

1 **Subtitle S—Housing Opportunities**
2 **Made Easier**

3 **SEC. 591. CLARIFICATION OF DONATED SERVICES TO NON-**
4 **PROFITS.**

5 Section 129E(i) of the Truth in Lending Act (15
6 U.S.C. 1639e(i)) is amended by adding at the end the fol-
7 lowing:

8 “(4) RULE OF CONSTRUCTION RELATED TO AP-
9 PRAISAL DONATIONS.—For purposes of paragraph
10 (1), if a fee appraiser voluntarily donates appraisal
11 services to an organization described in section
12 170(c)(2) of the Internal Revenue Code of 1986,
13 such voluntary donation shall be deemed customary
14 and reasonable.”.

15 **TITLE VI—REGULATORY RELIEF**
16 **FOR STRONGLY CAPITALIZED,**
17 **WELL MANAGED BANKING**
18 **ORGANIZATIONS**

19 **SEC. 601. CAPITAL ELECTION.**

20 (a) IN GENERAL.—A banking organization may make
21 an election under this section to be treated as a qualifying
22 banking organization for purposes of the regulatory relief
23 described under section 602.

1 (b) REQUIREMENTS.—A banking organization may
2 qualify to be treated as a qualifying banking organization
3 if—

4 (1) the banking organization has an average le-
5 verage ratio of at least 10 percent;

6 (2) with respect to a depository institution hold-
7 ing company, each insured depository institution
8 subsidiary of the holding company simultaneously
9 makes the election described under subsection (a);
10 and

11 (3) with respect to an insured depository insti-
12 tution, any parent depository institution holding
13 company of the institution simultaneously makes the
14 election described under subsection (a).

15 (c) ELECTION PROCESS.—To make an election under
16 this section, a banking organization shall submit an elec-
17 tion to the appropriate Federal banking agency (and any
18 applicable State bank supervisor that regulates the bank-
19 ing organization) containing—

20 (1) a notice of such election;

21 (2) the banking organization's average leverage
22 ratio, as well as the organization's quarterly leverage
23 ratio for each of the most recently completed four
24 calendar quarters;

1 (3) if the banking organization is a depository
2 institution holding company, the information de-
3 scribed under paragraph (2) for each of the organi-
4 zation's insured depository institution subsidiaries;
5 and

6 (4) if the banking organization is an insured
7 depository institution, the information described
8 under paragraph (2) for any parent depository insti-
9 tution holding company of the institution.

10 (d) EFFECTIVE DATE OF ELECTION.—

11 (1) IN GENERAL.—An election made under this
12 section shall take effect at the end of the 30-day pe-
13 riod beginning on the date that the appropriate Fed-
14 eral banking agency receives the application de-
15 scribed under subsection (c), unless the appropriate
16 Federal banking agency determines that the banking
17 organization has not met the requirements described
18 under subsection (b).

19 (2) NOTICE OF FAILURE TO MEET REQUIRE-
20 MENTS.—If the appropriate Federal banking agency
21 determines that a banking organization submitting
22 an election notice under subsection (c) does not meet
23 the requirements described under subsection (b), the
24 agency shall—

1 (A) notify the banking organization (and
2 any applicable State bank supervisor that regu-
3 lates the banking organization), in writing, of
4 such determination as soon as possible after
5 such determination is made, but in no case
6 later than the end of the 30-day period begin-
7 ning on the date that the appropriate Federal
8 banking agency receives the election; and

9 (B) include in such notification the specific
10 reasons for such determination and steps that
11 the banking organization can take to meet such
12 requirements.

13 (e) TREATMENT OF CERTAIN NEW BANKING ORGA-
14 NIZATIONS.—In the case of a banking organization that
15 is a newly-chartered insured depository institution or a
16 banking organization that becomes a banking organization
17 because it controls a newly-chartered insured depository
18 institution, such banking organization may be treated as
19 a qualifying banking organization immediately upon be-
20 coming a banking organization, if—

21 (1) an election to be treated as a qualifying
22 banking organization was included in the application
23 filed with the appropriate Federal banking agency in
24 connection with becoming a banking organization;
25 and

1 (2) as of the date the banking organization be-
2 comes a banking organization, the banking organiza-
3 tion's tangible equity divided by the banking organi-
4 zation's leverage exposure, expressed as a percent-
5 age, is at least 10 percent.

6 (f) FAILURE TO MAINTAIN QUARTERLY LEVERAGE
7 RATIO AND LOSS OF ELECTION.—

8 (1) EFFECT OF FAILURE TO MAINTAIN QUAR-
9 TERLY LEVERAGE RATIO.—

10 (A) IN GENERAL.—If, with respect to the
11 most recently completed calendar quarter, the
12 appropriate Federal banking agency determines
13 that a qualifying banking organization's quar-
14 terly leverage ratio is below 10 percent—

15 (i) the appropriate Federal banking
16 agency shall notify the qualifying banking
17 organization and any applicable State bank
18 supervisor that regulates the banking orga-
19 nization of such determination;

20 (ii) the appropriate Federal banking
21 agency may prohibit the banking organiza-
22 tion from making a capital distribution;
23 and

24 (iii) the banking organization shall,
25 within 3 months of the first such deter-

1 mination, submit a capital restoration plan
2 to the appropriate Federal banking agency.

3 (B) LOSS OF ELECTION AFTER ONE-YEAR
4 REMEDICATION PERIOD.—If a banking organiza-
5 tion described under subparagraph (A) does
6 not, within the 1-year period beginning on the
7 date of such determination, raise the organiza-
8 tion’s quarterly leverage ratio for a calendar
9 quarter ending in such 1-year period to at least
10 10 percent, the banking organization’s election
11 under this section shall be terminated, and the
12 appropriate Federal banking agency shall notify
13 any applicable State bank supervisor that regu-
14 lates the banking organization of such termi-
15 nation.

16 (C) EFFECT OF SUBSIDIARY ON PARENT
17 ORGANIZATION.—With respect to a qualifying
18 banking organization described under subpara-
19 graph (A) that is an insured depository institu-
20 tion, any parent depository institution holding
21 company of the qualifying banking organization
22 shall—

23 (i) if the appropriate Federal banking
24 agency determines it appropriate, be pro-
25 hibited from making a capital distribution

1 (other than a capital contribution to such
2 qualifying banking organization described
3 under subparagraph (A)); and

4 (ii) if the qualifying banking organiza-
5 tion has an election terminated under sub-
6 paragraph (B), any such parent depository
7 institution holding company shall also have
8 its election under this section terminated.

9 (2) IMMEDIATE LOSS OF ELECTION IF THE
10 QUARTERLY LEVERAGE RATIO FALLS BELOW 6 PER-
11 CENT.—

12 (A) IN GENERAL.—If, with respect to the
13 most recently completed calendar quarter, the
14 appropriate Federal banking agency determines
15 that a qualifying banking organization's quar-
16 terly leverage ratio is below 6 percent, the
17 banking organization's election under this sec-
18 tion shall be terminated, and the appropriate
19 Federal banking agency shall notify any appli-
20 cable State bank supervisor that regulates the
21 banking organization of such termination.

22 (B) EFFECT OF SUBSIDIARY ON PARENT
23 ORGANIZATION.—With respect to a qualifying
24 banking organization described under subpara-
25 graph (A) that is an insured depository institu-

1 tion, any parent depository institution holding
2 company of the qualifying banking organization
3 shall also have its election under this section
4 terminated.

5 (3) ABILITY TO MAKE FUTURE ELECTIONS.—If
6 a banking organization has an election under this
7 section terminated, the banking organization may
8 not apply for another election under this section
9 until the banking organization has maintained a
10 quarterly leverage ratio of at least 10 percent for 8
11 consecutive calendar quarters.

12 **SEC. 602. REGULATORY RELIEF.**

13 (a) IN GENERAL.—A qualifying banking organization
14 shall be exempt from the following:

15 (1) Any Federal law, rule, or regulation ad-
16 dressing capital or liquidity requirements or stand-
17 ards.

18 (2) Any Federal law, rule, or regulation that
19 permits an appropriate Federal banking agency to
20 object to a capital distribution.

21 (3) Any consideration by an appropriate Fed-
22 eral banking agency of the following:

23 (A) Any risk the qualifying banking orga-
24 nization may pose to “the stability of the finan-
25 cial system of the United States”, under section

1 5(c)(2) of the Bank Holding Company Act of
2 1956.

3 (B) The “extent to which a proposed ac-
4 quisition, merger, or consolidation would result
5 in greater or more concentrated risks to the
6 stability of the United States banking or finan-
7 cial system”, under section 3(c)(7) of the Bank
8 Holding Company Act of 1956, so long as the
9 banking organization, after such proposed ac-
10 quisition, merger, or consolidation, would main-
11 tain a quarterly leverage ratio of at least 10
12 percent.

13 (C) Whether the performance of an activity
14 by the banking organization could possibly pose
15 a “risk to the stability of the United States
16 banking or financial system”, under section
17 4(j)(2)(A) of the Bank Holding Company Act
18 of 1956.

19 (D) Whether the acquisition of control of
20 shares of a company engaged in an activity de-
21 scribed in section 4(j)(1)(A) of the Bank Hold-
22 ing Company Act of 1956 could possibly pose a
23 “risk to the stability of the United States bank-
24 ing or financial system”, under section
25 4(j)(2)(A) of the Bank Holding Company Act

1 of 1956, so long as the banking organization,
2 after acquiring control of such company, would
3 maintain a quarterly leverage ratio of at least
4 10 percent.

5 (E) Whether a merger would pose a “risk
6 to the stability of the United States banking or
7 financial system”, under section 18(c)(5) of the
8 Federal Deposit Insurance Act, so long as the
9 banking organization, after such proposed
10 merger, would maintain a quarterly leverage
11 ratio of at least 10 percent.

12 (F) Any risk the qualifying banking orga-
13 nization may pose to “the stability of the finan-
14 cial system of the United States”, under section
15 10(b)(4) of the Home Owners’ Loan Act.

16 (4) Subsections (i)(8) and (k)(6)(B)(ii) of sec-
17 tion 4 and section 14 of the Bank Holding Company
18 Act of 1956.

19 (5) Section 18(c)(13) of the Federal Deposit
20 Insurance Act.

21 (6) Section 163 of the Financial Stability Act
22 of 2010.

23 (7) Section 10(e)(2)(E) of the Home Owners’
24 Loan Act.

1 (8) Any Federal law, rule, or regulation imple-
2 menting standards of the type provided for in sub-
3 sections (b), (c), (d), (e), (g), (h), (i), and (j) of sec-
4 tion 165 of the Financial Stability Act of 2010.

5 (9) Any Federal law, rule, or regulation pro-
6 viding limitations on mergers, consolidations, or ac-
7 quisitions of assets or control, to the extent such
8 limitations relate to capital or liquidity standards or
9 concentrations of deposits or assets, so long as the
10 banking organization, after such proposed merger,
11 consolidation, or acquisition, would maintain a quar-
12 terly leverage ratio of at least 10 percent.

13 (b) QUALIFYING BANKING ORGANIZATIONS TREAT-
14 ED AS WELL CAPITALIZED.—A qualifying banking organi-
15 zation shall be deemed to be “well capitalized” for pur-
16 poses of—

17 (1) section 216 of the Federal Credit Union
18 Act; and

19 (2) sections 29, 38, 44, and 46 of the Federal
20 Deposit Insurance Act.

21 (c) TREATMENT OF CERTAIN RISK-WEIGHTED ASSET
22 REQUIREMENTS FOR QUALIFYING BANKING ORGANIZA-
23 TIONS.—

24 (1) ACQUISITION SIZE CRITERIA TREATMENT.—

25 A qualifying banking organization shall be deemed

1 to meet the criteria described under section
2 4(j)(4)(D) of the Bank Holding Company Act of
3 1956, so long as after the proposed transaction the
4 acquiring qualifying banking organization would
5 maintain a quarterly leverage ratio of at least 10
6 percent.

7 (2) USE OF LEVERAGE EXPOSURE.—With re-
8 spect to a qualifying banking organization, in deter-
9 mining whether a proposal qualifies with the criteria
10 described under subparagraphs (A)(iii) and (B)(i) of
11 section 4(j)(4) of the Bank Holding Company Act of
12 1956, the Board of Governors of the Federal Re-
13 serve System shall consider the leverage exposure of
14 an insured depository institution instead of the total
15 risk-weighted assets of such institution.

16 **SEC. 603. CONTINGENT CAPITAL STUDY.**

17 (a) STUDY.—The Board of Governors of the Federal
18 Reserve System, the Federal Deposit Insurance Corpora-
19 tion, and the Office of the Comptroller of the Currency
20 shall each carry out a study, which shall include holding
21 public hearings, on how to design a requirement that
22 banking organizations issue contingent capital with a mar-
23 ket-based conversion trigger.

24 (b) REPORT.—Not later than the end of the 1-year
25 period beginning on the date of the enactment of this Act,

1 each agency described under subsection (a) shall submit
2 a report to the Congress containing—

3 (1) all findings and determinations made by the
4 agency in carrying out the study required under sub-
5 section (a); and

6 (2) the agency's recommendations on how the
7 Congress should design a requirement that banking
8 organizations issue contingent capital with a market-
9 based conversion trigger.

10 **SEC. 604. STUDY ON ALTERING THE CURRENT PROMPT**
11 **CORRECTIVE ACTION RULES.**

12 (a) STUDY.—The Comptroller General of the United
13 States shall conduct a study to assess the benefits and
14 feasibility of altering the current prompt corrective action
15 rules and replacing the Basel-based capital ratios with the
16 nonperforming asset coverage ratio or NACR as the trig-
17 ger for specific required supervisory interventions. The
18 Comptroller General shall ensure that such study includes
19 the following:

20 (1) An assessment of the performance of an
21 NACR forward-looking measure of a banking orga-
22 nization's solvency condition relative to the regu-
23 latory capital ratios currently used by prompt cor-
24 rective action rules.

1 (2) An analysis of the performance of alter-
2 native definitions of nonperforming assets.

3 (3) An assessment of the impact of two alter-
4 native intervention thresholds:

5 (A) An initial (high) intervention thresh-
6 old, below which appropriate Federal banking
7 agency examiners are required to intervene and
8 assess a banking organization's condition and
9 prescribe remedial measures.

10 (B) A lower threshold, below which bank-
11 ing organizations must increase their capital,
12 seek an acquirer, or face mandatory resolution
13 within 90 days.

14 (b) REPORT.—Not later than the end of the 1-year
15 period beginning on the date of the enactment of this Act,
16 the Comptroller General shall submit a report to the Con-
17 gress containing—

18 (1) all findings and determinations made in car-
19 rying out the study required under subsection (a);
20 and

21 (2) recommendations on the most suitable defi-
22 nition of nonperforming assets, as well as the two
23 numerical thresholds that trigger specific required
24 supervisory interventions.

1 **SEC. 605. DEFINITIONS.**

2 For purposes of this title:

3 (1) APPROPRIATE FEDERAL BANKING AGEN-
4 CY.—The term “appropriate Federal banking agen-
5 cy”—

6 (A) has the meaning given such term
7 under section 3 of the Federal Deposit Insur-
8 ance Act; and

9 (B) means the National Credit Union Ad-
10 ministration, in the case of an insured credit
11 union.

12 (2) BANKING ORGANIZATION.—The term
13 “banking organization” means—

14 (A) an insured depository institution;

15 (B) an insured credit union;

16 (C) a depository institution holding com-
17 pany;

18 (D) a company that is treated as a bank
19 holding company for purposes of section 8 of
20 the International Banking Act; and

21 (E) a U.S. intermediate holding company
22 established by a foreign banking organization
23 pursuant to section 252.153 of title 12, Code of
24 Federal Regulations.

25 (3) FOREIGN EXCHANGE SWAP.—The term
26 “foreign exchange swap” has the meaning given that

1 term under section 1a of the Commodity Exchange
2 Act.

3 (4) INSURED CREDIT UNION.—The term “in-
4 sured credit union” has the meaning given that term
5 under section 101 of the Federal Credit Union Act.

6 (5) LEVERAGE EXPOSURE.—The term “lever-
7 age exposure”—

8 (A) with respect to a banking organization
9 other than an insured credit union or a tradi-
10 tional banking organization, has the meaning
11 given the term “total leverage exposure” under
12 section 3.10(c)(4)(ii), 217.10(c)(4), or
13 324.10(c)(4) of title 12, Code of Federal Regu-
14 lations, as applicable, as in effect on the date
15 of the enactment of this Act;

16 (B) with respect to a traditional banking
17 organization other than an insured credit union,
18 means total assets (minus any items deducted
19 from common equity tier 1 capital) as cal-
20 culated in accordance with generally accepted
21 accounting principles and as reported on the
22 traditional banking organization’s applicable
23 regulatory filing with the banking organiza-
24 tion’s appropriate Federal banking agency; and

1 (C) with respect to a banking organization
2 that is an insured credit union, has the mean-
3 ing given the term “total assets” under section
4 702.2 of title 12, Code of Federal Regulations,
5 as in effect on the date of the enactment of this
6 Act.

7 (6) LEVERAGE RATIO DEFINITIONS.—

8 (A) AVERAGE LEVERAGE RATIO.—With re-
9 spect to a banking organization, the term “av-
10 erage leverage ratio” means the average of the
11 banking organization’s quarterly leverage ratios
12 for each of the most recently completed four
13 calendar quarters.

14 (B) QUARTERLY LEVERAGE RATIO.—With
15 respect to a banking organization and a cal-
16 endar quarter, the term “quarterly leverage
17 ratio” means the organization’s tangible equity
18 divided by the organization’s leverage exposure,
19 expressed as a percentage, on the last day of
20 such quarter.

21 (7) NACR.—The term “NACR” means—

22 (A) book equity less nonperforming assets
23 plus loan loss reserves, divided by

24 (B) total banking organization assets.

1 (8) NONPERFORMING ASSETS.—The term “non-
2 performing assets” means—

3 (A) 20 percent of assets that are past due
4 30 to 89 days, plus

5 (B) 50 percent of assets that are past due
6 90 days or more, plus

7 (C) 100 percent of nonaccrual assets and
8 other real estate owned.

9 (9) QUALIFYING BANKING ORGANIZATION.—
10 The term “qualifying banking organization” means
11 a banking organization that has made an election
12 under section 601 and with respect to which such
13 election is in effect.

14 (10) SECURITY-BASED SWAP.—The term “se-
15 curity-based swap” has the meaning given that term
16 under section 3 of the Securities Exchange Act of
17 1934.

18 (11) SWAP.—The term “swap” has the mean-
19 ing given that term under section 1a of the Com-
20 modity Exchange Act.

21 (12) TANGIBLE EQUITY.—The term “tangible
22 equity”—

23 (A) with respect to a banking organization
24 other than a credit union, means the sum of—

25 (i) common equity tier 1 capital;

1 (ii) additional tier 1 capital consisting
2 of instruments issued on or before the date
3 of enactment of this Act; and

4 (iii) with respect to a depository insti-
5 tution holding company that had less than
6 \$15,000,000,000 in total consolidated as-
7 sets as of December 31, 2009, or March
8 31, 2010, or a banking organization that
9 was a mutual holding company as of May
10 19, 2010, trust preferred securities issued
11 prior to May 19, 2010, to the extent such
12 organization was permitted, as of the date
13 of the enactment of this Act, to consider
14 such securities as tier 1 capital under ex-
15 isting regulations of the appropriate Fed-
16 eral banking agency; and

17 (B) with respect to a banking organization
18 that is a credit union, has the meaning given
19 the term “net worth” under section 702.2 of
20 title 12, Code of Federal Regulations, as in ef-
21 fect on the date of the enactment of this Act.

22 (13) TRADITIONAL BANKING ORGANIZATION.—
23 The term “traditional banking organization” means
24 a banking organization that—

1 (A) has zero trading assets and zero trad-
2 ing liabilities;

3 (B) does not engage in swaps or security-
4 based swaps, other than swaps or security-
5 based swaps referencing interest rates or for-
6 eign exchange swaps; and

7 (C) has a total notional exposure of swaps
8 and security-based swaps of not more than
9 \$8,000,000,000.

10 (14) OTHER BANKING TERMS.—The terms “in-
11 sured depository institution” and “depository insti-
12 tution holding company” have the meaning given
13 those terms, respectively, under section 3 of the
14 Federal Deposit Insurance Act.

15 (15) OTHER CAPITAL TERMS.—With respect to
16 a banking organization, the terms “additional tier 1
17 capital” and “common equity tier 1 capital” have
18 the meaning given such terms, respectively, under
19 section 3.20, 217.20, or 324.20 of title 12, Code of
20 Federal Regulations, as applicable, as in effect on
21 the date of the enactment of this Act.