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FOR IMMEDIATE RELEASE October 29, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed H.R. 11221 which provides important new consumer protection in the area of credit and finance.

This legislation would double the basic Federal insurance limits for deposits and savings accounts in insured banks, savings and loan associations, and credit unions from $20,000 to $40,000. This increase will help these financial institutions to attract larger deposits. It will also encourage savers to build up funds for retirement or other purposes in institutions with which they are familiar and which are insured by Federal agencies that have earned their confidence over the years.

H.R. 11221 also contains fair credit billing provisions which will protect consumers against the repeated incorrect billings of computers that sometimes fail to respond to consumer's inquiries. Now creditors must acknowledge customer inquiries within 30 days. Moreover, the creditor must resolve any dispute within 90 days either by correcting the customer's bill or explaining why the original bill is correct. Until these requirements have been met, there can be no dunning letters sent or other action taken to collect amounts in dispute.

Another extremely important provision in this legislation prohibits discrimination on the basis of sex or marital status in the granting or denying of credit. While there has been a voluntary improvement in credit procedures in recent years, women are still too often treated as second-class citizens in the credit world. This legislation officially recognizes the basic principle tha women should have access to credit on the same terms as men.

This bill should also have a beneficial impact on the availability of mortgage credit, since it returns to institutions insured by the Federal Savings and Loan Insurance Corporation well over a billion dollars in insurance premiums not now required by the corporation.

One provision of H.R. 11221 is particularly unfortunate, however, in that it will severely undermine the present method of gathering legitimate views of other executive branch agencies and identifying potential conflicts with other existing legislation in this field. Thus, it could seriously hamper efforts to achieve a coherent Administration legislative program. Therefore, I am asking the Congress to amend the law by deleting section 111. This would preserve the executive branch's ability to develop a coordinated and coherent legislative program.

more

This bill includes a number of provisions which could more appropriately be considered in the framework of a larger, more comprehensive approach to strengthening this country's financial system. As a result I will continue to press hard for Congressional passage of S. 2591, the Financial Institutions Act, which seeks to accomplish such a strengthening through reducing, rather than increasing or perpetuating, the extent of Government control over financial insitutions.

# # # #

93D CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 93-751

PROVIDING FULL DEPOSIT INSURANCE FOR PUBLIC UNITS AND TO INCREASE DEPOSIT INSURANCE FROM $20,000 TO $50,000

JANUARY 21, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PATMAN, from the Committee on Banking and Currency, submitted the following

REPORT

with

ADDITIONAL VIEWS

[To accompany H.R. 11221]

The Committee on Banking and Currency, to whom was referred the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 7, immediately after line 2, insert the following new subsection:

> (d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits;".

DEPOSIT INSURANCE—GENERAL BACKGROUND

The creation of the Federal Deposit Insurance Corporation by the Banking Act of 1933 initially established a deposit insurance limit of $2,500. Title IV of the National Housing Act of 1934 created the Federal Savings and Loan Insurance Corporation with an account

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coverage of $5,000. In 1950, limitations were raised to $10,000. In recent times following periods of extreme monetary tightness referred to as "credit crunch" periods, additional increases in insurance coverage ceilings were enacted. On October 16, 1966, the increase was from $10,000 to $15,000 and on December 23, 1969, the increase was from $15,000 to $20,000, where it stands at present.

Savings and loan associations, mutual savings banks and credit unions experienced a massive outflow of savings, contributing to the present severe shortage of funds available for mortgage lending, during the quarter beginning July 1, 1973. This disintermediation, in large part, was a direct result of regulatory agency action on July 5, subsequently modified, relating to interest rate differentials and permissible ceilings on consumer certificates of deposits. As a consequence, your committee held extended hearings during the month of September on the current credit crisis in an effort to find ways to deal with the immediate critical situation. A number of witnesses urged that consideration be given to increasing deposit insurance making reference to the apparent salutory effect of previous increases following severe disintermediation periods.

The majority of the committee, in reporting this bill, after further extended hearings dealing with the deposit insurance concept, believes that its passage, while not offered as a total solution, will further help relieve the present crisis by providing wider selection, higher yield and greater convenience for public officials who have custody of public funds and will provide a significant incentive for individual depositors to utilize those financial institutions concerned with making available home mortgage funds at reasonable interest rates.

Full Deposit Insurance for Public Units

Section 1 provides for 100 percent coverage for deposits of public funds in the custody of city, county, State, and Federal officials, deposited in insured banks, savings banks, savings and loan associations, and credit unions without regard to the present $20,000 ceiling. Federal regulatory agencies are given the authority to limit the aggregate amount of public funds which can be invested in any one bank, savings and loan institution, mutual savings bank and credit union to insure that financial institutions maintain a proper balance among depositors by not over-subscribing to one or more government deposits.

At the present time, public units generally are required to insure that their deposits are protected by the pledging of municipal or other government obligations. Financial institutions, other than commercial banks, as a result of their financial structure and certain legal limitations, are unable to purchase and pledge sufficient amounts of municipal or other government obligations and therefore are unable to attract the deposits of public units. As a consequence, the more than $30 billion in-State and local funds of necessity are on deposit in commercial banks. The enactment of Section 1 would have the effect of insuring a more even distribution of idle funds among all financial institutions by making it possible for all thrift institutions to attract public funds. These additional financial resources will offset to a

modest degree some of the disintermediation effects of the "rate war" of 1973 which prompted the passage of Public Law 93–123.

The enactment of Section 1 will not impose a hardship on commercial banks nor deprive them of a substantial portion of their Government deposits due to the nature of such accounts. Many of these deposits are held in checking accounts, many are of an exceedingly short term nature with more than several billion dollars in Federal tax and loan accounts.

Your committee, having carefully considered the argument advanced that the elimination of pledging would adversely affect the State and municipal securities markets, believes that such securities are purchased on the basis of yield and quality, not as collateral. Full insurance of public deposits would provide uniformity and convenience and would eliminate the expensive burden of handling collateral. The increased competition that will result with greater participation by savings and loan associations, mutual savings banks, and credit unions will cause more spirited bidding for public time deposits and, hence, greater income to State and local governments, with higher yields and better service.

Increased Ceiling on Deposit Insurance

Sections 2, 3 and 4 provide for an increase from the present $20,000 to $50,000 for accounts in commercial banks, mutual savings banks, savings and loan associations and credit unions respectively. The effects of inflation alone mandate a significant increase in insurance coverage at this time, a fact acknowledged by all witnesses heard by the committee, including representatives of each financial regulatory agency. It is interesting to note in 1969 that the Federal Home Loan Bank in supporting an increase from the then $15,000 ceiling to a $25,000 ceiling wrote "Six years ago in its written report and oral testimony on your (Mr. Patman's) bill, H.R. 5130 of the 88th Congress, the Board favored the increase in this ceiling (then $10,000) to $25,000". Thus, in 1963, the agencies responsible for the actuarial soundness of their respective insurance funds were in favor of a limitation of $25,000.

A substantial increase at this time clearly dictated by current economic conditions will insure 75% of all insured bank deposits and over 95% of savings and loan association deposits with negligible impact on the respective insurance funds. Savings accounts in many instances represent an individual's entire life savings. The increase to $50,000 permits the average saver, often unschooled in investment alternatives to have absolute security. The higher coverage also will provide greater convenience to depositors and will eliminate an inequity between single and married persons. The necessity for a number of accounts in a variety of institutions will be eliminated. The increase will enable federally insured depository institutions of all sizes to compete more effectively for deposits ranging up to the higher insured limit and will help commercial banks, mutual savings banks, savings and loan associations and credit unions of all sizes to sustain their competitive position in the market for savings during periods of high interest rates.

Section-by-Section Explanation of the Committee Bill

Section 1. Full Deposit Insurance

A provision which would provide full deposit insurance with respect to insured banks, savings and loan institutions and credit unions in connection with deposits by Federal, State and local units of government. In each case, however, the appropriate corporation or the administrator in the case of credit unions may limit the aggregate amount of funds that any one public unit could deposit in each depository institution on the basis of size of any such institution in terms of its assets.

Section 2. Deposit Insurance Increase for Commercial Banks and Mutual Savings Banks

A provision which would increase deposit insurance coverage on accounts in commercial banks and mutual savings banks insured by FDIC from $20,000 to $50,000.

Section 3. Deposit Insurance Increase for Savings and Loan Associations

A provision which would increase deposit insurance coverage on accounts in savings and loan associations insured by FSLIC from $20,000 to $50,000.

Section 4. Deposit Insurance Increase for Credit Unions

A provision which would increase deposit insurance coverage on accounts in credit unions.

Cost of Carrying Out the Bill and Committee Vote

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost incurred in carrying out this bill. The Committee believes that existing agencies and staff therein are adequate to carry out the objectives of this legislation.

In compliance with clause 27 of rule XI of the Rules of the House of Representatives, the following statement is made relative to the record vote of the motion to report a bill. A total of 23 votes was cast for reporting, 3 were cast against reporting and a total of 7 abstained.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL DEPOSIT INSURANCE ACT

*   *   *   *   *   *   *

Sec. 3. As used in this Act * * *

*   *   *   *   *   *   *

(m) The term "insured deposit" means the net amount due to any depositor (*other than a depositor referred to in the third sentence of this subsection*) for deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of [$20,000] *$50,000*. Such net amount shall be determined according to such regulations as the Board of Directors may prescribe, and in determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others except trust funds which shall be insured as provided in subsection (i) of section 7. Each officer, employee, or agent of the United States, of any State of the United States, of the District of Columbia, of any Territory of the United States, of Puerto Rico, of Guam, of American Samoa, or of the Virgin Islands, of any county, of any municipality, or of any political subdivision thereof, herein called "public unit," having official custody of public funds and lawfully depositing the same in an insured bank, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. For the purpose of clarifying and defining the insurance coverage under this subsection and subsection (i) of section 1, the Corporation is authorized to define, with such classifications and exceptions as it may prescribe, terms used in those subsections, in subsection (p) of section 3, and in subsections (a) and (i) of section 11 and the extent of the insurance coverage resulting therefrom.

*   *   *   *   *   *   *

Sec. 7. (a)(1) * * *

*   *   *   *   *   *   *

(i) [Trust] *Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust* funds held by an insured bank in a fiduciary capacity whether held in its trust department or held or deposited in any other department of the fiduciary bank shall be insured in an amount not to exceed [$20,000] *$50,000* for each trust estate, and when deposited by the fiduciary bank in another insured bank such trust funds shall be similarly insured to the fiduciary bank according to the trust estates represented. Notwithstanding any other provision of this Act, such insurance shall be separate from and additional to that covering other deposits of the owners of such trust funds or the beneficiaries of such trust estates. The Board of Directors shall have power by regulation to prescribe the manner of reporting and of depositing such trust funds.

Sec. 11. (a)(*1*) The Temporary Federal Deposit Insurance Fund and the Fund For Mutuals heretofore created pursuant to the provisions of section 12B of the Federal Reserve Act, as amended, are hereby consolidated into a Permanent Insurance Fund for insuring deposits, and the assets therein shall be held by the Corporation for the uses and purposes of the Corporation: *Provided*, That the obligations to and rights of the Corporation, depositors, banks, and other persons arising out of any event or transaction prior to the effective date (September 21, 1950) of this amendment shall remain unimpaired. On and after August 23, 1935, the Corporation shall insure

the deposits of all insured banks as provided in this Act: *Provided, further*, That the insurance shall apply only to deposits of insured banks which have been made available since March 10, 1933, for withdrawal in the usual course of the banking business: *Provided further*, That if any insured bank shall, without the consent of the Corporation, release or modify restrictions on or deferments of deposits which had not been made available for withdrawal in the usual course of the banking business on or before August 23, 1935, such deposits shall not be insured. [The] *Except as provided in paragraph (2)*, the maximum amount of the insured deposit of any depositor shall be [$20,000] *$50,000.*

(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured bank;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured bank in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured bank in the District of Columbia; or

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured for the full aggregate amount of such deposit.

(B) The Corporation may limit the aggregate amount of funds that may be deposited in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets.

* * * * * * *

(i) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the board of directors of the Corporation who shall be subject to its directions. In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations. The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed [$20,000] *$50,000* from any depositor. The new bank, without application to or approval by the Corporation, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank. Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States, or in obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, with a Federal Reserve bank, or, to the extent of the insurance coverage thereon, with an insured bank. The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact no business except that authorized by this Act and as may be incidental to its organization. Notwithstanding any other provision of law the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

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TITLE IV OF THE NATIONAL HOUSING ACT

TITLE IV—INSURANCE OF SAVINGS AND LOAN ACCOUNTS

DEFINITIONS

SEC. 401. As used in this title—

(a) The term "insured institution" means an institution whose accounts are insured under this title.

(b) The term "insured member" means an individual, partnership, association, or corporation which holds an insured account. Each officer, employee, or agent of the United States, of any State of the United States, of the District of Columbia, of any Territory of the United States, of Puerto Rico, of the Virgin Islands, of any county, of any municipality, or of any political subdivision thereof, herein called "public unit", having official custody of public funds and lawfully investing the same in an insured institution shall, for the purpose of determining the amount of the insured account, be deemed an insured member in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully investing the same in the same insured institution in custodial capacity. [Funds] *Except in the case of an insured member referred to in the preceeding sentence, funds* held in fiduciary capacity, when invested in an insured institution, shall be insured in an amount not to exceed [$20,000] *$50,000* for each trust estate, and notwithstanding any other provisions of this Act, such insurance shall be separate from and additional to that covering other investments by the owners of such trust funds or the beneficiaries of such trust estates. Notwithstanding any other provision of law, two persons who are husband and wife shall have, with respect to accounts in an insured institution which are community property of such husband and wife and to the extent that such accounts are community property, not to exceed [$20,000] *$50,000* of insurance with respect to

such an account or accounts in the sole name of the husband, not to exceed [$20,000] *$50,000* of insurance with respect to such an account or accounts in the sole name of the wife, and not to exceed [$20,000] *$50,000* of insurance with respect to such an account or accounts in the sole name of both: Provided, That in no event shall this sentence increase to an amount which is greater than the total of the amounts hereinbefore set forth in this sentence the aggregate of the insurance which such husband and wife may have under this title with respect to (1) any account or accounts in such institution in the sole name of either of them or in the sole names of both, and (2) any other account or accounts in such institution to the extent that such other account or accounts would, in the absence of this sentence, be required to be included in determining the amount of the individual insurance of such husband or of such wife under subsection (a) of section 405.

* * * * * * *

PAYMENT OF INSURANCE

SEC. 405. (a) Each institution whose application for insurance under this title is approved by the Corporation shall be entitled to insurance up to the full withdrawal or repurchasable value of the accounts of each of its members and investors (including individuals, partnerships, associations, and corporations) holding withdrawable or repurchasable shares, investment certificates, or deposits, in such institution; except that no member or investor (*other than a member or investor referred to in subsection (d)*) of any such institution, shall be insured for an aggregate amount in excess of [$20,000] *$50,000*. For the purpose of clarifying and defining the insurance coverage under this subsection and subsection (b) of section 401, the Corporation is authorized to define, with such classifications and exceptions as it may prescribe, terms used in those subsections and in subsection (c) of section 401 and the extent of the insurance coverage resulting therefrom.

* * * * * * *

(d)(1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico or the Virgin Islands, respectively;

the account of such insured member shall be insured for the full aggregate amount of such account.

(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets.

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FEDERAL CREDIT UNION ACT

* * * * * * *

POWERS

SEC. 107. A Federal credit union shall have succession in its corporate name during its existence and shall have power—

(1) * * *

* * * * * * *

(7) to receive from its members or other federally insured credit unions payments on shares, share certificates, or share deposits, and, in the case of credit unions serving predominantly low-income members (as defined by the Administrator), to receive payments on shares, share certificates, or share deposits from nonmembers; *and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits;*

* * * * * * *

PAYMENT OF INSURANCE

SEC. 207. (a)(1) * * *

* * * * * * *

(c)(1) Whenever an insured credit union shall have been closed for liquidation on account of bankruptcy or insolvency, payment of the insured accounts in such credit union shall be made by the Administrator as soon as possible, subject to the provisions of subsection (d) of this section. [For] *Subject to the provisions of paragraph (2), for* the purposes of this subsection, the term "insured account" means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of [$20,000] *$50,000*. Such amount shall be determined according to such regulations as the Administrator may prescribe, and, in determining the amount due to any member, there shall be added together all accounts in the credit union maintained by him for his own benefit either in his own name or in the names of others. The Administrator may define, with such classification and exceptions as he may prescribe, the extent of the insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy. The Administrator, in his discretion, may require proof of claims to

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be filed before paying the insured accounts, and in any case where he is not satisfied as to the validity of a claim for an insured account, he may require the final determination of a court of competent jurisdiction before paying such claim.

(2) (A) *Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—*

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the District of Columbia; or

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any Territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively;

his account shall be insured for the full aggregate amount of such account.

(B) The Administrator may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in accordance with this title by any depositor or member referred to in subparagraph (A) on the basis of the size of any such credit union in terms of its assets.

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ADDITIONAL VIEWS OF RICHARD T. HANNA

I want to clarify for my colleagues in the House, the reason for my opposition to the passage of H.R. 11221. I voted against reporting the bill from the Committee on Banking and Currency primarily because I felt that the measure was ill-timed and held out a real danger of the House sacrificing to the other body its opportunity to study and influence several very fundamental issues affecting the nation's financial institutions.

It is my opinion that the timing of this effort in the Committee was most inappropriate. Coming at the tailend of a session as it does its future is highly suspect. Furthermore, it seems to me that this question of 100% insurance of public funds should be taken up in the larger context of the financial institutions reform which everyone in the industry agrees should take place. The Administration and

Members of Congress have in different ways let it be known that a general review and reform seems in order. Were the limited bill before us to be enacted, it would prejudice the considerations of the larger issues next year.

In addition to the timing-problem, I foresaw the very real danger that if the House were to pass the bill (a dubious proposition given a divided committee), it would not be treated by the Senate as an isolated matter but would become the vehicle for a myriad of add-ons. The track record of FHA extension bills ought to make that lesson clear to us all. In this regard, I was afraid that larger issues would be acted upon in the Conference Committee without the full House Committee having an opportunity for a constructive input.

ADDITIONAL VIEWS TO H.R. 11221

While we are in general agreement with the intended goals of this bill, we believe that the proposed increase in the deposit insurance on individual accounts from $20,000 to $50,000, a jump of 150%, is excessive. It is our intention to support a Floor amendment to reduce the insured maximum provided by this legislation from the $50,000 recommended in the Committee bill to a more reasonable figure of $30,000 or $35,000.

Proponents of the $50,000 maximum have claimed that it is necessary in order to respond to inflation and the shortage of home mortgage funds. This simply is not the case. There is little evidence to support the theory that the major increases in savings accounts will be in thrift institutions, due to the attraction of the differential in interest rates, thereby giving a boost to the home mortgage market. In reality, there is no way in which to predict with any accuracy the projected trends in the increases in types of accounts. The ultimate result could well be a concentration of assets in certain institutions, rather than merely a shift of funds from commercial banks to mutual savings banks and savings and loan associations. The last increase in 1969 was in the magnitude of 33% (from $15,000 to the present $20,000). Surely it cannot be claimed, even in the midst of an economic stabilization program and after two dollar devaluations, that an increase of 150% is a reasonable or necessary figure.

Under present law, a family of four (i.e., a husband and wife with two children) through a combination of accounts can have insured coverage up to $280,000 in a single institution; and there is no limitation on the number of institutions where this can be duplicated. There aren't very many families with $280,000, let alone the $700,000 that would be covered if the maximum insured amount were raised to $50,000 per account. Using the same family of four as an example, if the maximum insured coverage were raised to $30,000 or $35,000, such as we endorse, the amount insurable in a single institution through this same combination of accounts would jump to $420,000 or $490,000 respectively.[1] This would certainly seem to be ample even for the most affluent.

Both Chairman Wille of the Federal Deposit Insurance Corporation, which insures commercial banks and mutual savings banks, and Chairman Bomar of the Federal Home Loan Bank Board, which administers the insurance of savings and loan associations by the Fed-

[1] Insured accounts for a family of 4 in a single institution:
1. Four single accounts: Husband, wife, son, daughter.
2. Four joint accounts: Husband and wife, husband and son, wife and daughter, son and daughter. (In the case of a joint account, combined liability for a single person cannot exceed $20,000 limitation and still be insured.)
3. Six accounts in trust: Husband in trust for son, husband in trust for daughter, wife in trust for son, wife in trust for daughter, husband in trust for wife, wife in trust for husband.

eral Savings and Loan Insurance Corporation, expressed their preference for an increase to a figure of $30,000 or $35,000. Both Chairmen agreed that the issue of inflation was not sufficient to justify the proposed increase to $50,000.

The effect of the added exposure to the insurance funds if an increase to $50,000 were approved cannot be overlooked. In commercial banks for example, nearly an additional 10% of all deposits would become covered (increasing from 60.9% to 69.3%); and the ratio of the insurance fund to insured deposits would drop from 1.28% to 1.13%; and as much as $10 billion would be added to the liability of the FSLIC by the full increase. These figures are approximately *double* the increase in exposure that would be afforded by our proposal of raising the maximum to $30,000.

Added to this huge leap in the potential liabilities of the insurance funds is the concern that the change in emphasis from the protection of the depositor to the protection of the banker portends a new and unsuitable role for the insurers. Witnesses from the financial community presented with great forcefulness the position that the present system of deposit insurance provides an incentive to the management of these financial institutions to operate under sound practices in order to attract depositors with large accounts. The maintenance of this incentive would be poorly served by letting the bankers off the hook of responsibility, by assuming the liability for the integrity of these large accounts.

Overall, we feel that it is necessary to bring to the attention of our colleagues the fact that an increase in deposit insurance on individual accounts is timely; but that it should be made in an amount which is identifiable in terms of the changes in the worth of the account. To go beyond this point at this time would be a mistake, since there is no way to predict accurately the dislocations which could occur in the pattern of accounts in the various types of depository institutions.

Later this year, the Banking and Currency Committee will undoubtedly be taking up the subject of the reform and restructuring of the nation's financial institutions. At that time, there will be an opportunity to review and evaluate the effects of this legislation and to determine whether further increases in the insurance of individual accounts is warranted. At this time, however, an increase beyond $30,000 or even $35,000 exceeds reasonable needs and enters the realm of affecting the balances among the various types of financial institutions, a step which should only be taken with sufficient knowledge of what these effects will be.

We ask our colleagues to join us in amending this bill to provide an increase in the insurance on individual accounts to $30,000, or possibly $35,000, but an amount which generously provides for the inflation which has taken place since 1969 as well as a margin of safety for the savers who place their money in these federally-insured institutions.

JOHN H. ROUSSELOT.
PHILIP M. CRANE.

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Calendar No. 874

93D CONGRESS
2d Session

SENATE

REPORT
No. 93-902

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1974

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 11221

TOGETHER WITH

ADDITIONAL VIEWS

JUNE 4, 1974.—Ordered to be printed

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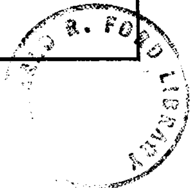

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REPORT
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DEPOSITORY INSTITUTIONS AMENDMENTS OF 1974

JUNE 4, 1974.—Ordered to be printed

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

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 11221]

The Committee on Banking, Housing and Urban Affairs, to which was referred the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000 having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

HISTORY OF LEGISLATION

The Subcommittee on Financial Institutions held hearings on March 19–21 on three bills: H.R. 11221 as passed by the House, Title I of S. 2735, and S. 2640. These three bill contain provisions providing for an increase in Federal deposit insurance from its present limit of $20,000 to $50,000 and would also have provided for full deposit insurance on government funds deposited in Federally-insured institutions.

The Subcommittee on April 8–10 also held hearings on two bills, S. 3132 and S. 3224, providing among other matters for the conversion of mutual savings and loan associations to stock form of ownership.

During hearings held on S. 2591, the Financial Institutions Act of 1973, during the week of May 13–17, the Subcommittee considered in conjunction with those hearings S. 3266, a bill to establish a National Commission on Electronic Funds Transfers.

During the Subcommittee's legislative consideration of the various proposals before it, the individual bills were consolidated into a Committee print that after Full Committee action was incorporated as an amendment into the House-passed bill, H.R. 11221.

The Committee, after deliberation, agreed by a majority to report the bill as amended to the Senate.

FEDERAL DEPOSIT INSURANCE

Sections 101, 102, and 103 of the bill would increase Federal deposit insurance from the present maximum of $20,000 to $25,000. Three federal agencies, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration, each of which administer separate deposit insurance funds are involved. The effective date for the insurance increase as provided in the bill would be 60 days after enactment.

Throughout the history of Federal deposit insurance, most increases in the insurance level have been in the amount of $5,000. The Committee believes in view of the fact that the last increase was in 1969 that a further increase is necessary at this time in order to compensate for the effect inflation has had during the last five years.

A further reason for an increase in Federal deposit insurance at this time is the belief on the Subcommittee's part that a Federal deposit insurance increase would have a positive impact on encouraging citizens to increase their savings.

Given the present economic conditions in the country, Federal actions that would encourage additional savings would in the Committee's opinion provide an additional stabilizing influence.

CHANGE IN NAME OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Section 104 of the bill would amend the National Housing Act to change the name of the Federal Savings and Loan Insurance Corporation to the Federal Savings Insurance Corporation.

The Committee took this action in view of the fact that the Federal Savings and Loan Insurance Corporation only insures savings accounts and not loans.

The proposal has been made on numerous occasions that this action be taken so as not to mislead individuals with respect to Federal deposit insurance.

CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS FROM MUTUAL TO STOCK FORM OF OWNERSHIP

Section 105 is designed to provide for a test program for conversion of mutual savings and loan associations to stock savings and loan associations. The thrust of this section is to allow for at least 30 experimental test cases for the period prior to June 30, 1976. The moratorium on conversions other than the test cases is continued for 2 years until June 30, 1976.

Section 105(a) provides that the term "reserves" shall include capital stock and other items as defined by the corporation in order to facilitate the creation of a Federal *stock* savings and loan. Currently all Federal savings and loan associations must be of mutual ownership and hence there has been no need for the term "reserves" to encompass capital stock since mutual institutions do not have capital stock.

Section 105(b) and (c) transfer the responsibility for regulation of securities issued by institutions insured by the Federal Savings and Loan Insurance Corporation from the Securities and Exchange Commission to the Federal Home Loan Bank Board. At the present time, the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency have this responsibility for their respective institutions.

Section 105 (a) provides for a 2-year continuation of the moratorium on conversions except for a limited number of test cases. Those test cases may include: (a) those institutions that had submitted an application and in certain instances had given written notice to its account holders prior to May 22, 1973; (b) a total of not more than 23 applications from the 22 states [1] that currently provide for conversions; and (c) a number of conversions from states which enact legislation authorizing such conversions to take place subsequent to May 22, 1974 with the total number of converting institutions from any such state not to exceed 1% of the number of insured institutions in that state or 1 institution, whichever is greater. (The Committee intends that this 1% figure be interpreted by the Board to be rounded to the nearest whole number of potential conversions allowable in administering this provision.) The Committee's reason for including this provision in subsection (d)(3) is to make sure that institutions in states that subsequent to enactment of this provision permit conversions to take place would be given an opportunity to participate in the conversion experiment. The Committee understands that there are at least two states that are presently taking action to permit conversions. The State of Florida has acted on legislation that would provide for conversions commencing January 1, 1975, and the State of New Jersey is presently considering the adoption of conversion legislation. This provision would provide the opportunity for institutions located in such states as New Jersey and Florida also to be able to convert on an experimental basis.

The Committee recognizes that the problems inherent in the conversion from a mutual form of organization to a stock form are substantial. The Committee, however, believes that there are practical limits to the extent of theoretical study of he problem without actual experience. The Committee does not think it appropriate to open the flood gates of conversion nor does it think it appropriate to continue to prohibit any and all conversions. The Committee, therefore, has taken the position that a limited number of conversions in a controlled atmosphere appears to be the most appropriate way to learn as much as possible about the problems of conversions and the techniques available to deal with such problems.

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[1] The Committee understands that these states are: Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Kansas, Michigan, Mississippi, Montana, Nevada, New Mexico, Ohio, Oregon, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

The Committee expects the Federal Home Loan Bank Board to pursue these conversion cases in such a framework so as to provide the most useful information possible with respect to conversions. In issuing regulations and in accepting applications the Committee also expects the Board to be as innovative and experimental as is consistent with constitutional due process requirements and property rights. Furthermore, consistent with these rights, the Committee expects the Board to adopt a flexible approach in the manner in which conversions are approved. The Committee bill does not require any conversions to take place, but only authorizes a limited number of test cases which may be approved by the Federal Home Loan Bank Board based on the merits of each application.

During hearings on this topic and in the markup sessions, the Subcommittee and Committee discussed the various known techniques by which mutual associations could convert from their mutual form to a stock form. The techniques generally seemed to fall within 4 categories:

1. A free distribution of stock equivalent to the value of the reserves to the depositors or shareholders of the institution;
2. Sale of stock to its depositors and general public equal to the estimated market value of the reserves with the proceeds going to the new corporation;
3. Donation of the accumulated reserves or market value of the institution to a public trust; and
4. A combination of the above methods.

Rather than specifying the various methods under which the Board could allow conversion, the Committee has provided the Board with the flexibility to structure its own approaches. But the Committee expects the Board to experiment and encourage innovative approaches so as to obtain the most comprehensive experience consistent with constitutional rights not only of the converting institution but also of other institutions affected by such conversion. [The Committee does not wish any method to be precluded from consideration to applications regardless of their conversion plan. This is not to mean that the Committee condones an unjust enrichment by any individual from conversion.] It expects the Board to make every effort to provide equity for all concerned while avoiding the potential hazards of unjust enrichment through possible "inside" manipulation or "outside" raiding.

The Committee expects the Board to evaluate the various conversion applications not only for their equity with respect to the distribution of reserves, but also for the purpose of taking into consideration the need to achieve via these test cases the greatest practical experience possible. In order for Congress to benefit by the limited experiment the Committee believes that the Board, in approving plans of conversion, should attempt to achieve the following: (1) as much geographical dispersion as possible; (2) an equitable distribution with respect to the sizes of the converting institutions; (3) an appropriate distribution between the State chartered and Federally chartered institutions authorized to convert; (4) flexibility to the extent possible in the manner in which institutions are allowed to convert; (5) the most efficient method for attracting additional capital for institutions in dire need for such capital; and (6) conversion procedures which are best suited to the characteristics of the particular converting institutions during this experimental period; and (7) a form of conversion providing maximum protection to the depositors.

In this regard, the Committee believes that the Bank Board should give priority treatment to approving or disapproving conversion applications of the associations submitting applications prior to May 22, 1973, the date Congress adopted the statutory moratorium now in existence. [These associations offer Congress a further opportunity to examine what occurs when savings and loan associations are allowed to convert under a free distribution procedure.] The Board's early consideration of those applications is appropriate in view of certain actions taken by those associations prior to May 22, 1973; the effective date of the present statutory moratorium.

Under the language adopted by the Committee, those associations which (1) had submitted applications with the Board prior to May 22, 1973, and (2) had given either written public notice to their account holders or obtained waiver forms from substantially all of its new account holders that such a plan of conversion had been adopted, would be permitted to convert under a procedure which allows for the free distribution of stock to its depositors. It is the Committee's understanding that there are at least three association which may so qualify. They are: First Federal Savings and Loan Association of Phoenix, Arizona; Prudential Federal Savings of Salt Lake City, Utah; and Tucson Federal Savings and Loan Association of Tucson, Arizona.

Each of these associations would be allowed to convert under the free distribution procedure. These associations had taken certain public actions, provided for in this section, regarding plans of conversion adopted by them and submitted to the Board prior to May 22, 1973. These public actions have given rise to reliance and expectations on the part of the account holders of those associations, and the Committee does not believe it is appropriate for the Congress to frustrate these expectations.

These plans of conversion were submitted to the Board at a time when the Board's regulations required conversions to occur on a free distribution basis. When the Congress adopted the statutory moratorium provisions last year, it provided therein for a shorter moratorium to be applicable to the associations submitting applications prior to May 22, 1973. This shorter moratorium expired on December 31, 1973, and it was anticipated that these applications would be processed shortly thereafter. The Board, however had altered its regulations to require conversions to occur on the basis of the priority sale of stock to eligible account holders and the establishment of a liquidation account. In view of these circumstances, the Committee believes that it would be appropriate to allow these associations to convert in accordance with plans of conversion intended to be in compliance with the regulations in effect when their applications were submitted for filing.

The other associations which the Committee understands had submitted applications prior to May 22, 1973, would also be allowed to convert under the language adopted by the Committee. The Committee understands that these associations are: Capital Savings and Loan Associations, Olympia, Washington; Franklin Savings Association, Austin, Texas; Standard Savings Association, Houston, Texas; and Sweetwater Savings Association, Sweetwater, Texas.

It was the Committee's understanding that these associations wished to convert under the Board's new regulations. However, it is not the Committee's intention to restrain the Board from allowing those associations to convert under any modified plan which would be appropriate in their case. Indeed, in their instance, as in the case of the other 23 "test conversions" in the 22 states which now allow stock charters, and the other test conversions as provided for in this section of the bill, the Committee encourages the Board to be as flexible and innovative as possible in allowing those associations to convert under procedures which are appropriate to their particular situation.

The Committee expects the Board to evaluate continuously and report to Congress on a periodic basis the successes of the various conversions undertaken and submit a final report to the Committee prior to the expiration of the moratorium, June 30, 1976.

MORATORIUM ON CONVERSION OF FEDERAL DEPOSIT INSURANCE CORPORATION INSURED INSTITUTIONS

Sec. 106 of the bill would amend the Federal Deposit Insurance Act to provide that until June 30, 1976, Federal regulatory agencies shall not grant approval of any application or proposal from an insured bank which has the practical effect of permitting a conversion from mutual to stock form of organization.

This section, however, grants authority to the responsible Federal agencies to allow an organizational change to take place if the responsible agency finds that this action is necessary in order to protect the safety, soundness, and stability of the insured bank.

The purpose for this section is to provide a brief moratorium on the conversion of mutual savings banks to commercial banks. The Committee is presently considering legislation that would substantially alter the present structure and regulation of financial institutions.

One of the provisions in the proposal would provide for Federal chartering of mutual savings banks. The Committee is of the opinion that the establishment of this moratorium for mutual savings banks is consistent with the action taken with regard to conversion of savings and loan associations from mutual to stock form.

EXTENSION OF FLEXIBLE REGULATION OF INTEREST RATES AUTHORITY

Section 107 of the bill extends for one year, until December 31, 1975, the authority of the financial regulatory agencies to set flexible interest or dividend rate maximums on time or savings deposits of depository institutions.

On six different occasions Congress has extended this authority for varying and consecutive periods of time and unless further extended this authority would expire on December 31, 1974.

The original basis for enacting flexible rate control authority was a finding by Congress that interest rate competition was putting an enormous upward pressure on savings rates paid by thrift institutions beyond their ability to pay such rates. Through this rate control authority the Federal agencies have established interest rate differentials between commerical banks and competing thrift institutions. The Committee in examining this question resolved that a one year extension of this authority is appropriate.

Section 107(b) amends the Federal interest and dividend rate authority to provide that Federal supervisory agencies shall give consideration to existing market interest rates in establishing ceilings to assure consumer savers that they receive a fair and appropriate rate of interest on their funds. The Committee believes that in our present economic climate that unreasonably low interest rate ceilings could be counter-productive in that savers would remove their funds from financial institutions covered under Federal interest rate ceilings to other investments bringing a higher rate of return. If this situation continues to develop, it could well be that the existence of Federal interest rate controls rather than discouraging disintermediation, i.e., shifts of funds among various institutions, would actually become a primary cause of such activity.

The Committee notes, however, that the consideration given to existing market rates by the Federal agencies should be balanced with the recognition of the benefit afforded to consumer savers by Federal deposit insurance. Investments made on the open market are subject to a greater degree of risk than deposits made by savers in institutions offering Federal deposit insurance.

This subsection is not intended to alter the existing practice of regulatory authorities to establish rate ceilings consistent with the ability of thrift institutions to pay such rates in recognition of the relatively lower yield of their investment portfolio containing largely residential mortgages as required by law.

This subsection also makes it clear that Federal supervisory agencies administering interest rate authority are not precluded from establishing different rate ceilings for the institutions subject to their jurisdiction. Since the passage of flexible interest rate authority in 1966, there has been an historical differential on savings rates whereby the thrift institutions are allowed to offer a higher interest rate than commercial banks. This has been necessary to keep in balance the relative competitive advantage that commercial banks have over thrift institutions with respect to their investment portfolio. Thrift institutions are limited by law to the relatively lower yielding residential mortgage investments and thus have much more restrictive limitations on the rate payable on savings than a commercial bank. Until such time that adjustments can be made in the structure of financial institutions, which is now under consideration by the Committee, a continuing interest rate differential may be necessary.

The Committee does not intend that the amending language be interpreted to alter this historical rate differential beween different type institutions.

INCREASE DOLLAR LIMITATION ON THE COST FOR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

Sec. 108 of the bill increases by $80 million, from $60 million to $140 million, the amount of money which may be spent by the Federal Reserve System to construct buildings for branches of the Federal Re-

serve banks. Sec. 10 of the Federal Reserve Act, as presently written, in effect imposes a $60 million limit on the construction of buildings for branches of the Federal Reserve banks. The existing authorization is virtually exhausted, and new buildings are needed to permit the Reserve banks to perform their functions efficiently.

Federal Reserve branches perform functions important to the banking system and to the public, including particularly handling cash and checks. The use of branches by the Federal Reserve banks saves time and money in transporting cash and checks in addition to speeding up the operations of the commercial banking system.

As the economy grows, the workload of the Reserve banks also expands. While technological improvements in the method of handling many Federal Reserve Operations have helped to stem the need for addtional space, increases in the volume of operations have more than offset the savings. Some idea of the growth in the workload of Reserve bank branches is indicated by the volume increases in the following activities from 1968 through 1973:

Currency operations.—Increased by 20 percent.

Coin operations.—Increased by 19 percent.

Check collections.—Increased by 40 percent.

The statutory limit on branch building construction applies to the cost of the building proper—that is, the cost of constructing, purchasing, or adding to buildings—but not to the cost of land, vaults, permanent equipment, furnishings, or fixtures. Branch building programs are subject to approval by the Board of Governors in Washington.

Based on current estimates, the increase in authorization of $80 million will allow for construction needed through 1977. The following is a tabulation of the estimated building proper costs of Federal Reserve branch building construction contemplated:

Federal Reserve bank branch:	*Cost*
Baltimore	$24, 000, 000
Charlotte	15, 000, 000
Omaha	14, 000, 000
Los Angeles	26, 000, 000
Total	79, 000, 000

Appropriated funds are not used in constructing Federal Reserve buildings; the cost of construction is amortized out of the earnings of the Federal Reserve banks over a period of years.

PURCHASE OF U.S. OBLIGATIONS BY FEDERAL RESERVE BANKS

Sec. 109 of the bill would renew, until October 31, 1975, the authority of Federal Reserve banks to purchase directly from the Treasury public debt obligations up to a limit of $5 billion outstanding at any one time. The direct purchase authority is a temporary accommodation to be used only under unusual circumstances.

The authority for Federal Reserve banks to make direct purchase of U.S. obligations was enacted in World War II and has been extended temporarily from time to time since enactment. The last ex-

tension (P.L. 93–93, approved August 14, 1973) extended the authority from June 30, 1973 to October 31, 1973. Thus, at present there is no authority for such direct purchases by Federal Reserve banks.

The Committee has been informed by the Treasury that this authority is a needed and useful tool to have under certain circumstances.

The authority has been used in recent years only in periods just prior to tax payment dates. Its existence permits the Department to operate with considerably lower cash balances than would otherwise be required. The availability of the direct purchase authority is also important as a standby means of providing a ready source of funds in the event of a disruption in the private financial markets due to a serious national emergency or a nuclear attack on the United States. This section of the bill, therefore, reinstates the authority of the banks to make such purchases until October 31, 1975,

The following chart indicates the number of times the Treasury has used the direct purchasing authority. As will be noted, this direct borrowing system has been used only 38 times since 1942.

DIRECT BORROWING FROM FEDERAL RESERVE BANKS, 1942 TO DATE

	Days used	Maximum amount at any time (millions)	Number of separate times used	Maximum number of days used at any one time
Calendar year:				
1942	19	$422	4	6
1943	48	1, 320	4	28
1944	None			
1945	9	484	2	7
1946	None			
1947	None			
1948	None			
1949	2	220	1	2
1950	2	180	2	1
1951	4	320	2	2
1952	30	811	4	9
1953	29	1, 172	2	20
1954	15	424	2	13
1955	None			
1956	None			
1957	None			
1958	2	207	1	2
1959	None			
1960	None			
1961	None			
1962	None			
1963	None			
1964	None			
1965	None			
1966	3	169	1	3
1967	7	153	3	3
1968	8	596	3	6
1969	21	1, 102	2	12
1970	None			
1971	9	610	1	9
1972	1	38	1	1
1973 [1]	10	485	3	6

[1] Through Sept. 30, 1973.

The Committee believes that the temporary authority granted to the Federal Reserve banks to purchase directly U.S. obligations is important as a standby means of providing a ready source of funds to the Federal Government.

EXTENSION OF SUPERVISORY AUTHORITY OVER BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES TO PARENT COMPANY AND SUBSIDIARIES

Sections 110 and 111 of the bill would amend existing law to provide the Federal Reserve Board and the Federal Home Loan Bank Board with additional authority by expanding the scope of cease and desist powers of these agencies to cover parent holding companies and for non-banking subsidiaries.

These sections would not alter present procedures or standards but would simply extend existing cease and desist provisions to remedy a supervisory deficiency.

Under present law, the only available means of dealing with unsafe and unsound practices or violations on the part of a parent holding company is through the sanctions contained in criminal law.

The Committee was informed by the Federal Reserve Board and the Federal Home Loan Bank Board of situations where the actions of a parent holding company or its non-financial institutions subsidiaries constituted a serious threat to the safety, soundness, or stability of a subsidiary financial institution.

The present cease and desist procedure continued in existing law enables the Federal supervisory agencies to move quickly and effectively to correct unsound or illegal practices by financial institutions and the extension of this authority will better equip the agencies to assure that financial institutions are not endangered with respect to activities engaged in by parent holding companies or for non-financial institution subsidiaries.

The Committee believes that the principal concern of the Federal supervisory agencies in discharging their responsibilities under the Federal law should be with the soundness of affiliated financial institutions. It is clearly in the public interest that these institutions remain sound and viable whether operated independently or as part of a holding company system. The cease and desist authority that the Committee recommends will, among other things, help prevent or terminate practices which might result in significant damage to depositors or to public confidence in the financial system. However, the Committee expects that the agencies will not use this authority to interfere unduly in the affairs of nonbank subsidiaries.

INDEPENDENCE OF REGULATORY AGENCIES

Section 112 applies to the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Unit Administration. It would clarify existing law by providing that no government official may require any of these agencies to submit for prior review or approval their legislative recommendations, testimony or comments to the Congress. Similar provisions have already been enacted into law with respect to the Consumer Product Safety Commission. To ensure that there is no misunderstanding, Section 112 requires that the agency include in its recommendations or testimony a statement indicating that the views expressed are those of the agency and do not necessarily represent those of the President.

The purpose of this section is to preserve and strengthen the independence of these agencies, which were originally created by the Congress to be free of control by the executive branch. In some cases, agency officials have felt that before testifying to the Congress, they must clear their testimony with the Office of Management and Budget. This section is designed to correct that misimpression. In so doing, it should not be inferred that the Committee believes the financial regulatory agencies are required by existing law to clear their congressional testimony with the Office of Management and Budget. The Federal Reserve Board has been especially independent of the executive branch and the Committee, in recommending the adoption of Section 112, is simply restating and clarifying the independence of the financial regulatory agencies implied under existing law.

Because Congress delegated its own legislative power to these independent agencies, it is important to prevent executive usurpation of their powers. If these agencies are to be effective in their vital role of preserving the integrity of our financial institutions, it is essential that each of their administrators must be capable of informing Congress exactly what he and his agency believe to be the facts about the matter before it. The public interest will be far better served if legislative recommendations and comments are presented directly to the Congress, without regard to whether they conform to the official Administration position. Of course, nothing in the amendment would prevent the Administration from making its views known to the Congress. Thus the Congress would have the benefit of the Administration's judgment as well as the judgment of the independent financial regulatory agencies.

INCREASE IN AUTHORITY OF THE TREASURY TO PURCHASE HOME LOAN BANK OBLIGATIONS

Section 113 of the bill would increase by $3 billion the authority of the Secretary of the Treasury the discretionary authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations.

In 1950 the Congress authorized the Secretary of the Treasury, in his discretion, to purchase obligations of the Federal Home Loan Banks, up to $1,000,000,000 as an aggregate amount to be outstanding at any one time. The Senate report on this action noted that it would aid the housing markets by providing "Government support to the Federal home loan banks in supply the credit needs of their members in any possible future emergency in which the banks could not obtain sufficient funds in the private money market." The Senate report also stated: "In addition, it is believed that the very existence of this Government support would, under less favorable economic conditions, tend to stabilize the Federal Home Loan Bank System even though the support is not actually used."

In 1969, the Congress expanded the purchasing authority of the Secretary of the Treasury of $4,000,000,000. This increase was in recognition of the subsequent expansion of the Federal Home Loan Bank System and of its massive support to the distressed housing market at the time.

The Committee finds that these same factors are present at this time. But, in addition, the Secretary of the Treasury and the Federal Home Loan Bank System have recently acted, at the request of the President, to employ $3 billion of the $4 billion authorization on a standby basis to initiate a new commitment program for conventional mortgages.

This amendement temporarily increases the purchasing authority of the Secretary to $7 billion in recognition of all of these circumstances, particularly the $3 billion standby commitment of the Secretary under the President's recent housing initiatives.

This amendment was adopted by the Committee by a vote of 6–5.

COMPLIANCE WITH STATE LAW

The Committee adopted an amendment included under Section 114 of the bill which makes it clear that federally chartered financial institutions are subject to certain State consumer protection laws. The amendment is supported by the National Association of State Bank Supervisors and the National Association of State Savings and Loan Supervisors.

Section 114 would provide that no rule, regulation or order issued by the Federal Home Loan Bank Board, the Comptroller of the Currency or the National Credit Union Administration shall prevent or exempt a federal credit union from complying with any State law or regulation which protects borrowers by limiting the terms and conditions of a mortgage loan or consumer credit contract. Notwithstanding this general policy, the amendment would provide that federally chartered institutions can be exempt from State law in particular instances where Congress specifically grants an exemption. The amendment also would make it clear that the federal supervisory agencies are not precluded from using their regulatory power to afford borrowers greater protections than those contained in State law.

The need for a clarifying amendment stems from several recent interpretations of the Federal Home Loan Bank Board to the effect that the regulations of the Board with respect to the operations of federal savings and loan associations preempt any contrary State law. Under these interpretations, the Board has held that federal savings and loan associations do not have to comply with State laws establishing limitations on escalator clauses, prepayment penalty clauses or other similar clauses, even in those cases where the State law affords the borrower with a greater degree of protection.

During the Committee's consideration of this issue, some doubt was expressed that the Bank Board has the authority to prempt State law by regulation and it was suggested that the matter might be clarified through the courts. However, a majority of the Committee felt that a court test of the Board's authority would prove time consuming and perhaps inconclusive and that a clear and immediate clarification of Congressional policy was necessary.

The Committee believes that federally chartered financial institutions should be subject to State consumer protection laws for the following reasons:

(*1*) *To safeguard State's rights.*—Unless there are overriding interests to the contrary, the federal government should not interfere with the efforts of a State to protect consumers. Federally chartered financial institutions are subject to a wide variety of State laws including laws dealing wih taxes, branching, fire and building codes, conversions, usury and the like. The Committee sees no reason to make a special exception for consumer protection laws.

(*2*) *To restrict unlimited administrative power.*—Even if a case could be made for preempting a State consumer protection law in a particular area, the power to reverse the judgment of a State should not be delegated to a federal administrative agency. The Comptroller of the Currency and the National Credit Union Administration are headed by one man, while the Federal Home Loan Bank Board is headed by three. These non-elected officials should not be given the power to over-rule by a stroke of the pen, the considered judgment of a State Legislature and its governor. Only Congress should make such a decision if it is to be made at all.

(*3*) *To preserve the dual banking systems.*—If federally chartered financial institutions are exempted from State consumer protection laws, these institutions would be given an unfair competitive advantage over State chartered financial institutions. If State chartered institutions are able to live under State consumer protection laws, there is no reason why federally chartered institutions should not abide by the same rules.

(*4*) *To conform to federal policies on usury.*—With certain exceptions, national banks and federal savings and loan associations are specifically required by federal law to comply with State usury laws. Legislation establishing limitations on the terms and conditions of a mortgage loan or consumer credit contract is simply an extension of the usery law in that both are designed to protect borrowers by limiting the amount of revenues accruing to creditors. Accordingly, Section 114 would clarify that this broader interpretation of State usury laws is applicable to federally chartered financial institutions.

AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES FROM STATE INSURED INSTITUTIONS

Section 115 would expand the powers of the Federal Home Loan Mortgage Corporation by authorizing the corporation to purchase, and make commitments to purchase, residential mortgages from any financial institution the deposits of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 percent of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State.

In adopting this provision the Committee was mindful of the President's recent announcement of a plan to permit the Federal Home Loan Mortgage Corporation to purchase, and make commitments to purchase, conventional mortgages on newly constructed homes at below market interest rates (8¾%). This plan, which has been called the "conventional tandem plan," would be implemented by using Treasury borrowing power conferred by Section 11(i) of the Federal Home Loan Bank Act, as amended.

The "conventional tandem plan" would be available through the majority of mortgage lending institutions in all States except Massachusetts, where, for historical reasons, mutual savings banks, which are the dominant mortgage lenders in that State, have their deposits insured by the Massachusetts Central Fund. In adopting Section 115 the Committee sought to make available to Massachusetts homebuyers the same opportunity presently enjoyed by residents of other states to participate in the "conventional tandem plan." The Committee believes that mortgage money which is offered at below market interest rates with U.S. Treasury backup should be equally available in all states.

ESTABLISHMENT OF NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

Title II of the bill would provide for the establishment of a National Commission on Electronic Fund Transfers.

The Commission would be composed of 20 members appointed by the President and including the Federal Reserve Board, Treasury, Comptroller of the Currency, FDIC, Federal Trade Commission, Federal Home Loan Bank Board, National Credit Union Administration, a State-regulatory officer, 6 individuals representing banking, thrift, and other business entities, providing for one representative each of commercial banks, savings and loan associations, mutual savings banks, credit unions, retailer users of EFTS, non-banking institutions offering credit card services, and 6 individuals from private life who are clearly identifiable as representing the public and consumers best interest.

The bill further would provide that the Chairperson of the Commission and the Executive Director shall be confirmed by the Senate. The function of this Commission is to conduct a thorough study and investigation of electronic funds transfer systems and to recommend appropriate administrative action and legislation taking into account among other things:

(1) The need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) The need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(3) The need to afford maximum user and consumer convenience;

(4) The need to afford maximum user and consumer rights to privacy and confidentiality;

(5) The impact of such a system on economic and monetary policy;

(6) The implications of such a system on the availability of credit;

(7) The implications of such a system expanding internationally and into other forms of electronic communications; and

(8) The need to protect the legal rights of users.

Title II also would require that the Commission consult with and receive advice from the Department of Justice and that they transmit to Congress not later than two years after enactment a final report of its findings and recommendations.

The Commission has an authorization for appropriations not to exceed $2 million.

The Committee recognized that our national payments mechanism—the system used to transfer funds from one individual or business to another—is constantly changing and developing. The concept of electronic funds transfer systems is the newest of a long series of developments. In early times, affairs of finance were conducted through bartering. Then came coins, currency, checks, and finally credit cards. Each has advantages over the other, yet all have substantial drawbacks. Currency is not safely transmitted through the mail, nor is it practical in transactions involving large sums. The sheer volume of checks that pass through our banking system is staggering. It has risen from 16 billion in 1966 to 23 billion a year currently, not including the billions of checks issued by the Federal Government.

Faced with this situation, both industry and government have made attempts to apply modern computer and communications technology to the needs of the payments mechanism. Experimental programs and pilot projects are already in progress in various locations. In some of these programs, computers and data transmission systems are being utilized to perform some of the traditional functions of clearinghouses which sort and process paper checks. Thus, for example, some individuals are today receiving payroll deposits and are paying some of their bills electronically. Experiments involving the use of this technology in retail transactions are also in progress. Results to date are inconclusive.

The Committee recognizes that the concept of electronic fund transfers poses a number of questions which must be resolved before any rational decisions can be made and that ultimately the answers to these questions must be resolved by Congress.

The Committee is concerned that without sufficient study that electronic funds transfers development could result in distortions to competition and the invasion of individual citizens' right to privacy and confidentiality.

During the existence of this study Commission, the Committee would urge that Federal agencies involved in electronic funds transfers as well as those engaged in such activity in the private sector recognize that this potential payments mechanism is in an experimental stage and, therefore, is subject to substantial change and modification.

The Committee is concerned that premature action by the Federal Government or private industry could have serious ramifications. If electronic funds transfer to develop on a significant scale then it is clear that Congress will be called upon to determine the extent and manner in which this potentially new payment system will operate.

The Committee believes, therefore, that during the existence of the Commission that actions taken both by Federal regulatory agencies and private industry be of an experimental rather than of a permanent nature.

CORDON RULE

In the opinion of the committee, it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

ADDITIONAL VIEWS OF SENATORS WILLIAM PROXMIRE AND HARRISON WILLIAMS

NEED FOR A GAO AUDIT OF THE FED

Unfortunately, the Committee rejected an amendment to authorize the General Accounting Office to audit the operations of the Federal Reserve Board, thus ending a 40-year period in which the Fed was the only important agency of government not audited for Congress by the GAO. Specifically, the amendment directed the Comptroller General to make an audit, at least once in every three years, of the Federal Reserve Board, the Federal Reserve Banks, branch banks, related agencies and facilities, and to report the results to the Congress, together with suggestions for more efficient administration and with a listing of activities found by the GAO not to be in compliance with the applicable law. In order to safeguard the confidentiality of certain delicate monetary operations, the amendment provided that the GAO audit would not cover examination reports of Federal Reserve member banks or transactions conducted on behalf of foreign central banks. For the same reason, operations concerning open market transactions and discount policy determined by the Board to be sensitive would not be available for audit by the GAO until one year after their occurrence.

Despite the fact that the Fed has been largely exempt from GAO audit since the 1930's, the audit principle has already won widespread support. The Housing Banking and Currency Committee has approved a bill identical to my amendment, and even those who dissented stated that they favored at least a partial audit. By a vote of 333 to 20, the full House approved a bill containing a more limited audit of the Fed's administrative expenses. In its annual report, the Joint Economic Committee has strongly endorsed periodic audit of Federal Reserve Board activities as part of a program to make the Fed more accountable to the Congress. Support has also come from outside groups inside and outside the financial industry, including the National Association of Homebuilders, the AFL-CIO, National Savings & Loan League, the U.S. Savings and Loan League, the Credit Union National Association, the Independent Bankers Association of America and the National League of Insured Savings Associations.

Resistance to the idea has come almost exclusively from the Fed itself. Federal Reserve officials have stated that GAO audits would interfere with the independence of the Fed, particularly in the sensitive area of monetary policy. There is no truth to this objection. Under the proposed legislation, GAO would review finances, management and programs, and report to the Congress on the efficiency of operations and on whether the programs are fulfilling the purposes Congress envisioned in the Federal Reserve Act and other legislation. But the GAO could not dictate what the Fed's programs should be, nor could

it direct the Fed's monetary policies. GAO can only call the attention of Congress to the programs and actions which it finds are inefficient or not in accordance with the purposes of Congress, without in any way affecting the Fed's power to make its own decisions. Its work is purely informational.

Another objection sometimes made is that the Fed already conducts its own audits assisted by private accounting firms. However, these audits are not as complete as GAO audit. The private audit addresses only the question of whether the financial state of the audited bank has been accurately represented in its reports. It does not address questions of economy, efficiency, or legality. A private auditor is not qualified to evaluate matters of public policy for the Congress; only the GAO can do that.

Others argued that the GAO should not be allowed to audit the Federal Reserve System because the GAO lacks experience in this area. However, GAO audits virtually every agency of the government, including the Department of Defense and the Atomic Energy Commission, both of which are engaged in sensitive, complex and technical operations. Not only has GAO estabished its expertise in auditing these agencies, but its audits have not in any way hampered operations of any agency and have in fact brought about savings of millions of dollars.

The Federal Reserve System should be audited because, to look at the matter realistically, it is in fact spending government funds. The operational expenses of the Fed are paid out of the interest on the Treasury bonds it holds, and the remainder of that interest is returned to the Treasury. Every dollar that the Fed spends is a dollar which will somehow have to be raised from the taxpayers. The legality and propriety of the Fed's expenditures is therefore a matter of compelling interest to Congress.

Furthermore, astronomical sums of money are involved. The Fed holds in its open market portfolio about $76 billion in government securities—about 20% of the national debt. Even greater amounts are involved in its clearinghouse functions. In recent testimony, George W. Mitchell, Vice Chairman of the Board of Governors, states that the Federal Reserve System annually handles a flow of 27.8 billion pieces of coin and currency with a value of $53.2 billion, 9.8 billion checks totalling $3.7 trillion and wire transfers amount to $17 trillion. The very magnitude of these responsibilities cries out for the improved congressional oversight which only a regular GAO audit can make possible.

The Fed's own operational expenditures have been rapidly increasing, reaching $495 million in 1973, an increase of 104% from 1968 levels. During this same period, federal outlays increased by only 49%. Thus, expenditures by the Fed are increasing more than twice as fast as federal expenditures.

If the Fed proceeds with its plan to establish an electronic funds transfer system to replace the present check clearing system, millions of dollars of additional capital and operating expenditures will be required. An audit is required to make sure these funds are spent wisely.

It should also be noted that under the bill reported by the Committee, the Fed is authorized to spend an additional $80 million for the

construction of branch banking facilities. New buildings are planned for Baltimore, Charlotte, Omaha and Los Angeles. It is expected that over $70 million will have been expended on these projects by 1977. At present, Federal Reserve construction procedures may best be described as highly informal. Competitive bidding is not required. The other safeguards which the General Services Administration imposes on most federal construction are not applicable to the Fed. Under these circumstances, a GAO audit is needed to provide at least minimal protection against extravagent or improper expenditures.

All this is not to declare that there is any serious problem with the way the Fed conducts its operations. Rather, it is to say that where any agency of government is as powerful and important as the Fed, it is vital that Congress have readily available all the information it needs to evaluate its performance. True, the Board provides specific information on request. But, Congress lacks the staff to gather and evaluate on a regular basis all the data needed for effective oversight. This is what the GAO is for, and it performs this function admirably in auditing other agencies. For the most part, the only information Congress now gets about the Federal Reserve System is what the Fed wants it to have. Surely there can be no compelling reason for continuing to accept this anomalous and undemocratic arrangement. It is time to make the Fed accountable to the Congress.

HARRISON WILLIAMS.
WILLIAM PROXMIRE.

ADDITIONAL VIEWS OF SENATOR WILLIAM PROXMIRE

STOCK CONVERSIONS OF SAVINGS AND LOAN ASSOCIATIONS CONTRARY TO PUBLIC INTEREST

The Committee approved an amendment which substantially repeals the moratorium on Savings and Loan stock conversions in effect since 1963. Under Section 105 of the bill, the Federal Home Loan Bank Board is authorized to approve up to 30 conversion plans over the next two years in the 22 states which permit conversion from the mutual form of organization to the stock form of organization. In addition, the Board is authorized to approve more than 30 additional conversions in the remaining 28 states should these states enact legislation authorizing mutual savings and loan associations to convert to capital stock associations.

HISTORY OF THE CONVERSION ISSUE

Under the Home Owners Loan Act of 1933, Congress authorized the chartering of federal mutual savings and loan associations. Mutual savings and loan associations may also be chartered in all 50 states. In addition, 23 states have authorized state charters for capital stock associations. At the end of 1972, mutual associations comprised 86% of all associations and held 79% of the assets of the S&L industry as indicated in Table I:

TABLE I

Form of organization	Number of associations	Percent	Total assets (billions)	Percent	Net worth (billions)
Federal mutual	2,044	49	$136	58	$8.3
State mutual	1,560	37	51	21	3.3
Subtotal, mutual	3,604	86	187	79	11.6
State stock	587	14	49	21	3.1
Total	4,191	100	236	100	14.7

In 1948, Congress passed legislation which the Federal Home Loan Bank Board interpreted as authorizing the conversion of mutual savings and loan associations into capital stock associations. Under this authority, the Board approved 58 conversion plans from 1948 through 1963. However, because of various inequities and abuses arising from these conversions, the Board in 1963 established an administrative moratorium on any further conversions. With one exception the moratorium on conversions has been maintained up to the present time.

The basic problem in permitting the conversion of savings and loan associations from the mutual to the capital stock form of organization is how to dispose of the net worth which the mutual association has

accumulated over the years. It is not clear as to who, if anyone, has an ownership claim on this net worth. The danger involved in conversion is that the accumulated net worth will be appropriated for the benefit of those insiders who engineer the conversion plan. The potential for abuse is enormous since the net worth of mutual savings and loan associations reached $11.6 billion by the end of 1972.

In an exhaustive study of the Savings and Loan Industry directed by Irwin Friend of the University of Pennsylvania, the conversions from mutual to stock occurring during the 1948–1963 period were carefully reviewed. The Friend report, issued in 1969, catalogued a number of serious abuses associated with the conversion process. These include the following:

Depositors were not given adequate information about the conversion plan;

Dissenting shareholders who did not like the conversion plan were not given any alternative means of realizing their claim to a share of reserves and surplus;

In a majority of pre-1963 conversions the control group initiating the conversion was able to appropriate a large part of the net worth. The Friend report indicates that this finding is consistent with the view expressed by most knowledgeable observers, that the pre-1963 conversions generally ended up with somewhere between 75 and 100 percent of the permanent stock owned by the management group.

Conversion plans were often initiated by the most dubious elements within the savings and loan industry. For example, in 1961–62, 23 associations in Illinois were permitted to convert from mutual to stock companies. Eight of these associations had failed by the end of 1968.

After discussing whether these abuses could be preserved through stricter regulations, the Friend report concludes with the following observation:

> But even if we could assume that regulation is able to overcome these possible sources of inequity, we are left with a paradox: if true equity is established the entrepreneurial basis for interest in conversions may be reduced to a point where few conversions may take place. Thus, if a transformation from mutual to stock structure is deemed desirable, this may require some degree of inequity as a condition for reasonably speed transformation. Another aspect of equitable conversion is that it necessitates detailed supervisory intrusion into the process. If this intrusion is carried out with the detailed supervisory intrusion into the process. If this intrusion is carried out with the detail and conscientiousness of the Houston conversion, there may be few conversions. If it is compromised either by lax enforcement or a move to general rules without close surveillance, entrepreneurial capture of mutual net worth may be resumed and the rate of conversions accelerated, at the expensive of equity.

In 1972 the Home Loan Bank Board temporarily suspended the moratorium on conversions and approved a test conversion plan involving a San Francisco savings and loan association. Shortly thereafter, the Board announced it would consider further applications for conversions pursuant to proposed regulations published in January of 1973. These proposed regulations provoked such a controversy that in August of 1973 the Congress imposed a statutory moratorium on conversions. The statutory moratorium expires on June 30, 1974. Congress must now consider whether to continue the moratorium or to permit conversions to occur.

Problems With Conversions

As the 1948–63 experience so clearly indicates, the major problem associated with conversion plans is the possibility of windfall profits accruing to a small group of insiders who initiate the conversion plan. Any scandals involved in the conversion process can have an adverse effect upon the entire S&L industry. Evidence of windfall profits going to a select few could easily undermine public confidence in the integrity and financial reputation of all savings and loan associations. Should this occur, the abilities of savings and loan associations to attract the deposits required to meet our housing needs could be severely impaired.

Another problem with permitting conversions from mutual to stock is the danger that the major portion of the savings and loan industry could come under the control of holding companies. For example, 68% of the assets held by capital stock savings and loan associations are already under holding company control. Moreover, unlike the Bank Holding Company Act, savings and loan holding companies owning only one association are permitted to engage in any activity no matter how far removed from the S&L business. The Federal Reserve Board has even permitted bank holding companies to own and operate savings and loan associations. Thus if conversions are possible, many mutual S&L's could be taken over by large conglomerate corporations or bank holding companies or S&L holding companies.

The prospect of take over by S&L holding companies would seem to be confirmed by the reactions of S&L holding companies to the Board's new conversion regulations. In a letter to association members dated January 25, 1974, an official of a trade association representing S&L stock companies talked about the "fantastic acquisition opportunities" arising from the new Board conversion regulations. One of the reasons why Congress provided only mutual charters for federal savings and loan associations in 1934 was to insure their independence and local character. Mutual associations, by their very nature, are immune from mergers, acquisitions, tender offers or other forms of corporate takeover. The independence and local orientation of mutual savings and loan associations could be radically transformed if these associations are permitted, through the conversion process, to pass under holding company control.

No Case for Conversion

Some of the problems stemming from conversions might be minimized through the administrative regulations and policies of the Home

Loan Bank Board. However, Congress has little control over these policies. Any statutory authority for conversions thus involves some degree of risk that abuses will still occur in spite of the Board's policies and regulations. Congress might be willing to accept these risks if there were demonstrable and substantial public benefits arising from the conversion process. However, the Bank Board has been unable to demonstrate any benefits from conversions that could not be realized through other means.

The main argument advanced by the Bank Board was that conversions would permit mutual savings and loan associations to raise more capital by issuing capital stock. Implicit in this argument is the notion that there are a substantial number of capital deficient associations whose operations could be substantially expanded if they had acccess to the capital markets. The argument is fallacious on a number of grounds.

First of all there is no significant difference between mutual and stock associations in the amount of capital employed. At the end of 1972, the net worth of all mutual associations comprised 6.19% of total assets. The comparable figure for capital stock associations was 6.31%. Thus mutuals have done about as well as stock companies in raising capital.

Second, those who apply for conversions do not conform to the Board's picture of a capital deficit association. The net worth of the 16 conversion applicants on file with the Board is 6.02% of total deposits, or 20% above the statutory minimum of 5% for established associations. The most vociferous conversion applicant has a net worth to deposit ratio of 8.09%, well above the industry average. Whatever the claims of the Board, the motivation for conversions must be ascribed to other grounds.

Third, the Board has other alternative methods for meeting the capital needs of mutual associations. It could authorize savings and loan associations to meet a portion of their capital requirements through the issuance of subordinated debentures, an option now available to commercial banks. Second, those associations who are capital short can still meet all the legitimate demand for mortgage loans in their community by selling a portion of those loans to the Federal Home Loan Mortgage Corporation, a subsidiary of the Home Loan Bank Board. This was one of the purposes Congress had in mind when it created the corporation.

It has also been argued that conversions should be encouraged on the grounds that capital stock associations are generally better managed. However, the Bank Board presented no evidence to substantiate the claim. In fact, the claim that stock associations are more efficient was rejected by the Friend Report on the S&L industry. The Friend study examined the operating characteristics of stock and mutual associations in great detail and concluded there were no significant differences in their efficiency. As a matter of fact, figures compiled by the Home Loan Bank Board indicate that capital stock companies experienced a financial loss rate 3½ times greater than the comparable rate for mutual associations. These figures would tend to suggest that stock associations are managed less effectively compared to mutual associations.

In summary, the Board failed to make a case for any significant public benefits which might arise from permitting mutual associations to convert to capital stock associations. Conversions will not raise more money for housing that could not be raised through other means. There is no convincing evidence that stock associations are better managed than mutual associations. Nor is there any great demand for conversions within the savings and loan industry. The U.S. Savings and Loan League, which represents 95% of the industry, is opposed to the Board's conversion legislation. Conversions are also strongly opposed by the Council of Mutual Savings Institutions, an organization representing mutual savings and loan associations.

Board Conversion Plans Deficient

Even if one were to concede the argument that conversions are in the public interest, the specific conversion plans advanced by the Board are clearly deficient. Two plans have thus far been developed by the Board. The first plan was announced in January of 1973 and provided that the depositors in a converting association as of a record date would receive a free distribution of their pro-rata share of the association's net worth. The distribution would be in the form of common stock certificates which could be resold in the open market.

There are two serious defects in the so-called free distribution plan. First, it is unfair and arbitrary in the manner in which it rewards depositors. A depositor who had his money in a mutual association for 20 years and who thus helped to build up the association's net worth would get nothing if he withdrew his funds one day before the record date established in the conversion plan. Conversely, a depositor who put his money in the association one day before the conversion date (possibly as a result of inside information) would receive a windfall profit.

Second, the free distribution plan would have a disruptive effect on the savings and loan industry. Once the possibility of conversions became widely known, depositors would shift their money from association to association in anticipation of the windfall distributions accruing from the conversion process. Because of the pressures brought by depositors, mutual associations would be forced to convert whether they wanted to or not. The structure of the entire savings and loan industry could thus be radically transformed in a relatively short period of time.

When the Board presented its first plan to Congress, these difficulties were minimized. The Board assured the Congress that its free-distribution plan was the only fair and workable method for effecting conversions. Fortunately, the Congress did not buy the Board's arguments and instead imposed a statutory moratorium on any further conversions. (PL 93–100 enacted August 16, 1973).

Following the statutory moratorium imposed by Congress, the Board re-examined its free-distribution plan and discovered that the critics of the plan were right after all and the Board was wrong. The Board concluded that the free distribution method *was* unfair and disruptive.

Following its rejection of the free-distribution method, the Board announced a second plan in February of 1974. This plan calls for the sale of stock shares rather than their free distribution. Depositors would be given the first opportunity to purchase these shares in amounts proportionate to their deposits as of a record date. Any shares not purchased by the depositors would be made available to management and the general public. The value of the new stock shares would be equal to the fair market value of the association as determined under procedures to be specified by the Board. The fair market value could be more or less than the association's book value depending upon prevailing market prices for the shares of capital stock associations.

In its latest testimony before the Committee, the Board once again tried to convince Congress that it has discovered the one fair and workable method for processing conversions. However, there are serious defects in the Board's second plan that in some ways render it even more unacceptable. The major defect with the Board's latest proposal is the strong possibility that windfall profits will accrue to management or other insiders.

The probability of windfall profits is inherent in any stock sale plan where the owners of the new stock acquire an ownership right in the existing equity of the converted associations. For example, assume a mutual association with assets of $100 million and a net worth of $6.2 million wishes to convert. If the fair market value of the association is pegged at $6.2 million, the owners of the new capital stock association would be required to purchase stock shares in the amount of $6.2 million. However, the infusion of $6.2 million in new capital will double the net worth of the association to $12.4 million. Thus the owners of the new stock association wind up paying $6.2 million for an association whose net worth has suddenly become $12.4 million. In effect, they have doubled their money overnight.

The Board argues that these windfall profits are largely theoretical in terms of today's stock market. S&L stocks are now selling at a Price/Earnings ratio of around 5. Thus the Board argues that the market value of the converted association would still be only $6.2 million despite its book value of $12.4 million. In effect the Board is proposing to set the fair market value of a converting association at an amount equal to the earnings after conversion (taking into account the incremental earnings derived from the new capital) multiplied by the prevailing Price/Earnings ratio on S&L common stocks.

The Board asserts that it is proper to undervalue an association for conversion purposes as long as the market for S&L stocks in general is undervalued. Under this approach, there is a built-in incentive to convert when the market for S&L stocks is abnormally depressed. The managers of an association are in the best position to know its true worth and can take maximum advantage of this knowledge to time the conversion plan and acquire stock in the converted S&L at a bargain basement price. The Board does not propose to limit the number of shares which can be acquired by management and one witness quoted a knowledgable investment banking source to the effect

that under the Board's plan, management or their associates would wind up with 75% of the stock.

In addition to the built-in incentive of management to initiate conversions when the P/E ratio of S&L stocks is abnormally low, the mechanics of the Board's appraisal method makes conversions progressively more difficult as the P/E ratio returns to more normal levels even assuming the managers of a mutual wanted to convert. For example, if the P/E ratio on S&L stocks were to return to its historic average of around 12, it would take more than $60 million under the Board's formula to purchase a mutual S&L with a net worth of only $6.2 million.

How many investors would be willing to buy stock in a converted S&L at a price more than ten times the book value prior to conversion?

In summary, the only time the Board's new conversion plan is workable, from the point of view of both management and investors, is when the market for S&L stocks is abnormally low. This is precisely the time when the probability of windfall profits accruing to insiders is at a maximum.

Experimentation Unsound

Despite the inherent defects in the Board's new plan, a majority of the Committee decided to permit the Board to process a limited number of conversions on an experimental basis. However nothing will be gained from these experiments when the basic conversion plan is inherently defective. The situation is analagous to an airplane manufacturer who discovers serious errors in the design plans for a new aircraft which increases the probability that the plane will crash. Under these circumstances, the airplane manufacturer doesn't experiment with the lives of test pilots by building a limited number of aircraft for experimental purposes. He sends the engineers back to the drawing board and tells them to produce a better plan. This is what the Congress should tell the Home Loan Bank Board. It is inappropriate and contrary to sound public policy to "experiment" with windfall profits.

Another problem with the experimental aproach taken by the Committee is that it prejudices the adoption of other approaches to the conversion issue which have not been adequately considered by the Board and which may be more promising. For example, the Friend report on the S&L industry suggested that one method for solving the windfal profit problems would be to distribute the equity in a converting association to the F.S.L.I.C. According to the Friend report,

> The mutual shareholder has an excellent legal claim to the net worth of a converting association, but his moral claim is not especially strong. We have seen that mutual shareholders, especially under rate control, are nonparticipating de facto creditors. Furthermore, they do not expect to realize any claim on net worth, so that their conversion profits would constitute windfall gains. Since the capital value of the bulk of mutual shares is insured by the FSLIC, profits of con-

versions accruing to shareholders also cannot be said to be a reward for risk bearing. Thus the case for shareholder participation, while legally sound, is otherwise not very compelling. It may be argued plausibly that the FSLIC, as the primary risk bearer and as the representative of the taxpaying public, has at least as good a moral claim to participation in conversion profits.

A similar approach is contained in S. 3224 which I introduced. Under this bill, the equity in a converting association would be transferred to a public trust fund and used for the purpose of improving low and moderate income housing. However, the depositors of the association would still retain a residual claim on the equity transferred in the event the association ever liqudated subsequent to conversion.

Under the experimental approach recommended by the Committee, the Board would be free to approve a limited number of conversions on the basis of its second plan involving the sale of stock and retention of the association's existing equity. These conversions would create certain precedents and expectations which would be difficult, if not impossible to reverse, if it were subsequently decided that the public trust fund approach should be adopted. Thus the so-called "experimental" approach taken by the Committee is largely illusory. For all practical purposes, the Committee has approved the Board's latest plan lock, stock, and barrel.

Special Interest Provisions

Perhaps the worst feature of the Committee bill is a proviso giving three associations the option of converting under the Board's earlier free distribution plan which even the Board now acknowledges is contrary to the public interest. None of the three associations testified before the Committee and no evidence was presented during the hearings or the Committee's markup as to why these three associations should be singled out for such favorable treatment. How can members of Congress conscientiously permit three associations to give away free stock to their depositors when all other associations are denied the same right?

The proviso in question is contained under Section 402(j)(2) of the National Housing Act which is added by Subsection 105(d) of the Committee bill. Although the language is written in apparently general terms, only three associations qualify for its benefits—the Prudential Savings and Loan Association of Salt Lake City, Utah; the First Federal Savings and Loan Association of Phoenix, Arizona; and the First Federal Savings and Loan Association of Tucson, Arizona.

The Federal Home Loan Bank Board is strongly opposed to these special exemptions. In an unusually strong letter to the Chairman of the Subcommittee on Financial Institutions, the Board stated its unequivocal opposition to the special exemptions approved by the Committee. The full text of the Board letter is reprinted at the end of these views.

William Proxmire.

Federal Home Loan Bank Board,
Washington, D.C., May 20, 1974.

Hon. Thomas J. McIntyre,
Chairman, Subcommittee on Financial Institution, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In my letter to you of May 13, 1974, I discussed the matter of a legislative exception to any conversion moratorium provision, which would specially authorize Prudential Federal Savings and Loan Association to convert on a free distribution basis. My letter objected to a certain draft of such an exception on grounds which included the facts that the draft was applicable to other associations, embodied in correct legal assumptions, and failed to specify any distinguishing features of the Prudential situation that the Cngress might determine could justify a special exception. In order to make the nature of our concern completely clear, we provided a draft example of a special exception that would avoid these difficulties.

My letter specifically did not endorse such an exception and indicated that any decision on this matter was ultimately one for the Congress to make. I now understand that the Subcommittee is giving consideration to one or more special provisions the effect of which would be to authorize Prudential, as well as certain other associations, to convert on a free distribution basis and which may be worded in a manner that might cause future interpretative and litigation problems. This fact is extremely disturbing to the Board, and while we continue to believe that this is a matter for the Congress ultimately to determine, I believe that under these circumstances it is now necessary for the Board to state its advice to you clearly and plainly.

It is the Board's view that no special exceptions authorizing conversion on a free distribution basis are warranted in the Prudential case or in any other case. We would urge the Subcommittee to reject all such exceptions, however drafted. The reasoning behind this position may be quickly summarized in the following two paragraphs.

First, after the fullest consideration the Board has come to the conclusion that conversions on a free distribution basis cannot be authorized without unacceptable injury to the public interest. For the Congress to deliberately sanction conversion on such a basis even in a single case creates a precedent of the most damaging sort, given our present state of knowledge.

Second, while there are circumstances in the Prudential case and in two cases in Arizona which can be cited to distinguish them from other cases, we do not believe that these circumstances justify special treatment. No two things are ever completely alike and they can obviously be distinguished if one wishes to do so. The real question is whether the distinctions amount to such a difference in kind that completely different treatment of them is merited.

In this connection a brief review of certain past history may be helpful. In July of 1972, following the Citizens test conversion, the Board announced its willingness to accept the filing of study applica-

tions. It was hoped that these would elicit in a concrete way suggestions and problems that were not identified in the single Citizens experiment. The Board's moratorium clearly continued in effect both generally and as to these applications. Five applications were soon received, but with the exception of the Prudential application, they were so incomplete that they were of no assistance whatsoever. The two Arizona associations were not among these study applicants. In September 1972 the Board therefore abandoned the idea of accepting study applications and announced that it would proceed to propose conversion regulations of general applicability.

These regulations were proposed in January of 1973, and at the same time the Board proposed to formally revoke its old and inadequate conversion regulations which had been inoperative since 1963. In March 1973, after receiving a very heavy volume of public comments, the Board announced that it would not adopt the January proposals, but would proceed with revised proposals. When the Congress then began to consider moratorium legislation, it was thus quite clear to all concerned that the Board planned to revoke its old, inoperative regulations and to propose at some future date further regulations the nature of whose provisions was unknown. In addition, when the possibility arose that the Congress might make some special provision for associations that had previously filed applications with the Board, the two Arizona associations attempted to do so in an effort to create a "grandfather" position for themselves.

The Committee of Conference acted on the moratorium legislation on May 22, 1973. It approved a shorter moratorium until December 31, 1973 for "study applications" filed prior to the date of the Conference and a longer moratorium until June 30, 1974 for all other applications. It is our understanding that the Conference intended this shorter moratorium for those associations which had originally actually filed study applications with the Board and that the May 22, 1973 date was chosen because of uncertainly during the Conference as to the exact dates of the Board's prior actions. This would clearly exclude the Arizona associations and properly would not have given recognition to their efforts to manufacture a "grandfather" status.

Regardless of that point, however, it seems clear that the intent of the Congress was to grant the study applicants a priority as to timing of processing, but to require that their applications be processed in accordance with the revised regulations which all concerned knew the Board was developing. The December 31, 1973 date makes little sense unless it is considered to mean that the Board had at least until that date to develop those regulations. The Board in fact proposed these regulations on November 28, 1973. They were adopted in final form on February 28, 1974, the delay of 2 months being attributable to the difficulty of the subject and the many other competing demands on the Board's time. In addition, the language of the statute itself, and its construction both judicially and in the report of Committee of Conference, indicate that the study applicants were to be processed in accordance with the regulations in effect on or after December 31, 1973.

I am aware, Mr. Chairman, that representations have been made to the Subcommittee which place a different perspective on the events

recounted above and which raise various factual disputes. The same represntations have been made to us. We have examined these representations carefully and in good faith, and with an overriding desire to achieve equity within the intent of Congress. We have been unable to conclude that the Congress intended to authorize a few associations, or even one association, to proceed on a "windfall" basis in contradistinction to all the rest of the industry.

Realistically, it is true in a sense that, with the issues now being sharply focused, the Congress is in a position to examine this matter anew and to now make its present intent clear beyond doubt. That being the case, we would respectfully and strongly urge the Congress to reject any special provisions authorizing a "windfall" conversion and to thereby avoid the setting of even a single precedent in favor of this damaging approach.

I would be glad to discuss this matter with you personally at your convenience.

Sincerely,

THOMAS R. BOMAR.

ADDITIONAL VIEWS OF MESSRS. TOWER, BENNETT AND BROCK

In general, we agree with most of the provisions contained in H.R. 11221, as adopted by the Banking Committee. We believe that the Committee acted wisely and appropriately in increasing deposit insurance coverage to $25,000, allowing a number of test conversions from mutual to stock form to take place in the savings and loan industry, extending Regulation Q until December 31, 1975, and establishing a National Commission on the Electronic Transfer of Funds, as well as on most of the other provisions adopted by the Committee.

However, we do have some reservation about several of the amendments which the Committee adopted, none of which was the subject of hearings in the Banking Committee. They are:

(1) a provision dealing with compliance of State laws; and

(2) a provision increasing the Treasury's authority to lend standby, emergency funds directly to the Federal Home Loan Banks;

(3) a provision allowing the Federal Home Loan Mortgage Corporation to buy mortgages from nonfederally insured thrift institutions.

(1) Section 114 of H.R. 11221 prohibits Federal bank regulatory agencies from adopting any rule, regulation, or order exempting federally chartered depository institutions from complying with State laws or regulations designed to protect the consumer. It is our understanding that this provision grew out of a problem in Wisconsin, where several federally chartered savings and loan associations exercised the escalator clause on their outstanding mortgages, as allowed by the Home Loan Bank Board, before the expiration of a three-year waiting period required under Wisconsin law.

However, this amendment would apply in many other situations and in other States. Indeed, it is for that very reason that we question the appropriateness of adopting this provision without knowing what its impact may be. No hearings were held on this issue to determine exactly which Federal regulations may be involved or affected, or what impact this provision may have on the relationship which exists between Federal regulations and State statutes.

We are not necessarily opposed to the provision, and it may be appropriate for the Senate to adopt it. By the same token, however, it may also be unwise to adopt it. In the absence of hearings, we have no way of knowing the answers to these and other questions, and, for that reason, we believe it should not have been adopted without being given appropriate consideration by the members of the Banking Committee.

(2) Section 113 of H.R. 11221 would increase the Treasury's authority to lend directly to the Federal Home Loan Banks by another $3 billion. The purpose of this provision is to replenish the $3 billion in

direct Treasury lending authority which is to be used as part of the Federal financing package to help housing, announced by the President on May 10 of this year.

At the present, the Treasury has authority to lend $4 billion in standby funds to the Federal Home Loan Banks in emergency situations. When Congress first granted this authority to the Treasury in 1950, it was noted that it would be used in ". . . any possible future emergency." Subsequent extension and expansion of the authority in 1969 expressed the intention that it would be used to help stabilize the mortgage market during periods of tight money.

The intent of section 113 of H.R. 11221 to replenish the fund by an additional $3 billion goes even one step further. It is clear that these funds were to be used only as a last resort, when all other actions failed. Certainly, it was not intended to provide an ongoing source of funds for the housing market. Yet the replenishment of the funds by $3 billion seems to imply that Treasury funds are not just available in an emergency, but that they constitute an unlimited source of mortgage credit whenever money conditions become tight. The next step will be to provide an ongoing source of funds directly from the Treasury to housing under any conditions.

The replenishment of those emergency funds creates an illusion that housing can be aided in the long run through direct Treasury financing. It must be recognized, however, that the Treasury itself will need to borrow the funds needed to replenish its capacity for direct lending, which only adds to the already burgeoning demand for credit in our economy. The end result will be upward pressure on interest rates, which will accentuate the problems that thrift institutions presently face in being unable to compete for funds. In our opinion, it would be shortsighted to believe that housing can continue to be supported by this type of direct Treasury lending.

With this move, we are only perpetuating the trend toward nationalization of our housing markets, the end result of which will be the demise of our private savings and loan system. Shortsighted individuals in the home financing system may praise this extension of the Treasury authority, but surely farsighted ones will realize that, if this trend continues, savings and loan associations will become mere field offices of the Department of Housing and Urban Development or the Federal Home Loan Bank system, or whatever other government agency may be created to administer these funds. This action should be avoided if we are to keep our thrift institutions as viable and responsive as possible.

John Tower,
Wallace Bennett,
Bill Brock.

ADDITIONAL VIEWS OF MESSRS. TOWER AND BENNETT

Section 115 of H.R. 11221 would authorize the Federal Home Loan Mortgage Corporation to purchase residential mortgages from non-federally insured depository institutions. Presently the Corporation is authorized to buy mortgages only from federally insured institutions. Non-federally insured institutions can sell their mortgages at the present to the Federal National Mortgage Association, an independent tax-paying institution.

This amendment would allow the non-federally insured institutions operating in Massachusetts to avail themselves of the subsidized conventional mortgage plan. However, a number of financial institutions in states which have their own state insurance corporations would continue to be excluded from this program. These states include Maryland and Ohio. Additionally, mortgage bankers in all states cannot avail themselves of this program while retaining their servicing contracts. Thus, equity demands that we either leave the system as it stands, recognizing that any government subsidy, which operates through channels effectively excluding some participants, is discriminatory to some extent. Or, we must open the channels so that all may participate. The two choices which we have are either to strike section 115 or to enlarge it so that all individuals or corporations may sell their mortgages to the Federal Home Loan Mortgage Corporation and retain their servicing contracts.

John Tower.
Wallace F. Bennett.

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93D CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 93-1429

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1974

OCTOBER 4, 1974.—Ordered to be printed

Mr. PATMAN, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 11221]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

TITLE I—AMENDMENTS TO AND EXTENSIONS OF PROVISIONS OF LAW RELATING TO FEDERAL REGULATION OF DEPOSITORY INSTITUTIONS

FULL DEPOSIT INSURANCE FOR PUBLIC UNITS

Section 101. (a) The Federal Deposit Insurance Act is amended—

(1) in subsection (m) of section 3 (12 U.S.C. 1813(m)), by inserting immediately after "depositor" in the first sentence the following: "(other than a depositor referred to in the third sentence of this subsection)";

(2) in subsection (i) of section 7 (12 U.S.C. 1817(i)), by striking out "Trust" and inserting in lieu thereof the following: "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust"; and

(3) in subsection (a) of section 11 (12 U.S.C. 1821(a)), by inserting "(1)" immediately after "(a)", by striking out "The"

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in the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (2), the", and by inserting at the end of such subsection the following:

"(2) (A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured in an amount not to exceed $100,000 per account.

"(B) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time and savings deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets: Provided, however, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required."

(b) Title IV of the National Housing Act is amended—

(1) in section 401(b) (12 U.S.C. 1724(b)), by striking out "Funds" in the third sentence and inserting in lieu thereof the following: "Except in the case of an insured member referred to in the preceding sentence, funds";

(2) in section 405(a) (12 U.S.C. 1728(a)), by inserting after "except that no member or investor" the following: "(other than a member or investor referred to in subsection (d))"; and

(3) by adding at the end of section 405 (12 U.S.C. 1728) the following new subsection:

"(d)(1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision

thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any county, municipality, or political subdivision there having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico or the Virgin Islands, respectively;

the account of such insured member shall be insured in an amount not to exceed $100,000 per account.

"(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets."

(c) Subsection (c) of section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by—

(1) inserting "(1)" after "(c)",

(2) striking out "For the purposes of this subsection," and inserting in lieu thereof the following: "Subject to the provisions of paragraph (2), for the purposes of this subsection,", and

(3) adding at the end thereof the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively;

his account shall be insured in an amount not to exceed $100,000 per account.

"(B) The Administrator may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in ac-

cordance with this title by any depositor or member referred to in subparagraph (A) on the basis of the size of any such credit union in terms of its assets."

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits;".

(e) Section 5 (b)(2) of the Home Owners' Loan Act of 1933 is amended by inserting immediately after "security," "may be surety as defined by the Board".

(f)(1) The Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Commission") shall conduct a study of the impact of this section on funds available for housing and on State and local bond markets.

(2) The Commission shall make a report to the Congress of the results of its study not later than two years after the date of enactment of this Act.

(3) There is authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.

(g) This section and the amendments made by it shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 102. (a) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof $40,000":

(1) The first sentence of section 3(m) (12 U.S.C. 1813(m)).
(2) The first sentence of section 7(i) (12 U.S.C. 1817(i)).
(3) The last sentence of section 11(a) (12 U.S.C. 1821(a)).
(4) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(b) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 103 (a) The following provisions of title IV of the National Housing Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$40,000":

(1) Section 401(b) (12 U.S.C. 1724(b)).
(2) Section 405(a) (12 U.S.C. 1728(a))).

(b) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: INSURED CREDIT UNIONS

SEC. 104. (a) The first sentence of section 207(c) of title II of the Federal Credit Union Act (12 U.S.C. 1787 (c)) is amended by striking out "$20,000" and inserting in lieu thereof "$40,000".

(b) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of title II of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(c) The amendment made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 105. (a) Section 403(b) of the National Housing Act, as amended (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following new sentence: "As used in this subsection the term 'reserves' shall, to such extent as the Corporation may provide, include capital stock and other items, as defined by the Corporation.".

(b) Section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78l(i)), is amended to read as follows:

"(i) In respect of any securities issued by banks the deposits of which are insured in accordance with the Federal Deposit Insurance Act of institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, the powers, functions, and duties vested in the Commission to administer and enforce sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16, (1) with respect to national banks and banks operating under the Code of Law for the District of Columbia are vested in the Comptroller of the Currency, (2) with respect to all other member banks of the Federal Reserve System are vested in the Board of Governors of the Federal Reserve System, (3) with respect to all other insured banks are vested in the Federal Deposit Insurance Corporation, and (4) with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation are vested in the Federal Home Loan Bank Board. The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in them as provided in this subsection. In carrying out their responsibilities under this subsection, the agencies named in the first sentence of this subsection shall issue substantially similar regulations to regulations and rules issued by the Commission under sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16, unless they find that implementation of substantially similar regulations with respect to insured banks and insured institutions are not necessary or appropriate in the public interest or for protection of investors, and publish such findings, and the detailed reasons therefor, in the Federal Register. Such regulations of the above-named agencies, or the reasons for failure to publish such substantially similar regulations to those of the Commission, shall be published in the Federal Register within 120

days of the date of enactment of this subsection, and, thereafter, within 60 days of any changes made by the Commission in its relevant regulations and rules."

(c) Paragraph (5) of subsection (1) of section 407 of the National Housing Act, as amended (12 U.S.C. 1730(1)(5)), is amended by inserting after "disclosures" a comma and the following: "including proxy statements and the solicitation of proxies thereby,".

(d) Subsection (j) of section 402 of the National Housing Act, as amended (12 U.S.C. 1725(j)), is amended to read as follows:

"(j)(1) Except as otherwise provided in this subsection, until June 30, 1976, the Corporation shall not approve under regulations adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933, by order or otherwise, a conversion from the mutual to stock form of organization involving or to involve an insured institution, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which may be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

"(2) The number of applications for conversion which the Corporation may approve pursuant to such regulations prior to such date shall be determined by the Corporation but shall not in any case be in excess of 1 percentum of the total number of all insured institutions in existence on the date of enactment, exclusive of the number of applications submitted for filing prior to May 22, 1973. Provided, that the Corporation shall process to final determination any application submitted for filing prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933: with further proviso that, with respect to a plan of conversion of any such applicant which, before May 22, 1973, has given written public notice to its accountholders of adoption of a plan of conversion or has obtained waiver forms from substantially all its new accountholders subsequent to the giving of such notice, such plan need not require payment for stock distributed to accountholders as of a record date prior to the date of such notice.

"(3) Notwithstanding any other provision of law, an insured institution converting in accordance with this subsection may retain its Federal charter. The Corporation shall not, however, permit the conversion of Federally chartered associations in States the laws of which do not authorize the "operation of State chartered stock associations, except that the prohibition contained in this sentence shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, or a State where all insured institutions domiciled therein are Federally chartered.

"(4) Any aggrieved person may obtain review of a final action of the Federal Home Loan Bank Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of subsection (k) of section 408 of this title (12 U.S.C. 1730(k)) within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice to such final action as is required by or approved under regulations of the Corporation, whichever is later.

"(5) The Corporation shall, at least annually and more often as circumstances require, render reports to the Congress on the exercise of its authority under this subsection.

"(6) In implementing the provisions of this subsection the Corporation shall regulate the approvals granted so as to achieve (A) as much geographical dispersion as practicable; (B) an equitable distribution with respect to the size of converting institutions; (C) an appropriate distribution between State chartered and Federally chartered institutions; (D) timeliness of filing; (E) flexibility to the extent possible in plans of conversion taking into account the characteristics of particular converting institutions; (F) the meeting of capital needs; and (G) such other reasonable results as it may consider necessary or appropriate in the public interest."

MORATORIUM ON CONVERSION OF FEDERAL DEPOSIT INSURANCE CORPORATION INSURED INSTITUTIONS

SEC. 106. Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end thereof the following new subsection:

"(10) Until June 30, 1976, the responsible agency shall not grant any approval required by law which has the practical effect of permitting a conversion from the mutual to the stock form of organization, including approval of any application pending on the date of enactment of this subsection, exc.pt that this sentence shall not be deemed to limit now or hereafter the authority of the responsible agency to grant approvals in cases where the responsible agency finds that it must act in order to maintain the safety, soundness, and stability of an insured bank. The responsible agency may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection."

EXTENSION OF FLEXIBLE REGULATION OF INTEREST RATES AUTHORITY

SEC. 107. Section 7 of the Act of September 21, 1966 (Public Law 89–597), is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1975".

INCREASE DOLLARS LIMITATION ON THE COST FOR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

SEC. 108. The ninth paragraph of section 10 of the Federal Reserve Act, as amended (12 U.S.C. 532), is amended by striking out "$600,000,000" and inserting in lieu thereof "$140,000,000".

PURCHASE OF UNITED STATES OBLIGATIONS BY FEDERAL RESERVE BANKS

SEC. 109. (a) Section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "November 1, 1973" and inserting in lieu thereof "November 1, 1975" and by striking out "October 31, 1973" and inserting in lieu thereof "October 31, 1975".

SUPERVISORY AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OVER BANK HOLDING COMPANIES AND THEIR NONBANKING SUBSIDIARIES

Sec. 110. Subsection (b) of section 8 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)), is amended by adding at the end thereof the following new paragraph:

"(3) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a holding company, as those terms are defined in the Bank Holding Company Act of 1956, in the same manner as they apply to a State member insured bank."

INDEPENDENCE OF FINANCIAL REGULATORY AGENCIES

Sec. 111. No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

INCREASE IN AUTHORITY OF THE TREASURY TO PURCHASE FEDERAL HOME LOAN BANK OBLIGATIONS

Sec. 112. Subsection (i) of section 11 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1431(i)), is amended as follows:

(1) In the fourth sentence of the first paragraph, strike out "subsection" both places it appears and insert in lieu thereof "paragraph".

(2) Strike out the second paragraph and insert in lieu thereof the following:

"In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed $2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

"Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after the date of enactment of the Depository Institutions Amendments of 1974 only if the Secretary of the Treasury and the Chairman of the Federal Home Loan Bank Board certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.".

AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES FROM STATE INSURED INSTITUTIONS

Sec. 113. The first sentence of section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting "or from any financial institution the deposits or accounts of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 per centum of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that state" immediately after "agency of the United States".

TECHNICAL AMENDMENT

Sec. 114 (a) Section 7(d)(2) of the Act of August 16, 1973 (Public Law 93-100), is amended by striking out "the Commonwealth of Puerto Rico,".

(b) The amendment made by subsection (a) applies with respect to any taxable year or other taxable period beginning on or after August 16, 1973.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION SECONDARY RESERVE ADJUSTMENT

Sec. 115. Paragraph (1) of subsection (d) of section 404 of the National Housing Act, as amended (12 U.S.C. 1727), is amended by inserting "(A)" immediately after "(d)(1)" and by adding at the end thereof the following:

"(B)(i) As used in this subparagraph (B), 'minimum net reduction year' means a year in which, at the close of December 31, the aggregate of the primary reserve and secondary reserve equals or exceeds 1¼ per centum of the total amount of all accounts of insured members of all insured institutions, and 'beginning balance' means, with respect to each insured institution, the amount of such institution's pro rata share, if any, of the secondary reserve as of the close of December 31, 1973, plus any amount or amounts which, after such close, shall have been transferred to such institution under the last sentence of subsection (e) of this section.

"(ii) In May of each year succeeding each of the first ten minimum net reduction years occurring after December 31, 1973, the Corporation shall reduce the amount of each insured institution's pro rata share, if any, of the secondary reserve as of the preceding December 31 by making to the extent available, a cash refund to each such institution of the difference, if any, between such pro rata share and the applicable percentage of its beginning balance prescribed in the following table:

"Minimum net reduction year:	Percent of beginning balance
1	98.1818182
2	94.5454546
3	89.0909091
4	81.8181818
5	72.7272727
6	61.8181818
7	49.0909091
8	34.5454546
9	18.1818182
10	0.0000000".

CREDIT UNION MANAGEMENT: REASONABLE HEALTH AND ACCIDENT INSURANCE NOT CONSIDERED COMPENSATION

SEC. 116. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended by striking the period at the end thereof and adding ": Provided, however, That reasonable health, accident, and similar insurance protection shall not be considered compensation under regulations promulgated by the Administrator.".

TITLE II—NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

ESTABLISHMENT

SEC. 201. There is established the National Commission on Electronic Fund Transfers (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States.

MEMBERSHIP

SEC. 202. (a) The Commission shall be composed of twenty-six members as follows:

(1) the Chairman of the Board of Governors of the Federal Reserve System or his delegate;

(2) the Attorney General or his delegate;

(3) the Comptroller of the Currency or his delegate;

(4) the Chairman of the Federal Home Loan Bank Board or his delegate;

(5) the Administrator of the National Credit Union Administration or his delegate;

(6) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation or his delegate;

(7) the Chairman of the Federal Communications Commission or his delegate;

(8) the Postmaster General or his delegate;

(9) the Secretary of the Treasury or his delegate;

(10) the Chairman of the Federal Trade Commission or his delegate;

(11) two individuals, appointed by the President, one of whom is an official of a State agency which regulates banking, or similar financial institutions, and one of whom is an official of a State agency which regulates thrift or similar financial institutions;

(12) seven individuals appointed by the President, who are officers or employees of, or who otherwise represent banking, thrift, or other business entities, including one representative each of commercial banks, mutual savings banks, savings and loan associations, credit unions, retailers, nonbanking institutions offering credit card services, and organizations providing interchange services for credit cards issued by banks:

(13) five individuals, appointed by the President, from private life who are not affiliated with, do not represent and have no substantial interest in any banking, thrift, or other financial institution, including but not limited to credit unions, retailers, and insurance companies:

(14) the Comptroller General of the United States or his delegate; and

(15) the Director of the Office of Technology Assessment.

(b) The Chairperson shall be designated by the President at the time of his appointment from among the members of the Commission and such selection shall be by and with the advice and consent of the Senate unless the appointee holds an office to which he was appointed by and with the advice and consent of the Senate.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

FUNCTIONS

SEC. 203. (a) The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the possible development of public or private electronic fund transfer systems, taking into account, among other things—

(1) the need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) the need to promote competition among financial institutions and to assure Government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum;

(3) the need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(4) the need to afford maximum user and consumer convenience;

(5) the need to afford maximum user and consumer rights to privacy and confidentiality;

(6) the impact of such a system on economic and monetary policy;

(7) the implications of such a system on the availability of credit;

(8) the implications of such a system expanding internationally and into other forms of electronic communications; and

(9) the need to protect the legal rights of users and consumers.

(b) The Commission shall make an interim report within one year of its findings and recommendations and at such other times as it deems advisable and shall transmit to the President and to the Congress not later than two years after the date of enactment of this Act a final report of its findings and recommendations. Any such report shall include all hearing transcripts, staff studies, and other material used in preparation of the report. The interim and final reports shall be made available to the public upon transmittal. Sixty days after transmission of its final report the Commission shall cease to exist.

(c) The Commission shall not be required to obtain the clearance of any Federal agency prior to the transmittal of any interim or final report.

POWERS OF COMMISSION

SEC. 204. (a) The Commission may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) (1) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

ADMINISTRATION

SEC. 205. (a) The Commission—

(1) may appoint with the advice and consent of the Senate and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for individuals.

(b) The Comptroller General is authorized to make detailed audits of the books and records of the Commission, and shall report the results of any such audit to the Commission and to the Congress.

COMPENSATION

SEC. 206 (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate of $150 per day when engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 207. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request, such data, reports, and other information as the Commission deems necessary to carry out its function under this title.

(b) The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Commission may request to assist it in carrying out its functions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated without fiscal year limitations such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this title.

TITLE III—FAIR CREDIT BILLING

§ 301. Short title

This title may be cited as the "Fair Credit Billing Act".

§ 302. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 303. Definitions of creditor and open end credit plan

The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows: "The term 'creditor' refers only to creditors who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise. For the purposes of the requirements imposed under Chapter 4 and sections 127 (a)(6), 127(a)(7), 127(a)(8), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(9), and 127(b)(11) of Chapter 2 of this Title, the term 'creditor' shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open end credit plans.

§ 304. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement, in a form prescribed by regulations of the Board of the protection provided by sections 161 and 170 to an obligor and the creditor's responsibilities under sections 162 and 170. With respect to each of two billing cycles per year, at semiannual intervals, the creditor shall transmit such statement to each obligor to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle."

(b) Section 127(c) of such Act (15 U.S.C. 1637(c)) is amended to read:

"(c) In the case of any existing account under an open end consumer credit plan having an outstanding balance of more than $1 at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the next statement required by subsection (b)."

§ 305. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 306. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"Chapter 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166. Prompt notification of returns.
"167. Use of cash discounts.
"168. Prohibition of tie-in services.
"169. Prohibition of offsets.
"170. Rights of credit card customers.
"171. Relation to State laws.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b)(11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(a)(8)) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error; and

"(3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

"(A) not later than thirty days after the receipt of the notice, send a written acknowledgement thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination.

After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

"(b) For the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) A computation error or similar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purposes of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) A reflection on a statement of an extension of because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B) (ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

"(e) Any creditor who fails to comply with the requirements of this section or section 162 forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor than an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the amount of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 161(a)(2), unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"(a) If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"(b) Subsection (a) does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Prompt notification of returns

"With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

"§ 167. Use of cash discounts

"(a) With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing

payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ *168. Prohibition of tie-in services*

"*Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.*

"§ *169. Prohibition of offsets*

"*(a) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—*

"*(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and*

"*(2) such action with respect to any outstanding disputed amount not be taken by the card issuer upon request of the cardholder.*

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his cerdit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

"*(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.*

"§ *170. Rights of credit card customers*

"*(a) Subject to the limitation contained in subsection (b), a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of the initial transaction exceeds $50; and (3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card (A) is the same person as the card issuer, (B) is controlled by the card issuer, (C) is under direct or indirect common control with the card issuer, (D) is a franchised dealer in the card issuer's products or services, or (E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.*

"*(b) The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (1) late charges in the order of their entry to the account; (2) finance charges in order of their entry to the account; and (3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.*

"§ *171. Relation to State laws*

"*(a) This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.*

"*(b) The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.*"

§ *307. Conforming amendments*

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. Credit Billing .... 161"

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, and 166".

(c) Section 121(c) of such Act (15 U.S.C. 1631(a)) is amended—

(1) by striking out "and upon whom a finance charge is or may be imposed"; and

(2) by inserting "or chapter 4" immediately after "this chapter".

(d) Section 121(b) of such Act (15 U.S.C. 1631(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

(e) Section 122(a) of such Act (15 U.S.C. 1632(a)) is amended by inserting "or chapter 4" immediately after "this chapter".

(f) Section 122(b) of such Act (15 U.S.C. 1632(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

§ 308. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE IV—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 401. Advertising; more-than-four-installment rule

(a) Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661–1665) is amended by adding at the end thereof a new section as follows:

"§ 146. More-than-four-installment rule

"Any advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit repayable in more than four installments shall, unless a finance charge is imposed, clearly and conspicuously state, in accordance with the regulations of the Board:

"'THE COST OF CREDIT IS INCLUDED IN THE PRICE QUOTED FOR THE GOODS AND SERVICES.'"

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"146. More-than-four-installment rule.".

§ 402. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions primarily for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 403. Administrative enforcement

(a) Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607 (a)) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(b) Section 108(a) of such Act (15 U.S.C. 6107(a) is amended by addng at the end thereof a new paragraph as follows:

"(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association."

§ 404. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of law, is or will be"; and

(2) by inserting after "obligor" the second time it appears in the first sentence of subsection (b) the following: ", including any such interest arising by operation of law,".

§ 405. Time limit for right of rescission

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, which ever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under this chapter have not been delivered to the obligor."

§ 406. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 407. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

§ 408. Civil liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of the failure;

"(2)(A) in the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $100,000 or 1 per centum of the net worth of the creditor; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of com-

pliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liabilty to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by sections 406, 407, and 408 shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§409. Full statement of closing costs

Section 21 of the Truth in Lending Act (15 U.S.C. 1631) is amended by adding at the end thereof a new subsection as follows:

"(c) For the purpose of subsection (a), the information required under this chapter shall include a full statement of closing costs to be incurred by the consumer, which shall be presented, in accordance with the regulations of the Board—

"(1) prior to the time when any downpayment is made, or

"(2) in the case of a consumer credit transactian involving real property, at the time the creditor makes a commitment with respect to the transaction.

The Board may provide by regulation that any portion of the information required to be disclosed by this section may be given in the form of estimates where the provider of such information is not in a position to know exact information."

§ 410. Business use of credit cards

(a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1644) is amended by adding the following new section at the end thereof:

"§ 135. Business credit cards

"The exemption provided by section 104(1) does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133."

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"135. Business credit cards.".

§ 411. Identification of transaction

(a) Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601–1631) (b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the Board sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished."

§ 412. Exemption for State lending agencies

Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended by striking the period at the end thereof and adding the following: "or to a consumer credit transaction in which an agency of a State is the creditor."

§ 413. Liability of assignees

(a) Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601-1631) is amended by adding at the end thereof a new section as follows:

"§ 115. Liability of assignees

"Except as otherwise specifically provided in this title, any civil action for a violation of this title which may be brought against the original creditor in any credit transaction may be maintained against any subsequent assignee of the original creditor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary."

(b) The analysis of such chapter is amended by adding at the end thereof a new item as follows:

"115. Liability of assignees.".

§ 414. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious altered, forged, lost, stolen, or fraudulently obtained; or

"(*d*) *Whoever knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or*

"(*e*) *Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or*

"(*f*) *Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, lost, stolen, or fraudulently obtained—shall be fined not more than $10,000 or imprisoned not more than ten years, or both.*"

§ 415. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to read as follows:

"*(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period.*"; *and*

(2) by amending subsection (b)(10) to read as follows:

"*(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period.*"

§ 416. Effective date

This title takes effect upon the date of its enactment, except that sections 409 and 411 take effect upon the expiration of one year after the date of its enactment.

TITLE V—EQUAL CREDIT OPPORTUNITY

§ 501. Short title

This title may be cited as the "Equal Credit Opportunity Act".

§ 502. Findings and purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

§ 503. Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90-321), is amended by adding at the end thereof a new title VII:

"*TITLE VII—EQUAL CREDIT OPPORTUNITY*

"Sec.
"701. Prohibited discrimination.
"702. Definitions.
"703. Regulations.
"704. Administrative enforcement.
"705. Relation to State laws.
"706. Civil liability.
"707. Effective date.

"*§ 701. Prohibited discrimination.*

"*(a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.*

"*(b) An inquiry of marital status shall not constitute discrimination for purposes of this title if such inquiry is for the purpose of certaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.*

"*§ 702. Definitions*

"*(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.*

"*(b) The term 'applicant' means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.*

"*(c) The term 'Board' refers to the Board of Governors of the Federal Reserve System.*

"*(d) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.*

"*(e) The term 'creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.*

"*(f) The term 'person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.*

"(g) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

"§ 703. Regulations

"The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiations, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

"§ 704. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under:

"(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System other than national banks), by the Board,

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

"(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

"(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

"(5) The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

"(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(7) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

"(8) the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

"(9) the Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any persons with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

"§ 705. Relation to State laws

"(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title: Provided, however, That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

"(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

"(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: Provided, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

"(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for pur-

poses of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

"(e) *Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.*

"§ 706. *Civil liability*

"(a) *Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a representative of a class.*

"(b) *Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, as determined by the court, in addition to any actual damages provided in section 706(a): Provided, however, That in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.*

"(c) *Section 706(b) notwithstanding, any creditor who fails to comply with any requirement imposed under this title may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed the lesser of $100,000 or 1 percent of the net worth of the creditor. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.*

"(d) *When a creditor fails to comply with any requirement imposed under this title, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.*

"(e) *In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b), and (c) of this section.*

"(f) *No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.*

"(g) *Without regard to the amount in controversy, any action under this title may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.*

§ 707. *Effective date*

"*This title takes effect upon the expiration of one year after the date of its enactment.*".

TITLE VI—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

Sec. 601. The Congress finds and declares that—

(1) *the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;*

(2) *a substantial majority of such purchasers reside in the States where such instruments are purchased;*

(3) *the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;*

(4) *it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and*

(5) *the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.*

DEFINITIONS

Sec. 602. As used in this title—

(1) *"banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;*

(2) *"business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and*

(3) *"financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.*

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

Sec. 603. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) *if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the ex-*

tent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or taken custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 604. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

And the Senate agree to the same.

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

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following: "An Act to increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

And the Senate agree to the same.

WRIGHT PATMAN,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
WILLIAM A. BARRETT,
JIM HANLEY,
WILLIAM S. MOORHEAD,
WILLIAM R. COTTER,
JOHN J. MOAKLEY,
THOMAS L. ASHLEY,
WILLIAM B. WIDNALL,
JOHN H. ROUSSELOT,
CHALMERS WYLIE,
ANGELO D. RONCALLO,
MATTHEW J. RINALDO,
Managers on the Part of the House.

JOHN SPARKMAN,
THOMAS J. MCINTYRE,
WILLIAM PROXMIRE,
HARRISON WILLIAMS,
WALLACE F. BENNETT,
JOHN TOWER,
BILL BROCK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House bill provided for 100 percent insurance on the deposits of public funds of Federal, State and local governmental units in Federally insured banks, savings banks, savings and loan, building and loan, and homestead associations, cooperative banks, and credit unions. The Senate bill had no comparable provision. The Senate receded to the House bill with the following amendments: Time and savings deposits of public funds by Federal, State and local units in Federally insured depository institutions are fully insured up to the amount of $100,000 per account. Interest rate ceilings on such deposits are to be set by the appropriate financial supervisory agencies pursuant to regulations issued under the Act of September 21, 1966 (P.L. 89–597). A further amendment was incorporated into the public units deposit provision by the conferees in order to protect both Federal savings and loan associations and the public with regard to the application of state governmental unit deposit acts. It would provide that Federal savings and loan associations may act as a surety, as defined by the Federal Home Loan Bank Board and thus would enable public funds to be protected in New Jersey and other States in which similar laws now or hereafter exist. The Advisory Commission on Intergovernmental Relations is directed to conduct a study of the impact of this section and report its findings to the Congress not later than two years from the date of enactment. The conferees agreed to an effective date for this provision of 30 days after the date of enactment. The House bill provided for an increase in the present ceiling of $20,000 on Federal deposit insurance to $50,000 on accounts in commercial banks, mutual savings banks, saving and loan associations, and credit unions. The

Senate bill provided for an increase from $20,000 to $25,000. The conferees agreed on an increase to $40,000, with the increase in ceiling limitation to become effective 30 days after the date of enactment.

The Senate bill amended section 402(a) of the National Housing Act to change the name of the Federal Savings and Loan Insurance Corporation (FSLIC) to the Federal Savings Insurance Corporation (FSIC). The House bill had no comparable provision. The Senate receded to the House.

The Senate bill extended until June 30, 1976, a moratorium on the conversion from the mutual to stock form of organization for savings and loan associations, except for a limited number of test conversions as follows:

(1) Those associations which had filed an application for conversions prior to May 22, 1973.

(2) A total of not more than 23 associations for conversion in states where conversions are presently authorized.

(3) A limited number of conversions not in excess of 1 percentum of the number of insured institutions in any state which enacts authorized legislation subsequent to May 22, 1974. The House bill had no comparable provision. The House receded to the Senate with an amendment authorizing an absolute number of test conversions during the two-year moratorium period expiring June 30, 1976, not in excess of 1 percent of the present number of all insured institutions. Financial regulatory agencies would also be required to issue regulations substantially similar to those issued by the SEC with respect to the functions of the Commission. The House accepted the Senate provisions with an amendment directing the Corporation to process to final determination the applications of those associations having submitted plans of conversion prior to May 22, 1973. Those associations which had provided written public notice to accountholders of adoption of a plan for conversion shall be permitted to proceed without the requirement of a payment for stock distribution to accountholders as of a record date prior to the date of such notice, and under regulations and procedures in effect at the time of submission wherever necessary. Such approvals shall be in addition to those approved under the 1 percent criterion. The House amendment specified that approvals shall be allocated geographically by size, by type of charter, by timeliness of filing, by need for capital, to achieve flexible regulation, and on other public interest considerations. The Board is required to report at least annually to the Congress so that close monitoring of the test results can be assured.

The Senate bill provided for a moratorium on the conversion of mutual savings banks to the stock form of organization until June 30, 1976, except in the cases where conversion approval is required to maintain the safety, soundness and stability of an insured mutual savings bank. In considering applications, the responsible agency shall take cognizance of any undue difficulties likely to be encountered by financial institutions in very small communities, such as those with populations under 4,000 in their efforts to comply with State stautes prohibiting interlocking directorates of financial institutions. The House had no comparable provision. The House receded to the Senate.

The Senate bill amended section 7 of the Act of September 21, 1966 (P.L. 89-597) extending the authority of financial regulatory agencies to establish (under Regulation Q) ceilings that may be paid by banks on time and savings deposits and by building and loan, savings and loans, homestead associations and cooperative banks and credit unions on deposits, shares, and withdrawable accounts until December 31, 1975. The Senate bill further directed the regulatory agencies to give due consideration to existing market interest rates to insure a fair and appropriate rate of interest on savings. The House bill had no comparable provision. The conferees agreed to an extension of Reg. Q to December 31, 1975, and deleted reference to market rate consideration.

The Senate bill amended section 10 of the Federal Reserve Act authorizing the expenditure by the Federal Reserve of an additional $80 million for the construction of branch banking facilities. The House bill had no comparable provision. The House receded to the Senate. The conferees expect, however, that the Federal Reserve will conform to the requirements imposed upon Federal agencies by the President to undertake such construction in a manner which is consistent with efforts to reduce inflationary pressures. The conferees unanimously recommended that the Federal Reserve avail itself of the safeguards imposed by the General Services Administration on most Federal building construction and the advantages of requiring competitive bidding be fully considered at such time as a decision is reached to proceed.

The Senate bill amended section 14(b) of the Federal Reserve Act renewing until October 31, 1975, the authority of Federal Reserve banks to purchase directly from the Treasury public debt obligations up to a limit of $5 billion outstanding at any time. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 8(b) of the Federal Deposit Insurance Act providing the Federal Reserve Board with additional authority by expanding the scope of existing cease and desist powers to cover parent holding companies and non-banking subsidiaries where action of a parent holding company or its nonfinancial institution constitute a serious threat to the safety, soundness, or stability of a subsidiary bank. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 407(e) of the National Housing Act to expand the Federal Home Loan Bank Board's cease and desist powers to cover parent holding companies and non-savings and loan subsidiaries. The House had no comparable provision. Due to the distinctions between the operations of the average savings and loan holding company and the average bank holding company, the conferees concluded extensive further hearings are indicated. Accordingly, the Senate receded to the House.

The Senate bill prohibited any officer or agency of the United States from requiring the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit their legislative recommendations, testimony, and comments for approval, or review prior to their submission to the Congress provided such communica-

tions include a statement to the effect that the views expressed therein do not necessarily represent the views of the President. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 11 of the Federal Home Loan Bank Act increasing by $2 billion the authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations, provided such authority were used only when: (1) the Home Loan Bank System cannot effectively employ alternative means in supplying funds to the mortgage market, and (2) the ability to supply such funds to housing is impaired by monetary stringency and rapidly rising interest rates. The House bill had no comparable provision. The House receded to the Senate provision, with an amendment to substitute the phrase "a high level of interest rates" for the phrase "rapidly rising interest rates" in the second criterion.

The Senate bill would prevent any Federal supervisory agency from exempting federally chartered financial institutions from complying with any State law or regulation which protects borrowers at those institutions. It also directed the Advisory Commission on Intergovernmental Relations to conduct a study on this issue and to report its findings to Congress by June 30, 1975. The House bill had no comparable provision. The Senate receded to the House.

The Senate bill amended section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act authorizing the corporation to purchase mortgages from any State insured financial institution (in addition to mortgages from any federally insured institution as at present), or from any HUD-approved mortgagee or person approved by the Corporation pursuant to the borrowing authority of section 11(i) of the Federal Home Loan Bank Act. The House bill had no comparable provision. The House receded to the Senate with an amendment restricting this additional power to authorizing the corporation to purchase and make commitments to purchase, residential mortgages from any financial institution the deposits of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20% of the total amount of such deposits in all banks, building and loan, savings and loan, homestead associations and cooperative banks in that State.

The Senate bill contained a technical amendment striking the Commonwealth of Puerto Rico from Section 7(d)(2), definition of "State", of Public Law 93-100 which imposed a moratorium on interstate taxation of depository institutions. As a result, Puerto Rico would be treated as a "foreign country" in line with current Federal Reserve Board regulations. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 404 of the National Housing Act providing a rebate to savings and loan associations whose balances in the secondary reserve fund of the Federal Savings and Loan Insurance Corporation are excessive and would not be reduced within a reasonable time under the present premium repayment structure. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 111 of the Federal Credit Union Act providing for permissive authority to Federal Credit Unions to provide reasonable health, accident, and other similar insurance protection for their directors and committee members not to be considered compensation. Forty-five States now permit the offering of similar plans by State-chartered credit unions. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill established a National Commission on Electronic Funds Tranfers composed of 20 members appointed by the President to study the electronic funds transfer system and report its findings and recommendations to Congress no later than two years after enactment. The House bill had no comparable provision. The House receded to the Senate with amendment increasing the membership of the Commission to 26 members to insure broader representation in view of the complex intertwined issues involved. The addition by the House of the Comptroller General and the Director of the Office of Technology insures congressional continuity and consideration of those public policy considerations likely to arise requiring an appropriate legislative response. The House amendment specified an additional function of the Commission to the effect that a thorough study and investigation should be made of the need to promote competition for financial institutions and to assure government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum. The conferees, however, believe further that during the existence of the study commission that federal agencies involved in electronic funds transfers, as well as those engaged in such activity in the private sector, recognize that potential payments mechanisms are in an experimental stage with a number of significant public policy questions unresolved, and hence all such efforts are subject to change and modification.

The Senate bill amended the Truth-in-Lending Act for the purpose of protecting the consumer against unfair and inaccurate credit billing and credit card practices. The House bill contained no comparable provision. The conferees accepted the Senate provision with an amendment to redefine the term "creditor."

The Senate bill provided a series of basically technical amendments designed to improve the administration of the Truth in Lending Act. The House bill contained no comparable provisions. The conferees accepted the Senate provisions.

The Senate bill amended the Consumer Credit Protection Act to prohibit any creditor from discriminating against any applicant for credit on the basis of sex or marital status. The House bill contained no comparable provision. The conferees accepted the Senate provision with amendments to conform it more closely to the version of the "Equal Credit Opportunity Act" recently reported by the House Subcommittee on Consumer Affairs. The definition of the term "discriminate" was eliminated. The flexibility of the regulatory authority was broadened. It was made explicit that credit granted to an individual party to a marriage will be the sole responsibility of that party. The limitation on class action suits was further limited to the lesser of $100,000 or 1 percent of the net worth of the creditor to protect small business firms from catastrophic judgments. The effective date of the provision was extended from six months to one year to give the Federal Reserve Board sufficient time to issue regulations.

The Senate bill contained a provision allowing the proceeds of abandoned money orders and travelers' checks to escheat to the state

in which they were purchased or, if the state of purchase is unknown, such proceeds would accrue to the state in which the issuing organization has its principal place of business. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill contained a provision placing a limitation of $295 billion on Federal expenditures and net lending for the fiscal year 1975. The House bill had no comparable provision. The Senate receded to the House.

The conferees adopted as the title for H.R. 11221: "An Act To Increase Deposit Insurance From $20,000 to $40,000, To Provide Full Insurance for Public Unit Deposits of $100,000 per Account, To Establish a National Commission on Electronic Fund Transfers, and for Other Purposes."

WRIGHT PATMAN,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
WILLIAM A. BARRETT,
JIM HANLEY,
WILLIAM S. MOORHEAD,
WILLIAM R. COTTER,
JOHN J. MOAKLEY,
THOMAS L. ASHLEY,
WILLIAM B. WIDNALL,
JOHN H. ROUSSELOT,
CHALMERS WYLIE,
ANGELO D. RONCALLO,
MATTHEW J. RINALDO,
Managers on the Part of the House.

JOHN SPARKMAN,
THOMAS J. MCINTYRE,
WILLIAM PROXMIRE,
HARRISON WILLIAMS,
WALLACE F. BENNETT,
JOHN TOWER,
BILL BROCK,
Managers on the Part of the Senate.

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H. R. 11221

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

An Act

To increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes.

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

TITLE I—AMENDMENTS TO AND EXTENSIONS OF PROVISIONS OF LAW RELATING TO FEDERAL REGULATION OF DEPOSITORY INSTITUTIONS

FULL DEPOSIT INSURANCE FOR PUBLIC UNITS

Section 101. (a) The Federal Deposit Insurance Act is amended—

(1) in subsection (m) of section 3 (12 U.S.C. 1813(m)), by inserting immediately after "depositor" in the first sentence the following: "(other than a depositor referred to in the third sentence of this subsection)";

(2) in subsection (i) of section 7 (12 U.S.C. 1817(i)), by striking out "Trust" and inserting in lieu thereof the following: "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust"; and

(3) in subsection (a) of section 11 (12 U.S.C. 1821(a)), by inserting "(1)" immediately after "(a)", by striking out "The" in the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (2), the", and by inserting at the end of such subsection the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured in an amount not to exceed $100,000 per account.

"(b) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time and savings deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its

assets: *Provided, however*, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required."

(b) Title IV of the National Housing Act is amended—

(1) in section 401(b) (12 U.S.C. 1724(b)), by striking out "Funds" in the third sentence and inserting in lieu thereof the following: "Except in the case of an insured member referred to in the preceding sentence, funds";

(2) in section 405(a) (12 U.S.C. 1728(a)), by inserting after "except that no member or investor" the following: "(other than a member or investor referred to in subsection (d))"; and

(3) by adding at the end of section 405 (12 U.S.C. 1728) the following new subsection:

"(d)(1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico or the Virgin Islands, respectively;

the account of such insured member shall be insured in an amount not to exceed $100,000 per account.

"(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets."

(c) Subsection (c) of section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by—

(1) inserting "(1)" after "(c)",

(2) striking out "For the purposes of this subsection," and inserting in lieu thereof the following: "Subject to the provisions of paragraph (2), for the purposes of this subsection,", and

(3) adding at the end thereof the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully

investing the same in a credit union insured in accordance with this title in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively;

his account shall be insured in an amount not to exceed $100,000 per account.

"(B) The Administrator may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in accordance with this title by any depositor or member referred to in subparagraph (A) on the basis of the size of any such credit union in terms of its assets."

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits;".

(e) Section 5(b)(2) of the Home Owners' Loan Act of 1933 is amended by inserting immediately after "security," "may be surety as defined by the Board".

(f)(1) The Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Commission") shall conduct a study of the impact of this section on funds available for housing and on State and local bond markets.

(2) The Commission shall make a report to the Congress of the results of its study not later than two years after the date of enactment of this Act.

(3) There is authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.

(g) This section and the amendments made by it shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 102. (a) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$40,000":

(1) The first sentence of section 3(m) (12 U.S.C. 1813(m)).
(2) The first sentence of section 7(i) (12 U.S.C. 1817(i)).
(3) The last sentence of section 11(a) (12 U.S.C. 1821(a)).
(4) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(b) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 103. (a) The following provisions of title IV of the National Housing Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$40,000":

(1) Section 401(b) (12 U.S.C. 1724(b)).
(2) Section 405(a) (12 U.S.C. 1728(a)).

(b) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: INSURED CREDIT UNIONS

SEC. 104. (a) The first sentence of section 207(c) of title II of the Federal Credit Union Act (12 U.S.C. 1787 (c)) is amended by striking out "$20,000" and inserting in lieu thereof "$40,000".

(b) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of title II of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(c) The amendment made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 105. (a) Section 403(b) of the National Housing Act, as amended (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following new sentence: "As used in this subsection the term 'reserves' shall, to such extent as the Corporation may provide, include capital stock and other items, as defined by the Corporation.".

(b) Section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 781(i)), is amended to read as follows:

"(i) In respect of any securities issued by banks the deposits of which are insured in accordance with the Federal Deposit Insurance Act or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, the powers, functions, and duties vested in the Commission to administer and enforce sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16, (1) with respect to national banks and banks operating under the Code of Law for the District of Columbia are vested in the Comptroller of the Currency, (2) with respect to all other member banks of the Federal Reserve System are vested in the Board of Governors of the Federal Reserve System, (3) with respect to all other insured banks are vested in the Federal Deposit Insurance Corporation, and (4) with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation are vested in the Federal Home Loan Bank Board. The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in them as provided in this subsection. In carrying out their responsibilities under this subsection, the agencies named in the first sentence of this subsection shall issue substantially similar regulations to regulations and rules issued by the

Commission under sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16, unless they find that implementation of substantially similar regulations with respect to insured banks and insured institutions are not necessary or appropriate in the public interest or for protection of investors, and publish such findings, and the detailed reasons therefor, in the Federal Register. Such regulations of the above-named agencies, or the reasons for failure to publish such substantially similar regulations to those of the Commission, shall be published in the Federal Register within 120 days of the date of enactment of this subsection, and, thereafter, within 60 days of any changes made by the Commission in its relevant regulations and rules."

(c) Paragraph (5) of subsection (1) of section 407 of the National Housing Act, as amended (12 U.S.C. 1730(1)(5)), is amended by inserting after "disclosures" a comma and the following: "including proxy statements and the solicitation of proxies thereby,".

(d) Subsection (j) of section 402 of the National Housing Act, as amended (12 U.S.C. 1725(j)), is amended to read as follows:

"(j)(1) Except as otherwise provided in this subsection, until June 30, 1976, the Corporation shall not approve, under regulations adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933, by order or otherwise, a conversion from the mutual to stock form of organization involving or to involve an insured institution, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which may be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

(2) The number of applications for conversion which the Corporation may approve pursuant to such regulations prior to such date shall be determined by the Corporation but shall not in any case be in excess of 1 per centum of the total number of all insured institutions in existence on the date of enactment, exclusive of the number of applications submitted for filing prior to May 22, 1973. *Provided*, that the Corporation shall process to final determination any application submitted for filing prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933: with further proviso that, with respect to a plan of conversion of any such applicant which, before May 22, 1973, has given written public notice to its accountholders of adoption of a plan of conversion or has obtained waiver forms from substantially all its new accountholders subsequent to the giving of such notice, such plan need not require payment for stock distributed to accountholders as of a record date prior to the date of such notice.

"(3) Notwithstanding any other provision of law, an insured institution converting in accordance with this subsection may retain its Federal charter. The Corporation shall not, however, permit the conversion of Federally chartered associations in States the laws of which do not authorize the operation of State chartered stock associations, except that the prohibition contained in this sentence shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, or a State where all insured institutions domiciled therein are Federally chartered.

"(4) Any aggrieved person may obtain review of a final action of the Federal Home Loan Bank Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of subsection (k) of section 408 of this title (12 U.S.C. 1730a(k)) within the time limit and in the manner therein prescribed,

which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Corporation, whichever is later.

"(5) The Corporation shall, at least annually and more often as circumstances require, render reports to the Congress on the exercise of its authority under this subsection.

"(6) In implementing the provisions of this subsection the Corporation shall regulate the approvals granted so as to achieve (A) as much geographical dispersion as practicable; (B) an equitable distribution with respect to the size of converting institutions; (C) an appropriate distribution between State chartered and Federally chartered institutions; (D) timeliness of filing; (E) flexibility to the extent possible in plans of conversion taking into account the characteristics of particular converting institutions; (F) the meeting of capital needs; and (G) such other reasonable results as it may consider necessary or appropriate in the public interest."

MORATORIUM ON CONVERSION OF FEDERAL DEPOSIT INSURANCE CORPORATION INSURED INSTITUTIONS

SEC. 106. Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end thereof the following new subsection:

"(10) Until June 30, 1976, the responsible agency shall not grant any approval required by law which has the practical effect of permitting a conversion from the mutual to the stock form of organization, including approval of any application pending on the date of enactment of this subsection, except that this sentence shall not be deemed to limit now or hereafter the authority of the responsible agency to grant approvals in cases where the responsible agency finds that it must act in order to maintain the safety, soundness, and stability of an insured bank. The responsible agency may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection."

EXTENSION OF FLEXIBLE REGULATION OF INTEREST RATES AUTHORITY

SEC. 107. Section 7 of the Act of September 21, 1966 (Public Law 89-597), is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1975".

INCREASE DOLLARS LIMITATION ON THE COST FOR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

SEC. 108. The ninth paragraph of section 10 of the Federal Reserve Act, as amended (12 U.S.C. 522), is amended by striking out "$60,000,000" and inserting in lieu thereof "$140,000,000".

PURCHASE OF UNITED STATES OBLIGATIONS BY FEDERAL RESERVE BANKS

SEC. 109. (a) Section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "November 1, 1973" and inserting in lieu thereof "November 1, 1975" and by striking out "October 31, 1973" and inserting in lieu thereof "October 31, 1975".

SUPERVISORY AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OVER BANK HOLDING COMPANIES AND THEIR NON-BANKING SUBSIDIARIES

SEC. 110. Subsection (b) of section 8 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)), is amended by adding at the end thereof the following new paragraph:

"(3) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a holding company, as those terms are defined in the Bank Holding Company Act of 1956, in the same manner as they apply to a State member insured bank."

INDEPENDENCE OF FINANCIAL REGULATORY AGENCIES

SEC. 111. No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

INCREASE IN AUTHORITY OF THE TREASURY TO PURCHASE FEDERAL HOME LOAN BANK OBLIGATIONS

SEC. 112. Subsection (i) of section 11 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1431(i)), is amended as follows:

(1) In the fourth sentence of the first paragraph, strike out "subsection" both places it appears and insert in lieu thereof "paragraph".

(2) Strike out the second paragraph and insert in lieu thereof the following:

"In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed $2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

"Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after the date of enactment of the Depository Institutions Amendments of 1974 only if the Secretary of the Treasury and the Chairman of the Federal Home Loan Bank Board certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.".

AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES FROM STATE INSURED INSTITUTIONS

SEC. 113. The first sentence of section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting "or

from any financial institution the deposits or accounts of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 per centum of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State" immediately after "agency of the United States".

TECHNICAL AMENDMENT

SEC. 114. (a) Section 7(d)(2) of the Act of August 16, 1973 (Public Law 93–100), is amended by striking out "the Commonwealth of Puerto Rico,".

(b) The amendment made by subsection (a) applies with respect to any taxable year or other taxable period beginning on or after August 16, 1973.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION SECONDARY RESERVE ADJUSTMENT

SEC. 115. Paragraph (1) of subsection (d) of section 404 of the National Housing Act, as amended (12 U.S.C. 1727), is amended by inserting "(A)" immediately after "(d)(1)" and by adding at the end thereof the following:

"(B)(i) As used in this subparagraph (B), 'minimum net reduction year' means a year in which, at the close of December 31, the aggregate of the primary reserve and secondary reserve equals or exceeds 1¼ per centum of the total amount of all accounts of insured members of all insured institutions, and 'beginning balance' means, with respect to each insured institution, the amount of such institution's pro rata share, if any, of the secondary reserve as of the close of December 31, 1973, plus any amount or amounts which, after such close, shall have been transferred to such institution under the last sentence of subsection (e) of this section.

"(ii) In May of each year succeeding each of the first ten minimum net reduction years occurring after December 31, 1973, the Corporation shall reduce the amount of each insured institution's pro rata share, if any, of the secondary reserve as of the preceding December 31 by making to the extent available, a cash refund to each such institution of the difference, if any, between such pro rata share and the applicable percentage of its beginning balance prescribed in the following table:

"Minimum net reduction year:	Percent of beginning balance
1	98.1818182
2	94.5454546
3	89.0909091
4	81.8181818
5	72.7272727
6	61.8181818
7	49.0909091
8	34.5454546
9	18.1818182
10	0.0000000".

CREDIT UNION MANAGEMENT: REASONABLE HEALTH AND ACCIDENT INSURANCE NOT CONSIDERED COMPENSATION

SEC. 116. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended by striking the period at the end thereof and adding ": *Provided, however*, That reasonable health, accident, and similar insurance protection shall not be considered compensation under regulations promulgated by the Administrator.".

TITLE II—NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

ESTABLISHMENT

SEC. 201. There is established the National Commission on Electronic Fund Transfers (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States.

MEMBERSHIP

SEC. 202. (a) The Commission shall be composed of twenty-six members as follows:

(1) the Chairman of the Board of Governors of the Federal Reserve System or his delegate;

(2) the Attorney General or his delegate;

(3) the Comptroller of the Currency or his delegate;

(4) the Chairman of the Federal Home Loan Bank Board or his delegate;

(5) the Administrator of the National Credit Union Administration or his delegate;

(6) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation or his delegate;

(7) the Chairman of the Federal Communications Commission or his delegate;

(8) the Postmaster General or his delegate;

(9) the Secretary of the Treasury or his delegate;

(10) the Chairman of the Federal Trade Commission or his delegate;

(11) two individuals, appointed by the President, one of whom is an official of a State agency which regulates banking, or similar financial institutions, and one of whom is an official of a State agency which regulates thrift or similar financial institutions;

(12) seven individuals, appointed by the President, who are officers or employees of, or who otherwise represent banking, thrift, or other business entities, including one representative each of commercial banks, mutual savings banks, savings and loan associations, credit unions, retailers, nonbanking institutions offering credit card services, and organizations providing interchange services for credit cards issued by banks;

(13) five individuals, appointed by the President, from private life who are not affiliated with, do not represent and have no substantial interest in any banking, thrift, or other financial institution, including but not limited to credit unions, retailers, and insurance companies;

(14) the Comptroller General of the United States or his delegate; and

(15) the Director of the Office of Technology Assessment.

(b) The Chairperson shall be designated by the President at the time of his appointment from among the members of the Commission and such selection shall be by and with the advice and consent of the Senate unless the appointee holds an office to which he was appointed by and with the advice and consent of the Senate.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

FUNCTIONS

SEC. 203. (a) The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and

legislation necessary in connection with the possible development of public or private electronic fund transfer systems, taking into account, among other things—

(1) the need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) the need to promote competition among financial institutions and to assure Government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum;

(3) the need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(4) the need to afford maximum user and consumer convenience;

(5) the need to afford maximum user and consumer rights to privacy and confidentiality;

(6) the impact of such a system on economic and monetary policy;

(7) the implications of such a system on the availability of credit;

(8) the implications of such a system expanding internationally and into other forms of electronic communications; and

(9) the need to protect the legal rights of users and consumers.

(b) The Commission shall make an interim report within one year of its findings and recommendations and at such other times as it deems advisable and shall transmit to the President and to the Congress not later than two years after the date of enactment of this Act a final report of its findings and recommendations. Any such report shall include all hearing transcripts, staff studies, and other material used in preparation of the report. The interim and final reports shall be made available to the public upon transmittal. Sixty days after transmission of its final report the Commission shall cease to exist.

(c) The Commission shall not be required to obtain the clearance of any Federal agency prior to the transmittal of any interim or final report.

POWERS OF COMMISSION

SEC. 204. (a) The Commission may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths of affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) (1) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is con-

ducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

ADMINISTRATION

SEC. 205. (a) The Commission—

(1) may appoint with the advice and consent of the Senate and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for individuals.

(b) The Comptroller General is authorized to make detailed audits of the books and records of the Commission, and shall report the results of any such audit to the Commission and to the Congress.

COMPENSATION

SEC. 206. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate of $150 per day when engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 207. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request, such data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(b) The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Commission may request to assist it in carrying out its functions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated without fiscal year limitations such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this title.

TITLE III—FAIR CREDIT BILLING

§ 301. Short title

This title may be cited as the "Fair Credit Billing Act".

§ 302. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 303. Definitions of creditor and open end credit plan

The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows: "The term 'creditor' refers only to creditors who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise. For the purposes of the requirements imposed under Chapter 4 and sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(9), and 127(b)(11) of Chapter 2 of this Title, the term 'creditor' shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open end credit plans.

§ 304. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement, in a form prescribed by regulations of the Board of the protection provided by sections 161 and 170 to an obligor and the creditor's responsibilities under sections 162 and 170. With respect to each of two billing cycles per year, at semiannual intervals, the creditor shall transmit such statement to each obligor to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle."

(b) Section 127(c) of such Act (15 U.S.C. 1637(c)) is amended to read:

"(c) In the case of any existing account under an open end consumer credit plan having an outstanding balance of more than $1 at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the next statement required by subsection (b)."

§ 305. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 306. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"Chapter 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166. Prompt notification of returns.
"167. Use of cash discounts.
"168. Prohibition of tie-in services.
"169. Prohibition of offsets.
"170. Rights of credit card customers.
"171. Relation to State laws.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under section 127(b)(11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(a)(8)) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and

"(3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

"(A) not later than thirty days after the receipt of the notice, send a written acknowledgement thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to

the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination.

After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

"(b) For the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) A computation error or similiar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purposes of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) the obligor's account is not restricted or closed because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B) (ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

"(e) Any creditor who fails to comply with the requirements of this section or section 162 forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten

to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the amount of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 161(a)(2), unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"(a) If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"(b) Subsection (a) does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payment in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Prompt notification of returns

"With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer, a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

"§ 167. Use of cash discounts

"(a) With respect to credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ 168. Prohibition of tie-in services

"Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

"§ 169. Prohibition of offsets

"(a) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—

"(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and

"(2) such action with respect to any outstanding disputed amount not be taken by the card issuer upon request of the cardholder.

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his credit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

"(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

"§ 170. Rights of credit card customers

"(a) Subject to the limitation contained in subsection (b), a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of the initial

transaction exceeds $50; and (3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card (A) is the same person as the card issuer, (B) is controlled by the card issuer, (C) is under direct or indirect common control with the card issuer, (D) is a franchised dealer in the card issuer's products or services, or (E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.

"(b) The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (1) late charges in the order of their entry to the account; (2) finance charges in order of their entry to the account; and (3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

"§ 171. Relation to State laws

"(a) This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with, the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.

"(b) The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement."

§ 307. Conforming amendments

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. Credit Billing .... 161"

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, and 166".

(c) Section 121(a) of such Act (15 U.S.C. 1631(a)) is amended—

(1) by striking out "and upon whom a finance charge is or may be imposed"; and

(2) by inserting "or chapter 4" immediately after "this chapter".

(d) Section 121(b) of such Act (15 U.S.C. 1631(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

(e) Section 122(a) of such Act (15 U.S.C. 1632(a)) is amended by inserting "or chapter 4" immediately after "this chapter".

(f) Section 122(b) of such Act (15 U.S.C. 1632(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

§ 308. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE IV—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 401. Advertising; more-than-four-installment rule

(a) Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661–1665) is amended by adding at the end thereof a new section as follows:

"§ 146. More-than-four-installment rule

"Any advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit repayable in more than four installments shall, unless a finance charge is imposed, clearly and conspicuously state, in accordance with the regulations of the Board:

"'THE COST OF CREDIT IS INCLUDED IN THE PRICE QUOTED FOR THE GOODS AND SERVICES.'"

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"146. More-than-four-installment rule.".

§ 402. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions primarily for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 403. Administrative enforcement

(a) Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607 (a)) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(b) Section 108(a) of such Act (15 U.S.C. 1607(a)) is amended by adding at the end thereof a new paragraph as follows:

"(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association."

§ 404. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of law, is or will be"; and

(2) by inserting after "obligor" the second time it appears in the first sentence of subsection (b) the following: ", including any such interest arising by operation of law,".

§ 405. Time limit for right of rescission

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material dis-

closures required under this chapter have not been delivered to the obligor."

§ 406. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 407. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

§ 408. Civil liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of the failure;

"(2)(A) in the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $100,000 or 1 per centum of the net worth of the creditor; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection

(a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by sections 406, 407, and 408 shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§ 409. Full statement of closing costs

Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by adding at the end thereof a new subsection as follows:

"(c) For the purpose of subsection (a), the information required under this chapter shall include a full statement of closing costs to be incurred by the consumer, which shall be presented, in accordance with the regulations of the Board—

"(1) prior to the time when any downpayment is made, or

"(2) in the case of a consumer credit transaction involving real property, at the time the creditor makes a commitment with respect to the transaction.

The Board may provide by regulation that any portion of the information required to be disclosed by this section may be given in the form of estimates where the provider of such information is not in a position to know exact information."

§ 410. Business use of credit cards

(a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1644) is amended by adding the following new section at the end thereof:

"§ 135. Business credit cards

"The exemption provided by section 104(1) does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133."

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"135. Business credit cards.".

§ 411. Identification of transaction

Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the Board sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished."

§ 412. Exemption for State lending agencies

Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended by striking the period at the end thereof and adding the following: "or to a consumer credit transaction in which an agency of a State is the creditor."

§ 413. Liability of assignees

(a) Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601–1613) is amended by adding at the end thereof a new section as follows:

"§ 115. Liability of assignees

"Except as otherwise specifically provided in this title, any civil action for a violation of this title which may be brought against the original creditor in any credit transaction may be maintained against any subsequent assignee of the original creditor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary."

(b) The analysis of such chapter is amended by adding at the end thereof a new item as follows:

"115. Liability of assignees.".

§ 414. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(d) Whoever knowingly receives, conceals, uses, or transport money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

"(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both."

§ 415. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) The conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period."

§ 416. Effective date

This title takes effect upon the date of its enactment, except that sections 409 and 411 take effect upon the expiration of one year after the date of its enactment.

TITLE V—EQUAL CREDIT OPPORTUNITY

§ 501. Short title

This title may be cited as the "Equal Credit Opportunity Act".

§ 502. Findings and purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

§ 503. Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90–321), is amended by adding at the end thereof a new title VII:

"TITLE VII—EQUAL CREDIT OPPORTUNITY

"Sec.

"701. Prohibited discrimination.
"702. Definitions.
"703. Regulations.
"704. Administrative enforcement.
"705. Relation to State laws.
"706. Civil liability.
"707. Effective date.

"§ 701. Prohibited discrimination

"(a) It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(b) An inquiry of marital status shall not constitute discrimination for purposes of this title if such inquiry is for the purpose of ascer-

taining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.

"§ 702. Definitions

"(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

"(b) The term 'applicant' means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

"(c) The term 'Board' refers to the Board of Governors of the Federal Reserve System.

"(d) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

"(e) The term 'creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

"(f) The term 'person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

"(g) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

"§ 703. Regulations

"The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

"§ 704. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under:

"(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System (other than national banks), by the Board,

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

"(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

"(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

"(5) The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

"(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(7) The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

"(8) The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

"(9) The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

"§ 705. Relation to State laws

"(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title: *Provided, however*, That this provision shall not be construed to permit a creditor to take sex or marital

status into account in connection with the evaluation of creditworthiness of any applicant.

"(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

"(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided*, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

"(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

"(e) Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"§ 706. Civil liability

"(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a representative of a class.

"(b) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, as determined by the court, in addition to any actual damages provided in section 706(a): *Provided, however*, That in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

"(c) Section 706(b) notwithstanding, any creditor who fails to comply with any requirement imposed under this title may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed the lesser of $100,000 or 1 percent of the net worth of the creditor. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

"(d) When a creditor fails to comply with any requirement imposed under this title, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

"(e) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b), and (c) of this section.

"(f) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule,

regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(g) Without regard to the amount in controversy, any action under this title may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"§ 707. Effective date

"This title takes effect upon the expiration of one year after the date of its enactment.".

TITLE VI—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

Sec. 601. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

Sec. 602. As used in this title—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

Sec. 603. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such

money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 604. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

Speaker of the House of Representatives.

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

October 17, 1974

Dear Mr. Director:

The following bills were received at the White House on October 17th:

S.J. Res. 236	S. 2840	H.R. 7768	H.R. 14225
S.J. Res. 250	S. 3007	H.R. 7780	H.R. 14597
S.J. Res. 251	S. 3234	H.R. 11221	H.R. 15148
S. 355	S. 3473	H.R. 11251	H.R. 15427
S. 605	S. 3698	H.R. 11452	H.R. 15540
S. 628	S. 3792	H.R. 11830	H.R. 15643
S. 1411	S. 3838	H.R. 12035	H.R. 16857
S. 1412	S. 3979	H.R. 12281	H.R. 17027
S. 1769	H.R. 6624	H.R. 13561	
S. 2348	H.R. 6642	H.R. 13631	

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 Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.