An Act

To complete the codification of title 46, United States Code, “Shipping”, as positive law.

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. Purpose; conformity with original intent.
Sec. 3. Title analysis.
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Sec. 17. Conforming amendments to other laws.
Sec. 18. Transitional and savings provisions.
Sec. 19. Repeals.

SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.

(a) PURPOSE.—The purpose of this Act is to complete the codification of title 46, United States Code, “Shipping”, as positive law, by reorganizing and restating the laws currently in the appendix to title 46.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws by this Act, the intent is to conform to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections, in accordance with section 205(c)(1) of House Resolution No. 988, 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C. 285b(1)).

SEC. 3. TITLE ANALYSIS.

The title analysis of title 46, United States Code, is amended to read as follows:

Subtitle Sec.
I. GENERAL .................................................. 101
II. VESSELS AND SEAMEN ........................................... 2101
III. MARITIME LIABILITY ........................................... 30101
IV. REGULATION OF OCEAN SHIPPING ......................... 40101
V. MERCHANT MARINE ........................................... 50101

46 USC note prec. 101.
(2) Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(c)) is amended by striking “section 13106” and substituting “section 13107”.

(3) Section 13102(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking “section 13103” and substituting “section 13104”.

(4) Section 13103(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking “section 13106” and substituting “section 13107”.

(5) Section 13107(a)(1) of title 46, United States Code, as redesignated by subsection (b), is amended by striking “section 13103” and substituting “section 13104”.

(6) Section 13108(a) of title 46, United States Code, is amended by—
   (A) striking “section 13103” and substituting “section 13104”;
   (B) striking “section 13105” and substituting “section 13106”.

(7) Section 31322(d)(1)(A) of title 46, United States Code, is amended by striking “section 13106(b)(8)” and substituting “section 13107(b)(8)”.

SEC. 17. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Title 10.—Title 10, United States Code, is amended as follows:


   (2) In section 2218(d)(2), strike “sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund” and substitute “sections 57101–57104 and chapter 573 of title 46”.

   (3) In section 2350b(g)(2), strike “section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))” and substitute “section 55305 of title 46”.

   (4) In section 2645—
      (A) in subsection (c), strike “the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))” and substitute “section 53909(b) of title 46”;
      (B) in subsection (h)(1), strike “title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.),” and substitute “chapter 539 of title 46”; and
      (C) in subsection (h)(2), strike “the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))” and substitute “section 53909(a) of title 46”.


   (6) In section 7721(a), strike “the Act of March 3, 1925 (commonly referred to as the ‘Public Vessels Act’) (46 U.S.C. App. 781–790)” and substitute “chapter 311 of title 46”.

(b) Title 11.—Title 11, United States Code, is amended as follows:

   (1) In section 362(b)—
(A) in paragraph (12), strike “section 207 or title XI of the Merchant Marine Act, 1936” and substitute “chapter 537 of title 46 or section 109(h) of title 49”; and
(B) in paragraph (13), strike “section 207 or title XI of the Merchant Marine Act, 1936” and substitute “chapter 537 of title 46”.
(2) In section 1110(a)(3)(A)(ii), strike “documented vessel (as defined in section 30101(1) of title 46)” and substitute “vessel documented under chapter 121 of title 46”.
(c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code, are each amended by striking paragraphs (3)–(5) and substituting the following:
“(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).
“(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).
“(5) Chapter 311 of title 46 (known as the Public Vessels Act).”.
(d) TITLE 18.—Title 18, United States Code, is amended as follows:
(1) In section 229F(9)(C), strike “section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))” and substitute “section 70502(b) of title 46, United States Code”.
(2) In section 507—
(A) in the first paragraph, strike “recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States” and substitute “documentation of any vessel”; and
(B) in the first paragraph, strike “collector or other”;
and
(C) in the second paragraph, strike “license,”.
(3) In section 924—
(A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)” and substitute “chapter 705 of title 46”; and
(B) in subsection (g)(2), strike “802 et seq.” and substitute “801 et seq.”.
(4) In section 929(a)(2), strike “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)” and substitute “chapter 705 of title 46”.
(5) In section 965(a), strike “section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)” and substitute “section 60105 of title 46”.
(6) In section 2277(a), strike “registered, enrolled, or licensed” and substitute “documented”.
(7) In section 3142(e) and (f)(1)(C), strike “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)” and substitute “chapter 705 of title 46”.
(e) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:
(1) In section 56(c)(2)—
(A) strike “section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)” and substitute “chapter 535 of title 46, United States Code”; and
FINANCIAL NETTING IMPROVEMENTS
ACT OF 2006
An Act

To improve the netting process for financial contracts, 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.

This Act may be cited as the “Financial Netting Improvements Act of 2006”.

SEC. 2. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking “mortgage loan, or” and inserting “mortgage loan,”; and

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”;

(B) in subclause (IV)—

(i) by inserting “(including by novation)” after “the guarantee”; and

(ii) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))”;

(C) in subclause (IX), by striking “or (VIII)” each place such term appears and inserting “(VIII), (IX), or (X)”;

(D) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(E) by inserting after subclause (V) the following new subparagraphs:

“(VI) means any extension of credit for the clearance or settlement of securities transactions; “(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;”.
(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended—

(A) in subclause (I)—

(i) by striking “mortgage loan, or” and inserting “mortgage loan,”; and

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”;

(B) in subclause (IV)—

(i) by inserting “(including by novation)” after “the guarantee”; and

(ii) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))”;

(C) in subclause (IX), by striking “or (VIII)” each place such term appears and inserting “(VIII), (IX), or (X)”;

(D) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(E) by inserting after subclause (V) the following new subparagraphs:

“(VI) means any extension of credit for the clearance or settlement of securities transactions;

“(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction”;.

(b) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)(I)) is amended by striking “transaction, reverse repurchase transaction” and inserting “or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv)(I) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)(I)) is amended by striking “transaction, reverse repurchase transaction” and inserting “or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”.

(c) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended—

(A) in subclause (I)—

(i) by striking “or precious metals” and inserting “precious metals, or other commodity”; and

(ii) by striking “or a weather swap, weather derivative, or weather option” and inserting “weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement”;

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in clause (v))”;

(iii) by inserting “(including by novation)” after “the guarantee”; and

(iv) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II))”;

(v) by striking “or (VIII)” each place such term appears and inserting “(VIII), (IX), or (X)”;

(vi) by redesignating subclauses (VI), (VII), (VIII), (IX), and (X) as subclauses (VIII), (IX), (X), (XI), and (XII), respectively; and

(vii) by inserting after subclause (V) the following new subparagraphs:

“(VI) means any extension of credit for the clearance or settlement of securities transactions;

“(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction”).
(B) in subclause (II)—
   (i) by inserting “or other derivatives” after “dealings in the swap”; and
   (ii) by striking “future, or option” and inserting “future, option, or spot transaction”; and
(C) by striking “the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000” and inserting “the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act”.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(vi) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(vi)) is amended—
   (A) in subclause (I)—
      (i) by striking “or precious metals” and inserting “, precious metals, or other commodity”; and
      (ii) by striking “or a weather swap, weather derivative, or weather option” and inserting “weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement”; and
   (B) in subclause (II)—
      (i) by inserting “or other derivatives” after “dealings in the swap”; and
      (ii) by striking “future, or option” and inserting “future, option, or spot transaction”; and
   (C) by striking “the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000” and inserting “the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act”.

SEC. 3. CLARIFYING AMENDMENTS RELATING TO DEFINITION OF PERSON.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS DEFINITION OF PERSON.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended by adding at the end the following:

“(ix) PERSON.—The term ‘person’ includes any governmental entity in addition to any entity included in the definition of such term in section 1 of title 1, United States Code.”.
(b) Insured Credit Unions Definition of Person.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following: “(ix) Person.—The term ‘person’ includes any governmental entity in addition to any entity included in the definition of such term in section 1 of title 1, United States Code.”.


(a) Enforceability of Bilateral Netting Contracts.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—
   (1) in each of subsections (a) and (f), by striking “paragraphs (8)(E), (8)(F), and (10)(B) of” each place such term appears; and
   (2) in subsection (a), by inserting “terminated, liquidated, accelerated, and” after “institutions shall be”.

(b) Enforceability of Clearing Organization Netting Contracts.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—
   (1) in each of subsections (a) and (h), by striking “paragraphs (8)(E), (8)(F), and (10)(B) of” each place such term appears; and
   (2) in subsection (a), by inserting “terminated, liquidated, accelerated, and” after “organization shall be”.

SEC. 5. CONFORMING AMENDMENTS.

(a) Clarifying Definitions.—Title 11, United States Code, is amended—
   (1) in section 101—
      (A) in paragraph (22)(A)—
         (i) by striking “(domestic or foreign)” after “an entity”; and
         (ii) by inserting “(whether or not a ‘customer’, as defined in section 741)” after “custodian for a customer”;
      (B) in paragraph (22A)—
         (i) by striking “on any day during the previous 15-month period” each place it appears and inserting “at such time or on any day during the 15-month period preceding the date of the filing of the petition”; and
         (ii) by inserting “(aggregated across counterparties)” after “principal amount outstanding”;
      (C) in paragraph (25)(A)—
         (i) by inserting “, as defined in section 761” after “commodity contract”; and
         (ii) by striking “repurchase transaction, reverse repurchase transaction,” and inserting “repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in this section)”;
      (D) in paragraph (53B)(A)—
         (i) in clause (i)—
            (I) in subclause (II), by striking “or precious metals” and inserting “, precious metals, or other commodity”;
(II) in subclause (VII), by striking “or” at the end;
(III) in subclause (VIII), by striking “weather derivative, or weather option” and inserting “option, future, or forward agreement”; and
(IV) by adding at the end the following:
“(IX) an emissions swap, option, future, or forward agreement; or
“(X) an inflation swap, option, future, or forward agreement;”;
and
(ii) in clause (ii)—
(I) in subclause (I), by inserting “or other derivatives” after “dealings in the swap”; and
(II) in subclause (II), by striking “future, or option” and inserting “future, option, or spot transaction”; and
(E) in paragraph (53B)(B), by striking “the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000” and inserting “the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934) and the Commodity Exchange Act”;
(2) in section 362(b)—
(A) by striking paragraphs (6) and (7) and inserting the following:
“(6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreement for such contracts;
“(7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;”;
(B) by striking paragraph (17) and inserting the following:
“(17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) under any security agreement
or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreement for such agreements;”;

(C) by striking paragraph (27) and inserting the following:

“(27) under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual right (as defined in section 555, 556, 559, or 560) under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and”;

and

(3) in section 741(7)(A)—

(A) in clause (i)—

(i) by striking “mortgage loan or” and inserting “mortgage loan,”; and

(ii) by inserting before the semicolon “(whether or not such repurchase or reverse repurchase transaction is a ‘repurchase agreement’, as defined in section 101)”;

(B) in clause (iii)—

(i) by inserting “(including by novation)” after “the guarantee”; and

(ii) by inserting before the semicolon “(whether or not such settlement is in connection with any agreement or transaction referred to in clauses (i) through (xi))”;

(C) in clause (viii), by striking “or (vii)” each place it appears and inserting “(vii), (viii), or (ix)”;

(D) by redesignating clauses (v) through (ix) as clauses (vii) through (xi), respectively; and

(E) by inserting after clause (iv) the following:

“(v) any extension of credit for the clearance or settlement of securities transactions;

“(vi) any loan transaction coupled with a securities collar transaction, any prepaid forward securities transaction, or any total return swap transaction coupled with a securities sale transaction;”.

(b) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting “(or for the benefit of)” before “a commodity broker”; and

(B) by inserting “or that is a transfer made by or to (or for the benefit of) a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency, in connection
with a securities contract, as defined in section 741(7),
commodity contract, as defined in section 761(4), or forward
contract,” after “securities clearing agency,”;
(2) in subsection (f)—
(A) by striking “that is a margin payment, as defined
in section 741 or 761 of this title, or settlement payment,
as defined in section 741 of this title,”; and
(B) by inserting “(or for the benefit of)” before “a repo
participant”;
(3) in subsection (g), by inserting “(or for the benefit of)”
before “a swap participant”; and
(4) in subsection (j), by inserting “(or for the benefit of)”
after “made by or to”.
(c) SIPC STAY.—Section 5(b)(2)(C)(iii) of the Securities Investor
(1) by inserting “a derivatives clearing organization (as
defined in the Commodity Exchange Act), a multilateral
clearing organization (as defined in the Federal Deposit Insur-
ance Corporation Improvement Act of 1991),” after “rule or
bylaw of”; and
(2) by striking “or a securities clearance agency, a right
set forth in a bylaw of a clearing organization or contract
market” and inserting “a securities clearing agency, a contract
market designated under the Commodity Exchange Act, a
derivatives transaction execution facility registered under the
Commodity Exchange Act, or a board of trade (as defined in
the Commodity Exchange Act).”.
(d) SAVINGS CLAUSE.—Title IX of the Bankruptcy Abuse Preven-
tion and Consumer Protection Act of 2005 (Public Law 109–8,
119 Stat. 146) is amended by adding at the end the following:

"SEC. 912. SAVINGS CLAUSE.

“The meanings of terms used in this title are applicable for
the purposes of this title only, and shall not be construed or applied
so as to challenge or affect the characterization, definition, or treat-
ment of any similar terms under any other statute, regulation,
or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty
for Bank Products Act of 2000, the securities laws (as such term
is defined in section 3(a)(47) of the Securities Exchange Act of
1934), and the Commodity Exchange Act.”.

SEC. 6. WALKAWAY CLAUSES.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section
11(e)(8)(G) of the Federal Deposit Insurance Act (12 U.S.C.
1821(e)(8)(G)) is amended by striking clause (ii) and inserting the
following new clauses:

“(ii) LIMITED SUSPENSION OF CERTAIN OBLIGA-
tIONS.—In the case of a qualified financial contract
referred to in clause (i), any payment or delivery obliga-
tions otherwise due from a party pursuant to the quali-
fied financial contract shall be suspended from the
time the receiver is appointed until the earlier of—
“(I) the time such party receives notice that
such contract has been transferred pursuant to
subparagraph (A); or
“(II) 5:00 p.m. (eastern time) on the business
day following the date of the appointment of the
receiver.
“(iii) Walkaway clause defined.—For purposes
of this subparagraph, the term ‘walkaway clause’
means any provision in a qualified financial contract
that suspends, conditions, or extinguishes a payment
obligation of a party, in whole or in part, or does
not create a payment obligation of a party that would
otherwise exist, solely because of such party’s status
as a nondefaulting party in connection with the insol-
vency of an insured depository institution that is a
party to the contract or the appointment of or the
exercise of rights or powers by a conservator or receiver
of such depository institution, and not as a result of
a party’s exercise of any right to offset, setoff, or net
obligations that exist under the contract, any other
contract between those parties, or applicable law.”.

(b) Insured Credit Unions.—Section 207(c)(8)(G) of the Fed-
eral Credit Union Act (12 U.S.C. 1787(c)(8)(G)) is amended by
striking clause (ii) and inserting the following new clauses:

“(ii) Limited suspension of certain obliga-
tions.—In the case of a qualified financial contract
referred to in clause (i), any payment or delivery obliga-
tions otherwise due from a party pursuant to the quali-
fied financial contract shall be suspended from the
time the liquidating agent is appointed until the earlier of—

“(I) the time such party receives notice that
such contract has been transferred pursuant to
subparagraph (A); or

“(II) 5:00 p.m. (eastern time) on the business
day following the date of the appointment of the
liquidating agent.

“(iii) Walkaway clause defined.—For purposes
of this subparagraph, the term ‘walkaway clause’
means any provision in a qualified financial contract
that suspends, conditions, or extinguishes a payment
obligation of a party, in whole or in part, or does
not create a payment obligation of a party that would
otherwise exist, solely because of such party’s status
as a nondefaulting party in connection with the insol-
vency of an insured credit union or the appointment
of or the exercise of rights or powers by a conservator
or liquidating agent of such credit union, and not as
a result of a party’s exercise of any right to offset,
setoff, or net obligations that exist under the contract,
any other contract between those parties, or applicable
law.”."
SEC. 7. SCOPE OF APPLICATION.

The amendments made by this Act shall not apply to any cases commenced under title 11, United States Code, or appointments made under any Federal or State law, before the date of the enactment of this Act.

Approved December 12, 2006.
Public Law 109–439
109th Congress

An Act

To clarify the treatment of certain charitable contributions under title 11, United States Code.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Religious Liberty and Charitable Donation Clarification Act of 2006”.

SEC. 2. TREATMENT OF CERTAIN CONTRIBUTIONS IN BANKRUPTCY.

Section 1325(b)(3) of title 11, United States Code, is amended by inserting “, other than subparagraph (A)(ii) of paragraph (2),” after “paragraph (2)”.

Approved December 20, 2006.
Public Law 110–161
110th Congress

An Act

Making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2008, 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.

This Act may be cited as the “Consolidated Appropriations Act, 2008”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. References.
Sec. 4. Explanatory statement.
Sec. 5. Emergency designations.
Sec. 6. Statement of appropriations.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008
Title I—Agricultural Programs
Title II—Conservation Programs
Title III—Rural Development Programs
Title IV—Domestic Food Programs
Title V—Foreign Assistance and Related Programs
Title VI—Related Agencies and Food and Drug Administration
Title VII—General Provisions

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008
Title I—Department of Commerce
Title II—Department of Justice
Title III—Science
Title IV—Related Agencies
Title V—General Provisions
Title VI—Rescissions

DIVISION C—ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS ACT, 2008
Title I—Department of Defense—Civil: Department of the Army
Title II—Department of the Interior
Title III—Department of Energy
Title IV—Independent Agencies
Title V—General Provisions

DIVISION D—FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2008
Title I—Department of the Treasury
Title II—Executive Office of the President and Funds Appropriated to the President
Title III—The Judiciary
DIVISION E—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

Title I—Department of Homeland Security
Title II—Security, Enforcement, and Investigations
Title III—Protection, Preparedness, Response, and Recovery
Title IV—Research and Development, Training, and Services
Title V—General Provisions
Title VI—Border Infrastructure and Technology Modernization

DIVISION F—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of the Interior
Title II—Environmental Protection Agency
Title III—Related Agencies
Title IV—General Provisions
Title V—Wildfire Suppression Emergency Appropriations

DIVISION G—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Labor
Title II—Department of Health and Human Services
Title III—Department of Education
Title IV—Related Agencies
Title V—General Provisions
Title VI—National Commission on Children and Disasters

DIVISION H—LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2008

Title I—Legislative Branch Appropriations
Title II—General Provisions

DIVISION I—MILITARY CONSTRUCTION AND VETERANS AFFAIRS AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Defense
Title II—Department of Veterans Affairs
Title III—Related Agencies
Title IV—General Provisions

DIVISION J—DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2008

Title I—Department of State and Related Agencies
Title II—Export and Investment Assistance
Title III—Bilateral Economic Assistance
Title IV—Military Assistance
Title V—Multilateral Economic Assistance
Title VI—General Provisions

DIVISION K—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

Title I—Department of Transportation
Title II—Department of Housing and Urban Development
Title III—Related Agencies
Title IV—General Provisions

DIVISION L—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR OPERATION ENDURING FREEDOM AND FOR OTHER PURPOSES

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.
SEC. 4. EXPLANATORY STATEMENT.

The explanatory statement regarding the consolidated appropriations amendment of the House of Representatives to the amendment of the Senate to H.R. 2764, printed in the House section of the Congressional Record on or about December 17, 2007 by the Chairman of the Committee on Appropriations of the House, shall have the same effect with respect to the allocation of funds and implementation of divisions A through K of this Act as if it were a joint explanatory statement of a committee of conference.

SEC. 5. EMERGENCY DESIGNATIONS.

Any designation in any division of this Act referring to this section is a designation of an amount as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 6. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $5,097,000: Provided, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

OFFICE OF THE CHIEF ECONOMIST

For necessary expenses of the Office of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $10,487,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $14,466,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $8,270,000.
SEC. 210. None of the funds made available under this title shall be obligated or expended for Sentinel, or for any other major new or enhanced information technology program having total estimated development costs in excess of $100,000,000, unless the Deputy Attorney General and the investment review board certify to the Committees on Appropriations that the information technology program has appropriate program management and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.

SEC. 211. Any deviation from the amounts designated for specific activities in this Act and accompanying report, or any use of deobligated balances of funds provided under this title in previous years, shall be subject to the procedures set forth in section 505 of this Act.

SEC. 212. (a) Section 589a of title 28, United States Code, is amended in subsection (b) by—

(1) striking “and” in paragraph (8);

(2) striking the period in paragraph (9) and inserting “; and”;

and

(3) adding the following new paragraph:

“(10) fines imposed under section 110(l) of title 11, United States Code.”.

(b) Section 110(l)(4)(A) of title 11, United States Code, is amended to read as follows:

“(A) Fines imposed under this subsection in judicial districts served by United States trustees shall be paid to the United States trustees, who shall deposit an amount equal to such fines in the United States Trustee Fund.”.

SEC. 213. (a) Section 1930(a) of title 28, United States Code, is amended in paragraph (6) by striking everything after “whichever occurs first.” and inserting in lieu thereof: “The fee shall be $325 for each quarter in which disbursements total less than $15,000; $650 for each quarter in which disbursements total $15,000 or more but less than $75,000; $975 for each quarter in which disbursements total $75,000 or more but less than $150,000; $1,625 for each quarter in which disbursements total $150,000 or more but less than $225,000; $1,950 for each quarter in which disbursements total $225,000 or more but less than $300,000; $4,875 for each quarter in which disbursements total $300,000 or more but less than $1,000,000; $6,500 for each quarter in which disbursements total $1,000,000 or more but less than $2,000,000; $9,750 for each quarter in which disbursements total $2,000,000 or more but less than $3,000,000; $10,400 for each quarter in which disbursements total $3,000,000 or more but less than $5,000,000; $13,000 for each quarter in which disbursements total $5,000,000 or more but less than $15,000,000; $20,000 for each quarter in which disbursements total $15,000,000 or more but less than $30,000,000; $30,000 for each quarter in which disbursements total more than $30,000,000. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.”.

(b) This section and the amendment made by this section shall take effect January 1, 2008, or the date of the enactment of this Act, whichever is later.

SEC. 214. None of the funds appropriated by this Act may be used to plan for, begin, continue, finish, process, or approve a public-private competition under the Office of Management and
Public Law 110–289
110th Congress

An Act

To provide needed housing reform 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 “Housing and Economic Recovery Act of 2008”.

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

Sec. 1. Short title; table of contents.

DIVISION A—HOUSING FINANCE REFORM

Sec. 1001. Short title.
Sec. 1002. Definitions.

TITLE I—REFORM OF REGULATION OF ENTERPRISES

Subtitle A—Improvement of Safety and Soundness Supervision

Sec. 1101. Establishment of the Federal Housing Finance Agency.
Sec. 1102. Duties and authorities of the Director.
Sec. 1103. Federal Housing Finance Oversight Board.
Sec. 1104. Authority to require reports by regulated entities.
Sec. 1105. Examiners and accountants; authority to contract for reviews of regulated entities; ombudsman.
Sec. 1106. Assessments.
Sec. 1107. Regulations and orders.
Sec. 1108. Prudent management and operations standards.
Sec. 1109. Review of and authority over enterprise assets and liabilities.
Sec. 1110. Risk-based capital requirements.
Sec. 1111. Minimum capital levels.
Sec. 1112. Registration under the securities laws.
Sec. 1113. Prohibition and withholding of executive compensation.
Sec. 1114. Limit on golden parachutes.
Sec. 1115. Reporting of fraudulent loans.
Sec. 1116. Inclusion of minorities and women; diversity in Agency workforce.
Sec. 1117. Temporary authority for purchase of obligations of regulated entities by Secretary of Treasury.
Sec. 1118. Consultation between the Director of the Federal Housing Finance Agency and the Board of Governors of the Federal Reserve System to ensure financial market stability.

Subtitle B—Improvement of Mission Supervision

Sec. 1121. Transfer of program approval and housing goal oversight.
Sec. 1122. Assumption by the Director of certain other HUD responsibilities.
Sec. 1123. Review of enterprise products.
Sec. 1124. Conforming loan limits.
Sec. 1125. Annual housing report.
Sec. 1126. Public use database.
Sec. 1127. Reporting of mortgage data.
Sec. 1128. Revision of housing goals.
Sec. 1129. Duty to serve underserved markets.
Sec. 1130. Monitoring and enforcing compliance with housing goals.
Sec. 1131. Affordable housing programs.
Sec. 1132. Financial education and counseling.
Sec. 1133. Transfer and rights of certain HUD employees.

Subtitle C—Prompt Corrective Action
Sec. 1141. Critical capital levels.
Sec. 1142. Capital classifications.
Sec. 1143. Supervisory actions applicable to undercapitalized regulated entities.
Sec. 1144. Supervisory actions applicable to significantly undercapitalized regulated entities.
Sec. 1145. Authority over critically undercapitalized regulated entities.

Subtitle D—Enforcement Actions
Sec. 1151. Cease and desist proceedings.
Sec. 1152. Temporary cease and desist proceedings.
Sec. 1153. Removal and prohibition authority.
Sec. 1154. Enforcement and jurisdiction.
Sec. 1155. Civil money penalties.
Sec. 1156. Criminal penalty.
Sec. 1157. Notice after separation from service.
Sec. 1158. Subpoena authority.

Subtitle E—General Provisions
Sec. 1161. Conforming and technical amendments.
Sec. 1162. Presidentially-appointed directors of enterprises.
Sec. 1163. Effective date.

TITLE II—FEDERAL HOME LOAN BANKS
Sec. 1201. Recognition of distinctions between the enterprises and the Federal Home Loan Banks.
Sec. 1202. Directors.
Sec. 1203. Definitions.
Sec. 1204. Agency oversight of Federal Home Loan Banks.
Sec. 1205. Housing goals.
Sec. 1206. Community development financial institutions.
Sec. 1207. Sharing of information among Federal Home Loan Banks.
Sec. 1208. Exclusion from certain requirements.
Sec. 1209. Voluntary mergers.
Sec. 1210. Authority to reduce districts.
Sec. 1211. Community financial institution members.
Sec. 1212. Public use database; reports to Congress.
Sec. 1213. Semiannual reports.
Sec. 1214. Liquidation or reorganization of a Federal Home Loan Bank.
Sec. 1215. Study and report to Congress on securitization of acquired member assets.
Sec. 1216. Technical and conforming amendments.
Sec. 1217. Study on Federal Home Loan Bank advances.
Sec. 1218. Federal Home Loan Bank refinancing authority for certain residential mortgage loans.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Subtitle A—OFHEO
Sec. 1301. Abolishment of OFHEO.
Sec. 1302. Continuation and coordination of certain actions.
Sec. 1303. Transfer and rights of employees of OFHEO.
Sec. 1304. Transfer of property and facilities.

Subtitle B—Federal Housing Finance Board
Sec. 1311. Abolishment of the Federal Housing Finance Board.
Sec. 1312. Continuation and coordination of certain actions.
Sec. 1313. Transfer and rights of employees of the Federal Housing Finance Board.
Sec. 1314. Transfer of property and facilities.

TITLE IV—HOPE FOR HOMEOWNERS
Sec. 1401. Short title.
Sec. 1402. Establishment of HOPE for Homeowners Program.
Sec. 1403. Fiduciary duty of servicers of pooled residential mortgage loans.
Sec. 1404. Revised standards for FHA appraisers.
TITLE V—S.A.F.E. MORTGAGE LICENSING ACT

Sec. 1501. Short title.
Sec. 1502. Purposes and methods for establishing a mortgage licensing system and registry.
Sec. 1503. Definitions.
Sec. 1504. License or registration required.
Sec. 1505. State license and registration application and issuance.
Sec. 1506. Standards for State license renewal.
Sec. 1507. System of registration administration by Federal agencies.
Sec. 1508. Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system.
Sec. 1509. Backup authority to establish a nationwide mortgage licensing and registry system.
Sec. 1510. Fees.
Sec. 1511. Background checks of loan originators.
Sec. 1512. Confidentiality of information.
Sec. 1513. Liability provisions.
Sec. 1514. Enforcement under HUD backup licensing system.
Sec. 1515. State examination authority.
Sec. 1516. Reports and recommendations to Congress.
Sec. 1517. Study and reports on defaults and foreclosures.

TITLE VI—MISCELLANEOUS

Sec. 1601. Study and reports on guarantee fees.
Sec. 1602. Study and report on default risk evaluation.
Sec. 1603. Conversion of HUD contracts.
Sec. 1604. Bridge depository institutions.
Sec. 1605. Sense of the Senate.

DIVISION B—FORECLOSURE PREVENTION


TITLE I—FHA MODERNIZATION ACT OF 2008

Sec. 2101. Short title.

Subtitle A—Building American Homeownership
Sec. 2111. Short title.
Sec. 2112. Maximum principal loan obligation.
Sec. 2113. Cash investment requirement and prohibition of seller-funded down payment assistance.
Sec. 2114. Mortgage insurance premiums.
Sec. 2115. Rehabilitation loans.
Sec. 2116. Discretionary action.
Sec. 2117. Insurance of condominiums.
Sec. 2118. Mutual Mortgage Insurance Fund.
Sec. 2119. Hawaiian home lands and Indian reservations.
Sec. 2120. Conforming and technical amendments.
Sec. 2121. Insurance of mortgages.
Sec. 2122. Home equity conversion mortgages.
Sec. 2123. Energy efficient mortgages program.
Sec. 2124. Pilot program for automated process for borrowers without sufficient credit history.
Sec. 2125. Homeownership preservation.
Sec. 2126. Use of FHA savings for improvements in FHA technologies, procedures, processes, program performance, staffing, and salaries.
Sec. 2127. Post-purchase housing counseling eligibility improvements.
Sec. 2128. Pre-purchase homeownership counseling demonstration.
Sec. 2129. Fraud prevention.
Sec. 2130. Limitation on mortgage insurance premium increases.
Sec. 2131. Savings provision.
Sec. 2132. Implementation.
Sec. 2133. Moratorium on implementation of risk-based premiums.

Subtitle B—Manufactured Housing Loan Modernization
Sec. 2141. Short title.
Sec. 2142. Purposes.
Sec. 2143. Exception to limitation on financial institution portfolio.
Sec. 2144. Insurance benefits.
Sec. 2145. Maximum loan limits.
Sec. 2146. Insurance premiums.
Sec. 2147. Technical corrections.
Sec. 2148. Revision of underwriting criteria.
Sec. 2149. Prohibition against kickbacks and unearned fees.
Sec. 2150. Leasehold requirements.

TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

Sec. 2201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.
Sec. 2202. Counseling on mortgage foreclosures for members of the Armed Forces returning from service abroad.
Sec. 2203. Enhancement of protections for servicemembers relating to mortgages and mortgage foreclosures.

TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

Sec. 2301. Emergency assistance for the redevelopment of abandoned and foreclosed homes.
Sec. 2302. Nationwide distribution of resources.
Sec. 2303. Limitation on use of funds with respect to eminent domain.
Sec. 2304. Limitation on distribution of funds.
Sec. 2305. Counseling intermediaries.

TITLE IV—HOUSING COUNSELING RESOURCES

Sec. 2401. Housing counseling resources.
Sec. 2402. Credit counseling.

TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

Sec. 2501. Short title.
Sec. 2502. Enhanced mortgage loan disclosures.
Sec. 2503. Community Development Investment Authority for depository institutions.

TITLE VI—VETERANS HOUSING MATTERS

Sec. 2601. Home improvements and structural alterations for totally disabled members of the Armed Forces before discharge or release from the Armed Forces.
Sec. 2602. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with service-connected disabilities and individuals residing outside the United States.
Sec. 2603. Specially adapted housing assistance for individuals with severe burn injuries.
Sec. 2604. Extension of assistance for individuals residing temporarily in housing owned by a family member.
Sec. 2605. Increase in specially adapted housing benefits for disabled veterans.
Sec. 2606. Report on specially adapted housing for disabled individuals.
Sec. 2607. Report on specially adapted housing assistance for individuals who reside in housing owned by a family member on permanent basis.
Sec. 2608. Definition of annual income for purposes of section 8 and other public housing programs.
Sec. 2609. Payment of transportation of baggage and household effects for members of the Armed Forces who relocate due to foreclosure of leased housing.

TITLE VII—SMALL PUBLIC HOUSING AUTHORITIES PAPERWORK REDUCTION ACT

Sec. 2701. Short title.
Sec. 2702. Public housing agency plans for certain qualified public housing agencies.

TITLE VIII—HOUSING PRESERVATION

Subtitle A—Preservation Under Federal Housing Programs

Sec. 2801. Clarification of disposition of certain properties.
Sec. 2802. Eligibility of certain projects for enhanced voucher assistance.
Sec. 2803. Transfer of certain rental assistance contracts.
Sec. 2804. Public housing disaster relief.
Sec. 2805. Preservation of certain affordable housing.

Subtitle B—Coordination of Federal Housing Programs and Tax Incentives for Housing

Sec. 2831. Short title.
TITLE IX—MISCELLANEOUS
Sec. 2832. Approvals by Department of Housing and Urban Development.
Sec. 2833. Project approvals by rural housing service.
Sec. 2834. Use of FHA loans with housing tax credits.
Sec. 2835. Other HUD programs.

DIVISION C—TAX-RELATED PROVISIONS
Sec. 3000. Short title; etc.

TITLE I—HOUSING TAX INCENTIVES
Subtitle A—Multi-Family Housing
PART I—LOW-INCOME HOUSING TAX CREDIT
Sec. 3001. Temporary increase in volume cap for low-income housing tax credit.
Sec. 3002. Determination of credit rate.
Sec. 3003. Modifications to definition of eligible basis.
Sec. 3004. Other simplification and reform of low-income housing tax incentives.
Sec. 3005. Treatment of military basic pay.

PART II—MODIFICATIONS TO TAX-EXEMPT HOUSING BOND RULES
Sec. 3007. Recycling of tax-exempt debt for financing residential rental projects.
Sec. 3008. Coordination of certain rules applicable to low-income housing credit and qualified residential rental project exempt facility bonds.

PART III—REFORMS RELATED TO THE LOW-INCOME HOUSING CREDIT AND TAX-EXEMPT HOUSING BONDS
Sec. 3009. Hold harmless for reductions in area median gross income.
Sec. 3010. Exception to annual current income determination requirement where determination not relevant.

Subtitle B—Single Family Housing
Sec. 3011. First-time homebuyer credit.
Sec. 3012. Additional standard deduction for real property taxes for nonitemizers.

Subtitle C—General Provisions
Sec. 3021. Temporary liberalization of tax-exempt housing bond rules.
Sec. 3022. Repeal of alternative minimum tax limitations on tax-exempt housing bonds, low-income housing tax credit, and rehabilitation credit.
Sec. 3023. Bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds.
Sec. 3024. Modification of rules pertaining to FIRPTA nonforeign affidavits.
Sec. 3025. Modification of definition of tax-exempt use property for purposes of the rehabilitation credit.
Sec. 3026. Extension of special rule for mortgage revenue bonds for residences located in disaster areas.
Sec. 3027. Transfer of funds appropriated to carry out 2008 recovery rebates for individuals.

TITLE II—REFORMS RELATED TO REAL ESTATE INVESTMENT TRUSTS
Subtitle A—Foreign Currency and Other Qualified Activities
Sec. 3031. Revisions to REIT income tests.
Sec. 3032. Revisions to REIT asset tests.
Sec. 3033. Conforming foreign currency revisions.

Subtitle B—Taxable REIT Subsidiaries
Sec. 3041. Conforming taxable REIT subsidiary asset test.

Subtitle C—Dealer Sales
Sec. 3051. Holding period under safe harbor.
Sec. 3052. Determining value of sales under safe harbor.

Subtitle D—Health Care REITs
Sec. 3061. Conformity for health care facilities.

Subtitle E—Effective Dates
Sec. 3071. Effective dates.
TITLE III—REVENUE PROVISIONS

Subtitle A—General Provisions
Sec. 3081. Election to accelerate the AMT and research credits in lieu of bonus depreciation.
Sec. 3082. Certain GO Zone incentives.
Sec. 3083. Increase in statutory limit on the public debt.

Subtitle B—Revenue Offsets
Sec. 3091. Returns relating to payments made in settlement of payment card and third party network transactions.
Sec. 3092. Gain from sale of principal residence allocated to nonqualified use not excluded from income.
Sec. 3093. Delay in application of worldwide allocation of interest.
Sec. 3094. Time for payment of corporate estimated taxes.

DIVISION A—HOUSING FINANCE

REFORM

SEC. 1001. SHORT TITLE.
This division may be cited as the “Federal Housing Finance Regulatory Reform Act of 2008”.

SEC. 1002. DEFINITIONS.
(1) in each of paragraphs (8), (9), (10), and (19), by striking “Secretary” each place that term appears and inserting “Director”;
(2) by redesignating paragraphs (16) through (19) as paragraphs (21) through (24), respectively;
(3) by striking paragraphs (13) through (15) and inserting the following:
“(19) OFFICE OF FINANCE.—The term ‘Office of Finance’ means the Office of Finance of the Federal Home Loan Bank System (or any successor thereto).
“(20) REGULATED ENTITY.—The term ‘regulated entity’ means—
“(A) the Federal National Mortgage Association and any affiliate thereof;
“(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof; and
“(C) any Federal Home Loan Bank.”;
(4) by redesigning paragraphs (11) and (12) as paragraphs (17) and (18), respectively;
(5) by redesigning paragraph (7) as paragraph (12);
(6) by redesigning paragraphs (8) through (10) as paragraphs (14) through (16), respectively;
(7) in paragraph (5)—
(A) by striking “(5)” and inserting “(9)”;
(B) by striking “Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development” and inserting “Federal Housing Finance Agency”;
(8) by redesigning paragraph (6) as paragraph (10);
(9) by redesigning paragraphs (2) through (4) as paragraphs (5) through (7), respectively;
(R) in paragraph (11), by inserting “or a Federal savings association, as the case may be,” after “national bank” each place such term appears;
(S) in paragraph (12)—
   (i) by inserting “or the Director of the Office of Thrift Supervision, as appropriate,” after “Comptroller of the Currency” each place such term appears; and
   (ii) by inserting “or Federal savings associations, as appropriate” after “national banks”; and
(T) in paragraph (13), by striking “single bank” and inserting “single depository institution”.
(b) OTHER CONFORMING AMENDMENTS.—
(1) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—
   (A) in section 3 (12 U.S.C. 1813), by striking subsection (i) and inserting the following:
      “(i) NEW DEPOSITORY INSTITUTION AND BRIDGE DEPOSITORY INSTITUTION DEFINED.—
           “(1) NEW DEPOSITORY INSTITUTION.—The term ‘new depository institution’ means a new national bank or Federal savings association, other than a bridge depository institution, organized by the Corporation in accordance with section 11(m).
           “(2) BRIDGE DEPOSITORY INSTITUTION.—The term ‘bridge depository institution’ means a new national bank or Federal savings association organized by the Corporation in accordance with section 11(n).”;
   (B) in section 10(d)(5)(B) (12 U.S.C. 1820(d)(5)(B)), by striking “bridge bank” and inserting “bridge depository institution”;
   (C) in section 12 (12 U.S.C. 1822), by striking “new bank” each place such term appears and inserting “new depository institution”; and
   (D) in section 38(j)(2) (12 U.S.C. 1831o(j)(2)), by striking “bridge bank” and inserting “bridge depository institution”.
(2) FEDERAL CREDIT UNION ACT.—Section 207(c)(10)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)(C)(i)) is amended by striking “bridge bank” and inserting “bridge depository institution”.
(3) TITLE 11, UNITED STATES CODE.—Section 783 of title 11, United States Code, is amended by striking “bridge bank” and inserting “bridge depository institution”.
(4) TITLE 26, UNITED STATES CODE.—Section 414(l)(2)(G) of the Internal Revenue Code of 1986, is amended by striking “bridge bank” and inserting “bridge depository institution”.
(c) REPEAL OF DEPOSIT LIMITATION.—Section 11(n)(1)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)(1)(B)(i)) is amended by striking “, except that” and all that follows through “another insured depository institution”.
(d) FEDERAL RESERVE BANK LENDING TO BRIDGE DEPOSITORY INSTITUTIONS.—Section 11(n)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)(5)) is amended by adding at the end the following new subparagraph:
   “(D) CAPITAL LEVELS.—A bridge depository institution shall not be considered an undercapitalized depository institution or a critically undercapitalized depository institution for purposes of section 10B(b) of the Federal Reserve Act.”.
Public Law 110–406
110th Congress

An Act

To make improvements in the operation and administration of the Federal courts, and for other purposes.

Oct. 13, 2008
[S. 3569]

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 "Judicial Administration and Technical Amendments Act of 2008".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Change in composition of divisions of western district of Tennessee.
Sec. 3. Supplemental attendance fee for petit jurors serving on lengthy trials.
Sec. 4. Authority of district courts as to a jury summons.
Sec. 5. Public drawing specifications for jury wheels.
Sec. 6. Assessment of court technology costs.
Sec. 7. Repeal of obsolete provision in the bankruptcy code relating to certain dollar amounts.
Sec. 8. Investment of court registry funds.
Sec. 9. Magistrate judge participation at circuit conferences.
Sec. 10. Selection of chief pretrial services officers.
Sec. 11. Attorney case compensation maximum amounts.
Sec. 12. Expanded delegation authority for reviewing Criminal Justice Act vouchers in excess of case compensation maximums.
Sec. 13. Repeal of obsolete cross-references to the Narcotic Addict Rehabilitation Act.
Sec. 15. Contracting for services for pretrial defendants and post-conviction supervision offenders.
Sec. 16. Judge members of U.S. Sentencing Commission.
Sec. 17. Penalty for failure to appear for jury summons.
Sec. 18. Place of holding court for the District of Minnesota.
Sec. 19. Penalty for employers who retaliate against employees serving on jury duty.

SEC. 2. CHANGE IN COMPOSITION OF DIVISIONS OF WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting "Dyer," after "Decatur,"; and

(B) in the last sentence by inserting "and Dyersburg" after "Jackson"; and

(2) in paragraph (2)—

(A) by striking "Dyer,"; and

(B) in the second sentence, by striking "and Dyersburg".

(b) EFFECTIVE DATE.—
(1) **IN GENERAL.**—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) **PENDING CASES NOT AFFECTED.**—The amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) **JURIES NOT AFFECTED.**—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving in the United States District Court for the Western District of Tennessee on the effective date of this section.

### SEC. 3. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JURORS SERVING ON LENGTHY TRIALS.

(a) **IN GENERAL.**—Section 1871(b)(2) of title 28, United States Code, is amended by striking “thirty” in each place it occurs and inserting “ten”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 2009.

### SEC. 4. AUTHORITY OF DISTRICT COURTS AS TO A JURY SUMMONS.

Section 1866(g) of title 28, United States Code, is amended in the first sentence—

(1) by striking “shall” and inserting “may”; and

(2) by striking “his”.

### SEC. 5. PUBLIC DRAWING SPECIFICATIONS FOR JURY WHEELS.

(a) **DRAWING OF NAMES FROM JURY WHEEL.**—Section 1864(a) of title 28, United States Code, is amended—

(1) in the first sentence, by striking “publicly”; and

(2) by inserting “The clerk or jury commission shall post a general notice for public review in the clerk’s office and on the court’s website explaining the process by which names are periodically and randomly drawn.” after the first sentence.

(b) **SELECTION AND SUMMONING OF JURY PANELS.**—Section 1866(a) of title 28, United States Code, is amended—

(1) in the second sentence, by striking “publicly”; and

(2) by inserting “The clerk or jury commission shall post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn.” after the second sentence.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 1869 of title 28, United States Code, is amended—

(1) in subsection (j), by adding “and” at the end;

(2) by striking subsection (k); and

(3) by redesignating subsection (l) as subsection (k).

### SEC. 6. ASSESSMENT OF COURT TECHNOLOGY COSTS.

Section 1920 of title 28, United States Code, is amended—

(1) in paragraph (2), by striking “of the court reporter for all or any part of the stenographic transcript” and inserting “for printed or electronically recorded transcripts”; and

(2) in paragraph (4), by striking “copies of papers” and inserting “the costs of making copies of any materials where the copies are”.

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**28 USC 1871 note.**
SEC. 7. REPEAL OF OBSOLETE PROVISION IN THE BANKRUPTCY CODE RELATING TO CERTAIN DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended—
(1) by striking subsection (a);
(2) by redesignating subsection (b)(1) as subsection (a) and subparagraphs (A) and (B) of that subsection as paragraphs (1) and (2), respectively;
(3) by redesignating subsection (b)(2) as subsection (b);
(4) by redesignating subsection (b)(3) as subsection (c); and
(5) in subsection (c) (as redesignated by paragraph (4) of this section), by striking “paragraph (1)” and inserting “subsection (a)”.

SEC. 8. INVESTMENT OF COURT REGISTRY FUNDS.

(a) IN GENERAL.—Chapter 129 of title 28, United States Code, is amended by inserting after section 2044 the following:

“§ 2045. Investment of court registry funds

“(a) The Director of the Administrative Office of the United States Courts, or the Director’s designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director’s designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

“(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end the following:

“2045. Investment of court registry funds.”.

SEC. 9. MAGISTRATE JUDGE PARTICIPATION AT CIRCUIT CONFERENCES.

Section 333 of title 28, United States Code, is amended in the first sentence by inserting “magistrate,” after “district,”.

SEC. 10. SELECTION OF CHIEF PRETRIAL SERVICES OFFICERS.

Section 3152 of title 18, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) The pretrial services established under subsection (b) of this section shall be supervised by a chief pretrial services officer appointed by the district court. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3602 of this title.”.

SEC. 11. ATTORNEY CASE COMPENSATION MAXIMUM AMOUNTS.

Section 3006A(d)(2) of title 18, United States Code, is amended by adding “The compensation maximum amounts provided in this paragraph shall increase simultaneously by the same percentage, rounded to the nearest multiple of $100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant
to paragraph (1) for time expended since the case maximum amounts were last adjusted.” at the end.

SEC. 12. EXPANDED DELEGATION AUTHORITY FOR REVIEWING CRIMINAL JUSTICE ACT VOUCHERS IN EXCESS OF CASE COMPENSATION MAXIMUMS.

(a) Waiving Maximum Amounts.—Section 3006A(d)(3) of title 18, United States Code, is amended in the second sentence by inserting “or senior” after “active”.

(b) Services Other Than Counsel.—Section 3006A(e)(3) of title 18, United States Code, is amended in the second sentence by inserting “or senior” after “active”.

(c) Counsel for Financially Unable Defendants.—Section 3599(g)(2) of title 18, United States Code, is amended in the second sentence by inserting “or senior” after “active”.

SEC. 13. REPEAL OF OBSOLETE CROSS-REFERENCES TO THE NARCOTIC ADDICT REHABILITATION ACT.

Section 3161(h) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking subparagraphs (B) and (C); and

(B) by redesigning subparagraphs (D) through (J) as subparagraphs (B) through (H), respectively;

(2) by striking paragraph (5); and

(3) by redesigning paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

SEC. 14. CONDITIONS OF PROBATION AND SUPERVISED RELEASE.

(a) Conditions of Probation.—Section 3563(a)(2) of title 18, United States Code, is amended by striking “(b)(2), (b)(3), or (b)(13),” and inserting “(b)(2) or (b)(12), unless the court has imposed a fine under this chapter, or”.

(b) Supervised Release After Imprisonment.—Section 3583(d) of title 18, United States Code, is amended by striking “section 3563(b)(1)” and all that follows through “appropriate.” and inserting “section 3563(b) and any other condition it considers to be appropriate, provided, however that a condition set forth in subsection 3563(b)(10) shall be imposed only for a violation of a condition of supervised release in accordance with section 3583(e)(2) and only when facilities are available.”.

(c) Technical and Conforming Amendment.—Section 3563(b)(10) of title 18, United States Code, is amended by inserting “or supervised release” after “probation”.

SEC. 15. CONTRACTING FOR SERVICES FOR PRETRIAL DEFENDANTS AND POST-CONVICTION SUPERVISION OFFENDERS.

(a) Pretrial Service Functions.—Section 3154(4) of title 18, United States Code, is amended by inserting “, and contract with any appropriate public or private agency or person, or expend funds, to monitor and provide treatment as well as nontreatment services to any such persons released in the community, including equipment and emergency housing, corrective and preventative guidance and training, and other services reasonably deemed necessary to protect the public and ensure that such persons appear in court as required” before the period.

(b) Duties of Director of Administrative Office of the United States Courts.—Section 3672 of title 18, United States Code, is amended in the seventh undesignated paragraph—
SEC. 16. JUDGE MEMBERS OF U.S. SENTENCING COMMISSION.

Section 991(a) of title 28, United States Code, is amended in the third sentence by striking “Not more than” and inserting “At least”.

SEC. 17. PENALTY FOR FAILURE TO APPEAR FOR JURY SUMMONS.

(a) Section 1864 summons.—Section 1864(b) of title 28, United States Code, is amended by striking “$100 or imprisoned not more than three days, or both.” each place it appears and inserting “$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.”.

(b) Section 1866 summons.—Section 1866(g) of title 28, United States Code, is amended by striking “$100 or imprisoned not more than three days, or both.” and inserting “$1,000, imprisoned not more than three days, ordered to perform community service, or any combination thereof.”.

SEC. 18. PLACE OF HOLDING COURT FOR THE DISTRICT OF MINNESOTA.

Section 103(6) of title 28, United States Code, is amended in the second sentence by inserting “and Bemidji” before the period.

SEC. 19. PENALTY FOR EMPLOYERS WHO RETALIATE AGAINST EMPLOYEES SERVING ON JURY DUTY.

Section 1875(b)(3) of title 28, United States Code, is amended by striking “$1,000 for each violation as to each employee.” and inserting “$5,000 for each violation as to each employee, and may be ordered to perform community service.”.

Approved October 13, 2008.
NATIONAL GUARD AND RESERVISTS DEBT RELIEF ACT OF 2008
Public Law 110–438
110th Congress

An Act

A bill to amend title 11, United States Code, to exempt for a limited period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘National Guard and Reservists Debt Relief Act of 2008’’.

SEC. 2. AMENDMENTS.

Section 707(b)(2)(D) of title 11, United States Code, is amended—

(1) in clauses (i) and (ii)—
   (A) by indenting the left margin of such clauses 2 ems to the right, and
   (B) by redesignating such clauses as subclauses (I) and (II), respectively,
(2) by striking ‘‘testing, if the debtor is a disabled veteran’’ and inserting the following:
   ‘‘testing—
   (i) if the debtor is a disabled veteran’’,
(3) by striking the period at the end and inserting ‘‘; or’’, and
(4) by adding at the end the following:
   ‘‘(ii) with respect to the debtor, while the debtor is—
   (I) on, and during the 540-day period beginning im-
   mediately after the debtor is released from, a period of active
   duty (as defined in section 101(d)(1) of title 10) of not
   less than 90 days; or
   (II) performing, and during the 540-day period begin-
   ning immediately after the debtor is no longer performing,
   a homeland defense activity (as defined in section 901(1)
   of title 32) performed for a period of not less than 90
   days;
if after September 11, 2001, the debtor while a member of
a reserve component of the Armed Forces or a member of
the National Guard, was called to such active duty or performed
such homeland defense activity.’’.

SEC. 3. GAO STUDY.

(a) COMPTROLLER GENERAL STUDY.—Not later than 2 years
after the effective date of this Act, the Comptroller General shall
complete and transmit to the Speaker of the House of Representa-
tives and the President pro tempore of the Senate, a study of
the use and the effects of the provisions of law amended (and
as amended) by this Act. Such study shall address, at a minimum—

(1) whether and to what degree members of reserve compo-
nents of the Armed Forces and members of the National Guard
avail themselves of the benefits of such provisions,

(2) whether and to what degree such members are debtors
in cases under title 11 of the United States Code that are
substantially related to service that qualifies such members
for the benefits of such provisions,

(3) whether and to what degree such members are debtors
in cases under such title that are materially related to such
service, and

(4) the effects that the use by such members of section
707(b)(2)(D) of such title, as amended by this Act, has on
the bankruptcy system, creditors, and the debt-incurrence prac-
tices of such members.

(b) FACTORS.—For purposes of subsection (a)—

(1) a case shall be considered to be substantially related
to the service of a member of a reserve component of the
Armed Forces or a member of the National Guard that qualifies
such member for the benefits of the provisions of law amended
(and as amended) by this Act if more than 33 percent of
the aggregate amount of the debts in such case is incurred
as a direct or indirect result of such service,

(2) a case shall be considered to be materially related
to the service of a member of a reserve component of the
Armed Forces or a member of the National Guard that qualifies
such member for the benefits of such provisions if more than
10 percent of the aggregate amount of the debts in such case
is incurred as a direct or indirect result of such service, and

(3) the term “effects” means—

(A) with respect to the bankruptcy system and credi-
tors—

(i) the number of cases under title 11 of the United
States Code in which members of reserve components
of the Armed Forces and members of the National
Guard avail themselves of the benefits of such provi-
sions,

(ii) the aggregate amount of debt in such cases,

(iii) the aggregate amount of debt of such members
discharged in cases under chapter 7 of such title,

(iv) the aggregate amount of debt of such members
in cases under chapter 7 of such title as of the time
such cases are converted to cases under chapter 13
of such title,

(v) the amount of resources expended by the bank-
ruptcy courts and by the bankruptcy trustees, stated
separately, in cases under title 11 of the United States
Code in which such members avail themselves of the
benefits of such provisions, and

(vi) whether and to what extent there is any indicia
of abuse or potential abuse of such provisions, and

(B) with respect to debt-incurrence practices—
SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code in the 3-year period beginning on the effective date of this Act.

Approved October 20, 2008.