

116TH CONGRESS
1ST SESSION

S. 787

To make housing more affordable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2019

Ms. WARREN (for herself, Mrs. GILLIBRAND, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To make housing more affordable, 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 “American Housing and Economic Mobility Act of 2019”.

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

Sec. 1. Short title; table of contents.

TITLE I—MAKING HOUSING MORE AFFORDABLE

Sec. 101. Local housing innovation grants.

Sec. 102. Investing in affordable housing infrastructure.

Sec. 103. Conditions for the sale of real estate-owned properties and non-performing loans.

TITLE II—TAKING THE FIRST STEPS TO REVERSE THE LEGACY
OF HOUSING DISCRIMINATION AND GOVERNMENT NEGLIGENCE

- Sec. 201. Down payment assistance program for communities formerly segregated by law.
- Sec. 202. Formula grant program for communities that have not recovered from the financial crisis.
- Sec. 203. Strengthening the Community Reinvestment Act of 1977.
- Sec. 204. Amendments relating to credit union service to underserved areas.

TITLE III—REMOVING BARRIERS THAT ISOLATE COMMUNITIES

- Sec. 301. Expanding rights under the Fair Housing Act.
- Sec. 302. Improving outcomes in housing assistance programs.

TITLE IV—ESTATE TAX REFORM

- Sec. 401. Amendment to Internal Revenue Code of 1986.
- Sec. 402. Rate adjustment.
- Sec. 403. Required minimum 10-year term, etc., for grantor retained annuity trusts.
- Sec. 404. Certain transfer tax rules applicable to grantor trusts.
- Sec. 405. Elimination of generation-skipping transfer tax exemption for certain trusts.
- Sec. 406. Simplifying gift tax exclusion for annual gifts.

1 **TITLE I—MAKING HOUSING**
2 **MORE AFFORDABLE**

3 **SEC. 101. LOCAL HOUSING INNOVATION GRANTS.**

4 (a) DEFINITIONS.—In this section:

5 (1) ELEMENTARY SCHOOL; SECONDARY
6 SCHOOL.—The terms “elementary school” and “sec-
7 ondary school” have the meanings given those terms
8 in section 8101 of the Elementary and Secondary
9 Education Act of 1965 (20 U.S.C. 7801).

10 (2) ELIGIBLE ENTITY.—The term “eligible enti-
11 ty” means—

- 12 (A) a State;
- 13 (B) a unit of general local government; or
- 14 (C) a metropolitan area.

1 (3) INSTITUTION OF HIGHER EDUCATION.—The
 2 term “institution of higher education” has the
 3 meaning given the term in section 101 of the Higher
 4 Education Act of 1965 (20 U.S.C. 1001).

5 (4) METROPOLITAN AREA; STATE; UNIT OF
 6 GENERAL LOCAL GOVERNMENT.—The terms “metro-
 7 politan area”, “State”, and “unit of general local
 8 government” have the meanings given those terms in
 9 section 102 of the Housing and Community Devel-
 10 opment Act of 1974 (42 U.S.C. 5302).

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

13 (b) ESTABLISHMENT.—Not later than 1 year after
 14 the date of enactment of this Act, the Secretary shall es-
 15 tablish a program to make grants to eligible entities
 16 that—

17 (1) reform local land use restrictions to bring
 18 down the costs of producing affordable housing; and

19 (2) remove unnecessary barriers to building af-
 20 fordable units in their communities.

21 (c) ELIGIBLE ACTIVITIES.—An eligible entity receiv-
 22 ing a grant under this section may use funds to—

23 (1) carry out any of the activities described in
 24 section 105 of the Housing and Community Devel-
 25 opment Act of 1974 (42 U.S.C. 5305);

(2) carry out any of the activities permitted under the program for national infrastructure investments (commonly known as the “Better Utilizing Investments to Leverage Development (BUILD) discretionary grant program”) authorized under title I of division L of the Consolidated Appropriations Act, 2018 (Public Law 115–141) or a subsequent appropriations Act; or

(3) modernize, renovate, or repair facilities used by public elementary schools, public secondary schools, and public institutions of higher education, including modernization, renovation, and repairs that—

(A) promote physical, sensory, and environmental accessibility; and

(B) are consistent with a recognized green building rating system.

(d) APPLICATION.—

(1) IN GENERAL.—An eligible entity desiring a grant under this section shall submit to the Secretary an application that demonstrates that the eligible entity has carried out, or is in the process of carrying out, initiatives that facilitate the expansion of the supply of well-located affordable housing.

1 (2) ACTIVITIES.—Initiatives that meet the cri-
2 teria described in paragraph (1)—

3 (A) include—

4 (i) establishing “by-right” develop-
5 ment, which allows jurisdictions to admin-
6 istratively approve new developments that
7 are consistent with their zoning code;

8 (ii) revising or eliminating off-street
9 parking requirements to reduce the cost of
10 housing production;

11 (iii) instituting measures that
12 incentivize owners of vacant land to rede-
13 velop the space into affordable housing or
14 other productive uses;

15 (iv) revising minimum lot size require-
16 ments and bans or limits on multifamily
17 construction to allow for denser and more
18 affordable development;

19 (v) instituting incentives to promote
20 dense development, such as density bo-
21 nuses;

22 (vi) passing inclusionary zoning ordi-
23 nances that require a portion of newly de-
24 veloped units to be reserved for low- and
25 moderate-income renters or homebuyers;

1 (vii) streamlining regulatory require-
 2 ments and shortening processes, reforming
 3 zoning codes, or other initiatives that re-
 4 duce barriers to housing supply elasticity
 5 and affordability;

6 (viii) allowing accessory dwelling
 7 units;

8 (ix) using local tax incentives to pro-
 9 mote development of affordable housing;
 10 and

11 (x) implementing measures that pro-
 12 tect tenants from harassment and displace-
 13 ment, including access to counsel for ten-
 14 ants facing eviction, the prohibition of evic-
 15 tion except for just cause, and measures
 16 intended to prevent or mitigate sudden in-
 17 creases in rents, or repealing laws that
 18 prevent localities from implementing those
 19 measures; and

20 (B) do not include activities that alter or-
 21 dinances that govern wage and hour laws, fam-
 22 ily and medical leave laws, or protections for
 23 workers' health and safety, anti-discrimination,
 24 and right to organize.

25 (e) LABOR LAWS.—

1 (1) IN GENERAL.—All laborers and mechanics
2 employed by contractors or subcontractors in the
3 performance of construction work financed in whole
4 or in part with a grant received under this section
5 shall be paid wages at rates not less than those pre-
6 vailing on similar construction in the locality, as de-
7 termined by the Secretary of Labor in accordance
8 with subchapter IV of chapter 31 of title 40, United
9 States Code (commonly known as the “Davis-Bacon
10 Act”).

11 (2) EXCEPTION.—Paragraph (1) shall not
12 apply with respect to—

13 (A) the rehabilitation of residential prop-
14 erty if the property contains less than 8 units;
15 or

16 (B) construction carried out by employees
17 of the eligible entity receiving the grant under
18 this section.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated to carry out this section
21 \$2,000,000,000 for each of fiscal years 2020 through
22 2024.

1 **SEC. 102. INVESTING IN AFFORDABLE HOUSING INFRA-**
 2 **STRUCTURE.**

3 (a) HOUSING TRUST FUND.—Section 1338(a) of the
 4 Federal Housing Enterprises Financial Safety and Sound-
 5 ness Act of 1992 (12 U.S.C. 4568(a)) is amended by add-
 6 ing at the end the following:

7 “(3) AUTHORIZATION OF APPROPRIATIONS.—
 8 There is authorized to be appropriated to the Hous-
 9 ing Trust Fund \$44,500,000,000 for each of fiscal
 10 years 2020 through 2029.”.

11 (b) CAPITAL MAGNET FUND.—Section 1339 of the
 12 Federal Housing Enterprises Financial Safety and Sound-
 13 ness Act of 1992 (12 U.S.C. 4569) is amended by adding
 14 at the end the following:

15 “(k) AUTHORIZATION OF APPROPRIATIONS.—There
 16 is authorized to be appropriated to the Capital Magnet
 17 Fund \$2,500,000,000 for each of fiscal years 2020
 18 through 2029.”.

19 (c) PUBLIC HOUSING CAPITAL FUND.—Section
 20 9(c)(2)(B) of the United States Housing Act of 1937 (42
 21 U.S.C. 1437g(c)(2)(B)) is amended to read as follows:

22 “(B) CAPITAL FUND.—For allocations of
 23 assistance from the Capital Fund,
 24 \$3,592,000,000 for fiscal year 2020.”.

25 (d) INDIAN HOUSING BLOCK GRANT PROGRAM.—
 26 Section 108 of the Native American Housing Assistance

1 and Self-Determination Act of 1996 (25 U.S.C. 4117) is
 2 amended—

3 (1) by striking “such sums as may be necessary
 4 for each of fiscal years 2009 through 2013” and in-
 5 serting “\$2,500,000,000 for fiscal year 2020 and
 6 such sums as may be necessary for each of fiscal
 7 years 2021 through 2029”; and

8 (2) by striking the second sentence.

9 (e) NATIVE HAWAIIAN HOUSING BLOCK GRANT PRO-
 10 GRAM.—Section 824 of the Native American Housing As-
 11 sistance and Self-Determination Act of 1996 (25 U.S.C.
 12 4243) is amended by striking “such sums as may be nec-
 13 essary for each of fiscal years 2001, 2002, 2003, 2004,
 14 and 2005” and inserting “\$8,000,000 for fiscal year
 15 2020”.

16 (f) RURAL HOUSING PROGRAMS.—Out of funds in
 17 the Treasury not otherwise appropriated, there is appro-
 18 priated for fiscal year 2020—

19 (1) to provide direct loans under section 502 of
 20 the Housing Act of 1949 (42 U.S.C. 1472),
 21 \$140,000,000;

22 (2) to provide assistance under section 514 of
 23 such Act (42 U.S.C. 1484), \$28,000,000;

24 (3) to provide assistance under section 515 of
 25 such Act (42 U.S.C. 1485), \$180,000,000;

1 (4) to provide assistance under section 516 of
2 such Act (42 U.S.C. 1486), \$100,000,000; and

3 (5) to provide grants under section 523 of such
4 Act (42 U.S.C. 1490c), \$75,000,000.

5 (g) MIDDLE CLASS HOUSING EMERGENCY FUND.—

6 (1) DEFINITION.—In this subsection, the term
7 “affordable rental housing unit” means a unit for
8 which monthly rent is 30 percent or less than the
9 monthly area median income.

10 (2) ESTABLISHMENT.—The Secretary of Hous-
11 ing and Urban Development shall establish and
12 manage a fund, to be known as the “Middle Class
13 Housing Emergency Fund”, which shall be funded
14 with any amounts as may be appropriated, trans-
15 ferred, or credited to the Fund under any provision
16 law.

17 (3) GRANTS.—From amounts available in the
18 fund established under paragraph (2), the Secretary
19 of Housing and Urban Development shall award
20 grants on a competitive basis to State housing fi-
21 nance agencies located in a State in which—

22 (A) there is a shortage of affordable rental
23 housing units available to individuals with an
24 income that is at or below the area median in-
25 come and median rents have risen on average

1 over the preceding 3 years substantially faster
2 than the area median income; or

3 (B) there is a shortage of housing units
4 available for sale that are affordable to individ-
5 uals with an income that is at or below the area
6 median income and median home prices have
7 risen on average over the preceding 3 years
8 substantially faster than the area median in-
9 come.

10 (4) USE OF FUNDS.—Grants received under
11 this subsection shall be used to fund—

12 (A) the construction of rental housing
13 units or units for purchase that are affordable
14 to residents making less than 120 percent of
15 the area median income; and

16 (B) measures to prevent tenant displace-
17 ment and harassment, including the provision
18 of legal advice and representation for tenants
19 facing eviction, enforcement of anti-harassment
20 laws, emergency rental assistance, and other
21 measures as specified by the Secretary of Hous-
22 ing and Urban Development.

23 (5) LABOR LAWS.—

24 (A) IN GENERAL.—All laborers and me-
25 chanics employed by contractors or subcontract-

tors in the performance of construction work financed in whole or in part with a grant received under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”).

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to—

(i) the rehabilitation of residential property if the property contains less than 8 units; or

(ii) construction carried out by employees of the eligible entity receiving the grant under this section.

(6) REGULATIONS.—The Secretary of Housing and Urban Development shall promulgate regulations to carry out this subsection, including with respect to the metrics that the Secretary shall use to determine eligibility for a grant under this subsection.

(7) APPROPRIATIONS.—Out of funds in the Treasury not otherwise appropriated, there is appro-

1 priated to the fund established under this subsection
 2 \$4,000,000,000 for fiscal year 2020.

3 **SEC. 103. CONDITIONS FOR THE SALE OF REAL ESTATE-**
 4 **OWNED PROPERTIES AND NON-PERFORMING**
 5 **LOANS.**

6 (a) FINDINGS.—Congress finds that—

7 (1) the Federal Housing Administration, the
 8 Federal National Mortgage Association, and the
 9 Federal Home Loan Mortgage Corporation provide
 10 critical homeownership opportunities that greatly
 11 benefit individuals, families and communities; and

12 (2) it is the purpose of this section to—

13 (A) preserve owner-occupied homes with
 14 mortgages insured by the Federal Housing Ad-
 15 ministration or purchased by the Federal Na-
 16 tional Mortgage Association or the Federal
 17 Home Loan Mortgage Corporation for contin-
 18 ued use as owner-occupied homes; and

19 (B) direct that, upon the sale of those
 20 properties or transfer of those mortgages, cer-
 21 tain percentages of those properties are sold to
 22 low- and moderate-income homeowners.

23 (b) LOANS INSURED BY THE FEDERAL HOUSING AD-
 24 MINISTRATION.—Title II of the National Housing Act (12

1 U.S.C. 1707 et seq.) is amended by adding at the end
 2 the following:

3 **“SEC. 259. SALE OF REAL ESTATE-OWNED PROPERTIES.**

4 “(a) IN GENERAL.—Not later than 1 year after the
 5 date of enactment of this section, the Secretary shall de-
 6 velop programs within the Federal Housing Administra-
 7 tion to ensure that not less than 75 percent of the single-
 8 family residential properties that were acquired by the
 9 Federal Housing Administration through foreclosure or
 10 other transfer-related mortgages insured under this title
 11 on the properties are sold—

12 “(1) directly to an owner-occupant; or

13 “(2) to community partners that will—

14 “(A) rehabilitate or develop the property;

15 and

16 “(B) sell the property to an owner-occu-
 17 pant.

18 “(b) ANTI-PREDATORY FEATURE.—Unless the Sec-
 19 retary provides prior approval, the Secretary shall prohibit
 20 any purchaser of a real estate-owned property of the Fed-
 21 eral Housing Administration from re-selling the property
 22 within 15 years of purchase using a land installment con-
 23 tract or through any other mechanism that does not trans-
 24 fer title to the buyer at the time of sale.

1 **“SEC. 260. SALE OF NON-PERFORMING LOANS.**

2 “(a) IN GENERAL.—Except as provided in this sec-
 3 tion, the Secretary may not sell or transfer any mortgage
 4 insured under this title that is secured by a single-family
 5 residential property (in this section referred to as a ‘cov-
 6 ered mortgage’).

7 “(b) CONDITIONS FOR SALE OR TRANSFER.—

8 “(1) IN GENERAL.—The Secretary—

9 “(A) may sell or transfer a covered mort-
 10 gage only if—

11 “(i) the capital level of the Fund is
 12 substantially below the capital ratio re-
 13 quired under section 205(f)(4);

14 “(ii) the Secretary certifies that other
 15 reasonable measures are not available to
 16 restore the Fund to that capital ratio; and

17 “(iii) the Secretary complies with
 18 paragraph (2)(C), if applicable; and

19 “(B) shall sell or transfer only such cov-
 20 ered mortgages as are necessary to assist in
 21 restoration of that capital ratio.

22 “(2) REQUIREMENTS FOR THE SECRETARY.—

23 “(A) IN GENERAL.—If the Secretary in-
 24 tends to sell or transfer a covered mortgage, the
 25 Secretary shall provide the current borrower
 26 and all owners of record of the property secur-

1 ing the covered mortgage, or require that the
 2 current borrower and owners of record be pro-
 3 vided, a separate written notice of the intent to
 4 sell the covered mortgage that—

5 “(i) is mailed via certified and first
 6 class mail not less than 90 days before the
 7 date on which the loan is included in any
 8 proposed sale; and

9 “(ii) includes—

10 “(I) a description of the loss
 11 mitigation options of the Administra-
 12 tion that are available to borrowers in
 13 financial distress and the obligation of
 14 servicers to consider borrowers in de-
 15 fault for those options;

16 “(II) a description of the actions
 17 that the servicer of the loan has taken
 18 to review and implement those options
 19 for the borrower; and

20 “(III) a description of the proce-
 21 dures the borrower may use to contest
 22 with the Secretary the compliance by
 23 the servicer with that obligation.

24 “(B) JUDICIAL REVIEW.—The determina-
 25 tion of the Secretary to authorize the sale of a

mortgage insured under this title shall be reviewable under chapter 7 of title 5, United States Code, for abuse of discretion and arbitrary and capricious agency action.

“(C) AUCTIONS.—The Secretary may not sell any covered mortgage through any type of non-performing loan sale auction program until the Secretary issues rules, through the notice and comment rule making procedures under section 553 of title 5, United States Code, that address essential aspects of any non-performing loan sale program, including—

“(i) the method of selection of loans for sale;

“(ii) notice to borrowers prior to inclusion of the loan in a sale; and

“(iii) review of loss mitigation status prior to the sale, selection of eligible bidders, loss mitigation guidelines applicable to loan purchasers, and reporting requirements for purchasers.

“(3) CERTIFICATION REQUIREMENT FOR LENDERS AND SERVICERS.—

“(A) CERTIFICATION.—As a condition to payment of an insurance claim under this title

1 in connection with any non-performing loan
 2 sale, the lender or servicer of the loan shall pro-
 3 vide the Secretary and the borrower with writ-
 4 ten certification of the loss mitigation review
 5 contained in the FHA Single Family Housing
 6 Policy Handbook 4000.1, or any successor
 7 handbook.

8 “(B) FALSE STATEMENTS.—

9 “(i) IN GENERAL.—Any false state-
 10 ment provided in a certification described
 11 in subparagraph (A) shall be a basis for—

12 “(I) recovery by the Secretary of
 13 any amounts paid under the insurance
 14 claim and any other penalties and
 15 sanctions authorized under Federal
 16 law; and

17 “(II) a private right of action by
 18 the borrower against the lender and
 19 servicer, with remedies to include
 20 compensatory and punitive damages
 21 and an assessment of costs and attor-
 22 ney’s fees.

23 “(ii) TRANSFERS.—Unless a bona fide
 24 purchaser has acquired title to the prop-
 25 erty as a primary residence—

1 “(I) a certification described in
2 subparagraph (A) that contains a
3 false statement shall be a basis for re-
4 voking the transfer of the property;
5 and

6 “(II) the pre-sale lender and
7 servicer of the property shall—

8 “(aa) resume servicing the
9 loan as a loan insured under this
10 title; and

11 “(bb) reimburse the Sec-
12 retary for any insurance claim
13 paid and all costs related to the
14 sale of the property.

15 “(4) REQUIREMENTS FOR PURCHASERS.—

16 “(A) IN GENERAL.—Each purchaser of a
17 covered mortgage shall offer the borrower on
18 the covered mortgage—

19 “(i) appropriate loss mitigation op-
20 tions, including affordable and sustainable
21 loan modifications; and

22 “(ii) the opportunity for a short sale
23 or a deed in lieu of foreclosure.

24 “(B) LOSS MITIGATION OPTIONS.—The
25 specific formula, calculations, waterfall steps,

1 and other terms for appropriate loss mitigation
 2 options described in subparagraph (A) shall be
 3 published by the Secretary, made available to
 4 the public, and included in a written notice
 5 given to borrowers before any acceleration or
 6 foreclosure is initiated after a loan sale.

7 “(5) REQUIREMENTS FOR TRANSFEREES.—

8 With respect to a transferee, including any subse-
 9 quent transferee, of a covered mortgage that is sold
 10 under this title—

11 “(A) the transferee shall certify in writing
 12 to the Secretary that the transferee will comply
 13 with the provisions of this section in the mar-
 14 keting and transfer of any property received in
 15 the disposition of any transferred loan;

16 “(B) the transferee shall provide to the
 17 Secretary records documenting that the trans-
 18 fers of those properties are in compliance with
 19 this section; and

20 “(C) the failure of the Secretary or the
 21 transferee to comply with the requirements
 22 under this section for a loan in default shall be
 23 a defense to foreclosure, and a transferee shall
 24 not execute a foreclosure judgment or order of
 25 sale, or conduct a foreclosure sale, until the

1 transferee has complied with all requirements
2 under this section.

3 “(c) LIMITATIONS.—With respect to covered mort-
4 gages that are sold under this title and foreclosed upon
5 by the buyer, not less than 90 percent of the properties
6 that are the subject of the covered mortgages in an auc-
7 tion shall be—

8 “(1) sold to owner-occupants;

9 “(2) operated or transferred to an entity that
10 will operate the property as affordable rental hous-
11 ing for households below 80 percent of the area me-
12 dian income for a period of not less than 15 years;
13 or

14 “(3) transferred or donated to a nonprofit
15 agency that is certified by the Secretary and will re-
16 develop the property for owner occupancy or afford-
17 able rental housing.

18 “(d) PRIORITIZATION OF SALES.—The Secretary
19 shall implement policies, procedures, and controls to—

20 “(1) identify and recruit community partners;

21 “(2) engage in consultations with community
22 partners before the sale of a pool of covered mort-
23 gages under this title to determine whether that sale
24 can be designed to meet the specific needs of the
25 communities served by the community partners; and

1 “(3) prioritize the sale of pools of single-family
2 mortgages to community partners by—

3 “(A) designing pools of covered mortgages
4 for direct sale to a community partner, the
5 price of which shall be set by the Secretary
6 based on a pricing model that considers—

7 “(i) the current fair market value of
8 the properties; and

9 “(ii) the potential impact of fore-
10 closures on those properties to the value of
11 other homes that secure mortgages insured
12 under this title in the same census tract;
13 or

14 “(B) in the case of an auction, if the win-
15 ning bid is not from a community partner, per-
16 mitting any community partner that bid during
17 that same auction to have a final opportunity to
18 enter a higher bid on the pool.”.

19 (c) FANNIE MAE.—Section 302 of the Federal Na-
20 tional Mortgage Association Charter Act (12 U.S.C. 1717)
21 is amended by adding at the end the following:

22 “(d)(1) The corporation may not sell or transfer any
23 mortgage that is secured by a single-family residential
24 property (in this section referred to as a ‘covered mort-

1 gage’) under this section unless the requirements of this
 2 subsection are met.

3 “(2)(A) If the corporation intends to sell or transfer
 4 a covered mortgage, the corporation shall provide the cur-
 5 rent borrower and all owners of record of the property se-
 6 curing the covered mortgage, or require that the current
 7 borrower and owners of record be provided, a separate
 8 written notice of the intent to sell the covered mortgage
 9 that—

10 “(i) is mailed via certified and first class mail
 11 not less than 90 days before the date on which the
 12 loan is included in any proposed sale; and

13 “(ii) includes—

14 “(I) a description of the loss mitigation op-
 15 tions of the corporation that are available to
 16 borrowers in financial distress and the obliga-
 17 tion of servicers to consider borrowers in de-
 18 fault for those options;

19 “(II) a description of the actions that the
 20 servicer of the loan has taken to review and im-
 21 plement those options for the borrower; and

22 “(III) a description of the procedures the
 23 borrower may use to contest with the corpora-
 24 tion the compliance by the servicer with that
 25 obligation.

1 “(B) The determination of the corporation to author-
 2 ize the sale of a mortgage under this section shall be re-
 3 viewable under chapter 7 of title 5, United States Code,
 4 for abuse of discretion and arbitrary and capricious agen-
 5 cy action.

6 “(C) The corporation may not sell any covered mort-
 7 gage through any type of non-performing loan sale auction
 8 program until the corporation issues rules, through the no-
 9 tice and comment rule making procedures under section
 10 553 of title 5, United States Code, that address essential
 11 aspects of any non-performing loan sale program, includ-
 12 ing—

13 “(i) the method of selection of loans for sale;

14 “(ii) notice to borrowers prior to inclusion of
 15 the loan in a sale; and

16 “(iii) review of loss mitigation status prior to
 17 the sale, selection of eligible bidders, loss mitigation
 18 guidelines applicable to loan purchasers, and report-
 19 ing requirements for purchasers.

20 “(3)(A) Each purchaser of a covered mortgage shall
 21 offer the borrower on the covered mortgage—

22 “(i) appropriate loss mitigation options, includ-
 23 ing affordable and sustainable loan modifications;
 24 and

1 “(ii) the opportunity for a short sale or a deed
2 in lieu of foreclosure.

3 “(B) The specific formula, calculations, waterfall
4 steps, and other terms for appropriate loss mitigation op-
5 tions described in subparagraph (A) shall be published by
6 the corporation, made available to the public, and included
7 in a written notice given to borrowers before any accelera-
8 tion or foreclosure is initiated after a loan sale.

9 “(4) With respect to a transferee, including any sub-
10 sequent transferee, of a covered mortgage that is sold by
11 the corporation under this section—

12 “(A) the transferee shall certify in writing to
13 the corporation that the transferee will comply with
14 the provisions of this subsection in the marketing
15 and transfer of any property received in the disposi-
16 tion of any transferred loan;

17 “(B) the transferee shall provide to the corpora-
18 tion records documenting that the transfers of those
19 properties are in compliance with this subsection;
20 and

21 “(C) the failure of the corporation or the trans-
22 feree to comply with the requirements under this
23 subsection for a loan in default shall be a defense to
24 foreclosure, and a transferee shall not execute a
25 foreclosure judgment or order of sale, or conduct a

1 foreclosure sale, until the transferee has complied
 2 with all requirements under this subsection.

3 “(5) With respect to covered mortgages that are sold
 4 by the corporation under this section and foreclosed upon
 5 by the buyer, not less than 90 percent of the properties
 6 that are the subject of the covered mortgages in an auc-
 7 tion shall be—

8 “(A) sold to owner-occupants;

9 “(B) operated or transferred to an entity that
 10 will operate the property as affordable rental hous-
 11 ing for households below 80 percent of the area me-
 12 dian income for a period of not less than 15 years;
 13 or

14 “(C) transferred or donated to a nonprofit
 15 agency that is certified by the corporation and will
 16 redevelop the property for owner occupancy or af-
 17 fordable rental housing.

18 “(6) The corporation shall implement policies, proce-
 19 dures, and controls to—

20 “(A) identify and recruit community partners;

21 “(B) engage in consultations with community
 22 partners before the sale of a pool of covered mort-
 23 gages under this section to determine whether that
 24 sale can be designed to meet the specific needs of

1 the communities served by the community partners;
 2 and

3 “(C) prioritize the sale of pools of single-family
 4 mortgages to community partners by—

5 “(i) designing pools of covered mortgages
 6 for direct sale to a community partner, the
 7 price of which shall be set by the corporation
 8 based on a pricing model that considers—

9 “(I) the current fair market value of
 10 the properties; and

11 “(II) the potential impact of fore-
 12 closures on those properties to the value of
 13 other homes in the same census tract; or

14 “(III) in the case of an auction, if the
 15 winning bid is not from a community part-
 16 ner, permitting any community partner
 17 that bid during that same auction to have
 18 a final opportunity to enter a higher bid on
 19 the pool.”.

20 (d) FREDDIE MAC.—Section 305 of the Federal
 21 Home Loan Mortgage Corporation Act (12 U.S.C. 1454)
 22 is amended by adding at the end the following:

23 “(e)(1) The Corporation may not sell or transfer any
 24 mortgage that is secured by a single-family residential
 25 property (in this section referred to as a ‘covered mort-

1 gage’) under this section unless the requirements of this
 2 subsection are met.

3 “(2)(A) If the Corporation intends to sell or transfer
 4 a covered mortgage, the Corporation shall provide the cur-
 5 rent borrower and all owners of record of the property se-
 6 curing the covered mortgage, or require that the current
 7 borrower and owners of record be provided, a separate
 8 written notice of the intent to sell the covered mortgage
 9 that—

10 “(i) is mailed via certified and first class mail
 11 not less than 90 days before the date on which the
 12 loan is included in any proposed sale; and

13 “(ii) includes—

14 “(I) a description of the loss mitigation op-
 15 tions of the Corporation that are available to
 16 borrowers in financial distress and the obliga-
 17 tion of servicers to consider borrowers in de-
 18 fault for those options;

19 “(II) a description of the actions that the
 20 servicer of the loan has taken to review and im-
 21 plement those options for the borrower; and

22 “(III) a description of the procedures the
 23 borrower may use to contest with the Corpora-
 24 tion the compliance by the servicer with that
 25 obligation.

1 “(B) The determination of the Corporation to author-
 2 ize the sale of a mortgage under this section shall be re-
 3 viewable under chapter 7 of title 5, United States Code,
 4 for abuse of discretion and arbitrary and capricious agen-
 5 cy action.

6 “(C) The Corporation may not sell any covered mort-
 7 gage through any type of non-performing loan sale auction
 8 program until the Corporation issues rules, through the
 9 notice and comment rule making procedures under section
 10 553 of title 5, United States Code, that address essential
 11 aspects of any non-performing loan sale program, includ-
 12 ing—

13 “(i) the method of selection of loans for sale;

14 “(ii) notice to borrowers prior to inclusion of
 15 the loan in a sale; and

16 “(iii) review of loss mitigation status prior to
 17 the sale, selection of eligible bidders, loss mitigation
 18 guidelines applicable to loan purchasers, and report-
 19 ing requirements for purchasers.

20 “(3)(A) Each purchaser of a covered mortgage shall
 21 offer the borrower on the covered mortgage—

22 “(i) appropriate loss mitigation options, includ-
 23 ing affordable and sustainable loan modifications;
 24 and

1 “(ii) the opportunity for a short sale or a deed
2 in lieu of foreclosure.

3 “(B) The specific formula, calculations, waterfall
4 steps, and other terms for appropriate loss mitigation op-
5 tions described in subparagraph (A) shall be published by
6 the Corporation, made available to the public, and in-
7 cluded in a written notice given to borrowers before any
8 acceleration or foreclosure is initiated after a loan sale.

9 “(4) With respect to a transferee, including any sub-
10 sequent transferee, of a covered mortgage that is sold by
11 the Corporation under this section—

12 “(A) the transferee shall certify in writing to
13 the Corporation that the transferee will comply with
14 the provisions of this section in the marketing and
15 transfer of any property received in the disposition
16 of any transferred loan;

17 “(B) the transferee shall provide to the Cor-
18 poration records documenting that the transfers of
19 those properties are in compliance with this sub-
20 section; and

21 “(C) the failure of the Corporation or the trans-
22 feree to comply with the requirements under this
23 subsection for a loan in default shall be a defense to
24 foreclosure, and a transferee shall not execute a
25 foreclosure judgment or order of sale, or conduct a

1 foreclosure sale, until the transferee has complied
2 with all requirements under this subsection.

3 “(5) With respect to covered mortgages that are sold
4 by the Corporation under this section and foreclosed upon
5 by the buyer, not less than 90 percent of the properties
6 that are the subject of the covered mortgages in an auc-
7 tion shall be—

8 “(A) sold to owner-occupants;

9 “(B) operated or transferred to an entity that
10 will operate the property as affordable rental hous-
11 ing for households below 80 percent of the area me-
12 dian income for a period of not less than 15 years;
13 or

14 “(C) transferred or donated to a nonprofit
15 agency that is certified by the Corporation and will
16 redevelop the property for owner occupancy or af-
17 fordable rental housing.

18 “(6) The Corporation shall implement policies, proce-
19 dures, and controls to—

20 “(A) identify and recruit community partners;

21 “(B) engage in consultations with community
22 partners before the sale of a pool of covered mort-
23 gages under this section to determine whether that
24 sale can be designed to meet the specific needs of

1 the communities served by the community partners;
2 and

3 “(C) prioritize the sale of pools of single-family
4 mortgages to community partners by—

5 “(i) designing pools of covered mortgages
6 for direct sale to a community partner, the
7 price of which shall be set by the Corporation
8 based on a pricing model that considers—

9 “(I) the current fair market value of
10 the properties; and

11 “(II) the potential impact of fore-
12 closures on those properties to the value of
13 other homes in the same census tract; or

14 “(III) in the case of an auction, if the
15 winning bid is not from a community part-
16 ner, permitting any community partner
17 that bid during that same auction to have
18 a final opportunity to enter a higher bid on
19 the pool.”.

1 **TITLE II—TAKING THE FIRST**
2 **STEPS TO REVERSE THE LEG-**
3 **ACY OF HOUSING DISCRIMI-**
4 **NATION AND GOVERNMENT**
5 **NEGLIGENCE**

6 **SEC. 201. DOWN PAYMENT ASSISTANCE PROGRAM FOR**
7 **COMMUNITIES FORMERLY SEGREGATED BY**
8 **LAW.**

9 (a) FINDINGS.—Congress finds the following:

10 (1) For generations, buying a home has been
11 the primary way working families build wealth.

12 (2) A home is not only a place to live, but also
13 an asset that may appreciate, help fund a new busi-
14 ness, finance an education, or cover retirement ex-
15 penses. A home provides stability and financial pre-
16 dictability, which are important foundations for
17 prosperity and access to opportunity for a family.

18 (3) For decades, the Federal Government sub-
19 sidized homeownership—for White families. Until
20 the 1960s, the Federal Government systematically
21 denied African Americans and other marginalized
22 groups the ability to obtain mortgage credit, buy
23 homes, and build wealth for their families while sub-
24 sidizing the American dream for White families.

1 (4) The Federal Government, through the
2 Home Owners' Loan Corporation and the Federal
3 Housing Administration, standardized and institu-
4 tionalized discriminatory policies on the basis of
5 race, national origin, and religion that reflected
6 practices in the private sector and became a model
7 for their widespread adoption across the housing in-
8 dustry.

9 (5) Racist restrictive covenants and zoning ordi-
10 nances also robbed families of color of the oppor-
11 tunity to live and build opportunity for their families
12 in the community of their choice.

13 (6) In the years before the 2008 financial crisis,
14 lenders targeted borrowers of color with abusive
15 loans while government regulators sat on their
16 hands, further extracting wealth from these same
17 communities.

18 (7) The legacy of housing discrimination and
19 regulatory negligence is a contributor to a large and
20 growing gap in wealth and outcomes between Black
21 and White families. The median income White fam-
22 ily in the United States has almost 10 times the
23 wealth of the median income Black family in the
24 United States. The gap between the White home-
25 ownership rate and the Black homeownership rate is

1 bigger today than it was when housing discrimina-
 2 tion was legal. Seventy-five percent of formerly red-
 3 lined communities are still low-income and 66 per-
 4 cent are still minority communities.

5 (8) The purpose of this section is for the Fed-
 6 eral Government to take the first step toward ad-
 7 dressing the racial wealth gap that it contributed to
 8 creating by helping individuals or descendants of in-
 9 dividuals who were harmed by housing discrimina-
 10 tion or negligence by the Federal Government.

11 (b) DEFINITIONS.—In this section:

12 (1) ELIGIBLE RESIDENT.—The term “eligible
 13 resident” means a resident of a geographic area, as
 14 defined by the Secretary by regulation under sub-
 15 section (g), who—

16 (A) is a first-time homebuyer;

17 (B) has an income that is less than 120
 18 percent of the area median income; and

19 (C)(i) resided in that geographic area dur-
 20 ing the 4-year period preceding the date of en-
 21 actment of this Act;

22 (ii) resided in that geographic area for a
 23 period of 4 years before moving out of the geo-
 24 graphic area subsequent to a foreclosure, short

1 sale, or deed in lieu of foreclosure on a home
2 that—

3 (I) was the primary residence of the
4 resident; and

5 (II) was purchased or refinanced dur-
6 ing the period beginning on January 1,
7 2001, and ending on December 30, 2008;
8 or

9 (iii) resided in that geographic area for a
10 period of 4 years before moving out of the geo-
11 graphic area due to a major disaster declared
12 by the President or a State, territorial, or Trib-
13 al government.

14 (2) FIRST-TIME HOMEBUYER.—The term “first-
15 time homebuyer” means an individual (and if mar-
16 ried, the spouse of the individual) who—

17 (A) has had no ownership in a principal
18 residence during the 3-year period ending on
19 the date of purchase of the property; or

20 (B) who surrendered an ownership interest
21 in a principal residence during the 3-year pe-
22 riod ending on the date of purchase of the prop-
23 erty as part of a divorce proceeding.

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of Housing and Urban Development.

1 (c) ESTABLISHMENT.—There is established in the
2 Office of Housing of the Department of Housing and
3 Urban Development a fund, to be administered by the Sec-
4 retary, that shall be used—

5 (1) to provide grants to eligible residents to
6 purchase homes;

7 (2) for outreach to financial institutions in tar-
8 geted areas and eligible residents, including for the
9 administration of that outreach;

10 (3) for counseling or financial education admin-
11 istered by counseling agencies approved by the Sec-
12 retary in order to ensure sustainable homeownership;
13 ship;

14 (4) to create and maintain the database de-
15 scribed in subsection (g)(3); and

16 (5) to maintain any records required to imple-
17 ment this section.

18 (d) GRANT AMOUNT.—Eligible residents may receive
19 a grant from the fund established under subsection (c) in
20 an amount equal to—

21 (1) not more than 3.5 percent of the appraised
22 value of the property to be purchased; or

23 (2) if the appraised value is more than the prin-
24 cipal obligation amount limitation for mortgages in-
25 sured under title II of the National Housing Act (12

1 U.S.C. 1707 et seq.), 3.5 percent of the maximum
 2 principal obligation limitation for the property to be
 3 purchased.

4 (e) FHA LOAN.—An eligible resident is not required
 5 to obtain a mortgage that is insured under title II of the
 6 National Housing Act (12 U.S.C. 1707 et seq.) as a condi-
 7 tion of receiving a grant under this section.

8 (f) GEOGRAPHIC AREA.—An eligible resident is not
 9 required to purchase a home within the geographic area
 10 described in subsection (b)(1)(C) as a condition of receiv-
 11 ing a grant under this section.

12 (g) REGULATIONS AND DATABASE.—Not later than
 13 1 year after the date of enactment of this Act, the Sec-
 14 retary shall—

15 (1) in consultation with interested parties, in-
 16 cluding housing counseling agencies approved by the
 17 Secretary and individuals or groups with expertise in
 18 fair housing, finalize regulations relating to the use
 19 of the fund established under subsection (c), includ-
 20 ing defining the geographic areas in which residents
 21 are eligible to receive grants through the fund, which
 22 shall include—

23 (A) census tracts graded as “hazardous”
 24 or “definitely declining” in maps drawn by the
 25 Home Owners’ Loan Corporation that are, as of

1 the date of enactment of this Act, low-income
2 communities;

3 (B) census tracts that were designated for
4 non-White citizens in jurisdictions that histori-
5 cally had racially segregated zoning codes and
6 are, as of the date of enactment of this Act,
7 low-income communities; and

8 (C) census tracts that are racially or eth-
9 nically concentrated areas of poverty, which
10 shall mean a census tract—

11 (i) with a non-White population of 50
12 percent or more; and

13 (ii)(I) in which not less than 40 per-
14 cent of families living in the census tract
15 have incomes that are at or below the pov-
16 erty line; or

17 (II) in which the average tract poverty
18 rate is 3 or more times the average tract
19 poverty tract for the metropolitan or
20 micropolitan area;

21 (2) finalize regulations relating to the disburse-
22 ment of funds under this section to ensure that eligi-
23 ble residents are able to receive funds before the
24 closing date for their home, which may include cre-
25 ating a program that allows a lender to be reim-

1 bursed by the fund established under subsection (c)
 2 if the lender—

3 (A) provides the eligible resident with
 4 funds for the closing; or

5 (B) allows eligible residents to be
 6 preapproved to receive assistance under this
 7 section when arranging financing for their
 8 home;

9 (3) create a publicly accessible database that al-
 10 lows individuals, real estate professionals, and lend-
 11 ers to determine whether a borrower is eligible for
 12 assistance under this section; and

13 (4) establish methods to verify that an indi-
 14 vidual is an eligible resident.

15 (h) APPROPRIATIONS.—Out of funds in the Treasury
 16 not otherwise appropriated, there is appropriated to the
 17 fund established under subsection (c) such sums as may
 18 be necessary for each of fiscal years 2020 through 2029
 19 to provide grants under this section and to carry out con-
 20 sumer education efforts related to this section.

21 (i) INCLUSION OF PROGRAM IN HOME BUYING IN-
 22 FORMATION BOOKLETS.—Section 5(b) of the Real Estate
 23 Settlement Procedures Act of 1974 (12 U.S.C. 2604(b))
 24 is amended by inserting after paragraph (14) the fol-
 25 lowing:

1 “(15) Information relating to the down pay-
 2 ment assistance program established under section
 3 201 of the American Housing and Economic Mobil-
 4 ity Act of 2019.”.

5 (j) INCLUSION OF PROGRAM AS MORTGAGE PROD-
 6 UCT.—Section 203(f)(1) of the National Housing Act (12
 7 U.S.C. 1709(f)(1)) is amended by inserting “, including
 8 the down payment assistance program established under
 9 section 201 of the American Housing and Economic Mo-
 10 bility Act of 2019,” after “mortgage products”.

11 **SEC. 202. FORMULA GRANT PROGRAM FOR COMMUNITIES**
 12 **THAT HAVE NOT RECOVERED FROM THE FI-**
 13 **NANCIAL CRISIS.**

14 (a) ESTABLISHMENT.—The Secretary of Housing
 15 and Urban Development shall establish a formula grant
 16 program to provide funding to States to assist borrowers
 17 with negative equity in their primary residence through—

18 (1) measures that provide funds to borrowers
 19 to—

20 (A) pay down arrears on an otherwise af-
 21 fordable loan;

22 (B) pay down arrears or principal on a
 23 loan in order to qualify for a loan modification
 24 that will allow the borrower to keep their home;

1 (C) pay off the entire or pay down part of
 2 a second mortgage or home equity line of cred-
 3 it;

4 (D) pay off a small-dollar mortgage;

5 (E) pay delinquent taxes and tax liens;

6 (F) pay off delinquent water or sewer bills
 7 and liens; and

8 (G) pay for home repairs or maintenance
 9 or for modifications to bring the home into
 10 compliance with any applicable codes; and

11 (2) programs to purchase or rehabilitate vacant
 12 land and foreclosed homes to enhance neighborhood
 13 property values.

14 (b) FORMULA.—The Secretary of Housing and
 15 Urban Development shall distribute amounts under this
 16 section based on the number of borrowers in the State
 17 with a primary residence with negative equity.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
 19 authorized to be appropriated to carry out this section
 20 \$2,000,000,000 for fiscal year 2020.

21 **SEC. 203. STRENGTHENING THE COMMUNITY REINVEST-**
 22 **MENT ACT OF 1977.**

23 (a) SHORT TITLE.—This section may be cited as the
 24 “Community Reinvestment Reform Act of 2019”.

1 (b) AMENDMENTS TO THE COMMUNITY REINVEST-
 2 MENT ACT OF 1977.—The Community Reinvestment Act
 3 of 1977 (12 U.S.C. 2901 et seq.) is amended—

4 (1) by amending sections 802 and 803 (12
 5 U.S.C. 2901, 2902) to read as follows:

6 **“SEC. 802. FINDINGS AND PURPOSE.**

7 “(a) FINDINGS.—Congress finds that—

8 “(1) regulated financial institutions are re-
 9 quired by law to demonstrate that they serve the
 10 convenience and needs of the communities in which
 11 they are chartered or do business, in particular low-
 12 and moderate-income communities;

13 “(2) the convenience and needs of communities
 14 include the need for credit services, deposit services,
 15 transaction services, other financial services, and
 16 community development loans and investments; and

17 “(3) regulated financial institutions have a con-
 18 tinuing and affirmative obligation to meet the credit
 19 or other financial needs of the local communities in
 20 which they are chartered or do business.

21 “(b) PURPOSE.—It is the purpose of this title to re-
 22 quire each appropriate Federal financial supervisory agen-
 23 cy to use its authority when examining regulated financial
 24 institutions to ensure that those institutions meet the
 25 credit or other financial needs of the local communities

1 in which they are chartered or do business consistent with
 2 the safe and sound operation of those institutions.

3 **“SEC. 803. DEFINITIONS.**

4 “In this title:

5 “(1) APPLICATION FOR A DEPOSIT FACILITY.—

6 The term ‘application for a deposit facility’ means
 7 an application to the appropriate Federal financial
 8 supervisory agency otherwise required under Federal
 9 law or regulations thereunder for—

10 “(A) a charter for a national bank or Fed-
 11 eral savings and loan association;

12 “(B) deposit insurance in connection with
 13 a newly chartered State bank, savings bank,
 14 savings and loan association, or similar institu-
 15 tion;

16 “(C) the establishment of a domestic
 17 branch or other facility with the ability to ac-
 18 cept deposits of a regulated financial institu-
 19 tion;

20 “(D) the relocation of the home office or a
 21 branch office of a regulated financial institu-
 22 tion;

23 “(E) the merger or consolidation with, the
 24 acquisition of the assets of, or the assumption
 25 of the liabilities of a regulated financial institu-

1 tion requiring approval under section 18(c) of
2 the Federal Deposit Insurance Act (12 U.S.C.
3 1828(c)); or

4 “(F) the acquisition of shares in, or the as-
5 sets of, a regulated financial institution requir-
6 ing approval under section 3 of the Bank Hold-
7 ing Company Act of 1956 (12 U.S.C. 1842).

8 “(2) APPROPRIATE FEDERAL BANKING AGEN-
9 CY.—The term ‘appropriate Federal banking agency’
10 has the meaning given the term in section 3 of the
11 Federal Deposit Insurance Act (12 U.S.C. 1813).

12 “(3) APPROPRIATE FEDERAL FINANCIAL SU-
13 PERVISORY AGENCY.—The term ‘appropriate Fed-
14 eral financial supervisory agency’ means—

15 “(A) the appropriate Federal banking
16 agency with respect to depository institutions
17 and depository institution holding companies;
18 and

19 “(B) the Bureau of Consumer Financial
20 Protection with respect to any covered person
21 supervised by the Bureau pursuant to section
22 1024 of the Dodd-Frank Wall Street Reform
23 and Consumer Protection Act (12 U.S.C.
24 5514).

1 “(4) ASSESSMENT AREA.—The term ‘assess-
 2 ment area’ means, with respect to a regulated finan-
 3 cial institution, each community, including a State,
 4 metropolitan area, and urban or rural county, in
 5 which the institution—

6 “(A) maintains deposit-taking branches,
 7 automated teller machines, or retail offices;

8 “(B) is represented by an agent;

9 “(C) issues a significant number of loans
 10 or other products relative to the total number
 11 of loans or other products made by the institu-
 12 tion;

13 “(D) has issued not less than 75 percent
 14 of the loans of the institution; or

15 “(E) has conducted not less than 75 per-
 16 cent of the business of the institution.

17 “(5) COMMUNITY BENEFITS PLAN.—The term
 18 ‘community benefits plan’ means a plan that pro-
 19 vides measurable goals for future amounts of safe
 20 and sound loans, investments, services, and other fi-
 21 nancial products for low- and moderate-income com-
 22 munities and other distressed or underserved com-
 23 munities.

24 “(6) COMMUNITY DEVELOPMENT.—The term
 25 ‘community development’ means—

1 “(A) affordable housing for low- or mod-
 2 erate-income individuals and avoidance of pat-
 3 terns of lending resulting in the loss of afford-
 4 able housing units;

5 “(B) community development services, in-
 6 cluding counseling and successful mortgage or
 7 loan modifications of delinquent loans;

8 “(C) activities that promote integration;

9 “(D) activities that promote economic de-
 10 velopment by financing small businesses or
 11 farms that meet the size eligibility requirements
 12 of the development company or small business
 13 investment company programs under section
 14 121.301 of title 13, Code of Federal Regula-
 15 tions, or any successor regulation, with an em-
 16 phasis on small businesses that have gross an-
 17 nual revenues of not more than \$1,000,000;

18 “(E) activities that revitalize or stabilize—

19 “(i) low- or moderate-income geog-
 20 raphies;

21 “(ii) designated disaster areas;

22 “(iii) distressed or underserved non-
 23 metropolitan middle-income geographies
 24 designated by the Federal Financial Insti-
 25 tutions Examination Council, based on—

1 “(I) rates of poverty, unemploy-
2 ment, and population loss; or

3 “(II) population size, density,
4 and dispersion, if those activities help
5 to meet essential community needs,
6 including the needs of low- and mod-
7 erate-income individuals; or

8 “(iv) other distressed or underserved
9 communities; or

10 “(F) activities that promote physical, envi-
11 ronmental, and sensory accessibility in housing
12 stock that is integrated into the community.

13 “(7) DEPOSITORY INSTITUTION; DEPOSITORY
14 INSTITUTION HOLDING COMPANY.—The terms ‘de-
15 pository institution’ and ‘depository institution hold-
16 ing company’ have the meanings given those terms
17 in section 3 of the Federal Deposit Insurance Act
18 (12 U.S.C. 1813).

19 “(8) ENTIRE COMMUNITY.—The term ‘entire
20 community’ means all of the assessment areas of a
21 regulated financial institution.

22 “(9) ENUMERATED CONSUMER LAWS.—The
23 term ‘enumerated consumer laws’ has the meaning
24 given the term in section 1002 of the Consumer Fi-
25 nancial Protection Act of 2010 (12 U.S.C. 5481).

1 “(10) GEOGRAPHY.—The term ‘geography’
2 means a census tract delineated by the Bureau of
3 the Census in the most recent decennial census.

4 “(11) INSURED DEPOSITORY INSTITUTION.—
5 The term ‘insured depository institution’ has the
6 meaning given the term in section 3 of the Federal
7 Deposit Insurance Act (12 U.S.C. 1813).

8 “(12) OTHER DISTRESSED OR UNDERSERVED
9 COMMUNITY.—The term ‘other distressed or under-
10 served community’ means an area that, according to
11 a periodic review and data analysis by the appro-
12 priate Federal financial supervisory agencies on an
13 interagency basis through the Federal Financial In-
14 stitutions Examination Council, is experiencing eco-
15 nomic hardship or is underserved by financial insti-
16 tutions.

17 “(13) REGULATED FINANCIAL INSTITUTION.—
18 The term ‘regulated financial institution’ means—

19 “(A) an insured depository institution;

20 “(B) a depository institution holding com-
21 pany; and

22 “(C) a U.S. nonbank mortgage originator.

23 “(14) U.S. NONBANK MORTGAGE ORIGI-
24 NATOR.—The term ‘U.S. nonbank mortgage origi-
25 nator’ means a covered person subject to section

1 1024 of the Dodd-Frank Wall Street Reform and
 2 Consumer Protection Act (12 U.S.C. 5514) that of-
 3 fers or provides—

4 “(A) origination of loans secured by real
 5 estate for use by consumers primarily for per-
 6 sonal, family, or household purposes; or

7 “(B) loan modification or foreclosure relief
 8 services in connection with a loan described in
 9 subparagraph (A).”;

10 (2) in section 804 (12 U.S.C. 2903)—

11 (A) by redesignating subsections (c) and
 12 (d) as subsections (f) and (g), respectively;

13 (B) by striking subsections (a) and (b) and
 14 inserting the following:

15 “(a) DEPOSITORY INSTITUTIONS AND BANK HOLD-
 16 ING COMPANIES.—In connection with its examination of
 17 a regulated financial institution other than a U.S.
 18 nonbank mortgage originator, the appropriate Federal fi-
 19 nancial supervisory agency shall perform the following:

20 “(1) Assess the record of the institution in
 21 meeting the credit or other financial needs of its en-
 22 tire community, in particular low- and moderate-in-
 23 come people and communities, and other distressed
 24 or underserved communities, consistent with the safe
 25 and sound operation of the institution.

1 “(2) Assess the effectiveness of the following
 2 activities in meeting the credit or other financial
 3 needs of the assessment areas of the institution, con-
 4 sistent with the safe and sound operation of the in-
 5 stitution:

6 “(A) Retail lending, including home, small
 7 business, consumer, and other lending and fi-
 8 nancial products, that responds to credit needs
 9 or other financial needs.

10 “(B) Community development lending and
 11 investments, which may include a consideration
 12 of—

13 “(i) the origination of loans and other
 14 efforts by the institution to assist existing
 15 low- and moderate-income residents to re-
 16 main in affordable housing in their com-
 17 munity; and

18 “(ii) the origination of loans by the
 19 institution that result in the construction,
 20 rehabilitation, or preservation of affordable
 21 housing units.

22 “(C) Retail financial services and commu-
 23 nity development services.

24 “(3) With respect to its evaluation of an appli-
 25 cation for a deposit facility by the institution—

1 “(A) consider the record described in para-
2 graph (1), the overall rating of the institution
3 under this section, and any improvement plans
4 submitted pursuant to this section;

5 “(B) provide an opportunity for public
6 comment for a period of not less than 60 days;

7 “(C) consider changes in the community
8 reinvestment performance of the institution
9 since the most recent rating under this section
10 by the appropriate Federal financial supervisory
11 agency; and

12 “(D) require—

13 “(i) a demonstration of public benefit,
14 including a community benefits plan with
15 measurable goals regarding increasing re-
16 sponsible lending and other financial prod-
17 ucts;

18 “(ii) that the institution consult with
19 community-based organizations and other
20 community stakeholders in developing the
21 community benefits plan; and

22 “(iii) a public hearing for any institu-
23 tion that has a received a ‘need-to-improve’
24 or ‘sufficient’ grade in any individual as-

1 assessment area during the most recent ex-
 2 amination.

3 “(b) U.S. NONBANK MORTGAGE ORIGINATOR.—In
 4 connection with its examination of a U.S. nonbank mort-
 5 gage originator, the appropriate Federal financial super-
 6 visory agency shall perform the following:

7 “(1) Assess the record of the U.S. nonbank
 8 mortgage originator in meeting the credit or other
 9 financial needs of its entire community, in particular
 10 low-income and moderate-income people and commu-
 11 nities and other distressed or underserved commu-
 12 nities, consistent with the safe and sound operation
 13 of the U.S. nonbank mortgage originator.

14 “(2) Assess, as appropriate, the following activi-
 15 ties in the assessment areas of the U.S. nonbank
 16 mortgage originator:

17 “(A) Retail lending, including home loans.

18 “(B) Community development services.

19 “(C) Community development lending and
 20 investments, which may include a consideration
 21 of—

22 “(i) the origination of loans and other
 23 efforts by the institution to assist existing
 24 low- and moderate-income residents to re-

1 main in affordable housing in their com-
2 munity;

3 “(ii) the origination of loans by the
4 institution that result in the construction,
5 rehabilitation or preservation of affordable
6 housing units; and

7 “(iii) investments in or loans to com-
8 munity development financial institutions
9 (as defined in section 103 of the Commu-
10 nity Development Banking and Financial
11 Institutions Act of 1994 (12 U.S.C.
12 4702)), community development corpora-
13 tions (as defined in section 613 of the
14 Community Economic Development Act of
15 1981 (42 U.S.C. 9802)), and other non-
16 profit organizations serving the housing
17 and development needs of the community.

18 “(3) With respect to its evaluation of an appli-
19 cation for a deposit facility by the U.S. nonbank
20 mortgage originator—

21 “(A) consider the record described in para-
22 graph (1), the overall rating of the U.S.
23 nonbank mortgage originator under this sec-
24 tion, and any improvement plans submitted
25 pursuant to this section;

1 “(B) provide an opportunity for public
2 comment for a period of not less than 60 days;

3 “(C) consider changes in the community
4 reinvestment performance of the U.S. nonbank
5 mortgage originator since the most recent rat-
6 ing under this section by the appropriate Fed-
7 eral financial supervisory agency; and

8 “(D) require—

9 “(i) a demonstration that granting the
10 application for a deposit facility is in the
11 public interest, which shall include a sub-
12 mission of a community benefits plan by
13 the U.S. nonbank mortgage originator to
14 the appropriate Federal financial super-
15 visory agency;

16 “(ii) that the U.S. nonbank mortgage
17 originator consult with community-based
18 organizations and other community stake-
19 holders in developing the community bene-
20 fits plan; and

21 “(iii) a public hearing for any U.S.
22 nonbank mortgage originator that has a
23 received a ‘need-to-improve’ or ‘sufficient’
24 grade in any individual assessment area
25 during the most recent examination.

1 “(c) REQUIREMENTS.—

2 “(1) IN GENERAL.—In connection with its ex-
3 amination of a regulated financial institution under
4 subsection (a) or (b), the appropriate Federal finan-
5 cial supervisory agency shall—

6 “(A) consider public comments received by
7 the appropriate Federal financial supervisory
8 agency regarding the record of the institution in
9 meeting the credit or other financial needs of
10 its entire community, including low- and mod-
11 erate-income communities; and

12 “(B) require an improvement plan for an
13 institution that receives a rating of ‘sufficient’
14 or lower on the written evaluation of the insti-
15 tution, or such a rating in any individual as-
16 sessment area, and require the improvement
17 plan to result in the reasonable likelihood that
18 the institution will obtain a rating of at least
19 ‘satisfactory record of meeting community cred-
20 it or other financial needs’ in the relevant meas-
21 ure on the next examination.

22 “(2) IMPROVEMENT PLAN.—

23 “(A) IN GENERAL.—A regulated financial
24 institution that is required to submit an im-
25 provement plan required under paragraph

1 (1)(B) shall submit the plan in writing to the
2 appropriate Federal financial supervisory agen-
3 cy not later than 90 days after receiving notice
4 that the regulated financial institution is re-
5 quired to submit the plan.

6 “(B) PUBLIC COMMENT.—Upon receipt of
7 an improvement plan of a regulated financial
8 institution required under paragraph (1)(B),
9 the appropriate Federal financial supervisory
10 agency shall—

11 “(i) make the plan available to the
12 public for review and comment for a period
13 of not less than 60 days; and

14 “(ii) require the regulated financial
15 institution to revise, as appropriate, the
16 improvement plan in response to the public
17 comments received under the public review
18 and comment period described in clause (i)
19 and submit the plan to the appropriate
20 Federal financial supervisory agency not
21 later than 60 days after the end of that pe-
22 riod.

23 “(3) EXAMINATION OF CERTAIN REGULATED
24 FINANCIAL INSTITUTIONS.—In the case of a regu-
25 lated financial institution whose lending or other

1 business is not clustered in geographical areas and
2 is thinly dispersed across the country, the institution
3 shall—

4 “(A) be evaluated under subsection (a) or
5 (b), as applicable—

6 “(i) by considering the effectiveness of
7 the institution in serving customers or bor-
8 rowers, with a special emphasis on low-
9 and moderate-income individuals across the
10 country regardless of where the individuals
11 reside; and

12 “(ii) based on objective thresholds de-
13 veloped by the appropriate Federal finan-
14 cial supervisory agencies to clarify when
15 lending or other business is dispersed
16 across the country and not clustered in
17 distinct geographical areas, which may in-
18 clude low levels of lending or other finan-
19 cial products across States or other areas;
20 and

21 “(B) meet the needs of other distressed or
22 underserved communities.

23 “(d) CONSIDERATION.—Remediation of consumers
24 pursuant to an order by an court or administrative body
25 or a settlement with a government agency or a private

1 party shall not be considered in an assessment conducted
 2 under subsection (a)(2) or (b)(2).

3 “(e) RULE OF CONSTRUCTION.—An evaluation of a
 4 bank holding company under this section shall incorporate
 5 evaluations of subsidiary regulated financial institutions
 6 made by the appropriate Federal financial supervisory
 7 agency of each subsidiary, if applicable.”;

8 (C) in subsection (f), as so redesignated—

9 (i) by striking paragraph (2);

10 (ii) by redesignating paragraph (3) as
 11 paragraph (2); and

12 (iii) in paragraph (2), as so redesign-
 13 nated, by striking subparagraph (C); and

14 (D) in subsection (g), as so redesignated,
 15 by striking “subsection (a)” and inserting “sub-
 16 sections (a) and (b)”;

17 (3) in section 807 (12 U.S.C. 2906)—

18 (A) in subsection (a)—

19 (i) by striking “an insured depository
 20 institution” and inserting “a regulated fi-
 21 nancial institution”; and

22 (ii) by inserting “or financial” after
 23 “credit”;

24 (B) in subsection (b)—

25 (i) in paragraph (1)—

1 (I) in subparagraph (A)—

2 (aa) in clause (ii), by strik-
3 ing “and” at the end;

4 (bb) by redesignating clause
5 (iii) as clause (iv); and

6 (cc) by inserting after clause
7 (ii) the following:

8 “(iii) disclose whether the institution en-
9 gaged in acts or practices that the Bureau of
10 Consumer Financial Protection has determined,
11 and has publicly disclosed, violate the enumer-
12 ated consumer laws; and”; and

13 (II) by striking subparagraph (B)
14 and inserting the following:

15 “(B) METROPOLITAN AREA DISTINCTIONS.—
16 The information required under clauses (i) and (ii)
17 of subparagraph (A) shall be presented separately
18 for each assessment area.

19 “(C) TREATMENT WITH RESPECT TO VIOLA-
20 TIONS OF ENUMERATED CONSUMER LAWS.—If a
21 regulated financial institution has engaged in acts or
22 practices that the appropriate Federal financial su-
23 pervisory agency has determined to be unfair, decep-
24 tive, or abusive or acts or practices that violate enu-
25 merated consumer laws intended to ensure the fair,

1 equitable, and nondiscriminatory access to credit for
 2 individuals and communities that are enforced by
 3 the Bureau of Consumer Financial Protection or
 4 other Federal or State agencies, the written evalua-
 5 tion shall be negatively influenced in a manner com-
 6 mensurate with the extent of the harm suffered by
 7 those individuals and communities.”;

8 (ii) in paragraph (2)—

9 (I) by striking subparagraphs

10 (A), (B), (C), and (D) and inserting

11 the following:

12 “(A) ‘Outstanding record of meeting com-
 13 munity credit or other financial needs’.

14 “(B) ‘Satisfactory record of meeting com-
 15 munity credit or other financial needs’.

16 “(C) ‘Sufficient record of meeting commu-
 17 nity credit or other financial needs’.

18 “(D) ‘Needs to improve record of meeting
 19 community credit or other financial needs’.

20 “(E) ‘Substantial noncompliance in meet-
 21 ing community credit or other financial
 22 needs’.”; and

23 (iii) by inserting after the flush text
 24 following paragraph (2) the following:

1 “(3) **ADDITIONAL AUTHORITY.**—The appro-
2 priate Federal financial supervisory agencies may—

3 “(A) alter the ratings under this sub-
4 section to change or include additional ratings;
5 and

6 “(B) develop an accompanying point sys-
7 tem that includes ranges for each rating cat-
8 egory under paragraph (2).”;

9 (C) by redesignating subsection (e) as sub-
10 section (f); and

11 (D) by inserting after subsection (d) the
12 following:

13 “(e) **APPEALS OF RATING.**—If a regulated financial
14 institution appeals the assigned rating under this section,
15 the appropriate Federal financial supervisory agency shall
16 post a public notice of the appeal on the website of the
17 appropriate Federal financial supervisory agency.”; and

18 (4) by adding at the end the following:

19 **“SEC. 810. DATA COLLECTION AND REPORTING REQUIRE-**
20 **MENTS.**

21 “(a) **DATA COLLECTION.**—

22 “(1) **SMALL BUSINESS AND SMALL FARM**
23 **LOANS.**—Each regulated financial institution shall
24 collect and maintain in machine readable form, as
25 prescribed by the appropriate Federal financial su-

1 pervisory agency, until the completion of the next ex-
2 amination under this title, the following data for
3 each small business or small farm loan originated or
4 purchased by the regulated financial institution:

5 “(A) A unique number or alpha-numeric
6 symbol that can be used to identify the relevant
7 loan.

8 “(B) The loan amount at origination.

9 “(C) The loan location.

10 “(D) An indicator whether the loan was to
11 a business or farm with gross annual revenues
12 of \$1,000,000 or less.

13 “(2) CONSUMER LOANS.—Each regulated finan-
14 cial institution shall collect and maintain in machine
15 readable form, as prescribed by the appropriate Fed-
16 eral financial supervisory agency, data for consumer
17 loans originated or purchased by the regulated fi-
18 nancial institution, including motor vehicle loans,
19 credit cards, home equity loans, and other secured
20 or unsecured loans. The regulated financial institu-
21 tion shall maintain data separately for each category
22 of consumer loan, including the following for each
23 loan:

1 “(A) A unique number or alpha-numeric
2 symbol that can be used to identify the relevant
3 loan.

4 “(B) The loan amount at origination or
5 purchase.

6 “(C) The loan location.

7 “(D) The gross annual income of the bor-
8 rower that the regulated financial institution
9 considered in making its credit decision.

10 “(3) COMMUNITY DEVELOPMENT LOANS AND
11 INVESTMENTS.—Each regulated financial institution
12 shall collect and maintain in machine readable form,
13 as prescribed by the appropriate Federal financial
14 supervisory agency, data on the categories of com-
15 munity development lending and investments, includ-
16 ing data regarding financing affordable housing,
17 small business development, and economic develop-
18 ment.

19 “(4) ASSESSMENT AREA DATA.—Each regu-
20 lated financial institution shall collect and report to
21 the appropriate Federal financial supervisory agency
22 by March 1 of each year a list for each assessment
23 area showing the geographies within the area.

24 “(5) DEPOSITS.—The appropriate Federal Su-
25 pervisory agency shall collect data from regulated fi-

1 nancial institutions that reflects how many of the
 2 customers of those institutions are low- and mod-
 3 erate-income customers and the services that are
 4 used by those customers.

5 “(b) CRA SMALL BUSINESS DISCLOSURE STATE-
 6 MENT.—The appropriate Federal financial supervisory
 7 agency shall prepare annually for each regulated financial
 8 institution that reports data pursuant to this section a
 9 statement to be known as the ‘CRA Small Business Dis-
 10 closure Statement’ that contains, on a State-by-State
 11 basis, the following:

12 “(1) For each county (and for each assessment
 13 area smaller than a county) with a population of
 14 500,000 persons or fewer in which the regulated fi-
 15 nancial institution reported a small business or small
 16 farm loan:

17 “(A) The number and amount of small
 18 business and small farm loans reported as origi-
 19 nated or purchased located in low-, moderate-,
 20 middle-, and upper-income geographies.

21 “(B) A list grouping each geography ac-
 22 cording to whether the geography is low-, mod-
 23 erate-, middle-, or upper-income.

1 “(C) A list showing each geography in
2 which the regulated financial institution re-
3 ported a small business or small farm loan.

4 “(D) The number and amount of small
5 business and small farm loans to businesses
6 and farms with gross annual revenues of
7 \$1,000,000 or less.

8 “(2) For each county (and for each assessment
9 area smaller than a county) with a population in ex-
10 cess of 500,000 in which the regulated financial in-
11 stitution reported a small business or small farm
12 loan:

13 “(A) The number and amount of small
14 business and small farm loans reported as origi-
15 nated or purchased located in geographies with
16 median income relative to the area median in-
17 come of less than 10 percent, 10 or more but
18 less than 20 percent, 20 or more but less than
19 30 percent, 30 or more but less than 40 per-
20 cent, 40 or more but less than 50 percent, 50
21 or more but less than 60 percent, 60 or more
22 but less than 70 percent, 70 or more but less
23 than 80 percent, 80 or more but less than 90
24 percent, 90 or more but less than 100 percent,
25 100 or more but less than 110 percent, 110 or

1 more but less than 120 percent, and 120 per-
2 cent or more.

3 “(B) A list grouping each geography in the
4 county or assessment area according to whether
5 the median income in the geography relative to
6 the area median income is less than 10 percent,
7 10 or more but less than 20 percent, 20 or
8 more but less than 30 percent, 30 or more but
9 less than 40 percent, 40 or more but less than
10 50 percent, 50 or more but less than 60 per-
11 cent, 60 or more but less than 70 percent, 70
12 or more but less than 80 percent, 80 or more
13 but less than 90 percent, 90 or more but less
14 than 100 percent, 100 or more but less than
15 110 percent, 110 or more but less than 120
16 percent, and 120 percent or more.

17 “(C) A list showing each geography in
18 which the regulated financial institution re-
19 ported a small business or small farm loan.

20 “(D) The number and amount of small
21 business and small farm loans to businesses
22 and farms with gross annual revenues of
23 \$1,000,000 or less.

24 “(3) The number and amount of small business
25 and small farm loans located inside each assessment

1 area reported by the regulated financial institution
 2 and the number and amount of small business and
 3 small farm loans located outside the assessment
 4 areas reported by the regulated financial institution.

5 “(4) The number and amount of community de-
 6 velopment loans reported as originated or purchased.

7 “(c) AGGREGATE DISCLOSURE STATEMENTS.—

8 “(1) IN GENERAL.—Each appropriate Federal
 9 financial supervisory agency shall prepare annually,
 10 for each county and for each assessment area small-
 11 er than a county, an aggregate disclosure statement
 12 of small business, small farm, and consumer lending
 13 by all regulated financial institutions subject to re-
 14 porting under this section, which shall indicate, for
 15 each geography, the number and amount of all small
 16 business, small farm, and consumer loans originated
 17 or purchased by reporting regulated financial insti-
 18 tutions.

19 “(2) ADJUSTED FORM.—An appropriate Fed-
 20 eral financial supervisory agency may adjust the
 21 form of the disclosure statement prepared under
 22 paragraph (1) if necessary, because of special cir-
 23 cumstances, to protect the privacy of a borrower or
 24 the competitive position of a regulated financial in-
 25 stitution.

1 “(d) CENTRAL DATA DEPOSITORIES.—The Federal
 2 Financial Institutions Examination Council, in consulta-
 3 tion with the appropriate Federal financial supervisory
 4 agencies, shall implement a system—

5 “(1) to allow the public to access online and in
 6 a searchable format the data maintained under
 7 paragraphs (1) through (4) of subsection (a); and

8 “(2) that ensures that personally identifiable fi-
 9 nancial information is not disclosed to public.

10 “(e) LIMITATION.—An appropriate Federal financial
 11 supervisory agency may not use the authorities of the ap-
 12 propriate Federal financial supervisory agency under this
 13 section to obtain a record from a regulated financial insti-
 14 tution for the purpose of gathering or analyzing the per-
 15 sonally identifiable financial information of a consumer.”.

16 (c) AMENDMENT TO THE BANK HOLDING COMPANY
 17 ACT OF 1956.—Section 4(k)(6) of the Bank Holding
 18 Company Act of 1956 (12 U.S.C. 1843(k)(6)) is amended
 19 to read as follows:

20 “(6) NOTICE AND OPPORTUNITY FOR COMMENT
 21 REQUIRED.—

22 “(A) IN GENERAL.—No financial holding
 23 company shall directly or indirectly acquire, and
 24 no company that becomes a financial holding
 25 company shall directly or indirectly acquire con-

1 trol of, any company in the United States, in-
 2 cluding through merger, consolidation, or other
 3 type of business combination, that is engaged in
 4 activities permitted under this subsection or
 5 subsection (n) or (o), unless—

6 “(i) the holding company has provided
 7 notice to the Board, not later than 60 days
 8 prior to the proposed acquisition or prior
 9 to becoming a financial holding company,
 10 and during that time period, or such
 11 longer time period not exceeding an addi-
 12 tional 60 days, as established by the
 13 Board;

14 “(ii) the Board has provided public
 15 notice and opportunity for comment for
 16 not less than 60 days; and

17 “(iii) the Board has not issued a no-
 18 tice disapproving the proposed acquisition
 19 or retention.

20 “(B) FACTORS FOR CONSIDERATION.—In
 21 reviewing any prior notice filed under this para-
 22 graph, the Board shall—

23 “(i) consider the overall rating of the
 24 financial holding company under the Com-
 25 munity Reinvestment Act of 1977 (12

1 U.S.C. 2901 et seq.) and any improvement
2 plans submitted pursuant to that Act;

3 “(ii) provide opportunity for public
4 comment for a period of not less than 60
5 days;

6 “(iii) consider changes in the commu-
7 nity reinvestment performance of the fi-
8 nancial holding company since the last rat-
9 ing under the Community Reinvestment
10 Act of 1977 (12 U.S.C. 2901 et seq.) by
11 the appropriate Federal financial super-
12 visory agency; and

13 “(iv) require—

14 “(I) a demonstration that grant-
15 ing the application for a deposit facil-
16 ity is in the public interest, which
17 shall include submission to the appro-
18 priate Federal financial supervisory
19 agency of a community benefits plan;

20 “(II) that the institution consult
21 with community-based organizations
22 and other community stakeholders in
23 developing the community benefits
24 plan; and

1 “(III) a public hearing for any
 2 bank that has received a ‘need-to-im-
 3 prove’ or ‘sufficient’ grade in any as-
 4 sessment area during the last exam-
 5 ination under the Community Rein-
 6 vestment Act of 1977 (12 U.S.C.
 7 2901 et seq.).”.

8 (d) TECHNICAL AND CONFORMING AMENDMENT.—
 9 Section 10(c)(2)(H)(i) of the Home Owners’ Loan Act (12
 10 U.S.C. 1467a(c)(2)(H)(i)) is amended by striking “section
 11 804(c) of the Community Reinvestment Act of 1977 (12
 12 U.S.C. 2903(c))” and inserting “section 804(f) of the
 13 Community Reinvestment Act of 1977 (12 U.S.C.
 14 2903(f))”.

15 **SEC. 204. AMENDMENTS RELATING TO CREDIT UNION**
 16 **SERVICE TO UNDERSERVED AREAS.**

17 (a) IN GENERAL.—The Federal Credit Union Act (12
 18 U.S.C. 1751 et seq.) is amended—

19 (1) in section 101 (12 U.S.C. 1752)—

20 (A) in paragraph (8), by striking “and” at
 21 the end;

22 (B) in paragraph (9), by striking the pe-
 23 riod at the end and inserting “; and”; and

24 (C) by adding at the end the following:

25 “(10) the term ‘underserved area’—

1 “(A) means a local community, neighbor-
2 hood, or rural district that—

3 “(i) is an investment area, as defined
4 in section 103 of the Community Develop-
5 ment Banking and Financial Institutions
6 Act of 1994 (12 U.S.C. 4702), that meets
7 such additional requirements that the
8 Board may impose; and

9 “(ii) is underserved, based on data of
10 the Board and the Federal banking agen-
11 cies (as defined in section 3 of the Federal
12 Deposit Insurance Act (12 U.S.C. 1813)),
13 by other depository institutions (as defined
14 in section 19(b)(1)(A) of the Federal Re-
15 serve Act (12 U.S.C. 461(b)(1)(A)); and

16 “(B) notwithstanding subparagraph (A),
17 includes, with respect to any Federal credit
18 union, any geographic area within which the
19 credit union—

20 “(i) has received approval to provide
21 service before the date of enactment of this
22 paragraph from the Administration; and

23 “(ii) has established a service facility
24 before that date of enactment.”;

1 (2) in section 106 (12 U.S.C. 1756), by adding
 2 at the end the following: “The Board shall monitor
 3 adherence by a Federal credit union to a significant
 4 unmet needs plan submitted under section 109(h) by
 5 that Federal credit union that describes how the
 6 Federal credit union will serve the deposit and other
 7 financial needs of the community.”; and

8 (3) in section 109 (12 U.S.C. 1759)—

9 (A) in subsection (c), by amending para-
 10 graph (2) to read as follows:

11 “(2) EXCEPTION FOR UNDERSERVED AREAS.—

12 “(A) IN GENERAL.—Notwithstanding sub-
 13 section (b), the Board may approve an applica-
 14 tion by a Federal credit union to allow the
 15 membership of the credit union to include any
 16 person or organization whose principal resi-
 17 dence or place of business is located within a
 18 local community, neighborhood, or rural district
 19 if—

20 “(i) the Board determines—

21 “(I) at any time after August 7,
 22 1998, that the local community,
 23 neighborhood, or rural district taken
 24 into account for purposes of this para-
 25 graph is an underserved area; and

1 “(II) at the time of the approval,
 2 that the credit union is well capital-
 3 ized or adequately capitalized (as de-
 4 fined in section 216(c)(1)); and

5 “(ii) before the end of the 24-month
 6 period beginning on the date of the ap-
 7 proval, the credit union has established
 8 and maintains an ongoing method to pro-
 9 vide services in the local community, neigh-
 10 borhood, or rural district.

11 “(B) TERMINATION OF APPROVAL.—

12 “(i) IN GENERAL.—Any failure of a
 13 Federal credit union to meet the require-
 14 ment of clause (ii) of subparagraph (A) by
 15 the end of the 24-month period referred to
 16 in that clause shall constitute a termi-
 17 nation, as a matter of law, of any approval
 18 of an application under this paragraph by
 19 the Board with respect to the membership
 20 of the credit union.

21 “(ii) SIGNIFICANT UNMET NEEDS
 22 PLAN.—The Board may terminate the
 23 membership of a Federal credit union upon
 24 a finding that the credit union is not meet-
 25 ing the terms of the significant unmet

1 needs plan of the credit union submitted
2 under subsection (h)(1).

3 “(C) CREDIT UNION REPORTING REQUIRE-
4 MENT.—Any Federal credit union that has an
5 application approved under this paragraph
6 shall, as part of the ordinary course of the ex-
7 amination cycle and supervision process, submit
8 a report to the Administration that includes—

9 “(i) the number of members of the
10 credit union who are members by reason of
11 the application;

12 “(ii) the number of offices or facilities
13 maintained by the credit union in the local
14 community, neighborhood, or rural district
15 taken into account by the Board in approv-
16 ing the application; and

17 “(iii) evidence, as specified by the
18 Board by regulation, demonstrating com-
19 pliance by the credit union with the signifi-
20 cant unmet needs plan submitted by the
21 credit union under subsection (h)(1), as
22 specified by the Administration.

23 “(D) PUBLICATION BY ADMINISTRA-
24 TION.—The Administration shall publish an an-
25 nual report containing—

1 “(i) a list of all the applications ap-
 2 proved under this paragraph before the
 3 date on which the report is published;

4 “(ii) the number and locations of the
 5 underserved areas taken into account in
 6 approving those applications;

7 “(iii) the total number of members of
 8 credit unions who are members by reason
 9 of the approval of those applications; and

10 “(iv) evidence demonstrating compli-
 11 ance by credit unions with significant
 12 unmet needs plans submitted by the credit
 13 unions under subsection (h)(1), as speci-
 14 fied by the Administration.”;

15 (B) in subsection (e)(2), by inserting “sub-
 16 section (c)(2) and” after “provided in”; and

17 (C) by adding at the end the following:

18 “(h) ADDITIONAL REQUIREMENTS FOR COMMUNITY
 19 CREDIT UNIONS.—

20 “(1) IN GENERAL.—A Federal credit union de-
 21 siring membership as a credit union described in
 22 subsection (b)(3) shall submit to the Board a busi-
 23 ness plan, which shall include, among other issues,
 24 a marketing plan that identifies—

1 “(A) the unique needs of the various demo-
2 graphic groups in the proposed community; and

3 “(B) how the credit union will market to
4 each group, particularly underserved groups, to
5 address those needs.

6 “(2) PUBLIC COMMENT AND HEARING.—With
7 respect to a Federal credit union desiring member-
8 ship as a credit union described in subsection (b)(3)
9 for an area with multiple political jurisdictions with
10 a population of not less than 2,500,000, the Admin-
11 istration shall—

12 “(A) publish a notice in the Federal Reg-
13 ister seeking comment from interested parties
14 about the proposed community; and

15 “(B) conduct a public hearing regarding
16 the application of the Federal credit union.”.

17 (b) REGULATIONS.—Not later than 1 year after the
18 date of enactment of this Act, the National Credit Union
19 Administration Board shall issue final regulations to im-
20 plement the amendments made by subsection (a).

1 **TITLE III—REMOVING BARRIERS**
2 **THAT ISOLATE COMMUNITIES**

3 **SEC. 301. EXPANDING RIGHTS UNDER THE FAIR HOUSING**
4 **ACT.**

5 (a) PURPOSES.—The purposes of the amendments
6 made under this section are—

7 (1) to expand, as well as clarify, confirm, and
8 create greater consistency in, the protections against
9 discrimination on the basis of all covered character-
10 istics; and

11 (2) to provide guidance and notice to individ-
12 uals, organizations, corporations, and agencies re-
13 garding their obligations under Federal law.

14 (b) AMENDMENTS TO THE FAIR HOUSING ACT.—
15 The Fair Housing Act (42 U.S.C. 3601 et seq.) is amend-
16 ed—

17 (1) in section 802 (42 U.S.C. 3602), by adding
18 at the end the following:

19 “(p) ‘Gender identity’ means the gender-related iden-
20 tity, appearance, or mannerisms or other gender-related
21 characteristics of an individual, with or without regard to
22 the individual’s designated sex at birth.

23 “(q) ‘Marital status’ has the meaning given the term
24 in section 202.2 of title 12, Code of Federal Regulations,
25 or any successor regulation.

1 “(r) ‘Sexual orientation’ means homosexuality, het-
2 erosexuality, or bisexuality.

3 “(s) ‘Source of income’ includes income for which
4 there is a reasonable expectation that the income will con-
5 tinue from—

6 “(1) a profession, occupation or job;

7 “(2) any government or private assistance,
8 grant, loan or rental assistance program, including
9 low-income housing assistance certificates and
10 vouchers issued under the United States Housing
11 Act of 1937 (42 U.S.C. 1437 et seq.);

12 “(3) a gift, an inheritance, a pension, an annu-
13 ity, alimony, child support, or other consideration or
14 benefit; or

15 “(4) the sale or pledge of property or an inter-
16 est in property.

17 “(t) ‘Veteran status’ means—

18 “(1) a member of the uniformed services, as de-
19 fined in section 101 of title 10, United States Code;
20 or

21 “(2) a veteran, as defined in section 101 of title
22 38, United States Code.”;

23 (2) in section 804 (42 U.S.C. 3604)—

24 (A) by inserting “actual or perceived” be-
25 fore “race, color” each place that term appears;

(B) by inserting “sexual orientation, gender identity, marital status, source of income, veteran status,” after “sex,” each place that term appears; and

(C) in subsection (c)—

(i) by inserting “(1)” before “To make”; and

(ii) by adding at the end the following:

“(2) Nothing in this title shall be construed to—

“(A) prohibit a lender from implementing a loan program for veterans or based upon veteran status; or

“(B) prohibit an entity from providing housing assistance under section 8(o)(19) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(19)), the Homeless Providers Grant and Per Diem program of the Department of Veterans Affairs, or any other Federal housing assistance program for veterans or based upon veterans status.”;

(3) in section 805 (42 U.S.C. 3605)—

(A) by inserting “actual or perceived” before “race, color” each place that term appears; and

1 (B) by inserting “sexual orientation, gen-
 2 der identity, marital status, source of income,
 3 veteran status,” after “sex,” each place that
 4 term appears;

5 (4) in section 806 (42 U.S.C. 3606)—

6 (A) by inserting “actual or perceived” be-
 7 fore “race, color”; and

8 (B) by inserting “sexual orientation, gen-
 9 der identity, marital status, source of income,
 10 veteran status,” after “sex,”; and

11 (5) in section 807 (42 U.S.C. 3607), by adding
 12 at the end the following:

13 “(c) Nothing in this title limits the ability of the
 14 owner of a dwelling owner to determine, in a commercially
 15 reasonable and non-discriminatory manner, the ability of
 16 a person to afford to purchase or rent the dwelling.”.

17 (c) PREVENTION OF INTIMIDATION.—Section 901 of
 18 the Civil Rights Act of 1968 (42 U.S.C. 3631) is amend-
 19 ed—

20 (1) by inserting “actual or perceived” before
 21 “race, color” each place that term appears; and

22 (2) by inserting “sexual orientation (as defined
 23 in section 802), gender identity (as defined in sec-
 24 tion 802), marital status (as defined in section 802),
 25 source of income (as defined in section 802), veteran

1 status (as defined in section 802),” after “sex,” each
 2 place that term appears.

3 (d) RULE OF CONSTRUCTION.—Nothing in the
 4 amendments made by this section shall be construed to
 5 mean that a particular class of individuals was not pro-
 6 tected against discrimination under existing Federal law.

7 **SEC. 302. IMPROVING OUTCOMES IN HOUSING ASSISTANCE**
 8 **PROGRAMS.**

9 (a) INDIAN HOUSING ASSISTANCE.—Section 502 of
 10 the Native American Housing Assistance and Self-Deter-
 11 mination Act of 1996 (25 U.S.C. 4181) is amended by
 12 adding at the end the following:

13 “(c) APPLICABILITY.—Subsections (a) and (b) shall
 14 not apply with respect to tenant-based assistance provided
 15 under section 8(o) of the United States Housing Act of
 16 1937 (42 U.S.C. 1437f(o)).”.

17 (b) SUPPLEMENTAL ADMINISTRATIVE FEE.—Section
 18 8(q)(2)(B) of the United States Housing Act of 1937 (42
 19 U.S.C. 1437f(q)(2)(B)) is amended by inserting “, includ-
 20 ing the cost of assisting families with children or families
 21 with a member with a disability that move to lower pov-
 22 erty, higher opportunity neighborhoods (as determined by
 23 the Secretary based on objective, evidence-based criteria)”
 24 after “programs”.

1 (c) REGIONAL PLANNING TO INCREASE ACCESS TO
 2 HIGHER OPPORTUNITY AREAS.—Section 8(o) of the
 3 United States Housing Act of 1937 (42 U.S.C. 1437f(o))
 4 is amended by adding at the end the following:

5 “(21) INCREASE ACCESS TO HIGHER OPPOR-
 6 TUNITY AREAS.—

7 “(A) LOCATION ANALYSIS.—

8 “(i) IN GENERAL.—A public housing
 9 agency that administers the program
 10 under this subsection in a metropolitan
 11 area shall—

12 “(I) analyze the locations where
 13 the participants of the program of the
 14 public housing agency live; and

15 “(II) based on the analysis de-
 16 scribed in subclause (I), establish poli-
 17 cies and practices to reduce disparities
 18 and barriers to access to locations
 19 throughout the metropolitan area that
 20 evidence indicates are more likely to
 21 improve outcomes for children or
 22 adults.

23 “(ii) CONSIDERATIONS.—The location
 24 analysis required under this subparagraph
 25 shall—

1 “(I) consider separately the loca-
 2 tions of families with children, house-
 3 holds that include a person with dis-
 4 abilities, and other groups protected
 5 under the Fair Housing Act (42
 6 U.S.C. 3601 et seq.); and

7 “(II) include an analysis of the
 8 locations in relation to dwelling units
 9 with rents that are potentially afford-
 10 able to voucher holders and the likely
 11 impact of key neighborhood attributes
 12 on their well-being and long-term suc-
 13 cess, based on Federal and available
 14 local data.

15 “(iii) MAPPING TOOLS.—The Sec-
 16 retary shall—

17 “(I) provide mapping tools and
 18 other information necessary for a pub-
 19 lic housing agency to perform the lo-
 20 cation analysis under this subpara-
 21 graph using the demographic data on
 22 participating families submitted to the
 23 Secretary under part 908 of title 24,
 24 Code of Federal Regulations, or any
 25 successor regulation;

1 “(II) publish a notice in the Fed-
2 eral Register, subject to public com-
3 ment, that specifies the data sources
4 and definitions that will be incor-
5 porated in each mapping tool required
6 under subclause (I); and

7 “(III) update the notice required
8 under subclause (II) as needed based
9 on changes in the availability of rel-
10 evant data or evidence of neighbor-
11 hood attributes likely to impact the
12 well-being and long-term success of
13 participants in the program under this
14 subsection.

15 “(iv) FREQUENCY AND AVAIL-
16 ABILITY.—The location analysis required
17 under this subparagraph shall—

18 “(I) be performed by each public
19 housing agency described in clause (i)
20 not less frequently than once every 5
21 years;

22 “(II) be performed by all public
23 housing agencies in a metropolitan
24 area in the same year, as determined
25 by the Secretary; and

1 “(III) be made available to the
2 public in a manner that protects the
3 privacy of program participants.

4 “(B) REGIONAL POLICIES TO INCREASE
5 ACCESS TO HIGHER OPPORTUNITY NEIGHBOR-
6 HOODS.—Each public housing agency described
7 in subparagraph (A)(i) shall—

8 “(i) consult with other such public
9 housing agencies in the same metropolitan
10 area, or smaller regional area approved by
11 the Secretary, about the possible barriers
12 and other reasons for the disparities iden-
13 tified in the location analysis required
14 under subparagraph (A);

15 “(ii) identify policies or practices that
16 those public housing agencies could adopt
17 individually or in collaboration, or other
18 strategies that recipients of grants or other
19 funding from the Secretary could adopt, to
20 reduce the barriers and disparities and in-
21 crease the share of families with children
22 and other demographic groups using
23 vouchers in higher-opportunity neighbor-
24 hoods in the metropolitan area or region;
25 and

1 “(iii) include in the administrative
 2 plan required under section 982.54 of title
 3 24, Code of Federal Regulations, or any
 4 successor regulation, the policies that the
 5 public housing agency has adopted under
 6 this paragraph.

7 “(C) ASSESSMENT.—The Secretary shall
 8 include public housing agency performance in
 9 achieving the goal described in subparagraph
 10 (A)(i)(II) in the periodic assessment of agency
 11 performance in managing the program under
 12 this subsection required under part 985 of title
 13 24, Code of Federal Regulations, or any suc-
 14 cessor regulation.”.

15 (d) REQUIRED REGULATORY CHANGES TO PUBLIC
 16 HOUSING AGENCY CONSORTIA.—

17 (1) DEFINITIONS.—In this subsection:

18 (A) MOVING TO WORK DEMONSTRATION
 19 PROGRAM.—The term “Moving to Work dem-
 20 onstration program” means the program estab-
 21 lished under section 204 of the Departments of
 22 Veterans Affairs and Housing and Urban De-
 23 velopment, and Independent Agencies Appro-
 24 priations Act, 1996 (Public Law 104–134; 110
 25 Stat. 1321–281).

1 (B) PUBLIC HOUSING AGENCY.—The term
 2 “public housing agency” has the meaning given
 3 the term in section 3(b)(6) of the United States
 4 Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

5 (2) REQUIREMENT.—Not later than 1 year
 6 after the date of enactment of this Act, the Sec-
 7 retary of Housing and Urban Development shall es-
 8 tablish policies and procedures that—

9 (A) enable public housing agencies that
 10 elect to operate in consortia under section 13(a)
 11 of the United States Housing Act of 1937 (42
 12 U.S.C. 1437k(a)), excluding public housing
 13 agencies participating in the Moving to Work
 14 demonstration program—

15 (i) to consolidate their funding con-
 16 tracts for assistance provided under section
 17 8(o) of such Act (42 U.S.C. 1437f(o)) into
 18 a single contract;

19 (ii) to consolidate their funding con-
 20 tracts for assistance provided under sub-
 21 sections (d) and (e) of section 9 of such
 22 Act (42 U.S.C. 1437g); or

23 (iii) to exercise the consolidation op-
 24 tions under each of clauses (i) and (ii); and

(B) enable public housing agencies to form partial consortia under such section 13(a) (42 U.S.C. 1437k(a)) that consolidate the administration of certain aspects of their housing programs to increase access to higher-opportunity areas or for other purposes, subject to such requirements as the Secretary may establish.

(3) MOVING TO WORK AGENCIES.—Any flexibility or waiver applicable to the Moving to Work demonstration program shall not apply to any activities or funds administered through a partial consortia formed under paragraph (2)(B) by 1 or more public housing agencies participating in the Moving to Work demonstration program.

TITLE IV—ESTATE TAX REFORM

SEC. 401. AMENDMENT TO INTERNAL REVENUE CODE OF 1986.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

1 **SEC. 402. RATE ADJUSTMENT.**

2 (a) INCREASE IN ESTATE TAX RATES.—The table
3 contained in section 2001(c) is amended to read as follows:

If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over \$13,000,000	55 percent of such amount.
Over \$13,000,000 but not over \$93,000,000.	\$7,150,000, plus 60 percent of the excess of such amount over \$13,000,000.
Over \$93,000,000	\$55,150,000, plus 65 percent of the excess of such amount over \$93,000,000.

4 (b) REDUCTION OF BASIC EXCLUSION AMOUNT.—
5 Paragraph (3) of section 2010(c) is amended to read as
6 follows:

7 “(3) BASIC EXCLUSION AMOUNT.—For pur-
8 poses of this subsection, the basic exclusion amount
9 is \$3,500,000.”.

10 (c) SURTAX ON BILLION DOLLAR ESTATES.—Section
11 2001 is amended—

12 (1) in subsection (b), by striking “The tax” and
13 inserting “Subject to subsection (h), the tax”, and

14 (2) by adding at the end the following new sub-
15 section:

16 “(h) SURTAX ON BILLION DOLLAR ESTATES.—

17 “(1) IN GENERAL.—In the case of a taxable es-
18 tate for which the applicable amount is in excess of
19 \$1,000,000,000, the tax determined under sub-

1 section (b) shall be increased by an amount equal to
 2 10 percent of such applicable amount.

3 “(2) APPLICABLE AMOUNT.—For purposes of
 4 this subsection, the applicable amount shall be equal
 5 to the sum of the amounts under subparagraphs (A)
 6 and (B) of paragraph (1) of subsection (b) for the
 7 taxable estate.”.

8 **SEC. 403. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR**
 9 **GRANTOR RETAINED ANNUITY TRUSTS.**

10 (a) IN GENERAL.—Subsection (b) of section 2702 is
 11 amended—

12 (1) by redesignating paragraphs (1), (2), and
 13 (3) as subparagraphs (A), (B), and (C), respectively,
 14 and by moving such subparagraphs (as so redesign-
 15 nated) 2 ems to the right;

16 (2) by striking “For purposes of” and inserting
 17 the following:

18 “(1) IN GENERAL.—For purposes of”;

19 (3) by striking “paragraph (1) or (2)” in para-
 20 graph (1)(C) (as so redesignated) and inserting
 21 “subparagraph (A) or (B)”; and

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

24 “(2) ADDITIONAL REQUIREMENTS WITH RE-
 25 SPECT TO GRANTOR RETAINED ANNUITIES.—For

1 purposes of subsection (a), in the case of an interest
 2 described in paragraph (1)(A) (determined without
 3 regard to this paragraph) which is retained by the
 4 transferor, such interest shall be treated as de-
 5 scribed in such paragraph only if—

6 “(A) the right to receive the fixed amounts
 7 referred to in such paragraph is for a term of
 8 not less than 10 years,

9 “(B) such fixed amounts, when determined
 10 on an annual basis, do not decrease relative to
 11 any prior year during the first 10 years of the
 12 term referred to in subparagraph (A), and

13 “(C) the remainder interest has a value
 14 equal to or greater than 10 percent of the value
 15 of the assets transferred to the trust, deter-
 16 mined as of the time of the transfer.”.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to transfers made after the date
 19 of the enactment of this Act.

20 **SEC. 404. CERTAIN TRANSFER TAX RULES APPLICABLE TO**
 21 **GRANTOR TRUSTS.**

22 (a) IN GENERAL.—Subtitle B is amended by adding
 23 at the end the following new chapter:

1 **“CHAPTER 16—SPECIAL RULES FOR**
 2 **GRANTOR TRUSTS**

“Sec. 2901. Application of transfer taxes.

3 **“SEC. 2901. APPLICATION OF TRANSFER TAXES.**

4 “(a) IN GENERAL.—In the case of any portion of a
 5 trust to which this section applies—

6 “(1) the value of the gross estate of the de-
 7 ceased deemed owner of such portion shall include
 8 all assets attributable to that portion at the time of
 9 the death of such owner,

10 “(2) any distribution from such portion to one
 11 or more beneficiaries during the life of the deemed
 12 owner of such portion shall be treated as a transfer
 13 by gift for purposes of chapter 12, and

14 “(3) if at any time during the life of the
 15 deemed owner of such portion, such owner ceases to
 16 be treated as the owner of such portion under sub-
 17 part E of part 1 of subchapter J of chapter 1, all
 18 assets attributable to such portion at such time shall
 19 be treated for purposes of chapter 12 as a transfer
 20 by gift made by the deemed owner.

21 “(b) PORTION OF TRUST TO WHICH SECTION AP-
 22 PLIES.—This section shall apply to—

23 “(1) the portion of a trust with respect to
 24 which the grantor is the deemed owner, and

1 “(2) the portion of the trust to which a person
 2 who is not the grantor is a deemed owner by reason
 3 of the rules of subpart E of part 1 of subchapter J
 4 of chapter 1, and such deemed owner engages in a
 5 sale, exchange, or comparable transaction with the
 6 trust that is disregarded for purposes of subtitle A.
 7 For purposes of paragraph (2), the portion of the trust
 8 described with respect to a transaction is the portion of
 9 the trust attributable to the property received by the trust
 10 in such transaction, including all retained income there-
 11 from, appreciation thereon, and reinvestments thereof, net
 12 of the amount of consideration received by the deemed
 13 owner in such transaction.

14 “(c) EXCEPTIONS.—This section shall not apply to—

15 “(1) any trust that is includible in the gross es-
 16 tate of the deemed owner (without regard to sub-
 17 section (a)(1)), and

18 “(2) any other type of trust that the Secretary
 19 determines by regulations or other guidance does not
 20 have as a significant purpose the avoidance of trans-
 21 fer taxes.

22 “(d) DEEMED OWNER DEFINED.—For purposes of
 23 this section, the term ‘deemed owner’ means any person
 24 who is treated as the owner of a portion of a trust under
 25 subpart E of part 1 of subchapter J of chapter 1.

1 “(e) REDUCTION FOR TAXABLE GIFTS TO TRUST
 2 MADE BY OWNER.—The amount to which subsection (a)
 3 applies shall be reduced by the value of any transfer by
 4 gift by the deemed owner to the trust previously taken
 5 into account by the deemed owner under chapter 12.

6 “(f) LIABILITY FOR PAYMENT OF TAX.—Any tax im-
 7 posed pursuant to subsection (a) shall be a liability of the
 8 trust.”.

9 (b) CLERICAL AMENDMENT.—The table of chapters
 10 for subtitle B is amended by adding at the end the fol-
 11 lowing new item:

“CHAPTER 16. SPECIAL RULES FOR GRANTOR TRUSTS”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply—

14 (1) to trusts created on or after the date of the
 15 enactment of this Act;

16 (2) to any portion of a trust established before
 17 the date of the enactment of this Act which is attrib-
 18 utable to a contribution made on or after such date;
 19 and

20 (3) to any portion of a trust established before
 21 the date of the enactment of this Act to which sec-
 22 tion 2901(a) of the Internal Revenue Code of 1986
 23 (as added by subsection (a)) applies by reason of a
 24 transaction described in section 2901(b)(2) of such
 25 Code on or after such date.

1 **SEC. 405. ELIMINATION OF GENERATION-SKIPPING TRANS-**
 2 **FER TAX EXEMPTION FOR CERTAIN TRUSTS.**

3 (a) IN GENERAL.—Section 2642 is amended by add-
 4 ing at the end the following new subsection:

5 “(h) ELIMINATION OF GST EXEMPTION FOR CER-
 6 TAIN TRUSTS.—

7 “(1) IN GENERAL.—

8 “(A) TRANSFERS FROM NON-QUALIFYING
 9 TRUSTS.—In the case of any generation-skip-
 10 ping transfer made from a trust that is not a
 11 qualifying trust, the inclusion ratio with respect
 12 to any property transferred in such transfer
 13 shall be 1.

14 “(B) QUALIFYING TRUST.—For purposes
 15 of this subsection, the term ‘qualifying trust’
 16 means a trust for which the date of termination
 17 of such trust is not greater than 50 years after
 18 the date on which such trust is created.

19 “(2) TRUSTS CREATED BEFORE DATE OF EN-
 20 ACTMENT.—In the case of any trust created before
 21 the date of the enactment of this subsection, such
 22 trust shall be deemed to be a qualifying trust for a
 23 period of 50 years after the date of the enactment
 24 of this subsection.

25 “(3) DATE OF CREATION OF CERTAIN DEEMED
 26 SEPARATE TRUSTS.—In the case of any portion of a

1 trust which is treated as a separate trust under sec-
 2 tion 2654(b)(1), such separate trust shall be treated
 3 as created on the date of the first transfer described
 4 in such section with respect to such separate trust.

5 “(4) DATE OF CREATION OF POUR-OVER
 6 TRUSTS.—In the case of any generation-skipping
 7 transfer of property which involves the transfer of
 8 property from 1 trust to another trust, the date of
 9 the creation of the transferee trust shall be treated
 10 as being the earlier of—

11 “(A) the date of the creation of such trans-
 12 feree trust, or

13 “(B) the date of the creation of the trans-
 14 feror trust.

15 In the case of multiple transfers to which the pre-
 16 ceding sentence applies, the date of the creation of
 17 the transferor trust shall be determined under the
 18 preceding sentence before the application of the pre-
 19 ceding sentence to determine the date of the creation
 20 of the transferee trust.

21 “(5) REGULATIONS.—The Secretary may pre-
 22 scribe such regulations or other guidance as may be
 23 necessary or appropriate to carry out this sub-
 24 section.”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect on the date of the enactment
 3 of this Act.

4 **SEC. 406. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL**
 5 **GIFTS.**

6 (a) IN GENERAL.—Paragraph (1) of section 2503(b)
 7 is amended to read as follows:

8 “(1) IN GENERAL.—

9 “(A) LIMIT PER DONEE.—In the case of
 10 gifts made to any person by the donor during
 11 the calendar year, the first \$10,000 of such
 12 gifts to such person shall not, for purposes of
 13 subsection (a), be included in the total amount
 14 of gifts made during such year.

15 “(B) CUMULATIVE LIMIT PER DONOR.—

16 “(i) IN GENERAL.—The aggregate
 17 amount excluded under subparagraph (A)
 18 with respect to all transfers described in
 19 clause (ii) made by the donor during the
 20 calendar year shall not exceed twice the
 21 dollar amount in effect under such sub-
 22 paragraph for such calendar year.

23 “(ii) TRANSFERS SUBJECT TO LIMITA-
 24 TION.—The transfers described in this
 25 clause are—

1 “(I) a transfer in trust,
2 “(II) a transfer of an interest in
3 a passthrough entity,
4 “(III) a transfer of an interest
5 subject to a prohibition on sale, and
6 “(IV) any other transfer of prop-
7 erty that, without regard to with-
8 drawal, put, or other such rights in
9 the donee, cannot immediately be liq-
10 uidated by the donee.”.

11 (b) CONFORMING AMENDMENT.—Section 2503 is
12 amended by striking subsection (c).

13 (c) REGULATIONS.—The Secretary of the Treasury,
14 or the Secretary of the Treasury’s delegate, may prescribe
15 such regulations or other guidance as may be necessary
16 or appropriate to carry out the amendments made by this
17 section.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any calendar year beginning
20 after the date of the enactment of this Act.

○