

1 **TITLE VI—FEDERAL HOME LOAN**
2 **BANK SYSTEM MODERNIZATION**

3 **SEC. 601. SHORT TITLE.**

4 This title may be cited as the “Federal Home Loan
5 Bank System Modernization Act of 1999”.

6 **SEC. 602. DEFINITIONS.**

7 Section 2 of the Federal Home Loan Bank Act (12
8 U.S.C. 1422) is amended—

9 (1) in paragraph (1), by striking “term ‘Board’
10 means” and inserting “terms ‘Finance Board’ and
11 ‘Board’ mean”;

12 (2) by striking paragraph (3) and inserting the
13 following:

14 “(3) STATE.—The term ‘State’, in addition to
15 the States of the United States, includes the District
16 of Columbia, Guam, Puerto Rico, the United States
17 Virgin Islands, American Samoa, and the Common-
18 wealth of the Northern Mariana Islands.”; and

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

21 “(13) COMMUNITY FINANCIAL INSTITUTION.—

22 “(A) IN GENERAL.—The term ‘community
23 financial institution’ means a member—

1 “(i) the deposits of which are insured
2 under the Federal Deposit Insurance Act;
3 and

4 “(ii) that has, as of the date of the
5 transaction at issue, less than
6 \$500,000,000 in average total assets,
7 based on an average of total assets over
8 the 3 years preceding that date.

9 “(B) ADJUSTMENTS.—The \$500,000,000
10 limit referred to in subparagraph (A)(ii) shall
11 be adjusted annually by the Finance Board,
12 based on the annual percentage increase, if any,
13 in the Consumer Price Index for all urban con-
14 sumers, as published by the Department of
15 Labor.”.

16 **SEC. 603. SAVINGS ASSOCIATION MEMBERSHIP.**

17 Section 5(f) of the Home Owners’ Loan Act (12
18 U.S.C. 1464(f)) is amended to read as follows:

19 “(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—
20 After the end of the 6-month period beginning on the date
21 of the enactment of the Federal Home Loan Bank System
22 Modernization Act of 1999, a Federal savings association
23 may become a member of the Federal Home Loan Bank
24 System, and shall qualify for such membership in the
25 manner provided by the Federal Home Loan Bank Act.”.

1 **SEC. 604. ADVANCES TO MEMBERS; COLLATERAL.**

2 (a) IN GENERAL.—Section 10(a) of the Federal
3 Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

4 (1) by redesignating paragraphs (1) through
5 (4) as subparagraphs (A) through (D), respectively,
6 and indenting appropriately;

7 (2) by striking “(a) Each” and inserting the
8 following:

9 “(a) IN GENERAL.—

10 “(1) ALL ADVANCES.—Each”;

11 (3) by striking the second sentence and insert-
12 ing the following:

13 “(2) PURPOSES OF ADVANCES.—A long-term
14 advance may only be made for the purposes of—

15 “(A) providing funds to any member for
16 residential housing finance; and

17 “(B) providing funds to any community fi-
18 nancial institution for small businesses, small
19 farms, and small agri-businesses.”;

20 (4) by striking “A Bank” and inserting the fol-
21 lowing:

22 “(3) COLLATERAL.—A Bank”;

23 (5) in paragraph (3) (as so designated by para-
24 graph (4) of this subsection)—

25 (A) in subparagraph (C) (as so redesign-
26 ated by paragraph (1) of this subsection) by

1 striking “Deposits” and inserting “Cash or de-
2 posits”;

3 (B) in subparagraph (D) (as so redesign-
4 nated by paragraph (1) of this subsection), by
5 striking the second sentence; and

6 (C) by inserting after subparagraph (D)
7 (as so redesignated by paragraph (1) of this
8 subsection) the following new subparagraph:

9 “(E) Secured loans for small business, ag-
10 riculture, or securities representing a whole in-
11 terest in such secured loans, in the case of any
12 community financial institution.”;

13 (6) in paragraph (5)—

14 (A) in the second sentence, by striking
15 “and the Board”;

16 (B) in the third sentence, by striking
17 “Board” and inserting “Federal home loan
18 bank”; and

19 (C) by striking “(5) Paragraphs (1)
20 through (4)” and inserting the following:

21 “(4) ADDITIONAL BANK AUTHORITY.—Subpara-
22 graphs (A) through (E) of paragraph (3)”;

23 (7) by adding at the end the following:

24 “(5) REVIEW OF CERTAIN COLLATERAL STAND-
25 ARDS.—The Board may review the collateral stand-

1 ards applicable to each Federal home loan bank for
2 the classes of collateral described in subparagraphs
3 (D) and (E) of paragraph (3), and may, if necessary
4 for safety and soundness purposes, require an in-
5 crease in the collateral standards for any or all of
6 those classes of collateral.

7 “(6) DEFINITIONS.—For purposes of this sub-
8 section, the terms ‘small business’, ‘agriculture’,
9 ‘small farm’, and ‘small agri-business’ shall have the
10 meanings given those terms by regulation of the Fi-
11 nance Board.”.

12 (b) CLERICAL AMENDMENT.—The section heading
13 for section 10 of the Federal Home Loan Bank Act (12
14 U.S.C. 1430) is amended to read as follows:

15 **“SEC. 10. ADVANCES TO MEMBERS.”.**

16 (c) QUALIFIED THRIFT LENDER STATUS.—Section
17 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430)
18 is amended by striking the 1st of the 2 subsections des-
19 ignated as subsection (e).

20 (d) FEDERAL HOME LOAN BANK ACCESS.—Section
21 10(m)(3)(B) of the Home Owners’ Loan Act (12 U.S.C.
22 1467a(m)(3)(B)) is amended—

23 (1) in clause (i), by striking subclause (III) and
24 redesignating subclause (IV) as subclause (III); and

1 (2) by striking clause (ii) and inserting the fol-
2 lowing:

3 “(ii) ADDITIONAL RESTRICTIONS EF-
4 FECTIVE AFTER 3 YEARS.—Beginning 3
5 years after the date on which a savings as-
6 sociation should have become a qualified
7 thrift lender, or the date on which the sav-
8 ings association ceases to be a qualified
9 thrift lender, as applicable, the savings as-
10 sociation shall not retain any investment
11 (including an investment in any subsidiary)
12 or engage, directly or indirectly, in any ac-
13 tivity, unless that investment or activity—

14 “(I) would be permissible for the
15 savings association if it were a na-
16 tional bank; and

17 “(II) is permissible for the sav-
18 ings association as a savings associa-
19 tion.”.

20 **SEC. 605. ELIGIBILITY CRITERIA.**

21 Section 4(a) of the Federal Home Loan Bank Act
22 (12 U.S.C. 1424(a)) is amended—

23 (1) in paragraph (2)(A), by inserting, “(other
24 than a community financial institution)” after “in-
25 stitution”;

1 (2) in the matter immediately following para-
2 graph (2)(C)—

3 (A) by striking “An insured” and inserting
4 the following:

5 “(3) CERTAIN INSTITUTIONS.—An insured”;
6 and

7 (B) by striking “preceding sentence” and
8 inserting “paragraph (2)”; and

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

11 “(4) LIMITED EXEMPTION FOR COMMUNITY FI-
12 NANCIAL INSTITUTIONS.—A community financial in-
13 stitution that otherwise meets the requirements of
14 paragraph (2) may become a member without regard
15 to the percentage of its total assets that is rep-
16 resented by residential mortgage loans, as described
17 in subparagraph (A) of paragraph (2).”.

18 **SEC. 606. MANAGEMENT OF BANKS.**

19 (a) BOARD OF DIRECTORS.—Section 7 of the Federal
20 Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

21 (1) in subsection (a), by striking “and bona fide
22 residents of the district in which such bank is lo-
23 cated” and inserting “, and each of whom shall be
24 either a bona fide resident of the district in which

1 such bank is located or an officer or director of a
2 member of such bank located in that district”;

3 (2) in subsection (d), by striking the 1st sen-
4 tence and inserting the following: “The term of each
5 director, whether elected or appointed, shall be 3
6 years. The board of directors of each Federal home
7 loan bank and the Finance Board shall adjust the
8 terms of members first elected or appointed after the
9 date of the enactment of the Federal Home Loan
10 Bank System Modernization Act of 1999 to ensure
11 that the terms of the members of the board of direc-
12 tors are staggered with approximately $\frac{1}{3}$ of the
13 terms expiring each year.”; and

14 (3) by striking subsection (g) and inserting the
15 following:

16 “(g) CHAIRPERSON AND VICE CHAIRPERSON.—

17 “(1) ELECTION.—The Chairperson and Vice
18 Chairperson of the board of directors of each Fed-
19 eral home loan bank shall be elected by a majority
20 of all the directors of such bank from among the di-
21 rectors of the bank.

22 “(2) TERMS.—The term of office of the Chair-
23 person and the Vice Chairperson of the board of di-
24 rectors of a Federal home loan bank shall be 2
25 years.

1 “(3) ACTING CHAIRPERSON.—In the event of a
2 vacancy in the position of Chairperson of the board
3 of directors or during the absence or disability of the
4 Chairperson, the Vice Chairperson shall act as
5 Chairperson.

6 “(4) PROCEDURES.—The board of directors of
7 each Federal home loan bank shall establish proce-
8 dures, in the bylaws of such board, for designating
9 an acting chairperson for any period during which
10 the Chairperson and the Vice Chairperson are not
11 available to carry out the requirements of that posi-
12 tion for any reason and removing any person from
13 any such position for good cause.”.

14 (b) COMPENSATION.—Section 7(i) of the Federal
15 Home Loan Bank Act (12 U.S.C. 1427(i)) is amended—

16 (1) by striking “(i) Each bank may pay its di-
17 rectors” and inserting “(i) DIRECTORS’ COMPENSA-
18 TION.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 each bank may pay its directors”; and

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

23 “(2) LIMITATION.—

24 “(A) IN GENERAL.—The annual salary of
25 each of the following members of the board of

1 directors of a Federal home loan bank may not
 2 exceed the amount specified:

“In the case of the—	The annual compensation may not exceed—
Chairperson	\$25,000
Vice Chairperson	\$20,000
All other members	\$15,000.

3 “(B) ADJUSTMENT.—Beginning January
 4 1, 2001, each dollar amount referred to in the
 5 table in subparagraph (A) shall be adjusted an-
 6 nually by the Finance Board, based on the an-
 7 nual percentage increase, if any, in the Con-
 8 sumer Price Index for all urban consumers, as
 9 published by the Department of Labor.

10 “(C) EXPENSES.—Subparagraph (A) shall
 11 not be construed as prohibiting the reimburse-
 12 ment of expenses incurred by members of the
 13 board of directors of any Federal home loan
 14 bank in connection with service on the board of
 15 directors.”.

16 (c) REPEAL OF SECTIONS 22A AND 27.—The Fed-
 17 eral Home Loan Bank Act (12 U.S.C. 1421 et seq.) is
 18 amended by striking sections 22A (12 U.S.C. 1442a) and
 19 27 (12 U.S.C. 1447).

20 (d) SECTION 12.—Section 12 of the Federal Home
 21 Loan Bank Act (12 U.S.C. 1432) is amended—

22 (1) in subsection (a)—

1 (A) by striking “, but, except” and all that
2 follows through “ten years”;

3 (B) by striking “subject to the approval of
4 the Board” the first place that term appears;

5 (C) by striking “and, by its Board of direc-
6 tors,” and all that follows through “agent of
7 such bank,” and inserting “and, by the board
8 of directors of the bank, to prescribe, amend,
9 and repeal by-laws governing the manner in
10 which its affairs may be administered, con-
11 sistent with applicable laws and regulations, as
12 administered by the Finance Board. No officer,
13 employee, attorney, or agent of a Federal home
14 loan bank”; and

15 (D) by striking “Board of directors” where
16 such term appears in the penultimate sentence
17 and inserting “board of directors”; and

18 (2) in subsection (b), by striking “loans banks”
19 and inserting “loan banks”.

20 (e) POWERS AND DUTIES OF FEDERAL HOUSING FI-
21 NANCE BOARD.—

22 (1) ISSUANCE OF NOTICES OF VIOLATIONS.—
23 Section 2B(a) of the Federal Home Loan Bank Act
24 (12 U.S.C. 1422b(a)) is amended by adding at the
25 end the following new paragraphs:

1 “(5) To issue and serve a notice of charges
2 upon a Federal home loan bank or upon any execu-
3 tive officer or director of a Federal home loan bank
4 if, in the determination of the Finance Board, the
5 Bank, executive officer, or director is engaging or
6 has engaged in, or the Finance Board has reason-
7 able cause to believe that the Bank, executive officer,
8 or director is about to engage in an unsafe or un-
9 sound practice in conducting the business of the
10 bank, or any conduct that violates any provision of
11 this Act or any law, order, rule, or regulation or any
12 condition imposed in writing by the Finance Board
13 in connection with the granting of any application or
14 other request by the Bank, or any written agreement
15 entered into by the Bank with the agency, in accord-
16 ance with the procedures provided in subsection (c)
17 or (f) of section 1371 of the Federal Housing Enter-
18 prises Financial Safety and Soundness Act of 1992.
19 Such authority includes the same authority to issue
20 an order requiring a party to take affirmative action
21 to correct conditions resulting from violations or
22 practices or to limit activities of a Bank or any exec-
23 utive officer or director of a Bank as appropriate
24 Federal banking agencies have to take with respect
25 to insured depository institutions under paragraphs

1 (6) and (7) of section 8(b) of the Federal Deposit
2 Insurance Act, and to have all other powers, rights,
3 and duties to enforce this Act with respect to the
4 Federal home loan banks and their executive officers
5 and directors as the Office of Federal Housing En-
6 terprise Oversight has to enforce the Federal Hous-
7 ing Enterprises Financial Safety and Soundness Act
8 of 1992, the Federal National Mortgage Association
9 Charter Act, or the Federal Home Loan Mortgage
10 Corporation Act with respect to the Federal housing
11 enterprises under subtitle C (other than section
12 1371) of the Federal Housing Enterprises Financial
13 Safety and Soundness Act of 1992.

14 “(6) To address any insufficiencies in capital
15 levels resulting from the application of section 5(f)
16 of the Home Owners’ Loan Act.

17 “(7) To act in its own name and through its
18 own attorneys—

19 “(A) in enforcing any provision of this Act
20 or any regulation promulgated under this Act;
21 or

22 “(B) in any action, suit, or proceeding to
23 which the Finance Board is a party that in-
24 volves the Board’s regulation or supervision of
25 any Federal home loan bank.”.

1 (2) TECHNICAL AMENDMENT.—Section 111 of
2 Public Law 93–495 (12 U.S.C. 250) is amended by
3 striking “Federal Home Loan Bank Board,” and in-
4 serting “Director of the Office of Thrift Supervision,
5 the Federal Housing Finance Board,”.

6 (f) ELIGIBILITY TO SECURE ADVANCES.—

7 (1) SECTION 9.—Section 9 of the Federal
8 Home Loan Bank Act (12 U.S.C. 1429) is
9 amended—

10 (A) in the second sentence, by striking
11 “with the approval of the Board”; and

12 (B) in the third sentence, by striking “,
13 subject to the approval of the Board,”.

14 (2) SECTION 10.—Section 10 of the Federal
15 Home Loan Bank Act (12 U.S.C. 1430) is
16 amended—

17 (A) in subsection (c)—

18 (i) in the first sentence, by striking
19 “Board” and inserting “Federal home loan
20 bank”; and

21 (ii) by striking the second sentence;
22 and

23 (B) in subsection (d)—

24 (i) in the first sentence, by striking
25 “and the approval of the Board”; and

1 (ii) by striking “Subject to the ap-
2 proval of the Board, any” and inserting
3 “Any”.

4 (g) SECTION 16.—Section 16(a) of the Federal Home
5 Loan Bank Act (12 U.S.C. 1436(a)) is amended—

6 (1) in the third sentence—

7 (A) by striking “net earnings” and insert-
8 ing “previously retained earnings or current net
9 earnings”; and

10 (B) by striking “, and then only with the
11 approval of the Federal Housing Finance
12 Board”; and

13 (2) by striking the fourth sentence.

14 (h) SECTION 18.—Section 18(b) of the Federal Home
15 Loan Bank Act (12 U.S.C. 1438(b)) is amended by strik-
16 ing paragraph (4).

17 **SEC. 607. RESOLUTION FUNDING CORPORATION.**

18 (a) IN GENERAL.—Section 21B(f)(2)(C) of the Fed-
19 eral Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is
20 amended to read as follows:

21 “(C) PAYMENTS BY FEDERAL HOME LOAN
22 BANKS.—

23 “(i) IN GENERAL.—To the extent that
24 the amounts available pursuant to sub-
25 paragraphs (A) and (B) are insufficient to

1 cover the amount of interest payments,
2 each Federal home loan bank shall pay to
3 the Funding Corporation in each calendar
4 year, 20.0 percent of the net earnings of
5 that Bank (after deducting expenses relat-
6 ing to section 10(j) and operating ex-
7 penses).

8 “(ii) ANNUAL DETERMINATION.—The
9 Board annually shall determine the extent
10 to which the value of the aggregate
11 amounts paid by the Federal home loan
12 banks exceeds or falls short of the value of
13 an annuity of \$300,000,000 per year that
14 commences on the issuance date and ends
15 on the final scheduled maturity date of the
16 obligations, and shall select appropriate
17 present value factors for making such de-
18 terminations, in consultation with the Sec-
19 retary of the Treasury.

20 “(iii) PAYMENT TERM ALTER-
21 ATIONS.—The Board shall extend or short-
22 en the term of the payment obligations of
23 a Federal home loan bank under this sub-
24 paragraph as necessary to ensure that the
25 value of all payments made by the Banks

1 is equivalent to the value of an annuity re-
2 ferred to in clause (ii).

3 “(iv) TERM BEYOND MATURITY.—If
4 the Board extends the term of payment ob-
5 ligations beyond the final scheduled matu-
6 rity date for the obligations, each Federal
7 home loan bank shall continue to pay 20.0
8 percent of its net earnings (after deducting
9 expenses relating to section 10(j) and oper-
10 ating expenses) to the Treasury of the
11 United States until the value of all such
12 payments by the Federal home loan banks
13 is equivalent to the value of an annuity re-
14 ferred to in clause (ii). In the final year in
15 which the Federal home loan banks are re-
16 quired to make any payment to the Treas-
17 ury under this subparagraph, if the dollar
18 amount represented by 20.0 percent of the
19 net earnings of the Federal home loan
20 banks exceeds the remaining obligation of
21 the Banks to the Treasury, the Finance
22 Board shall reduce the percentage pro rata
23 to a level sufficient to pay the remaining
24 obligation.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall become effective on January 1, 2000.
3 Payments made by a Federal home loan bank before that
4 effective date shall be counted toward the total obligation
5 of that Bank under section 21B(f)(2)(C) of the Federal
6 Home Loan Bank Act, as amended by this section.

7 **SEC. 608. CAPITAL STRUCTURE OF FEDERAL HOME LOAN**
8 **BANKS.**

9 Section 6 of the Federal Home Loan Bank Act (12
10 U.S.C. 1426) is amended to read as follows:

11 **“SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN**
12 **BANKS.**

13 “(a) REGULATIONS.—

14 “(1) CAPITAL STANDARDS.—Not later than 1
15 year after the date of the enactment of the Federal
16 Home Loan Bank System Modernization Act of
17 1999, the Finance Board shall issue regulations pre-
18 scribing uniform capital standards applicable to each
19 Federal home loan bank, which shall require each
20 such bank to meet—

21 “(A) the leverage requirement specified in
22 paragraph (2); and

23 “(B) the risk-based capital requirements,
24 in accordance with paragraph (3).

25 “(2) LEVERAGE REQUIREMENT.—

1 “(A) IN GENERAL.—The leverage require-
2 ment shall require each Federal home loan
3 bank to maintain a minimum amount of total
4 capital based on the total assets of the bank
5 and shall be 5 percent.

6 “(B) TREATMENT OF STOCK AND RE-
7 TAINED EARNINGS.—In determining compliance
8 with the minimum leverage ratio established
9 under subparagraph (A), the paid-in value of
10 the outstanding Class B stock and the amount
11 of retained earnings shall be multiplied by 1.5,
12 and such higher amounts shall be deemed to be
13 capital for purposes of meeting the 5 percent
14 minimum leverage ratio, except that a Federal
15 home loan bank’s total capital (determined
16 without taking into account any such multi-
17 plier) shall not be less than 4 percent of the
18 total assets of the bank.

19 “(3) RISK-BASED CAPITAL STANDARDS.—

20 “(A) IN GENERAL.—Each Federal home
21 loan bank shall maintain permanent capital in
22 an amount that is sufficient, as determined in
23 accordance with the regulations of the Finance
24 Board, to meet—

1 “(i) the credit risk to which the Fed-
2 eral home loan bank is subject; and

3 “(ii) the market risk, including inter-
4 est rate risk, to which the Federal home
5 loan bank is subject, based on a stress test
6 established by the Finance Board that rig-
7 orously tests for changes in market vari-
8 ables, including changes in interest rates,
9 rate volatility, and changes in the shape of
10 the yield curve.

11 “(B) CONSIDERATION OF OTHER RISK-
12 BASED STANDARDS.—In establishing the risk-
13 based standard under subparagraph (A)(ii), the
14 Finance Board shall take due consideration of
15 any risk-based capital test established pursuant
16 to section 1361 of the Federal Housing Enter-
17 prises Financial Safety and Soundness Act of
18 1992 (12 U.S.C. 4611) for the enterprises (as
19 defined in that Act), with such modifications as
20 the Finance Board determines to be appro-
21 priate to reflect differences in operations be-
22 tween the Federal home loan banks and those
23 enterprises.

1 “(4) OTHER REGULATORY REQUIREMENTS.—

2 The regulations issued by the Finance Board under
3 paragraph (1) shall—

4 “(A) permit each Federal home loan bank
5 to issue, with such rights, terms, and pref-
6 erences, not inconsistent with this Act and the
7 regulations issued hereunder, as the board of
8 directors of that bank may approve, any 1 or
9 more of—

10 “(i) Class A stock, which shall be re-
11 deemable in cash and at par 6 months fol-
12 lowing submission by a member of a writ-
13 ten notice of its intent to redeem such
14 shares; and

15 “(ii) Class B stock, which shall be re-
16 deemable in cash and at par 5 years fol-
17 lowing submission by a member of a writ-
18 ten notice of its intent to redeem such
19 shares;

20 “(B) provide that the stock of a Federal
21 home loan bank may be issued to and held by
22 only members of the bank, and that a bank
23 may not issue any stock other than as provided
24 in this section;

1 “(C) prescribe the manner in which stock
2 of a Federal home loan bank may be sold,
3 transferred, redeemed, or repurchased; and

4 “(D) provide the manner of disposition of
5 outstanding stock held by, and the liquidation
6 of any claims of the Federal home loan bank
7 against, an institution that ceases to be a mem-
8 ber of the bank, through merger or otherwise,
9 or that provides notice of intention to withdraw
10 from membership in the bank.

11 “(5) DEFINITIONS OF CAPITAL.—For purposes
12 of determining compliance with the capital standards
13 established under this subsection—

14 “(A) permanent capital of a Federal home
15 loan bank shall include—

16 “(i) the amounts paid for the Class B
17 stock; and

18 “(ii) the retained earnings of the bank
19 (as determined in accordance with gen-
20 erally accepted accounting principles); and

21 “(B) total capital of a Federal home loan
22 bank shall include—

23 “(i) permanent capital;

24 “(ii) the amounts paid for the Class A
25 stock;

1 “(iii) consistent with generally accept-
2 ed accounting principles, and subject to the
3 regulation of the Finance Board, a general
4 allowance for losses, which may not include
5 any reserves or allowances made or held
6 against specific assets; and

7 “(iv) any other amounts from sources
8 available to absorb losses incurred by the
9 bank that the Finance Board determines
10 by regulation to be appropriate to include
11 in determining total capital.

12 “(6) TRANSITION PERIOD.—Notwithstanding
13 any other provision of this Act, the requirements re-
14 lating to purchase and retention of capital stock of
15 a Federal home loan bank by any member thereof in
16 effect on the day before the date of the enactment
17 of the Federal Home Loan Bank System Moderniza-
18 tion Act of 1999, shall continue in effect with re-
19 spect to each Federal home loan bank until the reg-
20 ulations required by this subsection have taken ef-
21 fect and the capital structure plan required by sub-
22 section (b) has been approved by the Finance Board
23 and implemented by such bank.

24 “(b) CAPITAL STRUCTURE PLAN.—

1 “(1) APPROVAL OF PLANS.—Not later than 270
2 days after the date of publication by the Finance
3 Board of final regulations in accordance with sub-
4 section (a), the board of directors of each Federal
5 home loan bank shall submit for Finance Board ap-
6 proval a plan establishing and implementing a cap-
7 ital structure for such bank that—

8 “(A) the board of directors determines is
9 best suited for the condition and operation of
10 the bank and the interests of the members of
11 the bank;

12 “(B) meets the requirements of subsection
13 (c); and

14 “(C) meets the minimum capital standards
15 and requirements established under subsection
16 (a) and other regulations prescribed by the Fi-
17 nance Board.

18 “(2) APPROVAL OF MODIFICATIONS.—The
19 board of directors of a Federal home loan bank shall
20 submit to the Finance Board for approval any modi-
21 fications that the bank proposes to make to an ap-
22 proved capital structure plan.

23 “(c) CONTENTS OF PLAN.—The capital structure
24 plan of each Federal home loan bank shall contain provi-
25 sions addressing each of the following:

1 “(1) MINIMUM INVESTMENT.—

2 “(A) IN GENERAL.—Each capital structure
3 plan of a Federal home loan bank shall require
4 each member of the bank to maintain a min-
5 imum investment in the stock of the bank, the
6 amount of which shall be determined in a man-
7 ner to be prescribed by the board of directors
8 of each bank and to be included as part of the
9 plan.

10 “(B) INVESTMENT ALTERNATIVES.—

11 “(i) IN GENERAL.—In establishing the
12 minimum investment required for each
13 member under subparagraph (A), a Fed-
14 eral home loan bank may, in its discretion,
15 include any 1 or more of the requirements
16 referred to in clause (ii), or any other pro-
17 visions approved by the Finance Board.

18 “(ii) AUTHORIZED REQUIREMENTS.—

19 A requirement is referred to in this clause
20 if it is a requirement for—

21 “(I) a stock purchase based on a
22 percentage of the total assets of a
23 member; or

1 “(II) a stock purchase based on a
2 percentage of the outstanding ad-
3 vances from the bank to the member.

4 “(C) MINIMUM AMOUNT.—Each capital
5 structure plan of a Federal home loan bank
6 shall require that the minimum stock invest-
7 ment established for members shall be set at a
8 level that is sufficient for the bank to meet the
9 minimum capital requirements established by
10 the Finance Board under subsection (a).

11 “(D) ADJUSTMENTS TO MINIMUM RE-
12 QUIRED INVESTMENT.—The capital structure
13 plan of each Federal home loan bank shall im-
14 pose a continuing obligation on the board of di-
15 rectors of the bank to review and adjust the
16 minimum investment required of each member
17 of that bank, as necessary to ensure that the
18 bank remains in compliance with applicable
19 minimum capital levels established by the Fi-
20 nance Board, and shall require each member to
21 comply promptly with any adjustments to the
22 required minimum investment.

23 “(2) TRANSITION RULE.—

24 “(A) IN GENERAL.—The capital structure
25 plan of each Federal home loan bank shall

1 specify the date on which it shall take effect,
2 and may provide for a transition period of not
3 longer than 3 years to allow the bank to come
4 into compliance with the capital requirements
5 prescribed under subsection (a), and to allow
6 any institution that was a member of the bank
7 on the date of the enactment of the Federal
8 Home Loan Bank System Modernization Act of
9 1999, to come into compliance with the min-
10 imum investment required pursuant to the plan.

11 “(B) INTERIM PURCHASE REQUIRE-
12 MENTS.—The capital structure plan of a Fed-
13 eral home loan bank may allow any member re-
14 ferred to in subparagraph (A) that would be re-
15 quired by the terms of the capital structure
16 plan to increase its investment in the stock of
17 the bank to do so in periodic installments dur-
18 ing the transition period.

19 “(3) DISPOSITION OF SHARES.—The capital
20 structure plan of a Federal home loan bank shall
21 provide for the manner of disposition of any stock
22 held by a member of that bank that terminates its
23 membership or that provides notice of its intention
24 to withdraw from membership in that bank.

25 “(4) CLASSES OF STOCK.—

1 “(A) IN GENERAL.—The capital structure
2 plan of a Federal home loan bank shall afford
3 each member of that bank the option of main-
4 taining its required investment in the bank
5 through the purchase of any combination of
6 classes of stock authorized by the board of di-
7 rectors of the bank and approved by the Fi-
8 nance Board in accordance with its regulations.

9 “(B) RIGHTS REQUIREMENT.—A Federal
10 home loan bank shall include in its capital
11 structure plan provisions establishing terms,
12 rights, and preferences, including minimum in-
13 vestment, dividends, voting, and liquidation
14 preferences of each class of stock issued by the
15 bank, consistent with Finance Board regula-
16 tions and market requirements.

17 “(C) REDUCED MINIMUM INVESTMENT.—
18 The capital structure plan of a Federal home
19 loan bank may provide for a reduced minimum
20 stock investment for any member of that bank
21 that elects to purchase Class B in a manner
22 that is consistent with meeting the minimum
23 capital requirements of the bank, as established
24 by the Finance Board.

1 “(D) LIQUIDATION OF CLAIMS.—The cap-
2 ital structure plan of a Federal home loan bank
3 shall provide for the liquidation in an orderly
4 manner, as determined by the bank, of any
5 claim of that bank against a member, including
6 claims for any applicable prepayment fees or
7 penalties resulting from prepayment of ad-
8 vances prior to stated maturity.

9 “(5) LIMITED TRANSFERABILITY OF STOCK.—
10 The capital structure plan of a Federal home loan
11 bank shall—

12 “(A) provide that any stock issued by that
13 bank shall be available only to and held only by
14 members of that bank and tradable only be-
15 tween that bank and its members; and

16 “(B) establish standards, criteria, and re-
17 quirements for the issuance, purchase, transfer,
18 retirement, and redemption of stock issued by
19 that bank.

20 “(6) BANK REVIEW OF PLAN.—Before filing a
21 capital structure plan with the Finance Board, each
22 Federal home loan bank shall conduct a review of
23 the plan by—

24 “(A) an independent certified public ac-
25 countant, to ensure, to the extent possible, that

1 implementation of the plan would not result in
2 any write-down of the redeemable bank stock
3 investment of its members; and

4 “(B) at least one major credit rating agen-
5 cy, to determine, to the extent possible, whether
6 implementation of the plan would have any ma-
7 terial effect on the credit ratings of the bank.

8 “(d) TERMINATION OF MEMBERSHIP.—

9 “(1) VOLUNTARY WITHDRAWAL.—Any member
10 may withdraw from a Federal home loan bank if the
11 member provides written notice to the bank of its in-
12 tent to do so and if, on the date of withdrawal, there
13 is in effect a certification by the Finance Board that
14 the withdrawal will not cause the Federal Home
15 Loan Bank System to fail to meet its obligation
16 under section 21B(f)(2)(C) to contribute to the debt
17 service for the obligations issued by the Resolution
18 Funding Corporation. The applicable stock redemp-
19 tion notice periods shall commence upon receipt of
20 the notice by the bank. Upon the expiration of the
21 applicable notice period for each class of redeemable
22 stock, the member may surrender such stock to the
23 bank, and shall be entitled to receive in cash the par
24 value of the stock. During the applicable notice peri-
25 ods, the member shall be entitled to dividends and

1 other membership rights commensurate with con-
2 tinuing stock ownership.

3 “(2) INVOLUNTARY WITHDRAWAL.—

4 “(A) IN GENERAL.—The board of directors
5 of a Federal home loan bank may terminate the
6 membership of any institution if, subject to Fi-
7 nance Board regulations, it determines that—

8 “(i) the member has failed to comply
9 with a provision of this Act or any regula-
10 tion prescribed under this Act; or

11 “(ii) the member has been determined
12 to be insolvent, or otherwise subject to the
13 appointment of a conservator, receiver, or
14 other legal custodian, by a Federal or
15 State authority with regulatory and super-
16 visory responsibility for the member.

17 “(B) STOCK DISPOSITION.—An institution,
18 the membership of which is terminated in ac-
19 cordance with subparagraph (A)—

20 “(i) shall surrender redeemable stock
21 to the Federal home loan bank, and shall
22 receive in cash the par value of the stock,
23 upon the expiration of the applicable notice
24 period under subsection (a)(4)(A);

1 “(ii) shall receive any dividends de-
2 clared on its redeemable stock, during the
3 applicable notice period under subsection
4 (a)(4)(A); and

5 “(iii) shall not be entitled to any other
6 rights or privileges accorded to members
7 after the date of the termination.

8 “(C) COMMENCEMENT OF NOTICE PE-
9 RIOD.—With respect to an institution, the
10 membership of which is terminated in accord-
11 ance with subparagraph (A), the applicable no-
12 tice period under subsection (a)(4) for each
13 class of redeemable stock shall commence on
14 the earlier of—

15 “(i) the date of such termination; or

16 “(ii) the date on which the member
17 has provided notice of its intent to redeem
18 such stock.

19 “(3) LIQUIDATION OF INDEBTEDNESS.—Upon
20 the termination of the membership of an institution
21 for any reason, the outstanding indebtedness of the
22 member to the bank shall be liquidated in an orderly
23 manner, as determined by the bank and, upon the
24 extinguishment of all such indebtedness, the bank

1 shall return to the member all collateral pledged to
2 secure the indebtedness.

3 “(e) REDEMPTION OF EXCESS STOCK.—

4 “(1) IN GENERAL.—A Federal home loan bank,
5 in its sole discretion, may redeem or repurchase, as
6 appropriate, any shares of Class A or Class B stock
7 issued by the bank and held by a member that are
8 in excess of the minimum stock investment required
9 of that member.

10 “(2) EXCESS STOCK.—Shares of stock held by
11 a member shall not be deemed to be ‘excess stock’
12 for purposes of this subsection by virtue of a mem-
13 ber’s submission of a notice of intent to withdraw
14 from membership or termination of its membership
15 in any other manner.

16 “(3) PRIORITY.—A Federal home loan bank
17 may not redeem any excess Class B stock prior to
18 the end of the 5-year notice period, unless the mem-
19 ber has no Class A stock outstanding that could be
20 redeemed as excess.

21 “(f) IMPAIRMENT OF CAPITAL.—If the Finance
22 Board or the board of directors of a Federal home loan
23 bank determines that the bank has incurred or is likely
24 to incur losses that result in or are expected to result in
25 charges against the capital of the bank, the bank shall

1 not redeem or repurchase any stock of the bank without
2 the prior approval of the Finance Board while such
3 charges are continuing or are expected to continue. In no
4 case may a bank redeem or repurchase any applicable cap-
5 ital stock if, following the redemption, the bank would fail
6 to satisfy any minimum capital requirement.

7 “(g) REJOINING AFTER DIVESTITURE OF ALL
8 SHARES.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), and notwithstanding any other provision
11 of this Act, an institution that divests all shares of
12 stock in a Federal home loan bank may not, after
13 such divestiture, acquire shares of any Federal home
14 loan bank before the end of the 5-year period begin-
15 ning on the date of the completion of such divesti-
16 ture, unless the divestiture is a consequence of a
17 transfer of membership on an uninterrupted basis
18 between banks.

19 “(2) EXCEPTION FOR WITHDRAWALS FROM
20 MEMBERSHIP BEFORE 1998.—Any institution that
21 withdrew from membership in any Federal home
22 loan bank before December 31, 1997, may acquire
23 shares of a Federal home loan bank at any time
24 after that date, subject to the approval of the Fi-
25 nance Board and the requirements of this Act.

1 “(h) TREATMENT OF RETAINED EARNINGS.—

2 “(1) IN GENERAL.—The holders of the Class B
3 stock of a Federal home loan bank shall own the re-
4 tained earnings, surplus, undivided profits, and eq-
5 uity reserves, if any, of the bank.

6 “(2) EXCEPTION.—Except as specifically pro-
7 vided in this section or through the declaration of a
8 dividend or a capital distribution by a Federal home
9 loan bank, or in the event of liquidation of the bank,
10 a member shall have no right to withdraw or other-
11 wise receive distribution of any portion of the re-
12 tained earnings of the bank.

13 “(3) LIMITATION.—A Federal home loan bank
14 may not make any distribution of its retained earn-
15 ings unless, following such distribution, the bank
16 would continue to meet all applicable capital require-
17 ments.”.