To make housing more affordable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. Warren (for herself, Mrs. Gillibrand, and Mr. Markey) introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To make housing more affordable, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “American Housing and Economic Mobility Act of 2019”.

(b) Table of Contents.—The table of contents for this Act is as follows:

   Sec.  1. Short title; table of contents.

   TITLE I—MAKING HOUSING MORE AFFORDABLE

   Sec.  101. Local housing innovation grants.
   Sec.  102. Investing in affordable housing infrastructure.
   Sec.  103. Conditions for the sale of real estate-owned properties and non-performing loans.
TITLE II—TAKING THE FIRST STEPS TO REVERSE THE LEGACY OF HOUSING DISCRIMINATION AND GOVERNMENT NEGLIGENCE

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

TITLE III—REMOVING BARRIERS THAT ISOLATE COMMUNITIES

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

TITLE IV—ESTATE TAX REFORM

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

TITLE I—MAKING HOUSING MORE AFFORDABLE

SEC. 101. LOCAL HOUSING INNOVATION GRANTS.

(a) DEFINITIONS.—In this section:

(1) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms "elementary school" and "secondary school" have the meanings given those terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State;

(B) a unit of general local government; or

(C) a metropolitan area.
(3) Institution of Higher Education.—The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(4) Metropolitan Area; State; Unit of General Local Government.—The terms “metropolitan area”, “State”, and “unit of general local government” have the meanings given those terms in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

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

(b) Establishment.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a program to make grants to eligible entities that—

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

(2) remove unnecessary barriers to building affordable units in their communities.

(c) Eligible Activities.—An eligible entity receiving a grant under this section may use funds to—

(1) carry out any of the activities described in section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305);
(2) carry out any of the activities permitted under the program for national infrastructure investments (commonly known as the “Better Utilizing Investments to Leverage Development (BUILD) discretionary grant program”) authorized under title I of division L of the Consolidated Appropriations Act, 2018 (Public Law 115–141) or a subsequent appropriations Act; or

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

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

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

(d) APPLICATION.—

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

(A) include—

(i) establishing “by-right” development, which allows jurisdictions to administratively approve new developments that are consistent with their zoning code;

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

(iii) instituting measures that incentivize owners of vacant land to redevelop the space into affordable housing or other productive uses;

(iv) revising minimum lot size requirements and bans or limits on multifamily construction to allow for denser and more affordable development;

(v) instituting incentives to promote dense development, such as density bonuses;

(vi) passing inclusionary zoning ordinances that require a portion of newly developed units to be reserved for low- and moderate-income renters or homebuyers;
(vii) streamlining regulatory requirements and shortening processes, reforming zoning codes, or other initiatives that reduce barriers to housing supply elasticity and affordability;

(viii) allowing accessory dwelling units;

(ix) using local tax incentives to promote development of affordable housing; and

(x) implementing measures that protect tenants from harassment and displacement, including access to counsel for tenants facing eviction, the prohibition of eviction except for just cause, and measures intended to prevent or mitigate sudden increases in rents, or repealing laws that prevent localities from implementing those measures; and

(B) do not include activities that alter ordinances that govern wage and hour laws, family and medical leave laws, or protections for workers’ health and safety, anti-discrimination, and right to organize.

(e) Labor Laws.—
(1) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with a grant received under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”).

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

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

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

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000,000 for each of fiscal years 2020 through 2024.
SEC. 102. INVESTING IN AFFORDABLE HOUSING INFRA-
STRUCTURE.

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

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

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

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

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

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

(d) INDIAN HOUSING BLOCK GRANT PROGRAM.—
Section 108 of the Native American Housing Assistance
and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended—

(1) by striking “such sums as may be necessary for each of fiscal years 2009 through 2013” and inserting “$2,500,000,000 for fiscal year 2020 and such sums as may be necessary for each of fiscal years 2021 through 2029”; and

(2) by striking the second sentence.

(e) NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM.—Section 824 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4243) is amended by striking “such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005” and inserting “$8,000,000 for fiscal year 2020”.

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

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

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

(3) to provide assistance under section 515 of such Act (42 U.S.C. 1485), $180,000,000;
(4) to provide assistance under section 516 of such Act (42 U.S.C. 1486), $100,000,000; and

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

(g) MIDDLE CLASS HOUSING EMERGENCY FUND.—

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

(2) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and manage a fund, to be known as the “Middle Class Housing Emergency Fund”, which shall be funded with any amounts as may be appropriated, transferred, or credited to the Fund under any provision law.

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

(A) there is a shortage of affordable rental housing units available to individuals with an income that is at or below the area median income and median rents have risen on average
over the preceding 3 years substantially faster than the area median income; or

(B) there is a shortage of housing units available for sale that are affordable to individuals with an income that is at or below the area median income and median home prices have risen on average over the preceding 3 years substantially faster than the area median income.

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

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

(B) measures to prevent tenant displacement and harassment, including the provision of legal advice and representation for tenants facing eviction, enforcement of anti-harassment laws, emergency rental assistance, and other measures as specified by the Secretary of Housing and Urban Development.

(5) LABOR LAWS.—

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

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

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

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

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

(7) APPROPRIATIONS.—Out of funds in the Treasury not otherwise appropriated, there is appro-
priated to the fund established under this subsection $4,000,000,000 for fiscal year 2020.

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

(a) FINDINGS.—Congress finds that—

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

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

(A) preserve owner-occupied homes with mortgages insured by the Federal Housing Administration or purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation for continued use as owner-occupied homes; and

(B) direct that, upon the sale of those properties or transfer of those mortgages, certain percentages of those properties are sold to low- and moderate-income homeowners.

(b) LOANS INSURED BY THE FEDERAL HOUSING ADMINISTRATION.—Title II of the National Housing Act (12
U.S.C. 1707 et seq.) is amended by adding at the end the following:

"SEC. 259. SALE OF REAL ESTATE-OWNED PROPERTIES.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall develop programs within the Federal Housing Administration to ensure that not less than 75 percent of the single-family residential properties that were acquired by the Federal Housing Administration through foreclosure or other transfer-related mortgages insured under this title on the properties are sold—

"(1) directly to an owner-occupant; or

"(2) to community partners that will—

"(A) rehabilitate or develop the property;

and

"(B) sell the property to an owner-occupant.

"(b) ANTI-PREDATORY FEATURE.—Unless the Secretary provides prior approval, the Secretary shall prohibit any purchaser of a real estate-owned property of the Federal Housing Administration from re-selling the property within 15 years of purchase using a land installment contract or through any other mechanism that does not transfer title to the buyer at the time of sale.
“SEC. 260. SALE OF NON-PERFORMING LOANS.

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

“(b) CONDITIONS FOR SALE OR TRANSFER.—

“(1) IN GENERAL.—The Secretary—

“(A) may sell or transfer a covered mortgage only if—

“(i) the capital level of the Fund is substantially below the capital ratio required under section 205(f)(4);

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

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

“(B) shall sell or transfer only such covered mortgages as are necessary to assist in restoration of that capital ratio.

“(2) REQUIREMENTS FOR THE SECRETARY.—

“(A) IN GENERAL.—If the Secretary intends to sell or transfer a covered mortgage, the Secretary shall provide the current borrower and all owners of record of the property secur-
ing the covered mortgage, or require that the current borrower and owners of record be pro-
vided, a separate written notice of the intent to sell the covered mortgage that—

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

“(ii) includes—

“(I) a description of the loss mitigation options of the Administration that are available to borrowers in financial distress and the obligation of servicers to consider borrowers in default for those options;

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

“(III) a description of the procedures the borrower may use to contest with the Secretary the compliance by the servicer with that obligation.

“(B) JUDICIAL REVIEW.—The determination of the Secretary to authorize the sale of a
mortgage insured under this title shall be re-
viewable under chapter 7 of title 5, United
States Code, for abuse of discretion and arbi-
trary and capricious agency action.

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

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

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

“(iii) review of loss mitigation status
prior to the sale, selection of eligible bid-
ders, loss mitigation guidelines applicable
to loan purchasers, and reporting require-
ments for purchasers.

“(3) CERTIFICATION REQUIREMENT FOR LEND-
ERS AND SERVICERS.—

“(A) CERTIFICATION.—As a condition to
payment of an insurance claim under this title
in connection with any non-performing loan
sale, the lender or servicer of the loan shall pro-
vide the Secretary and the borrower with writ-
ten certification of the loss mitigation review
contained in the FHA Single Family Housing
Policy Handbook 4000.1, or any successor
handbook.

“(B) FALSE STATEMENTS.—

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

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

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

“(ii) TRANSFERS.—Unless a bona fide
purchaser has acquired title to the prop-
erty as a primary residence—
“(I) a certification described in subparagraph (A) that contains a false statement shall be a basis for revoking the transfer of the property; and

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

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

“(bb) reimburse the Secretary for any insurance claim paid and all costs related to the sale of the property.

“(4) REQUIREMENTS FOR PURCHASERS.—

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

“(i) appropriate loss mitigation options, including affordable and sustainable loan modifications; and

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

“(B) LOSS MITIGATION OPTIONS.—The specific formula, calculations, waterfall steps,
and other terms for appropriate loss mitigation options described in subparagraph (A) shall be published by the Secretary, made available to the public, and included in a written notice given to borrowers before any acceleration or foreclosure is initiated after a loan sale.

“(5) Requirements for Transferees.—With respect to a transferee, including any subsequent transferee, of a covered mortgage that is sold under this title—

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

“(B) the transferee shall provide to the Secretary records documenting that the transfers of those properties are in compliance with this section; and

“(C) the failure of the Secretary or the transferee to comply with the requirements under this section for a loan in default shall be a defense to foreclosure, and a transferee shall not execute a foreclosure judgment or order of sale, or conduct a foreclosure sale, until the
transferee has complied with all requirements under this section.

“(c) LIMITATIONS.—With respect to covered mortgages that are sold under this title and foreclosed upon by the buyer, not less than 90 percent of the properties that are the subject of the covered mortgages in an auction shall be —

“(1) sold to owner-occupants;

“(2) operated or transferred to an entity that will operate the property as affordable rental housing for households below 80 percent of the area median income for a period of not less than 15 years; or

“(3) transferred or donated to a nonprofit agency that is certified by the Secretary and will redevelop the property for owner occupancy or affordable rental housing.

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

“(1) identify and recruit community partners;

“(2) engage in consultations with community partners before the sale of a pool of covered mortgages under this title to determine whether that sale can be designed to meet the specific needs of the communities served by the community partners; and
“(3) prioritize the sale of pools of single-family mortgages to community partners by—

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

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

“(ii) the potential impact of foreclosures on those properties to the value of other homes that secure mortgages insured under this title in the same census tract; or

“(B) in the case of an auction, if the winning bid is not from a community partner, permitting any community partner that bid during that same auction to have a final opportunity to enter a higher bid on the pool.”.

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

“(d)(1) The corporation may not sell or transfer any mortgage that is secured by a single-family residential property (in this section referred to as a ‘covered mort-
gage’) under this section unless the requirements of this subsection are met.

“(2)(A) If the corporation intends to sell or transfer a covered mortgage, the corporation shall provide the current borrower and all owners of record of the property securing the covered mortgage, or require that the current borrower and owners of record be provided, a separate written notice of the intent to sell the covered mortgage that—

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

“(ii) includes—

“(I) a description of the loss mitigation options of the corporation that are available to borrowers in financial distress and the obligation of servicers to consider borrowers in default for those options; 

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

“(III) a description of the procedures the borrower may use to contest with the
corporation the compliance by the servicer with that obligation.

“(B) The determination of the corporation to authorize the sale of a mortgage under this section shall be reviewable under chapter 7 of title 5, United States Code, for abuse of discretion and arbitrary and capricious agency action.

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

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

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

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

“(3)(A) Each purchaser of a covered mortgage shall offer the borrower on the covered mortgage—
“(i) appropriate loss mitigation options, including affordable and sustainable loan modifications; and

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

“(B) The specific formula, calculations, waterfall steps, and other terms for appropriate loss mitigation options described in subparagraph (A) shall be published by the corporation, made available to the public, and included in a written notice given to borrowers before any acceleration or foreclosure is initiated after a loan sale.

“(4) With respect to a transferee, including any subsequent transferee, of a covered mortgage that is sold by the corporation under this section—

“(A) the transferee shall certify in writing to the corporation that the transferee will comply with the provisions of this subsection in the marketing and transfer of any property received in the disposition of any transferred loan;

“(B) the transferee shall provide to the corporation records documenting that the transfers of those properties are in compliance with this subsection; and

“(C) the failure of the corporation or the transferee to comply with the requirements under this
subsection for a loan in default shall be a defense to foreclosure, and a transferee shall not execute a foreclosure judgment or order of sale, or conduct a foreclosure sale, until the transferee has complied with all requirements under this subsection.

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

“(A) sold to owner-occupants;

“(B) operated or transferred to an entity that will operate the property as affordable rental housing for households below 80 percent of the area median income for a period of not less than 15 years;

or

“(C) transferred or donated to a nonprofit agency that is certified by the corporation and will redevelop the property for owner occupancy or affordable rental housing.

“(6) The corporation shall implement policies, procedures, and controls to—

“(A) identify and recruit community partners;

“(B) engage in consultations with community partners before the sale of a pool of covered mort-
gages under this section to determine whether that
sale can be designed to meet the specific needs of
the communities served by the community partners;
and
“(C) prioritize the sale of pools of single-family
mortgages to community partners by—

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

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

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

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

(d) FREDDIE MAC.—Section 305 of the Federal
Home Loan Mortgage Corporation Act (12 U.S.C. 1454)
is amended by adding at the end the following:
“(e)(1) The Corporation may not sell or transfer any mortgage that is secured by a single-family residential property (in this section referred to as a ‘covered mortgage’) under this section unless the requirements of this subsection are met.

“(2)(A) If the Corporation intends to sell or transfer a covered mortgage, the Corporation shall provide the current borrower and all owners of record of the property securing the covered mortgage, or require that the current borrower and owners of record be provided, a separate written notice of the intent to sell the covered mortgage that—

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

“(ii) includes—

“(I) a description of the loss mitigation options of the Corporation that are available to borrowers in financial distress and the obligation of servicers to consider borrowers in default for those options;

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

“(III) a description of the procedures the borrower may use to contest with the Corporation the compliance by the servicer with that obligation.

“(B) The determination of the Corporation to authorize the sale of a mortgage under this section shall be reviewable under chapter 7 of title 5, United States Code, for abuse of discretion and arbitrary and capricious agency action.

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

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

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

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

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

“(i) appropriate loss mitigation options, including affordable and sustainable loan modifications; and

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

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

“(4) With respect to a transferee, including any subsequent transferee, of a covered mortgage that is sold by the Corporation under this section—

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

“(B) the transferee shall provide to the Corporation records documenting that the transfers of
those properties are in compliance with this subsection; and

“(C) the failure of the Corporation or the transferee to comply with the requirements under this subsection for a loan in default shall be a defense to foreclosure, and a transferee shall not execute a foreclosure judgment or order of sale, or conduct a foreclosure sale, until the transferee has complied with all requirements under this subsection.

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

“(A) sold to owner-occupants;

“(B) operated or transferred to an entity that will operate the property as affordable rental housing for households below 80 percent of the area median income for a period of not less than 15 years; or

“(C) transferred or donated to a nonprofit agency that is certified by the Corporation and will redevelop the property for owner occupancy or affordable rental housing.
“(6) The Corporation shall implement policies, procedures, and controls to—

“(A) identify and recruit community partners;

“(B) engage in consultations with community partners before the sale of a pool of covered mortgages under this section to determine whether that sale can be designed to meet the specific needs of the communities served by the community partners; and

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

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

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

“(II) the potential impact of foreclosures on those properties to the value of other homes in the same census tract; or

“(III) in the case of an auction, if the winning bid is not from a community partner, permitting any community partner that bid during that same auction to have
a final opportunity to enter a higher bid on
the pool.”.

TITLE II—TAKING THE FIRST
STEPS TO REVERSE THE LEG-
ACY OF HOUSING DISCRIMI-
NATION AND GOVERNMENT
NEGligence

SEC. 201. DOWN PAYMENT ASSISTANCE PROGRAM FOR
COMMUNITIES FORMERLY SEGREGATED BY
LAW.

(a) FINDINGS.—Congress finds the following:

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

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

   (3) For decades, the Federal Government sub-
   sidized homeownership—for white families. Until the
   1960s, the Federal Government systematically de-
   nied African-Americans and other marginalized
groups the ability to obtain mortgage credit, buy
homes, and build wealth for their families while sub-
sidizing the American dream for white families.

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

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

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

(7) The legacy of housing discrimination and
regulatory negligence is a contributor to a large and
growing gap in wealth and outcomes between Black
and white families. The median income white family
in the United States has almost 10 times the wealth
of the median income Black family in the United
States. The gap between the white homeownership rate and the Black homeownership rate is bigger today than it was when housing discrimination was legal. Seventy-five percent of formerly-redlined communities are still low-income and 66 percent are still minority communities.

(8) The purpose of this section is for the Federal Government to take the first step toward addressing the racial wealth gap that it contributed to creating by helping individuals or descendants of individuals who were harmed by housing discrimination or negligence by the Federal Government.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE RESIDENT.—The term “eligible resident” means a resident of a geographic area, as defined by the Secretary by regulation under subsection (g), who—

(A) is a first-time homebuyer;

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

(C)(i) resided in that geographic area during the 4-year period preceding the date of enactment of this Act;

(ii) resided in that geographic area for a period of 4 years before moving out of the geo-
graphic area subsequent to a foreclosure, short
sale, or deed in lieu of foreclosure on a home
that—

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

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

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

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

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

(B) who surrendered an ownership interest
in a principal residence during the 3-year pe-
riod ending on the date of purchase of the prop-
erty as part of a divorce proceeding.
(3) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(c) ESTABLISHMENT.—There is established in the Office of Housing of the Department of Housing and Urban Development a fund, to be administered by the Secretary, that shall be used—

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

(2) for outreach to financial institutions in targeted areas and eligible residents, including for the administration of that outreach;

(3) for counseling or financial education administered by counseling agencies approved by the Secretary in order to ensure sustainable homeownership;

(4) to create and maintain the database described in subsection (g)(3); and

(5) to maintain any records required to implement this section.

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

(1) not more than 3.5 percent of the appraised value of the property to be purchased; or
(2) if the appraised value is more than the principal obligation amount limitation for mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.), 3.5 percent of the maximum principal obligation limitation for the property to be purchased.

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

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

(g) REGULATIONS AND DATABASE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) in consultation with interested parties, including housing counseling agencies approved by the Secretary and individuals or groups with expertise in fair housing, finalize regulations relating to the use of the fund established under subsection (c), including defining the geographic areas in which residents are eligible to receive grants through the fund, which shall include—
(A) census tracts graded as “hazardous” or “definitely declining” in maps drawn by the Home Owners’ Loan Corporation that are, as of the date of enactment of this Act, low-income communities;

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

(C) census tracts that are racially or ethnically concentrated areas of poverty, which shall mean a census tract—

(i) with a non-white population of 50 percent or more; and

(ii)(I) in which not less than 40 percent of families living in the census tract have incomes that are at or below the poverty line; or

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

(2) finalize regulations relating to the disbursement of funds under this section to ensure that eligi-
ble residents are able to receive funds before the closing date for their home, which may include creating a program that allows a lender to be reimbursed by the fund established under subsection (c) if the lender—

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

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

(3) create a publicly accessible database that allows individuals, real estate professionals, and lenders to determine whether a borrower is eligible for assistance under this section; and

(4) establish methods to verify that an individual is an eligible resident.

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

(i) INCLUSION OF PROGRAM IN HOME BUYING INFORMATION BOOKLETS.—Section 5(b) of the Real Estate
Settlement Procedures Act of 1974 (12 U.S.C. 2604(b)) is amended by inserting after paragraph (14) the following:

“(15) Information relating to the down payment assistance program established under section 201 of the American Housing and Economic Mobility Act of 2019.”.

(j) INCLUSION OF PROGRAM AS MORTGAGE PRODUCT.—Section 203(f)(1) of the National Housing Act (12 U.S.C. 1709(f)(1)) is amended by inserting “, including the down payment assistance program established under section 201 of the American Housing and Economic Mobility Act of 2019,” after “mortgage products”.

SEC. 202. FORMULA GRANT PROGRAM FOR COMMUNITIES THAT HAVE NOT RECOVERED FROM THE FINANCIAL CRISIS.

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

(1) measures that provide funds to borrowers to—

(A) pay down arrears on an otherwise affordable loan;
(B) pay down arrears or principal on a loan in order to qualify for a loan modification that will allow the borrower to keep their home;

(C) pay off the entire or pay down part of a second mortgage or home equity line of credit;

(D) pay off a small-dollar mortgage;

(E) pay delinquent taxes and tax liens;

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

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

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

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

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

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

(b) AMENDMENTS TO THE COMMUNITY REINVESTMENT ACT OF 1977.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended—

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

“SEC. 802. FINDINGS AND PURPOSE.

“(a) FINDINGS.—Congress finds that—

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

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

“(3) regulated financial institutions have a continuing and affirmative obligation to meet the credit or other financial needs of the local communities in which they are chartered or do business.

“(b) PURPOSE.—It is the purpose of this title to require each appropriate Federal financial supervisory agen-
cy to use its authority when examining regulated financial institutions to ensure that those institutions meet the credit or other financial needs of the local communities in which they are chartered or do business consistent with the safe and sound operation of those institutions.

“SEC. 803. DEFINITIONS.

“In this title:

“(1) APPLICATION FOR A DEPOSIT FACILITY.—
The term ‘application for a deposit facility’ means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

“(A) a charter for a national bank or Federal savings and loan association;

“(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association, or similar institution;

“(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

“(D) the relocation of the home office or a branch office of a regulated financial institution;
“(E) the merger or consolidation with, the 
acquisition of the assets of, or the assumption 
of the liabilities of a regulated financial institu-
tion requiring approval under section 18(c) of 
the Federal Deposit Insurance Act (12 U.S.C. 
1828(c)); or

“(F) the acquisition of shares in, or the as-
sets of, a regulated financial institution requir-
ing approval under section 3 of the Bank Hold-

“(2) APPROPRIATE FEDERAL BANKING AGEN-
CY.—The term ‘appropriate Federal banking agency’ 
has the meaning given the term in section 3 of the 

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

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

“(B) the Bureau of Consumer Financial 
Protection with respect to any covered person 
supervised by the Bureau pursuant to section 
1024 of the Dodd-Frank Wall Street Reform

“(4) ASSESSMENT AREA.—The term ‘assessment area’ means, with respect to a regulated financial institution, each community, including a State, metropolitan area, and urban or rural county, in which the institution—

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

“(B) is represented by an agent;

“(C) issues a significant number of loans or other products relative to the total number of loans or other products made by the institution;

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

“(E) has conducted not less than 75 percent of the business of the institution.

“(5) COMMUNITY BENEFITS PLAN.—The term ‘community benefits plan’ means a plan that provides measurable goals for future amounts of safe and sound loans, investments, services, and other financial products for low- and moderate-income communities and other distressed or underserved communities.
“(6) Community development.—The term ‘community development’ means—

“(A) affordable housing for low- or moderate-income individuals and avoidance of patterns of lending resulting in the loss of affordable housing units;

“(B) community development services, including counseling and successful mortgage or loan modifications of delinquent loans;

“(C) activities that promote integration;

“(D) activities that promote economic development by financing small businesses or farms that meet the size eligibility requirements of the development company or small business investment company programs under section 121.301 of title 13, Code of Federal Regulations, or any successor regulation, with an emphasis on small businesses that have gross annual revenues of not more than $1,000,000;

“(E) activities that revitalize or stabilize—

“(i) low- or moderate-income geographies;

“(ii) designated disaster areas;

“(iii) distressed or underserved non-metropolitan middle-income geographies
designated by the Federal Financial Institutions Examination Council, based on—

“(I) rates of poverty, unemployment, and population loss; or

“(II) population size, density, and dispersion, if those activities help to meet essential community needs, including the needs of low- and moderate-income individuals; or

“(iv) other distressed or underserved communities; or

“(F) activities that promote physical, environmental, and sensory accessibility in housing stock that is integrated into the community.

“(7) Depository Institution; Depository Institution Holding Company.—The terms ‘depository institution’ and ‘depository institution holding company’ have the meanings given those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(8) Entire Community.—The term ‘entire community’ means all of the assessment areas of a regulated financial institution.

“(9) Enumerated Consumer Laws.—The term ‘enumerated consumer laws’ has the meaning

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

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

“(12) OTHER DISTRESSED OR UNDERSERVED COMMUNITY.—The term ‘other distressed or underserved community’ means an area that, according to a periodic review and data analysis by the appropriate Federal financial supervisory agencies on an interagency basis through the Federal Financial Institutions Examination Council, is experiencing economic hardship or is underserved by financial institutions.

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

“(A) an insured depository institution;

“(B) a depository institution holding company; and

“(C) a U.S. nonbank mortgage originator.
“(14) U.S. NONBANK MORTGAGE ORIGINATOR.—The term ‘U.S. nonbank mortgage originator’ means a covered person subject to section 1024 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5514) that offers or provides—

“(A) origination of loans secured by real estate for use by consumers primarily for personal, family, or household purposes; or

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

(2) in section 804 (12 U.S.C. 2903)—

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

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

“(a) DEPOSITORY INSTITUTIONS AND BANK HOLDING COMPANIES.—In connection with its examination of a regulated financial institution other than a U.S. nonbank mortgage originator, the appropriate Federal financial supervisory agency shall perform the following:

“(1) Assess the record of the institution in meeting the credit or other financial needs of its entire community, in particular low- and moderate-in-
come people and communities, and other distressed or underserved communities, consistent with the safe and sound operation of the institution.

“(2) Assess the effectiveness of the following activities in meeting the credit or other financial needs of the assessment areas of the institution, consistent with the safe and sound operation of the institution:

“(A) Retail lending, including home, small business, consumer, and other lending and financial products, that responds to credit needs or other financial needs.

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

“(i) the origination of loans and other efforts by the institution to assist existing low- and moderate-income residents to remain in affordable housing in their community; and

“(ii) the origination of loans by the institution that result in the construction, rehabilitation, or preservation of affordable housing units.
“(C) Retail financial services and community development services.

“(3) With respect to its evaluation of an application for a deposit facility by the institution—

“(A) consider the record described in paragraph (1), the overall rating of the institution under this section, and any improvement plans submitted pursuant to this section;

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

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

“(D) require—

“(i) a demonstration of public benefit, including a community benefits plan with measurable goals regarding increasing responsible lending and other financial products;

“(ii) that the institution consult with community-based organizations and other community stakeholders in developing the community benefits plan; and
“(iii) a public hearing for any institution that has received a ‘need-to-improve’
or ‘sufficient’ grade in any individual assessment area during the most recent ex-
amination.

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

“(1) Assess the record of the U.S. nonbank mortgage originator in meeting the credit or other financial needs of its entire community, in particular low-income and moderate-income people and communi-

“(2) Assess, as appropriate, the following activities in the assessment areas of the U.S. nonbank mortgage originator:

“(A) Retail lending, including home loans.

“(B) Community development services.

“(C) Community development lending and investments, which may include a consideration
“(i) the origination of loans and other efforts by the institution to assist existing low- and moderate-income residents to remain in affordable housing in their community;

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

“(iii) investments in or loans to community development financial institutions (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)), community development corporations (as defined in section 613 of the Community Economic Development Act of 1981 (42 U.S.C. 9802)), and other non-profit organizations serving the housing and development needs of the community.

“(3) With respect to its evaluation of an application for a deposit facility by the U.S. nonbank mortgage originator—

“(A) consider the record described in paragraph (1), the overall rating of the U.S.
nonbank mortgage originator under this section, and any improvement plans submitted pursuant to this section;

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

“(C) consider changes in the community reinvestment performance of the U.S. nonbank mortgage originator since the most recent rating under this section by the appropriate Federal financial supervisory agency; and

“(D) require—

“(i) a demonstration that granting the application for a deposit facility is in the public interest, which shall include a submission of a community benefits plan by the U.S. nonbank mortgage originator to the appropriate Federal financial supervisory agency;

“(ii) that the U.S. nonbank mortgage originator consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

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

“(c) REQUIREMENTS.—

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

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

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

“(2) IMPROVEMENT PLAN.—
“(A) IN GENERAL.—A regulated financial institution that is required to submit an improvement plan required under paragraph (1)(B) shall submit the plan in writing to the appropriate Federal financial supervisory agency not later than 90 days after receiving notice that the regulated financial institution is required to submit the plan.

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

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

“(ii) require the regulated financial institution to revise, as appropriate, the improvement plan in response to the public comments received under the public review and comment period described in clause (i) and submit the plan to the appropriate Federal financial supervisory agency not later than 60 days after the end of that period.
“(3) EXAMINATION OF CERTAIN REGULATED FINANCIAL INSTITUTIONS.—In the case of a regulated financial institution whose lending or other business is not clustered in geographical areas and is thinly dispersed across the country, the institution shall—

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

“(i) by considering the effectiveness of the institution in serving customers or borrowers, with a special emphasis on low- and moderate-income individuals across the country regardless of where the individuals reside; and

“(ii) based on objective thresholds developed by the appropriate Federal financial supervisory agencies to clarify when lending or other business is dispersed across the country and not clustered in distinct geographical areas, which may include low levels of lending or other financial products across States or other areas; and

“(B) meet the needs of other distressed or underserved communities.
“(d) CONSIDERATION.—Remediation of consumers pursuant to an order by an court or administrative body or a settlement with a government agency or a private party shall not be considered in an assessment conducted under subsection (a)(2) or (b)(2).

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

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

(i) by striking paragraph (2);

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

(iii) in paragraph (2), as so redesignated, by striking subparagraph (C); and

(D) in subsection (g), as so redesignated, by striking “subsection (a)” and inserting “subsections (a) and (b)”;

(3) in section 807 (12 U.S.C. 2906)—

(A) in subsection (a)—

(i) by striking “an insured depository institution” and inserting “a regulated financial institution”; and
(ii) by inserting “or financial” after “credit”;
(B) in subsection (b)—
(i) in paragraph (1)—
(I) in subparagraph (A)—
(aa) in clause (ii), by striking “and” at the end;
(bb) by redesignating clause (iii) as clause (iv); and
(cc) by inserting after clause (ii) the following:
“(iii) disclose whether the institution engaged in acts or practices that the Bureau of Consumer Financial Protection has determined, and has publicly disclosed, violate the enumerated consumer laws; and”;
and
(II) by striking subparagraph (B) and inserting the following:
“(B) METROPOLITAN AREA DISTINCTIONS.—The information required under clauses (i) and (ii) of subparagraph (A) shall be presented separately for each assessment area.
“(C) TREATMENT WITH RESPECT TO VIOLATIONS OF ENUMERATED CONSUMER LAWS.—If a regulated financial institution has engaged in acts or
practices that the appropriate Federal financial su-
ervisory agency has determined to be unfair, decep-
tive, or abusive or acts or practices that violate enu-
merated consumer laws intended to ensure the fair,
equitable, and nondiscriminatory access to credit for
individuals and communities that are enforced by
the Bureau of Consumer Financial Protection or
other Federal or State agencies, the written evalua-
tion shall be negatively influenced in a manner com-
mensurate with the extent of the harm suffered by
those individuals and communities.”;

(ii) in paragraph (2)—

(I) by striking subparagraphs

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

the following:

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

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

“(C) ‘Sufficient record of meeting com-
munity credit or other financial needs’.

“(D) ‘Needs to improve record of meeting
community credit or other financial needs’.
“(E) ‘Substantial noncompliance in meeting community credit or other financial needs’.”; and

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

“(3) ADDITIONAL AUTHORITY.—The appropriate Federal financial supervisory agencies may—

“(A) alter the ratings under this subsection to change or include additional ratings; and

“(B) develop an accompanying point system that includes ranges for each rating category under paragraph (2).”;

(C) by redesignating subsection (e) as subsection (f); and

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

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

(4) by adding at the end the following:
"SEC. 810. DATA COLLECTION AND REPORTING REQUIREMENTS.

"(a) DATA COLLECTION.—

"(1) SMALL BUSINESS AND SMALL FARM LOANS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, until the completion of the next examination under this title, the following data for each small business or small farm loan originated or purchased by the regulated financial institution:

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

"(B) The loan amount at origination.

"(C) The loan location.

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

"(2) CONSUMER LOANS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, data for consumer loans originated or purchased by the regulated financial institution, including motor vehicle loans, credit cards, home equity loans, and other secured loans.
or unsecured loans. The regulated financial institution shall maintain data separately for each category of consumer loan, including the following for each loan:

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

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

“(C) The loan location.

“(D) The gross annual income of the borrower that the regulated financial institution considered in making its credit decision.

“(3) COMMUNITY DEVELOPMENT LOANS AND INVESTMENTS.—Each regulated financial institution shall collect and maintain in machine readable form, as prescribed by the appropriate Federal financial supervisory agency, data on the categories of community development lending and investments, including data regarding financing affordable housing, small business development, and economic development.

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

“(5) Deposits.—The appropriate Federal Supervisory agency shall collect data from regulated financial institutions that reflects how many of the customers of those institutions are low- and moderate-income customers and the services that are used by those customers.

“(b) CRA Small Business Disclosure Statement.—The appropriate Federal financial supervisory agency shall prepare annually for each regulated financial institution that reports data pursuant to this section a statement to be known as the ‘CRA Small Business Disclosure Statement’ that contains, on a State-by-State basis, the following:

“(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the regulated financial institution reported a small business or small farm loan:

“(A) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies.
“(B) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income.

“(C) A list showing each geography in which the regulated financial institution reported a small business or small farm loan.

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

“(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 in which the regulated financial institution reported a small business or small farm loan:

“(A) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less
than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more.

“(B) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more.

“(C) A list showing each geography in which the regulated financial institution reported a small business or small farm loan.

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

“(3) The number and amount of small business and small farm loans located inside each assessment area reported by the regulated financial institution and the number and amount of small business and small farm loans located outside the assessment areas reported by the regulated financial institution.

“(4) The number and amount of community development loans reported as originated or purchased.

“(c) AGGREGATE DISCLOSURE STATEMENTS.—

“(1) IN GENERAL.—Each appropriate Federal financial supervisory agency shall prepare annually, for each county and for each assessment area smaller than a county, an aggregate disclosure statement of small business, small farm, and consumer lending by all regulated financial institutions subject to reporting under this section, which shall indicate, for each geography, the number and amount of all small business, small farm, and consumer loans originated or purchased by reporting regulated financial institutions.

“(2) ADJUSTED FORM.—An appropriate Federal financial supervisory agency may adjust the form of the disclosure statement prepared under
paragraph (1) if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of a regulated financial institution.

“(d) CENTRAL DATA DEPOSITORIES.—The Federal Financial Institutions Examination Council, in consultation with the appropriate Federal financial supervisory agencies, shall implement a system—

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

“(2) that ensures that personally identifiable financial information is not disclosed to public.

“(e) LIMITATION.—An appropriate Federal financial supervisory agency may not use the authorities of the appropriate Federal financial supervisory agency under this section to obtain a record from a regulated financial institution for the purpose of gathering or analyzing the personally identifiable financial information of a consumer.”.

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

“(6) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—
“(A) IN GENERAL.—No financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that is engaged in activities permitted under this subsection or subsection (n) or (o), unless—

“(i) the holding company has provided notice to the Board, not later than 60 days prior to the proposed acquisition or prior to becoming a financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board;

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

“(iii) the Board has not issued a notice disapproving the proposed acquisition or retention.
“(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall—

“(i) consider the overall rating of the financial holding company under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) and any improvement plans submitted pursuant to that Act;

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

“(iii) consider changes in the community reinvestment performance of the financial holding company since the last rating under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by the appropriate Federal financial supervisory agency; and

“(iv) require—

“(I) a demonstration that granting the application for a deposit facility is in the public interest, which shall include submission to the appropriate Federal financial supervisory agency of a community benefits plan;
“(II) that the institution consult with community-based organizations and other community stakeholders in developing the community benefits plan; and

“(III) a public hearing for any bank that has received a ‘need-to-improve’ or ‘sufficient’ grade in any assessment area during the last examination under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.).”.

(d) Technical and Conforming Amendment.—


SEC. 204. AMENDMENTS RELATING TO CREDIT UNION SERVICE TO UNDERSERVED AREAS.

(a) In General.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended—

(1) in section 101 (12 U.S.C. 1752)
(A) in paragraph (8), by striking “and” at the end;

(B) in paragraph (9), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(10) the term ‘underserved area’—

“(A) means a local community, neighborhood, or rural district that—

“(i) is an investment area, as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702), that meets such additional requirements that the Board may impose; and

“(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and

“(B) notwithstanding subparagraph (A), includes, with respect to any Federal credit union, any geographic area within which the credit union—
“(i) has received approval to provide service before the date of enactment of this paragraph from the Administration; and

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

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

(3) in section 109 (12 U.S.C. 1759)—

(A) in subsection (c), by amending paragraph (2) to read as follows:

“(2) EXCEPTION FOR UNDERSERVED AREAS.—

“(A) IN GENERAL.—Notwithstanding subsection (b), the Board may approve an application by a Federal credit union to allow the membership of the credit union to include any person or organization whose principal residence or place of business is located within a local community, neighborhood, or rural district if—

“(i) the Board determines—
“(I) at any time after August 7, 1998, that the local community, neighborhood, or rural district taken into account for purposes of this paragraph is an underserved area; and

“(II) at the time of the approval, that the credit union is well capitalized or adequately capitalized (as defined in section 216(c)(1)); and

“(ii) before the end of the 24-month period beginning on the date of the approval, the credit union has established and maintains an ongoing method to provide services in the local community, neighborhood, or rural district.

“(B) TERMINATION OF APPROVAL.—

“(i) IN GENERAL.—Any failure of a Federal credit union to meet the requirement of clause (ii) of subparagraph (A) by the end of the 24-month period referred to in that clause shall constitute a termination, as a matter of law, of any approval of an application under this paragraph by the Board with respect to the membership of the credit union.
“(ii) Significant unmet needs plan.—The Board may terminate the membership of a Federal credit union upon a finding that the credit union is not meeting the terms of the significant unmet needs plan of the credit union submitted under subsection (h)(1).

“(C) Credit union reporting requirement.—Any Federal credit union that has an application approved under this paragraph shall, as part of the ordinary course of the examination cycle and supervision process, submit a report to the Administration that includes—

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

“(ii) the number of offices or facilities maintained by the credit union in the local community, neighborhood, or rural district taken into account by the Board in approving the application; and

“(iii) evidence, as specified by the Board by regulation, demonstrating compliance by the credit union with the significant unmet needs plan submitted by the
credit union under subsection (h)(1), as
specified by the Administration.

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

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

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

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

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

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

(C) by adding at the end the following:

“(h) ADDITIONAL REQUIREMENTS FOR COMMUNITY
CREDIT UNIONS.—
“(1) IN GENERAL.—A Federal credit union desiring membership as a credit union described in subsection (b)(3) shall submit to the Board a business plan, which shall include, among other issues, a marketing plan that identifies—

“(A) the unique needs of the various demographic groups in the proposed community; and

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

“(2) PUBLIC COMMENT AND HEARING.—With respect to a Federal credit union desiring membership as a credit union described in subsection (b)(3) for an area with multiple political jurisdictions with a population of not less than 2,500,000, the Administration shall—

“(A) publish a notice in the Federal Register seeking comment from interested parties about the proposed community; and

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

(b) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the National Credit Union Administration Board shall issue final regulations to implement the amendments made by subsection (a).
TITLE III—REMOVING BARRIERS THAT ISOLATE COMMUNITIES

SEC. 301. EXPANDING RIGHTS UNDER THE FAIR HOUSING ACT.

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

(1) to expand, as well as clarify, confirm, and create greater consistency in, the protections against discrimination on the basis of all covered characteristics; and

(2) to provide guidance and notice to individuals, organizations, corporations, and agencies regarding their obligations under Federal law.

(b) AMENDMENTS TO THE FAIR HOUSING ACT.—

The Fair Housing Act (42 U.S.C. 3601 et seq.) is amended—

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

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

“(q) ‘Marital status’ has the meaning given the term in section 202.2 of title 12, Code of Federal Regulations, or any successor regulation.
“(r) ‘Sexual orientation’ means homosexuality, heterosexuality, or bisexuality.

“(s) ‘Source of income’ includes income for which there is a reasonable expectation that the income will continue from—

“(1) a profession, occupation or job;

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

“(3) a gift, an inheritance, a pension, an annuity, alimony, child support, or other consideration or benefit; or

“(4) the sale or pledge of property or an interest in property.

“(t) ‘Veteran status’ means—

“(1) a member of the uniformed services, as defined in section 101 of title 10, United States Code; or

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

(2) in section 804 (42 U.S.C. 3604)—

(A) by inserting “actual or perceived” before “race, color” each place that term appears;
(B) by inserting “sexual orientation, gender identity, marital status, source of income, veteran status,” after “sex,” each place that term appears; and

(C) in subsection (c)—

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

(ii) by adding at the end the following:

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

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

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

(3) in section 805 (42 U.S.C. 3605)—

(A) by inserting “actual or perceived” before “race, color” each place that term appears; and
(B) by inserting “sexual orientation, gender identity, marital status, source of income, veteran status,” after “sex,” each place that term appears;

(4) in section 806 (42 U.S.C. 3606)—

(A) by inserting “actual or perceived” before “race, color”; and

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

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

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

(c) PREVENTION OF INTIMIDATION.—Section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631) is amended—

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

(2) by inserting “sexual orientation (as defined in section 802), gender identity (as defined in section 802), marital status (as defined in section 802), source of income (as defined in section 802), veteran
status (as defined in section 802),” after “sex,” each place that term appears.

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

SEC. 302. IMPROVING OUTCOMES IN HOUSING ASSISTANCE PROGRAMS.

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

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

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

(c) Regional Planning to Increase Access to Higher Opportunity Areas.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following:

“(21) Increase access to higher opportunity areas.—

“(A) Location analysis.—

“(i) In general.—A public housing agency that administers the program under this subsection in a metropolitan area shall—

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

“(II) based on the analysis described in subclause (I), establish policies and practices to reduce disparities and barriers to access to locations throughout the metropolitan area that evidence indicates are more likely to improve outcomes for children or adults.

“(ii) Considerations.—The location analysis required under this subparagraph shall—
“(I) consider separately the locations of families with children, households that include a person with disabilities, and other groups protected under the Fair Housing Act (42 U.S.C. 3601 et seq.); and

“(II) include an analysis of the locations in relation to dwelling units with rents that are potentially affordable to voucher holders and the likely impact of key neighborhood attributes on their well-being and long-term success, based on Federal and available local data.

“(iii) MAPPING TOOLS.—The Secretary shall—

“(I) provide mapping tools and other information necessary for a public housing agency to perform the location analysis under this subparagraph using the demographic data on participating families submitted to the Secretary under part 908 of title 24, Code of Federal Regulations, or any successor regulation;
“(II) publish a notice in the Federal Register, subject to public comment, that specifies the data sources and definitions that will be incorporated in each mapping tool required under subclause (I); and

“(III) update the notice required under subclause (II) as needed based on changes in the availability of relevant data or evidence of neighborhood attributes likely to impact the well-being and long-term success of participants in the program under this subsection.

“(iv) Frequency and Availability.—The location analysis required under this subparagraph shall—

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

“(II) be performed by all public housing agencies in a metropolitan area in the same year, as determined by the Secretary; and
“(III) be made available to the public in a manner that protects the privacy of program participants.

“(B) Regional policies to increase access to higher opportunity neighborhoods.—Each public housing agency described in subparagraph (A)(i) shall—

“(i) consult with other such public housing agencies in the same metropolitan area, or smaller regional area approved by the Secretary, about the possible barriers and other reasons for the disparities identified in the location analysis required under subparagraph (A);

“(ii) identify policies or practices that those public housing agencies could adopt individually or in collaboration, or other strategies that recipients of grants or other funding from the Secretary could adopt, to reduce the barriers and disparities and increase the share of families with children and other demographic groups using vouchers in higher-opportunity neighborhoods in the metropolitan area or region; and
“(iii) include in the administrative plan required under section 982.54 of title 24, Code of Federal Regulations, or any successor regulation, the policies that the public housing agency has adopted under this paragraph.

“(C) ASSESSMENT.—The Secretary shall include public housing agency performance in achieving the goal described in subparagraph (A)(i)(II) in the periodic assessment of agency performance in managing the program under this subsection required under part 985 of title 24, Code of Federal Regulations, or any successor regulation.”.

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

(1) DEFINITIONS.—In this subsection:

(A) MOVING TO WORK DEMONSTRATION PROGRAM.—The term “Moving to Work demonstration program” means the program established under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–281).
(B) Public housing agency.—The term “public housing agency” has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(2) Requirement.—Not later than 1 year after the date of enactment of this Act, the Secretary of Housing and Urban Development shall establish policies and procedures that—

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

(i) to consolidate their funding contracts for assistance provided under section 8(o) of such Act (42 U.S.C. 1437f(o)) into a single contract;

(ii) to consolidate their funding contracts for assistance provided under subsections (d) and (e) of section 9 of such Act (42 U.S.C. 1437g); or

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

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

TITLE IV—ESTATE TAX REFORM

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

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.
SEC. 402. RATE ADJUSTMENT.

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

<table>
<thead>
<tr>
<th>If the amount with respect to which the tentative tax to be computed is:</th>
<th>The tentative tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $13,000,000</td>
<td>55 percent of such amount.</td>
</tr>
<tr>
<td>Over $13,000,000 but not over $93,000,000.</td>
<td>$7,150,000, plus 60 percent of the excess of such amount over $13,000,000.</td>
</tr>
<tr>
<td>Over $93,000,000</td>
<td>$55,150,000, plus 65 percent of the excess of such amount over $93,000,000.</td>
</tr>
</tbody>
</table>

(b) REDUCTION OF BASIC EXCLUSION AMOUNT.—

Paragraph (3) of section 2010(c) is amended to read as follows:

“(3) BASIC EXCLUSION AMOUNT.—For purposes of this subsection, the basic exclusion amount is $3,500,000.”.

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

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

(2) by adding at the end the following new subsection:

“(h) SURTAX ON BILLION DOLLAR ESTATES.—

“(1) IN GENERAL.—In the case of a taxable estate for which the applicable amount is in excess of $1,000,000,000, the tax determined under sub-
section (b) shall be increased by an amount equal to 10 percent of such applicable amount.

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

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

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

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and by moving such subparagraphs (as so redesignated) 2 ems to the right;

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

“(1) IN GENERAL.—For purposes of”;

(3) by striking “paragraph (1) or (2)” in paragraph (1)(C) (as so redesignated) and inserting “subparagraph (A) or (B)”;

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

“(2) ADDITIONAL REQUIREMENTS WITH RESPECT TO GRANTOR RETAINED ANNUITIES.—For
purposes of subsection (a), in the case of an interest
described in paragraph (1)(A) (determined without
regard to this paragraph) which is retained by the
transferor, such interest shall be treated as de-
scribed in such paragraph only if—

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

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

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

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

SEC. 404. CERTAIN TRANSFER TAX RULES APPLICABLE TO
GRANTOR TRUSTS.

(a) IN GENERAL.—Subtitle B is amended by adding
at the end the following new chapter:
“CHAPTER 16—SPECIAL RULES FOR
GRANTOR TRUSTS

“Sec. 2901. Application of transfer taxes.

“SEC. 2901. APPLICATION OF TRANSFER TAXES.

“(a) In General.—In the case of any portion of a
trust to which this section applies—

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

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

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

“(b) Portion of Trust to Which Section Ap-
plies.—This section shall apply to—

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

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

“(1) any trust that is includible in the gross estate of the deemed owner (without regard to subsection (a)(1)), and

“(2) any other type of trust that the Secretary determines by regulations or other guidance does not have as a significant purpose the avoidance of transfer taxes.

“(d) DEEMED OWNER DEFINED.—For purposes of this section, the term ‘deemed owner’ means any person who is treated as the owner of a portion of a trust under subpart E of part 1 of subchapter J of chapter 1.
“(e) Reduction for Taxable Gifts to Trust Made by Owner.—The amount to which subsection (a) applies shall be reduced by the value of any transfer by gift by the deemed owner to the trust previously taken into account by the deemed owner under chapter 12.

“(f) Liability for Payment of Tax.—Any tax imposed pursuant to subsection (a) shall be a liability of the trust.”.

(b) Clerical Amendment.—The table of chapters for subtitle B is amended by adding at the end the following new item:

“Chapter 16. Special Rules for Grantor Trusts”.

(c) Effective Date.—The amendments made by this section shall apply—

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

(2) to any portion of a trust established before the date of the enactment of this Act which is attributable to a contribution made on or after such date; and

(3) to any portion of a trust established before the date of the enactment of this Act to which section 2901(a) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies by reason of a transaction described in section 2901(b)(2) of such Code on or after such date.
SEC. 405. ELIMINATION OF GENERATION-SKIPPING TRANSFER TAX EXEMPTION FOR CERTAIN TRUSTS.

(a) In General.—Section 2642 is amended by adding at the end the following new subsection:

“(h) Elimination of GST Exemption for Certain Trusts.—

“(1) In General.—

“(A) Transfers from Non-Qualifying Trusts.—In the case of any generation-skipping transfer made from a trust that is not a qualifying trust, the inclusion ratio with respect to any property transferred in such transfer shall be 1.

“(B) Qualifying Trust.—For purposes of this subsection, the term ‘qualifying trust’ means a trust for which the date of termination of such trust is not greater than 50 years after the date on which such trust is created.

“(2) Trusts Created Before Date of Enactment.—In the case of any trust created before the date of the enactment of this subsection, such trust shall be deemed to be a qualifying trust for a period of 50 years after the date of the enactment of this subsection.

“(3) Date of Creation of Certain Deemed Separate Trusts.—In the case of any portion of a
trust which is treated as a separate trust under section 2654(b)(1), such separate trust shall be treated as created on the date of the first transfer described in such section with respect to such separate trust.

“(4) Date of Creation of Pour-Over Trusts.—In the case of any generation-skipping transfer of property which involves the transfer of property from 1 trust to another trust, the date of the creation of the transferee trust shall be treated as being the earlier of—

“(A) the date of the creation of such transferee trust, or

“(B) the date of the creation of the transferor trust.

In the case of multiple transfers to which the preceding sentence applies, the date of the creation of the transferor trust shall be determined under the preceding sentence before the application of the preceding sentence to determine the date of the creation of the transferee trust.

“(5) Regulations.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this subsection.”.
(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 406. SIMPLIFYING GIFT TAX EXCLUSION FOR ANNUAL GIFTS.

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

“(1) IN GENERAL.—

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

“(B) CUMULATIVE LIMIT PER DONOR.—

“(i) IN GENERAL.—The aggregate amount excluded under subparagraph (A) with respect to all transfers described in clause (ii) made by the donor during the calendar year shall not exceed twice the dollar amount in effect under such subparagraph for such calendar year.

“(ii) TRANSFERS SUBJECT TO LIMITATION.—The transfers described in this clause are—
“(I) a transfer in trust,
“(II) a transfer of an interest in a passthrough entity,
“(III) a transfer of an interest subject to a prohibition on sale, and
“(IV) any other transfer of property that, without regard to withdrawal, put, or other such rights in the donee, cannot immediately be liquidated by the donee.”

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

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

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