

AMENDMENT TO H.R. 1461, AS REPORTED
OFFERED BY MR. OXLEY OF OHIO

Page 6, strike lines 3 through 5 and insert the following new subparagraph:

1 “(C) any independent contractor for a reg-
2 ulated entity (including any attorney, appraiser,
3 or accountant), if—

4 “(i) the independent contractor know-
5 ingly or recklessly participates in—

6 “(I) any violation of any law or
7 regulation;

8 “(II) any breach of fiduciary
9 duty; or

10 “(III) any unsafe or unsound
11 practice; and

12 “(ii) such violation, breach, or prac-
13 tice caused, or is likely to cause, more than
14 a minimal financial loss to, or a significant
15 adverse effect on, the regulated entity;
16 and”.

Page 12, line 8, strike the quotations marks and the last period.



Page 12, after line 8, insert the following new subsection:

1 “(g) OMBUDSMAN.—The Director shall establish, by
2 regulation, an Office of the Ombudsman in the Agency.
3 Such regulations shall provide that the Ombudsman will
4 consider complaints and appeals from any regulated entity
5 and any person that has a business relationship with a
6 regulated entity and shall specify the duties and authority
7 of the Ombudsman.”.

Page 15, line 2, before the period insert “, or request that the Attorney General of the United States act on behalf of the Director”.

Page 15, after line 2, insert the following new paragraph:

8 “(2) CONSULTATION WITH ATTORNEY GENERAL.—The Director shall provide notice to, and
9 ERAL.—The Director shall provide notice to, and
10 consult with, the Attorney General of the United
11 States before taking an action under paragraph (1)
12 of this subsection or under section 1344(a), 1345(d),
13 1348(e), 1372(e), 1375(a), 1376(d), or 1379D(c),
14 except that, if the Director determines that any
15 delay caused by such prior notice and consultation
16 may adversely affect the safety and soundness responsibilities of the Director under this title, the Di-
17



1 rector shall notify the Attorney General as soon as
2 reasonably possible after taking such action.”.

Page 15, line 3, strike “(2)” and insert “(3)”.

Page 25, line 13, after the period insert quotation marks and a period.

Page 25, strike lines 14 through 16.

Page 66, after line 12 add the following new sub-section:

3 (e) EFFECTIVE DATE.—This section shall take effect
4 on the date of the enactment of this Act.

Page 102, after line 19, insert the following new subparagraph:

5 “(A) Mortgages that finance dwelling units
6 for low-income families.”.

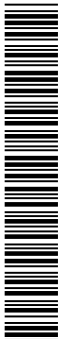
Page 102, line 20, strike “(A)” and insert “(B)”.

Page 102, line 22, strike “(B)” and insert “(C)”.

Strike line 17 on page 119 and all that follows through line 9 on page 138 and insert the following:

7 **SECTION 128. AFFORDABLE HOUSING FUND.**

8 (a) IN GENERAL.—The Housing and Community De-
9 velopment Act of 1992 is amended by striking sections



1 1337 and 1338 (12 U.S.C. 4562 note) and inserting the
2 following new section:

3 **“SEC. 1337. AFFORDABLE HOUSING FUND.**

4 “(a) ESTABLISHMENT AND PURPOSE.—Each enter-
5 prise shall establish and manage an affordable housing
6 fund in accordance with this section. The purpose of the
7 affordable housing fund shall be—

8 “(1) to increase homeownership for extremely
9 low-and very low-income families;

10 “(2) to increase investment in housing in low-
11 income areas, and areas designated as qualified cen-
12 sus tracts or an area of chronic economic distress
13 pursuant to section 143(j) of the Internal Revenue
14 Code of 1986 (26 U.S.C. 143(j));

15 “(3) to increase and preserve the supply of
16 rental and owner-occupied housing for extremely
17 low- and very low-income families;

18 “(4) to increase investment in public infrastruc-
19 ture development in connection with housing assisted
20 under this section; and

21 “(5) to leverage investments from other sources
22 in affordable housing and in public infrastructure
23 development in connection with housing assisted
24 under this section

25 “(b) ALLOCATION OF AMOUNTS BY ENTERPRISES.—



1 “(1) IN GENERAL.—In accordance with regula-
2 tions issued by the Director under subsection (k)
3 and subject to paragraphs (2) and (3) of this sub-
4 section and subsection (f)(5), each enterprise shall
5 allocate to the affordable housing fund established
6 under subsection (a) by the enterprise—

7 “(A) in the year in which the effective date
8 under section 185 of the Federal Housing Fi-
9 nance Reform Act of 2005 occurs, 3.5 percent
10 of the after-tax income of the enterprise for the
11 preceding year;

12 “(B) in the year after the year referred to
13 in subparagraph (A), 3.5 percent of the after-
14 tax income of the enterprise for the preceding
15 year; and

16 “(C) in each of the first three years after
17 the year referred to in subparagraph (B), 5 per-
18 cent of the after-tax income of the enterprise
19 for the preceding year.

20 “(2) LIMITATION.—An enterprise shall not be
21 required to make an allocation for a year to the af-
22 fordable housing fund of the enterprise established
23 under subsection (a) unless the enterprise generated
24 after-tax income for the preceding year.



1 “(3) SUSPENSION OF CONTRIBUTIONS.—The
2 Director shall temporarily suspend the allocation
3 under paragraph (1) by an enterprise to the afford-
4 able housing fund of the enterprise upon a finding
5 by the Director that such allocations—

6 “(A) are contributing, or would contribute,
7 to the financial instability of the enterprise;

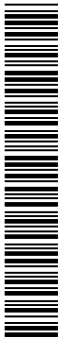
8 “(B) are causing, or would cause, the en-
9 terprise to be classified as undercapitalized; or

10 “(C) are preventing, or would prevent, the
11 enterprise from successfully completing a cap-
12 ital restoration plan under section 1369C.

13 “(4) 5-YEAR SUNSET AND REPORT.—

14 “(A) SUNSET.—The enterprises shall not
15 be required to make allocations to the afford-
16 able housing funds in the 5th year after the
17 year in which the effective date under section
18 185 of the Federal Housing Finance Reform
19 Act of 2005 occurs or in any year thereafter.

20 “(B) REPORT ON PROGRAM CONTINU-
21 ANCE.—Not later 6 months before the end of
22 the last year in which the allocations are re-
23 quired under paragraph (1), the Director shall
24 submit to the Committee on Financial Services
25 of the House of Representatives and the Com-

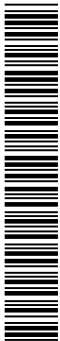


1 mittee on Banking, Housing, and Urban Affairs
2 of the Senate a report making recommendations
3 on whether the program under this section, in-
4 cluding the requirement for the enterprises to
5 make allocations to the affordable housing
6 funds, should be extended and on any modifica-
7 tions for the program.

8 “(5) DETERMINATION OF AFTER-TAX IN-
9 COME.—For purposes of this section, the term
10 ‘after-tax income’ means, with respect to an enter-
11 prise for a year, the amount reported by the enter-
12 prise for such year in the enterprise’s annual report
13 for such year that is filed with the Securities and
14 Exchange Commission, except that for any year in
15 which no such filing is made by an enterprise or
16 such filing is not timely made, such term means the
17 amount determined by the Director based on the in-
18 come tax return filings of the enterprise.

19 “(c) SELECTION OF ACTIVITIES FUNDED USING AF-
20 FORDABLE HOUSING FUND AMOUNTS.—Amounts from
21 the affordable housing fund of the enterprise may be used,
22 or committed for use, only for activities that—

23 “(1) are eligible under subsection (d) for such
24 use; and



1 “(2) are selected for funding by the enterprise
2 in accordance with the process and criteria for such
3 selection established pursuant to subsection
4 (k)(2)(C).

5 “(d) ELIGIBLE ACTIVITIES.—Amounts from the af-
6 fordable housing fund of an enterprise shall be eligible for
7 use, or for commitment for use, only for assistance for—

8 “(1) the production, preservation, and rehabili-
9 tation of rental housing, including housing under the
10 programs identified in section 1335(a)(2)(B), except
11 that amounts provided from the Fund may be used
12 for the benefit only of extremely low- and very low-
13 income families;

14 “(2) the production, preservation, and rehabili-
15 tation of housing for homeownership, including such
16 forms as downpayment assistance, closing cost as-
17 sistance, and assistance for interest-rate buy-downs,
18 that—

19 “(A) is available for purchase only for use
20 as a principal residence by families that qualify
21 both as—

22 “(i) extremely low- and very-low in-
23 come families at the times described in
24 subparagraphs (A) through (C) of section
25 215(b)(2) of the Cranston-Gonzalez Na-



1 tional Affordable Housing Act (42 U.S.C.
2 12745(b)(2)); and

3 “(ii) first-time homebuyers, as such
4 term is defined in section 104 of the Cran-
5 ston-Gonzalez National Affordable Housing
6 Act (42 U.S.C. 12704), except that any
7 reference in such section to assistance
8 under title II of such Act shall for pur-
9 poses of this section be considered to refer
10 to assistance from the affordable housing
11 fund of the enterprise;

12 “(B) has an initial purchase price that
13 meets the requirements of section 215(b)(1) of
14 the Cranston-Gonzalez National Affordable
15 Housing Act; and

16 “(C) is subject to the same resale restric-
17 tions established under section 215(b)(3) of the
18 Cranston-Gonzalez National Affordable Hous-
19 ing Act and applicable to the participating ju-
20 risdiction that is the State in which such hous-
21 ing is located; and

22 “(3) public infrastructure development activities
23 in connection with housing activities funded under
24 paragraph (1) or (2).

25 “(e) ELIGIBLE RECIPIENTS.—



1 “(1) IN GENERAL.—Amounts from the afford-
2 able housing fund of an enterprise may be provided
3 only to a recipient that is an organization, agency,
4 or other entity (including a for-profit entity, a non-
5 profit entity, and a faith-based organization) that—

6 “(A) has a demonstrated capacity for car-
7 rying out activities of the type that are to be
8 funded with such affordable housing fund
9 amounts; and

10 “(B) makes such assurances to the enter-
11 prise as the Director shall, by regulation, re-
12 quire to ensure that the recipient will comply
13 with the requirements of this section (including,
14 in the case of any organization, agency, or enti-
15 ty subject to paragraph (2), all of the require-
16 ments specified under such paragraph) during
17 the entire period that begins upon selection of
18 the recipient to receive amounts from the af-
19 fordable housing fund of the enterprise and
20 ending upon the conclusion of all activities
21 under subsection (d) that are engaged in by the
22 recipient and funded with such affordable hous-
23 ing fund amounts; and

24 “(C) in the case of any recipient who is not
25 a for-profit entity or a government agency or



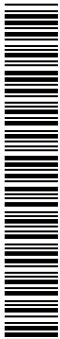
1 authority, complies with all of the requirements
2 under paragraph (2).

3 “(2) ADDITIONAL REQUIREMENTS FOR RECIPI-
4 ENTS OTHER THAN FOR-PROFIT ENTITIES.—The re-
5 quirements under this paragraph with respect to any
6 organization, agency, or entity that is not a for-prof-
7 it entity or a government agency or authority are
8 that the organization, agency, or entity—

9 “(A) shall have as its primary purpose the
10 provision of affordable housing, as defined by
11 the Director;

12 “(B) shall make such assurances to the en-
13 terprise as the Director shall, by regulation, re-
14 quire to ensure that such affordable housing
15 fund amounts—

16 “(i) are used only to supplement, and
17 to the extent practical, to increase the level
18 of funds that would, in the absence of
19 amounts made available from the afford-
20 able housing fund, be made available from
21 other sources for the recipient to carry out
22 activities of the type that are eligible under
23 subsection (d) for funding with affordable
24 housing fund amounts; and



1 “(ii) are not in any case used so as to
2 supplant any funds from other sources
3 that are made available for such activities
4 of the recipient; and

5 “(C) does not, at the time during the pe-
6 riod that begins 12 months before submission
7 of an application for funding from the afford-
8 able housing fund of the enterprise and ending
9 upon the expiration of the period referred to in
10 paragraph (1)(B)—

11 “(i) engage in any Federal election ac-
12 tivity, as such term is defined in paragraph
13 (20) of section 301 of the Federal Election
14 Campaign Act of 1971 (2 U.S.C. 431(20)),
15 except that, notwithstanding the 120-day
16 limitation in subparagraph (A)(i) of such
17 paragraph, such term shall include voter
18 registration activity during any period;

19 “(ii) make any expenditure for any
20 electioneering communication (as such
21 term is defined in section 304(f)(3) of the
22 Federal Election Campaign Act of 1971 (2
23 U.S.C. 434(f)(3));

24 “(iii) make any lobbying expenditure,
25 (as such term is defined in such section



1 501(h)(2)), except that this clause shall
2 not apply to any such expenditure by an
3 organization described in section 501(c)(3)
4 of the Internal Revenue Code of 1986 that
5 is exempt from taxation under subsection
6 (a) of such section 501, to the extent that
7 such expenditure does not exceed the
8 amount under such Code for which such
9 exemption may be denied; or

10 “(iv) maintain any affiliation with any
11 organization, agency, or other entity that
12 does not comply with clauses (i), (ii), and
13 (iii) of this subparagraph.

14 “(3) AFFILIATION.—

15 “(A) IN GENERAL.—A recipient organiza-
16 tion, agency, or entity shall be considered to be
17 affiliated with another entity, for purposes of
18 paragraph (2), if such recipient entity controls,
19 is controlled by, or is under common control
20 with such other entity.

21 “(B) CONTROL.—The existence of any of
22 the following relationships between a recipient
23 entity and another entity shall indicate that
24 control exists for purposes of subparagraph (A):



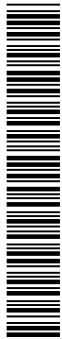
1 “(i) OVERLAPPING BOARD MEMBER-
2 SHIP.—Individuals serve in a similar ca-
3 pacity as officers, executives, or staff of
4 both the recipient entity and the other en-
5 tity.

6 “(ii) SHARED RESOURCES.—The re-
7 cipient entity and the other entity share of-
8 fice space, staff members, supplies, re-
9 sources, or marketing materials, including
10 Internet and other forms of public commu-
11 nication.

12 “(iii) FUNDING.—The recipient entity
13 receives more than 20 percent of its total
14 funding from such other entity or provides
15 more than 20 percent of the total funding
16 of such other entity.

17 “(iv) OTHER.—The recipient entity or
18 such other entity exhibits any other indicia
19 of substantial overlap or common control
20 as may be set forth in regulation by the
21 Director.

22 “(4) FOR PROFIT.—For purposes of this sub-
23 section, the term ‘for-profit entity’ means any entity
24 any part of the net earnings of which inure to the



1 benefit of any private shareholder, member, founder,
2 contributor, or individual.

3 “(f) LIMITATIONS ON USE.—

4 “(1) REQUIRED AMOUNT FOR REFCORP.—Of
5 any amounts allocated pursuant to subsection (b) in
6 each year to the affordable housing fund of an enter-
7 prise, 25 percent shall be used as provided in section
8 21B(f)(2)(E) of the Federal Home Loan Bank Act
9 (12 U.S.C. 1441b(f)(2)(E)).

10 “(2) REQUIRED AMOUNT FOR HOMEOWNERSHIP
11 ACTIVITIES.—Of any amounts allocated pursuant to
12 subsection (b) in each year to the affordable housing
13 fund of an enterprise, not less than 10 percent shall
14 be used for activities under paragraph (2) of sub-
15 section (d).

16 “(3) MAXIMUM AMOUNT FOR PUBLIC INFRA-
17 STRUCTURE DEVELOPMENT ACTIVITIES IN CONNEC-
18 TION WITH AFFORDABLE HOUSING ACTIVITIES.—Of
19 any amounts allocated pursuant to subsection (b) in
20 each year to the affordable housing fund of an enter-
21 prise, not more than 12.5 percent may be used for
22 activities under paragraph (3) of subsection (d).

23 “(4) DEADLINE FOR COMMITMENT OR USE.—
24 Any amounts allocated to the affordable housing



1 fund of an enterprise shall be used or committed for
2 use within two years of the date of such allocation.

3 “(5) USE OF RETURNS.—The Director shall, by
4 regulation—

5 “(A) provide that any return on a loan or
6 other investment of any amounts allocated pur-
7 suant to subsection (b) to the affordable hous-
8 ing fund of an enterprise shall count against
9 the allocation required under subsection (b) to
10 be made by the enterprise for the year following
11 such return; and

12 “(B) establish such limitations as may be
13 necessary to ensure that the amount or likeli-
14 hood of return is not the primary consideration
15 of awarding of allocated amounts to recipients.

16 “(6) PROHIBITED USES.—The Director shall—

17 “(A) by regulation, set forth prohibited
18 uses of amounts from the affordable housing
19 funds of the enterprises, which shall include use
20 for—

21 “(i) political activities;

22 “(ii) advocacy;

23 “(iii) lobbying, whether directly or
24 through other parties;

25 “(iv) counseling services;



1 “(v) travel expenses; and

2 “(vi) preparing or providing advice on
3 tax returns;

4 “(B) by regulation, provide that, except as
5 provided in subparagraph (C), amounts allo-
6 cated to the affordable housing fund of an en-
7 terprise may not be used for administrative,
8 outreach, or other costs of—

9 “(i) the enterprise; or

10 “(ii) any recipient of amounts from
11 the affordable housing fund; and

12 “(C) by regulation, limit the amount of
13 any such contributions that may be used for ad-
14 ministrative costs of the enterprise of maintain-
15 ing the affordable housing fund and carrying
16 out the program under this section.

17 “(7) PROHIBITION OF CONSIDERATION OF USE
18 FOR MEETING HOUSING GOALS.—In determining
19 compliance with the housing goals under this sub-
20 part, the Director may not consider amounts used
21 under this section for eligible activities under sub-
22 section (d). The Director shall give credit toward the
23 achievement of such housing goals to purchases of
24 mortgages for housing that receives funding under



1 this section, but only to the extent that such pur-
2 chases are funded other than under this section.

3 “(8) PROHIBITION ON CERTAIN REDISTRIBU-
4 TION OF AMOUNTS.—The Director shall, by regula-
5 tion, ensure that amounts from the affordable hous-
6 ing fund of an enterprise awarded under this section
7 to a national nonprofit housing intermediary are not
8 redistributed to other nonprofit entities.

9 “(g) ACCOUNTABILITY OF RECIPIENTS AND ENTER-
10 PRISES.—

11 “(1) RECIPIENTS.—

12 “(A) TRACKING OF FUNDS.—The Director
13 shall—

14 “(i) require each enterprise to develop
15 and maintain a system to ensure that each
16 recipient of amounts from the affordable
17 housing fund of the enterprise uses such
18 amounts in accordance with this section,
19 the regulations issued under this section,
20 and any requirements or conditions under
21 which such amounts were provided; and

22 “(ii) establish minimum requirements
23 for agreements, between the enterprises
24 and recipients, regarding grants from the



1 affordable housing funds of the enter-
2 prises, which shall include—

3 “(I) appropriate continuing fi-
4 nancial and project reporting, record
5 retention, and audit requirements for
6 the duration of the grant to ensure
7 compliance with the limitations and
8 requirements of this section and the
9 regulation under this section; and

10 “(II) any other requirements that
11 the Director determines are necessary
12 to ensure appropriate grant adminis-
13 tration and compliance.

14 “(B) MISUSE OF FUNDS.—If an enterprise
15 determines that any recipient of amounts from
16 the affordable housing fund of the enterprise
17 has used any such amounts in a manner that
18 is materially in violation of this section, the reg-
19 ulations issued under this section, or any re-
20 quirements or conditions under which such
21 amounts were provided—

22 “(i) the enterprise shall notify the Di-
23 rector of such misuse of amounts and the
24 actions taken under this subparagraph
25 with respect to the recipient;



1 “(ii) such recipient shall be ineligible
2 in perpetuity to receive of any further
3 amounts from the affordable housing fund
4 of such enterprise; and

5 “(iii) the enterprise shall require the
6 recipient to reimburse the enterprise for
7 such misused amounts and return to the
8 enterprise any amounts from the afford-
9 able housing fund of the enterprise that re-
10 main unused or uncommitted for use.

11 The remedies under this subparagraph are in
12 addition to any other remedies that may be
13 available under law.

14 “(2) ENTERPRISES.—

15 “(A) QUARTERLY REPORTS.—The Director
16 shall require each enterprise to submit a report,
17 on a quarterly basis, to the Director and the af-
18 fordable housing board established under sub-
19 section (j) describing the activities funded
20 under this section during such quarter with
21 amounts from the affordable housing fund of
22 the enterprise established under this section.
23 The Director shall make such reports publicly
24 available. The affordable housing board shall
25 review each report by an enterprise to deter-



1 mine the consistency of such activities funded
2 with the criteria for selection of such activities
3 established pursuant to subsection (k)(2)(C).

4 “(B) REPLENISHMENT.—If the Director
5 determines that an activity funded by an enter-
6 prise with amounts from the affordable housing
7 fund of the enterprise is not consistent with the
8 criteria established pursuant to subsection
9 (k)(2)(C), the Director shall require the enter-
10 prise to allocate to such affordable housing
11 fund (in addition to amounts allocated in com-
12 pliance with subsection (b)) an amount equal to
13 the sum of the amounts from the affordable
14 housing fund used and further committed for
15 use for such activity.

16 “(h) CAPITAL REQUIREMENTS.—The utilization or
17 commitment of amounts from the affordable housing fund
18 of an enterprise shall not be subject to the risk-based cap-
19 ital requirements established pursuant to section 1361(a).

20 “(i) REPORTING REQUIREMENT.—Each enterprise
21 shall include, in the report required under section 309(m)
22 of the Federal National Mortgage Association Charter Act
23 or section 307(f) of the Federal Home Loan Mortgage
24 Corporation Act, as applicable, a description of the actions
25 taken by the enterprise to utilize or commit amounts allo-



1 cated under this section to the affordable housing fund
2 of the enterprise established under this section.

3 “(j) AFFORDABLE HOUSING BOARD.—

4 “(1) APPOINTMENT.—The Director shall ap-
5 point an affordable housing board of 7, 9, or 11 per-
6 sons, who shall include—

7 “(A) the Director, or the Director’s des-
8 ignee;

9 “(B) the Secretary of Housing and Urban
10 Development, or the Secretary’s designee;

11 “(C) the Secretary of Agriculture, or the
12 Secretary’s designee;

13 “(D) 2 persons from for-profit organiza-
14 tions or businesses actively involved in pro-
15 viding or promoting affordable housing for ex-
16 tremely low- and very low-income households;
17 and

18 “(E) 2 persons from nonprofit organiza-
19 tions actively involved in providing or promoting
20 affordable housing for extremely low- and very
21 low-income households.

22 “(2) TERMS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), the term of each member of
25 the affordable housing board appointed pursu-



1 ant to paragraph (1) (but not including mem-
2 bers appointed pursuant to subparagraphs (A),
3 (B), and (C)) shall be 3 years.

4 “(B) INITIAL APPOINTEES.—The Director
5 shall appoint the initial members of the afford-
6 able housing board not later than the expiration
7 of the 60-day period beginning on the effective
8 date under section 185 of the Federal Housing
9 Finance Reform Act of 2005. As designated by
10 the Director at the time of appointment, of the
11 members of the affordable housing board first
12 appointed pursuant to paragraph (1) (but not
13 including members appointed pursuant to sub-
14 paragraphs (A), (B), and (C))—

15 “(i) in the case of a board having 7
16 members—

17 “(I) one shall be appointed for a
18 term of one year; and

19 “(II) one shall be appointed for a
20 term of two years;

21 “(ii) in the case of a board having 9
22 members—

23 “(I) two shall be appointed for a
24 term of one year; and



1 “(II) two shall be appointed for a
2 term of two years; and

3 “(iii) in the case of a board having 11
4 members—

5 “(I) two shall be appointed for a
6 term of one year; and

7 “(II) three shall be appointed for
8 a term of two years;

9 “(3) DUTIES.—The duties of the affordable
10 housing board shall be—

11 “(A) to determine extremely low- and very
12 low-income housing needs;

13 “(B) to advise the Director with respect
14 to—

15 “(i) establishment of the selection cri-
16 teria under subsection (k)(2)(C) that pro-
17 vide for appropriate use of amounts from
18 the affordable housing funds of the enter-
19 prises to meet such needs; and

20 “(ii) operation of, and changes to, the
21 program under this section appropriate to
22 meet such needs; and

23 “(C) to review the reports submitted by
24 the enterprises pursuant to subsection (g)(1) to
25 determine whether the activities funded using



1 amounts from the affordable housing funds of
2 the enterprises comply with the regulations
3 issued pursuant to subsection (k)(2)(C) and in-
4 form the Director of such determinations, for
5 purposes of subsection (g)(2).

6 “(4) MEETINGS.—The board shall meet not less
7 than quarterly, except that during the 2-year period
8 referred to in paragraph (7), the board shall meet
9 only as the Director determines necessary.

10 “(5) EXPENSES AND PER DIEM.—Members of
11 the board shall receive travel expenses, including per
12 diem in lieu of subsistence, in accordance with sec-
13 tions 5702 and 5703 of title 5, United States Code.

14 “(6) ADVISORY COMMITTEE.—The board shall
15 be considered an advisory committee for purposes of
16 the Federal Advisory Committee Act (5 U.S.C.
17 App.).

18 “(7) TERMINATION.— The board shall termi-
19 nate upon the expiration of the 2-year period that
20 begins upon the conclusion of the last year referred
21 to in subsection (b)(1)(C).

22 “(k) REGULATIONS.—

23 “(1) IN GENERAL.—The Director shall issue
24 regulations to carry out this section.



1 “(2) REQUIRED CONTENTS.—The regulations
2 issued under this subsection shall include—

3 “(A) authority for the Director to audit,
4 provide for an audit, or otherwise verify an en-
5 terprise’s activities, to ensure compliance with
6 this section;

7 “(B) a requirement that the Director en-
8 sure that the affordable housing fund of each
9 enterprise is audited not less than annually to
10 ensure compliance with this section;

11 “(C) requirements for a process for appli-
12 cation to, and selection by, an enterprise for ac-
13 tivities to be funded with amounts from the af-
14 fordable housing fund, which shall provide
15 that—

16 “(i) selection shall be based upon spe-
17 cific criteria, which shall provide that—

18 “(I) in any selection of activities
19 occurring during the 2-year period be-
20 ginning on the effective date under
21 section 185 of the Federal Housing
22 Finance Reform Act of 2005, addi-
23 tional weight shall be given to applica-
24 tions for eligible activities under sub-
25 section (d) that—



1 “(aa) are to be carried out
2 in any area that was declared by
3 the President as a major disaster
4 area pursuant to the Robert T.
5 Stafford Disaster Relief and
6 Emergency Assistance Act as re-
7 sult of Hurricane Katrina or
8 Hurricane Rita in 2005; or

9 “(bb) the enterprise deter-
10 mines, in accordance with regula-
11 tions issued by the Director,
12 serve persons significantly af-
13 fected by the occurrence of Hur-
14 ricane Katrina or Hurricane Rita
15 in 2005 (including persons dis-
16 placed as a result of such hurri-
17 canes and persons whose afford-
18 able housing opportunities are
19 significantly affected by the pres-
20 ence of persons displaced as a re-
21 sult of such hurricanes); and

22 “(II) taking into consideration
23 any additional weight afforded appli-
24 cations pursuant to subclause (I), pri-
25 ority in funding shall be based upon—



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“(aa) whether activities are to be carried out in any area that, not more than 2 years before such selection, was declared by the President as a major disaster area pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

“(bb) greatest impact;

“(cc) geographic diversity;

“(dd) ability to obligate amounts and undertake activities so funded in a timely manner;

“(ee) in the case of rental housing projects under subsection (d)(1), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families; and

“(ff) in the case of rental housing projects under subsection (d)(1), the extent of the duration for which such rents will remain affordable; and



1 “(ii) an enterprise may not require for
2 such selection that an activity involve fi-
3 nancing or underwriting of any kind by the
4 enterprise (other than funding through the
5 affordable housing fund of the enterprise)
6 and may not give preference in such selec-
7 tion to activities that involve such financ-
8 ing;

9 “(D) requirements to ensure that amounts
10 from the affordable housing funds of the enter-
11 prises used for rental housing under subsection
12 (d)(1) are used only for the benefit of extremely
13 low- and very-low income families; and

14 “(E) limitations on public infrastructure
15 development activities that are eligible pursuant
16 to subsection (d)(3) for funding with amounts
17 from the affordable housing funds of the enter-
18 prises and requirements for the connection be-
19 tween such activities and housing activities
20 funded under paragraph (1) or (2) of sub-
21 section (d).

22 “(1) ENFORCEMENT.—Compliance by the enterprises
23 with the requirements under this section shall be enforce-
24 able under subpart C. Any reference in such subpart to
25 this part or to an order, rule, or regulation under this part



1 specifically includes this section and any order, rule, or
2 regulation under this section.”.

3 (b) CONTRIBUTIONS FOR TRANSITION PERIOD.—

4 (1) RESERVATION AND CONTRIBUTION; PROHI-
5 BITION OF DOUBLE CONTRIBUTIONS.—If the date of
6 the enactment of this Act does not occur in the same
7 calendar year as the effective date under section 185
8 of this Act, each enterprise (as such term is defined
9 in section 1303 of the Housing and Community De-
10 velopment Act of 1992) shall, in the year that such
11 date of enactment occurs, reserve for contribution to
12 the affordable housing fund to be established by the
13 enterprise pursuant to section 1337 of such Act (as
14 amended by subsection (a) of this section) an
15 amount equal to 3.5 percent of the after-tax income
16 of the enterprise for the preceding year. Upon the
17 establishment of such affordable housing fund, each
18 enterprise shall allocate to such fund the amounts
19 reserved under this paragraph by the enterprise.

20 (2) EXCEPTION TO DEADLINE FOR COMMIT-
21 MENT.—Section 1337(f)(4) of the Housing and
22 Community Development Act of 1992 (as amended
23 by subsection (a) of this section) shall not apply to
24 any amounts allocated to the affordable housing



1 fund of an enterprise pursuant to paragraph (1) of
2 this subsection.

3 (3) AFTER-TAX INCOME.—For purposes of this
4 subsection, the term “after-tax income” has the
5 meaning provided in subsection (b)(5) of the new
6 section 1337 to be inserted by the amendment made
7 by subsection (a) of this section.

8 (4) EFFECTIVE DATE.—This subsection shall
9 take effect on the date of the enactment of this Act.

10 (c) REFCORP PAYMENTS.—Section 21B(f)(2) of
11 the Federal Home Loan Bank Act (12 U.S.C.
12 1441b(f)(2)) is amended—

13 (1) in subparagraph (E), by striking “and (D)”
14 and inserting “(D), and (E)”;

15 (2) by redesignating subparagraph (E) as sub-
16 paragraph (F); and

17 (3) by inserting after subparagraph (D) the fol-
18 lowing new subparagraph:

19 “(E) PAYMENTS BY FANNIE MAE AND
20 FREDDIE MAC.—To the extent that the
21 amounts available pursuant to subparagraphs
22 (A), (B), (C), and (D) are insufficient to cover
23 the amount of interest payments, each enter-
24 prise (as such term is defined in section 1303
25 of the Housing and Community Development



1 Act of 1992 (42 U.S.C. 4502)) shall transfer to
2 the Funding Corporation in each calendar year
3 the amounts allocated for use under this sub-
4 paragraph pursuant to section 1337(f)(1) of
5 such Act.”.

Page 238, strike line 6 and insert the following:

6 (b) CONFORMING AMENDMENTS.—

7 (1) HOUSING AND COMMUNITY DEVELOPMENT
8 ACT OF 1992.—Subtitle B of title

Page 238, after line 10, insert the following new
paragraph:

9 (2) FEDERAL HOME LOAN BANKS.—Section 25
10 of the Federal Home Loan Bank Act (12 U.S.C.
11 1445) is amended by striking “Board under this
12 Act” and inserting “Director under section 1367 of
13 the Housing and Community Development Act of
14 1992”.

Page 248, line 4, after the semicolon insert “or”.

Page 248, strike lines 5 through 11 and insert the
following:

15 “(D) violates any written agreement be-
16 tween the regulated entity and the Director;



1 shall forfeit and pay a civil money penalty of not
2 more than \$10,000 for each day during which such
3 violation continues.”.

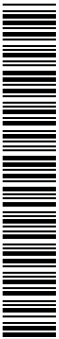
Page 249, strike lines 4 through 10 and insert the following:

4 “(iii) results in pecuniary gain or
5 other benefit to such party,
6 the regulated entity or regulated entity-affiliated
7 party shall forfeit and pay a civil penalty of not
8 more than \$50,000 for each day during which such
9 violation, practice, or breach continues.”.

Strike line 22 on page 249 and all that follows through line 5 on page 250, and insert the following:

10 “(B) knowingly or recklessly causes a sub-
11 stantial loss to such regulated entity or a sub-
12 stantial pecuniary gain or other benefit to such
13 party by reason of such violation, practice, or
14 breach,
15 shall forfeit and pay a civil penalty in an amount not
16 to exceed the applicable maximum amount deter-
17 mined under paragraph (4) for each day during
18 which such violation, practice, or breach continues.”.

Page 278, line 21, after the comma insert “this title shall take effect on and”.



Page 278, line 23, strike “1-year” and insert “6-month”.

Page 296, line 19, after the period insert the following: “This section shall take effect on the date of the enactment of this Act.”

Page 296, line 21, after the comma insert “this title shall take effect on and”.

Page 296, line 23, strike “1-year” and insert “6-month”.

Page 297, line 13, strike “1-year” and insert “6-month”

Page 297, line 19, strike “1-year” and insert “6-month”.

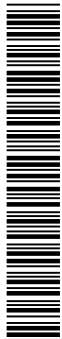
Page 297, line 22, strike “solely”.

Page 297, line 24, after “sight” insert “and in addition to carrying out its other responsibilities under law”.

Page 302, line 25, strike “201(a)” and insert “301(a)”.

Page 303, line 14, strike “201(a)” and insert “301(a)”.

Page 304, line 13, strike “1-year” and insert “6-month”.



Page 304, line 17, strike “1-year” and insert “6-month”.

Page 304, line 19, strike “solely”.

Page 304, line 20, after “Board” insert “and in addition to carrying out its other responsibilities under law”.

Page 305, lines 23 and 24, strike “1-year”.

Page 311, line 7, strike “one year” and insert “6 months”.

Page 311, line 11, strike “6-month” and insert “3-month”.

Page 312, line 17, strike “1-year” and insert “6-month”.

Page 312, line 20, strike “solely”.

Page 312, line 24, strike “ment)’” and insert “ment’) and in addition to carrying out the Secretary’s other responsibilities under law regarding such functions”.

