

116TH CONGRESS
1ST SESSION

H. R. 4321

To eliminate lead-based pipe and tap hazards in housing, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2019

Mr. RYAN introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To eliminate lead-based pipe and tap hazards in housing,
and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Grants for Eliminating the Toxic Hazard of Environ-
6 mental Lead in Our Towns Act of 2019” or the “GET
7 THE LEAD OUT Act of 2019”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—LEAD-BASED PIPE HAZARD REDUCTION

- Sec. 101. Grants for lead-based pipe hazard reduction in housing.
- Sec. 102. Evaluation and reduction of lead-based pipe hazards in federally assisted housing.
- Sec. 103. Comprehensive housing affordability strategies.
- Sec. 104. Task force on lead-based pipe hazard reduction and financing.
- Sec. 105. National consultation on lead-based pipe hazard reduction.
- Sec. 106. Guidelines for lead-based pipe hazard evaluation and reduction activities.
- Sec. 107. Disclosure of information concerning lead upon transfer of residential property.

TITLE II—LEAD EXPOSURE REDUCTION

- Sec. 201. Lead-based pipe activities training and certification.
- Sec. 202. Identification of dangerous levels of lead.
- Sec. 203. Authorized State programs.
- Sec. 204. Lead abatement and measurement.
- Sec. 205. Lead hazard information pamphlet.
- Sec. 206. Regulations.
- Sec. 207. Control of lead-based pipe hazards at Federal facilities.
- Sec. 208. Prohibited Acts.
- Sec. 209. Relationship to other Federal law.
- Sec. 210. General provisions relating to administrative proceedings.

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR LEAD HAZARD REDUCTION

- Sec. 301. HUD grants for lead hazards reduction in housing.
- Sec. 302. EPA funding for lead exposure reduction.

TITLE IV—REVENUE PROVISIONS

- Sec. 401. Partnership interests transferred in connection with performance of services.
- Sec. 402. Special rules for partners providing investment management services to partnerships.
- Sec. 403. Return to pre-2018 estate and gift tax basic exclusion amount.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are as follows:

- 3 (1) to develop a national strategy to build the
- 4 infrastructure necessary to eliminate lead-based pipe
- 5 and tap hazards in housing;

1 (2) to reorient the national approach to the
2 presence of lead-based pipe and taps in public and
3 private homes to implement, on a priority basis, a
4 program to evaluate and reduce lead-based pipe haz-
5 ards in the Nation's building stock;

6 (3) to encourage effective action to prevent
7 childhood lead poisoning by establishing a workable
8 framework for lead-based pipe and tap hazard eval-
9 uation and reduction and by ending the current con-
10 fusion over reasonable standards of care;

11 (4) to ensure and implement the definitions of
12 lead hazards in section 1417 of the Safe Drinking
13 Water Act (42 U.S.C. 300g-6) and ensure that the
14 existence of lead-based pipe and taps hazards is
15 taken into account in the development of Federal
16 Government housing policies and in the sale, rental
17 and renovation of homes, and apartments;

18 (5) to mobilize national resources expeditiously,
19 through a partnership among all levels of govern-
20 ment and the private sector, to develop the most
21 promising, cost-effective methods for evaluating and
22 reducing lead-based pipe and tap hazards;

23 (6) to reduce the threat of childhood lead poi-
24 soning in housing owned, assisted, or transferred by
25 the Federal Government; and

1 (7) to educate the public concerning the haz-
2 ards and sources of lead-based pipes and taps poi-
3 soning and steps to reduce and eliminate such haz-
4 ards.

5 **SEC. 3. DEFINITIONS.**

6 For purposes of this Act, the following definitions
7 shall apply:

8 (1) ABATEMENT.—The term “abatement”
9 means any set of measures designed to permanently
10 eliminate lead-based pipe hazards in accordance with
11 standards established by appropriate Federal agen-
12 cies. Such term includes—

13 (A) the removal of lead-based pipes and
14 taps;

15 (B) all preparation, cleanup, disposal, and
16 post-abatement clearance testing activities asso-
17 ciated with such measures; and

18 (C) all repair to damages post-abatement.

19 (2) CERTIFIED CONTRACTOR.—The term “cer-
20 tified contractor” means—

21 (A) a contractor, inspector, or supervisor
22 who has completed a training program certified
23 by the appropriate Federal agency and has met
24 any other requirements for certification or li-
25 censure established by such agency or who has

1 been certified by any State through a program
2 which has been found by such Federal agency
3 to be at least as rigorous as the Federal certifi-
4 cation program; and

5 (B) workers or designers who have fully
6 met training requirements established by the
7 appropriate Federal agency.

8 (3) CONTRACT FOR THE PURCHASE AND SALE
9 OF RESIDENTIAL REAL PROPERTY.—The term “con-
10 tract for the purchase and sale of residential real
11 property” means any contract or agreement in which
12 one party agrees to purchase an interest in real
13 property on which there is situated or more residen-
14 tial dwellings used or occupied, or intended to be
15 used or occupied, in whole or in part, as the home
16 or residence of one or more persons.

17 (4) EVALUATION.—The term “evaluation”
18 means risk assessment, inspection, or risk assess-
19 ment and inspection.

20 (5) FEDERALLY ASSISTED HOUSING.—The
21 term “federally assisted housing” means residential
22 dwellings receiving project-based assistance under
23 programs including—

1 (A) section 221(d)(3) or 236 of the Na-
2 tional Housing Act (12 U.S.C. 1715l(d)(3);
3 1715z-1);

4 (B) section 101 of the Housing and Urban
5 Development Act of 1965 (12 U.S.C. 1701s);

6 (C) section 8 of the United States Housing
7 Act of 1937 (42 U.S.C. 1437f); and

8 (D) sections 502(a), 504, 514, 515, 516,
9 and 533 of the Housing Act of 1949 (42 U.S.C.
10 1472(a); 1474; 1484; 1485; 1486; 1490m).

11 (6) FEDERALLY OWNED HOUSING.—The term
12 “federally owned housing” means residential dwell-
13 ings owned or managed by a Federal agency, or for
14 which a Federal agency is a trustee or conservator.
15 For the purpose of this paragraph, the term “Fed-
16 eral agency” includes the Department of Housing
17 and Urban Development, the Rural Housing Service
18 of the Department of Agriculture, the Federal De-
19 posit Insurance Corporation, the General Services
20 Administration, the Department of Defense, the De-
21 partment of Veterans Affairs, the Department of the
22 Interior, the Department of Transportation, and any
23 other Federal agency.

24 (7) FEDERALLY SUPPORTED WORK.—The term
25 “federally supported work” means any lead hazard

1 evaluation or reduction activities conducted in feder-
2 ally owned or assisted housing or funded in whole or
3 in part through any financial assistance program of
4 the Department of Housing and Urban Develop-
5 ment, the Rural Housing Service of the Department
6 of Agriculture, or the Department of Veterans Af-
7 fairs.

8 (8) INSPECTION.—The term “inspection”
9 means an investigation to determine the presence of
10 lead-based pipe or taps as provided in section 141.86
11 of the regulations of the Environmental Protection
12 Agency (40 C.F.R. 181.46; relating to monitoring
13 requirements for lead and copper in tap water) and
14 the provision of a report explaining the results of the
15 investigation.

16 (9) INTERIM CONTROLS.—The term “interim
17 controls” means a set of measures designed to re-
18 duce temporarily human exposure or likely exposure
19 to lead-based pipe hazards, including specialized
20 cleaning, repairs, maintenance, ongoing monitoring
21 of lead-based pipe or potential hazards, and the es-
22 tablishment and operation of management and resi-
23 dent education programs.

24 (10) LEAD-BASED PIPE.—The term “lead-based
25 pipe” means any pipe, including fittings, taps, fix-

1 tures, solder, and flux that does not satisfy the defi-
2 nition of “lead-free” established under section 1417
3 of the Safe Drinking Water Act.

4 (11) LEAD-BASED PIPE HAZARDS.—The term
5 “lead-based pipe hazards” means any condition that
6 causes exposure to lead from lead-based pipe that
7 would result in adverse human health effects, as es-
8 tablished by the Environmental Protection Agency.

9 (12) MORTGAGE LOAN.—The term “mortgage
10 loan” includes any loan (other than temporary fi-
11 nancing such as a construction loan) that—

12 (A) is secured by a first lien on any inter-
13 est in residential real property; and

14 (B) either—

15 (i) is insured, guaranteed, made, or
16 assisted by the Department of Housing
17 and Urban Development, the Department
18 of Veterans Affairs, or the Rural Housing
19 Service of the Department of Agriculture,
20 or by any other agency of the Federal Gov-
21 ernment; or

22 (ii) is intended to be sold by each
23 originating mortgage institution to any
24 federally chartered secondary mortgage
25 market institution.

1 (13) ORIGINATING MORTGAGE INSTITUTION.—

2 The term “originating mortgage institution” means
3 a lender that provides mortgage loans.

4 (14) PRIORITY HOUSING.—The term “priority

5 housing” means housing that qualifies as affordable

6 housing under section 215 of the Cranston-Gonzalez

7 National Affordable Housing Act (42 U.S.C.

8 12745), including housing that receives assistance

9 under subsection (b) or (o) of section 8 of the

10 United States Housing Act of 1937 (42 U.S.C.

11 1437f).

12 (15) PUBLIC HOUSING.—The term “public

13 housing” has the meaning given such term in section

14 3(b) of the United States Housing Act of 1937 (42

15 U.S.C. 1437a(b)).

16 (16) REDUCTION.—The term “reduction”

17 means measures designed to reduce or eliminate

18 human exposure to lead-based pipe hazards through

19 methods including interim controls and abatement.

20 (17) RESIDENTIAL DWELLING.—The term “res-

21 idential dwelling” means—

22 (A) a single-family dwelling, including at-

23 tached structures such as porches and stoops;

24 or

1 (B) a single-family dwelling unit in a
2 structure that contains more than 1 separate
3 residential dwelling unit, in which each such
4 unit is used or occupied, or intended to be used
5 or occupied, in whole or in part, as the home
6 or residence of one or more persons.

7 (18) RESIDENTIAL REAL PROPERTY.—The term
8 “residential real property” means real property on
9 which there is situated one or more residential dwell-
10 ings used or occupied, or intended to be used or oc-
11 cupied, in whole or in part, as the home or residence
12 of one or more persons.

13 (19) RISK ASSESSMENT.—The term “risk as-
14 sessment” means an on-site investigation to deter-
15 mine and report the existence, nature, severity, and
16 location of lead-based pipe hazards in residential
17 dwellings, including—

18 (A) information gathering regarding the
19 age and history of the housing and occupancy
20 by children under age 6;

21 (B) visual inspection;

22 (C) other activities as may be appropriate;
23 and

24 (D) provision of a report explaining the re-
25 sults of the investigation.

1 (20) SECRETARY.—The term “Secretary”
2 means the Secretary of Housing and Urban Develop-
3 ment.

4 **TITLE I—LEAD-BASED PIPE**
5 **HAZARD REDUCTION**

6 **SEC. 101. GRANTS FOR LEAD-BASED PIPE HAZARD REDUC-**
7 **TION IN HOUSING.**

8 (a) GENERAL AUTHORITY.—The Secretary of Hous-
9 ing and Urban Development is authorized to provide
10 grants to eligible applicants to evaluate and reduce lead-
11 based pipes hazards in priority housing that is not feder-
12 ally assisted housing, federally owned housing, or public
13 housing, in accordance with the provisions of this section.

14 (b) ELIGIBLE APPLICANTS.—A State or unit of local
15 government that has an approved comprehensive housing
16 affordability strategy under section 105 of the Cranston-
17 Gonzalez National Affordable Housing Act (42 U.S.C.
18 12705) is eligible to apply for a grant under this section.

19 (c) FORM OF APPLICATION.—To receive a grant
20 under this section, a State or unit of local government
21 shall submit an application in such form and in such man-
22 ner as the Secretary shall prescribe. An application shall
23 contain—

24 (1) a copy of that portion of an applicant’s
25 comprehensive housing affordability strategy re-

1 quired by section 105(b)(16) of the Cranston-Gon-
2 zalez National Affordable Housing Act;

3 (2) a statement of the amount of assistance the
4 applicant seeks under this section;

5 (3) a description of the planned activities to be
6 undertaken with grants under this section, including
7 an estimate of the amount to be allocated for each
8 activity;

9 (4) a description of the forms of financial as-
10 sistance to owners and occupants of priority housing
11 that will be provided through grants under this sec-
12 tion; and

13 (5) such assurances as the Secretary may re-
14 quire regarding the applicant's capacity to carry out
15 the activities.

16 (d) **SELECTION CRITERIA.**—The Secretary shall
17 award grants under this section on the basis of the merit
18 of the activities proposed to be carried out and on the
19 basis of selection criteria, which shall include—

20 (1) the extent to which the proposed activities
21 will reduce the risk of lead-based water poisoning to
22 children under the age of 6 who reside in priority
23 housing;

24 (2) the degree of severity and extent of lead-
25 based pipe hazards in the jurisdiction to be served;

1 (3) the ability of the applicant to leverage
2 State, local, and private funds to supplement the
3 grant under this section;

4 (4) the ability of the applicant to carry out the
5 proposed activities; and

6 (5) such other factors as the Secretary deter-
7 mines appropriate to ensure that grants made avail-
8 able under this section are used effectively and to
9 promote the purposes of this Act.

10 (e) ELIGIBLE ACTIVITIES.—A grant under this sec-
11 tion may be used to—

12 (1) perform risk assessments and inspections in
13 priority housing;

14 (2) provide for the interim control of lead-based
15 pipe hazards in priority housing;

16 (3) provide for the abatement of lead-based pipe
17 hazards in priority housing;

18 (4) provide for the additional cost of reducing
19 lead-based pipe hazards in units undergoing renova-
20 tion funded by other sources;

21 (5) ensure that risk assessments, inspections,
22 and abatements are carried out by certified contrac-
23 tors monitor the blood-lead levels of workers involved
24 in lead hazard reduction activities funded under this
25 section;

1 (6) assist in the temporary relocation of fami-
2 lies forced to vacate priority housing while lead-
3 based pipe hazard reduction measures are being con-
4 ducted;

5 (7) educate the public on the nature and causes
6 of lead poisoning and measures to reduce exposure
7 to lead, including exposure due to residential lead-
8 based pipe hazards;

9 (8) test the blood-lead levels of children under
10 the age of 6 residing in priority housing after lead-
11 based pipe hazard reduction activity has been con-
12 ducted, to assure that such activity does not cause
13 excessive exposures to lead; and

14 (9) carry out such other activities that the Sec-
15 retary determines appropriate to promote the pur-
16 poses of this Act.

17 (f) FORMS OF ASSISTANCE.—A recipient of a grant
18 under this section may provide the services described in
19 this section through a variety of programs, including
20 grants, loans, equity investments, revolving loan funds,
21 loan funds, loan guarantees, interest write-downs, and
22 other forms of assistance approved by the Secretary.

23 (g) TECHNICAL ASSISTANCE AND CAPACITY BUILD-
24 INGS.—

1 (1) IN GENERAL.—The Secretary shall develop
2 the capacity of eligible applicants to carry out the
3 requirements of section 105(b)(18) of the Cranston-
4 Gonzalez National Affordable Housing Act and to
5 carry out activities under this section. In fiscal years
6 2020 and 2021, the Secretary may make grants of
7 up to \$200,000 for the purpose of establishing State
8 training, certification, or accreditation programs
9 that meet the requirements of section 201 of this
10 Act (relating to lead-based pipe activities training
11 and certification).

12 (2) SET-ASIDE.—Of the total amount approved
13 in appropriation Acts under section 301, there shall
14 be set aside to carry out this subsection \$3,000,000
15 for each of fiscal years 2020 through 2029.

16 (h) MATCHING REQUIREMENT.—The recipient of a
17 grant under this section shall make contributions toward
18 the cost of activities that receive assistance under this sec-
19 tion in an amount not less than 10 percent of the total
20 grant amount under this section.

21 (i) PROHIBITION OF SUBSTITUTION OF FUNDS.—
22 Grants under this section may not be used to replace other
23 amounts made available or designated by State or local
24 governments for use for the purposes under this title.

1 (j) LIMITATION ON USE.—A recipient of a grant
2 under this section shall ensure that not more than 10 per-
3 cent of the grant will be used for administrative expenses
4 associated with the activities funded by the grant.

5 (k) FINANCIAL RECORDS.—A recipient of a grant
6 under this section shall maintain and provide the Sec-
7 retary with financial records sufficient, in the determina-
8 tion of the Secretary, to ensure proper accounting and dis-
9 bursing of amounts received from a grant under this sec-
10 tion.

11 (l) REPORT.—A recipient of a grant under this sec-
12 tion shall submit to the Secretary, for any fiscal year in
13 which the recipient expends grant funds under this sec-
14 tion, a report that—

15 (1) describes the use of the amounts received;

16 (2) states the number of risk assessments and
17 the number of inspections conducted in residential
18 dwellings;

19 (3) states the number of residential dwellings in
20 which lead-based pipe hazards have been reduced
21 through interim controls;

22 (4) states the number of residential dwellings in
23 which lead-based pipe hazards have been abated; and

24 (5) provides any other information that the Sec-
25 retary determines to be appropriate.

1 (m) NOTICE OF FUNDING AVAILABILITY.—The Sec-
 2 retary shall publish a Notice of Funding Availability not
 3 later than 120 days after funds are appropriated to carry
 4 out this section.

5 **SEC. 102. EVALUATION AND REDUCTION OF LEAD-BASED**
 6 **PIPE HAZARDS IN FEDERALLY ASSISTED**
 7 **HOUSING.**

8 (a) REQUIREMENTS FOR FEDERALLY ASSISTED
 9 HOUSING.—The Secretary shall provide for appropriate
 10 measures and procedures to conduct risk assessments, in-
 11 spections, interim controls, and abatement of lead-based
 12 pipe hazards in federally assisted housing. At a minimum,
 13 such procedures shall require—

14 (1) the provision of lead hazard information
 15 pamphlets, developed pursuant to section 205 of this
 16 Act for purchasers and tenants of such housing;

17 (2) periodic risk assessments and interim con-
 18 trols for such housing in accordance with a schedule
 19 determined by the Secretary, which shall provide for
 20 the initial risk assessment to be performed—

21 (A) in not less than 50 percent of the
 22 dwelling units of such housing within 5 years
 23 after the date of the enactment of this Act; and

1 (B) in the remainder of the dwelling units
2 of such housing within 10 years after such date
3 of enactment;

4 (3) inspection for the presence of lead-based
5 pipe in such housing prior to federally funded ren-
6 ovation or rehabilitation;

7 (4) reduction of lead-based pipe hazards in such
8 housing in the course of rehabilitation projects re-
9 ceiving less than \$25,000 per unit in Federal funds;

10 (5) abatement of lead-based pipe hazards in
11 such housing in the course of substantial rehabilita-
12 tion projects receiving more than \$25,000 per unit
13 in Federal funds;

14 (6) where risk assessment, inspection, or reduc-
15 tion activities have been undertaken in such housing,
16 the provision of notice to occupants describing the
17 nature and scope of such activities and the actual
18 risk assessment or inspection reports (including
19 available information on the location of any remain-
20 ing lead-based pipe and lead-based pipe hazards);
21 and

22 (7) such other measures for such housing as
23 the Secretary deems appropriate.

1 (b) PUBLIC HOUSING.—Section 9(d)(1) of the United
2 States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is
3 amended—

4 (1) in subparagraph (K), by striking “and” at
5 the end;

6 (2) in subparagraph (L), by striking the period
7 at the end and inserting “; and”; and

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

10 “(M) lead-based pipe hazard evaluation
11 and reduction, as defined in section 3 of the
12 Grants for Eliminating the Toxic Hazard of
13 Environmental Lead in Our Towns Act of
14 2019.”.

15 (c) HOME INVESTMENT PARTNERSHIPS.—Section
16 212(a) of the Cranston-Gonzalez National Affordable
17 Housing Act (42 U.S.C. 12742(a)) is amended—

18 (1) by redesignating paragraph (5) (relating to
19 lead-based paint hazards) as paragraph (4); and

20 (2) by adding at the end the following new
21 paragraph:

22 “(5) LEAD-BASED PIPE HAZARDS.—A partici-
23 pating jurisdiction may use funds provided under
24 this subtitle for the evaluation and reduction of lead-
25 based pipe hazards”.

1 (d) COMMUNITY DEVELOPMENT BLOCK GRANTS.—
2 Section 105(a) of the Housing and Community Develop-
3 ment Act of 1974 (42 U.S.C. 5305(a)) is amended—

4 (1) in paragraph (24)(D), by striking “and” at
5 the end;

6 (2) in paragraph (25), by striking the period at
7 the end and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(26) lead-based pipe hazard evaluation and re-
10 duction, as defined in section 3 of the Grants for
11 Eliminating the Toxic Hazard of Environmental
12 Lead in Our Towns Act of 2019.”.

13 (e) SECTION 8 RENTAL ASSISTANCE.—Section
14 8(c)(2)(B) of the United States Housing Act of 1937 (42
15 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end
16 the following: “The Secretary may (at the discretion of
17 the Secretary and subject to the availability of appropria-
18 tions for contract amendments), on a project-by-project
19 basis for projects receiving project-based assistance, pro-
20 vide adjustments to the maximum monthly rents to cover
21 the costs of evaluating and reducing lead-based pipe haz-
22 ards, as defined in section 3 of the Grants for Eliminating
23 the Toxic Hazard of Environmental Lead in Our Towns
24 Act of 2019.”.

1 (f) HOPE FOR PUBLIC AND INDIAN HOUSING HOME-
2 OWNERSHIP.—Title III of the United States Housing Act
3 of 1937 is amended—

4 (1) in section 302(b) (42 U.S.C. 1437aaa–
5 1(b))—

6 (A) by redesignating paragraphs (5)
7 through (9) as paragraphs (6) through (10), re-
8 spectively; and

9 (B) by inserting after paragraph (4) the
10 following:

11 “(5) inspection for lead-based pipe hazards, as
12 required by section 102(a) of the Grants for Elimini-
13 nating the Toxic Hazard of Environmental Lead in
14 Our Towns Act of 2019;” and

15 (2) in section 303(b) (42 U.S.C. 1437aaa–
16 2(b))—

17 (A) by redesignating paragraphs (5)
18 through (14) as paragraphs (6) through (15),
19 respectively; and

20 (B) by inserting after paragraph (4) the
21 following:

22 “(5) Abatement of lead-based pipe hazards, as
23 required by section 102(a) of the Grants for Elimini-
24 nating the Toxic Hazard of Environmental Lead in
25 Our Towns Act of 2019.”.

1 (g) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY
2 UNITS.—Title IV of the Cranston-Gonzalez National Af-
3 fordable Housing Act is amended—

4 (1) in section 422(b) (42 U.S.C. 12872(b))—

5 (A) by redesignating paragraphs (5)
6 through (9) as paragraphs (6) through (10), re-
7 spectively; and

8 (B) by inserting after paragraph (4) the
9 following:

10 “(5) inspection for lead-based pipe hazards, as
11 required by section 102(a) of the Grants for Elimini-
12 nating the Toxic Hazard of Environmental Lead in
13 Our Towns Act of 2019;” and

14 (2) in section 423(b) (42 U.S.C. 12873(b))—

15 (A) by redesignating paragraphs (5)
16 through (14) as paragraphs (6) through (15),
17 respectively; and

18 (B) by inserting after paragraph (4) the
19 following:

20 “(5) Abatement of lead-based pipe hazards, as
21 required by section 102(a) of the Grants for Elimini-
22 nating the Toxic Hazard of Environmental Lead in
23 Our Towns Act of 2019.”.

1 (h) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY
2 HOMES.—Title IV of the Cranston-Gonzalez National Af-
3 fordable Housing Act is amended—

4 (1) in section 442(b) (42 U.S.C. 12892(b))—

5 (A) by redesignating paragraphs (5)
6 through (9) as paragraphs (6) through (10), re-
7 spectively; and

8 (B) by inserting after paragraph (4) the
9 following:

10 “(5) inspection for lead-based pipe hazards, as
11 required by section 102(a) of the Grants for Elimini-
12 nating the Toxic Hazard of Environmental Lead in
13 Our Towns Act of 2019;” and

14 (2) in section 443(b) (42 U.S.C. 12893(b))—

15 (A) by redesignating paragraphs (5)
16 through (11) as paragraphs (6) through (12),
17 respectively; and

18 (B) by inserting after paragraph (4) the
19 following:

20 “(5) Abatement of lead-based pipe hazards, as
21 required by section 102(a) of the Grants for Elimini-
22 nating the Toxic Hazard of Environmental Lead in
23 Our Towns Act of 2019.”.

24 (i) FHA INSURANCE FOR MORTGAGES FOR SINGLE
25 FAMILY HOMES.—

1 (1) HOME IMPROVEMENT.—The fourth undesig-
2 nated paragraph of section 2(a) of the National
3 Housing Act (12 U.S.C. 1703(a)) is amended—

4 (A) by inserting after the period at the end
5 of the first sentence the following: “Alterations,
6 repairs, and improvements upon or in connec-
7 tion with existing structures may also include
8 the evaluation and reduction of lead-based pipes
9 hazards.”; and

10 (B) in the last sentence—

11 (i) in paragraph (2), by striking
12 “and” at the end;

13 (ii) in paragraph (3), by striking the
14 period at the end and inserting “and”;

15 (iii) in paragraph (4)—

16 (I) by inserting “, when used
17 with respect to lead-based paint haz-
18 ards,” before “have”; and

19 (II) by striking the period at the
20 end and inserting “and”; and

21 (iv) by adding at the end the fol-
22 lowing:

23 “(5) the terms ‘evaluation’, ‘reduction’, and
24 ‘lead-based pipe hazard’, when used with respect to
25 lead-based pipe hazards, have the meaning given

1 such term in section 3 of the Grants for Eliminating
2 the Toxic Hazard of Environmental Lead in Our
3 Towns Act of 2019.”.

4 (2) REHABILITATION LOANS.—The last sen-
5 tence of section 203(k)(2)(B) of the National Hous-
6 ing Act (12 U.S.C. 1709(k)(2)(B)) is amended by
7 inserting before the period at the end the following:
8 “, and measures to evaluate and reduce lead-based
9 pipe hazards, as such terms are defined in section
10 3 of the Grants for Eliminating the Toxic Hazard
11 of Environmental Lead in Our Towns Act of 2019”.

12 (j) FHA INSURANCE FOR MORTGAGES FOR MULTI-
13 FAMILY HOUSING.—Section 221(d)(4)(iv) of the National
14 Housing Act (12 U.S.C. 17151(d)(4)(iv)) is amended by
15 inserting before the closing parentheses the following: “,
16 and the cost of evaluating and reducing lead-based pipe
17 hazards, as such terms are defined in section 3 of the
18 Grants for Eliminating the Toxic Hazard of Environ-
19 mental Lead in Our Towns Act of 2019”.

20 (k) RURAL HOUSING.—Section 501(a)(5) of the
21 Housing Act of 1949 (42 U.S.C. 1471) is amended by in-
22 serting before the period at the end the following: “, and
23 measures to evaluate and reduce lead-based pipe hazards,
24 as such terms are defined in section 3 of the Grants for

1 Eliminating the Toxic Hazard of Environmental Lead in
2 Our Towns Act of 2019”.

3 **SEC. 103. COMPREHENSIVE HOUSING AFFORDABILITY**
4 **STRATEGIES.**

5 Section 105 of the Cranston-Gonzalez National Af-
6 fordable Housing Act (42 U.S.C. 12705) is amended—

7 (1) in subsection (b)—

8 (A) by redesignating paragraphs (18),
9 (19), and (20) as paragraphs (19), (20), and
10 (21), respectively; and

11 (B) by inserting after paragraph (17) the
12 following new paragraph:

13 “(18) estimate the number of housing units
14 within the jurisdiction that are occupied by low-in-
15 come families or very low-income families and that
16 contain lead-based pipe hazards, as defined in sec-
17 tion 3 of the Grants for Eliminating the Toxic Haz-
18 ard of Environmental Lead in Our Towns Act of
19 2019, outline the actions proposed or being taken to
20 evaluate and reduce lead-based pipe hazards, and de-
21 scribe how lead-based pipe hazard reduction will be
22 integrated into housing policies and programs;”;

23 (2) in subsection (e)—

1 (A) in paragraph (2), by striking “para-
2 graph (16)” and inserting “paragraph (17”;
3 and

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

6 “(3) LEAD-BASED PIPE HAZARDS.—When pre-
7 paring the portion of a housing strategy required by
8 subsection (b)(18), a jurisdiction shall consult with
9 State or local health and child welfare agencies and
10 examine existing data related to lead-based pipe haz-
11 ards and poisonings, including health department
12 data on the addresses of housing units in which chil-
13 dren have been identified as lead poisoned.”.

14 **SEC. 104. TASK FORCE ON LEAD-BASED PIPE HAZARD RE-**
15 **DUCTION AND FINANCING.**

16 (a) IN GENERAL.—The Secretary, in consultation
17 with the Administrator of the Environmental Protection
18 Agency shall establish a task force to make recommenda-
19 tions on expanding resources and efforts to evaluate and
20 reduce lead-based pipe hazards in private housing.

21 (b) MEMBERSHIP.—The task force shall include indi-
22 viduals representing the Department of Housing and
23 Urban Development, the Rural Housing Service of the De-
24 partment of Agriculture, the Department of Veterans Af-
25 fairs, the Federal Home Loan Mortgage Corporation, the

1 Federal National Mortgage Association, the Environ-
2 mental Protection Agency, employee or organizations in
3 the building and construction trades industry, landlords,
4 tenants, primary lending institutions, private mortgage in-
5 surers, single family and multifamily real estate interests,
6 nonprofit housing developers, property liability insurers,
7 public housing agencies, low-income housing advocacy or-
8 ganizations, national, State and local lead-poisoning pre-
9 vention advocates and experts, and community-based or-
10 ganizations located in areas with substantial rental hous-
11 ing.

12 (c) RESPONSIBILITIES.—The task force shall make
13 recommendations to the Secretary and the Administrator
14 of the Environmental Protection Agency concerning—

15 (1) incorporating the need to finance lead-based
16 pipe hazard reduction into underwriting standards;

17 (2) developing new loan products and proce-
18 dures for financing lead-based pipe hazard evalua-
19 tion and reduction activities;

20 (3) adjusting appraisal guidelines to address
21 lead safety;

22 (4) incorporating risk assessments or inspec-
23 tions for lead-based pipe as a routine procedure in
24 the origination of new residential mortgages;

1 (5) revising guidelines, regulations, and edu-
 2 cational pamphlets issued by the Department of
 3 Housing and Urban Development and other Federal
 4 agencies relating to lead-based pipe poisoning pre-
 5 vention;

6 (6) reducing the current uncertainties of liabil-
 7 ity related to lead-based pipe in rental housing;
 8 clarifying standards of care for landlords and lend-
 9 ers, and exploring the “safe harbor” concept;

10 (7) increasing the availability of liability insur-
 11 ance for owners of rental housing and certified con-
 12 tractors and establishing alternative systems to com-
 13 pensate victims of lead-based pipe poisoning; and

14 (8) evaluating the utility and a appropriateness
 15 of requiring risk assessments or inspections and no-
 16 tification to prospective leases of rental housing.

17 (d) COMPENSATION.—The members of the task force
 18 shall not receive Federal compensation for their participa-
 19 tion.

20 **SEC. 105. NATIONAL CONSULTATION ON LEAD-BASED PIPE**
 21 **HAZARD REDUCTION.**

22 In carrying out this Act, the Secretary shall consult
 23 on an ongoing basis with the Administrator of the Envi-
 24 ronmental Protection Agency, the Director of the Centers
 25 for Disease Control, other Federal agencies concerned

1 with lead poisoning prevention, and the task force estab-
2 lished pursuant to section 104.

3 **SEC. 106. GUIDELINES FOR LEAD-BASED PIPE HAZARD**
4 **EVALUATION AND REDUCTION ACTIVITIES.**

5 Not later than 12 months after the date of the enact-
6 ment of this Act, the Secretary, in consultation with the
7 Administrator of the Environmental Protection Agency,
8 the Secretary of Labor, and the Secretary of Health and
9 Human Services (acting through the Director of the Cen-
10 ters for Disease Control), shall issue guidelines for the
11 conduct of federally supported work involving risk assess-
12 ments, regulations, inspections, interim controls, and
13 abatement of lead-based pipe hazards. Such guidelines
14 shall be based upon criteria that measure the condition
15 of the housing (and the presence of children under age
16 6 for the purposes of risk assessments) and shall not be
17 based upon criteria that measure the health of the resi-
18 dents of the housing.

19 **SEC. 107. DISCLOSURE OF INFORMATION CONCERNING**
20 **LEAD UPON TRANSFER OF RESIDENTIAL**
21 **PROPERTY.**

22 (a) DISCLOSURE IN PURCHASE AND SALE OR LEASE
23 OF HOUSING.—

24 (1) LEAD-BASED PIPE HAZARDS.—Not later
25 than 2 years after the date of the enactment of this

1 Act, the Secretary and the Administrator of the En-
2 vironmental Protection Agency shall promulgate reg-
3 ulations under this section for the disclosure of lead-
4 based pipe hazards in housing that is offered for
5 sale or lease. The regulations shall require that, be-
6 fore the purchaser or lessee is obligated under any
7 contract to purchase or lease the housing, the seller
8 or lessor shall—

9 (A) provide the purchaser or lessee with a
10 lead hazard information pamphlet, as pre-
11 scribed by the Administrator of the Environ-
12 mental Protection Agency under section 406 of
13 the Toxic Substances Control Act;

14 (B) disclose to the purchaser or lessee the
15 presence of any known lead-based pipe, or any
16 known lead-based pipe hazards, in such housing
17 and provide to the purchaser or lessee a lead
18 hazard evaluation report available to the seller
19 or lessor; and

20 (C) permit the purchaser a 10-day period
21 (unless the parties mutually agree upon a dif-
22 ferent time of time) to conduct a risk assessment
23 or inspection or the presence of lead-based pipe
24 hazards.

1 (2) CONTRACT FOR PURCHASE AND SALE.—The
2 regulations promulgated under this section shall pro-
3 vide that every contract for the purchase and sale of
4 any interest in housing shall contain a Lead Warn-
5 ing Statement and a statement signed by the pur-
6 chaser that the purchaser has—

7 (A) read the Lead Warning Statement and
8 understands its contents;

9 (B) received a lead hazard information
10 pamphlet; and

11 (C) had a 10-day opportunity (unless the
12 parties mutually agreed upon a different period
13 of time) before becoming obligated under the
14 contract to purchase the housing to conduct a
15 risk assessment or inspection for the presence
16 of lead-based pipe hazards.

17 (3) CONTENTS OF LEAD WARNING STATE-
18 MENT.—The Lead Warning Statement referred to in
19 paragraph (2) shall contain the following text print-
20 ed in large type on a separate sheet of paper at-
21 tached to the contract: “Every purchaser of any in-
22 terest in residential real property on which a resi-
23 dential dwelling was built prior to 1986 is notified
24 that such property may present exposure to lead
25 from lead-based pipes that may place young children

1 at risk of developing lead poisoning. Lead poisoning
2 in young children may produce permanent neuro-
3 logical damage, including learning disabilities, re-
4 duced intelligence quotient, behavioral problems, and
5 impaired memory. Lead poisoning also poses a par-
6 ticular risk to pregnant women. The seller interest
7 in residential real property is required to provide the
8 buyer with any information on lead-based pipe haz-
9 ards from risk assessment or inspections in the sell-
10 er's possession and notify the buyer of any known
11 lead-based pipe hazards. A risk assessment or in-
12 spection for possible lead-based pipe hazards is rec-
13 ommended prior to purchase.”

14 (4) COMPLIANCE ASSURANCE.—Whenever a
15 seller or lessor has entered into a contract with an
16 agent for the purpose of selling or leasing a unit of
17 housing, the regulations promulgated under this sec-
18 tion shall require the agent, on behalf of the seller
19 or lessor, to ensure compliance with the require-
20 ments of this section.

21 (b) PROMULGATION.—A suit may be brought against
22 the Secretary of Housing and Urban Development and the
23 Administrator of the Environmental Protection Agency
24 under section 20 of the Toxic Substances Control Act to
25 compel promulgation of the regulations required under

1 this section and the Federal district court shall have juris-
2 diction to order such promulgation.

3 (c) PENALTIES FOR VIOLATIONS.—

4 (1) MONETARY PENALTY.—Any person who
5 knowingly violates any provision of this section shall
6 be subject to civil money penalties in accordance
7 with the provisions of section 102 of the Department
8 of Housing and Urban Development Reform Act of
9 1989 (42 U.S.C. 3545).

10 (2) ACTION BY SECRETARY.—The Secretary is
11 authorized to take such lawful action as may be nec-
12 essary to enjoin any violation of this section.

13 (3) CIVIL LIABILITY.—Any person who know-
14 ingly violates the provisions of this section shall be
15 jointly and severally liable to the purchaser or lessee
16 in an amount equal to 3 times the amount of dam-
17 ages incurred by such individual.

18 (4) COSTS.—In any civil action brought for
19 damages, the appropriate court may award court
20 costs to the party commencing such action, together
21 with reasonable attorney fees and any expert witness
22 fees, if that party prevails.

23 (5) PROHIBITED ACT.—It shall be a prohibited
24 act under section 409 of the Toxic Substances Con-
25 trol Act for any person to fail or refuse to comply

1 with a provision of this section or with any rule or
 2 order issued under this section. For purposes of en-
 3 forcing this section under the Toxic Substances Con-
 4 trol Act, the penalty for each violation applicable
 5 under section 16 of that Act shall not be more than
 6 \$10,000.

7 (d) VALIDITY OF CONTRACTS AND LIENS.—Nothing
 8 in this section shall affect the validity or enforceability of
 9 any sale or contract for the purchase and sale or lease
 10 of any interest in residential real property or any loan,
 11 loan agreement, mortgage, or lien made or arising in con-
 12 nection with a mortgage loan, nor shall anything in this
 13 section create a defect in title.

14 (e) EFFECTIVE DATE.—The regulations under this
 15 section shall take effect 3 years after the date of the enact-
 16 ment of this Act.

17 **TITLE II—LEAD EXPOSURE** 18 **REDUCTION**

19 **SEC. 201. LEAD-BASED PIPE ACTIVITIES TRAINING AND** 20 **CERTIFICATION.**

21 (a) REGULATIONS.—

22 (1) IN GENERAL.—Not later than 18 months
 23 after the date of the enactment of this Act, the Ad-
 24 ministrator of the Environmental Protection Agency
 25 (in this title referred to as the “Administrator”)

1 shall, in consultation with the Secretary of Labor,
2 the Secretary of Housing and Urban Development,
3 and the Secretary of Health and Human Services
4 (acting through the Director of the National Insti-
5 tute for Occupational Safety and Health), promul-
6 gate final regulations governing lead-based pipe ac-
7 tivities to ensure that individuals engaged in such
8 activities are properly trained; that training pro-
9 grams are accredited; and that contractors are en-
10 gaged in such activities are certified. Such regula-
11 tions shall contain standards for performing lead-
12 based pipe activities, taking into account reliability,
13 effectiveness, and safety. Such regulations shall re-
14 quire that all risk assessment, inspection, and abate-
15 ment activities performed in housing shall be per-
16 formed by certified contractors.

17 (2) ACCREDITATION OF TRAINING PROGRAMS.—
18 Final regulations shall contain specific requirements
19 for the accreditation of lead-based pipe activities
20 training programs for workers, supervisors, inspec-
21 tors and planners, and other individuals involved in
22 lead-based pipe activities, including, but not limited
23 to, each of the following:

24 (A) Minimum requirements for the accredi-
25 tation of training providers.

1 (B) Minimum training curriculum require-
2 ments.

3 (C) Minimum training hour requirements.

4 (D) Minimum hands-on training require-
5 ments.

6 (E) Minimum trainee competency and pro-
7 ficiency requirements.

8 (F) Minimum requirements for training
9 program quality control.

10 (3) ACCREDITATION AND CERTIFICATION
11 FEES.—The Administrator (or the State in the case
12 of an authorized State program) shall impose a fee
13 on—

14 (A) persons operating training programs
15 accredited under this title; and

16 (B) lead-based pipe activities contractors
17 certified in accordance accreditation with para-
18 graph (1).

19 The fees shall be established at such level as is nec-
20 essary to cover the costs of administering and en-
21 forcing the standards and regulations under this sec-
22 tion which are applicable to such programs and con-
23 tractors. The fee shall not be imposed on any State,
24 local government, or nonprofit training program.

25 The Administrator (or the State in the case of an

1 authorized State program) may waive the fee for
2 lead-based pipe activities contractors for the purpose
3 of training their own employees.

4 (b) LEAD-BASED PIPE ACTIVITIES.—For purposes of
5 this title, the term “lead-based pipe activities” means—

6 (1) in the case of housing, risk assessment, in-
7 spection, and abatement; and

8 (2) in the case of any public building con-
9 structed before 1986, commercial building, or any
10 other structure, evaluation and abatement of lead-
11 based pipes and lead-based pipe hazards.

12 (c) RENOVATION AND REMODELING.—

13 (1) GUIDELINES.—In order to reduce the risk
14 of exposure to lead in connection with renovation
15 and remodeling of housing, public buildings, and
16 commercial buildings, the Administrator shall, with-
17 in 18 months after the enactment of this section,
18 promulgate guidelines for the conduct of such ren-
19 ovation and remodeling activities which may create
20 a risk of exposure to dangerous levels of lead. The
21 Administrator shall disseminate such guidelines to
22 persons engaged in such renovation and remodeling
23 through hardware stores, employee organizations,
24 trade groups, State and local agencies, and through
25 other appropriate means.

1 (2) STUDY OF CERTIFICATION.—The Adminis-
2 trator shall conduct a study of the extent to which
3 persons engaged in various types of renovation and
4 remodeling activities in housing, public buildings,
5 and commercial buildings are exposed to lead in the
6 conduct of such activities or disturb lead and create
7 a lead-based pipe hazard on a regular or occasional
8 basis. The Administrator shall complete such study
9 and publish the results thereof within 30 months
10 after the enactment of this section.

11 (3) CERTIFICATION DETERMINATION.—Within
12 4 years after the enactment of this section, the Ad-
13 ministrator shall revise the regulations to apply the
14 regulations to renovation or remodeling activities in
15 housing and commercial buildings that create lead-
16 based pipe hazards. In determining which contrac-
17 tors are engaged in such activities, the Adminis-
18 trator shall utilize the results of the study and con-
19 sult with the representatives of labor organizations,
20 lead-based pipe activities contractors, persons en-
21 gaged in remodeling and renovation, experts in lead
22 health effects, and others. If the Administrator de-
23 termines that a category of contractors engaged in
24 renovation or remodeling does not require certifi-

1 cation, the Administrator shall publish an expla-
2 nation of the basis for that determination.

3 **SEC. 202. IDENTIFICATION OF DANGEROUS LEVELS OF**
4 **LEAD.**

5 Within 18 months after the enactment of this Act,
6 the Administrator shall promulgate regulations which
7 shall identify for purposes of this title lead-based pipe haz-
8 ards.

9 **SEC. 203. AUTHORIZED STATE PROGRAMS.**

10 (a) APPROVAL.—Any State which seeks to administer
11 and enforce the standards, regulations, or other require-
12 ments established may, after notice and opportunity for
13 public hearing, develop and submit to the Administrator
14 an application, in such form as the Administrator shall
15 require, for authorization of such a State program. Any
16 such State may also certify to the Administrator at the
17 time of submitting such program that the State program
18 meets the requirements of paragraphs (1) and (2) of sub-
19 section (b). Upon submission of such certification, the
20 State program shall be deemed to be authorized under this
21 section, and shall apply in such State in lieu of the cor-
22 responding Federal program as the case may be, until
23 such time as the Administrator disapproves the program
24 or withdraws the authorization.

1 (b) APPROVAL OR DISAPPROVAL.—Within 180 days
2 following submission of an application, the Administrator
3 shall approve or disapprove the application. The Adminis-
4 trator may approve the application only if after notice and
5 after opportunity for public hearing, the Administrator
6 finds that—

7 (1) the State program is at least as protective
8 of human health and the environment as the Federal
9 program as the case may be; and

10 (2) such State program provides adequate en-
11 forcement.

12 Upon authorization of a date program under this section,
13 it shall be unlawful for any person to violate or fail or
14 refuse to comply with any requirement of such program.

15 (c) WITHDRAWAL OF AUTHORIZATION.—If a State is
16 not administering and enforcing a program authorized
17 under this section in compliance with standards, regula-
18 tions, and other requirements of this title, the Adminis-
19 trator shall so notify the State and, if corrective action
20 is not completed within a reasonable time, not to exceed
21 180 days, the Administrator shall withdraw authorization
22 of such program and establish a Federal program pursu-
23 ant to this title.

24 (d) MODEL STATE PROGRAM.—Within 18 months
25 after the enactment of this title, the Administrator shall

1 promulgate a model State program which may be adopted
2 by any State which seeks to administer and enforce a
3 State program under this title. Such model program shall,
4 to the extent practicable, encourage States to utilize exist-
5 ing State and local certification and accreditation pro-
6 grams and procedures. Such program shall encourage reci-
7 procity among the States with respect to the certification.

8 (e) OTHER STATE REQUIREMENTS.—Nothing in this
9 title shall be construed to prohibit any State or political
10 subdivision thereof from imposing any requirements which
11 are more stringent than those imposed by this title.

12 (f) STATE AND LOCAL CERTIFICATION.—The regula-
13 tions under this title shall, to the extent appropriate, en-
14 courage States to seek program authorization and to use
15 existing State and local certification and accreditation pro-
16 cedures, except that a State or local government shall not
17 require more than 1 certification under this section for
18 any lead-based pipe activities contractor to carry out lead-
19 based pipe activities in the State or political subdivision
20 thereof.

21 (g) GRANTS TO STATES.—The Administrator is au-
22 thorized to make grants to States to develop and carry
23 out authorized State programs under this section. The
24 grants shall be subject to such terms and conditions as

1 the Administrator may establish to further the purposes
2 of this title.

3 (h) ENFORCEMENT BY ADMINISTRATOR.—If a State
4 does not have a State program authorized under this sec-
5 tion and in effect by the date which is 2 years after pro-
6 mulgation of the regulations the Administrator shall, by
7 such date, establish a Federal program for such State.

8 **SEC. 204. LEAD ABATEMENT AND MEASUREMENT.**

9 (a) PROGRAM TO PROMOTE LEAD EXPOSURE
10 ABATEMENT.—The Administrator, in cooperation with
11 other appropriate Federal departments and agencies, shall
12 conduct a comprehensive program to promote safe, effec-
13 tive, and affordable monitoring, detection, and abatement
14 of lead-based pipe and other lead exposure hazards.

15 (b) STANDARDS FOR ENVIRONMENTAL SAMPLING
16 LABORATORIES.—

17 (1) MINIMUM PERFORMANCE STANDARDS.—

18 The Administrator shall establish protocols, criteria,
19 and minimum performance standards for laboratory
20 analysis of lead in paint pipes, taps, and water.

21 Within 2 years after the enactment of this Act, the
22 Administrator, in consultation with the Secretary of
23 Health and Human Services, shall establish a pro-
24 gram to certify laboratories as qualified to test sub-
25 stances for lead content unless the Administrator de-

1 termines, by the date specified in this paragraph,
2 that effective voluntary accreditation programs are
3 in place and operating on a nationwide basis at the
4 time of such determination. To be certified under
5 such program, a laboratory shall, at a minimum,
6 demonstrate an ability to test substances accurately
7 for lead content.

8 (2) PUBLIC INFORMATION.—Not later than 24
9 months after the date of the enactment of this sec-
10 tion, and annually thereafter, the Administrator
11 shall publish and make available to the public a list
12 of certified or accredited environmental sampling
13 laboratories.

14 (3) CERTIFICATION PROGRAM.—If the Adminis-
15 trator determines that effective voluntary accredita-
16 tion programs are in place for environmental sam-
17 pling laboratories, the Administrator shall review the
18 performance and effectiveness of such programs
19 within 3 years after such determination. If, upon
20 such review, the Administrator determines that the
21 voluntary accreditation programs are not effective in
22 assuring the quality and consistency of laboratory
23 analyses, the Administrator shall, not more than 12
24 months thereafter, establish a certification program
25 that meets the requirements of paragraph (1).

1 (c) EXPOSURE STUDIES.—

2 (1) CHILDREN.—The Secretary of Health and
3 Human Services (in this subsection referred to as
4 the “Secretary”), acting through the Director of the
5 Centers for Disease Control (CDC), and the Direc-
6 tor of the National Institute of Environmental
7 Health Sciences, shall jointly conduct a study of the
8 sources of lead exposure in children who have ele-
9 vated blood lead levels (or other indicators of ele-
10 vated lead body burden), as defined by the Director
11 of the Centers for Disease Control.

12 (2) WATER.—The Secretary, in consultation
13 with the Director of the National Institute for Occu-
14 pational Safety and Health, shall conduct a com-
15 prehensive study of means to reduce hazardous occu-
16 pational lead abatement exposures in water. This
17 study shall include, at a minimum, each of the fol-
18 lowing:

19 (A) Surveillance and intention capability in
20 the States to identify and prevent hazardous ex-
21 posures to lead abatement workers.

22 (B) Demonstration of lead abatement con-
23 trol methods and devices and work practices to
24 identify and prevent hazardous lead exposures
25 in the workplace.

1 (C) Evaluation, in consultation with the
2 National Institute of Environmental Health
3 Sciences, of health effects of low and high levels
4 of occupational lead exposures through fluids on
5 reproductive, neurological, renal, and cardio-
6 vascular health.

7 (D) Identification of high-risk occupational
8 settings to which prevention activities and re-
9 sources should be targeted.

10 (E) A study assessing the potential expo-
11 sures and risks from lead to janitorial and cus-
12 todial workers.

13 (3) CONTRIBUTION TO ELEVATED LEAD BODY
14 BURDEN.—The studies described in paragraphs (1)
15 and (2) shall as appropriate, examine the relative
16 contributions to elevated lead body burden from each
17 of the following:

18 (A) Drinking water.

19 (B) Food.

20 (C) Occupational exposures, and other ex-
21 posures that the Secretary determines to be ap-
22 propriate.

23 (4) REPORT.—Not later than 30 months after
24 the date of the enactment of this section, the Sec-
25 retary shall submit a report to the Congress con-

cerning the studies described in paragraphs (1) and
(2).

(d) PUBLIC EDUCATION.—

(1) IN GENERAL.—The Administrator, in conjunction with the Secretary of Health and Human Services, acting through the Director of the Agency for Toxic Substances and Disease Registry, and in conjunction with the Secretary of Housing and Urban Development, shall sponsor public education and outreach activities to increase public awareness of—

(A) the scope and severity of lead poisoning from household sources, particularly lead-based pipes;

(B) potential exposure to sources of lead in schools and childhood day care centers, particularly lead-based pipes;

(C) the implications of exposures for men and women, particularly those of childbearing age;

(D) the need for careful, quality, abatement and management actions;

(E) the need for universal screening of children;

1 (F) other components of a lead poisoning
2 prevention program;

3 (G) the health consequences of lead expo-
4 sure resulting from lead-based pipe hazards;

5 (H) risk assessment and inspection meth-
6 ods for lead-based pipe hazards; and

7 (I) measures to reduce the risk of lead ex-
8 posure from lead-based pipes.

9 (2) TARGETED AUDIENCES.—The activities de-
10 scribed in paragraph (1) shall be designed to provide
11 educational services and information to—

12 (A) health professionals;

13 (B) the general public, with emphasis on
14 parents of young children;

15 (C) homeowners, landlords, and tenants;

16 (D) consumers of home improvement prod-
17 ucts;

18 (E) the residential real estate industry;

19 and

20 (F) the home renovation industry.

21 (e) TECHNICAL ASSISTANCE.—

22 (1) CLEARINGHOUSE.—Not later than 6
23 months after the enactment of this Act, the Admin-
24 istrator shall establish, in consultation with the Sec-
25 retary of Housing and Urban Development and the

1 Director of the Centers for Disease Control, a Na-
2 tional Clearinghouse on Childhood Lead Poisoning
3 (in this section referred to as the “Clearinghouse”).

4 The Clearinghouse shall—

5 (A) collect, evaluate, and disseminate cur-
6 rent information on the assessment and reduc-
7 tion of lead-based pipe hazards, adverse health
8 effects, sources of exposure, detection and risk
9 assessment methods, environmental hazards
10 abatement, and clean-up standards;

11 (B) maintain a rapid-alert system to in-
12 form certified lead-based pipe activities contrac-
13 tors of significant developments in research re-
14 lated to lead-based paint hazards; and

15 (C) perform any other duty that the Ad-
16 ministration determines necessary to achieve
17 the purposes of this Act.

18 (2) HOTLINE.—Not later than 6 months after
19 the enactment of this subsection, the Administrator,
20 in cooperation with other Federal agencies and with
21 State and local governments, shall establish a single
22 lead-based pipe hazard hotline to provide the public
23 with answers to questions about lead poison in pre-
24 vention and referrals to the Clearinghouse for tech-
25 nical information.

1 **SEC. 205. LEAD HAZARD INFORMATION PAMPHLET.**

2 (a) IN GENERAL.—Not later than 2 years after the
3 enactment of this Act, after notice and opportunity for
4 comment, the Administrator of the Environmental Protec-
5 tion Agency, in consultation with the Secretary of Housing
6 and Urban Development and with the Secretary of Health
7 and Human Services, shall publish, and from time to time
8 revise, a lead hazard information pamphlet. The pamphlet
9 shall—

10 (1) contain information regarding the health
11 risks associated with exposure to lead;

12 (2) provide information on the presence of lead-
13 based pipe hazards in federally assisted, federally
14 owned, and other housing;

15 (3) describe the risks of lead exposure for chil-
16 dren under 6 years of age, pregnant women, women
17 of childbearing age, persons involved in home ren-
18 ovation, and others residing in a dwelling with lead-
19 based pipe hazards;

20 (4) describe the risks of renovation in a dwell-
21 ing with lead-based pipe hazards;

22 (5) provide information on approved methods
23 for evaluating and reducing lead-based pipe hazards
24 and their effectiveness in identifying, reducing,
25 eliminating, or preventing exposure to lead-based
26 pipe hazards;

1 (6) advise persons how to obtain a list of con-
2 tractors certified pursuant to this title in lead-based
3 pipe hazard evaluation and reduction in the area in
4 which the pamphlet is to be used;

5 (7) state that a risk assessment or inspection
6 for lead-based pipe is recommended prior to the pur-
7 chase, lease, or renovation of housing;

8 (8) state that certain State and local laws im-
9 pose additional requirements related to lead-based
10 pipe in housing and provide a listing of Federal,
11 State, and local agencies in each State, including ad-
12 dress and telephone number, that can provide infor-
13 mation about applicable laws and available govern-
14 mental and private assistance and financing; and

15 (9) provide such other information about envi-
16 ronmental hazards associated with residential real
17 property as the Administrator deems appropriate.

18 (b) RENOVATION OF HOUSING.—Within 2 years after
19 the enactment of this section, the Administrator shall pro-
20 mulgate regulations under this subsection to require each
21 person who performs for compensation a renovation of
22 housing to provide a lead hazard information pamphlet to
23 the owner and occupant of such housing prior to com-
24 mencing the renovation.

1 **SEC. 206. REGULATIONS.**

2 The regulations of the Administrator under this title
3 shall include such recordkeeping and reporting require-
4 ments as may be necessary to insure the effective imple-
5 mentation of this title. The regulations may be amended
6 from time to time as necessary.

7 **SEC. 207. CONTROL OF LEAD-BASED PIPE HAZARDS AT**
8 **FEDERAL FACILITIES.**

9 Each department, agency, and instrumentality of ex-
10 ecutive, legislative, and judicial branches of the Federal
11 Government (1) having jurisdiction over any property or
12 facility, or (2) engaged in any activity resulting, or which
13 may result, in a lead-based pipe hazard, and each officer,
14 agent, or employee thereof, shall be subject to, and comply
15 with, all Federal, State, interstate, and local requirements,
16 both substantive and procedural (including any require-
17 ment for certification, licensing, recordkeeping, or report-
18 ing or any provisions for injunctive relief and such sanc-
19 tions as may be imposed by a court to enforce such relief
20 respecting lead-based pipe, lead-based pipe activities, and
21 lead-based pipe hazards in the same manner, and to the
22 same extent as any nongovernmental entity is subject to
23 such requirements, including the payment of reasonable
24 service charges). The Federal, State, interstate, and local
25 substantive and procedural requirements referred to in
26 this subsection include, but are not limited to, all adminis-

1 trative orders and all civil and administrative penalties
2 and fines regardless of whether such penalties or fines are
3 punitive or coercive in nature, or whether imposed for iso-
4 lated, intermittent or continuing violations. The United
5 States hereby expressly waives any immunity otherwise
6 applicable to the United States with respect to any such
7 substantive or procedural requirement (including, but not
8 limited to, any injunctive relief, administrative order, or
9 civil or administrative penalty referred to in the preceding
10 sentence, or reasonable service charge). The reasonable
11 service charges referred to in this section include, but are
12 not limited to, fees or charges assessed for certification
13 and licensing, as well as any other nondiscriminatory
14 charges that are assessed in connection with a Federal,
15 State, interstate, or local lead-based pipe, lead-based pipe
16 activities, or lead-based pipe hazard activities program. No
17 agent, employee, or officer of the United States shall be
18 personally liable for any civil penalty under any Federal,
19 State, interstate, or local law relating to lead-based pipe,
20 lead-based pipe activities, or lead-based pipe hazards with
21 respect to any act or omission within the scope of his offi-
22 cial duties.

1 **SEC. 208. PROHIBITED ACTS.**

2 It shall be unlawful for any person to fail or refuse
3 to comply with a provision of this title or with any rule
4 or order issued under this title.

5 **SEC. 209. RELATIONSHIP TO OTHER FEDERAL LAW.**

6 Nothing in this title shall affect the authority of other
7 appropriate Federal agencies to establish or enforce any
8 requirements which are at least as stringent as those es-
9 tablished pursuant to this title.

10 **SEC. 210. GENERAL PROVISIONS RELATING TO ADMINIS-**
11 **TRATIVE PROCEEDINGS.**

12 (a) **APPLICABILITY.**—This section applies to the pro-
13 mulgation or revision of any regulation issued under this
14 title.

15 (b) **RULEMAKING DOCKET.**—Not later than the date
16 of proposal of an action to which this section applies, the
17 Administrator shall establish a rulemaking docket for such
18 action (in this subsection referred to as a “rule”). When-
19 ever a rule applies only within a particular State, a second
20 (identical) docket shall be established in the appropriate
21 regional office of the Environmental Protection Agency.

22 (c) **INSPECTION AND COPYING.**—

23 (1) **PUBLIC AVAILABILITY.**—The rulemaking
24 docket required under subsection (b) shall be open
25 for inspection by the public at reasonable times spec-
26 ified in the notice of proposed rulemaking. Any per-

1 son may copy documents contained in the docket.
2 The Administrator shall provide copying facilities
3 which may be used at the expense of the person
4 seeking copies, but the Administrator may waive or
5 reduce such expenses in such instances as the public
6 interest requires. Any person may request copies by
7 mail if the person pays the expenses, including per-
8 sonnel costs to do the copying.

9 (2) DOCKET.—

10 (A) COMMENTS AND INFORMATION.—

11 Promptly upon receipt by the agency, all writ-
12 ten comments and documentary information on
13 the proposed rule received from any person for
14 inclusion in the docket during the comment pe-
15 riod shall be placed in the docket. The tran-
16 script of public hearing if any, on the proposed
17 rule shall also be included in the docket
18 promptly upon receipt from the person who
19 transcribed such hearings. All documents which
20 become available after the proposed rule has
21 been published and which the Administrator de-
22 termines are of central relevance to the rule-
23 making shall be placed in the docket as soon as
24 possible after their availability.

1 (B) DRAFTS OF RULES.—The drafts of
2 proposed rules submitted by the Administrator
3 to the Office of Management and Budget for
4 any interagency review process prior to proposal
5 of any such rule, all documents accompanying
6 such drafts, and all written comments thereon
7 by other agencies and all written responses to
8 such written comments by the Administrator
9 shall be placed in the docket no later than the
10 date of proposal of the rule. The drafts of the
11 final rule submitted for such review process
12 prior to promulgation and all such written com-
13 ments thereto all documents accompanying such
14 drafts, and written responses thereto shall be
15 placed in the docket no later than the date of
16 promulgation.

17 (d) EXPLANATION.—

18 (1) MAJOR CHANGES.—The promulgated rule
19 shall be accompanied by an explanation of the rea-
20 sons for any major changes in the promulgated rule
21 from the proposed rule.

22 (2) RESPONSES.—The promulgated rule shall
23 also be accompanied by a response to each of the
24 significant comments, criticisms, and new data sub-

mitted in written or oral presentations during the comment period.

(3) LIMITATION.—The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

(e) EFFECTIVE DATE.—The requirements of this section shall take effect with respect to any rule the proposal of which occurs after 90 days after the date of the enactment of this Act.

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR LEAD HAZARD REDUCTION

SEC. 301. HUD GRANTS FOR LEAD HAZARDS REDUCTION IN HOUSING.

There is authorized to be appropriated for grants under section 101 of this Act and section 1011 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852) \$9,500,000,000 for each of fiscal years 2020 through 2029.

SEC. 302. EPA FUNDING FOR LEAD EXPOSURE REDUCTION.

There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2020 through 2029 to carry out—

(1) title II of this Act;

1 (2) title IV of the Toxic Substances Control Act
 2 (15 U.S.C. 2681 et seq.) and
 3 (3) such other lead hazard reduction activities
 4 as the Administrator of the Environmental Protec-
 5 tion Agency is authorized under law to undertake,
 6 including activities under the Safe Drinking Water
 7 Act (42 U.S.C. 300f et seq.).

8 **TITLE IV—REVENUE** 9 **PROVISIONS**

10 **SEC. 401. PARTNERSHIP INTERESTS TRANSFERRED IN** 11 **CONNECTION WITH PERFORMANCE OF SERV-** 12 **ICES.**

13 (a) MODIFICATION TO ELECTION TO INCLUDE PART-
 14 PARTNERSHIP INTEREST IN GROSS INCOME IN YEAR OF
 15 TRANSFER.—Subsection (c) of section 83 is amended by
 16 redesignating paragraph (4) as paragraph (5) and by in-
 17 serting after paragraph (3) the following new paragraph:

18 “(4) PARTNERSHIP INTERESTS.—Except as
 19 provided by the Secretary—

20 “(A) IN GENERAL.—In the case of any
 21 transfer of an interest in a partnership in con-
 22 nection with the provision of services to (or for
 23 the benefit of) such partnership—

24 “(i) the fair market value of such in-
 25 terest shall be treated for purposes of this

1 section as being equal to the amount of the
 2 distribution which the partner would re-
 3 ceive if the partnership sold (at the time of
 4 the transfer) all of its assets at fair market
 5 value and distributed the proceeds of such
 6 sale (reduced by the liabilities of the part-
 7 nership) to its partners in liquidation of
 8 the partnership, and

9 “(ii) the person receiving such interest
 10 shall be treated as having made the elec-
 11 tion under subsection (b)(1) unless such
 12 person makes an election under this para-
 13 graph to have such subsection not apply.

14 “(B) ELECTION.—The election under sub-
 15 paragraph (A)(ii) shall be made under rules
 16 similar to the rules of subsection (b)(2).”.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to interests in partnerships trans-
 19 ferred after the date of the enactment of this Act.

20 **SEC. 402. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
 21 **VESTMENT MANAGEMENT SERVICES TO**
 22 **PARTNERSHIPS.**

23 (a) IN GENERAL.—Part I of subchapter K of chapter
 24 1 is amended by adding at the end the following new sec-
 25 tion:

1 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
2 **VESTMENT MANAGEMENT SERVICES TO**
3 **PARTNERSHIPS.**

4 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
5 PARTNERSHIP ITEMS.—For purposes of this title, in the
6 case of an investment services partnership interest—

7 “(1) IN GENERAL.—Notwithstanding section
8 702(b)—

9 “(A) an amount equal to the net capital
10 gain with respect to such interest for any part-
11 nership taxable year shall be treated as ordi-
12 nary income, and

13 “(B) subject to the limitation of paragraph
14 (2), an amount equal to the net capital loss
15 with respect to such interest for any partner-
16 ship taxable year shall be treated as an ordi-
17 nary loss.

18 “(2) RECHARACTERIZATION OF LOSSES LIM-
19 ITED TO RECHARACTERIZED GAINS.—The amount
20 treated as ordinary loss under paragraph (1)(B) for
21 any taxable year shall not exceed the excess (if any)
22 of—

23 “(A) the aggregate amount treated as ordi-
24 nary income under paragraph (1)(A) with re-
25 spect to the investment services partnership in-

1 terest for all preceding partnership taxable
2 years to which this section applies, over

3 “(B) the aggregate amount treated as or-
4 dinary loss under paragraph (1)(B) with re-
5 spect to such interest for all preceding partner-
6 ship taxable years to which this section applies.

7 “(3) ALLOCATION TO ITEMS OF GAIN AND
8 LOSS.—

9 “(A) NET CAPITAL GAIN.—The amount
10 treated as ordinary income under paragraph
11 (1)(A) shall be allocated ratably among the
12 items of long-term capital gain taken into ac-
13 count in determining such net capital gain.

14 “(B) NET CAPITAL LOSS.—The amount
15 treated as ordinary loss under paragraph (1)(B)
16 shall be allocated ratably among the items of
17 long-term capital loss and short-term capital
18 loss taken into account in determining such net
19 capital loss.

20 “(4) TERMS RELATING TO CAPITAL GAINS AND
21 LOSSES.—For purposes of this section—

22 “(A) IN GENERAL.—Net capital gain, long-
23 term capital gain, and long-term capital loss,
24 with respect to any investment services partner-
25 ship interest for any taxable year, shall be de-

1 terminated under section 1222, except that such
2 section shall be applied—

3 “(i) without regard to the recharacter-
4 ization of any item as ordinary income or
5 ordinary loss under this section,

6 “(ii) by only taking into account items
7 of gain and loss taken into account by the
8 holder of such interest under section 702
9 (other than subsection (a)(9) thereof) with
10 respect to such interest for such taxable
11 year, and

12 “(iii) by treating property which is
13 taken into account in determining gains
14 and losses to which section 1231 applies as
15 capital assets held for more than 1 year.

16 “(B) NET CAPITAL LOSS.—The term ‘net
17 capital loss’ means the excess of the losses from
18 sales or exchanges of capital assets over the
19 gains from such sales or exchanges. Rules simi-
20 lar to the rules of clauses (i) through (iii) of
21 subparagraph (A) shall apply for purposes of
22 the preceding sentence.

23 “(5) SPECIAL RULE FOR DIVIDENDS.—Any div-
24 idend allocated with respect to any investment serv-
25 ices partnership interest shall not be treated as

1 qualified dividend income for purposes of section
2 1(h).

3 “(6) SPECIAL RULE FOR QUALIFIED SMALL
4 BUSINESS STOCK.—Section 1202 shall not apply to
5 any gain from the sale or exchange of qualified small
6 business stock (as defined in section 1202(c)) allo-
7 cated with respect to any investment services part-
8 nership interest.

9 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

10 “(1) GAIN.—

11 “(A) IN GENERAL.—Any gain on the dis-
12 position of an investment services partnership
13 interest shall be—

14 “(i) treated as ordinary income, and

15 “(ii) recognized notwithstanding any
16 other provision of this subtitle.

17 “(B) GIFT AND TRANSFERS AT DEATH.—

18 In the case of a disposition of an investment
19 services partnership interest by gift or by rea-
20 son of death of the taxpayer—

21 “(i) subparagraph (A) shall not apply,

22 “(ii) such interest shall be treated as
23 an investment services partnership interest
24 in the hands of the person acquiring such
25 interest, and

1 “(iii) any amount that would have
2 been treated as ordinary income under this
3 subsection had the decedent sold such in-
4 terest immediately before death shall be
5 treated as an item of income in respect of
6 a decedent under section 691.

7 “(2) LOSS.—Any loss on the disposition of an
8 investment services partnership interest shall be
9 treated as an ordinary loss to the extent of the ex-
10 cess (if any) of—

11 “(A) the aggregate amount treated as ordi-
12 nary income under subsection (a) with respect
13 to such interest for all partnership taxable
14 years to which this section applies, over

15 “(B) the aggregate amount treated as or-
16 dinary loss under subsection (a) with respect to
17 such interest for all partnership taxable years
18 to which this section applies.

19 “(3) ELECTION WITH RESPECT TO CERTAIN EX-
20 CHANGES.—Paragraph (1)(A)(ii) shall not apply to
21 the contribution of an investment services partner-
22 ship interest to a partnership in exchange for an in-
23 terest in such partnership if—

24 “(A) the taxpayer makes an irrevocable
25 election to treat the partnership interest re-

1 ceived in the exchange as an investment serv-
 2 ices partnership interest, and

3 “(B) the taxpayer agrees to comply with
 4 such reporting and recordkeeping requirements
 5 as the Secretary may prescribe.

6 “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-
 7 PERTY.—

8 “(A) IN GENERAL.—In the case of any dis-
 9 tribution of property by a partnership with re-
 10 spect to any investment services partnership in-
 11 terest held by a partner, the partner receiving
 12 such property shall recognize gain equal to the
 13 excess (if any) of—

14 “(i) the fair market value of such
 15 property at the time of such distribution,
 16 over

17 “(ii) the adjusted basis of such prop-
 18 erty in the hands of such partner (deter-
 19 mined without regard to subparagraph
 20 (C)).

21 “(B) TREATMENT OF GAIN AS ORDINARY
 22 INCOME.—Any gain recognized by such partner
 23 under subparagraph (A) shall be treated as or-
 24 dinary income to the same extent and in the
 25 same manner as the increase in such partner’s

1 distributive share of the taxable income of the
2 partnership would be treated under subsection
3 (a) if, immediately prior to the distribution, the
4 partnership had sold the distributed property at
5 fair market value and all of the gain from such
6 disposition were allocated to such partner. For
7 purposes of applying subsection (a)(2), any gain
8 treated as ordinary income under this subpara-
9 graph shall be treated as an amount treated as
10 ordinary income under subsection (a)(1)(A).

11 “(C) ADJUSTMENT OF BASIS.—In the case
12 a distribution to which subparagraph (A) ap-
13 plies, the basis of the distributed property in
14 the hands of the distributee partner shall be the
15 fair market value of such property.

16 “(D) SPECIAL RULES WITH RESPECT TO
17 MERGERS, DIVISIONS, AND TECHNICAL TERMI-
18 NATIONS.—In the case of a taxpayer which sat-
19 isfies requirements similar to the requirements
20 of subparagraphs (A) and (B) of paragraph (3),
21 this paragraph and paragraph (1)(A)(ii) shall
22 not apply to the distribution of a partnership
23 interest if such distribution is in connection
24 with a contribution (or deemed contribution) of
25 any property of the partnership to which sec-

1 tion 721 applies pursuant to a transaction de-
2 scribed in paragraph (1)(B) or (2) of section
3 708(b).

4 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-
5 EST.—For purposes of this section—

6 “(1) IN GENERAL.—The term ‘investment serv-
7 ices partnership interest’ means any interest in an
8 investment partnership acquired or held by any per-
9 son in connection with the conduct of a trade or
10 business described in paragraph (2) by such person
11 (or any person related to such person). An interest
12 in an investment partnership held by any person—

13 “(A) shall not be treated as an investment
14 services partnership interest for any period be-
15 fore the first date on which it is so held in con-
16 nection with such a trade or business,

17 “(B) shall not cease to be an investment
18 services partnership interest merely because
19 such person holds such interest other than in
20 connection with such a trade or business, and

21 “(C) shall be treated as an investment
22 services partnership interest if acquired from a
23 related person in whose hands such interest was
24 an investment services partnership interest.

1 “(2) BUSINESSES TO WHICH THIS SECTION AP-
 2 PLIES.—A trade or business is described in this
 3 paragraph if such trade or business primarily in-
 4 volves the performance of any of the following serv-
 5 ices with respect to assets held (directly or indi-
 6 rectly) by one or more investment partnerships re-
 7 ferred to in paragraph (1):

8 “(A) Advising as to the advisability of in-
 9 vesting in, purchasing, or selling any specified
 10 asset.

11 “(B) Managing, acquiring, or disposing of
 12 any specified asset.

13 “(C) Arranging financing with respect to
 14 acquiring specified assets.

15 “(D) Any activity in support of any service
 16 described in subparagraphs (A) through (C).

17 “(3) INVESTMENT PARTNERSHIP.—

18 “(A) IN GENERAL.—The term ‘investment
 19 partnership’ means any partnership if, at the
 20 end of any two consecutive calendar quarters
 21 ending after the date of enactment of this sec-
 22 tion—

23 “(i) substantially all of the assets of
 24 the partnership are specified assets (deter-
 25 mined without regard to any section 197

1 intangible within the meaning of section
2 197(d)), and

3 “(ii) less than 75 percent of the cap-
4 ital of the partnership is attributable to
5 qualified capital interests which constitute
6 property held in connection with a trade or
7 business of the owner of such interest.

8 “(B) LOOK-THROUGH OF CERTAIN WHOL-
9 LY OWNED ENTITIES FOR PURPOSES OF DETER-
10 MINING ASSETS OF THE PARTNERSHIP.—

11 “(i) IN GENERAL.—For purposes of
12 determining the assets of a partnership
13 under subparagraph (A)(i)—

14 “(I) any interest in a specified
15 entity shall not be treated as an asset
16 of such partnership, and

17 “(II) such partnership shall be
18 treated as holding its proportionate
19 share of each of the assets of such
20 specified entity.

21 “(ii) SPECIFIED ENTITY.—For pur-
22 poses of clause (i), the term ‘specified enti-
23 ty’ means, with respect to any partnership
24 (hereafter referred to as the upper-tier
25 partnership), any person which engages in

1 the same trade or business as the upper-
2 tier partnership and is—

3 “(I) a partnership all of the cap-
4 ital and profits interests of which are
5 held directly or indirectly by the
6 upper-tier partnership, or

7 “(II) a foreign corporation which
8 does not engage in a trade or business
9 in the United States and all of the
10 stock of which is held directly or indi-
11 rectly by the upper-tier partnership.

12 “(C) SPECIAL RULES FOR DETERMINING
13 IF PROPERTY HELD IN CONNECTION WITH
14 TRADE OR BUSINESS.—

15 “(i) IN GENERAL.—Except as other-
16 wise provided by the Secretary, solely for
17 purposes of determining whether any inter-
18 est in a partnership constitutes property
19 held in connection with a trade or business
20 under subparagraph (A)(ii)—

21 “(I) a trade or business of any
22 person closely related to the owner of
23 such interest shall be treated as a
24 trade or business of such owner,

1 “(II) such interest shall be treat-
2 ed as held by a person in connection
3 with a trade or business during any
4 taxable year if such interest was so
5 held by such person during any 3 tax-
6 able years preceding such taxable
7 year, and

8 “(III) paragraph (5)(B) shall not
9 apply.

10 “(ii) CLOSELY RELATED PERSONS.—
11 For purposes of clause (i)(I), a person
12 shall be treated as closely related to an-
13 other person if, taking into account the
14 rules of section 267(c), the relationship be-
15 tween such persons is described in—

16 “(I) paragraph (1) or (9) of sec-
17 tion 267(b), or

18 “(II) section 267(b)(4), but solely
19 in the case of a trust with respect to
20 which each current beneficiary is the
21 grantor or a person whose relationship
22 to the grantor is described in para-
23 graph (1) or (9) of section 267(b).

24 “(D) ANTIABUSE RULES.—The Secretary
25 may issue regulations or other guidance which

1 prevent the avoidance of the purposes of sub-
2 paragraph (A), including regulations or other
3 guidance which treat convertible and contingent
4 debt (and other debt having the attributes of
5 equity) as a capital interest in the partnership.

6 “(E) CONTROLLED GROUPS OF ENTI-
7 TIES.—

8 “(i) IN GENERAL.—In the case of a
9 controlled group of entities, if an interest
10 in the partnership received in exchange for
11 a contribution to the capital of the part-
12 nership by any member of such controlled
13 group would (in the hands of such mem-
14 ber) constitute property held in connection
15 with a trade or business, then any interest
16 in such partnership held by any member of
17 such group shall be treated for purposes of
18 subparagraph (A) as constituting (in the
19 hands of such member) property held in
20 connection with a trade or business.

21 “(ii) CONTROLLED GROUP OF ENTI-
22 TIES.—For purposes of clause (i), the term
23 ‘controlled group of entities’ means a con-
24 trolled group of corporations as defined in
25 section 1563(a)(1), applied without regard

1 to subsections (a)(4) and (b)(2) of section
2 1563. A partnership or any other entity
3 (other than a corporation) shall be treated
4 as a member of a controlled group of enti-
5 ties if such entity is controlled (within the
6 meaning of section 954(d)(3)) by members
7 of such group (including any entity treated
8 as a member of such group by reason of
9 this sentence).

10 “(F) SPECIAL RULE FOR CORPORA-
11 TIONS.—For purposes of this paragraph, in the
12 case of a corporation, the determination of
13 whether property is held in connection with a
14 trade or business shall be determined as if the
15 taxpayer were an individual.

16 “(4) SPECIFIED ASSET.—The term ‘specified
17 asset’ means securities (as defined in section
18 475(c)(2) without regard to the last sentence there-
19 of), real estate held for rental or investment, inter-
20 ests in partnerships, commodities (as defined in sec-
21 tion 475(e)(2)), cash or cash equivalents, or options
22 or derivative contracts with respect to any of the
23 foregoing.

24 “(5) RELATED PERSONS.—

1 “(A) IN GENERAL.—A person shall be
2 treated as related to another person if the rela-
3 tionship between such persons is described in
4 section 267(b) or 707(b).

5 “(B) ATTRIBUTION OF PARTNER SERV-
6 ICES.—Any service described in paragraph (2)
7 which is provided by a partner of a partnership
8 shall be treated as also provided by such part-
9 nership.

10 “(d) EXCEPTION FOR CERTAIN CAPITAL INTER-
11 ESTS.—

12 “(1) IN GENERAL.—In the case of any portion
13 of an investment services partnership interest which
14 is a qualified capital interest, all items of gain and
15 loss (and any dividends) which are allocated to such
16 qualified capital interest shall not be taken into ac-
17 count under subsection (a) if—

18 “(A) allocations of items are made by the
19 partnership to such qualified capital interest in
20 the same manner as such allocations are made
21 to other qualified capital interests held by part-
22 ners who do not provide any services described
23 in subsection (c)(2) and who are not related to
24 the partner holding the qualified capital inter-
25 est, and

1 “(B) the allocations made to such other in-
2 terests are significant compared to the alloca-
3 tions made to such qualified capital interest.

4 “(2) AUTHORITY TO PROVIDE EXCEPTIONS TO
5 ALLOCATION REQUIREMENTS.—To the extent pro-
6 vided by the Secretary in regulations or other guid-
7 ance—

8 “(A) ALLOCATIONS TO PORTION OF QUALI-
9 FIED CAPITAL INTEREST.—Paragraph (1) may
10 be applied separately with respect to a portion
11 of a qualified capital interest.

12 “(B) NO OR INSIGNIFICANT ALLOCATIONS
13 TO NONSERVICE PROVIDERS.—In any case in
14 which the requirements of paragraph (1)(B) are
15 not satisfied, items of gain and loss (and any
16 dividends) shall not be taken into account under
17 subsection (a) to the extent that such items are
18 properly allocable under such regulations or
19 other guidance to qualified capital interests.

20 “(C) ALLOCATIONS TO SERVICE PRO-
21 VIDERS’ QUALIFIED CAPITAL INTERESTS WHICH
22 ARE LESS THAN OTHER ALLOCATIONS.—Alloca-
23 tions shall not be treated as failing to meet the
24 requirement of paragraph (1)(A) merely be-
25 cause the allocations to the qualified capital in-

1 terest represent a lower return than the alloca-
2 tions made to the other qualified capital inter-
3 ests referred to in such paragraph.

4 “(3) SPECIAL RULE FOR CHANGES IN SERVICES
5 AND CAPITAL CONTRIBUTIONS.—In the case of an
6 interest in a partnership which was not an invest-
7 ment services partnership interest and which, by
8 reason of a change in the services with respect to as-
9 sets held (directly or indirectly) by the partnership
10 or by reason of a change in the capital contributions
11 to such partnership, becomes an investment services
12 partnership interest, the qualified capital interest of
13 the holder of such partnership interest immediately
14 after such change shall not, for purposes of this sub-
15 section, be less than the fair market value of such
16 interest (determined immediately before such
17 change).

18 “(4) SPECIAL RULE FOR TIERED PARTNER-
19 SHIPS.—Except as otherwise provided by the Sec-
20 retary, in the case of tiered partnerships, all items
21 which are allocated in a manner which meets the re-
22 quirements of paragraph (1) to qualified capital in-
23 terests in a lower-tier partnership shall retain such
24 character to the extent allocated on the basis of

1 qualified capital interests in any upper-tier partner-
2 ship.

3 “(5) EXCEPTION FOR NO-SELF-CHARGED
4 CARRY AND MANAGEMENT FEE PROVISIONS.—Ex-
5 cept as otherwise provided by the Secretary, an in-
6 terest shall not fail to be treated as satisfying the
7 requirement of paragraph (1)(A) merely because the
8 allocations made by the partnership to such interest
9 do not reflect the cost of services described in sub-
10 section (c)(2) which are provided (directly or indi-
11 rectly) to the partnership by the holder of such in-
12 terest (or a related person).

13 “(6) SPECIAL RULE FOR DISPOSITIONS.—In the
14 case of any investment services partnership interest
15 any portion of which is a qualified capital interest,
16 subsection (b) shall not apply to so much of any
17 gain or loss as bears the same proportion to the en-
18 tire amount of such gain or loss as—

19 “(A) the distributive share of gain or loss
20 that would have been allocated to the qualified
21 capital interest (consistent with the require-
22 ments of paragraph (1)) if the partnership had
23 sold all of its assets at fair market value imme-
24 diately before the disposition, bears to

1 “(B) the distributive share of gain or loss
2 that would have been so allocated to the invest-
3 ment services partnership interest of which such
4 qualified capital interest is a part.

5 “(7) QUALIFIED CAPITAL INTEREST.—For pur-
6 poses of this section—

7 “(A) IN GENERAL.—The term ‘qualified
8 capital interest’ means so much of a partner’s
9 interest in the capital of the partnership as is
10 attributable to—

11 “(i) the fair market value of any
12 money or other property contributed to the
13 partnership in exchange for such interest
14 (determined without regard to section
15 752(a)),

16 “(ii) any amounts which have been in-
17 cluded in gross income under section 83
18 with respect to the transfer of such inter-
19 est, and

20 “(iii) the excess (if any) of—

21 “(I) any items of income and
22 gain taken into account under section
23 702 with respect to such interest, over

24 “(II) any items of deduction and
25 loss so taken into account.

1 “(B) ADJUSTMENT TO QUALIFIED CAPITAL
2 INTEREST.—

3 “(i) DISTRIBUTIONS AND LOSSES.—

4 The qualified capital interest shall be re-
5 duced by distributions from the partner-
6 ship with respect to such interest and by
7 the excess (if any) of the amount described
8 in subparagraph (A)(iii)(II) over the
9 amount described in subparagraph
10 (A)(iii)(I).

11 “(ii) SPECIAL RULE FOR CONTRIBU-
12 TIONS OF PROPERTY.—In the case of any
13 contribution of property described in sub-
14 paragraph (A)(i) with respect to which the
15 fair market value of such property is not
16 equal to the adjusted basis of such prop-
17 erty immediately before such contribution,
18 proper adjustments shall be made to the
19 qualified capital interest to take into ac-
20 count such difference consistent with such
21 regulations or other guidance as the Sec-
22 retary may provide.

23 “(C) TECHNICAL TERMINATIONS, ETC.,
24 DISREGARDED.—No increase or decrease in the
25 qualified capital interest of any partner shall re-

1 sult from a termination, merger, consolidation,
2 or division described in section 708, or any
3 similar transaction.

4 “(8) TREATMENT OF CERTAIN LOANS.—

5 “(A) PROCEEDS OF PARTNERSHIP LOANS
6 NOT TREATED AS QUALIFIED CAPITAL INTER-
7 EST OF SERVICE PROVIDING PARTNERS.—For
8 purposes of this subsection, an investment serv-
9 ices partnership interest shall not be treated as
10 a qualified capital interest to the extent that
11 such interest is acquired in connection with the
12 proceeds of any loan or other advance made or
13 guaranteed, directly or indirectly, by any other
14 partner or the partnership (or any person re-
15 lated to any such other partner or the partner-
16 ship). The preceding sentence shall not apply to
17 the extent the loan or other advance is repaid
18 before the date of the enactment of this section
19 unless such repayment is made with the pro-
20 ceeds of a loan or other advance described in
21 the preceding sentence.

22 “(B) REDUCTION IN ALLOCATIONS TO
23 QUALIFIED CAPITAL INTERESTS FOR LOANS
24 FROM NONSERVICE-PROVIDING PARTNERS TO
25 THE PARTNERSHIP.—For purposes of this sub-

1 section, any loan or other advance to the part-
2 nership made or guaranteed, directly or indi-
3 rectly, by a partner not providing services de-
4 scribed in subsection (c)(2) to the partnership
5 (or any person related to such partner) shall be
6 taken into account in determining the qualified
7 capital interests of the partners in the partner-
8 ship.

9 “(9) SPECIAL RULE FOR QUALIFIED FAMILY
10 PARTNERSHIPS.—

11 “(A) IN GENERAL.—In the case of any
12 specified family partnership interest, paragraph
13 (1)(A) shall be applied without regard to the
14 phrase ‘and who are not related to the partner
15 holding the qualified capital interest’.

16 “(B) SPECIFIED FAMILY PARTNERSHIP IN-
17 TEREST.—For purposes of this paragraph, the
18 term ‘specified family partnership interest’
19 means any investment services partnership in-
20 terest if—

21 “(i) such interest is an interest in a
22 qualified family partnership,

23 “(ii) such interest is held by a natural
24 person or by a trust with respect to which
25 each beneficiary is a grantor or a person

1 whose relationship to the grantor is de-
2 scribed in section 267(b)(1), and

3 “(iii) all other interests in such quali-
4 fied family partnership with respect to
5 which significant allocations are made
6 (within the meaning of paragraph (1)(B)
7 and in comparison to the allocations made
8 to the interest described in clause (ii)) are
9 held by persons who—

10 “(I) are related to the natural
11 person or trust referred to in clause
12 (ii), or

13 “(II) provide services described
14 in subsection (c)(2).

15 “(C) QUALIFIED FAMILY PARTNERSHIP.—

16 For purposes of this paragraph, the term
17 ‘qualified family partnership’ means any part-
18 nership if—

19 “(i) all of the capital and profits in-
20 terests of such partnership are held by—

21 “(I) specified family members,

22 “(II) any person closely related
23 (within the meaning of subsection
24 (c)(3)(C)(ii)) to a specified family
25 member, or

1 “(III) any other person (not de-
 2 scribed in subclause (I) or (II)) if
 3 such interest is an investment services
 4 partnership interest with respect to
 5 such person, and

6 “(ii) such partnership does not hold
 7 itself out to the public as an investment
 8 advisor.

9 “(D) SPECIFIED FAMILY MEMBERS.—For
 10 purposes of subparagraph (C), individuals shall
 11 be treated as specified family members if such
 12 individuals would be treated as one person
 13 under the rules of section 1361(c)(1) if the ap-
 14 plicable date (within the meaning of subpara-
 15 graph (B)(iii) thereof) were the latest of—

16 “(i) the date of the establishment of
 17 the partnership,

18 “(ii) the earliest date that the com-
 19 mon ancestor holds a capital or profits in-
 20 terest in the partnership, or

21 “(iii) the date of the enactment of this
 22 section.

23 “(e) OTHER INCOME AND GAIN IN CONNECTION
 24 WITH INVESTMENT MANAGEMENT SERVICES.—

25 “(1) IN GENERAL.—If—

1 “(A) a person performs (directly or indi-
 2 rectly) investment management services for any
 3 investment entity,

4 “(B) such person holds (directly or indi-
 5 rectly) a disqualified interest with respect to
 6 such entity, and

7 “(C) the value of such interest (or pay-
 8 ments thereunder) is substantially related to
 9 the amount of income or gain (whether or not
 10 realized) from the assets with respect to which
 11 the investment management services are per-
 12 formed,

13 any income or gain with respect to such interest
 14 shall be treated as ordinary income. Rules similar to
 15 the rules of subsections (a)(5) and (d) shall apply
 16 for purposes of this subsection.

17 “(2) DEFINITIONS.—For purposes of this sub-
 18 section—

19 “(A) DISQUALIFIED INTEREST.—

20 “(i) IN GENERAL.—The term ‘dis-
 21 qualified interest’ means, with respect to
 22 any investment entity—

23 “(I) any interest in such entity
 24 other than indebtedness,

1 “(II) convertible or contingent
2 debt of such entity,

3 “(III) any option or other right
4 to acquire property described in sub-
5 clause (I) or (II), and

6 “(IV) any derivative instrument
7 entered into (directly or indirectly)
8 with such entity or any investor in
9 such entity.

10 “(ii) EXCEPTIONS.—Such term shall
11 not include—

12 “(I) a partnership interest,

13 “(II) except as provided by the
14 Secretary, any interest in a taxable
15 corporation, and

16 “(III) except as provided by the
17 Secretary, stock in an S corporation.

18 “(B) TAXABLE CORPORATION.—The term
19 ‘taxable corporation’ means—

20 “(i) a domestic C corporation, or

21 “(ii) a foreign corporation substan-
22 tially all of the income of which is—

23 “(I) effectively connected with
24 the conduct of a trade or business in
25 the United States, or

1 “(II) subject to a comprehensive
 2 foreign income tax (as defined in sec-
 3 tion 457A(d)(2)).

4 “(C) INVESTMENT MANAGEMENT SERV-
 5 ICES.—The term ‘investment management serv-
 6 ices’ means a substantial quantity of any of the
 7 services described in subsection (c)(2).

8 “(D) INVESTMENT ENTITY.—The term ‘in-
 9 vestment entity’ means any entity which, if it
 10 were a partnership, would be an investment
 11 partnership.

12 “(f) EXCEPTION FOR DOMESTIC C CORPORATIONS.—
 13 Except as otherwise provided by the Secretary, in the case
 14 of a domestic C corporation—

15 “(1) subsections (a) and (b) shall not apply to
 16 any item allocated to such corporation with respect
 17 to any investment services partnership interest (or
 18 to any gain or loss with respect to the disposition of
 19 such an interest), and

20 “(2) subsection (e) shall not apply.

21 “(g) REGULATIONS.—The Secretary shall prescribe
 22 such regulations or other guidance as is necessary or ap-
 23 propriate to carry out the purposes of this section, includ-
 24 ing regulations or other guidance to—

1 “(1) require such reporting and recordkeeping
2 by any person in such manner and at such time as
3 the Secretary may prescribe for purposes of enabling
4 the partnership to meet the requirements of section
5 6031 with respect to any item described in section
6 702(a)(9),

7 “(2) provide modifications to the application of
8 this section (including treating related persons as
9 not related to one another) to the extent such modi-
10 fication is consistent with the purposes of this sec-
11 tion,

12 “(3) prevent the avoidance of the purposes of
13 this section (including through the use of qualified
14 family partnerships), and

15 “(4) coordinate this section with the other pro-
16 visions of this title.

17 “(h) CROSS REFERENCE.—For 40-percent penalty
18 on certain underpayments due to the avoidance of this sec-
19 tion, see section 6662.”.

20 (b) APPLICATION OF SECTION 751 TO INDIRECT DIS-
21 POSITIONS OF INVESTMENT SERVICES PARTNERSHIP IN-
22 TERESTS.—

23 (1) IN GENERAL.—Subsection (a) of section
24 751 is amended by striking “or” at the end of para-
25 graph (1), by inserting “or” at the end of paragraph

1 (2), and by inserting after paragraph (2) the fol-
 2 lowing new paragraph:

3 “(3) investment services partnership interests
 4 held by the partnership,”.

5 (2) CERTAIN DISTRIBUTIONS TREATED AS
 6 SALES OR EXCHANGES.—Subparagraph (A) of sec-
 7 tion 751(b)(1) is amended by striking “or” at the
 8 end of clause (i), by inserting “or” at the end of
 9 clause (ii), and by inserting after clause (ii) the fol-
 10 lowing new clause:

11 “(iii) investment services partnership
 12 interests held by the partnership,”.

13 (3) APPLICATION OF SPECIAL RULES IN THE
 14 CASE OF TIERED PARTNERSHIPS.—Subsection (f) of
 15 section 751 is amended—

16 (A) by striking “or” at the end of para-
 17 graph (1), by inserting “or” at the end of para-
 18 graph (2), and by inserting after paragraph (2)
 19 the following new paragraph:

20 “(3) an investment services partnership interest
 21 held by the partnership,” and

22 (B) by striking “partner.” and inserting
 23 “partner (other than a partnership in which it
 24 holds an investment services partnership inter-
 25 est).”.

1 (4) INVESTMENT SERVICES PARTNERSHIP IN-
 2 TERESTS; QUALIFIED CAPITAL INTERESTS.—Section
 3 751 is amended by adding at the end the following
 4 new subsection:

5 “(g) INVESTMENT SERVICES PARTNERSHIP INTER-
 6 ESTS.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘investment serv-
 8 ices partnership interest’ has the meaning given
 9 such term by section 710(c).

10 “(2) ADJUSTMENTS FOR QUALIFIED CAPITAL
 11 INTERESTS.—The amount to which subsection (a)
 12 applies by reason of paragraph (3) thereof shall not
 13 include so much of such amount as is attributable
 14 to any portion of the investment services partnership
 15 interest which is a qualified capital interest (deter-
 16 mined under rules similar to the rules of section
 17 710(d)).

18 “(3) EXCEPTION FOR PUBLICLY TRADED PART-
 19 NERSHIPS.—Except as otherwise provided by the
 20 Secretary, in the case of an exchange of an interest
 21 in a publicly traded partnership (as defined in sec-
 22 tion 7704) to which subsection (a) applies—

23 “(A) this section shall be applied without
 24 regard to subsections (a)(3), (b)(1)(A)(iii), and
 25 (f)(3), and

1 “(B) such partnership shall be treated as
2 owning its proportionate share of the property
3 of any other partnership in which it is a part-
4 ner.

5 “(4) RECOGNITION OF GAINS.—Any gain with
6 respect to which subsection (a) applies by reason of
7 paragraph (3) thereof shall be recognized notwith-
8 standing any other provision of this title.

9 “(5) COORDINATION WITH INVENTORY
10 ITEMS.—An investment services partnership interest
11 held by the partnership shall not be treated as an
12 inventory item of the partnership.

13 “(6) PREVENTION OF DOUBLE COUNTING.—
14 Under regulations or other guidance prescribed by
15 the Secretary, subsection (a)(3) shall not apply with
16 respect to any amount to which section 710 applies.

17 “(7) VALUATION METHODS.—The Secretary
18 shall prescribe regulations or other guidance which
19 provide the acceptable methods for valuing invest-
20 ment services partnership interests for purposes of
21 this section.”.

22 (c) TREATMENT FOR PURPOSES OF SECTION
23 7704.—Subsection (d) of section 7704 is amended by add-
24 ing at the end the following new paragraph:

1 “(6) INCOME FROM CERTAIN CARRIED INTER-
2 ESTS NOT QUALIFIED.—

3 “(A) IN GENERAL.—Specified carried in-
4 terest income shall not be treated as qualifying
5 income.

6 “(B) SPECIFIED CARRIED INTEREST IN-
7 COME.—For purposes of this paragraph—

8 “(i) IN GENERAL.—The term ‘speci-
9 fied carried interest income’ means—

10 “(I) any item of income or gain
11 allocated to an investment services
12 partnership interest (as defined in
13 section 710(c)) held by the partner-
14 ship,

15 “(II) any gain on the disposition
16 of an investment services partnership
17 interest (as so defined) or a partner-
18 ship interest to which (in the hands of
19 the partnership) section 751 applies,
20 and

21 “(III) any income or gain taken
22 into account by the partnership under
23 subsection (b)(4) or (e) of section
24 710.

1 “(ii) EXCEPTION FOR QUALIFIED CAP-
2 ITAL INTERESTS.—A rule similar to the
3 rule of section 710(d) shall apply for pur-
4 poses of clause (i).

5 “(C) COORDINATION WITH OTHER PROVI-
6 SIONS.—Subparagraph (A) shall not apply to
7 any item described in paragraph (1)(E) (or so
8 much of paragraph (1)(F) as relates to para-
9 graph (1)(E)).

10 “(D) SPECIAL RULES FOR CERTAIN PART-
11 NERSHIPS.—

12 “(i) CERTAIN PARTNERSHIPS OWNED
13 BY REAL ESTATE INVESTMENT TRUSTS.—
14 Subparagraph (A) shall not apply in the
15 case of a partnership which meets each of
16 the following requirements:

17 “(I) Such partnership is treated
18 as publicly traded under this section
19 solely by reason of interests in such
20 partnership being convertible into in-
21 terests in a real estate investment
22 trust which is publicly traded.

23 “(II) Fifty percent or more of
24 the capital and profits interests of
25 such partnership are owned, directly

1 or indirectly, at all times during the
 2 taxable year by such real estate in-
 3 vestment trust (determined with the
 4 application of section 267(c)).

5 “(III) Such partnership meets
 6 the requirements of paragraphs (2),
 7 (3), and (4) of section 856(c).

8 “(ii) CERTAIN PARTNERSHIPS OWN-
 9 ING OTHER PUBLICLY TRADED PARTNER-
 10 SHIPS.—Subparagraph (A) shall not apply
 11 in the case of a partnership which meets
 12 each of the following requirements:

13 “(I) Substantially all of the as-
 14 sets of such partnership consist of in-
 15 terests in one or more publicly traded
 16 partnerships (determined without re-
 17 gard to subsection (b)(2)).

18 “(II) Substantially all of the in-
 19 come of such partnership is ordinary
 20 income or section 1231 gain (as de-
 21 fined in section 1231(a)(3)).

22 “(E) TRANSITIONAL RULE.—Subpara-
 23 graph (A) shall not apply to any taxable year
 24 of the partnership beginning before the date

1 which is 10 years after the date of the enact-
2 ment of this paragraph.”.

3 (d) IMPOSITION OF PENALTY ON UNDERPAY-
4 MENTS.—

5 (1) IN GENERAL.—Subsection (b) of section
6 6662 is amended by inserting after paragraph (7)
7 the following new paragraph:

8 “(8) The application of section 710(e) or the
9 regulations or other guidance prescribed under sec-
10 tion 710(g) to prevent the avoidance of the purposes
11 of section 710.”.

12 (2) AMOUNT OF PENALTY.—

13 (A) IN GENERAL.—Section 6662 is amend-
14 ed by adding at the end the following new sub-
15 section:

16 “(k) INCREASE IN PENALTY IN CASE OF PROPERTY
17 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
18 ICES.—In the case of any portion of an underpayment to
19 which this section applies by reason of subsection (b)(8),
20 subsection (a) shall be applied with respect to such portion
21 by substituting ‘40 percent’ for ‘20 percent’.”.

22 (B) CONFORMING AMENDMENT.—Subpara-
23 graph (B) of section 6662A(e)(2) is amended
24 by striking “or (i)” and inserting “, (i), or (k)”.

1 (3) SPECIAL RULES FOR APPLICATION OF REA-
2 SONABLE CAUSE EXCEPTION.—Subsection (c) of sec-
3 tion 6664 is amended—

4 (A) by redesignating paragraphs (3) and
5 (4) as paragraphs (4) and (5), respectively;

6 (B) by striking “paragraph (3)” in para-
7 graph (5)(A), as so redesignated, and inserting
8 “paragraph (4)”; and

9 (C) by inserting after paragraph (2) the
10 following new paragraph:

11 “(3) SPECIAL RULE FOR UNDERPAYMENTS AT-
12 TRIBUTABLE TO INVESTMENT MANAGEMENT SERV-
13 ICES.—

14 “(A) IN GENERAL.—Paragraph (1) shall
15 not apply to any portion of an underpayment to
16 which section 6662 applies by reason of sub-
17 section (b)(8) unless—

18 “(i) the relevant facts affecting the
19 tax treatment of the item are adequately
20 disclosed,

21 “(ii) there is or was substantial au-
22 thority for such treatment, and

23 “(iii) the taxpayer reasonably believed
24 that such treatment was more likely than
25 not the proper treatment.

1 “(B) RULES RELATING TO REASONABLE
 2 BELIEF.—Rules similar to the rules of sub-
 3 section (d)(3) shall apply for purposes of sub-
 4 paragraph (A)(iii).”.

5 (e) INCOME AND LOSS FROM INVESTMENT SERVICES
 6 PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DE-
 7 TERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

8 (1) INTERNAL REVENUE CODE.—

9 (A) IN GENERAL.—Section 1402(a) is
 10 amended by striking “and” at the end of para-
 11 graph (16), by striking the period at the end of
 12 paragraph (17) and inserting “; and”, and by
 13 inserting after paragraph (17) the following
 14 new paragraph:

15 “(18) notwithstanding the preceding provisions
 16 of this subsection, in the case of any individual en-
 17 gaged in the trade or business of providing services
 18 described in section 710(c)(2) with respect to any
 19 entity, investment services partnership income or
 20 loss (as defined in subsection (m)) of such individual
 21 with respect to such entity shall be taken into ac-
 22 count in determining the net earnings from self-em-
 23 ployment of such individual.”.

1 (B) INVESTMENT SERVICES PARTNERSHIP
 2 INCOME OR LOSS.—Section 1402 is amended by
 3 adding at the end the following new subsection:

4 “(m) INVESTMENT SERVICES PARTNERSHIP INCOME
 5 OR LOSS.—For purposes of subsection (a)—

6 “(1) IN GENERAL.—The term ‘investment serv-
 7 ices partnership income or loss’ means, with respect
 8 to any investment services partnership interest (as
 9 defined in section 710(c)) or disqualified interest (as
 10 defined in section 710(e)), the net of—

11 “(A) the amounts treated as ordinary in-
 12 come or ordinary loss under subsections (b) and
 13 (e) of section 710 with respect to such interest,

14 “(B) all items of income, gain, loss, and
 15 deduction allocated to such interest, and

16 “(C) the amounts treated as realized from
 17 the sale or exchange of property other than a
 18 capital asset under section 751 with respect to
 19 such interest.

20 “(2) EXCEPTION FOR QUALIFIED CAPITAL IN-
 21 TERESTS.—A rule similar to the rule of section
 22 710(d) shall apply for purposes of applying para-
 23 graph (1)(B).”.

24 (2) SOCIAL SECURITY ACT.—Section 211(a) of
 25 the Social Security Act is amended by striking

1 “and” at the end of paragraph (15), by striking the
 2 period at the end of paragraph (16) and inserting “;
 3 and”, and by inserting after paragraph (16) the fol-
 4 lowing new paragraph:

5 “(17) Notwithstanding the preceding provisions
 6 of this subsection, in the case of any individual en-
 7 gaged in the trade or business of providing services
 8 described in section 710(c)(2) of the Internal Rev-
 9 enue Code of 1986 with respect to any entity, invest-
 10 ment services partnership income or loss (as defined
 11 in section 1402(m) of such Code) shall be taken into
 12 account in determining the net earnings from self-
 13 employment of such individual.”.

14 (f) SEPARATE ACCOUNTING BY PARTNER.—Section
 15 702(a) is amended by striking “and” at the end of para-
 16 graph (7), by striking the period at the end of paragraph
 17 (8) and inserting “, and”, and by inserting after para-
 18 graph (8) the following:

19 “(9) any amount treated as ordinary income or
 20 loss under subsection (a), (b), or (e) of section
 21 710.”.

22 (g) CONFORMING AMENDMENTS.—

23 (1) Subsection (d) of section 731 is amended by
 24 inserting “section 710(b)(4) (relating to distribu-

1 tions of partnership property),” after “to the extent
2 otherwise provided by”.

3 (2) Section 741 is amended by inserting “or
4 section 710 (relating to special rules for partners
5 providing investment management services to part-
6 nerships)” before the period at the end.

7 (3) The table of sections for part I of sub-
8 chapter K of chapter 1 is amended by adding at the
9 end the following new item:

“Sec. 710. Special rules for partners providing investment management services
to partnerships.”.

10 (4) Part IV of subchapter O of chapter 1 is
11 amended by striking section 1061, and the table of
12 sections for such part is amended by striking the
13 item relating to section 1061.

14 (h) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the amendments made by
17 this section shall apply to taxable years ending after
18 the date of the enactment of this Act.

19 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
20 CLUDE EFFECTIVE DATE.—In applying section
21 710(a) of the Internal Revenue Code of 1986 (as
22 added by this section) in the case of any partnership
23 taxable year which includes the date of the enact-
24 ment of this Act, the amount of the net capital gain

1 referred to in such section shall be treated as being
2 the lesser of the net capital gain for the entire part-
3 nership taxable year or the net capital gain deter-
4 mined by only taking into account items attributable
5 to the portion of the partnership taxable year which
6 is after such date.

7 (3) DISPOSITIONS OF PARTNERSHIP INTER-
8 ESTS.—

9 (A) IN GENERAL.—Section 710(b) of such
10 Code (as added by this section) shall apply to
11 dispositions and distributions after the date of
12 the enactment of this Act.

13 (B) INDIRECT DISPOSITIONS.—The amend-
14 ments made by subsection (b) shall apply to
15 transactions after the date of the enactment of
16 this Act.

17 (4) OTHER INCOME AND GAIN IN CONNECTION
18 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
19 tion 710(e) of such Code (as added by this section)
20 shall take effect on the date of the enactment of this
21 Act.

1 **SEC. 403. RETURN TO PRE-2018 ESTATE AND GIFT TAX**

2 **BASIC EXCLUSION AMOUNT.**

3 (a) IN GENERAL.—Section 2010(c)(3) of the Internal
4 Revenue Code of 1986 is amended by striking subpara-
5 graph (C).

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to estates of decedents dying and
8 gifts made after the date of the enactment of this Act.

○