

Public Law 103-204
103d Congress

An Act

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.

Dec. 17, 1993

[S. 714]

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Resolution Trust Corporation Completion Act".

(b) **TABLE OF CONTENTS.**—The table of contents for 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 non-profit 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.

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- 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.

SEC. 2. FINAL FUNDING FOR RTC.

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

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

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

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

“(A) CERTIFICATION REQUIRED.—Of the funds appropriated under paragraph (3) which are provided after April 1, 1993, any amount in excess of \$10,000,000,000 shall not be available to the Corporation before the date on which the Secretary of the Treasury certifies to the Congress that, since the date of enactment of the Resolution Trust Corporation Completion Act, the Corporation has taken such action as may be necessary to comply with the requirements of subsection (w) or that, as of the date of the certification, the Corporation is continuing to make adequate progress toward full compliance with such requirements.

“(B) APPEARANCE UPON REQUEST.—The Secretary of the Treasury shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, upon the request of the chairman of the committee, to report on any certification made to the Congress under subparagraph (A).

“(5) RETURN TO TREASURY.—If the aggregate amount of funds transferred to the Corporation pursuant to this subsection exceeds the amount needed to carry out the purposes of this section or to meet the requirements of section 11(a)(6)(F) of the Federal Deposit Insurance Act, such excess amount shall be deposited in the general fund of the Treasury.

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

“(A) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

“(B) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

“(C) any insured depository institution, in connection with the provision of assistance under section 11 or 13 of the Federal Deposit Insurance Act with respect to such institution, except that this subparagraph shall not prohibit

assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B) of such Act) another insured depository institution.”.

SEC. 3. RTC MANAGEMENT REFORMS.

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

“(w) RTC MANAGEMENT REFORMS.—

“(1) COMPREHENSIVE BUSINESS PLAN.—The Corporation shall establish and maintain a comprehensive business plan covering the operations of the Corporation, including the disposition of assets, for the remainder of the Corporation’s existence.

“(2) MARKETING REAL PROPERTY ON AN INDIVIDUAL BASIS.—
The Corporation shall—

“(A) market any undivided or controlling interest in real property, whether held directly or indirectly by an institution described in subsection (b)(3)(A), on an individual basis, including sales by auction, for no fewer than 120 days before such assets may be made available for sale or other disposition on a portfolio basis or otherwise included in a multiasset sales initiative, except that this subparagraph does not apply to assets that are—

“(i) sold simultaneously with a resolution in which a buyer purchases a significant proportion of the assets and assumes a significant proportion of the liabilities, or acts as agent of the Corporation for purposes of paying insured deposits, of an institution described in subsection (b)(3)(A); or

“(ii) transferred to a new institution organized pursuant to section 11(d)(2)(F) of the Federal Deposit Insurance Act; and

“(B) prescribe regulations—

“(i) to require that the sale or other disposition of any asset consisting of real property on a portfolio basis or in connection with any multiasset sales initiative after the end of the 120-day period described in subparagraph (A) be justified in writing; and

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

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

“(A) PROCEDURES FOR DISPOSITION OF REAL ESTATE-RELATED ASSETS.—The Corporation shall not sell real property or any nonperforming real estate loan which the Corporation has acquired as receiver or conservator, unless—

“(i) the Corporation has assigned responsibility for the management and disposition of such asset to a qualified person or entity to—

“(I) analyze each asset on an asset-by-asset basis and consider alternative disposition strategies for such asset;

“(II) develop a written management and disposition plan; and

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

“(ii) the Corporation has made a determination in writing that a bulk transaction would maximize net recovery to the Corporation, while providing opportunity for broad participation by qualified bidders, including minority- and women-owned businesses.

“(B) DEFINITIONS.—In defining any term for purposes of subparagraph (A), the Corporation may, by regulation, define—

“(i) the term ‘asset’ so as to include properties or loans which are legally separate and distinct properties or loans, but which have sufficiently common characteristics such that they may be logically treated as a single asset; and

“(ii) the term ‘qualified person or entity’ so as to include any employee of the Thrift Depositor Protection Oversight Board or any employee assigned to the Corporation under subsection (b)(8).

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

“(i) assets that are—

“(I) sold simultaneously with a resolution in which a buyer purchases a significant proportion of the assets and assumes a significant proportion of the liabilities (or acts as agent of the Corporation for purposes of paying insured deposits) of an institution described in subsection (b)(3)(A); or

“(II) transferred to a new institution organized pursuant to section 11(d)(2)(F) of the Federal Deposit Insurance Act;

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

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

“(iv) real property with a book value of more than \$400,000 or nonperforming real estate loans with a book value of more than \$1,000,000 for which the Corporation determines, in writing, that a disposition not in conformity with the requirements of subparagraph (A) will bring a greater return to the Corporation.

“(D) COORDINATION WITH PARAGRAPH (2).—No provision of this paragraph shall supersede the requirements of paragraph (2).

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

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

“(B) VICE PRESIDENT.—The head of the division shall be a vice president of the Corporation and a member of the executive committee of the Corporation.

“(5) CHIEF FINANCIAL OFFICER.—

“(A) IN GENERAL.—The chief executive officer of the Corporation shall appoint a chief financial officer for the Corporation.

“(B) AUTHORITY.—The chief financial officer of the Corporation shall—

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

“(ii) report directly to the chief executive officer of the Corporation; and

“(iii) have such authority and duties of chief financial officers of agencies under section 902 of title 31, United States Code, as the Thrift Depositor Protection Oversight Board determines to be appropriate with respect to the Corporation.

(6) BASIC ORDERING AGREEMENTS.—

“(A) REVISION OF PROCEDURES.—The Corporation shall revise the procedure for reviewing and qualifying applicants for eligibility for future contracts in a specified service area (commonly referred to as ‘basic ordering agreements’ or ‘task ordering agreements’) in such manner as may be necessary to ensure that small businesses, minorities, and women are not inadvertently excluded from eligibility for such contracts.

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

“(i) review all lists of contractors determined to be eligible for future contracts in a specified service area and other contracting mechanisms; and

“(ii) prescribe appropriate regulations and procedures.

Regulations.

(7) IMPROVEMENT OF CONTRACTING SYSTEMS AND CONTRACTOR OVERSIGHT.—The Corporation shall—

“(A) maintain such procedures and uniform standards for—

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

“(ii) overseeing the performance of contractors and subcontractors under such contracts and compliance by contractors and subcontractors with the terms of contracts and applicable regulations, orders, policies, and guidelines of the Corporation,

as may be appropriate in carrying out the Corporation’s operations in as efficient and economical a manner as may be practicable;

“(B) commit sufficient resources, including personnel, to contract oversight and the enforcement of all laws, regulations, orders, policies, and standards applicable to contracts with the Corporation; and

“(C) maintain uniform procurement guidelines for basic goods and administrative services to prevent the acquisition of such goods and services at widely different prices.

(8) AUDIT COMMITTEE.—

“(A) ESTABLISHMENT.—The Thrift Depositor Protection Oversight Board shall establish and maintain an audit committee.

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

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

“(ii) Monitor the audit findings and recommendations of the inspector general of the Corporation and the Comptroller General of the United States and the

Reports.

Corporation's response to the findings and recommendations.

"(iii) Maintain a close working relationship with the inspector general of the Corporation and the Comptroller General of the United States.

"(iv) Regularly report the findings and any recommendation of the audit committee to the Corporation and the Thrift Depositor Protection Oversight Board.

"(v) Monitor the financial operations of the Corporation and report any incipient problem identified by the audit committee to the Corporation and the Thrift Depositor Protection Oversight Board.

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

"(9) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Corporation shall—

"(A) respond to problems identified by auditors of the Corporation's financial and asset-disposition operations, including problems identified in audit reports by the inspector general of the Corporation, the Comptroller General of the United States, and the audit committee; or

"(B) certify to the Thrift Depositor Protection Oversight Board that no action is necessary or appropriate.

"(10) ASSISTANT GENERAL COUNSEL FOR PROFESSIONAL LIABILITY.—

"(A) APPOINTMENT.—The Corporation shall appoint, within the division of legal services of the Corporation, an assistant general counsel for professional liability.

"(B) DUTIES.—The assistant general counsel for professional liability shall—

"(i) direct the investigation, evaluation, and prosecution of all professional liability claims involving the Corporation; and

"(ii) supervise all legal, investigative, and other personnel and contractors involved in the litigation of such claims.

"(C) SEMIANNUAL REPORTS TO THE CONGRESS.—The assistant general counsel for professional liability shall submit to the Congress a comprehensive litigation report, not later than—

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

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

"(D) CONTENTS OF REPORTS.—The semiannual reports required under subparagraph (C) shall each address the activities of the counsel for professional liability under subparagraph (B) and all civil actions—

"(i) in which the Corporation is a party, which are filed against—

"(I) directors or officers of depository institutions described in subsection (b)(3)(A); or

"(II) attorneys, accountants, appraisers, or other licensed professionals who performed professional services for such depository institutions; and

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

“(11) MANAGEMENT INFORMATION SYSTEM.—The Corporation shall maintain an effective management information system capable of providing complete and current information to the extent the provision of such information is appropriate and cost-effective.

“(12) INTERNAL CONTROLS AGAINST FRAUD, WASTE, AND ABUSE.—The Corporation shall maintain effective internal controls designed to prevent fraud, waste, and abuse, identify any such activity should it occur, and promptly correct any such activity.

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

“(14) REPORTS.—

“(A) DISCLOSURE OF EXPENDITURES.—The Corporation shall include in the annual report submitted pursuant to subsection (k)(4) an itemization of the expenditures of the Corporation during the year for which funds provided pursuant to subsection (i)(3) were used.

“(B) PUBLIC DISCLOSURE OF SALARIES.—The Corporation shall include in the annual report submitted pursuant to subsection (k)(4) a disclosure of the salaries and other compensation paid during the year covered by the report to directors and senior executive officers at any depository institution for which the Corporation has been appointed conservator or receiver.

“(15) MINORITY- AND WOMEN-OWNED BUSINESSES CONTRACT PARITY GUIDELINES.—The Corporation shall establish guidelines for achieving the goal of a reasonably even distribution of contracts awarded to the various subgroups of the class of minority- and women-owned businesses and minority- and women-owned law firms whose total number of certified contractors comprise not less than 5 percent of all minority- and women-owned certified contractors. The guidelines may reflect the regional and local geographic distributions of minority subgroups. The distribution of contracts should not be accomplished at the expense of any eligible minority- or women-owned business or law firm in any subgroup that falls below the 5 percent threshold in any region or locality.

“(16) CONTRACT SANCTIONS FOR FAILURE TO COMPLY WITH SUBCONTRACT AND JOINT VENTURE REQUIREMENTS.—The Corporation shall prescribe regulations which provide sanctions, including contract penalties and suspensions, for violations by contractors of requirements relating to subcontractors and joint ventures.

“(17) MINORITY PREFERENCE IN ACQUISITION OF INSTITUTIONS IN PREDOMINANTLY MINORITY NEIGHBORHOODS.—

“(A) IN GENERAL.—In considering offers to acquire any insured depository institution, or any branch of an insured depository institution, located in a predominantly minority neighborhood (as defined in regulations prescribed under subsection (s)), the Corporation shall give preference to an offer from any minority individual, minority-owned busi-

ness, or a minority depository institution, over any other offer that results in the same cost to the Corporation, as determined under section 13(c)(4) of the Federal Deposit Insurance Act.

“(B) CAPITAL ASSISTANCE.—

“(i) ELIGIBILITY.—In order to effectuate the purposes of this paragraph, any minority individual, minority-owned business, or a minority depository institution shall be eligible for capital assistance under the minority interim capital assistance program established under subsection (u)(1) and subject to the provisions of subsection (u)(3), to the extent that such assistance is consistent with the application of section 13(c)(4) of the Federal Deposit Insurance Act.

“(ii) TERMS AND CONDITIONS.—Subsection (u)(4) shall not apply to capital assistance provided under this subparagraph.

“(C) PERFORMING ASSETS.—In the case of an acquisition of any depository institution or branch described in subparagraph (A) by any minority individual, minority-owned business, or a minority depository institution, the Corporation may provide, in connection with such acquisition and in addition to performing assets of the depository institution or branch, other performing assets under the control of the Corporation in an amount (as determined on the basis of the Corporation's estimate of the fair market value of the assets) not greater than the amount of net liabilities carried on the books of the institution or branch, including deposits, which are assumed in connection with the acquisition.

“(D) FIRST PRIORITY FOR DISPOSITION OF ASSETS.—In the case of an acquisition of any depository institution or branch described in subparagraph (A) by any minority individual, minority-owned business, or a minority depository institution, the disposition of the performing assets of the depository institution or branch to such individual, business, or minority depository institution shall have a first priority over the disposition by the Corporation of such assets for any other purpose.

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

“(i) ACQUIRE.—The term ‘acquire’ has the same meaning as in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

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

“(iii) MINORITY DEPOSITORY INSTITUTION.—The term ‘minority depository institution’ has the same meaning as in subsection (s)(2).

“(iv) MINORITY-OWNED BUSINESS.—The term ‘minority-owned business’ has the same meaning as in subsection (r)(4).

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

“(A) GOALS AND PROCEDURES.—

“(i) REASONABLE GOALS.—The Corporation shall establish reasonable goals for contractors for services with the Corporation to subcontract with minority- and women-owned businesses and law firms.

“(ii) PROCEDURES.—The Corporation may not enter into any contract for the provision of services to the Corporation, including legal services, under which the contractor would receive fees or other compensation in an amount equal to or greater than \$500,000, unless the Corporation requires the contractor to subcontract with minority- or women-owned businesses, including law firms, and to pay fees or other compensation to such businesses in an amount commensurate with the percentage of services provided by the business.

“(iii) EXCEPTIONS.—The Corporation may exclude a contract from the requirements of clause (ii) if the Chief Executive Officer of the Corporation determines in writing that imposing such a subcontracting requirement would—

“(I) substantially increase the cost of contract performance; or

“(II) undermine the ability of the contractor to perform its obligations under the contract.

“(B) LIMITED WAIVER AUTHORITY.—

“(i) IN GENERAL.—The Corporation may grant a waiver from the application of this paragraph to any contractor with respect to a contract described in subparagraph (A)(ii), if the contractor certifies to the Corporation that it has determined that no eligible minority- or women-owned business is available to enter into a subcontract (with respect to such contract) and provides an explanation of the basis for such determination.

“(ii) WAIVER PROCEDURES.—Any determination to grant a waiver under clause (i) shall be made in writing by the Chief Executive Officer of the Corporation.

“(C) REPORT.—Each quarterly report submitted by the Corporation pursuant to subsection (k)(7) shall contain a description of each exception granted under subparagraph (A)(iii) and each waiver granted under subparagraph (B) during the quarter covered by the report.

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

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

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

“(19) CONTRACTING PROCEDURES.—

“(A) PROCEDURES.—In awarding any contract subject to the competitive bidding process, the Corporation shall apply competitive bidding procedures that are no less stringent than those in effect on the date of the enactment of the Resolution Trust Corporation Completion Act.

“(B) COST TO TAXPAYER.—Nothing in this Act, or any other provision of law, shall supersede the Corporation's primary duty of minimizing costs to the taxpayer and maximizing the total return to the Government.

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

“(A) shall utilize staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

“(B) may only employ outside counsel—

“(i) if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action; and

“(ii) under a negotiated fee, contingent fee, or competitively bid fee agreement.

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

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

“(C) APPEALS.—The Corporation shall implement and maintain a program, in a manner acceptable to the Thrift Depositor Protection Oversight Board, to provide an appeals process for business and commercial borrowers to appeal decisions by the Corporation (when acting as a conservator) which would have the effect of terminating or otherwise adversely affecting credit or loan agreements, lines of credit, and similar arrangements with such borrowers who have not defaulted on their obligations.”

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

(1) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the manner in which the reforms required pursuant to the amendment made by subsection (a) are being implemented by the Resolution Trust Corporation and the progress being made by the Corporation toward the achievement of full compliance with such requirements.

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

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

(A) the findings of the Comptroller General in connection with the study required under paragraph (1); and

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

(4) DISCLOSURE OF PERFORMING ASSET TRANSFERS.—

(A) REPORT REQUIRED.—The Comptroller General of the United States shall submit an annual report to the Congress on transfers of performing assets by the Corporation, categorized by institution, to any acquirer during the year covered by the report.

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

- (i) the number and a description of asset transfers during the year covered by the report;
- (ii) the number of assets provided in connection with each transaction during such year; and
- (iii) a report of an audit by the Comptroller General of the determination of the Corporation of the fair market value of transferred assets at the time of transfer.

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

- (1) by inserting “legal,” after “auction marketing”;
- (2) by striking “if” and inserting “only if”; and
- (3) by striking “practicable” and inserting “the most practicable”.

(e) RTC NOTICE TO GSA.—

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

(2) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall contain basic information about the property, including—

- (A) the location and condition of the property;
- (B) information relating to the estimated fair market value of the property; and
- (C) the Corporation’s schedule, or estimate of the schedule, for marketing and disposing of the property.

(3) COMPETITIVE BIDDING.—The Administrator of General Services, in compliance with regulations of the Resolution Trust Corporation, may bid on property described in the notice required under paragraph (1) that is otherwise subject to competitive bidding.

12 USC 1441a
note.

SEC. 4. EXTENSION OF STATUTE OF LIMITATIONS.

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

“(14) EXTENSION OF STATUTE OF LIMITATIONS.—

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

- “(i) IN GENERAL.—In the case of any tort claim—
 - “(I) which is described in clause (ii); and
 - “(II) for which the applicable statute of limitations under section 11(d)(14)(A)(ii) of the Federal Deposit Insurance Act has expired before the date of enactment of the Resolution Trust Corporation Completion Act;

the statute of limitations which shall apply to an action brought on such claim by the Corporation in the Cor-

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

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i)(I) with respect to an institution described in paragraph (3)(A) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.

"(B) TORT ACTIONS FOR WHICH THE PRIOR LIMITATION HAS NOT RUN.—

"(i) IN GENERAL.—Notwithstanding section 11(d)(14)(A) of the Federal Deposit Insurance Act, in the case of any tort claim—

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

“(II) for which the applicable statute of limitations under section 11(d)(14)(A)(ii) of the Federal Deposit Insurance Act has not expired as of the date of enactment of the Resolution Trust Corporation Completion Act;

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

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i)(I) with respect to an institution described in paragraph (3)(A) is a claim arising from gross negligence or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct relating to the institution.

"(C) DETERMINATION OF PERIOD.—The period determined under this subparagraph for any claim to which subparagraph (A) or (B) applies shall be the longer of—

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

“(ii) the period applicable under State law for such claim.

"(D) SCOPE OF APPLICATION.—Subparagraphs (A) and (B) shall not apply to any action which is brought after the date of the termination of the Corporation under subsection (m)(1).”

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(d)(14)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(A)(ii)) is amended by inserting “(other than a claim which is subject to section 21A(b)(14) of the Federal Home Loan Bank Act)” after “any tort claim”.

SEC. 5. LIMITATION ON BONUSES AND COMPENSATION PAID BY THE RTC AND THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

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

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

"(1) ESTABLISHMENT OF PERFORMANCE APPRAISAL SYSTEM REQUIRED.—The Corporation shall be treated as an agency for purposes of sections 4302 and 4304 of title 5, United States Code.

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

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

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

"(3) ALL OTHER CASH AWARDS AND BONUSES PROHIBITED.—Except as provided in paragraph (2), no cash award or bonus may be made to any employee of the Corporation.

"(4) LIMITATIONS ON CASH AWARDS AND BONUSES.—No employee shall receive any cash award or bonus if such employee has given notice of an intent to resign to take a position in the private sector before the payment of such cash award or bonus or accepts employment in the private sector not later than 60 days after receipt of such award or bonus.

"(5) LIMITATION ON EXCESSIVE COMPENSATION.—Except as provided in paragraphs (6) and (7), no employee may receive a total amount of allowances, benefits, basic pay, and other compensation, including bonuses and other awards, in excess of the total amount of allowances, benefits, basic pay, and other compensation, including bonuses and other awards, which are provided to the chief executive officer of the Corporation.

"(6) NO REDUCTION IN RATE OF PAY.—The annual rate of basic pay and benefits, including any regional pay differential, payable to any employee who was an employee as of the date of enactment of the Resolution Trust Corporation Completion Act for any year ending after such date of enactment shall not be reduced, by reason of paragraph (5), below the annual rate of basic pay and benefits, including any regional pay differential, paid to such employee, by reason of such employment, as of such date.

"(7) EMPLOYEES SERVING IN ACTING OR TEMPORARY CAPACITY.—In the case of any employee who, as of the date of enactment of the Resolution Trust Corporation Completion Act, is serving in an acting capacity or is otherwise temporarily employed at a higher grade than such employee's regular grade or position of employment—

"(A) the annual rate of basic pay and benefits, including any regional pay differential, payable to such employee in such capacity or at such higher grade shall not be reduced by reason of paragraph (5) so long as such employee continues to serve in such capacity or at such higher grade; and

"(B) after such employee ceases to serve in such capacity or at such higher grade, paragraph (6) shall be applied

with respect to such employee by taking into account only the annual rate of basic pay and benefits, including any regional pay differential, payable to such employee in such employee's regular grade or position of employment.

(8) DEFINITIONS.—

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

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENT TO TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking the following item: “chief executive officer of the Resolution Trust Corporation.”.

(2) FEDERAL HOME LOAN BANK ACT AMENDMENT.—Section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by adding at the end the following new subparagraph:

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

SEC. 6. FDIC—RTC TRANSITION TASK FORCE.

(a) ESTABLISHMENT REQUIRED.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall establish an interagency transition task force. The task force shall facilitate the transfer of the assets, personnel, and operations of the Resolution Trust Corporation to the Federal Deposit Insurance Corporation or the FSLIC Resolution Fund, as the case may be, in a coordinated manner.

(b) MEMBERS.—

(1) IN GENERAL.—The transition task force shall consist of such number of officers and employees of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and the chief executive officer of the Resolution Trust Corporation may jointly determine to be appropriate.

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

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

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

(1) Examine the operations of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to iden-

tify, evaluate, and resolve differences in the operations of the corporations to facilitate an orderly merger of such operations.

(2) Recommend which of the management, resolution, or asset disposition systems of the Resolution Trust Corporation should be preserved for use by the Federal Deposit Insurance Corporation.

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

- (A) coordination between the corporations before the termination of the Resolution Trust Corporation; and
- (B) an orderly transfer of assets, personnel, and operations.

(4) Evaluate the management enhancement goals applicable to the Resolution Trust Corporation under section 21A(p) of the Federal Home Loan Bank Act and recommend which of such goals should apply to the Federal Deposit Insurance Corporation.

(5) Evaluate the management reforms applicable to the Resolution Trust Corporation under section 21A(w) of the Federal Home Loan Bank Act and recommend which of such reforms should apply to the Federal Deposit Insurance Corporation.

(d) REPORTS TO BANKING COMMITTEES.—

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

(2) CONTENTS OF REPORT.—The reports required to be submitted under paragraph (1) shall contain the findings and recommendations made by the transition task force in carrying out the duties of the task force under subsection (c) and such recommendations for legislative and administrative action as the task force may determine to be appropriate.

(e) FOLLOWUP REPORT BY FDIC.—Not later than January 1, 1996, the Federal Deposit Insurance Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing—

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

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

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

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

SEC. 7. AMENDMENTS RELATING TO THE TERMINATION OF THE RTC.

(a) AMENDMENT RELATING TO TRANSFER OF PERSONNEL AND SYSTEMS.—Section 21A(m) of the Federal Home Loan Bank Act

(12 U.S.C. 1441a(m)) is amended by adding at the end the following new paragraph:

“(3) TRANSFER OF PERSONNEL AND SYSTEMS.—In connection with the assumption by the Federal Deposit Insurance Corporation of conservatorship and receivership functions with respect to institutions described in subsection (b)(3)(A) and the termination of the Corporation pursuant to paragraph (1)—

“(A) any management, resolution, or asset-disposition system of the Corporation which the Secretary of the Treasury determines, after considering the recommendations of the interagency transition task force under section 6(c) of the Resolution Trust Corporation Completion Act, has been of benefit to the operations of the Corporation (including any personal property of the Corporation which is used in operating any such system) shall, notwithstanding paragraph (2), be transferred to and used by the Federal Deposit Insurance Corporation in a manner which preserves the integrity of the system for so long as such system is efficient and cost-effective; and

“(B) any personnel of the Corporation involved with any such system who are otherwise eligible to be transferred to the Federal Deposit Insurance Corporation shall be transferred to the Federal Deposit Insurance Corporation for continued employment, subject to section 404(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and other applicable provisions of this section, with respect to such system.”.

(b) AMENDMENT RELATING TO DATE OF TERMINATION.—Section 21A(m)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(m)(1)) is amended by striking “December 31, 1996” and inserting “December 31, 1995”.

SEC. 8. SAIF FUNDING AUTHORIZATION AMENDMENTS.

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

“(D) TREASURY PAYMENTS TO FUND.—To the extent of the availability of amounts provided in appropriation Acts and subject to subparagraphs (E) and (G), the Secretary of the Treasury shall pay to the Savings Association Insurance Fund such amounts as may be needed to pay losses incurred by the Fund in fiscal years 1994 through 1998.”.

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

“(E) CERTIFICATION CONDITIONS ON AVAILABILITY OF FUNDING.—No amount appropriated for payments by the Secretary of the Treasury in accordance with subparagraph (D) for any fiscal year may be expended unless the Chairperson of the Board of Directors certifies to the Congress, at any time before the beginning of or during such fiscal year, that—

“(i) such amount is needed to pay for losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund;

"(ii) the Board of Directors has determined that—

“(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to cover, from such additional assessments, losses which have been incurred or can reasonably be expected to be incurred by the Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

“(II) an increase in the assessment rates for Savings Association Insurance Fund members to cover such losses could reasonably be expected to result in greater losses to the Government;

"(iii) the Board of Directors has determined that—

“(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses which have been incurred or can reasonably be expected to be incurred by the Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

“(II) an increase in the assessment rates for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government;

"(iv) as of the date of certification, the Corporation has in effect procedures designed to ensure that the activities of the Savings Association Insurance Fund and the affairs of any Savings Association Insurance Fund member for which a conservator or receiver has been appointed are conducted in an efficient manner and the Corporation is in compliance with such procedures;

"(v) with respect to the most recent audit of the Savings Association Insurance Fund by the Comptroller General of the United States before the date of the certification—

“(I) the Corporation has taken or is taking appropriate action to implement any recommendation made by the Comptroller General; or

“(II) no corrective action is necessary or appropriate;

"(vi) the Corporation has provided for the appointment of a chief financial officer who—

“(I) does not have other operating responsibilities;

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

“(III) will have such authority and duties of chief financial officers under section 902 of title

31, United States Code, as the Board of Directors of the Corporation determines to be appropriate with respect to the Corporation;

“(vii) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

“(viii) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

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

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

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

“(II) employing outside counsel only if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee agreement.”

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

“(F) AVAILABILITY OF RTC FUNDING.—At any time before the end of the 2-year period beginning on the date of the termination of the Resolution Trust Corporation, the Secretary of the Treasury shall provide, out of funds appropriated to the Resolution Trust Corporation pursuant to section 21A(i)(3) of the Federal Home Loan Bank Act and not expended by the Resolution Trust Corporation, to the Savings Association Insurance Fund, for any year such amounts as are needed by the Fund and are not needed by the Resolution Trust Corporation, if the Chairperson of the Board of Directors has certified to the Congress that—

“(i) such amount is needed to pay for losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund;

“(ii) the Board of Directors has determined that—

“(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to cover, from such additional assessments, losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund without adversely affecting the ability of such members to raise and maintain

capital or to maintain the members' assessment base; and

"(II) an increase in the assessment rates for Savings Association Insurance Fund members to cover such losses could reasonably be expected to result in greater losses to the Government;

"(iii) the Board of Directors has determined that—

"(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain such members' assessment base; and

"(II) an increase in the assessment rates for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government;

"(iv) the Corporation has provided for the appointment of a chief financial officer who—

"(I) does not have other operating responsibilities;

"(II) will report directly to the Chairperson of the Corporation; and

"(III) will have such authority and duties of chief financial officers under section 902 of title 31, United States Code, as the Board of Directors of the Corporation determines to be appropriate with respect to the Corporation;

"(v) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

"(vi) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(vii) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

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

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

"(II) employing outside counsel only if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to

the action and only under a negotiated fee, contingent fee, or competitively bid fee agreement.”.

(d) APPEARANCES BEFORE THE BANKING COMMITTEES.—Section 11(a)(6)(H) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(H)) is amended to read as follows:

“(H) APPEARANCE UPON REQUEST.—The Secretary of the Treasury and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, upon the request of the chairman of the committee, to report on any certification made to the Congress under subparagraph (E) or (F).”.

(e) AMENDMENTS TO AUTHORIZATION OF APPROPRIATION.—Section 11(a)(6)(J) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)(J)) is amended—

(1) by striking “There are” and inserting “Subject to subparagraph (E), there are”; and

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

(f) RETURN OF TRANSFERRED AND UNEXPENDED AMOUNTS TO TREASURY.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by adding at the end the following new subparagraph:

“(K) RETURN TO TREASURY.—If the aggregate amount of funds transferred to the Savings Association Insurance Fund under subparagraph (D) or (F) exceeds the amount needed to cover losses incurred by the Fund, such excess amount shall be deposited in the general fund of the Treasury.”.

(g) GAO REPORT.—Not later than 60 days after receipt of any certification submitted pursuant to subparagraph (E) or (F) of section 11(a)(6) of the Federal Deposit Insurance Act, the Comptroller General shall transmit a report to the Congress evaluating any such certification.

(h) ADJUSTMENT OF SAIF SCHEDULE.—Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b)(3)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(C)) is amended by striking “, but such amendments may not extend the date specified in subparagraph (B)” and inserting “and such amendment may extend the date specified in subparagraph (B) to such later date as the Corporation determines will, over time, maximize the amount of semiannual assessments received by the Savings Association Insurance Fund, net of insurance losses incurred by the Fund.”.

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

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

(2) in the heading, by striking “SUBPARAGRAPHS (E) AND (F)” and inserting “SUBPARAGRAPH (D)”.

SEC. 9. MORATORIUM EXTENSION.

(a) **CONVERSION MORATORIUM UNTIL SAIF RECAPITALIZED.**—Section 5(d)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(A)(ii)) is amended—

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

(2) by inserting “or the date on which the Savings Association Insurance Fund first meets or exceeds the designated reserve ratio for such fund” before the period.

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

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

(2) by adding at the end the following:

“(v) the transfer of deposits—

“(I) from a Bank Insurance Fund member to a Savings Association Insurance Fund member; or

“(II) from a Savings Association Insurance Fund member to a Bank Insurance Fund member; in a transaction in which the deposit is received from a depositor at an insured depository institution for which a receiver has been appointed and the receiving insured depository institution is acting as agent for the Corporation in connection with the payment of such deposit to the depositor at the institution for which a receiver has been appointed.”

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 5(d) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)) is amended—

(1) in clauses (ii) and (iii) of paragraph (2)(C); and

(2) in paragraph (3)(I)(i);

by striking “5-year period referred to in” and inserting “moratorium period established by”.

SEC. 10. REPAYMENT SCHEDULE FOR PERMANENT FDIC BORROWING AUTHORITY.

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

“(3) **INDUSTRY REPAYMENT.**—

“(A) **BIF MEMBER PAYMENTS.**—No agreement or repayment schedule under paragraph (1) shall require any payment by a Bank Insurance Fund member for funds obtained under subsection (a) for purposes of the Savings Association Fund.

“(B) **SAIF MEMBER PAYMENTS.**—No agreement or repayment schedule under paragraph (1) shall require any payment by a Savings Association Insurance Fund member for funds obtained under subsection (a) for purposes of the Bank Insurance Fund.”

SEC. 11. DEPOSIT INSURANCE FUNDS.

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

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

“(A) MAINTENANCE AND USE OF FUNDS.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall each be—

“(i) maintained and administered by the Corporation;

“(ii) maintained separately and not commingled; and

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

“(B) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Bank Insurance Fund and the Savings Association Insurance Fund shall not be used in any manner to benefit any shareholder of—

“(i) any insured depository institution for which the Corporation or the Resolution Trust Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation or the Resolution Trust Corporation;

“(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation or the Resolution Trust Corporation; or

“(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.”.

SEC. 12. MAXIMUM DOLLAR LIMITS FOR ELIGIBLE CONDOMINIUM AND SINGLE FAMILY PROPERTIES UNDER RTC AFFORDABLE HOUSING PROGRAM.

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

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

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

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

“(II) only to the extent or in such amounts as are provided in appropriation Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, the amount provided in section 203(b)(2)(A) of the National Housing Act, except that such amount shall not exceed \$101,250 in the case of a 1-family residence, \$114,000 in the case of a 2-family residence, \$138,000 in the case of a 3-family residence, and \$160,500 in the case of a 4-family residence.”; and

(2) in subparagraph (G)—

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

(B) by striking subclause (II) and inserting the following new clause:

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

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

“(II) only to the extent or in such amounts as are provided in appropriation Acts for additional costs and losses to the Corporation resulting from this subclause taking effect, the amount provided in section 203(b)(2)(A) of the National Housing Act, except that such amount shall not exceed \$101,250 in the case of a 1-family residence, \$114,000 in the case of a 2-family residence, \$138,000 in the case of a 3-family residence, and \$160,500 in the case of a 4-family residence.”.

SEC. 13. CHANGES AFFECTING ONLY FDIC AFFORDABLE HOUSING PROGRAM.

Section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) is amended in paragraphs (4)(A), (5)(A), and (7)(A), by inserting before “; and” each place it appears the following: “in its corporate capacity, its capacity as conservator, or its capacity as receiver (including in its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property)”.

SEC. 14. CHANGES AFFECTING BOTH RTC AND FDIC AFFORDABLE HOUSING PROGRAMS.**(a) NOTICE TO CLEARINGHOUSES REGARDING PROPERTIES NOT INCLUDED IN PROGRAMS.—**

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

“(16) NOTICE TO CLEARINGHOUSES REGARDING INELIGIBLE PROPERTIES.—

“(A) IN GENERAL.—Within a reasonable period of time after acquiring title to an ineligible residential property, the Corporation shall, to the extent practicable, provide written notice to clearinghouses.

“(B) CONTENT.—For ineligible single family properties, such notice shall contain the same information about such properties that the notice required under paragraph (2)(A) contains with respect to eligible single family properties. For ineligible multifamily housing properties, such notice shall contain the same information about such properties that the notice required under paragraph (3)(A) contains with respect to eligible multifamily housing properties. For ineligible condominium properties, such notice shall contain the same information about such properties that the notice required under paragraph (14)(A) contains with respect to eligible condominium properties.

“(C) AVAILABILITY.—The clearinghouses shall make such information available, upon request, to other public agencies, other nonprofit organizations, qualifying households, qualifying multifamily purchasers, and other purchasers, as appropriate.

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

“(i) INELIGIBLE CONDOMINIUM PROPERTY.—The term ‘ineligible condominium property’ means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

“(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary corporation has as its principal business the ownership of real property);

“(II) that has an appraised value that does not exceed the applicable dollar amount limitation for the property under paragraph (9)(D)(ii)(II); and

“(III) that is not an eligible condominium property.

“(ii) INELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term ‘ineligible multifamily housing property’ means a property consisting of more than 4 dwelling units—

“(I) to which the Corporation acquires title in its capacity as conservator (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship, which subsidiary corporation has as its principal business the ownership of real property);

“(II) that has an appraised value that does not exceed, for such part of the property as may be attributable to dwelling use (excluding exterior land improvements), the dollar amount limitations under paragraph (9)(E)(i)(II); and

“(III) that is not an eligible multifamily housing property.

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

“(I) to which the Corporation acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary corporation has as its principal business the ownership of real property);

“(II) that has an appraised value that does not exceed the applicable dollar amount limitation for the property under paragraph (9)(G)(ii)(II); and

“(III) that is not an eligible single family property.

“(iv) INELIGIBLE RESIDENTIAL PROPERTY.—The term ‘ineligible residential property’ includes ineligible single family properties, ineligible multifamily housing properties, and ineligible condominium properties.”

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

“(q) NOTICE TO CLEARINGHOUSES REGARDING INELIGIBLE PROPERTIES.—

“(1) IN GENERAL.—Within a reasonable period of time after acquiring title to an ineligible residential property, the Corporation shall, to the extent practicable, provide written notice to clearinghouses.

“(2) CONTENT.—For ineligible single family properties, such notice shall contain the same information about such properties that the notice required under subsection (c)(1) contains with respect to eligible single family properties. For ineligible multifamily housing properties, such notice shall contain the same information about such properties that the notice required under subsection (d)(1) contains with respect to eligible multifamily housing properties. For ineligible condominium properties, such notice shall contain the same information about such properties that the notice required under subsection (l)(1) contains with respect to eligible condominium properties.

“(3) AVAILABILITY.—The clearinghouses shall make such information available, upon request, to other public agencies, other nonprofit organizations, qualifying households, qualifying multifamily purchasers, and other purchasers, as appropriate.

“(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) INELIGIBLE CONDOMINIUM PROPERTY.—The term ‘ineligible condominium property’ means any eligible condominium property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

“(B) INELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term ‘ineligible multifamily housing property’ means any eligible multifamily housing property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

“(C) INELIGIBLE SINGLE FAMILY PROPERTY.—The term ‘ineligible single family property’ means any eligible single family property to which the provisions of this section do not apply as a result of the limitations under subsection (b)(2)(A).

“(D) INELIGIBLE RESIDENTIAL PROPERTY.—The term ‘ineligible residential property’ includes ineligible single family properties, ineligible multifamily housing properties, and ineligible condominium properties.”

(b) AFFORDABLE HOUSING ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is hereby established the Affordable Housing Advisory Board (in this subsection referred to as the “Advisory Board”) to advise the Thrift Depositor Protection Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation on policies and pro-

grams related to the provision of affordable housing, including the operation of the affordable programs.

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

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (or the Chairperson's delegate), who shall be a nonvoting member;

(C) the Chairperson of the Thrift Depositor Protection Oversight Board (or the Chairperson's delegate), who shall be a nonvoting member;

(D) 4 persons appointed by the Secretary of Housing and Urban Development not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, who represent the interests of individuals and organizations involved in using the affordable housing programs (including nonprofit organizations, public agencies, and for-profit organizations that purchase properties under the affordable housing programs, organizations that provide technical assistance regarding the affordable housing programs, and organizations that represent the interest of low- and moderate-income families); and

(E) 2 persons who are members of the National Housing Advisory Board pursuant to section 21A(d)(2)(B)(ii) of the Federal Home Loan Bank Act (as in effect before the effective date of the repeal under subsection (c)(2)), who shall be appointed by such Board before such effective date.

(3) TERMS.—Each member shall be appointed for a term of 4 years, except as provided in paragraphs (4) and (5).

(4) TERMS OF INITIAL APPOINTEES.—

(A) PERMANENT POSITIONS.—As designated by the Secretary of Housing and Urban Development at the time of appointment, of the members first appointed under paragraph (2)(D)—

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

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

(iii) 1 shall be appointed for a term of 3 years;

and

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

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

(5) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(6) MEETINGS.—

(A) TIMING AND LOCATION.—The Advisory Board shall meet 4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or the Board of Directors of the Federal Deposit Insurance Cor-

poration. In each year, the Advisory Board shall conduct such meetings at various locations in different regions of the United States in which substantial residential property assets of the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are located. The first meeting of the Advisory Board shall take place not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(B) ADVICE.—The Advisory Board shall submit information and advice resulting from each meeting, in such form as the Board considers appropriate, to the Thrift Depositor Protection Oversight Board and the Board of Directors of the Federal Deposit Insurance Corporation.

(7) ANNUAL REPORTS.—For each year, the Advisory Board shall submit a report containing its findings and recommendations to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation. The first such report shall be made not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

(8) DEFINITION.—For purposes of this subsection, the term "affordable housing programs" means the program under section 21A(c) of the Federal Home Loan Bank Act and the program under section 40 of the Federal Deposit Insurance Act.

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

(c) TERMINATION OF NATIONAL HOUSING ADVISORY BOARD.—

(1) TERMINATION.—The National Housing Advisory Board under section 21A(d)(2) of the Federal Home Loan Bank Act shall terminate upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

(2) REPEAL.—Effective upon the expiration of the period referred to in paragraph (1), paragraph (2) of section 21A(d) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(2)) is amended to read as follows:

"(2) [Reserved].

(d) PROVISION OF INFORMATION REGARDING SELLER FINANCING TO MINORITY- AND WOMEN-OWNED BUSINESSES.—

(1) RTC.—Section 21A(c)(6)(A)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(ii)) is amended by adding at the end the following new sentences: "The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this clause; such information may be provided directly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this clause, the terms 'women-owned business' and 'minority-owned business' have the meanings given such terms in sub-

12 USC 1441a
note.

section (r), and the term 'minority' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.".

(2) FDIC.—Section 40(g)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(g)(1)(B)) is amended by adding at the end the following new sentences: "The Corporation shall periodically provide, to a wide range of minority- and women-owned businesses engaged in providing affordable housing and to nonprofit organizations, more than 50 percent of the control of which is held by 1 or more minority individuals, that are engaged in providing affordable housing, information that is sufficient to inform such businesses and organizations of the availability and terms of financing under this subparagraph; such information may be provided directly, by notices published in periodicals and other publications that regularly provide information to such businesses or organizations, and through persons and organizations that regularly provide information or services to such businesses or organizations. For purposes of this subparagraph, the terms 'women-owned business' and 'minority-owned business' have the meanings given such terms in section 21A(r) of the Federal Home Loan Bank Act, and the term 'minority' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989."

(e) AUTHORITY TO CARRY OUT UNIFIED AFFORDABLE HOUSING PROGRAM.—

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

"(17) UNIFIED AFFORDABLE HOUSING PROGRAM.—

"(A) IN GENERAL.—Not later than 4 months after the date of enactment of the Resolution Trust Corporation Completion Act, the Corporation shall enter into an agreement, as described in section 40(n)(3) of the Federal Deposit Insurance Act, with the Federal Deposit Insurance Corporation that sets out a plan for the orderly unification of the Corporation's activities, authorities, and responsibilities under this subsection with the authorities, activities, and responsibilities of the Federal Deposit Insurance Corporation pursuant to section 40 of the Federal Deposit Insurance Act in a manner that best achieves an effective and comprehensive affordable housing program management structure. The agreement shall be entered into after consultation with the Affordable Housing Advisory Board under section 14(b) of the Resolution Trust Corporation Completion Act.

"(B) AUTHORITY AND IMPLEMENTATION.—The Corporation shall have the authority to carry out the provisions of the agreement entered into pursuant to subparagraph (A) and shall implement such agreement as soon as practicable, but in no event later than 8 months after the date of enactment of the Resolution Trust Corporation Completion Act.

"(C) TRANSFER OF AUTHORITY.—Effective upon October 1, 1995, any remaining authority and responsibilities of

Contracts.

the Corporation under this subsection shall be carried out by the Federal Deposit Insurance Corporation.”.

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

“(n) UNIFIED AFFORDABLE HOUSING PROGRAMS.—

“(1) IN GENERAL.—Not later than 4 months after the date of enactment of the Resolution Trust Corporation Completion Act, the Corporation shall enter into an agreement, as described in paragraph (3), with the Resolution Trust Corporation that sets out a plan for the orderly unification of the Corporation’s activities, authorities, and responsibilities under this section with the authorities, activities, and responsibilities of the Resolution Trust Corporation pursuant to section 21A(c) of the Federal Home Loan Bank Act in a manner that best achieves an effective and comprehensive affordable housing program management structure. The agreement shall be entered into after consultation with the Affordable Housing Advisory Board under section 14(b) of the Resolution Trust Corporation Completion Act.

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

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

“(A) a program unifying all activities and responsibilities of the Corporation and the Resolution Trust Corporation, and the design of the unified program shall take into consideration the substantial experience of the Resolution Trust Corporation regarding—

“(i) seller financing;

“(ii) technical assistance;

“(iii) marketing skills and relationships with public and nonprofit entities; and

“(iv) staff resources;

“(B) the elimination of duplicative and unnecessary administrative costs and resources;

“(C) the management structure of the unified program;

“(D) a timetable for the unification; and

“(E) a methodology to determine the extent to which the provisions of this section shall be effective, in accordance with the limitations under subsection (b)(2).

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

(f) LIABILITY PROVISIONS.—

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

“(D) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver or conservator, or of any subsidiary

corporation of a depository institution under conservatorship or receivership, or any claimant against such an institution or subsidiary, because the disposition of assets of the institution or the subsidiary under this subsection affects the amount of return from the assets.”.

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

“(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver or conservator, or of any subsidiary corporation of a depository institution under receivership or conservatorship, or any claimant against such institution or subsidiary, because the disposition of assets of the institution or the subsidiary under this section affects the amount of return from the assets.”.

SEC. 15. RIGHT OF FIRST REFUSAL FOR TENANTS TO PURCHASE SINGLE FAMILY PROPERTY.

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

“(15) PURCHASE RIGHTS OF TENANTS.—

“(A) NOTICE.—Except as provided in subparagraph (C), the Corporation may make available for sale a 1- to 4-family residence (including a manufactured home) to which the Corporation acquires title only after the Corporation has provided the household residing in the property notice (in writing and mailed to the property) of the availability of such property 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 all of the assets of an insured depository institution for which the Corporation has been appointed conservator or receiver;

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

“(iii) any residence for which the household occupying the residence was the mortgagor under a mortgage

on such residence and to which the Corporation acquired title pursuant to default on such mortgage.”.

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

“(u) PURCHASE RIGHTS OF TENANTS.—

“(1) NOTICE.—Except as provided in paragraph (3), the Corporation may make available for sale a 1- to 4-family residence (including a manufactured home) to which the Corporation acquires title only after the Corporation has provided the household residing in the property notice (in writing and mailed to the property) of the availability of such property and the preference afforded such household under paragraph (2).

“(2) 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—

“(A) 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);

“(B) 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

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

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

“(A) any residence transferred in connection with the transfer of substantially all of the assets of an insured depository institution for which the Corporation has been appointed conservator or receiver;

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

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

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

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

“(16) PREFERENCE FOR SALES FOR HOMELESS FAMILIES.—

Subject to paragraph (15), in selling any real property (other than eligible residential property and eligible condominium property, as such terms are defined in subsection (c)(9)) to which the Corporation acquires title, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer that would provide for the property to be used, during the remaining useful life of the property, to provide housing or shelter for homeless persons (as such term is defined in

section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.”.

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

“(v) PREFERENCE FOR SALES FOR HOMELESS FAMILIES.—Subject to subsection (u), in selling any real property (other than eligible residential property and eligible condominium property, as such terms are defined in section 40(p)) to which the Corporation acquires title, the Corporation shall give preference among offers to purchase the property that will result in the same net present value proceeds, to any offer that would provide for the property to be used, during the remaining useful life of the property, to provide housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or 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.

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

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

“(A) AUTHORITY.—In selling any eligible commercial real properties of the Corporation, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer—

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

“(ii) under which the purchaser agrees that the property shall be used, during the remaining useful life of the property, for offices and administrative purposes of the purchaser to carry out a program to acquire residential properties to provide (I) homeownership and rental housing opportunities for very-low-, low-, and moderate-income families, or (II) housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.

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

“(i) ELIGIBLE COMMERCIAL REAL PROPERTY.—The term ‘eligible commercial real property’ means any property (I) to which the Corporation acquires title, and (II) that the Corporation, in the discretion of the Corporation, determines is suitable for use for the location of offices or other administrative functions involved with carrying out a program referred to in subparagraph (A)(ii).

“(ii) NONPROFIT ORGANIZATION AND PUBLIC AGENCY.—The terms ‘nonprofit organization’ and ‘public agency’ have the same meanings as in subsection (c)(9).”.

(b) FDIC.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding after subsection (v) (as added by section 16(b) of this Act) the following new subsection:

“(w) PREFERENCES FOR SALES OF CERTAIN COMMERCIAL REAL PROPERTIES.—

“(1) AUTHORITY.—In selling any eligible commercial real properties of the Corporation, the Corporation shall give preference, among offers to purchase the property that will result in the same net present value proceeds, to any offer—

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

“(B) under which the purchaser agrees that the property shall be used, during the remaining useful life of the property, for offices and administrative purposes of the purchaser to carry out a program to acquire residential properties to provide (i) homeownership and rental housing opportunities for very-low-, low-, and moderate-income families, or (ii) housing or shelter for homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families.

“(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) ELIGIBLE COMMERCIAL PROPERTY.—The term ‘eligible commercial real property’ means any property (i) to which the Corporation acquires title, and (ii) that the Corporation, in the discretion of the Corporation, determines is suitable for use for the location of offices or other administrative functions involved with carrying out a program referred to in paragraph (1)(B).

“(B) NONPROFIT ORGANIZATION AND PUBLIC AGENCY.—The terms ‘nonprofit organization’ and ‘public agency’ have the same meanings as in section 40(p).”

SEC. 18. FEDERAL HOME LOAN BANKS HOUSING OPPORTUNITY HOTLINE PROGRAM.

The Federal Home Loan Bank Act (12 U.S.C. 1422 et seq.) is amended by inserting after section 26 the following new section:

“SEC. 27. HOUSING OPPORTUNITY HOTLINE PROGRAM.

12 USC 1447.

“(a) ESTABLISHMENT.—The Federal Home Loan Banks shall, individually or (at the discretion of the Federal Housing Finance Board) on a consolidated basis, establish and provide a service substantially similar (in the determination of the Board) to the ‘Housing Opportunity Hotline’ program established in October 1992, by the Federal Home Loan Bank of Dallas.

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

“(c) REQUIRED INFORMATION.—The service or services established under this section shall use the information obtained from Federal agencies to provide information regarding the size, location, price, and other characteristics of such single family properties, the eligibility requirements for purchasers of such properties, the

terms for such sales, and the terms of any available seller financing, and shall identify properties that are affordable to low- and moderate-income families.

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

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

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

“(A) the Farmers Home Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the General Services Administration, the Department of Housing and Urban Development, and the Department of Veterans Affairs;

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

“(C) the Federal Deposit Insurance Corporation, subject to the discretion of such Corporation.

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

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

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

“(f) CONFLICT OF INTEREST.—

“(1) APPLICABILITY OF OTHER PROVISIONS.—

“(A) CLARIFICATION OF STATUS OF CORPORATION.—The Corporation is, and has been since its creation, an agency for purposes of title 18, United States Code.

“(B) TREATMENT OF CONTRACTORS.—Any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation, shall be deemed to be an employee of the Corporation for purposes of title 18, United States Code and this Act. Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation, and who is not otherwise treated as an officer or employee of the United States for purposes of title 18, United States Code, shall be deemed to be a public official for purposes of section 201 of title 18, United States Code.

“(2) REGULATIONS CONCERNING EMPLOYEE CONDUCT.—The officers and employees of the Corporation and those individuals under contract to the Corporation who are deemed, under paragraph (1)(B), to be employees of the Corporation for purposes of title 18, United States Code, shall be subject to the ethics and conflict of interest rules and regulations issued by the Office of Government Ethics, including those concerning employee conduct, financial disclosure, and post-employment activities. The Board of Directors may prescribe regulations that supplement such rules and regulations only with the concurrence of that Office.

(3) REGULATIONS CONCERNING INDEPENDENT CONTRACTORS.—The Board of Directors, with the concurrence of the Office of Government Ethics, shall prescribe regulations applicable to those independent contractors who are not deemed, under paragraph (1)(B), to be employees of the Corporation for purposes of title 18, United States Code, governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41, United States Code. Any such regulations shall be in addition to, and not in lieu of, any other statute or regulation which may apply to the conduct of such independent contractors.

(4) DISAPPROVAL OF CONTRACTORS.—

(A) IN GENERAL.—The Board of Directors shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

Regulations.

(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from—

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

“(ii) becoming employed by the Corporation or otherwise performing any service for or on behalf of the Corporation.

(C) INFORMATION REQUIRED TO BE SUBMITTED.—The procedures established under subparagraph (A) shall require that any offer submitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include—

“(i) a list and description of any instance during the 5 years preceding the submission of such application in which the person or a company under such person's control defaulted on a material obligation to an insured depository institution; and

“(ii) such other information as the Board may prescribe by regulation.

(D) SUBSEQUENT SUBMISSIONS.—

(i) IN GENERAL.—No offer submitted to the Corporation may be accepted unless the offeror agrees that no person will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless—

“(I) all applicable information described in subparagraph (C) with respect to any such person is submitted to the Corporation; and

“(II) the Corporation does not disapprove of the direct or indirect employment of such person.

(ii) FINALITY OF DETERMINATION.—Any determination made by the Corporation pursuant to this paragraph shall be in the Corporation's sole discretion and shall not be subject to review.

"(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

“(i) been convicted of any felony;

“(ii) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency;

“(iii) demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

“(iv) caused a substantial loss to Federal deposit insurance funds;

from performing any service on behalf of the Corporation.

“(5) ABROGATION OF CONTRACTS.—The Corporation may rescind any contract with a person who—

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

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

“(C) has been subject to a final enforcement action by any Federal banking agency.

“(6) PRIORITY OF FDIC RULES.—To the extent that the regulations under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the regulations prescribed by the Board of Directors under this subsection when acting for or on behalf of the Corporation. Notwithstanding the preceding sentence, the rules of the Corporation shall not take priority over the ethics and conflict of interest rules and regulations promulgated by the Office of Government Ethics unless specifically authorized by that Office.”.

(b) AMENDMENTS TO DEFINITIONS.—

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

“(z) **FEDERAL BANKING AGENCY.**—The term ‘Federal banking agency’ means the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.”.

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

“(7) **COMPANY.**—The term ‘company’ has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956.”.

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

SEC. 20. RESTRICTIONS ON SALES OF ASSETS TO CERTAIN PERSONS.

(a) IN GENERAL.—Section 11(p) of the Federal Deposit Insurance Act (12 U.S.C. 1821(p)) is amended—

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

(2) by inserting before paragraph (2), as redesignated, the following new paragraph:

“(1) PERSONS WHO ENGAGED IN IMPROPER CONDUCT WITH, OR CAUSED LOSSES TO, DEPOSITORY INSTITUTIONS.—The Corporation shall prescribe regulations which, at a minimum, shall prohibit the sale of assets of a failed institution by the Corporation to—

Regulations.

“(A) any person who—

“(i) has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on 1 or more obligations the aggregate amount of which exceed \$1,000,000, to such failed institution;

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

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

“(B) any person who participated, as an officer or director of such failed institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed institution;

“(C) any person who has been removed from, or prohibited from participating in the affairs of, such failed institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

“(D) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such failed institution.”

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

(1) in paragraph (2) (as redesignated by subsection (a))—
 (A) by striking “individual” and inserting “person”; and
 (B) by striking “paragraph (2)” and inserting “paragraph (3)”;

(2) in paragraph (3) (as redesignated by subsection (a))—
 (A) by striking “individual” each place such term appears and inserting “person”; and
 (B) by striking “Paragraph (1)” and inserting “Paragraphs (1) and (2)”;

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

“(4) DEFINITION OF DEFAULT.—For purposes of this subsection, the term ‘default’ means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.”; and
 (4) by striking the heading and inserting the following new heading:

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

SEC. 21. WHISTLE BLOWER PROTECTION.

(a) **AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.**—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended—

(1) in paragraph (1)—

(A) by striking “regarding” and all that follows through the end of the sentence and inserting the following: “regarding—

“(A) a possible violation of any law or regulation; or
“(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the depository institution or any director, officer, or employee of the institution.”; and

(B) by adding at the end the following:

“(f) **BURDENS OF PROOF.**—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code, shall govern adjudication of protected activities under this section.”; and

(2) in paragraph (2)—

(A) by striking “or Federal Reserve bank” and inserting “Federal reserve bank, or any person who is performing, directly or indirectly, any function or service on behalf of the Corporation”;

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

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

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

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

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

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

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

“(A) a possible violation of any law or regulation; or

“(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

by the Corporation, the Thrift Depositor Protection Oversight Board, or such person or any director, officer, or employee of the Corporation, the Thrift Depositor Protection Oversight Board, or the person.”; and

(2) by inserting after paragraph (4) the following:

“(5) **BURDENS OF PROOF.**—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code, shall govern adjudication of protected activities under this subsection.”.

SEC. 22. FDIC ASSET DISPOSITION DIVISION.

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

(1) by striking “SEC. 1. There is hereby created” and inserting the following:

“SECTION 1. FEDERAL DEPOSIT INSURANCE CORPORATION.

“(a) ESTABLISHMENT OF CORPORATION.—There is hereby established”; and

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

“(b) ASSET DISPOSITION DIVISION.—

“(1) ESTABLISHMENT.—The Corporation shall have a separate division of asset disposition.

“(2) MANAGEMENT.—The division of asset disposition shall have an administrator who shall be appointed by the Board of Directors.

“(3) RESPONSIBILITIES OF DIVISION.—The division of asset disposition shall carry out all of the responsibilities of the Corporation under this Act relating to the liquidation of insured depository institutions and the disposition of assets of such institutions.”

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

12 USC 1811 note.

SEC. 23. PRESIDENTIALLY APPOINTED INSPECTOR GENERAL FOR FDIC.

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

(1) in section 11—

(A) in paragraph (1), by striking “the chief executive officer of the Resolution Trust Corporation;” and inserting “the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation;”; and

(B) in paragraph (2), by inserting “the Federal Deposit Insurance Corporation,” after “Resolution Trust Corporation;”;

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

“SEC. 8C. SPECIAL PROVISIONS CONCERNING THE FEDERAL DEPOSIT INSURANCE CORPORATION.

“(a) DELEGATION.—The Chairperson of the Federal Deposit Insurance Corporation may delegate the authority specified in the second sentence of section 3(a) to the Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, but may not delegate such authority to any other officer or employee of the Corporation.

“(b) PERSONNEL.—Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of the Federal Deposit Insurance Corporation may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the Federal Deposit Insurance Corporation.”

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

(4) in section 8F(a)(2), as redesignated, by striking "the Federal Deposit Insurance Corporation".

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

"Inspector General, Federal Deposit Insurance Corporation."

(c) TRANSITION PERIOD.—

(1) CURRENT SERVICE.—Except as otherwise provided by law, the individual serving as the Inspector General of the Federal Deposit Insurance Corporation before the date of enactment of this Act may continue to serve in such position until the earlier of—

(A) the date on which the President appoints a successor under section 3(a) of the Inspector General Act of 1978; or

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

(2) DEFINITION.—For purposes of paragraph (1), the term "successor" may include the individual holding the position of Inspector General of the Federal Deposit Insurance Corporation on or after the date of enactment of this Act.

SEC. 24. DEPUTY CHIEF EXECUTIVE OFFICER.

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

"(E) DEPUTY CHIEF EXECUTIVE OFFICER.—

"(i) IN GENERAL.—There is hereby established the position of deputy chief executive officer of the Corporation.

"(ii) APPOINTMENT.—The deputy chief executive officer of the Corporation shall—

"(I) be appointed by the Chairperson of the Thrift Depositor Protection Oversight Board, with the recommendation of the chief executive officer; and

"(II) be an employee of the Federal Deposit Insurance Corporation in accordance with subparagraph (B)(i).

"(iii) DUTIES.—The deputy chief executive officer shall perform such duties as the chief executive officer may require.

"(F) ACTING CHIEF EXECUTIVE OFFICER.—In the event of a vacancy in the position of chief executive officer or during the absence or disability of the chief executive officer, the deputy chief executive officer shall perform the duties of the position as the acting chief executive officer."

SEC. 25. DUE PROCESS PROTECTIONS RELATING TO ATTACHMENT OF ASSETS.

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

(1) by striking subsection (i)(4)(B) and inserting the following new subparagraph:

"(B) STANDARD.—

“(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (A) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

“(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to a party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought under subparagraph (A) may be requested under the laws of such State.”; and

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

²(10) STANDARD FOR CERTAIN ORDERS.—No authority under this subsection or subsection (c) to prohibit any institution-affiliated party from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property may be exercised unless the appropriate Federal banking agency meets the standards of Rule 65 of the Federal Rules of Civil Procedure, without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.”.

SEC. 26. GAO STUDIES REGARDING FEDERAL REAL PROPERTY DISPOSITION.

(a) RTC AFFORDABLE HOUSING PROGRAM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the program carried out by the Resolution Trust Corporation pursuant to section 21A(c) of the Federal Home Loan Bank Act to determine the effectiveness of such program in providing affordable homeownership and rental housing for very low-, low-, and moderate-income families. The study shall examine the procedures used under the program to sell eligible single family properties, eligible condominium properties, and eligible multifamily housing properties, the characteristics and numbers of purchasers of such properties, and the amount of and reasons for any losses incurred by the Resolution Trust Corporation in selling properties under the program.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the results of the study required under paragraph (1), which shall describe any findings under the study and contain any recommendations of the Comptroller General for improving the effectiveness of such program.

(b) SINGLE AGENCY FOR REAL PROPERTY DISPOSITION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and effectiveness of establishing a single Federal agency responsible for selling and otherwise disposing of real property owned or held by the Department of Housing and Urban Development, the Farmers Home Administration of the Department of Agriculture, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation. The study shall examine the

12 USC 1821
note.

real property disposition procedures of such agencies and corporations, analyze the feasibility of consolidating such procedures through such single agency, and determine the characteristics and authority necessary for any such single agency to efficiently carry out such disposition activities.

(2) REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress on the study required under paragraph (1), which shall describe any findings under the study and contain any recommendations of the Comptroller General for the establishment of such single agency.

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

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

(1) in paragraph (3)(A)(ii), by striking “October 1, 1993” and inserting “such date as is determined by the Chairperson of the Thrift Depositor Protection Oversight Board, but not earlier than January 1, 1995, and not later than July 1, 1995”; and

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

(b) APPOINTMENT OF A RECEIVER BY THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) is amended—

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

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

(3) in clause (ii), by striking “on or before” and inserting “before”.

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

(a) IN GENERAL.—

(1) RTC REPORT.—The Chairperson of the Thrift Depositor Protection Oversight Board shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a final report containing a detailed description of the purposes for which the funds made available to the Resolution Trust Corporation under this Act were used.

(2) SAIF REPORT.—The Chairperson of the Federal Deposit Insurance Corporation shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a final report containing a detailed description of the purposes for which the funds made

available to the Savings Association Insurance Fund under this Act were used.

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

(1) not later than 45 days after the final expenditure of funds provided for under this Act by the Resolution Trust Corporation; and

(2) not later than 45 days after the final expenditure of funds authorized to be provided under this Act by the Savings Association Insurance Fund.

SEC. 29. GENERAL COUNSEL OF THE RESOLUTION TRUST CORPORATION.

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

"(G) GENERAL COUNSEL.—There is established the Office of General Counsel of the Corporation. The chief executive officer, with the concurrence of the Chairperson of the Thrift Depositor Protection Oversight Board, may appoint the general counsel, who shall be an employee of the Federal Deposit Insurance Corporation, in accordance with subparagraph (B)(i). The general counsel shall perform such duties as the chief executive officer may require.".

Establishment.

SEC. 30. AUTHORITY TO EXECUTE CONTRACTS.

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

"(y) AUTHORITY TO EXECUTE CONTRACTS.—

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

"(A) that person—

"(i) is a warranted contracting officer appointed by the Corporation, or is a managing agent of a savings association under the conservatorship of the Corporation; and

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

"(B) the notice described in paragraph (4) is included in the written contract; and

"(C) that person has appropriate authority to execute the contract on behalf of the Corporation in accordance with the notice published by the Corporation in accordance with paragraph (5).

"(2) PRESENTATION OF IDENTIFICATION.—Prior to executing any contract described in paragraph (1) with any person, a warranted contracting officer or managing agent shall present to that person—

"(A) a valid certificate of appointment (or such other identification as may be required by the Corporation) that is signed by the appropriate officer of the Corporation; or

"(B) a copy of such certificate, authenticated by the Corporation.

“(3) TREATMENT OF UNAUTHORIZED CONTRACTS.—A contract described in paragraph (1) that fails to meet the requirements of this section—

“(A) shall be null and void; and

“(B) shall not be enforced against the Corporation or its agents by any court.

“(4) INCLUSION OF NOTICE IN CONTRACT TERMS.—Each written contract described in paragraph (1) shall contain a clear and conspicuous statement (in boldface type) in immediate proximity to the space reserved for the signatures of the contracting parties as follows:

“Only warranted contracting officers appointed by the Resolution Trust Corporation or managing agents of associations under the conservatorship of the Resolution Trust Corporation have the authority to execute contracts on behalf of the Resolution Trust Corporation. Such persons have certain limits on their contracting authority. The nature and extent of their contracting authority levels are published in the Federal Register.

“A warranted contracting officer or a managing agent must present identification in the form of a signed certificate of appointment (or an authenticated copy of such certificate) or other identification, as required by the Corporation, prior to executing any contract on behalf of the Resolution Trust Corporation.

“Any contract that is not executed by a warranted contracting officer or the managing agent of a savings association under the conservatorship of the Resolution Trust Corporation, acting in conformity with his or her contracting authority, shall be null and void, and will not be enforceable by any court.”

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

“(A) the requirements for appointment by the Corporation as a warranted contracting officer; and

“(B) the nature and extent of the contracting authority to be exercised by any warranted contracting officer or managing agent.

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

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

“(i) the ownership of a savings association under the conservatorship of the Corporation; or

“(ii) the assets or liabilities of a savings association under the conservatorship or receivership of the Corporation; or

“(B) any contract executed by the Inspector General of the Corporation (or any designee thereof) for the provision of goods or services to the Office of the Inspector General of the Corporation.

“(7) EXECUTION OF CONTRACTS.—For purposes of this subsection, the execution of a contract includes all modifications to such contract.

“(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to all contracts described in paragraph (1) executed

on or after the date which is 45 days after the date of enactment of this subsection.”.

SEC. 31. RTC CONTRACTING.

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

“(z) ADDITIONAL CONTRACTING REQUIREMENTS.—

“(1) IN GENERAL.—No person shall execute, on behalf of the Corporation, any contract, or modification to a contract, for goods or services exceeding \$100,000 in value unless the person executing the contract or modification states in writing that—

“(A) the contract or modification is for a fixed price, the person has received a written cost estimate for the contract or modification, or a cost estimate cannot be obtained as a practical matter with an explanation of why such a cost estimate cannot be obtained as a practical matter;

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

“(C) the person is satisfied that the contract or modification to be executed has been approved by a person legally authorized to do so pursuant to a written delegation of authority.

“(2) WRITTEN DELEGATION OF AUTHORITY.—A person who authorizes a contract, or a modification to a contract, involving the Corporation for goods or services exceeding \$100,000 in value shall state, in writing, that he or she has been delegated the authority, pursuant to a written delegation of authority, to authorize that contract or modification.

“(3) EFFECT OF FAILURE TO COMPLY.—The failure of any person executing a contract, or a modification of a contract, on behalf of the Corporation, or authorizing such a contract or modification of a contract, to comply with the requirements of this subsection shall not void, or serve as grounds to void or rescind, any otherwise properly executed contract.”.

SEC. 32. DEFINITION OF PROPERTY.

(a) Section 9102(e) of the Department of Defense Appropriations Act, 1990 (16 U.S.C. 396f note) is amended by striking “real, personal,” and inserting “real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds),”.

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

SEC. 33. SENSE OF THE CONGRESS RELATING TO PARTICIPATION OF DISABLED AMERICANS IN CONTRACTING FOR DELIVERY OF SERVICES TO FINANCIAL INSTITUTION REGULATORY AGENCIES.

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

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing;

(2) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(3) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

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

(5) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(6) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(7) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the chief executive officer of the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Chairperson of the Federal Housing Finance Board should take all necessary steps within each such agency to ensure that individuals with disabilities and entities owned by individuals with disabilities, including financial institutions, investment banking firms, underwriters, asset managers, accountants, and providers of legal services, are availed of all opportunities to compete in a manner which, at a minimum, does not discriminate on the basis of their disability for contracts entered into by the agency to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

SEC. 34. REPORT TO CONGRESS BY SPECIAL COUNSEL.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Special Counsel appointed under section 2537 of the Crime Control Act of 1990 (28 U.S.C. 509 note) shall submit

to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the status of its efforts to monitor and improve the collection of fines and restitution in cases involving fraud and other criminal activity in and against the financial services industry.

(b) CONTENTS.—The report required under subsection (a) shall include—

- (1) information on the amount of fines and restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry, the amount of such fines and restitution collected, and an explanation of any difference in those amounts;
- (2) an explanation of the procedures for collecting and monitoring restitution assessed in cases involving fraud and other criminal activity in and against the financial services industry and any suggested improvements to such procedures;
- (3) an explanation of the availability under any provision of law of punitive measures if restitution and fines assessed in such cases are not paid;
- (4) information concerning the efforts by the Department of Justice to comply with guidelines for fine and restitution collection and reporting procedures developed by the inter-agency group established by the Attorney General in accordance with section 2539 of the Crime Control Act of 1990;
- (5) any recommendations for additional resources or legislation necessary to improve collection efforts; and
- (6) information concerning the status of the National Fine Center of the Administrative Office of the United States Courts.

SEC. 35. REPORTING REQUIREMENTS.

The Resolution Trust Corporation shall provide semi-annual reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such reports shall—

12 USC 1441a
note.

- (1) detail procedures for expediting the registration and contracting for selecting auctioneers for asset sales with anticipated gross proceeds of not more than \$1,500,000;
- (2) list by name and geographic area the number of auction contractors which have been registered and qualified to perform services for the Resolution Trust Corporation; and
- (3) list by name, address of home office, location of assets disposed, and gross proceeds realized, the number of auction contractors which have been awarded contracts.

SEC. 36. CONTINUATION OF CONSERVATORSHIPS OR RECEIVERSHIPS.

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

(1) by striking “If the Corporation” and inserting the following:

- “(A) IN GENERAL.—If the Corporation”; and
- (2) by adding at the end the following new subparagraph:
- “(B) SAIF-INSURED BANKS.—Notwithstanding any other provision of Federal or State law, if the Federal Deposit Insurance Corporation is appointed as conservator or receiver for any Savings Association Insurance Fund member that has converted to a bank charter and otherwise meets the criteria in paragraph (3)(A) or (6)(A), the Federal

Deposit Insurance Corporation may tender such appointment to the Corporation, and the Corporation shall accept such appointment, if the Corporation is authorized to accept such appointment under this section.”.

12 USC 1821
note.

SEC. 37. EXCEPTIONS FOR CERTAIN TRANSACTIONS.

(a) **TRANSACTIONS INVOLVING CERTAIN INSTITUTIONS.**—Section 11(a)(4)(B) of the Federal Deposit Insurance Act shall not prohibit assistance from the Bank Insurance Fund that otherwise meets all the criteria established in section 13(c) of such Act from being provided to an insured depository institution that became wholly-owned, either directly or through a wholly-owned subsidiary, by an entity or instrumentality of a State government during the period beginning on January 1, 1992, and ending on the date of enactment of this Act.

(b) **TRANSACTIONS INVOLVING THE FDIC AS RECEIVER.**—Notwithstanding the extension, pursuant to section 27, of the Resolution Trust Corporation’s jurisdiction to be appointed conservator or receiver of certain savings associations after September 30, 1993, no provision of this Act or any amendment made by this Act shall invalidate or otherwise affect—

(1) any appointment of the Federal Deposit Insurance Corporation as receiver for any savings association that became effective before the date of enactment of this Act; or

(2) any action taken by the Federal Deposit Insurance Corporation as such receiver before, on, or after such date of enactment.

SEC. 38. BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.

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

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

“(3) **BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.**—Notwithstanding paragraph (1), funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy shall be separately insured in an amount not to exceed \$100,000 for each insured depository institution depositing such funds.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 11(a)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(C)) is amended by striking “section 7(i)(1)” and inserting

“paragraph (1) or (2) of section 7(i) or any funds described in section 7(i)(3)”.
Approved December 17, 1993.

Approved December 17, 1993.

LEGISLATIVE HISTORY—S. 714: (H.R. 1340):

HOUSE REPORTS: Nos. 108-103, Pt. 1 (Comm. on Banking, Finance and Urban Affairs) and Pt. 2 (Comm. on the Judiciary), both accompanying H.R. 1340 and 103-380 (Comm. of Conference).

SENATE REPORTS: No. 103-36 (Comm. on Banking, Housing, and Urban Affairs). CONGRESSIONAL RECORD, Vol. 139 (1993):

May 12, 13, considered and passed Senate.

Sept. 14, H.R. 1340 considered and passed House; S. 714, amended, passed in lieu.

Nov. 20, Senate agreed to conference report.

Nov. 22, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

Dec. 17, Presidential statement.