The original documents are located in Box 27, folder "7/25/75 SJR102 Permit Federally Chartered Savings and Loan Associations to Act as Custodians for Individual Retirement Accounts" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

APPROVED
JUL 25 1975

THE WHITE HOUSE

WASHINGTON

ACTION

Last Day: July 30

July 25, 1975

Pol 7/24
To Archives 7/28

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: S.J. Res. 102 - To Permit Federally Chartered Savings and Loan Associations to Act as Custodians for Individual Retirement Accounts

Attached for your consideration is S.J. Res. 102, sponsored by Senator Sparkman, which would clarify Section 5(c) of the Homeowner's Loan Act of 1933 to provide that Federally chartered savings and loan associations may act as custodians for Individual Retirement Accounts.

A discussion of the resolution is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled resolution.

RECOMMENDATION

That you sign S. J. Res. 102 at Tab B.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Resolution S. J. Res. 102 - To permit Federally chartered savings and loan associations to act as custodians for Individual Retirement Accounts
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

July 30, 1975 - Wednesday

Purpose

Senate Joint Resolution 102 would clarify Section 5(c) of the Homeowner's Loan Act of 1933 to provide that Federally chartered savings and loan associations may act as custodians for Individual Retirement Accounts (IRA's).

Agency Recommendations

Office of Management and Budget	Approval
Federal Home Loan Bank Board	No objection
Federal Deposit Insurance Corporation	No objection

Discussion

Section 408 of the Internal Revenue Code permits individuals to invest in IRA's for the purpose of deferring payment of taxes until attaining retirement age.

Section 4(d) of the Emergency Home Purchase Assistance Act of 1975 (P.L. 93-449), which amended the Homeowners Loan Act, provided the initial authorization for Federal savings and loan institutions to participate in IRA accounts. While this amendment clearly empowered Federal savings and loans to act as "trustees" of IRA accounts, it left some doubt whether such

associations could act as "custodians" of such accounts. The General Counsel of the Federal Home Loan Bank Board (FHLBB), on March 13, 1975 interpreted that law as providing that Federal S&Ls could act only as trustees and not as custodians of IRA accounts.

Louisiana law places certain requirements on fiduciaries, including trustees, which many Louisiana S&Ls can not or will not meet. Specifically, the State law requires that any S&L acquiring an IRA must go through a notarization process (similar to being licensed). There is a small cost in time and money involved in obtaining this notarization and some S&Ls claim they cannot meet the standards. Under Louisiana law, therefore, certain S&Ls could not hold IRA accounts since they could not register as trustees to qualify under Section 408 as an IRA depository.

The enrolled resolution was drafted at the behest of the Louisiana S&L trade association to enable its members to hold IRA accounts as custodians. S.J. Res. 102 would eliminate the required notarization for Federal S&Ls by allowing them to accept IRA's as custodians without their having to meet the generally more stringent standards applicable to trustees.

Normally, a trustee of an account has full fiduciary responsibility, has legal title for the benefit of the grantor, and has certain powers over the disposition of the trust. A custodian, on the other hand, has mere possession of the depositor's property and the depositor retains full control over the disposition of the assets. A custodian is liable only for deposited funds with interest. Accordingly, a depository assumes substantial obligations as a trustee beyond those he assumes as a custodian.

However, these distinctions are not applicable with respect to S&Ls. S&Ls can invest only in first mortgages and government guaranteed obligations and commingle all their deposits. All of their deposits are insured equally by the Federal government and accordingly there is no distinction between trust and custodial accounts in S&Ls.

S.J. Res. 102 would amend the Homeowners Loan Act of 1933 (P.L. 73-43) to allow Federally chartered S&Ls to act as "custodians" as well as "trustees" of IRA's.

Enactment of this measure would have the benefit of extending the range of financial institutions in which individuals could place their retirement accounts, and would in no way affect the protection which such investments enjoy. Since many State S&L laws are related by reference to Federal S&L laws, if Federally chartered savings and loans are granted participation in IRA accounts as custodians, many State chartered institutions would be able to follow suit. State S&Ls are restricted as to investments in the same way as Federal S&Ls and would be in the same posture vis a vis custodial and trust accounts as Federal S&Ls.

Although Federal laws which enable private entities to circumvent State laws are undesirable, the FHLBB, in its views letter on the enrolled resolution, states that while the Board sees no need for this legislation, it has no objection to this technical amendment.

James F. C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference

Enclosures

To J. Cavanaugh 7-24-75 5:30 p.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 24 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Resolution S. J. Res. 102 - To permit Federally chartered savings and loan associations to act as custodians for Individual Retirement Accounts
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

July 30, 1975 - Wednesday

Purpose

Senate Joint Resolution 102 would clarify Section 5(c) of the Homeowner's Loan Act of 1933 to provide that Federally chartered savings and loan associations may act as custodians for Individual Retirement Accounts (IRA's).

Agency Recommendations

Office of Management and Budget	Approval
Federal Home Loan Bank Board	No objection
Federal Deposit Insurance Corporation	No objection

Discussion

Section 408 of the Internal Revenue Code permits individuals to invest in IRA's for the purpose of deferring payment of taxes until attaining retirement age.

Section 4(d) of the Emergency Home Purchase Assistance Act of 1975 (P.L. 93-449), which amended the Homeowners Loan Act, provided the initial authorization for Federal savings and loan institutions to participate in IRA accounts. While this amendment clearly empowered Federal savings and loans to act as "trustees" of IRA accounts, it left some doubt whether such

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Louisiana law places certain requirements on fiduciaries, including trustees, which many Louisiana S&Ls can not or will not meet. Specifically, the State law requires that any S&L acquiring an IRA must go through a notarization process (similar to being licensed). There is a small cost in time and money involved in obtaining this notarization and some S&Ls claim they cannot meet the standards. Under Louisiana law, therefore, certain S&Ls could not hold IRA accounts since they could not register as trustees to qualify under Section 408 as an IRA depository.

The enrolled resolution was drafted at the behest of the Louisiana S&L trade association to enable its members to hold IRA accounts as custodians. S.J. Res. 102 would eliminate the required notarization for Federal S&Ls by allowing them to accept IRA's as custodians without their having to meet the generally more stringent standards applicable to trustees.

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However, these distinctions are not applicable with respect to S&Ls. S&Ls can invest only in first mortgages and government guaranteed obligations and commingle all their deposits. All of their deposits are insured equally by the Federal government and accordingly there is no distinction between trust and custodial accounts in S&Ls.

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Enactment of this measure would have the benefit of extending the range of financial institutions in which individuals could place their retirement accounts, and would in no way affect the protection which such investments enjoy. Since many State S&L laws are related by reference to Federal S&L laws, if Federally chartered savings and loans are granted participation in IRA accounts as custodians, many State chartered institutions would be able to follow suit. State S&Ls are restricted as to investments in the same way as Federal S&Ls and would be in the same posture vis a vis custodial and trust accounts as Federal S&Ls.

Although Federal laws which enable private entities to circumvent State laws are undesirable, the FHLBB, in its views letter on the enrolled resolution, states that while the Board sees no need for this legislation, it has no objection to this technical amendment.

James F. C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 24 Time: 630pm

FOR ACTION: Tod Hullin
Paul Leach
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 25 Time: 100pm

SUBJECT:

S.J. Res. 102 - To permit Federally chartered savings and loan associations to act as custodians for individual retirement accounts.

ACTION REQUESTED:

____ For Necessary Action
____ For Your Recommendations
____ Prepare Agenda and Brief
____ Draft Reply
__x__ For Your Comments
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

WASHINGTON

July 25, 1975

MEMORANDUM FOR: THE STAFF SECRETARY

FROM: MAX L. FRIEDERSDORF

SUBJECT: S.J. Res. 102 - to permit Federally Chartered savings and loan associations to act as custodians for individual retirement accounts.

The Office of Legislative Affairs concurs in the attached.

FEDERAL HOME LOAN BANK BOARD

WASHINGTON, D. C. 20552

320 FIRST STREET N.W.

FEDERAL HOME LOAN BANK SYSTEM
FEDERAL HOME LOAN MORTGAGE CORPORATION
FEDERAL SAVINGS & LOAN INSURANCE CORPORATION

OFFICE OF
GENERAL COUNSEL

July 22, 1975

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Attention: Ms. Martha Ramsey

Dear Mr. Frey:

This comment responds to your Enrolled Bill Request, dated July 17, 1975, for the Board's view on S.J.Res. 102 which would amend section 5(c) of the Home Owners' Loan Act of 1933 to allow Federal savings and loan associations to accept Individual Retirement Accounts (IRA) as custodians as well as trustees. While the Board is aware of no general need for this legislation, the Board has no objection to it.

You have asked us to comment on the distinction, if any, between "trustee" and "custodian" as used in §408 of the Internal Revenue Code and as applied by S.J.Res. 102 to the administration of Keogh accounts and Individual Retirement Accounts by Federal savings and loan associations. It should be noted that the custodial relationship can only exist with respect to Individual Retirement Accounts, and has no application to Keogh accounts.

Generally, the "legal" distinction between a "trustee" and a "custodian" stems from the powers and legal title normally vested in the former, but not the latter. While the trustee has legal title to the entrusted property for the benefit of the grantor, and in addition will normally be vested with certain powers over the trust corpus and income, the custodian has mere possession of the depositor's property, and thus the depositor has full ownership and complete control concerning the disposition of the entrusted assets.

based on mortgage recording data or such other evidence as is available;

(5) The disappearing institution has a net worth ratio of at least 5 percent;

(6) The resulting institution would have a net worth ratio of at least 5 percent;

(7) Any proposed increase in compensation (over the amount paid prior to commencement of merger negotiations) to any officer, director, or controlling person of the disappearing institution by the resulting institution or any service corporation affiliate thereof would not exceed 15 percent or $5,000, whichever is greater;

(8) Any proposed advisory director fee would not exceed the fee received as a director of the disappearing institution or $50 per monthly meeting attended, whichever is greater.

If the Principal Supervisory Agent recommends modifications of the application which are not accepted by the directors of both institutions, the application shall be submitted by the Principal Supervisory Agent to the Corporation if requested to do so by both institutions. Disapproval of any application shall be made only by the Corporation.

(Sec. 402–405, 48 Stat. 1256–1259, as amended (12 U.S.C. 1725–1728), Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc.75-17671 Filed 7-7-75;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 217]

[Reg. Q]

INTEREST ON DEPOSITS

Requests for Public Comments Concerning Individual Retirement Accounts

The Board of Governors, in conjunction with the other Federal financial regulatory agencies, is considering the appropriateness of amendments to Regulation Q (Interest on Deposits) (12 CFR Part 217) in light of the recently enacted Employee Retirement Income Security Act of 1974 (Pub. L. 93–406) which, in part, provides for the establishment of Individual Retirement Accounts (IRA's). Prior to consideration of specific regulatory proposals, the Board desires to obtain a broad sampling of public opinion on several issues raised by member banks offering IRA plans under the Board's existing regulations.

IRA's, established pursuant to section 408 of the Internal Revenue Code (26 U.S.C. 408), are retirement plans which may be created by persons who otherwise are not participants in existing pension plans. The statute provides that an individual may deduct up to $1,500 or 15 per cent of the compensation includable in his gross income for the taxable year, whichever is less, from his gross income in determining his Federal income tax. In addition, earnings on the contributions to an IRA are not taxable until distributed to the individual. Other provisions of the statute specify when distributions may be made, impose a 10 per cent penalty for premature withdrawal of funds, and establish conditions under which IRA funds may be transferred from one trustee or custodian to another. It is expected that many IRA's will be maintained at banks pursuant to trust or custodial agreements created between banks and individuals.

The Board requests public comments on the following issues relating to IRA's and Regulation Q:

(1) Would existing restrictions of Regulation Q relating to withdrawal of time deposits prior to maturity (12 CFR 217.4) unnecessarily interfere with the distribution of all or a part of the IRA deposit balance when the participant retires or becomes disabled?

The Board's existing regulations state that where a deposit is withdrawn prior to the maturity date of the deposit agreement, interest paid on the amount withdrawn may not exceed the savings rate and, in addition, three months of interest shall be forfeited. Consequently, IRA participants who choose to invest their funds in time deposits with long-term maturities in order to obtain higher rates of interest may incur a substantial interest penalty if these deposit instruments have not matured when the individual reaches retirement age (age 59½ pursuant to the statute) or when the individual becomes disabled and the IRA participant receives payment of all or part of his IRA funds. (A recent amendment to Regulation Q exempts from the interest penalty provision any funds withdrawn prior to maturity in the event of the depositor's death.)

In order to minimize the effect of the Board's existing interest penalty provision upon payout at retirement or disability, the Board wishes to receive comments on whether IRA participants and member banks offering IRA plans should be required to structure the maturities of their deposit agreements so that they come due at intervals coinciding with distribution pursuant to the IRA agreement entered into with the bank. Would such requirements unduly complicate the functioning of IRA's and impose an undue burden on individuals and banks in keeping track of maturing deposits and in planning distribution schedules at retirement such as to discourage participation in IRA offerings?

An alternative available under present regulations would be to invest IRA's into savings deposits or deposits with short-term maturities or notice requirement periods. Under existing rate structures, however, such action could result in a substantially lower overall rate of interest earned on IRA funds than would be possible if instruments with longer-term maturities or notice period requirements were available. Accordingly, the Board is interested in soliciting the views of the public on the question of whether an exception to the early withdrawal provision of Regulation Q is necessary to facilitate distribution of these funds when the individual retires or becomes disabled.

(2) In view of the 10 per cent penalty for early distribution of IRA funds, imposed by the IRA statute, does the existing penalty for withdrawal prior to maturity established by Regulation Q impose an unnecessary deterrent such that an exception to the Board's penalty rule should be considered for all withdrawals of IRA funds regardless of when made?

Title 26 U.S.C. 408 provides that where any distribution from an IRA is made before the individual attains age 59½ or becomes disabled, the participant shall incur a penalty in the amount of 10 per cent of the funds distributed. The Board's present penalty rule is intended to enforce the statutory prohibition against payment of a time deposit before maturity. The Board is interested in comments on whether the 10 per cent penalty on early distribution of IRA funds is sufficient to deter early withdrawal of IRA deposits such that the Board need not require member banks to impose the Regulation Q penalty for early withdrawal when IRA deposits are withdrawn prior to maturity.

(3) In view of the intent of Congress to encourage individuals to save for their retirement and in view of the fact that IRA deposits may remain on deposit at financial institutions for very long periods of time, should the existing schedule of ceiling interest rates that can be paid by banks on IRA deposits be increased and should member banks be permitted to pay interest on IRA deposits at rates that are equal to those that may be paid by savings and loan associations and mutual savings banks? Should these rates be competitive with those offered by insurance companies and mutual funds that also accept IRA funds?

Due to the long-term nature of IRA deposits and due to the effects of compounding, the ¼ per cent interest rate differential that exists between commercial banks and thrift institutions can result in a substantial difference in the amount of interest a participant can earn on his IRA funds. Further, Congress intended that individuals be encouraged to establish IRA's with a view toward accumulating assets sufficient to provide them with funds for their retirement period. Consequently, the higher the rate of interest that may be paid, the greater will be the amount of interest accumulated. In addition, there is the question as to whether the custodial or trustee nature of the IRA agreement places a fiduciary obligation upon the IRA custodian or trustee to place IRA funds only in institutions that may pay the highest rate of interest permitted by law.

(4) The Board is also interested in receiving comments on the effect of longer-term certificates on the stability of sources of funds for member banks and thrift institutions and the consequent insulation from disintermediation during periods of high market interest

rates. The Board requests comments concerning the potential for disintermediation brought about by shifting of IRA funds among investment alternatives by trustees and custodians of IRA deposits and due to "rollover" of IRA's from one trustee or custodian to another.

Generally, trustees and custodians are authorized to place funds in various types of investment. In addition, participants are permitted to "rollover" their IRA funds to another custodian or trustee once in three years without penalty. Accordingly, the Board is interested in obtaining public comments on the potential effects that the opportunity for such changes could have upon financial institutions.

(5) The Board requests comment on the question of the creation of new types of deposit instruments for IRA funds. These instruments might have the following characteristics:

(a) The rate of interest permitted to be paid on the instrument would increase over time such that banks would be permitted to pay higher rates of interest on IRA deposits that remain in the bank for correspondingly longer periods of time;

(b) An IRA participant nearing retirement would be permitted to convert an existing or maturing long-term time deposit to an "IRA Payout Certificate" that would permit the depositor to receive periodic payouts at no or reduced interest penalty in exchange for the customer's commitment to retain his IRA funds on deposit for a specified period of time.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 8, 1975. Such material will be made available for inspection and copying upon request except as provided in 12 CFR 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, June 26, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-17648 Filed 7-7-75;8:45 am]

Nevertheless, for purposes of the administration of Individual Retirement Accounts, the proposed Internal Revenue Service Regulations provide:

> (e) Custodial accounts. For purposes of this section and section 408(a), a custodial account is treated as a trust described in section 408(a) if such account satisfies the requirements of section 408(a) except that it is not a trust and if the assets of such account are held by a bank (as defined in section 401(d)(1) and the regulations thereunder) or such other person who satisfies the requirements of paragraph (b)(2)(ii) of this section. For purposes of this chapter, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account will be treated as the trustee thereof. (Emphasis supplied.)

Proposed Treas. Reg. §1.408-2(e), 40 F.R. 7669 (1975). Accordingly, under the proposed regulations Federal savings and loan associations will have the identical responsibilities as custodians for funds held in Individual Retirement Accounts as they would being trustees for such funds.

You also asked whether the distinction has anything to do with the debate with the Federal Reserve Board over the interest differential on IRA accounts. The nature of the relationship between the institution and the borrower would have no effect on the rate of return on such accounts. See Requests for Public Comments Concerning Individual Retirement Accounts, 40 Fed. Reg. 28644, which makes no distinction between such fiduciaries for purposes of interest rate differentials.

Sincerely,

Charles E. Allen
General Counsel

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

OFFICE OF THE CHAIRMAN

July 24, 1975

Honorable James T. Lynn
Director
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Dear Mr. Lynn:

By enrolled bill request dated July 17, 1975 (received July 18), your Office requested our views and recommendations on S.J.Res. 102, 94th Congress, an enrolled bill "Amending section 5(c) of the Home Owners' Loan Act of 1933 to clarify the authority of Federal savings and loan associations to act as custodians of individual retirement accounts."

The Corporation has no objection to the President's approval of this enrolled bill clarifying the power of Federal savings and loan associations in this regard.

Sincerely,

Frank Wille

Frank Wille
Chairman

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 24 Time: 630pm

FOR ACTION: Tod Hullin
Paul Leach
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 25 Time: 100pm

SUBJECT:

S.J. Res. 102 - To permit Federally chartered savings and loan associations to act as custodians for individual retirement accounts.

ACTION REQUESTED:

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__x__ For Your Comments ____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

OK Paul Leach

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President

7/25

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 24 Time: 630pm

FOR ACTION: Tod Hullin
Paul Leach
Max Friedersdorf
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REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

no objection

7.25.75
10:30 am

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James H. Cavanaugh
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 24 Time: 630pm

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Paul Leach
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__x__ For Your Comments ___ Draft Remarks

REMARKS:

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No objection. -- Ken Lazarus 7/25/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President

Calendar No. 257

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-266

CLARIFYING SEC. 5(c) OF THE HOMEOWNERS' LOAN ACT OF 1933, AS AMENDED

JULY 9 (legislative day, JULY 7), 1975.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany S.J. Res. 102]

The Committee on Banking, Housing and Urban Affairs, having considered the same, reports favorably a Committee Joint Resolution (S.J. Res. 102) and recommends that the joint resolution do pass.

EXPLANATION OF RESOLUTION CLARIFYING SEC. 5(c) OF THE HOMEOWNERS' LOAN ACT OF 1933, AS AMENDED

The resolution would clarify Sec. 5(c) of the Homeowners' Loan Act of 1933 to provide the Federally chartered saving and loan associations may act as custodians for Individual Retirement Accounts (IRA's) authorized pursuant to P.L. 93-406, the Employee Retirement Income Security Act of 1974 (ERISA).

When P.L. 93-406 was under consideration by Congress, a question arose whether Federal savings and loan associations could offer section 408 retirement saving account services, acting as custodians or trustees of funds in those accounts. That legislation was then amended in an effort to cover savings and loan participation in retirement accounts authorized by Sec. 408 of P.L. 93-406.

The Home Loan Bank Board, however, still questioned Federal savings and loan participation in 408 retirement accounts because there was no provision in the Homeowners' Loan Act of 1933, as amended, conferring on Federal savings and loan associations substantive authority to participate in 408 accounts.

Subsequently, Sec. 5(c) of the Homeowners' Loan Act was amended by Sec. 4(d) of P.L. 93-449 (S. 3979), the "Emergency Home Purchase Assistance Act of 1974" to permit Federal savings and loan associations to participate in 408 retirement accounts. The amendment simply

cross-referenced Sec. 5(c) of the HOLA by section number to Sec. 408 (a) of the Internal Revenue Act. The cross reference left no doubt that Federal savings and loan associations could act as trustees of 408 retirement accounts, but left a question whether such associations could act as *custodians* of such accounts.

By letter ruling dated March 13, 1975, (Paragraph U12–97.1, Fed. Associations Comment-Rulings) the General Counsel of the HLBB ruled Federal savings and loan associations could *not* act as custodians of 408 retirement accounts.

The Committee resolution would make it clear that Federal savings and loan associations could act as custodians of Individual Retirement Accounts as well as trustees of such accounts.

The Committee ordered that the Resolution be reported without objection.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Homeowners' Loan Act of 1933, as amended (Public Law 43, 73rd Congress, approved June 13, 1933; 48 Stat., 128, 12 USC 1461 et seq.)

* * * * * * *

Sec. 5(c). (19th Par.)

Trustee of certain stock bonus, pension, or profit-sharing plan trusts. Any such association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under 401(c) [or section 408(a)] of the Internal Revenue Code of 1954, *and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of such code* if the funds of such trust *or account* are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this paragraph.

O

S. J. Res. 102

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

Joint Resolution

Amending section 5(c) of the Home Owners' Loan Act of 1933 to clarify the authority of Federal savings and loan associations to act as custodians of individual retirement accounts.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of the paragraph of section 5(c) of the Home Owners' Loan Act of 1933 which was added by section 708 of the Emergency Home Finance Act of 1970 is amended—

(1) by striking out "or section 408(a)";

(2) by inserting after "1954" the following: "and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code"; and

(3) by inserting "or account" after "such trust".

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

July 18, 1975

Dear Mr. Director:

The following bills were received at the White House on July 18th:

S. J. Res. 102
H. R. 4035
H. R. 5901

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C.