a)(6)(J) of the Federal Deposit
9 Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

10 (1) by striking “There are” and inserting “Sub-
11 ject to subparagraph (E), there are”; and

12 (2) by striking “of this paragraph, except” and
13 all that follows through the period and inserting the
14 following: “of subparagraph (D) for fiscal years
15 1994 through 1998, except that the aggregate
16 amount appropriated pursuant to this authorization
17 may not exceed \$8,000,000,000.”.

18 (f) RETURN OF TRANSFERRED AND UNEXPENDED
19 AMOUNTS TO TREASURY.—Section 11(a)(6) of the Fed-
20 eral Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is
21 amended by adding at the end the following new subpara-
22 graph:

23 “(K) RETURN TO TREASURY.—If the ag-
24 gregate amount of funds transferred to the Sav-
25 ings Association Insurance Fund under sub-

1 paragraph (D) or (F) exceeds the amount need-
2 ed to cover losses incurred by the Fund, such
3 excess amount shall be deposited in the general
4 fund of the Treasury.”.

5 (g) GAO REPORT.—Not later than 60 days after re-
6 ceipt of any certification submitted pursuant to subpara-
7 graph (E) or (F) of section 11(a)(6) of the Federal De-
8 posit Insurance Act, the Comptroller General shall trans-
9 mit a report to the Congress evaluating any such certifi-
10 cation.

11 (h) ADJUSTMENT OF SAIF SCHEDULE.—Effective
12 on the effective date of the amendment made by section
13 302(a) of the Federal Deposit Insurance Corporation Im-
14 provement Act of 1991, section 7(b)(3)(C) of the Federal
15 Deposit Insurance Act (12 U.S.C. 1817(b)(3)(C)) is
16 amended by striking “, but such amendments may not ex-
17 tend the date specified in subparagraph (B)” and insert-
18 ing “and such amendment may extend the date specified
19 in subparagraph (B) to such later date as the Corporation
20 determines will, over time, maximize the amount of semi-
21 annual assessments received by the Savings Association
22 Insurance Fund, net of insurance losses incurred by the
23 Fund.”.

1 (i) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Section 11(a)(6)(G) of the Federal Deposit Insurance Act
3 (12 U.S.C. 1821(a)(6)(G)) is amended—

4 (1) by striking “subparagraphs (E) and (F)”
5 and inserting “subparagraph (D)”; and

6 (2) in the heading, by striking “SUBPARA-
7 GRAPHS (E) AND (F)” and inserting “SUBPARAGRAPH
8 (D)”.

9 **SEC. 9. MORATORIUM EXTENSION.**

10 (a) CONVERSION MORATORIUM UNTIL SAIF RECAPI-
11 TALIZED.—Section 5(d)(2)(A)(ii) of the Federal Deposit
12 Insurance Act (12 U.S.C. 1815(d)(2)(A)(ii)) is
13 amended—

14 (1) by striking “before the end” and inserting
15 “before the later of the end”; and

16 (2) by inserting “or the date on which the Sav-
17 ings Association Insurance Fund first meets or ex-
18 ceeds the designated reserve ratio for such fund” be-
19 fore the period.

20 (b) CLARIFICATION OF DEFINITION.—Section
21 5(d)(2)(B) of the Federal Deposit Insurance Act (12
22 U.S.C. 1815(d)(2)(B)) is amended—

23 (1) by striking the period at the end of clause
24 (iv) and inserting “; and”; and

25 (2) by adding at the end the following:

1 “(v) the transfer of deposits—
2 “(I) from a Bank Insurance
3 Fund member to a Savings Associa-
4 tion Insurance Fund member; or
5 “(II) from a Savings Association
6 Insurance Fund member to a Bank
7 Insurance Fund member;
8 in a transaction in which the deposit is re-
9 ceived from a depositor at an insured de-
10 pository institution for which a receiver
11 has been appointed and the receiving in-
12 sured depository institution is acting as
13 agent for the Corporation in connection
14 with the payment of such deposit to the
15 depositor at the institution for which a re-
16 ceiver has been appointed.”.

17 (c) **TECHNICAL AND CONFORMING AMENDMENTS.—**
18 Section 5(d) of the Federal Deposit Insurance Act (12
19 U.S.C. 1815(d)) is amended—
20 (1) in clauses (ii) and (iii) of paragraph (2)(C);
21 and
22 (2) in paragraph (3)(I)(i);
23 by striking “5-year period referred to in” and inserting
24 “moratorium period established by”.

ITALIC

1 **SEC. 10. REPAYMENT SCHEDULE FOR PERMANENT FDIC**
2 **BORROWING AUTHORITY.**

3 Section 14(c) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1824(c)) is amended by adding at the end the
5 following new paragraph:

6 “(3) **INDUSTRY REPAYMENT.**—

7 “(A) **BIF MEMBER PAYMENTS.**—No agree-
8 ment or repayment schedule under paragraph
9 (1) shall require any payment by a Bank Insur-
10 ance Fund member for funds obtained under
11 subsection (a) for purposes of the Savings Asso-
12 ciation Fund.

13 “(B) **SAIF MEMBER PAYMENTS.**—No
14 agreement or repayment schedule under para-
15 graph (1) shall require any payment by a Sav-
16 ings Association Insurance Fund member for
17 funds obtained under subsection (a) for pur-
18 poses of the Bank Insurance Fund.”.

19 **SEC. 11. DEPOSIT INSURANCE FUNDS.**

20 Section 11(a)(4) of the Federal Deposit Insurance
21 Act (12 U.S.C. 1821(a)(4)) is amended to read as follows:

22 “(4) **GENERAL PROVISIONS RELATING TO**
23 **FUNDS.**—

24 “(A) **MAINTENANCE AND USE OF**
25 **FUNDS.**—The Bank Insurance Fund established
26 under paragraph (5) and the Savings Associa-

1 tion Insurance Fund established under para-
2 graph (6) shall each be—

3 “(i) maintained and administered by
4 the Corporation;

5 “(ii) maintained separately and not
6 commingled; and

7 “(iii) used by the Corporation to carry
8 out its insurance purposes in the manner
9 provided in this subsection.

10 “(B) LIMITATION ON USE.—Notwithstand-
11 ing any provision of law other than section
12 13(c)(4)(G), the Bank Insurance Fund and the
13 Savings Association Insurance Fund shall not
14 be used in any manner to benefit any share-
15 holder of—

16 “(i) any insured depository institution
17 for which the Corporation or the Resolu-
18 tion Trust Corporation has been appointed
19 conservator or receiver, in connection with
20 any type of resolution by the Corporation
21 or the Resolution Trust Corporation;

22 “(ii) any other insured depository in-
23 stitution in default or in danger of default,
24 in connection with any type of resolution

1 by the Corporation or the Resolution Trust
2 Corporation: or

3 "(iii) any insured depository institu-
4 tion, in connection with the provision of as-
5 sistance under this section or section 13
6 with respect to such institution, except
7 that this clause shall not prohibit any as-
8 sistance to any insured depository institu-
9 tion that is not in default, or that is not
10 in danger of default, that is acquiring (as
11 defined in section 13(f)(8)(B)) another in-
12 sured depository institution."

13 **SEC. 12. MAXIMUM DOLLAR LIMITS FOR ELIGIBLE CON-**
14 **DOMINIUM AND SINGLE FAMILY PROPERTIES**
15 **UNDER RTC AFFORDABLE HOUSING PRO-**
16 **GRAM.**

17 Section 21A(c)(9) of the Federal Home Loan Bank
18 Act (12 U.S.C. 1441a(c)(9)) is amended—

19 (1) in subparagraph (D), by striking clause (ii)
20 and inserting the following new clause:

21 "(ii) that has an appraised value that
22 does not exceed—

23 "(I) \$67,500 in the case of a 1-
24 family residence, \$76,000 in the case
25 of a 2-family residence, \$92,000 in

1 the case of a 3-family residence, and
2 \$107,000 in the case of a 4-family
3 residence; or

4 “(II) only to the extent or in
5 such amounts as are provided in ap-
6 propriation Acts for additional costs
7 and losses to the Corporation result-
8 ing from this subclause taking effect,
9 the amount provided in section
10 203(b)(2)(A) of the National Housing
11 Act, except that such amount shall
12 not exceed \$101,250 in the case of a
13 1-family residence, \$114,000 in the
14 case of a 2-family residence, \$138,000
15 in the case of a 3-family residence,
16 and \$160,500 in the case of a 4-fam-
17 ily residence.”; and

18 (2) in subparagraph (G)—

19 (A) by moving subclause (I) two ems to
20 the left and redesignating such subclause as
21 clause (i); and

22 (B) by striking subclause (II) and insert-
23 ing the following new clause:

24 “(ii) that has an appraised value that
25 does not exceed—

1 “(I) \$67,500 in the case of a 1-
2 family residence, \$76,000 in the case
3 of a 2-family residence, \$92,000 in
4 the case of a 3-family residence, and
5 \$107,000 in the case of a 4-family
6 residence; or

7 “(II) only to the extent or in
8 such amounts as are provided in ap-
9 propriation Acts for additional costs
10 and losses to the Corporation result-
11 ing from this subclause taking effect,
12 the amount provided in section
13 203(b)(2)(A) of the National Housing
14 Act, except that such amount shall
15 not exceed \$101,250 in the case of a
16 1-family residence, \$114,000 in the
17 case of a 2-family residence, \$138,000
18 in the case of a 3-family residence,
19 and \$160,500 in the case of a 4-fam-
20 ily residence.”.

21 **SEC. 13. CHANGES AFFECTING ONLY FDIC AFFORDABLE**
22 **HOUSING PROGRAM.**

23 Section 40(p) of the Federal Deposit Insurance Act
24 (12 U.S.C. 1831q(p)) is amended in paragraphs (4)(A),
25 (5)(A), and (7)(A), by inserting before “; and” each place

1 it appears the following: "in its corporate capacity, its ca-
2 pacity as conservator, or its capacity as receiver (including
3 in its capacity as the sole owner of a subsidiary corpora-
4 tion of a depository institution under conservatorship or
5 receivership, which subsidiary has as its principal business
6 the ownership of real property)".

7 **SEC. 14. CHANGES AFFECTING BOTH RTC AND FDIC AF-**
8 **FORDABLE HOUSING PROGRAMS.**

9 (a) **NOTICE TO CLEARINGHOUSES REGARDING PROP-**
10 **ERTIES NOT INCLUDED IN PROGRAMS.—**

11 (1) **RTC.—**Section 21A(c) of the Federal Home
12 **Loan Bank Act (12 U.S.C. 1441a(c)) is amended by**
13 **adding at the end the following new paragraph:**

14 **"(16) NOTICE TO CLEARINGHOUSES REGARD-**
15 **ING INELIGIBLE PROPERTIES.—**

16 **"(A) IN GENERAL.—**Within a reasonable
17 **period of time after acquiring title to an ineli-**
18 **gible residential property, the Corporation shall,**
19 **to the extent practicable, provide written notice**
20 **to clearinghouses.**

21 **"(B) CONTENT.—**For ineligible single fam-
22 **ily properties, such notice shall contain the**
23 **same information about such properties that**
24 **the notice required under paragraph (2)(A) con-**
25 **tains with respect to eligible single family prop-**

1 erties. For ineligible multifamily housing prop-
2 erties, such notice shall contain the same infor-
3 mation about such properties that the notice re-
4 quired under paragraph (3)(A) contains with
5 respect to eligible multifamily housing prop-
6 erties. For ineligible condominium properties,
7 such notice shall contain the same information
8 about such properties that the notice required
9 under paragraph (14)(A) contains with respect
10 to eligible condominium properties.

11 “(C) AVAILABILITY.—The clearinghouses
12 shall make such information available, upon re-
13 quest, to other public agencies, other nonprofit
14 organizations, qualifying households, qualifying
15 multifamily purchasers, and other purchasers,
16 as appropriate.

17 “(D) DEFINITIONS.—For purposes of this
18 paragraph, the following definitions shall apply:

19 “(i) INELIGIBLE CONDOMINIUM PROP-
20 ERTY.—The term ‘ineligible condominium
21 property’ means a condominium unit, as
22 such term is defined in section 604 of the
23 Housing and Community Development Act
24 of 1980—

1 owner of a subsidiary corporation of a
2 depository institution under
3 conservatorship, which subsidiary cor-
4 poration has as its principal business
5 the ownership of real property):

6 “(II) that has an appraised value
7 that does not exceed, for such part of
8 the property as may be attributable to
9 dwelling use (excluding exterior land
10 improvements), the dollar amount lim-
11 itations under paragraph
12 (9)(E)(i)(II); and

13 “(III) that is not an eligible mul-
14 tifamily housing property.

15 “(iii) **INELIGIBLE SINGLE FAMILY**
16 **PROPERTY.**—The term ‘ineligible single
17 family property’ means a 1- to 4-family
18 residence (including a manufactured
19 home)—

20 “(I) to which the Corporation ac-
21 quires title in its corporate capacity,
22 its capacity as conservator, or its ca-
23 pacity as receiver (including its capac-
24 ity as the sole owner of a subsidiary
25 corporation of a depository institution

1 under conservatorship or receivership.
2 which subsidiary corporation has as
3 its principal business the ownership of
4 real property):

5 “(II) that has an appraised value
6 that does not exceed the applicable
7 dollar amount limitation for the prop-
8 erty under paragraph (9)(G)(ii)(II);
9 and

10 “(III) that is not an eligible sin-
11 gle family property.

12 “(iv) **INELIGIBLE RESIDENTIAL PROP-**
13 **ERTY.—**The term ‘ineligible residential
14 property’ includes ineligible single family
15 properties, ineligible multifamily housing
16 properties, and ineligible condominium
17 properties.”

18 (2) **FDIC.—**Section 40 of the Federal Deposit
19 Insurance Act (12 U.S.C. 1831q) is amended by
20 adding at the end the following new subsection:

21 “(q) **NOTICE TO CLEARINGHOUSES REGARDING IN-**
22 **ELIGIBLE PROPERTIES.—**

23 “(1) **IN GENERAL.—**Within a reasonable period
24 of time after acquiring title to an ineligible residen-

ITALIC

1 tial property, the Corporation shall, to the extent
2 practicable, provide written notice to clearinghouses.

3 "(2) CONTENT.—For ineligible single family
4 properties, such notice shall contain the same infor-
5 mation about such properties that the notice re-
6 quired under subsection (c)(1) contains with respect
7 to eligible single family properties. For ineligible
8 multifamily housing properties, such notice shall
9 contain the same information about such properties
10 that the notice required under subsection (d)(1) con-
11 tains with respect to eligible multifamily housing
12 properties. For ineligible condominium properties,
13 such notice shall contain the same information about
14 such properties that the notice required under sub-
15 section (l)(1) contains with respect to eligible con-
16 dominium properties.

17 "(3) AVAILABILITY.—The clearinghouses shall
18 make such information available, upon request, to
19 other public agencies, other nonprofit organizations,
20 qualifying households, qualifying multifamily pur-
21 chasers, and other purchasers, as appropriate.

22 "(4) DEFINITIONS.—For purposes of this sub-
23 section, the following definitions shall apply:

24 "(A) INELIGIBLE CONDOMINIUM PROP-
25 ERTY.—The term 'ineligible condominium prop-

1 erty' means any eligible condominium property
2 to which the provisions of this section do not
3 apply as a result of the limitations under sub-
4 section (b)(2)(A).

5 “(B) INELIGIBLE MULTIFAMILY HOUSING
6 PROPERTY.—The term ‘ineligible multifamily
7 housing property’ means any eligible multifam-
8 ily housing property to which the provisions of
9 this section do not apply as a result of the limi-
10 tations under subsection (b)(2)(A).

11 “(C) INELIGIBLE SINGLE FAMILY PROP-
12 ERTY.—The term ‘ineligible single family prop-
13 erty’ means any eligible single family property
14 to which the provisions of this section do not
15 apply as a result of the limitations under sub-
16 section (b)(2)(A).

17 “(D) INELIGIBLE RESIDENTIAL PROP-
18 ERTY.—The term ‘ineligible residential prop-
19 erty’ includes ineligible single family properties,
20 ineligible multifamily housing properties, and
21 ineligible condominium properties.”.

22 (b) AFFORDABLE HOUSING ADVISORY BOARD.—

23 (1) ESTABLISHMENT.—There is hereby estab-
24 lished the Affordable Housing Advisory Board (in
25 this subsection referred to as the “Advisory Board”)

1 to advise the Thrift Depositor Protection Oversight
2 Board and the Board of Directors of the Federal
3 Deposit Insurance Corporation on policies and pro-
4 grams related to the provision of affordable housing,
5 including the operation of the affordable programs.

6 (2) MEMBERSHIP.—The Advisory Board shall
7 consist of—

8 (A) the Secretary of Housing and Urban
9 Development;

10 (B) the Chairperson of the Board of Direc-
11 tors of the Federal Deposit Insurance Corpora-
12 tion (or the Chairperson's delegate), who shall
13 be a nonvoting member;

14 (C) the Chairperson of the Thrift Deposi-
15 tor Protection Oversight Board (or the Chair-
16 person's delegate), who shall be a nonvoting
17 member;

18 (D) 4 persons appointed by the Secretary
19 of Housing and Urban Development not later
20 than the expiration of the 90-day period begin-
21 ning on the date of the enactment of this Act,
22 who represent the interests of individuals and
23 organizations involved in using the affordable
24 housing programs (including nonprofit organi-
25 zations, public agencies, and for-profit organiza-

1 tions that purchase properties under the afford-
2 able housing programs, organizations that pro-
3 vide technical assistance regarding the afford-
4 able housing programs, and organizations that
5 represent the interest of low- and moderate-in-
6 come families); and

7 (E) 2 persons who are members of the Na-
8 tional Housing Advisory Board pursuant to sec-
9 tion 21A(d)(2)(B)(ii) of the Federal Home
10 Loan Bank Act (as in effect before the effective
11 date of the repeal under subsection (c)(2)), who
12 shall be appointed by such Board before such
13 effective date.

14 (3) TERMS.—Each member shall be appointed
15 for a term of 4 years, except as provided in para-
16 graphs (4) and (5).

17 (4) TERMS OF INITIAL APPOINTEES.—

18 (A) PERMANENT POSITIONS.—As des-
19 ignated by the Secretary of Housing and Urban
20 Development at the time of appointment, of the
21 members first appointed under paragraph
22 (2)(D)—

23 (i) 1 shall be appointed for a term of
24 1 year;

1 (ii) 1 shall be appointed for a term of
2 2 years:

3 (iii) 1 shall be appointed for a term of
4 3 years: and

5 (iv) 1 shall be appointed for a term of
6 4 years.

7 (B) INTERIM MEMBERS.—The members of
8 the Advisory Board under paragraph (2)(E)
9 shall be appointed for a single term of 4 years,
10 which shall begin upon the earlier of (i) the ex-
11 piration of the 90-day period beginning on the
12 date of the enactment of this Act, or (ii) the
13 first meeting of the Advisory Board.

14 (5) VACANCIES.—Any member appointed to fill
15 a vacancy occurring before the expiration of the
16 term for which the member's predecessor was ap-
17 pointed shall be appointed only for the remainder of
18 that term. A member may serve after the expiration
19 of that member's term until a successor has taken
20 office. A vacancy in the Commission shall be filled
21 in the manner in which the original appointment was
22 made.

23 (6) MEETINGS.—

24 (A) TIMING AND LOCATION.—The Advi-
25 sory Board shall meet 4 times a year, or more

1 frequently if requested by the Thrift Depositor
2 Protection Oversight Board or the Board of Di-
3 rectors of the Federal Deposit Insurance Cor-
4 poration. In each year, the Advisory Board
5 shall conduct such meetings at various locations
6 in different regions of the United States in
7 which substantial residential property assets of
8 the Federal Deposit Insurance Corporation or
9 the Resolution Trust Corporation are located.
10 The first meeting of the Advisory Board shall
11 take place not later than the expiration of the
12 90-day period beginning on the date of the en-
13 actment of this Act.

14 (B) ADVICE.—The Advisory Board shall
15 submit information and advice resulting from
16 each meeting, in such form as the Board con-
17 siders appropriate, to the Thrift Depositor Pro-
18 tection Oversight Board and the Board of Di-
19 rectors of the Federal Deposit Insurance Cor-
20 poration.

21 (7) ANNUAL REPORTS.—For each year, the Ad-
22 visory Board shall submit a report containing its
23 findings and recommendations to the Committee on
24 Banking, Housing, and Urban affairs of the Senate
25 and the Committee on Banking, Finance and Urban

1 Affairs of the House of Representatives, the Federal
2 Deposit Insurance Corporation, and the Resolution
3 Trust Corporation. The first such report shall be
4 made not later than the expiration of the 6-month
5 period beginning on the date of the enactment of
6 this Act.

7 (8) DEFINITION.—For purposes of this sub-
8 section, the term “affordable housing programs”
9 means the program under section 21A(c) of the Fed-
10 eral Home Loan Bank Act and the program under
11 section 40 of the Federal Deposit Insurance Act.

12 (9) SUNSET.—The Advisory Board established
13 under this subsection shall terminate on September
14 30, 1998.

15 (c) TERMINATION OF NATIONAL HOUSING ADVISORY
16 BOARD.—

17 (1) TERMINATION.—The National Housing Ad-
18 visory Board under section 21A(d)(2) of the Federal
19 Home Loan Bank Act shall terminate upon the expi-
20 ration of the 90-day period beginning on the date of
21 the enactment of this Act.

22 (2) REPEAL.—Effective upon the expiration of
23 the period referred to in paragraph (1), paragraph
24 (2) of section 21A(d) of the Federal Home Loan

ITALIC

1 Bank Act (12 U.S.C. 1441a(d)(2)) is amended to
2 read as follows:

3 "(2) [Reserved]."

4 (d) PROVISION OF INFORMATION REGARDING SELL-
5 ER FINANCING TO MINORITY- AND WOMEN-OWNED BUSI-
6 NESSES.—

7 (1) RTC.—Section 21A(c)(6)(A)(ii) of the Fed-
8 eral Home Loan Bank Act (12 U.S.C.
9 1441a(c)(6)(A)(ii)) is amended by adding at the end
10 the following new sentences: "The Corporation shall
11 periodically provide, to a wide range of minority-
12 and women-owned businesses engaged in providing
13 affordable housing and to nonprofit organizations,
14 more than 50 percent of the control of which is held
15 by 1 or more minority individuals, that are engaged
16 in providing affordable housing, information that is
17 sufficient to inform such businesses and organiza-
18 tions of the availability and terms of financing under
19 this clause; such information may be provided di-
20 rectly, by notices published in periodicals and other
21 publications that regularly provide information to
22 such businesses or organizations, and through per-
23 sons and organizations that regularly provide infor-
24 mation or services to such businesses or organiza-
25 tions. For purposes of this clause, the terms

ITALIC

1 'women-owned business' and 'minority-owned busi-
2 ness' have the meanings given such terms in sub-
3 section (r), and the term 'minority' has the meaning
4 given such term in section 1204(c)(3) of the Finan-
5 cial Institutions Reform, Recovery, and Enforcement
6 Act of 1989.'".

7 (2) FDIC.—Section 40(g)(1)(B) of the Federal
8 Deposit Insurance Act (12 U.S.C. 1831q(g)(1)(B))
9 is amended by adding at the end the following new
10 sentences: "The Corporation shall periodically pro-
11 vide, to a wide range of minority- and women-owned
12 businesses engaged in providing affordable housing
13 and to nonprofit organizations, more than 50 per-
14 cent of the control of which is held by 1 or more mi-
15 nority individuals, that are engaged in providing af-
16 fordable housing, information that is sufficient to in-
17 form such businesses and organizations of the avail-
18 ability and terms of financing under this subpara-
19 graph; such information may be provided directly, by
20 notices published in periodicals and other publica-
21 tions that regularly provide information to such
22 businesses or organizations, and through persons
23 and organizations that regularly provide information
24 or services to such businesses or organizations. For
25 purposes of this subparagraph, the terms 'women-

1 owned business' and 'minority-owned business' have
2 the meanings given such terms in section 21A(r) of
3 the Federal Home Loan Bank Act, and the term
4 'minority' has the meaning given such term in sec-
5 tion 1204(c)(3) of the Financial Institutions Re-
6 form, Recovery, and Enforcement Act of 1989."

7 (e) AUTHORITY TO CARRY OUT UNIFIED AFFORD-
8 ABLE HOUSING PROGRAM.—

9 (1) RTC.—Section 21A(c) of the Federal Home
10 Loan Bank Act (12 U.S.C. 1441a(c)) is amended by
11 adding after paragraph (16) (as added by subsection
12 (a) of this section) the following new paragraph:

13 "(17) UNIFIED AFFORDABLE HOUSING PRO-
14 GRAM.—

15 "(A) IN GENERAL.—Not later than 4
16 months after the date of enactment of the Reso-
17 lution Trust Corporation Completion Act, the
18 Corporation shall enter into an agreement, as
19 described in section 40(n)(3) of the Federal De-
20 posit Insurance Act, with the Federal Deposit
21 Insurance Corporation that sets out a plan for
22 the orderly unification of the Corporation's ac-
23 tivities, authorities, and responsibilities under
24 this subsection with the authorities, activities,
25 and responsibilities of the Federal Deposit In-

1 insurance Corporation pursuant to section 40 of
2 the Federal Deposit Insurance Act in a manner
3 that best achieves an effective and comprehen-
4 sive affordable housing program management
5 structure. The agreement shall be entered into
6 after consultation with the Affordable Housing
7 Advisory Board under section 14(b) of the Res-
8 olution Trust Corporation Completion Act.

9 “(B) AUTHORITY AND IMPLEMENTA-
10 TION.—The Corporation shall have the author-
11 ity to carry out the provisions of the agreement
12 entered into pursuant to subparagraph (A) and
13 shall implement such agreement as soon as
14 practicable, but in no event later than 8 months
15 after the date of enactment of the Resolution
16 Trust Corporation Completion Act.

17 “(C) TRANSFER OF AUTHORITY.—Effec-
18 tive upon October 1, 1995, any remaining au-
19 thority and responsibilities of the Corporation
20 under this subsection shall be carried out by the
21 Federal Deposit Insurance Corporation.”.

22 (2) FDIC.—Section 40(n) of the Federal De-
23 posit Insurance Act (12 U.S.C. 1831q(n)) is amend-
24 ed to read as follows:

25 “(n) UNIFIED AFFORDABLE HOUSING PROGRAMS.—

1 “(1) IN GENERAL.—Not later than 4 months
2 after the date of enactment of the Resolution Trust
3 Corporation Completion Act, the Corporation shall
4 enter into an agreement, as described in paragraph
5 (3), with the Resolution Trust Corporation that sets
6 out a plan for the orderly unification of the Corpora-
7 tion’s activities, authorities, and responsibilities
8 under this section with the authorities, activities,
9 and responsibilities of the Resolution Trust Corpora-
10 tion pursuant to section 21A(c) of the Federal
11 Home Loan Bank Act in a manner that best
12 achieves an effective and comprehensive affordable
13 housing program management structure. The agree-
14 ment shall be entered into after consultation with
15 the Affordable Housing Advisory Board under sec-
16 tion 14(b) of the Resolution Trust Corporation Com-
17 pletion Act.

18 “(2) AUTHORITY AND IMPLEMENTATION.—The
19 Corporation shall have the authority to carry out the
20 provisions of the agreement entered into pursuant to
21 paragraph (1) and shall implement such agreement
22 as soon as practicable but in no event later than 8
23 months after the date of enactment of the Resolu-
24 tion Trust Corporation Completion Act.

ITALIC

1 “(3) TERMS OF AGREEMENT.—The agreement
2 required under paragraph (1) shall provide a plan
3 for—

4 “(A) a program unifying all activities and
5 responsibilities of the Corporation and the Res-
6 olution Trust Corporation, and the design of
7 the unified program shall take into consider-
8 ation the substantial experience of the Resolu-
9 tion Trust Corporation regarding—

10 “(i) seller financing;

11 “(ii) technical assistance;

12 “(iii) marketing skills and relation-
13 ships with public and nonprofit entities;
14 and

15 “(iv) staff resources;

16 “(B) the elimination of duplicative and un-
17 necessary administrative costs and resources;

18 “(C) the management structure of the uni-
19 fied program;

20 “(D) a timetable for the unification; and

21 “(E) a methodology to determine the ex-
22 tent to which the provisions of this section shall
23 be effective, in accordance with the limitations
24 under subsection (b)(2).

1 “(4) TRANSFER TO FDIC.—Beginning not later
2 than October 1, 1995, the Corporation shall carry
3 out any remaining authority and responsibilities of
4 the Resolution Trust Corporation, as set forth in
5 section 21A(c) of the Federal Home Loan Bank
6 Act.”.

7 (f) LIABILITY PROVISIONS.—

8 (1) RTC.—Section 21A(c)(11) of the Federal
9 Home Loan Bank Act (12 U.S.C. 1441a(c)(11)) is
10 amended by adding at the end the following new
11 subparagraph:

12 “(D) CORPORATION.—The Corporation
13 shall not be liable to any depositor, creditor, or
14 shareholder of any insured depository institu-
15 tion for which the Corporation has been ap-
16 pointed receiver or conservator, or of any sub-
17 subsidiary corporation of a depository institution
18 under conservatorship or receivership, or any
19 claimant against such an institution or subsidi-
20 ary, because the disposition of assets of the in-
21 stitution or the subsidiary under this subsection
22 affects the amount of return from the assets.”.

23 (2) FDIC.—Section 40(m)(4) of the Federal
24 Deposit Insurance Act (12 U.S.C. 1831q(m)(4)) is
25 amended to read as follows:

1 “(4) CORPORATION.—The Corporation shall not
2 be liable to any depositor, creditor, or shareholder of
3 any insured depository institution for which the Cor-
4 poration has been appointed receiver or conservator,
5 or of any subsidiary corporation of a depository in-
6 stitution under receivership or conservatorship, or
7 any claimant against such institution or subsidiary,
8 because the disposition of assets of the institution or
9 the subsidiary under this section affects the amount
10 of return from the assets.”.

11 **SEC. 15. RIGHT OF FIRST REFUSAL FOR TENANTS TO PUR-**
12 **CHASE SINGLE FAMILY PROPERTY.**

13 (a) RTC.—Section 21A(b) of the Federal Home
14 Loan Bank Act (12 U.S.C. 1441a(b)) is amended by add-
15 ing after paragraph (14) (as added by section (4) of this
16 Act) the following new paragraph:

17 “(15) PURCHASE RIGHTS OF TENANTS.—

18 “(A) NOTICE.—Except as provided in sub-
19 paragraph (C), the Corporation may make
20 available for sale a 1- to 4-family residence (in-
21 cluding a manufactured home) to which the
22 Corporation acquires title only after the Cor-
23 poration has provided the household residing in
24 the property notice (in writing and mailed to
25 the property) of the availability of such prop-

erty and the preference afforded such household under subparagraph (B).

“(B) PREFERENCE.—In selling such a property, the Corporation shall give preference to any bona fide offer made by the household residing in the property, if—

“(i) such offer is substantially similar in amount to other offers made within such period (or expected by the Corporation to be made within such period);

“(ii) such offer is made during the period beginning upon the Corporation making such property available and of a reasonable duration, as determined by the Corporation based on the normal period for sale of such properties; and

“(iii) the household making the offer complies with any other requirements applicable to purchasers of such property, including any downpayment and credit requirements.

“(C) EXCEPTIONS.—Subparagraphs (A) and (B) shall not apply to—

“(i) any residence transferred in connection with the transfer of substantially

ITALIC

1 all of the assets of an insured depository
2 institution for which the Corporation has
3 been appointed conservator or receiver;

4 “(ii) any eligible single family prop-
5 erty (as such term is defined in subsection
6 (c)(9)); or

7 “(iii) any residence for which the
8 household occupying the residence was the
9 mortgagor under a mortgage on such resi-
10 dence and to which the Corporation ac-
11 quired title pursuant to default on such
12 mortgage.”.

13 (b) FDIC.—Section 11 of the Federal Deposit Insur-
14 ance Act (12 U.S.C. 1821) is amended by adding at the
15 end the following new subsection:

16 “(u) PURCHASE RIGHTS OF TENANTS.—

17 “(1) NOTICE.—Except as provided in para-
18 graph (3), the Corporation may make available for
19 sale a 1- to 4-family residence (including a manufac-
20 tured home) to which the Corporation acquires title
21 only after the Corporation has provided the house-
22 hold residing in the property notice (in writing and
23 mailed to the property) of the availability of such
24 property and the preference afforded such household
25 under paragraph (2).

1 “(2) PREFERENCE.—In selling such a property,
2 the Corporation shall give preference to any bona
3 fide offer made by the household residing in the
4 property, if—

5 “(A) such offer is substantially similar in
6 amount to other offers made within such period
7 (or expected by the Corporation to be made
8 within such period);

9 “(B) such offer is made during the period
10 beginning upon the Corporation making such
11 property available and of a reasonable duration,
12 as determined by the Corporation based on the
13 normal period for sale of such properties; and

14 “(C) the household making the offer com-
15 plies with any other requirements applicable to
16 purchasers of such property, including any
17 downpayment and credit requirements.

18 “(3) EXCEPTIONS.—Paragraphs (1) and (2)
19 shall not apply to—

20 “(A) any residence transferred in connec-
21 tion with the transfer of substantially all of the
22 assets of an insured depository institution for
23 which the Corporation has been appointed con-
24 servator or receiver;

1 “(B) any eligible single family property (as
2 such term is defined in subsection (c)(9)); or

3 “(C) any residence for which the household
4 occupying the residence was the mortgagor
5 under a mortgage on such residence and to
6 which the Corporation acquired title pursuant
7 to default on such mortgage.”.

8 **SEC. 16. PREFERENCE FOR SALES OF REAL PROPERTY FOR**
9 **USE FOR HOMELESS FAMILIES.**

10 (a) RTC.—Section 21A(b) of the Federal Home
11 Loan Bank Act (12 U.S.C. 1441a(b)) is amended by add-
12 ing after paragraph (15) (as added by section 15(a) of
13 this Act) the following new paragraph:

14 “(16) PREFERENCE FOR SALES FOR HOMELESS
15 FAMILIES.—Subject to paragraph (15), in selling
16 any real property (other than eligible residential
17 property and eligible condominium property, as such
18 terms are defined in subsection (c)(9)) to which the
19 Corporation acquires title, the Corporation shall give
20 preference, among offers to purchase the property
21 that will result in the same net present value pro-
22 ceeds, to any offer that would provide for the prop-
23 erty to be used, during the remaining useful life of
24 the property, to provide housing or shelter for home-
25 less persons (as such term is defined in section 103

1 of the Stewart B. McKinney Homeless Assistance
2 Act) or homeless families.”.

3 (b) FDIC.—Section 11 of the Federal Deposit Insur-
4 ance Act (12 U.S.C. 1821) is amended by adding after
5 subsection (u) (as added by section 15(b) of this Act) the
6 following new subsection:

7 “(v) PREFERENCE FOR SALES FOR HOMELESS FAMI-
8 LIES.—Subject to subsection (u), in selling any real prop-
9 erty (other than eligible residential property and eligible
10 condominium property, as such terms are defined in sec-
11 tion 40(p)) to which the Corporation acquires title, the
12 Corporation shall give preference among offers to pur-
13 chase the property that will result in the same net present
14 value proceeds, to any offer that would provide for the
15 property to be used, during the remaining useful life of
16 the property, to provide housing or shelter for homeless
17 persons (as such term is defined in section 103 of the
18 Stewart B. McKinney Homeless Assistance Act) or home-
19 less families.”.

1 SEC. 17. PREFERENCES FOR SALES OF COMMERCIAL PROP.
 2 ERTIES TO PUBLIC AGENCIES AND NON-
 3 PROFIT ORGANIZATIONS FOR USE IN CARRY-
 4 ING OUT PROGRAMS FOR AFFORDABLE
 5 HOUSING.

6 (a) RTC.—Section 21A(b) of the Federal Home
 7 Loan Bank Act (12 U.S.C. 1441a(b)) is amended by add-
 8 ing after paragraph (16) (as added by section 16(a) of
 9 this Act) the following new paragraph:

10 “(17) PREFERENCES FOR SALES OF CERTAIN
 11 COMMERCIAL REAL PROPERTIES.—

12 “(A) AUTHORITY.—In selling any eligible
 13 commercial real properties of the Corporation,
 14 the Corporation shall give preference, among of-
 15 fers to purchase the property that will result in
 16 the same net present value proceeds, to any
 17 offer—

18 “(i) that is made by a public agency
 19 or nonprofit organization; and

20 “(ii) under which the purchaser
 21 agrees that the property shall be used, dur-
 22 ing the remaining useful life of the prop-
 23 erty, for offices and administrative pur-
 24 poses of the purchaser to carry out a pro-
 25 gram to acquire residential properties to
 26 provide (I) homeownership and rental

TALIC

1 housing opportunities for very-low-, low-,
2 and moderate-income families, or (II)
3 housing or shelter for homeless persons (as
4 such term is defined in section 103 of the
5 Stewart B. McKinney Homeless Assistance
6 Act) or homeless families.

7 “(B) DEFINITIONS.—For purposes of this
8 paragraph, the following definitions shall apply:

9 “(i) ELIGIBLE COMMERCIAL REAL
10 PROPERTY.—The term ‘eligible commercial
11 real property’ means any property (I) to
12 which the Corporation acquires title, and
13 (II) that the Corporation, in the discretion
14 of the Corporation, determines is suitable
15 for use for the location of offices or other
16 administrative functions involved with car-
17 rying out a program referred to in sub-
18 paragraph (A)(ii).

19 “(ii) NONPROFIT ORGANIZATION AND
20 PUBLIC AGENCY.—The terms ‘nonprofit or-
21 ganization’ and ‘public agency’ have the
22 same meanings as in subsection (c)(9).”.

23 (b) FDIC.—Section 11 of the Federal Deposit Insur-
24 ance Act (12 U.S.C. 1821) is amended by adding after

1 subsection (v) (as added by section 16(b) of this Act) the
2 following new subsection:

3 “(w) PREFERENCES FOR SALES OF CERTAIN COM-
4 Mercial Real Properties.—

5 “(1) AUTHORITY.—In selling any eligible com-
6 mercial real properties of the Corporation, the Cor-
7 poration shall give preference, among offers to pur-
8 chase the property that will result in the same net
9 present value proceeds, to any offer—

10 “(A) that is made by a public agency or
11 nonprofit organization; and

12 “(B) under which the purchaser agrees
13 that the property shall be used, during the re-
14 maining useful life of the property, for offices
15 and administrative purposes of the purchaser to
16 carry out a program to acquire residential prop-
17 erties to provide (i) homeownership and rental
18 housing opportunities for very-low-, low-, and
19 moderate-income families, or (ii) housing or
20 shelter for homeless persons (as such term is
21 defined in section 103 of the Stewart B.
22 McKinney Homeless Assistance Act) or home-
23 less families.

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

1 “(A) ELIGIBLE COMMERCIAL REAL PROP-
2 ERTY.—The term ‘eligible commercial real
3 property’ means any property (i) to which the
4 Corporation acquires title, and (ii) that the Cor-
5 poration, in the discretion of the Corporation,
6 determines is suitable for use for the location of
7 offices or other administrative functions in-
8 volved with carrying out a program referred to
9 in paragraph (1)(B).

10 “(B) NONPROFIT ORGANIZATION AND PUB-
11 LIC AGENCY.—The terms ‘nonprofit organiza-
12 tion’ and ‘public agency’ have the same mean-
13 ings as in section 40(p).”.

14 **SEC. 18. FEDERAL HOME LOAN BANKS HOUSING OPPOR-**
15 **TUNITY HOTLINE PROGRAM.**

16 The Federal Home Loan Bank Act (12 U.S.C. 1422
17 et seq.) is amended by inserting after section 26 the fol-
18 lowing new section:

19 **“SEC. 27. HOUSING OPPORTUNITY HOTLINE PROGRAM.**

20 “(a) ESTABLISHMENT.—The Federal Home Loan
21 Banks shall, individually or (at the discretion of the Fed-
22 eral Housing Finance Board) on a consolidated basis, es-
23 tablish and provide a service substantially similar (in the
24 determination of the Board) to the ‘Housing Opportunity

ITALIC

1 Hotline program established in October 1992, by the Fed-
2 eral Home Loan Bank of Dallas.

3 “(b) PURPOSE.—The service or services established
4 under this section shall provide information regarding the
5 availability for purchase of single family properties that
6 are owned or held by Federal agencies and are located in
7 the Federal Home Loan Bank district for such Bank.
8 Such agencies shall provide to the Federal Home Loan
9 Banks the information necessary to provide such service
10 or services.

11 “(c) REQUIRED INFORMATION.—The service or serv-
12 ices established under this section shall use the informa-
13 tion obtained from Federal agencies to provide informa-
14 tion regarding the size, location, price, and other charac-
15 teristics of such single family properties, the eligibility re-
16 quirements for purchasers of such properties, the terms
17 for such sales, and the terms of any available seller financ-
18 ing, and shall identify properties that are affordable to
19 low- and moderate-income families.

20 “(d) TOLL-FREE TELEPHONE NUMBER.—The serv-
21 ice or services established under this section shall establish
22 and maintain a toll-free telephone line for providing the
23 information made available under the service or services.

24 “(e) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

ITALIC

1 “(1) FEDERAL AGENCIES.—The term ‘Federal
2 agencies’ means—

3 “(A) the Farmers Home Administration,
4 the Federal National Mortgage Association, the
5 Federal Home Loan Mortgage Corporation, the
6 General Services Administration, the Depart-
7 ment of Housing and Urban Development, and
8 the Department of Veterans Affairs;

9 “(B) the Resolution Trust Corporation,
10 subject to the discretion of such Corporation;
11 and

12 “(C) the Federal Deposit Insurance Cor-
13 poration, subject to the discretion of such Cor-
14 poration.

15 “(2) SINGLE FAMILY PROPERTY.—The term
16 ‘single family property’ means a 1- to 4-family resi-
17 dence, including a manufactured home.”.

18 **SEC. 19. CONFLICT OF INTEREST PROVISIONS APPLICABLE**
19 **TO THE FDIC.**

20 (a) IN GENERAL.—Section 12 of the Federal Deposit
21 Insurance Act (12 U.S.C. 1822) is amended by adding at
22 the end the following new subsection:

23 “(f) CONFLICT OF INTEREST.—

24 “(1) APPLICABILITY OF OTHER PROVISIONS.—

1 “(A) CLARIFICATION OF STATUS OF COR-
2 PORATION.—The Corporation is, and has been
3 since its creation, an agency for purposes of
4 title 18, United States Code.

5 “(B) TREATMENT OF CONTRACTORS.—Any
6 individual who, pursuant to a contract or any
7 other arrangement, performs functions or ac-
8 tivities of the Corporation, under the direct su-
9 pervision of an officer or employee of the Cor-
10 poration, shall be deemed to be an employee of
11 the Corporation for purposes of title 18, United
12 States Code and this Act. Any individual who,
13 pursuant to a contract or any other agreement,
14 acts for or on behalf of the Corporation, and
15 who is not otherwise treated as an officer or
16 employee of the United States for purposes of
17 title 18, United States Code, shall be deemed to
18 be a public official for purposes of section 201
19 of title 18, United States Code.

20 “(2) REGULATIONS CONCERNING EMPLOYEE
21 CONDUCT.—The officers and employees of the Cor-
22 poration and those individuals under contract to the
23 Corporation who are deemed, under paragraph
24 (1)(B), to be employees of the Corporation for pur-
25 poses of title 18, United States Code, shall be sub-

1 ject to the ethics and conflict of interest rules and
2 regulations issued by the Office of Government Eth-
3 ics, including those concerning employee conduct, fi-
4 nancial disclosure, and post-employment activities.
5 The Board of Directors may prescribe regulations
6 that supplement such rules and regulations only
7 with the concurrence of that Office.

8 “(3) REGULATIONS CONCERNING INDEPEND-
9 ENT CONTRACTORS.—The Board of Directors, with
10 the concurrence of the Office of Government Ethics,
11 shall prescribe regulations applicable to those inde-
12 pendent contractors who are not deemed, under
13 paragraph (1)(B), to be employees of the Corpora-
14 tion for purposes of title 18, United States Code,
15 governing conflicts of interest, ethical responsibil-
16 ities, and the use of confidential information consist-
17 ent with the goals and purposes of titles 18 and 41,
18 United States Code. Any such regulations shall be in
19 addition to, and not in lieu of, any other statute or
20 regulation which may apply to the conduct of such
21 independent contractors.

22 “(4) DISAPPROVAL OF CONTRACTORS.—

23 “(A) IN GENERAL.—The Board of Direc-
24 tors shall prescribe regulations establishing pro-
25 cedures for ensuring that any individual who is

1 performing, directly or indirectly, any function
2 or service on behalf of the Corporation meets
3 minimum standards of competence, experience,
4 integrity, and fitness.

5 “(B) PROHIBITION FROM SERVICE ON BE-
6 HALF OF CORPORATION.—The procedures es-
7 tablished under subparagraph (A) shall provide
8 that the Corporation shall prohibit any person
9 who does not meet the minimum standards of
10 competence, experience, integrity, and fitness
11 from—

12 “(i) entering into any contract with
13 the Corporation; or

14 “(ii) becoming employed by the Cor-
15 poration or otherwise performing any serv-
16 ice for or on behalf of the Corporation.

17 “(C) INFORMATION REQUIRED TO BE SUB-
18 MITTED.—The procedures established under
19 subparagraph (A) shall require that any offer
20 submitted to the Corporation by any person
21 under this section and any employment applica-
22 tion submitted to the Corporation by any per-
23 son shall include—

24 “(i) a list and description of any in-
25 stance during the 5 years preceding the

1 submission of such application in which the
2 person or a company under such person's
3 control defaulted on a material obligation
4 to an insured depository institution: and

5 "(ii) such other information as the
6 Board may prescribe by regulation.

7 "(D) SUBSEQUENT SUBMISSIONS.—

8 "(i) IN GENERAL.—No offer submit-
9 ted to the Corporation may be accepted
10 unless the offeror agrees that no person
11 will be employed, directly or indirectly, by
12 the offeror under any contract with the
13 Corporation unless—

14 "(I) all applicable information
15 described in subparagraph (C) with
16 respect to any such person is submit-
17 ted to the Corporation; and

18 "(II) the Corporation does not
19 disapprove of the direct or indirect
20 employment of such person.

21 "(ii) FINALITY OF DETERMINATION.—

22 Any determination made by the Corpora-
23 tion pursuant to this paragraph shall be in
24 the Corporation's sole discretion and shall
25 not be subject to review.

ITALIC

1 “(E) PROHIBITION REQUIRED IN CERTAIN
2 CASES.—The standards established under sub-
3 paragraph (A) shall require the Corporation to
4 prohibit any person who has—

5 “(i) been convicted of any felony;

6 “(ii) been removed from, or prohibited
7 from participating in the affairs of, any in-
8 sured depository institution pursuant to
9 any final enforcement action by any appro-
10 priate Federal banking agency;

11 “(iii) demonstrated a pattern or prac-
12 tice of defalcation regarding obligations to
13 insured depository institutions; or

14 “(iv) caused a substantial loss to Fed-
15 eral deposit insurance funds;
16 from performing any service on behalf of the
17 Corporation.

18 “(5) ABROGATION OF CONTRACTS.—The Cor-
19 poration may rescind any contract with a person
20 who—

21 “(A) fails to disclose a material fact to the
22 Corporation;

23 “(B) would be prohibited under paragraph
24 (6) from providing services to, receiving fees
25 from, or contracting with the Corporation; or

ITALIC

S.D. 1

1 “(C) has been subject to a final enforce-
2 ment action by any Federal banking agency.

3 “(6) PRIORITY OF FDIC RULES.—To the extent
4 that the regulations under this subsection conflict
5 with rules of other agencies or Government corpora-
6 tions, officers, directors, employees, and independent
7 contractors of the Corporation who are also subject
8 to the conflict of interest or ethical rules of another
9 agency or Government corporation, shall be governed
10 by the regulations prescribed by the Board of Direc-
11 tors under this subsection when acting for or on be-
12 half of the Corporation. Notwithstanding the preced-
13 ing sentence, the rules of the Corporation shall not
14 take priority over the ethics and conflict of interest
15 rules and regulations promulgated by the Office of
16 Government Ethics unless specifically authorized by
17 that Office.”.

18 (b) AMENDMENTS TO DEFINITIONS.—

19 (1) FEDERAL BANKING AGENCY.—Section 3(z)
20 of the Federal Deposit Insurance Act (12 U.S.C.
21 1813(z)) is amended to read as follows:

22 “(z) FEDERAL BANKING AGENCY.—The term ‘Fed-
23 eral banking agency’ means the Comptroller of the Cur-
24 rency, the Director of the Office of Thrift Supervision, the

ITALIC

ITALIC

1 Board of Governors of the Federal Reserve System, or the
2 Federal Deposit Insurance Corporation.”

3 (2) COMPANY.—Section 3(w) of the Federal
4 Deposit Insurance Act (12 U.S.C. 1813(w)) is
5 amended by adding at the end the following new
6 paragraph:

7 “(7) COMPANY.—The term ‘company’ has the
8 same meaning as in section 2(b) of the Bank Hold-
9 ing Company Act of 1956.”

10 (c) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply after the end of the 6-month
12 period beginning on the date of enactment of this Act.

13 **SEC. 20. RESTRICTIONS ON SALES OF ASSETS TO CERTAIN**
14 **PERSONS.**

15 (a) IN GENERAL.—Section 11(p) of the Federal De-
16 posit Insurance Act (12 U.S.C. 1821(p)) is amended—

17 (1) by redesignating paragraphs (1) and (2) as
18 paragraphs (2) and (3); and

19 (2) by inserting before paragraph (2), as reded-
20 ignated, the following new paragraph:

21 “(1) PERSONS WHO ENGAGED IN IMPROPER
22 CONDUCT WITH, OR CAUSED LOSSES TO, DEPOSI-
23 TORY INSTITUTIONS.—The Corporation shall pre-
24 scribe regulations which, at a minimum, shall pro-

1 hibit the sale of assets of a failed institution by the
2 Corporation to—

3 “(A) any person who—

4 “(i) has defaulted, or was a member
5 of a partnership or an officer or director of
6 a corporation that has defaulted, on 1 or
7 more obligations the aggregate amount of
8 which exceed \$1,000,000, to such failed in-
9 stitution;

10 “(ii) has been found to have engaged
11 in fraudulent activity in connection with
12 any obligation referred to in clause (i); and

13 “(iii) proposes to purchase any such
14 asset in whole or in part through the use
15 of the proceeds of a loan or advance of
16 credit from the Corporation or from any
17 institution for which the Corporation has
18 been appointed as conservator or receiver;

19 “(B) any person who participated, as an
20 officer or director of such failed institution or
21 of any affiliate of such institution, in a material
22 way in transactions that resulted in a substan-
23 tial loss to such failed institution;

24 “(C) any person who has been removed
25 from, or prohibited from participating in the af-

1 fairs of such failed institution pursuant to any
2 final enforcement action by an appropriate Fed-
3 eral banking agency; or

4 “(D) any person who has demonstrated a
5 pattern or practice of defalcation regarding ob-
6 ligations to such failed institution.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
8 Section 11(p) of the Federal Deposit Insurance Act (12
9 U.S.C. 1821(p)) is amended—

10 (1) in paragraph (2) (as redesignated by sub-
11 section (a))—

12 (A) by striking “individual” and inserting
13 “person”; and

14 (B) by striking “paragraph (2)” and in-
15 serting “paragraph (3)”;

16 (2) in paragraph (3) (as redesignated by sub-
17 section (a))—

18 (A) by striking “individual” each place
19 such term appears and inserting “person”; and

20 (B) by striking “Paragraph (1)” and in-
21 serting “Paragraphs (1) and (2)”;

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

24 “(4) DEFINITION OF DEFAULT.—For purposes
25 of this subsection, the term ‘default’ means a failure

1 to comply with the terms of a loan or other obliga-
2 tion to such an extent that the property securing the
3 obligation is foreclosed upon.”; and

4 (4) by striking the heading and inserting the
5 following new heading:

6 “(p) CERTAIN SALES OF ASSETS PROHIBITED.—”

7 **SEC. 21. WHISTLE BLOWER PROTECTION.**

8 (a) AMENDMENTS TO THE FEDERAL DEPOSIT IN-
9 SURANCE ACT.—Section 33(a) of the Federal Deposit In-
10 surance Act (12 U.S.C. 1831j(a)) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “regarding” and all that
13 follows through the end of the sentence and in-
14 serting the following: “regarding—

15 “(A) a possible violation of any law or reg-
16 ulation; or

17 “(B) gross mismanagement, a gross waste
18 of funds, an abuse of authority, or a substantial
19 and specific danger to public health or safety;
20 by the depository institution or any director, officer,
21 or employee of the institution.”; and

22 (B) by adding at the end the following:

23 “(f) BURDENS OF PROOF.—The legal burdens of
24 proof that prevail under subchapter III of chapter 12 of

ITALIC

1 title 5, United States Code, shall govern adjudication of
2 protected activities under this section.”; and

3 (2) in paragraph (2)—

4 (A) by striking “or Federal Reserve bank”
5 and inserting “Federal reserve bank, or any
6 person who is performing, directly or indirectly,
7 any function or service on behalf of the Cor-
8 poration”;

9 (B) by striking “any possible violation of
10 any law or regulation by” and inserting “any
11 possible violation of any law or regulation, gross
12 mismanagement, a gross waste of funds, an
13 abuse of authority, or a substantial and specific
14 danger to public health or safety by”;

15 (C) in subparagraph (B), by striking “or”
16 at the end;

17 (D) in subparagraph (C), by striking the
18 period at the end and inserting “; or”; and

19 (E) by adding at the end the following new
20 subparagraph:

21 “(D) the person, or any officer or employee
22 of the person, who employs such employee.”.

23 (b) AMENDMENTS TO THE FEDERAL HOME LOAN
24 BANK ACT.—Section 21A(q) of the Federal Home Loan
25 Bank Act (12 U.S.C. 1441a(q)) is amended—

1 (1) in paragraph (1), by striking "regarding"
2 and all that follows through the end of the sentence
3 and inserting the following: "regarding—

4 "(A) a possible violation of any law or reg-
5 ulation; or

6 "(B) gross mismanagement, a gross waste
7 of funds, an abuse of authority, or a substantial
8 and specific danger to public health or safety;
9 by the Corporation, the Thrift Depositor Protection
10 Oversight Board, or such person or any director, of-
11 ficer, or employee of the Corporation, the Thrift De-
12 positor Protection Oversight Board, or the person.";
13 and

14 (2) by inserting after paragraph (4) the follow-
15 ing:

16 "(5) BURDENS OF PROOF.—The legal burdens
17 of proof that prevail under subchapter III of chapter
18 12 of title 5, United States Code, shall govern adju-
19 dication of protected activities under this sub-
20 section."

21 **SEC. 22. FDIC ASSET DISPOSITION DIVISION.**

22 (a) **IN GENERAL.**—Section 1 of the Federal Deposit
23 Insurance Act (12 U.S.C. 1811) is amended—

24 (1) by striking "SEC. 1. There is hereby cre-
25 ated" and inserting the following:

1 **"SECTION 1. FEDERAL DEPOSIT INSURANCE CORPORA-**
2 **TION.**

3 **"(a) ESTABLISHMENT OF CORPORATION.—**There is
4 hereby established"; and

5 (2) by adding at the end the following new sub-
6 section:

7 **"(b) ASSET DISPOSITION DIVISION.—**

8 **"(1) ESTABLISHMENT.—**The Corporation shall
9 have a separate division of asset disposition.

10 **"(2) MANAGEMENT.—**The division of asset dis-
11 position shall have an administrator who shall be ap-
12 pointed by the Board of Directors.

13 **"(3) RESPONSIBILITIES OF DIVISION.—**The di-
14 vision of asset disposition shall carry out all of the
15 responsibilities of the Corporation under this Act re-
16 lating to the liquidation of insured depository insti-
17 tutions and the disposition of assets of such institu-
18 tions."

19 **(b) EFFECTIVE DATE.—**The amendments made by
20 subsection (a) shall become effective on July 1, 1995.

21 **SEC. 23. PRESIDENTIALLY APPOINTED INSPECTOR GEN-**
22 **ERAL FOR FDIC.**

23 **(a) AMENDMENTS TO THE INSPECTOR GENERAL ACT**
24 **OF 1978.—**The Inspector General Act of 1978 (5 U.S.C.
25 App.) is amended—

26 (1) in section 11—

ITALIC

1 (A) in paragraph (1), by striking "the
2 chief executive officer of the Resolution Trust
3 Corporation;" and inserting "the chief executive
4 officer of the Resolution Trust Corporation; and
5 the Chairperson of the Federal Deposit Insur-
6 ance Corporation;"; and

7 (B) in paragraph (2), by inserting "the
8 Federal Deposit Insurance Corporation," after
9 "Resolution Trust Corporation,";

10 (2) by inserting after section 8B the following
11 new section:

12 **"SEC. 8C. SPECIAL PROVISIONS CONCERNING THE FED-**
13 **ERAL DEPOSIT INSURANCE CORPORATION.**

14 **"(a) DELEGATION.—**The Chairperson of the Federal
15 Deposit Insurance Corporation may delegate the authority
16 specified in the second sentence of section 3(a) to the Vice
17 Chairperson of the Board of Directors of the Federal De-
18 posit Insurance Corporation, but may not delegate such
19 authority to any other officer or employee of the Corpora-
20 tion.

21 **"(b) PERSONNEL.—**Notwithstanding paragraphs (7)
22 and (8) of section 6(a), the Inspector General of the Fed-
23 eral Deposit Insurance Corporation may select, appoint,
24 and employ such officers and employees as may be nec-
25 essary for carrying out the functions, powers, and duties

ITALIC

1 of the Office of Inspector General and to obtain the tem-
2 porary or intermittent services of experts or consultants
3 or an organization of experts or consultants, subject to
4 the applicable laws and regulations that govern such selec-
5 tions, appointments, and employment, and the obtaining
6 of such services, within the Federal Deposit Insurance
7 Corporation.”;

8 (3) by redesignating sections 8C through 8F as
9 sections 8D through 8G, respectively; and

10 (4) in section 8F(a)(2), as redesignated, by
11 striking “the Federal Deposit Insurance Corpora-
12 tion,”.

13 (b) POSITION AT LEVEL IV OF THE EXECUTIVE
14 SCHEDULE.—Section 5315 of title 5, United States Code,
15 is amended by inserting after “Inspector General, Small
16 Business Administration.” the following:

17 “Inspector General, Federal Deposit Insurance Cor-
18 poration.”.

19 (c) TRANSITION PERIOD.—

20 (1) CURRENT SERVICE.—Except as otherwise
21 provided by law, the individual serving as the In-
22 spector General of the Federal Deposit Insurance
23 Corporation before the date of enactment of this Act
24 may continue to serve in such position until the ear-
25 lier of—

1 (A) the date on which the President ap-
2 points a successor under section 3(a) of the In-
3 spector General Act of 1978; or

4 (B) the date which is 6 months after the
5 date of enactment of this Act.

6 (2) DEFINITION.—For purposes of paragraph
7 (1), the term “successor” may include the individual
8 holding the position of Inspector General of the Fed-
9 eral Deposit Insurance Corporation on or after the
10 date of enactment of this Act.

11 **SEC. 24. DEPUTY CHIEF EXECUTIVE OFFICER.**

12 Section 21A(b)(8) of the Federal Home Loan Bank
13 Act (12 U.S.C. 1441a(b)(8)) is amended by adding at the
14 end the following new subparagraphs:

15 “(E) **DEPUTY CHIEF EXECUTIVE OFFI-**
16 **CER.—**

17 “(i) **IN GENERAL.—**There is hereby
18 established the position of deputy chief ex-
19 ecutive officer of the Corporation.

20 “(ii) **APPOINTMENT.—**The deputy
21 chief executive officer of the Corporation
22 shall—

23 “(I) be appointed by the Chair-
24 person of the Thrift Depositor Protec-
25 tion Oversight Board, with the rec-

ITALIC

1 commendation of the chief executive of-
2 ficer; and

3 "(II) be an employee of the Fed-
4 eral Deposit Insurance Corporation in
5 accordance with subparagraph (B)(i).

6 "(iii) DUTIES.—The deputy chief ex-
7 ecutive officer shall perform such duties as
8 the chief executive officer may require.

9 "(F) ACTING CHIEF EXECUTIVE OFFI-
10 CER.—In the event of a vacancy in the position
11 of chief executive officer or during the absence
12 or disability of the chief executive officer, the
13 deputy chief executive officer shall perform the
14 duties of the position as the acting chief execu-
15 tive officer."

16 **SEC. 25. DUE PROCESS PROTECTIONS RELATING TO AT-**
17 **TACHMENT OF ASSETS.**

18 Section 8 of the Federal Deposit Insurance Act (12
19 U.S.C. 1818) is amended—

20 (1) by striking subsection (i)(4)(B) and insert-
21 ing the following new subparagraph:

22 "(B) STANDARD.—

23 "(i) SHOWING.—Rule 65 of the Fed-
24 eral Rules of Civil Procedure shall apply
25 with respect to any proceeding under sub-

1 paragraph (A) without regard to the re-
2 quirement of such rule that the applicant
3 show that the injury, loss, or damage is ir-
4 reparable and immediate.

5 “(ii) STATE PROCEEDING.—If, in the
6 case of any proceeding in a State court,
7 the court determines that rules of civil pro-
8 cedure available under the laws of such
9 State provide substantially similar protec-
10 tions to a party’s right to due process as
11 Rule 65 (as modified with respect to such
12 proceeding by clause (i)), the relief sought
13 under subparagraph (A) may be requested
14 under the laws of such State.”; and

15 (2) in subsection (b), by adding at the end the
16 following new paragraph:

17 “(10) STANDARD FOR CERTAIN ORDERS.—No
18 authority under this subsection or subsection (c) to
19 prohibit any institution-affiliated party from with-
20 drawing, transferring, removing, dissipating, or dis-
21 posing of any funds, assets, or other property may
22 be exercised unless the appropriate Federal banking
23 agency meets the standards of Rule 65 of the Fed-
24 eral Rules of Civil Procedure, without regard to the
25 requirement of such rule that the applicant show

1 that the injury, loss, or damage is irreparable and
2 immediate.”

3 **SEC. 26. GAO STUDIES REGARDING FEDERAL REAL PROP.**

4 **ERTY DISPOSITION.**

5 (a) **RTC AFFORDABLE HOUSING PROGRAM.—**

6 (1) **STUDY.—**The Comptroller General of the
7 United States shall conduct a study of the program
8 carried out by the Resolution Trust Corporation
9 pursuant to section 21A(c) of the Federal Home
10 Loan Bank Act to determine the effectiveness of
11 such program in providing affordable homeownership
12 and rental housing for very low-, low-, and mod-
13 erate-income families. The study shall examine the
14 procedures used under the program to sell eligible
15 single family properties, eligible condominium prop-
16 erties, and eligible multifamily housing properties,
17 the characteristics and numbers of purchasers of
18 such properties, and the amount of and reasons for
19 any losses incurred by the Resolution Trust Cor-
20 poration in selling properties under the program.

21 (2) **REPORT.—**Not later than 6 months after
22 the date of enactment of this Act, the Comptroller
23 General shall submit a report to the Congress on the
24 results of the study required under paragraph (1),
25 which shall describe any findings under the study

1 and contain any recommendations of the Comptrol-
2 ler General for improving the effectiveness of such
3 program.

4 (b) SINGLE AGENCY FOR REAL PROPERTY DISPOSI-
5 TION.—

6 (1) STUDY.—The Comptroller General of the
7 United States shall conduct a study to determine the
8 feasibility and effectiveness of establishing a single
9 Federal agency responsible for selling and otherwise
10 disposing of real property owned or held by the De-
11 partment of Housing and Urban Development, the
12 Farmers Home Administration of the Department of
13 Agriculture, the Federal Deposit Insurance Corpora-
14 tion, and the Resolution Trust Corporation. The
15 study shall examine the real property disposition
16 procedures of such agencies and corporations, ana-
17 lyze the feasibility of consolidating such procedures
18 through such single agency, and determine the char-
19 acteristics and authority necessary for any such sin-
20 gle agency to efficiently carry out such disposition
21 activities.

22 (2) REPORT.—Not later than 12 months after
23 the date of enactment of this Act, the Comptroller
24 General shall submit a report to the Congress on the
25 study required under paragraph (1), which shall de-

1 scribe any findings under the study and contain any
2 recommendations of the Comptroller General for the
3 establishment of such single agency.

4 **SEC. 27. EXTENSION OF RTC POWER TO BE APPOINTED AS**
5 **CONSERVATOR OR RECEIVER.**

6 (a) **EXTENSION OF DUTY TO BE APPOINTED AS**
7 **CONSERVATOR OR RECEIVER.**—Section 21A(b) of the
8 Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is
9 amended—

10 (1) in paragraph (3)(A)(ii), by striking “Octo-
11 ber 1, 1993” and inserting “such date as is deter-
12 mined by the Chairperson of the Thrift Depositor
13 Protection Oversight Board, but not earlier than
14 January 1, 1995, and not later than July 1, 1995”;
15 and

16 (2) in paragraph (6), by striking “October 1,
17 1993” each place such term appears and inserting
18 “such date as is determined by the Chairperson of
19 the Thrift Depositor Protection Oversight Board
20 under paragraph (3)(A)(ii)”.

21 (b) **APPOINTMENT OF A RECEIVER BY THE DIREC-**
22 **TOR OF THE OFFICE OF THRIFT SUPERVISION.**—Section
23 11(c)(6)(B) of the Federal Deposit Insurance Act (12
24 U.S.C. 1821(c)(6)(B)) is amended—

1 (1) in clause (i), by striking "October 1, 1993"
2 and inserting "such date as is determined by the
3 Chairperson of the Thrift Depositor Protection
4 Oversight Board under section 21A(b)(3)(A)(ii) of
5 the Federal Home Loan Bank Act";

6 (2) in clauses (ii) and (iii), by striking "after
7 September 30, 1993" each place such term appears
8 and inserting "on or after the date determined by
9 the Chairperson of the Thrift Depositor Protection
10 Oversight Board under section 21A(b)(3)(A)(ii) of
11 the Federal Home Loan Bank Act"; and

12 (3) in clause (ii), by striking "on or before" and
13 inserting "before".

14 **SEC. 28. FINAL REPORTS ON RTC AND SAIF FUNDING.**

15 (a) IN GENERAL.—

16 (1) RTC REPORT.—The Chairperson of the
17 Thrift Depositor Protection Oversight Board shall
18 prepare and submit to the Committee on Banking,
19 Housing, and Urban Affairs of the Senate and the
20 Committee on Banking, Finance and Urban Affairs
21 of the House of Representatives, a final report con-
22 taining a detailed description of the purposes for
23 which the funds made available to the Resolution
24 Trust Corporation under this Act were used.

ITALIC

1 (2) SAIF REPORT.—The Chairperson of the
2 Federal Deposit Insurance Corporation shall prepare
3 and submit to the Committee on Banking, Housing,
4 and Urban Affairs of the Senate and the Committee
5 on Banking, Finance and Urban Affairs of the
6 House of Representatives a final report containing a
7 detailed description of the purposes for which the
8 funds made available to the Savings Association In-
9 surance Fund under this Act were used.

10 (b) TIME FOR SUBMISSION.—The reports described
11 in subsection (a) shall be transmitted—

12 (1) not later than 45 days after the final ex-
13 penditure of funds provided for under this Act by
14 the Resolution Trust Corporation; and

15 (2) not later than 45 days after the final ex-
16 penditure of funds authorized to be provided under
17 this Act by the Savings Association Insurance Fund.

18 **SEC. 29. GENERAL COUNSEL OF THE RESOLUTION TRUST**
19 **CORPORATION.**

20 Section 21A(b)(8) of the Federal Home Loan Bank
21 Act (12 U.S.C. 1441a(b)(8)) is amended by adding after
22 subparagraph (F) (as added by section 24 of this Act)
23 the following new subparagraph:

24 “(G) GENERAL COUNSEL.—There is estab-
25 lished the Office of General Counsel of the Cor-

1 poration. The chief executive officer, with the
2 concurrence of the Chairperson of the Thrift
3 Depositor Protection Oversight Board, may ap-
4 point the general counsel, who shall be an em-
5 ployee of the Federal Deposit Insurance Cor-
6 poration, in accordance with subparagraph
7 (B)(i). The general counsel shall perform such
8 duties as the chief executive officer may re-
9 quire.”.

10 **SEC. 30. AUTHORITY TO EXECUTE CONTRACTS.**

11 Section 21A of the Federal Home Loan Bank Act
12 (12 U.S.C. 1441a) is amended by adding after subsection
13 (x) (as added by section 5 of this Act) the following new
14 subsection:

15 “(y) **AUTHORITY TO EXECUTE CONTRACTS.—**

16 “(1) **AUTHORIZED PERSONS.—**A person may
17 execute a contract on behalf of the Corporation for
18 the provision of goods or services only if—

19 “(A) that person—

20 “(i) is a warranted contracting officer
21 appointed by the Corporation, or is a man-
22 aging agent of a savings association under
23 the conservatorship of the Corporation;
24 and

1 “(ii) provides appropriate certification
2 or other identification, as required by the
3 Corporation in accordance with paragraph
4 (2);

5 “(B) the notice described in paragraph (4)
6 is included in the written contract; and

7 “(C) that person has appropriate authority
8 to execute the contract on behalf of the Cor-
9 poration in accordance with the notice pub-
10 lished by the Corporation in accordance with
11 paragraph (5).

12 “(2) PRESENTATION OF IDENTIFICATION.—
13 Prior to executing any contract described in para-
14 graph (1) with any person, a warranted contracting
15 officer or managing agent shall present to that
16 person—

17 “(A) a valid certificate of appointment (or
18 such other identification as may be required by
19 the Corporation) that is signed by the appro-
20 priate officer of the Corporation; or

21 “(B) a copy of such certificate, authenti-
22 cated by the Corporation.

23 “(3) TREATMENT OF UNAUTHORIZED CON-
24 TRACTS.—A contract described in paragraph (1)
25 that fails to meet the requirements of this section—

1 “(A) shall be null and void: and

2 “(B) shall not be enforced against the Cor-
3 poration or its agents by any court.

4 “(4) INCLUSION OF NOTICE IN CONTRACT
5 TERMS.—Each written contract described in para-
6 graph (1) shall contain a clear and conspicuous
7 statement (in boldface type) in immediate proximity
8 to the space reserved for the signatures of the con-
9 tracting parties as follows:

10 ““Only warranted contracting officers appointed
11 by the Resolution Trust Corporation or managing
12 agents of associations under the conservatorship of
13 the Resolution Trust Corporation have the authority
14 to execute contracts on behalf of the Resolution
15 Trust Corporation. Such persons have certain limits
16 on their contracting authority. The nature and ex-
17 tent of their contracting authority levels are pub-
18 lished in the Federal Register.

19 ““A warranted contracting officer or a manag-
20 ing agent must present identification in the form of
21 a signed certificate of appointment (or an authenti-
22 cated copy of such certificate) or other identification,
23 as required by the Corporation, prior to executing
24 any contract on behalf of the Resolution Trust Cor-
25 poration.

ITALIC

1 “Any contract that is not executed by a war-
2 ranted contracting officer or the managing agent of
3 a savings association under the conservatorship of
4 the Resolution Trust Corporation, acting in con-
5 formity with his or her contracting authority, shall
6 be null and void, and will not be enforceable by any
7 court.”

8 “(5) NOTICE OF REQUIREMENTS.—Not later
9 than 30 days after the date of enactment of this
10 subsection, the Corporation shall publish notice in
11 the Federal Register of—

12 “(A) the requirements for appointment by
13 the Corporation as a warranted contracting of-
14 ficer; and

15 “(B) the nature and extent of the contract-
16 ing authority to be exercised by any warranted
17 contracting officer or managing agent.

18 “(6) EXCEPTION.—This section does not apply
19 to—

20 “(A) any contract between the Corporation
21 and any other person governing the purchase or
22 assumption by that person of—

23 “(i) the ownership of a savings asso-
24 ciation under the conservatorship of the
25 Corporation; or

1 “(ii) the assets or liabilities of a sav-
2 ings association under the conservatorship
3 or receivership of the Corporation; or

4 “(B) any contract executed by the Inspec-
5 tor General of the Corporation (or any designee
6 thereof) for the provision of goods or services to
7 the Office of the Inspector General of the Cor-
8 poration.

9 “(7) EXECUTION OF CONTRACTS.—For pur-
10 poses of this subsection, the execution of a contract
11 includes all modifications to such contract.

12 “(8) EFFECTIVE DATE.—The requirements of
13 this subsection shall apply to all contracts described
14 in paragraph (1) executed on or after the date which
15 is 45 days after the date of enactment of this sub-
16 section.”.

17 **SEC. 31. RTC CONTRACTING.**

18 Section 21A of the Federal Home Loan Bank Act
19 (12 U.S.C. 1441a) is amended by adding after subsection
20 (y) (as added by section 30 of this Act) the following new
21 subsection:

22 “(z) ADDITIONAL CONTRACTING REQUIREMENTS.—

23 “(1) IN GENERAL.—No person shall execute, on
24 behalf of the Corporation, any contract, or modifica-
25 tion to a contract, for goods or services exceeding

S.L.C.

1 \$100,000 in value unless the person executing the
2 contract or modification states in writing that—

3 “(A) the contract or modification is for a
4 fixed price, the person has received a written
5 cost estimate for the contract or modification,
6 or a cost estimate cannot be obtained as a prac-
7 tical matter with an explanation of why such a
8 cost estimate cannot be obtained as a practical
9 matter;

10 “(B) the person has received the written
11 statement described in paragraph (2); and

12 “(C) the person is satisfied that the con-
13 tract or modification to be executed has been
14 approved by a person legally authorized to do so
15 pursuant to a written delegation of authority.

16 “(2) WRITTEN DELEGATION OF AUTHORITY.—

17 A person who authorizes a contract, or a modifica-
18 tion to a contract, involving the Corporation for
19 goods or services exceeding \$100,000 in value shall
20 state, in writing, that he or she has been delegated
21 the authority, pursuant to a written delegation of
22 authority, to authorize that contract or modification.

23 “(3) EFFECT OF FAILURE TO COMPLY.—The
24 failure of any person executing a contract, or a
25 modification of a contract, on behalf of the Corpora-

S.C.

1 tion, or authorizing such a contract or modification
2 of a contract, to comply with the requirements of
3 this subsection shall not void, or serve as grounds to
4 void or rescind, any otherwise properly executed con-
5 tract.”.

6 **SEC. 32. DEFINITION OF PROPERTY.**

7 (a) Section 9102(e) of the Department of Defense
8 Appropriations Act, 1990 (16 U.S.C. 396f note) is amend-
9 ed by striking “real, personal,” and inserting “real, per-
10 sonal (including intangible assets sold or offered by the
11 Federal Deposit Insurance Corporation or the Resolution
12 Trust Corporation, such as financial instruments, notes,
13 loans, and bonds),”.

14 (b) Section 12(b)(7)(vii) of Public Law 94-204 (43
15 U.S.C. 1611 note) is amended by striking “real, per-
16 sonal,” and inserting “real, personal (including intangible
17 assets sold or offered by the Federal Deposit Insurance
18 Corporation or the Resolution Trust Corporation, such as
19 financial instruments, notes, loans, and bonds),”.

1 SEC. 33. SENSE OF THE CONGRESS RELATING TO PARTICI-
 2 PATION OF DISABLED AMERICANS IN CON-
 3 TRACTING FOR DELIVERY OF SERVICES TO
 4 FINANCIAL INSTITUTION REGULATORY
 5 AGENCIES.

6 (a) FINDINGS.—The Congress finds that Congress,
 7 in adopting the Americans with Disabilities Act of 1990,
 8 specifically found that—

9 (1) some 43,000,000 Americans have one or
 10 more physical or mental disabilities, and this num-
 11 ber is increasing;

12 (2) discrimination against individuals with dis-
 13 abilities persists in such critical areas as employ-
 14 ment, housing, public accommodations, education,
 15 transportation, communication, recreation, institu-
 16 tionalization, health services, voting, and access to
 17 public services;

18 (3) individuals with disabilities continually en-
 19 counter various forms of discrimination, including
 20 outright intentional exclusion, the discriminatory ef-
 21 fects of architectural, transportation, and commu-
 22 nication barriers, overprotective rules and policies,
 23 failure to make modifications to existing facilities
 24 and practices, exclusionary qualification standards
 25 and criteria, segregation, and relegation to lesser

1 services, programs, activities, benefits, jobs, or other
2 opportunities:

3 (4) census data, national polls, and other stud-
4 ies have documented that people with disabilities, as
5 a group, occupy an inferior status in our society,
6 and are severely disadvantaged socially, vocationally,
7 economically, and educationally;

8 (5) individuals with disabilities are a discrete
9 and insular minority who have been faced with re-
10 strictions and limitations, subjected to a history of
11 purposeful unequal treatment, and relegated to a po-
12 sition of political powerlessness in our society, based
13 on characteristics that are beyond the control of
14 such individuals and resulting from stereotypic as-
15 sumptions not truly indicative of the individual abil-
16 ity of such individuals to participate in, and contrib-
17 ute to, society;

18 (6) the Nation's proper goals regarding individ-
19 uals with disabilities are to assure equality of oppor-
20 tunity, full participation, independent living, and
21 economic self-sufficiency for such individuals; and

22 (7) the continuing existence of unfair and un-
23 necessary discrimination and prejudice denies people
24 with disabilities the opportunity to compete on an
25 equal basis and to pursue those opportunities for

1 which our free society is justifiably famous, and
2 costs the United States billions of dollars in unne-
3 cessary expenses resulting from dependency and
4 nonproductivity.

5 (b) SENSE OF THE CONGRESS.—It is the sense of
6 the Congress that the chief executive officer of the Resolu-
7 tion Trust Corporation, the Director of the Office of
8 Thrift Supervision, the Chairperson of the Board of Direc-
9 tors of the Federal Deposit Insurance Corporation, the
10 Comptroller of the Currency, and the Chairperson of the
11 Federal Housing Finance Board should take all necessary
12 steps within each such agency to ensure that individuals
13 with disabilities and entities owned by individuals with dis-
14 abilities, including financial institutions, investment bank-
15 ing firms, underwriters, asset managers, accountants, and
16 providers of legal services, are availed of all opportunities
17 to compete in a manner which, at a minimum, does not
18 discriminate on the basis of their disability for contracts
19 entered into by the agency to manage the institutions and
20 their assets for which the agency is responsible or to per-
21 form such other functions authorized under any law appli-
22 cable to such agency.

23 **SEC. 34. REPORT TO CONGRESS BY SPECIAL COUNSEL.**

24 (a) REPORT.—Not later than 90 days after the date
25 of enactment of this Act, the Special Counsel appointed

1 under section 2537 of the Crime Control Act of 1990 (25
2 U.S.C. 509 note) shall submit to the Committee on Bank-
3 ing, Housing, and Urban Affairs of the Senate and the
4 Committee on Banking, Finance and Urban Affairs of the
5 House of Representatives a report on the status of its ef-
6 forts to monitor and improve the collection of fines and
7 restitution in cases involving fraud and other criminal ac-
8 tivity in and against the financial services industry.

9 (b) CONTENTS.—The report required under sub-
10 section (a) shall include—

11 (1) information on the amount of fines and res-
12 titution assessed in cases involving fraud and other
13 criminal activity in and against the financial services
14 industry, the amount of such fines and restitution
15 collected, and an explanation of any difference in
16 those amounts;

17 (2) an explanation of the procedures for collect-
18 ing and monitoring restitution assessed in cases in-
19 volving fraud and other criminal activity in and
20 against the financial services industry and any sug-
21 gested improvements to such procedures;

22 (3) an explanation of the availability under any
23 provision of law of punitive measures if restitution
24 and fines assessed in such cases are not paid;

1 (4) information concerning the efforts by the
2 Department of Justice to comply with guidelines for
3 fine and restitution collection and reporting proce-
4 dures developed by the interagency group established
5 by the Attorney General in accordance with section
6 2539 of the Crime Control Act of 1990;

7 (5) any recommendations for additional re-
8 sources or legislation necessary to improve collection
9 efforts; and

10 (6) information concerning the status of the
11 National Fine Center of the Administrative Office of
12 the United States Courts.

13 **SEC. 35. REPORTING REQUIREMENTS.**

14 The Resolution Trust Corporation shall provide semi-
15 annual reports to the Committee on Banking, Housing,
16 and Urban Affairs of the Senate and the Committee on
17 Banking, Finance and Urban Affairs of the House of Rep-
18 resentatives. Such reports shall—

19 (1) detail procedures for expediting the reg-
20 istration and contracting for selecting auctioneers
21 for asset sales with anticipated gross proceeds of not
22 more than \$1,500,000;

23 (2) list by name and geographic area the num-
24 ber of auction contractors which have been reg-

1 istered and qualified to perform services for the Res-
2 olution Trust Corporation: and

3 (3) list by name, address of home office, loca-
4 tion of assets disposed, and gross proceeds realized,
5 the number of auction contractors which have been
6 awarded contracts.

7 **SEC. 36. CONTINUATION OF CONSERVATORSHIPS OR RE-**
8 **CEIVERSHIPS.**

9 Section 21A(b)(6) of the Federal Home Loan Bank
10 Act (12 U.S.C. 1441a(b)(6)) is amended—

11 (1) by striking “If the Corporation” and insert-
12 ing the following:

13 “(A) IN GENERAL.—If the Corporation”;

14 and

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

17 “(B) SAIF-INSURED BANKS.—Notwith-
18 standing any other provision of Federal or
19 State law, if the Federal Deposit Insurance
20 Corporation is appointed as conservator or re-
21 ceiver for any Savings Association Insurance
22 Fund member that has converted to a bank
23 charter and otherwise meets the criteria in
24 paragraph (3)(A) or (6)(A), the Federal De-
25 posit Insurance Corporation may tender such

1 appointment to the Corporation, and the Cor-
2 poration shall accept such appointment, if the
3 Corporation is authorized to accept such ap-
4 pointment under this section."

5 **SEC. 37. EXCEPTIONS FOR CERTAIN TRANSACTIONS.**

6 (a) **TRANSACTIONS INVOLVING CERTAIN INSTITU-**
7 **TIONS.**—Section 11(a)(4)(B) of the Federal Deposit In-
8 **surance Act shall not prohibit assistance from the Bank**
9 **Insurance Fund that otherwise meets all the criteria es-**
10 **tablished in section 13(c) of such Act from being provided**
11 **to an insured depository institution that became wholly-**
12 **owned, either directly or through a wholly-owned subsidi-**
13 **ary, by an entity or instrumentality of a State government**
14 **during the period beginning on January 1, 1992, and end-**
15 **ing on the date of enactment of this Act.**

16 (b) **TRANSACTIONS INVOLVING THE FDIC AS RE-**
17 **CEIVER.**—Notwithstanding the extension, pursuant to sec-
18 **tion 27, of the Resolution Trust Corporation's jurisdiction**
19 **to be appointed conservator or receiver of certain savings**
20 **associations after September 30, 1993, no provision of this**
21 **Act or any amendment made by this Act shall invalidate**
22 **or otherwise affect—**

23 (1) any appointment of the Federal Deposit In-
24 surance Corporation as receiver for any savings as-

1 society that became effective before the date of en-
2 actment of this Act; or

3 (2) any action taken by the Federal Deposit In-
4 surance Corporation as such receiver before, on, or
5 after such date of enactment.

6 **SEC. 38. BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.**

7 (a) **IN GENERAL.**—Effective December 19, 1993, sec-
8 tion 7(i) of the Federal Deposit Insurance Act (12 U.S.C.
9 1817(i)) is amended—

10 (1) by redesignating paragraph (3) as para-
11 graph (4); and

12 (2) by inserting after paragraph (2), the follow-
13 ing new paragraph:

14 “(3) **BANK DEPOSIT FINANCIAL ASSISTANCE**
15 **PROGRAM.**—Notwithstanding paragraph (1), funds
16 deposited by an insured depository institution pursu-
17 ant to the Bank Deposit Financial Assistance Pro-
18 gram of the Department of Energy shall be sepa-
19 rately insured in an amount not to exceed \$100,000
20 for each insured depository institution depositing
21 such funds.”.

22 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
23 Section 11(a)(1)(C) of the Federal Deposit Insurance Act
24 (12 U.S.C. 1821(a)(1)(C)) is amended by striking “sec-

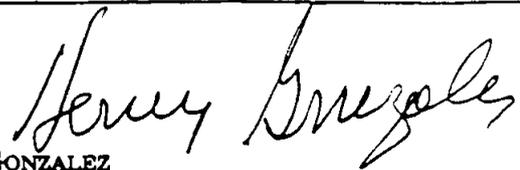
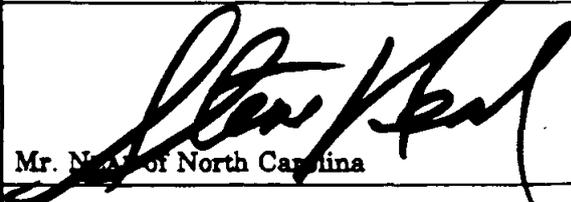
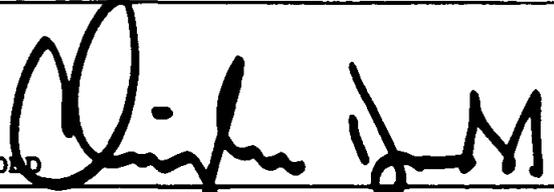
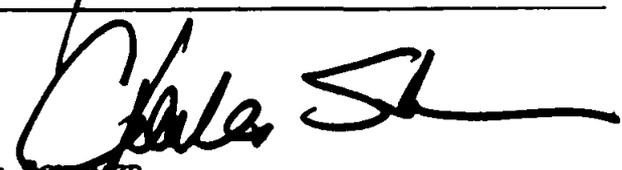
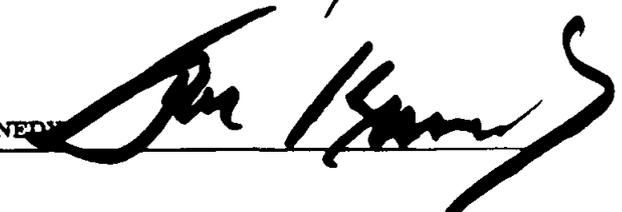
1 tion 7(i)(1)" and inserting "paragraph (1) or (2) of sec-
2 tion 7(i) or any funds described in section 7(i)(3)".

ROMAN

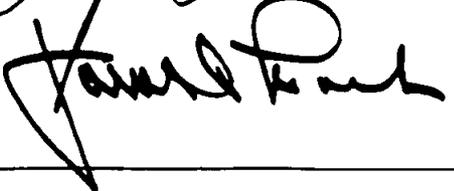
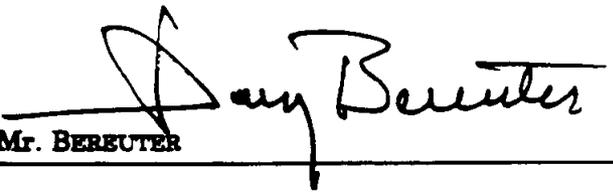
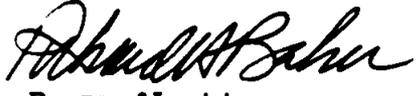
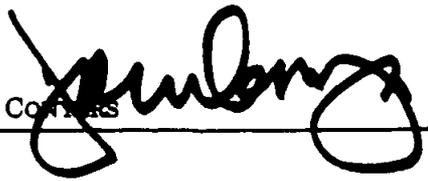
And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

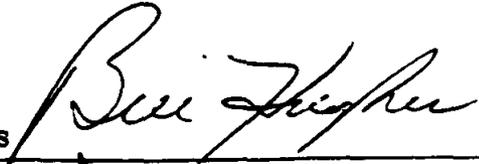
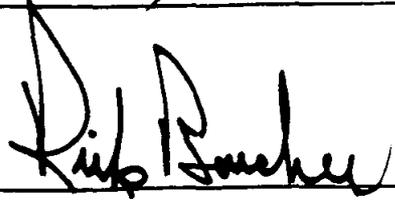
S. 714

<i>Managers on the part of the SENATE</i>	<i>Managers on the part of the HOUSE</i>
	For consideration of the Senate bill, and the House amendment, and modifications committed to conference:
 Mr. RIEGLE	 Mr. GONZALEZ
 Mr. SARBANES	 Mr. KISTNER of North Carolina
 Mr. DINGUS	 Mr. LEFOLCE
 Mr. D'AMATO	 Mr. VENTO
 Mr. BAUCUS	 Mr. STENHOLM
	 Mr. FRANK of Massachusetts
	 Mr. KANJORSKI
	 Mr. KENNEDY

S. 714—Continued

<i>Managers on the part of the SENATE</i>	<i>Managers on the part of the HOUSE</i>
	Mr. FLAKE 
	Mr. LEACH 
	Mr. [REDACTED]
	Mrs. ROUKEMA 
	Mr. BEREUTER 
	Mr. [REDACTED]
	Mr. BAKER of Louisiana 
	For consideration of section 13 of the Senate bill, and section 23 of the House amendment, and modifications committed to conference:
	Mr. CONNORS 

S. 714—Continued

Managers on the part of the SENATE	Managers on the part of the HOUSE
	MANAGER
	For consideration of sections 18 and 22 of the Senate bill, and sections 4 and 19 of the House amendment, and modifications committed to conference:
	 Mr. BROOKS
	 Mr. HUGHES
	 Mr. BOUCHER
	MANAGER

S. 714—Continued

<i>Managers on the part of the</i> SENATE	<i>Managers on the part of the</i> HOUSE
	XXXXXXXXXX

**JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE**

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 714) to provide funding for the resolution of failed savings associations, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

S. 714

*Managers on the part of the
SENATE*

*Managers on the part of the
HOUSE*

For consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Sen Riegle
Mr. RIEGLE

Mr. GONZALEZ *Henry Guzz*

Paul Sarbanes
Mr. SARBANES

Mr. NEAL of *North Carolina*

Cliff DODD
Mr. DODD

Mr. LAFALCE *DeGard*

Alfonse D'Amato
Mr. D'AMATO

Mr. VENTO *Duce Vento*

~~Mr. [unclear]~~

Mr. SCHUMER *Charles*

Frank
Mr. FRANK of Massachusetts

Paul Kanjorski
Mr. KANJORSKI

Mr. KENNEDY *Joe*

S. 714—Continued

*Managers on the part of the
SENATE*

*Managers on the part of the
HOUSE*

Mr. FLAKE

Mr. LEACH

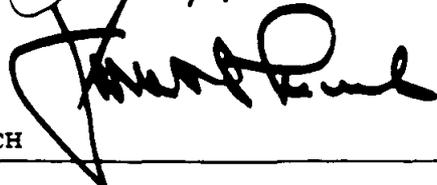
Mrs. ROUKEMA

Mr. BEREUTER

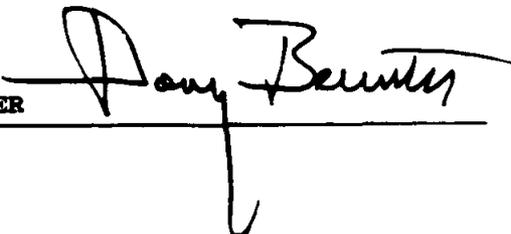
Mr. BAKER of Louisiana

For consideration of section 13 of the Senate bill,
and section 23 of the House amendment, and
modifications committed to conference:

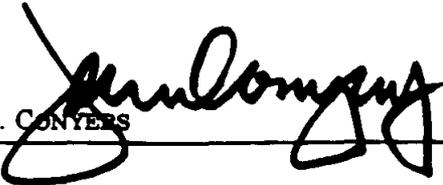
Mr. CONYERS



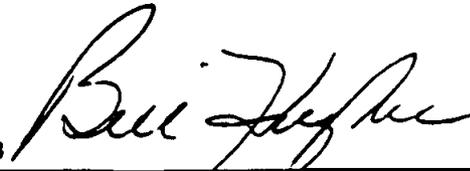
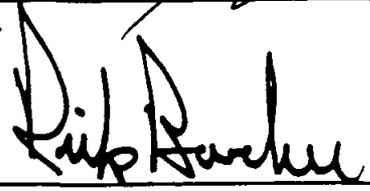
~~Mr. [REDACTED]~~



~~Mr. [REDACTED]~~



S. 714—Continued

<i>Managers on the part of the SENATE</i>	<i>Managers on the part of the HOUSE</i>
	Mr. COLLIER of Illinois
	Mr. BRANCH of Ohio
	Mr. [REDACTED]
	Mr. McClellan
	For consideration of sections 18 and 22 of the Senate bill, and sections 4 and 19 of the House amendment, and modifications committed to conference:
	 Mr. BROOKS
	 Mr. HUGHES
	 Mr. BOUCHER
	Mr. [REDACTED]

S. 714—Continued

Managers on the part of the
SENATE

Managers on the part of the
HOUSE

~~Mr. [Name]~~