

110TH CONGRESS
1ST SESSION

S. 2391

To provide for affordable housing relief, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2007

Mr. REED introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide for affordable housing relief, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Government Sponsored Enterprise Mission Improvement
6 Act” or the “GSE Mission Improvement Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Annual housing report regarding enterprises.
- Sec. 3. Public use database.
- Sec. 4. Revision of housing goals.
- Sec. 5. Duty to serve underserved markets.
- Sec. 6. Monitoring and enforcing compliance with housing goals.

Sec. 7. Affordable housing programs.

Sec. 8. Enforcement.

1 **SEC. 2. ANNUAL HOUSING REPORT REGARDING ENTER-**
 2 **PRISES.**

3 (a) REPEAL.—Section 1324 of the Housing and
 4 Community Development Act of 1992 (12 U.S.C. 4544)
 5 is hereby repealed.

6 (b) ANNUAL HOUSING REPORT.—The Housing and
 7 Community Development Act of 1992 is amended by in-
 8 serting after section 1323 the following:

9 **“SEC. 1324. ANNUAL HOUSING REPORT REGARDING ENTER-**
 10 **PRISES.**

11 “(a) IN GENERAL.—After reviewing and analyzing
 12 the reports submitted under section 309(n) of the Federal
 13 National Mortgage Association Charter Act and section
 14 307(f) of the Federal Home Loan Mortgage Corporation
 15 Act, the Secretary shall submit a report, not later than
 16 October 30 of each year, to the Committee on Banking,
 17 Housing, and Urban Affairs of the Senate and the Com-
 18 mittee on Financial Services of the House of Representa-
 19 tives, on the activities of each enterprise.

20 “(b) CONTENTS.—The report required under sub-
 21 section (a) shall—

22 “(1) discuss—

23 “(A) the extent to and manner in which—

1 “(i) each enterprise is achieving the
2 annual housing goals established under
3 subpart B;

4 “(ii) each enterprise is complying with
5 its duty to serve underserved markets, as
6 established under section 1335;

7 “(iii) each enterprise is complying
8 with section 1337; and

9 “(iv) each enterprise is achieving the
10 purposes of the enterprise established by
11 law; and

12 “(B) the actions that each enterprise could
13 undertake to promote and expand the purposes
14 of the enterprise;

15 “(2) aggregate and analyze relevant data on in-
16 come to assess the compliance of each enterprise
17 with the housing goals established under subpart B;

18 “(3) aggregate and analyze data on income,
19 race, and gender by census tract and other relevant
20 classifications, and compare such data with larger
21 demographic, housing, and economic trends;

22 “(4) identify the extent to which each enter-
23 prise is involved in mortgage purchases and sec-
24 ondary market activities involving subprime loans;
25 and

1 “(5) compare the characteristics of subprime
2 loans purchased and securitized by each enterprise
3 to other loans purchased and securitized by each en-
4 terprise.

5 “(c) DATA COLLECTION AND REPORTING.—

6 “(1) IN GENERAL.—To assist the Secretary in
7 analyzing the matters described in subsection (b),
8 the Secretary shall conduct, on a monthly basis, a
9 survey of mortgage markets in accordance with this
10 subsection.

11 “(2) DATA POINTS.—Each monthly survey con-
12 ducted by the Secretary under paragraph (1) shall
13 collect data on—

14 “(A) the characteristics of individual mort-
15 gages that are eligible for purchase by the en-
16 terprises and the characteristics of individual
17 mortgages that are not eligible for purchase by
18 the enterprises including, in both cases, infor-
19 mation concerning—

20 “(i) the price of the house that se-
21 cures the mortgage;

22 “(ii) the loan-to-value ratio of the
23 mortgage, which shall reflect any sec-
24 ondary liens on the relevant property;

25 “(iii) the terms of the mortgage;

1 “(iv) the creditworthiness of the bor-
2 rower or borrowers; and

3 “(v) whether the mortgage, in the
4 case of a conforming mortgage, was pur-
5 chased by an enterprise;

6 “(B) the characteristics of individual
7 subprime mortgages that are eligible for pur-
8 chase by the enterprises and the characteristics
9 of borrowers under such mortgages, including
10 the credit worthiness of such borrowers and de-
11 termination whether such borrowers would qual-
12 ify for prime lending; and

13 “(C) such other matters as the Secretary
14 determines to be appropriate.

15 “(3) PUBLIC AVAILABILITY.—The Secretary
16 shall make any data collected by the Secretary in
17 connection with the conduct of a monthly survey
18 available to the public in a timely manner, provided
19 that the Secretary may modify the data released to
20 the public to ensure that the data—

21 “(A) is not released in an identifiable
22 form; and

23 “(B) is not otherwise obtainable from
24 other publicly available data sets.

1 “(4) DEFINITION.—For purposes of this sub-
 2 section, the term ‘identifiable form’ means any rep-
 3 resentation of information that permits the identity
 4 of a borrower to which the information relates to be
 5 reasonably inferred by either direct or indirect
 6 means.”.

7 **SEC. 3. PUBLIC USE DATABASE.**

8 Section 1323 of the Housing and Community Devel-
 9 opment Act of 1992 (42 U.S.C. 4543) is amended—

10 (1) in subsection (a)—

11 (A) by striking “(a) IN GENERAL.—The
 12 Secretary” and inserting the following:

13 “(a) AVAILABILITY.—

14 “(1) IN GENERAL.—The Secretary”; and

15 (B) by adding at the end the following new
 16 paragraph:

17 “(2) CENSUS TRACT LEVEL REPORTING.—Such
 18 data shall include the data elements required to be
 19 reported under the Home Mortgage Disclosure Act
 20 of 1975, at the census tract level.”;

21 (2) in subsection (b)(2), by inserting before the
 22 period at the end the following: “or with subsection
 23 (a)(2)”;

24 (3) by adding at the end the following new sub-
 25 section:

1 “(d) **TIMING.**—Data submitted under this section by
2 an enterprise in connection with a provision referred to
3 in subsection (a) shall be made publicly available in ac-
4 cordance with this section not later than September 30
5 of the year following the year to which the data relates.”.

6 **SEC. 4. REVISION OF HOUSING GOALS.**

7 (a) **REPEAL.**—Sections 1331 through 1334 of the
8 Housing and Community Development Act of 1992 (12
9 U.S.C. 4561 through 4564) are hereby repealed.

10 (b) **HOUSING GOAL.**—The Housing and Community
11 Development Act of 1992 is amended by inserting before
12 section 1335 the following:

13 **“SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.**

14 “(a) **IN GENERAL.**—The Secretary shall, by regula-
15 tion, establish effective for the first calendar year that be-
16 gins after the date of enactment of the Government Spon-
17 sored Enterprise Mission Improvement Act, and each year
18 thereafter, annual housing goals, as described in sections
19 1332, 1333, and 1334, with respect to the mortgage pur-
20 chases by the enterprises.

21 “(b) **SPECIAL COUNTING REQUIREMENTS.**—

22 “(1) **IN GENERAL.**—The Secretary shall deter-
23 mine whether an enterprise shall receive full, partial,
24 or no credit for a transaction toward achievement of

1 any of the housing goals established pursuant to this
2 section or sections 1332 through 1334.

3 “(2) CONSIDERATIONS.—In making any deter-
4 mination under paragraph (1), the Secretary shall
5 consider whether a transaction or activity of an en-
6 terprise is substantially equivalent to a mortgage
7 purchase and either (A) creates a new market, or
8 (B) adds liquidity to an existing market, provided
9 however that the terms and conditions of such mort-
10 gage purchase is neither determined to be unaccept-
11 able, nor contrary to good lending practices, and
12 otherwise promotes sustainable homeownership and
13 further, that such mortgage purchase actually fulfills
14 the purposes of the enterprise and is in accordance
15 with the chartering Act of such enterprise.

16 “(c) ELIMINATING INTEREST RATE DISPARITIES.—

17 “(1) IN GENERAL.—In establishing and imple-
18 menting the housing goals under this subpart, the
19 Secretary shall require the enterprises to disclose ap-
20 propriate information to allow the Secretary to as-
21 sess if there are any disparities in interest rates
22 charged on mortgages to borrowers who are minori-
23 ties, as compared with borrowers of similar credit-
24 worthiness who are not minorities, as evidenced in

1 reports pursuant to the Home Mortgage Disclosure
2 Act of 1975.

3 “(2) REPORT TO CONGRESS AND REMEDY RE-
4 QUIRED ON DISPARITIES.—Upon a finding by the
5 Secretary that a pattern of disparities in interest
6 rates exists pursuant to the information provided by
7 an enterprise under paragraph (1), the Secretary
8 shall—

9 “(A) forward to the Committee on Bank-
10 ing, Housing, and Urban Affairs of the Senate
11 and the Committee on Financial Services of the
12 House of Representatives a report detailing the
13 disparities; and

14 “(B) require the enterprise to take such
15 actions as the Secretary deems appropriate pur-
16 suant to this Act, to remedy such identified in-
17 terest rate disparities.

18 “(3) IDENTITY OF INDIVIDUALS NOT DIS-
19 CLOSED.—In carrying out this subsection, the Sec-
20 retary shall ensure that no personally identifiable fi-
21 nancial information that would enable an individual
22 borrower to be reasonably identified shall be made
23 public.

24 “(d) TIMING.—The Secretary shall establish an an-
25 nual deadline for the establishment of housing goals de-

1 scribed in subsection (a), taking into consideration the
2 need for the enterprises to reasonably and sufficiently plan
3 their operations and activities in advance, including oper-
4 ations and activities necessary to meet such goals.

5 **“SEC. 1331A. DISCRETIONARY ADJUSTMENT OF HOUSING**
6 **GOALS.**

7 “(a) **AUTHORITY.**—An enterprise may petition the
8 Secretary in writing at any time during a year to reduce
9 the level of any goal for such year established pursuant
10 to this subpart.

11 “(b) **STANDARD FOR REDUCTION.**—The Secretary
12 may reduce the level for a goal pursuant to such a petition
13 only if—

14 “(1) market and economic conditions or the fi-
15 nancial condition of the enterprise require such ac-
16 tion; or

17 “(2) efforts to meet the goal would result in the
18 constraint of liquidity, over investment in certain
19 market segments, or other consequences contrary to
20 the intent of this subpart, section 301(3) of the Fed-
21 eral National Mortgage Association Charter Act (12
22 U.S.C. 1716(3)), or section 301(3) of the Federal
23 Home Loan Mortgage Corporation Act (12 U.S.C.
24 1451 note), as applicable.

25 “(c) **DETERMINATION.**—

1 “(1) 30-DAY PERIOD.—The Secretary shall
2 make a determination regarding any proposed reduc-
3 tion within 30 days of receipt of the petition regard-
4 ing the reduction.

5 “(2) EXTENSION.—The Secretary may extend
6 the period described in paragraph (1) for a single
7 additional 15-day period, but only if the Secretary
8 requests additional information from the enterprise.

9 **“SEC. 1332. SINGLE-FAMILY HOUSING GOALS.**

10 “(a) ESTABLISHMENT OF GOALS.—

11 “(1) IN GENERAL.—The Secretary shall estab-
12 lish annual goals for the purchase by each enterprise
13 of conventional, conforming, single-family, owner-oc-
14 cupied, purchase money mortgages financing hous-
15 ing for each of the following:

16 “(A) Low-income families.

17 “(B) Families that reside in low-income
18 areas.

19 “(C) Very low-income families.

20 “(2) GOALS AS PERCENTAGE OF TOTAL PUR-
21 CHASE MONEY MORTGAGE PURCHASES.—The goals
22 established under paragraph (1) shall be established
23 as a percentage of the total number of single-family
24 dwelling units financed by single-family purchase
25 money mortgages of the enterprise.

1 “(b) DETERMINATION OF COMPLIANCE.—

2 “(1) IN GENERAL.—The Secretary shall deter-
3 mine, for each year that the housing goals under
4 this section are in effect pursuant to section
5 1331(a), whether each enterprise has complied with
6 the single-family housing goals established under
7 this section for such year.

8 “(2) COMPLIANCE REQUIREMENTS.—An enter-
9 prise shall be considered to be in compliance with a
10 goal described under subsection (a) for a year, only
11 if, for each of the types of families described in sub-
12 section (a), the percentage of the number of conven-
13 tional, conforming, single-family, owner-occupied,
14 purchase money mortgages purchased by each enter-
15 prise in such year that serve such families, meets or
16 exceeds the target established under subsection (c)
17 for the year for such type of family.

18 “(c) ANNUAL TARGETS.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish annual targets for each goal described in sub-
21 section (a).

22 “(2) CONSIDERATIONS.—In establishing annual
23 targets under paragraph (1), the Secretary shall
24 consider—

25 “(A) national housing needs;

1 “(B) economic, housing, and demographic
2 conditions;

3 “(C) the performance and effort of the en-
4 terprises toward achieving the housing goals
5 under this section in previous years;

6 “(D) the ability of the enterprise to lead
7 the industry in making credit available;

8 “(E) recent information submitted in com-
9 pliance with the Home Mortgage Disclosure Act
10 of 1975 and such other mortgage data as may
11 be available for non metropolitan areas regard-
12 ing conventional, conforming, single-family,
13 owner-occupied, purchase money mortgages
14 originated and purchased;

15 “(F) the size of the purchase money con-
16 ventional mortgage market serving each of the
17 types of families described in subsection (a),
18 relative to the size of the overall purchase
19 money mortgage market; and

20 “(G) the need to maintain the sound finan-
21 cial condition of the enterprises.

22 “(d) NOTICE OF DETERMINATION AND ENTERPRISE
23 COMMENT.—

24 “(1) NOTICE.—Within 30 days of making a de-
25 termination under subsection (b) regarding compli-

1 ance of an enterprise for a year with the housing
2 goals established under this section and before any
3 public disclosure thereof, the Secretary shall provide
4 notice of the determination to the enterprise, which
5 shall include an analysis and comparison, by the
6 Secretary, of the performance of the enterprise for
7 the year and the targets for the year under sub-
8 section (c).

9 “(2) COMMENT PERIOD.—The Secretary shall
10 provide each enterprise an opportunity to comment
11 on the determination during the 30-day period be-
12 ginning upon receipt by the enterprise of the notice.

13 “(e) USE OF BORROWER INCOME.—In monitoring
14 the performance of each enterprise pursuant to the hous-
15 ing goals under this section and evaluating such perform-
16 ance (for purposes of section 1336), the Secretary shall
17 consider a mortgagor’s income to be the income of the
18 mortgagor at the time of origination of the mortgage.

19 **“SEC. 1333. SINGLE-FAMILY HOUSING REFINANCE GOALS.**

20 “(a) PREPAYMENT OF EXISTING LOANS.—

21 “(1) IN GENERAL.—The Secretary shall estab-
22 lish annual goals for the purchase by each enterprise
23 of mortgages on conventional, conforming, single-
24 family, owner-occupied housing given to pay off or

1 prepay an existing loan served by the same property
2 for each of the following:

3 “(A) Low-income families.

4 “(B) Families that reside in low-income
5 areas.

6 “(C) Very low-income families.

7 “(2) GOALS AS PERCENTAGE OF TOTAL REFI-
8 NANCING MORTGAGE PURCHASES.—The goals de-
9 scribed under paragraph (1) shall be established as
10 a percentage of the total number of single-family
11 dwelling units refinanced by mortgage purchases of
12 each enterprise.

13 “(b) DETERMINATION OF COMPLIANCE.—

14 “(1) IN GENERAL.—The Secretary shall deter-
15 mine, for each year that the housing goals under
16 this section are in effect pursuant to section
17 1331(a), whether each enterprise has complied with
18 the single-family housing refinance goals established
19 under this section for such year.

20 “(2) COMPLIANCE.—An enterprise shall be con-
21 sidered to be in compliance with the goals of this
22 section for a year, only if, for each of the types of
23 families described in subsection (a), the percentage
24 of the number of conventional, conforming, single-
25 family, owner-occupied refinancing mortgages pur-

1 chased by each enterprise in such year that serve
2 such families, meets or exceeds the target for the
3 year for such type of family that is established under
4 subsection (c).

5 “(c) ANNUAL TARGETS.—

6 “(1) IN GENERAL.—The Secretary shall estab-
7 lish annual targets for each goal described in sub-
8 section (a).

9 “(2) CONSIDERATIONS.—In establishing annual
10 targets under paragraph (1), the Secretary shall
11 consider—

12 “(A) national housing needs;

13 “(B) economic, housing, and demographic
14 conditions;

15 “(C) the performance and effort of the en-
16 terprises toward achieving the housing goals
17 under this section in previous years;

18 “(D) the ability of the enterprise to lead
19 the industry in making credit available;

20 “(E) recent information submitted in com-
21 pliance with the Home Mortgage Disclosure Act
22 of 1975 and such other mortgage data as may
23 be available for non metropolitan areas regard-
24 ing mortgages on conventional, conforming, sin-

1 gle-family, owner-occupied, refinanced mort-
2 gages originated and purchased;

3 “(F) the size of the refinance conventional
4 mortgage market serving each of the types of
5 families described in subsection (a) relative to
6 the size of the overall refinance conventional
7 mortgage market; and

8 “(G) the need to maintain the sound finan-
9 cial condition of the enterprises.

10 “(d) NOTICE OF DETERMINATION AND ENTERPRISE
11 COMMENT.—

12 “(1) NOTICE.—Within 30 days of making a de-
13 termination under subsection (b) regarding compli-
14 ance of an enterprise for a year with the housing
15 goals established under this section and before any
16 public disclosure thereof, the Secretary shall provide
17 notice of the determination to the enterprise, which
18 shall include an analysis and comparison, by the
19 Secretary, of the performance of the enterprise for
20 the year and the targets for the year under sub-
21 section (c).

22 “(2) COMMENT PERIOD.—The Secretary shall
23 provide each enterprise an opportunity to comment
24 on the determination during the 30-day period be-
25 ginning upon receipt by the enterprise of the notice.

1 “(e) USE OF BORROWER INCOME.—In monitoring
2 the performance of each enterprise pursuant to the hous-
3 ing goals under this section and evaluating such perform-
4 ance (for purposes of section 1336), the Secretary shall
5 consider a mortgagor’s income to be the income of the
6 mortgagor at the time of origination of the mortgage.

7 **“SEC. 1334. MULTIFAMILY SPECIAL AFFORDABLE HOUSING**
8 **GOAL.**

9 “(a) ESTABLISHMENT.—

10 “(1) IN GENERAL.—The Secretary shall estab-
11 lish, by regulation, by unit or dollar volume, as de-
12 termined by the Secretary, an annual goal for the
13 purchase by each enterprise of:

14 “(A) Mortgages that finance dwelling units
15 affordable to very low-income families.

16 “(B) Mortgages that finance dwelling units
17 assisted by the low-income housing tax credit
18 under section 42 of the Internal Revenue Code
19 of 1986.

20 “(2) ADDITIONAL REQUIREMENTS FOR SMALL-
21 ER PROJECTS.—The Secretary shall establish addi-
22 tional requirements for the purchase by each enter-
23 prise of mortgages described in paragraph (1) for
24 multifamily housing projects of a smaller or limited
25 size, which may be based on the number of dwelling

1 units in the project or the amount of the mortgage,
2 or both, and shall include multifamily housing
3 projects of 5 to 50 units (as adjusted by the Sec-
4 retary), or with mortgages of up to \$5,000,000 (as
5 adjusted by the Secretary).

6 “(3) FACTORS.—In establishing the goal under
7 this section relating to mortgages on multifamily
8 housing for an enterprise, the Secretary shall con-
9 sider—

10 “(A) national multifamily mortgage credit
11 needs;

12 “(B) the performance and effort of the en-
13 terprise in making mortgage credit available for
14 multifamily housing in previous years;

15 “(C) the size of the multifamily mortgage
16 market;

17 “(D) the most recent information available
18 for the Residential Survey published by the
19 Census Bureau, and such other data as may be
20 available regarding multifamily mortgages;

21 “(E) the ability of the enterprise to lead
22 the industry in expanding mortgage credit
23 availability at favorable terms, especially for un-
24 derserved markets, such as for—

25 “(i) small multifamily projects;

1 “(ii) multifamily properties in need of
2 preservation and rehabilitation; and

3 “(iii) multifamily properties located in
4 rural areas; and

5 “(F) the need to maintain the sound finan-
6 cial condition of the enterprise.

7 “(b) UNITS FINANCED BY HOUSING FINANCE AGEN-
8 CY BONDS.—The Secretary may give credit toward the
9 achievement of the multifamily special affordable housing
10 goal under this section (for purposes of section 1336) to
11 dwelling units in multifamily housing that otherwise qual-
12 ify under such goal and that is financed by tax-exempt
13 or taxable bonds issued by a State or local housing finance
14 agency, but only if—

15 “(1) such bonds are secured by a guarantee of
16 the enterprise; or

17 “(2) are not investment grade and are pur-
18 chased by the enterprise.

19 “(c) USE OF TENANT INCOME OR RENT.—

20 “(1) IN GENERAL.—The Secretary shall mon-
21 itor the performance of each enterprise in meeting
22 the goals established under this section and shall
23 evaluate such performance (for purposes of section
24 1336) based on—

1 “(A) if such data is available, the income
2 of the prospective or actual tenants of the prop-
3 erty; or

4 “(B) if such data is not available, the rent
5 levels affordable to low-income and very low-in-
6 come families.

7 “(2) RENT LEVEL.—A rent level shall be con-
8 sidered to be affordable for purposes of this sub-
9 section for an income category referred to in this
10 subsection if it does not exceed 30 percent of the
11 maximum income level of such income category, with
12 appropriate adjustments for unit size as measured
13 by the number of bedrooms.

14 “(d) DETERMINATION OF COMPLIANCE.—

15 “(1) IN GENERAL.—The Secretary shall, for
16 each year that the housing goal under this section
17 is in effect pursuant to section 1331(a), determine
18 whether each enterprise has complied with such goal
19 and the additional requirements under subsection
20 (a)(2).

21 “(2) COMPLIANCE.—An enterprise shall be con-
22 sidered to be in compliance with the goal of this sec-
23 tion for a year only if for each of the properties de-
24 scribed in subsection (a), the percentage of the num-
25 ber of multifamily mortgages purchased by each en-

1 terprise in such year, that serve such families, meets
2 or exceeds the goals for the year for such type of
3 properties that are established under subsection (a).

4 “(e) CONSIDERATION OF UNITS IN SINGLE-FAMILY
5 RENTAL HOUSING.—In establishing any goal under this
6 section, the Secretary may take into consideration the
7 number of housing units financed by any mortgage on sin-
8 gle-family rental housing purchased by an enterprise.”.

9 (c) CONFORMING AMENDMENTS.—The Housing and
10 Community Development Act of 1992 is amended—

11 (1) in section 1335(a) (12 U.S.C. 4565(a)), in
12 the matter preceding paragraph (1), by striking
13 “low- and moderate-income housing goal” and all
14 that follows through “section 1334” and inserting
15 “housing goals established under this subpart”;

16 (2) in section 1336 (12 U.S.C. 4566)—

17 (A) in section (a)(1), by striking “sections
18 1332, 1333, and 1334,” and inserting “this
19 subpart”; and

20 (B) in subsection (b)(1), by striking “sec-
21 tion 1332, 1333, or 1334,” and inserting “this
22 subpart”.

23 (d) DEFINITIONS.—Section 1303 of the Housing and
24 Community Development Act of 1992 (12 U.S.C. 4502)
25 is amended—

1 (1) in paragraph (19), by striking “60 percent”
2 each place such term appears and inserting “50 per-
3 cent”; and

4 (2) by adding at the end the following:

5 “(20) CONFORMING MORTGAGE.—The term
6 ‘conforming mortgage’ means, with respect to an en-
7 terprise, a conventional mortgage having an original
8 principal obligation that does not exceed the dollar
9 limitation, in effect at the time of such origination,
10 under—

11 “(A) section 302(b)(2) of the Federal Na-
12 tional Mortgage Association Charter Act; or

13 “(B) section 305(a)(2) of the Federal
14 Home Loan Mortgage Corporation Act.

15 “(21) LOW-INCOME AREA.—The term ‘low-in-
16 come area’ means a census tract or block numbering
17 area in which the median income does not exceed 80
18 percent of the median income for the area in which
19 such census tract or block numbering area is lo-
20 cated, and, for the purposes of section 1332(a)(2),
21 shall include families having incomes not greater
22 than 100 percent of the area median income who re-
23 side in minority census tracts.

24 “(22) VERY LOW-INCOME.—

1 “(A) IN GENERAL.—The term ‘very low-in-
2 come’ means—

3 “(i) in the case of owner-occupied
4 units, income in excess of 30 percent but
5 not greater than 50 percent of the area
6 median income; and

7 “(ii) in the case of rental units, in-
8 come in excess of 30 percent but not great-
9 er than 50 percent of the area median in-
10 come, with adjustments for smaller and
11 larger families, as determined by the Sec-
12 retary.

13 “(B) RULE OF CONSTRUCTION FOR PUR-
14 POSES OF HOUSING GOALS.—Notwithstanding
15 subparagraph (A), for purposes of any housing
16 goal established under sections 1331 through
17 1334, the term ‘very low-income’ means—

18 “(i) in the case of owner-occupied
19 units, families having incomes not greater
20 than 50 percent of the area median in-
21 come;

22 “(ii) in the case of rental units, fami-
23 lies having incomes not greater than 50
24 percent of the area median income, with

1 adjustments for smaller and larger fami-
2 lies, as determined by the Secretary.

3 “(23) EXTREMELY LOW-INCOME.—The term
4 ‘extremely low-income’ means—

5 “(A) in the case of owner-occupied units,
6 income not in excess of 30 percent of the area
7 median income; and

8 “(B) in the case of rental units, income
9 not in excess of 30 percent of the area median
10 income, with adjustments for smaller and larger
11 families, as determined by the Secretary.

12 “(24) SHORTAGE OF STANDARD RENTAL UNITS
13 BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY
14 LOW-INCOME RENTER HOUSEHOLDS.—

15 “(A) IN GENERAL.—The term ‘shortage of
16 standard rental units both affordable and avail-
17 able to extremely low-income renter households’
18 means the gap between—

19 “(i) the number of units with com-
20 plete plumbing and kitchen facilities with a
21 rent that is 30 percent or less of 30 per-
22 cent of the adjusted area median income as
23 determined by the Secretary that are occu-
24 pied by extremely low-income renter house-
25 holds or are vacant for rent; and

1 “(ii) the number of extremely low-in-
2 come renter households.

3 “(B) RULE OF CONSTRUCTION.—If the
4 number of units described in subparagraph
5 (A)(i) exceeds the number of extremely low-in-
6 come households as described in subparagraph
7 (A)(ii), there is no shortage.

8 “(25) SHORTAGE OF STANDARD RENTAL UNITS
9 BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-
10 INCOME RENTER HOUSEHOLDS.—

11 “(A) IN GENERAL.—The term ‘shortage of
12 standard rental units both affordable and avail-
13 able to very low-income renter households’
14 means the gap between—

15 “(i) the number of units with com-
16 plete plumbing and kitchen facilities with a
17 rent that is 30 percent or less of 50 per-
18 cent of the adjusted area median income as
19 determined by the Secretary that are occu-
20 pied by either extremely low- or very low-
21 income renter households or are vacant for
22 rent; and

23 “(ii) the number of extremely low-
24 and very low-income renter households.

1 “(B) RULE OF CONSTRUCTION.—If the
2 number of units described in subparagraph
3 (A)(i) exceeds the number of extremely low- and
4 very low-income households as described in sub-
5 paragraph (A)(ii), there is no shortage.”.

6 **SEC. 5. DUTY TO SERVE UNDERSERVED MARKETS.**

7 (a) ESTABLISHMENT AND EVALUATION OF PER-
8 FORMANCE.—Section 1335 of the Housing and Commu-
9 nity Development Act of 1992 (12 U.S.C. 4565) is amend-
10 ed—

11 (1) in the section heading, by inserting “**DUTY**
12 **TO SERVE UNDERSERVED MARKETS AND**” be-
13 fore “**OTHER**”;

14 (2) by striking subsection (b);

15 (3) in subsection (a)—

16 (A) in the matter preceding paragraph (1),
17 by inserting “and to carry out the duty under
18 subsection (a) of this section,” before “, each
19 enterprise shall”;

20 (B) in paragraph (3), by inserting “and”
21 after the semicolon at the end;

22 (C) in paragraph (4), by striking “; and”
23 and inserting a period;

24 (D) by striking paragraph (5); and

1 (E) by redesignating such subsection as
2 subsection (b);

3 (4) by inserting before subsection (b) (as reded-
4 signed by paragraph (3)(E) of this subsection) the
5 following new subsection:

6 “(a) DUTY TO SERVE UNDERSERVED MARKETS.—

7 “(1) DUTY.—In accordance with the purpose of
8 the enterprises under section 301(3) of the Federal
9 National Mortgage Association Charter Act (12
10 U.S.C. 1716) and section 301(b)(3) of the Federal
11 Home Loan Mortgage Corporation Act (12 U.S.C.
12 1451 note) to undertake activities relating to mort-
13 gages on housing for very low-, low-, and moderate-
14 income families involving a reasonable economic re-
15 turn that may be less than the return earned on
16 other activities, each enterprise shall have the duty
17 to purchase or securitize mortgage investments and
18 improve the distribution of investment capital avail-
19 able for mortgage financing for underserved mar-
20 kets.

21 “(2) UNDERSERVED MARKETS.—To meet its
22 duty under paragraph (1), each enterprise shall com-
23 ply with the following requirements with respect to
24 the following underserved markets:

1 “(A) MANUFACTURED HOUSING.—The en-
2 terprise shall lead the industry in developing
3 loan products and flexible underwriting guide-
4 lines to facilitate a secondary market for mort-
5 gages on manufactured homes for very low-,
6 low-, and moderate-income families.

7 “(B) AFFORDABLE HOUSING PRESERVA-
8 TION.—The enterprise shall lead the industry in
9 developing loan products and flexible under-
10 writing guidelines to facilitate a secondary mar-
11 ket to preserve housing affordable to extremely
12 low-, very low-, and low-income families, includ-
13 ing housing projects subsidized under—

14 “(i) the project-based and tenant-
15 based rental assistance programs under
16 section 8 of the United States Housing Act
17 of 1937;

18 “(ii) the program under section 236
19 of the National Housing Act;

20 “(iii) the below-market interest rate
21 mortgage program under section 221(d)(4)
22 of the National Housing Act;

23 “(iv) the supportive housing for the
24 elderly program under section 202 of the
25 Housing Act of 1959;

1 “(v) the supportive housing program
2 for persons with disabilities under section
3 811 of the Cranston-Gonzalez National Af-
4 fordable Housing Act; and

5 “(vi) the rural rental housing program
6 under section 515 of the Housing Act of
7 1949.

8 “(C) SUBPRIME BORROWERS.—The enter-
9 prises shall lead the industry in making mort-
10 gage credit available to low- and moderate-in-
11 come families with credit impairment, and shall
12 develop underwriting guidelines that preclude
13 the purchase of loans with unacceptable terms
14 and conditions, or which are contrary to good
15 lending practices or to sustainable homeownership,
16 including—

17 “(i) mandatory arbitration provisions;

18 “(ii) single premium credit insurance
19 financed into the mortgages;

20 “(iii) unreasonable prepayment pen-
21 alties and up front fees;

22 “(iv) introductory rates that expire in
23 less than 10 years; and

24 “(v) any other such loans with unac-
25 ceptable terms and conditions, or which

1 are contrary to good lending practices or
2 to sustainable homeownership.

3 “(D) COMMUNITY DEVELOPMENT FINAN-
4 CIAL INSTITUTIONS.—The enterprises shall—

5 “(i) lead the industry in developing
6 loan products and flexible underwriting
7 guidelines to facilitate a secondary market
8 for mortgages on unconventional affordable
9 housing loans made or purchased by
10 Treasury certified community development
11 financial institutions and other nonprofit
12 housing lenders; and

13 “(ii) utilize credit facilities, capital
14 and loss reserves, credit enhancements,
15 securitization, and other methods to facili-
16 tate a secondary market for mortgages on
17 unconventional affordable housing loans
18 made or purchased by community develop-
19 ment financial institutions certified by the
20 Secretary of the Treasury, as determined
21 by the Secretary and consistent with the
22 Federal National Mortgage Association
23 Charter Act, the Federal Home Loan
24 Mortgage Corporation Act, and the provi-
25 sions of this Act.

1 “(E) COMMUNITY REINVESTMENT ACT
2 CONSIDERATIONS.—The enterprise shall take
3 affirmative steps to assist depository institu-
4 tions to meet their obligations under the Com-
5 munity Reinvestment Act, which shall include
6 developing appropriate underwriting standards,
7 business practices, repurchase requirements,
8 pricing, fees, and procedures.

9 “(F) RURAL AND OTHER UNDERSERVED
10 MARKETS.—

11 “(i) IN GENERAL.—The enterprises
12 shall lead the industry in developing loan
13 products and flexible underwriting guide-
14 lines to facilitate a secondary market for
15 mortgages on housing for very low-, low-,
16 and moderate-income families in rural
17 areas, and for mortgages for housing for
18 any other underserved market for very
19 low-, low-, and moderate-income families
20 that the Secretary identifies as lacking
21 adequate credit through conventional lend-
22 ing sources.

23 “(ii) IDENTIFICATION OF UNDER-
24 SERVED MARKETS.—Underserved markets
25 may be identified for purposes of this para-

1 graph by borrower type, market segment,
2 or geographic area.

3 “(G) OTHER UNDERSERVED MARKETS.—

4 The Secretary may, by rule, determine other
5 underserved markets that the enterprises shall
6 be required to lead the market in facilitating
7 the availability of investment capital for mort-
8 gage financing for such markets.”; and

9 (5) by adding at the end the following new sub-
10 section:

11 “(c) EVALUATION AND REPORTING OF COMPLI-
12 ANCE.—

13 “(1) EVALUATING COMPLIANCE.—

14 “(A) IN GENERAL.—Not later than 6
15 months after the date of enactment of the Gov-
16 ernment Sponsored Enterprise Mission Im-
17 provement Act, the Secretary shall establish
18 through notice and comment rulemaking, a
19 manner for evaluating whether, and the extent
20 to which, the enterprises have complied with the
21 duty under subsection (a) to serve underserved
22 markets, and for rating the extent of such com-
23 pliance.

24 “(B) RATING COMPLIANCE.—Using the
25 evaluation method established under subpara-

1 graph (A), the Secretary shall, for each year,
2 evaluate such compliance and rate the perform-
3 ance of each enterprise as to the extent of com-
4 pliance.

5 “(C) EVALUATIONS AND RATINGS IN-
6 CLUDED IN ANNUAL REPORT OF THE SEC-
7 RETARY.—The Secretary shall include such
8 evaluation and rating for each enterprise for a
9 year in the report for that year submitted pur-
10 suant to section 1319B(a).

11 “(2) SEPARATE EVALUATIONS.—In determining
12 whether an enterprise has complied with the duty re-
13 ferred to in paragraph (1), the Secretary shall sepa-
14 rately evaluate whether the enterprise has complied
15 with such duty with respect to each of the under-
16 served markets identified in subsection (a), taking
17 into consideration—

18 “(A) the development of loan products and
19 more flexible underwriting guidelines;

20 “(B) the volume of loans purchased in
21 each of such underserved markets; and

22 “(C) such other factors as the Secretary
23 may determine.”.

1 (b) ENFORCEMENT.—Section 1336(a) of the Housing
2 and Community Development Act of 1992 (12 U.S.C.
3 4566(a)) is amended—

4 (1) in paragraph (1), by inserting “and with
5 the duty under section 1335(a) of each enterprise
6 with respect to underserved markets” before “, as
7 provided in this section,”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(4) ENFORCEMENT OF DUTY TO PROVIDE
11 MORTGAGE CREDIT TO UNDERSERVED MARKETS.—

12 “(A) IN GENERAL.—The duty under sec-
13 tion 1335(a) of each enterprise to serve under-
14 served markets (as determined in accordance
15 with section 1335(c)) shall be enforceable under
16 this section to the same extent and under the
17 same provisions that the housing goals estab-
18 lished under sections 1332, 1333, and 1334 are
19 enforceable.

20 “(B) LIMITATION.—The duty under sec-
21 tion 1335(a) shall not be enforceable under any
22 other provision of this title (including subpart C
23 of this part) other than this section or under
24 any provision of the Federal National Mortgage

1 Association Charter Act or the Federal Home
2 Loan Mortgage Corporation Act.”.

3 **SEC. 6. MONITORING AND ENFORCING COMPLIANCE WITH**
4 **HOUSING GOALS.**

5 Section 1336 of the Housing and Community Devel-
6 opment Act of 1992 (12 U.S.C. 4566) is amended—

7 (1) in subsection (b)—

8 (A) in the subsection heading, by inserting
9 “PRELIMINARY” before “DETERMINATION”;

10 (B) by striking paragraph (1) and insert-
11 ing the following new paragraph:

12 “(1) NOTICE.—If the Secretary preliminarily
13 determines that an enterprise has failed, or that
14 there is a substantial probability that an enterprise
15 will fail to meet any housing goal established under
16 this subpart, the Secretary shall provide written no-
17 tice to the enterprise of such a preliminary deter-
18 mination, the reasons for such determination, and
19 the information on which the Secretary based the
20 determination.”;

21 (C) in paragraph (2)—

22 (i) in subparagraph (A), by inserting
23 “finally” before “determining”;

1 (ii) by striking subparagraphs (B) and
2 (C) and inserting the following new sub-
3 paragraph:

4 “(B) EXTENSION OR SHORTENING OF PE-
5 RIOD.—The Secretary may—

6 “(i) extend the period under subpara-
7 graph (A) for good cause for not more
8 than 30 additional days; and

9 “(ii) shorten the period under sub-
10 paragraph (A) for good cause.”; and

11 (iii) by redesignating subparagraph
12 (D) as subparagraph (C); and
13 (D) in paragraph (3)—

14 (i) in subparagraph (A), by striking
15 “determine” and inserting “issue a final
16 determination of”;

17 (ii) in subparagraph (B), by inserting
18 “final” before “determinations”; and

19 (iii) in subparagraph (C)—

20 (I) by striking “Committee on
21 Banking, Finance and Urban Affairs”
22 and inserting “Committee on Finan-
23 cial Services”; and

1 (II) by inserting “final” before
2 “determination” each place such term
3 appears; and

4 (2) in subsection (c)—

5 (A) by striking the subsection designation
6 and heading and all that follows through the
7 end of paragraph (1) and inserting the fol-
8 lowing:

9 “(c) CEASE-AND-DESIST ORDERS, CIVIL MONEY
10 PENALTIES, AND REMEDIES INCLUDING HOUSING
11 PLANS.—

12 “(1) REQUIREMENT.—

13 “(A) HOUSING PLAN.—If the Secretary
14 finds, pursuant to subsection (b), that there is
15 a substantial probability that an enterprise will
16 fail, or has actually failed to meet any housing
17 goal under this subpart and that the achieve-
18 ment of the housing goal was or is feasible, the
19 Secretary may require that the enterprise sub-
20 mit a housing plan under this subsection.

21 “(B) REFUSAL TO SUBMIT HOUSING
22 PLAN.—If the Secretary makes such a finding
23 and the enterprise refuses to submit such a
24 plan, submits an unacceptable plan, fails to
25 comply with the plan or the Secretary finds

1 that the enterprise has failed to meet any hous-
2 ing goal under this subpart, in addition to re-
3 quiring an enterprise to submit a housing plan,
4 the Secretary may—

5 “(i) issue a cease-and-desist order in
6 accordance with section 1341;

7 “(ii) impose civil money penalties in
8 accordance with section 1345; or

9 “(iii) order other remedies as set forth
10 in paragraph (7) of this subsection.”;

11 (B) in paragraph (2)—

12 (i) by striking “CONTENTS.—Each
13 housing plan” and inserting “HOUSING
14 PLAN.—If the Secretary requires a housing
15 plan under this section, such a plan”; and

16 (ii) in subparagraph (B), by inserting
17 “and changes in its operations” after “im-
18 provements”;

19 (C) in paragraph (3)—

20 (i) by inserting “comply with any re-
21 medial action or” before “submit a housing
22 plan”; and

23 (ii) by striking “under subsection
24 (b)(3) that a housing plan is required”;

1 (D) in paragraph (4), by striking the first
2 sentences and inserting the following:

3 “(A) REVIEW.—The Secretary shall review
4 each submission by an enterprise, including a
5 housing plan submitted under this subsection,
6 and not later than 30 days after submission,
7 approve or disapprove the plan or other action.

8 “(B) EXTENSION OF TIME.—The Sec-
9 retary may extend the period for approval or
10 disapproval for a single additional 30-day pe-
11 riod if the Secretary determines such extension
12 necessary.

13 “(C) APPROVAL.—”; and

14 (E) by adding at the end the following new
15 paragraph:

16 “(7) ADDITIONAL REMEDIES FOR FAILURE TO
17 MEET GOALS.—In addition to ordering a housing
18 plan under this section, issuing cease-and-desist or-
19 ders under section 1341, and ordering civil money
20 penalties under section 1345, the Secretary may—

21 “(A) seek other actions when an enterprise
22 fails to meet a goal; and

23 “(B) exercise appropriate enforcement au-
24 thority available to the Secretary under this
25 Act.”.

1 **SEC. 7. AFFORDABLE HOUSING PROGRAMS.**

2 (a) REPEAL.—Sections 1337 of the Housing and
3 Community Development Act of 1992 (12 U.S.C. 4562
4 note) is hereby repealed.

5 (b) ANNUAL HOUSING REPORT.—The Housing and
6 Community Development Act of 1992 is amended by in-
7 serting after section 1336 the following:

8 **“SEC. 1337. AFFORDABLE HOUSING ALLOCATIONS.**

9 “(a) SET ASIDE AND ALLOCATION OF AMOUNTS BY
10 ENTERPRISES.—Subject to subsection (b), in each fiscal
11 year—

12 “(1) the Federal Home Loan Mortgage Cor-
13 poration shall—

14 “(A) set aside an amount equal to 4.2
15 basis points for each dollar of unpaid principal
16 balance of its total new business purchases; and

17 “(B) allocate or otherwise transfer—

18 “(i) 65 percent of such amounts to
19 the Secretary of Housing and Urban De-
20 velopment to fund the affordable housing
21 block grant program established under sec-
22 tion 1338; and

23 “(ii) 35 percent of such amounts to
24 fund the Capital Magnet Fund established
25 pursuant to section 1339; and

1 “(2) the Federal National Mortgage Association
2 shall—

3 “(A) set aside an amount equal to 4.2
4 basis points for each dollar of unpaid principal
5 balance of its total new business purchases; and

6 “(B) allocate or otherwise transfer—

7 “(i) 65 percent of such amounts to
8 the Secretary of Housing and Urban De-
9 velopment to fund the affordable housing
10 block grant program established under sec-
11 tion 1338; and

12 “(ii) 35 percent of such amounts to
13 fund the Capital Magnet Fund established
14 pursuant to section 1339.

15 “(b) SUSPENSION OF CONTRIBUTIONS.—The Sec-
16 retary shall temporarily suspend allocations under sub-
17 section (a) by an enterprise upon a finding by the Sec-
18 retary that such allocations—

19 “(1) are contributing, or would contribute, to
20 the financial instability of the enterprise;

21 “(2) are causing, or would cause, the enterprise
22 to be classified as undercapitalized; or

23 “(3) are preventing, or would prevent, the en-
24 terprise from successfully completing a capital res-
25 toration plan under section 1369C.

1 “(c) PROHIBITION OF PASS-THROUGH OF COST OF
2 ALLOCATIONS.—The Secretary shall, by regulation, pro-
3 hibit each enterprise from redirecting the costs of any allo-
4 cation required under this section, through increased
5 charges or fees, or decreased premiums, or in any other
6 manner, to the originators of mortgages purchased or
7 securitized by the enterprise.

8 “(d) ENFORCEMENT OF REQUIREMENTS ON ENTER-
9 PRISE.—Compliance by the enterprises with the require-
10 ments under this section shall be enforceable under sub-
11 part C. Any reference in such subpart to this part or to
12 an order, rule, or regulation under this part specifically
13 includes this section and any order, rule, or regulation
14 under this section.

15 **“SEC. 1338. AFFORDABLE HOUSING BLOCK GRANT PRO-**
16 **GRAM.**

17 “(a) ESTABLISHMENT AND PURPOSE.—The Sec-
18 retary of Housing and Urban Development shall establish
19 and manage an affordable housing block grant program,
20 which shall be funded with amounts allocated by the enter-
21 prises under section 1337. The purpose of the block grant
22 program under this section is to provide grants to States
23 for use—

1 “(1) to increase and preserve the supply of
2 rental housing for extremely low- and very low-in-
3 come families, including homeless families; and

4 “(2) to increase homeownership for extremely
5 low- and very low-income families.

6 “(b) AFFORDABLE HOUSING BLOCK GRANT ALLOCA-
7 TIONS FOR HOMEOWNERSHIP PRESERVATION IN FISCAL
8 YEAR 2008.—

9 “(1) ASSISTANCE FOR HOMEOWNERS FACING
10 FORECLOSURE.—

11 “(A) IN GENERAL.—To help address the
12 subprime mortgage crisis, in fiscal year 2008,
13 100 percent of the amounts allocated for grants
14 under this section shall be used to make grants
15 to States to—

16 “(i) facilitate loan modification and
17 refinance options for low- and moderate-in-
18 come borrowers facing foreclosure; and

19 “(ii) expeditiously make available to
20 low- and moderate-income homebuyers,
21 properties that have been foreclosed upon.

22 “(B) DISTRIBUTION.—The amounts allo-
23 cated to help address the subprime mortgage
24 crisis under subparagraph (A) shall be distrib-

1 uted according to a formula established by the
2 Secretary.

3 “(2) PERMISSIBLE DESIGNEES.—A State re-
4 ceiving grant amounts under this subsection may
5 designate a State housing finance agency, housing
6 and community development entity, tribally des-
7 ignated housing entity (as such term is defined in
8 section 4 of the Native American Housing Assist-
9 ance and Self-Determination Act of 1997 (25 U.S.C.
10 4103)), or any other qualified instrumentality of the
11 State to receive such grant amounts.

12 “(3) DEVELOPMENT OF DISTRIBUTION FOR-
13 MULA.—Not later than 3 months after the date of
14 enactment of the Government Sponsored Enterprise
15 Mission Improvement Act, the Secretary shall de-
16 velop the distribution formula required under para-
17 graph (1)(B). Such formula shall be based on the
18 following factors:

19 “(A) The population of the State based on
20 the most recent estimate of the resident popu-
21 lation of such State as determined by the Bu-
22 reau of the Census.

23 “(B) The 90-day delinquency rate of the
24 State.

1 “(C) The ratio of foreclosures to owner-oc-
2 cupied households within the State.

3 “(4) ELIGIBLE LOAN USES.—

4 “(A) LOANS TO HOMEOWNERS TO PRE-
5 SERVE HOMEOWNERSHIP.—

6 “(i) IN GENERAL.—A State or State
7 designated entity shall use any grant
8 amounts made available under this sub-
9 section to—

10 “(I) support the refinancing of
11 loans of eligible homeowners, only if
12 such loans have a loan-to-value ratio
13 of not greater than 100 percent of
14 current appraised value of the home
15 on which such loan was taken;

16 “(II) reduce the outstanding loan
17 balances of eligible homeowners, but
18 only if the lender, servicer, investor,
19 or other appropriate entity reduces
20 such balance by the amount necessary
21 to bring the combined loan value (in-
22 cluding first and second mortgages) at
23 or below 100 percent of the appraised
24 value of the home; and

1 “(III) pay off any outstanding
2 amounts owed by eligible homeowners
3 for taxes and insurance.

4 “(ii) PROGRAM REQUIREMENTS FOR
5 ELIGIBLE HOMEOWNERS.—

6 “(I) DEVELOPMENT BY
7 STATES.—Each State or State des-
8 ignated entity that is a recipient of a
9 grant amount under this subsection
10 shall develop program requirements
11 for eligible homeowners seeking a loan
12 under this subparagraph.

13 “(II) REQUIRED CONTENT.—The
14 program requirements required to be
15 developed under this clause shall, at a
16 minimum, include the following:

17 “(aa) The annual income of
18 the homeowner is no greater than
19 the annual income established by
20 the Secretary as being of low- or
21 moderate-income.

22 “(bb) That any loan under
23 this paragraph may be provided
24 for up to a 4-family owner-occu-
25 pied residence, including 1-family

1 units in a condominium project
2 or a membership interest and oc-
3 cupancy agreement in a coopera-
4 tive housing project, that is used,
5 or is to be used, as the principal
6 residence of the applicant seeking
7 such grant or loan.

8 “(cc) The homeowner has a
9 loan with unsustainable loan
10 terms, as determined by a State
11 housing finance agency or other
12 designated State agency. For
13 purposes of this item, the term
14 ‘unsustainable loan terms’ in-
15 cludes such activities as the lack
16 of escrow of taxes and insurance,
17 the inclusion of prepayment pen-
18 alties, and the lack of the ability
19 of the homeowner to pay at the
20 fully indexed interest rate be-
21 cause the debt-to-income ratio on
22 such home loan is greater than
23 45 percent.

24 “(iii) LOAN REQUIREMENTS.—In
25 order for a State or State designated enti-

1 ty to use the amounts made available
2 under this subsection to assist eligible
3 homeowners, a loan under this subpara-
4 graph—

5 “(I) shall—

6 “(aa) have a fixed interest
7 rate;

8 “(bb) be affordable, so that
9 the maximum debt-to-income
10 ratio of such loan is not greater
11 than 45 percent;

12 “(cc) require mandatory es-
13 crow of taxes and insurance;

14 “(dd) have no prepayment
15 penalties;

16 “(ee) have no mandatory ar-
17 bitration clauses; and

18 “(ff) if the loan-to-value
19 ratio of the original mortgage
20 loan is greater than 100 percent,
21 require the lender to reduce such
22 balance by the amount necessary
23 to bring the loan value at or
24 below 100 percent of the ap-
25 praised value of the home;

1 “(II) shall not be due and pay-
2 able unless—

3 “(aa) the real property se-
4 curing such loan is sold, trans-
5 ferred, or refinanced; or

6 “(bb) the last surviving
7 homeowner of such real property
8 dies;

9 “(III) shall not exceed 10 percent
10 of the principal balance; and

11 “(IV) may be subordinated.

12 “(iv) EXISTING LOAN FUNDS.—Any
13 State or State designated entity with a
14 previously existing fund established to
15 make loans to assist homeowners in satis-
16 fying any amounts past due on their home
17 loan may use funds appropriated for pur-
18 poses of this subparagraph for that exist-
19 ing loan fund, even if the eligibility, appli-
20 cation, program, or use requirements for
21 that loan program differ from the eligi-
22 bility, application, program, and use re-
23 quirements of this subparagraph, unless
24 such use is expressly determined by the
25 Secretary to be inappropriate.

1 “(v) NO FORECLOSURE IF NOTICE OF
2 APPLICATION FOR HOME PRESERVATION
3 LOAN.—A mortgagee shall not initiate a
4 foreclosure—

5 “(I) upon receipt of a written
6 confirmation from the State or other
7 State designated entity that the home-
8 owner has applied for a home preser-
9 vation loan under this subparagraph;
10 and

11 “(II) for the 2-month period
12 after receipt of such written confirma-
13 tion or until the mortgagee is in-
14 formed, in writing, that the home-
15 owner is not eligible for a home pres-
16 ervation loan, whichever occurs first.

17 “(B) LOANS TO NONPROFIT DEVELOPERS
18 FOR THE REHABILITATION AND SALE OF FORE-
19 CLOSED PROPERTIES TO LOW- AND MODERATE-
20 INCOME HOMEBUYERS.—

21 “(i) IN GENERAL.—A State or State
22 designated entity may use up to 20 percent
23 of the grant amounts made available under
24 this subsection for homeownership preser-
25 vation to provide loans to nonprofit afford-

1 able housing developers for the purposes of
2 assisting low- and moderate-income home-
3 buyers to purchase properties that are in
4 the process of being foreclosed upon or
5 have been acquired by the mortgage holder
6 through the foreclosure process.

7 “(ii) PROGRAM REQUIREMENTS FOR
8 NONPROFIT AFFORDABLE HOUSING DE-
9 VELOPERS.—

10 “(I) IN GENERAL.—Each State
11 or State designated entity that is a re-
12 cipient of a grant under this sub-
13 section shall, if they choose to use
14 part of their grant award to make
15 loans under this subparagraph, de-
16 velop program requirements for non-
17 profit affordable housing developers
18 for the purposes of assisting low- and
19 moderate-income homebuyers to pur-
20 chase properties that are in the proc-
21 ess of being foreclosed upon or have
22 been acquired by the mortgage holder
23 through the foreclosure process.

24 “(II) REQUIRED CONTENT.—The
25 program requirements developed

1 under subclause (I) shall, at a min-
2 imum, include the following:

3 “(aa) That any loan under
4 this clause may be provided for
5 up to a 4-family owner-occupied
6 residence, including 1-family
7 units in a condominium project
8 or a membership interest and oc-
9 cupancy agreement in a coopera-
10 tive housing project, that is used,
11 or is to be used, as the principal
12 residence of a low- or moderate-
13 income homebuyer.

14 “(bb) The annual income of
15 the low- or moderate-income
16 homebuyer is not greater than
17 the annual income established by
18 the Secretary as being of low- or
19 moderate-income.

20 “(cc) The property is in
21 foreclosure or has been acquired
22 by the mortgage holder through
23 the foreclosure process, the prop-
24 erty has been appraised, and the
25 sales price of the property does

1 not exceed 100 percent of the ap-
2 praised value of the property.

3 “(iii) LOAN REQUIREMENTS.—In
4 order for a State or State designated enti-
5 ty to use the amounts made available
6 under this subsection, a loan under this
7 subparagraph—

8 “(I) may be used for—

9 “(aa) downpayment and
10 closing costs;

11 “(bb) financing the dif-
12 ference between the sales price of
13 a home and the mortgage for
14 which the low- or moderate-in-
15 come homebuyer qualifies; and

16 “(cc) repairs of a home not
17 to exceed 10 percent of the ap-
18 praised value of the home;

19 “(II) shall carry a zero percent
20 interest rate;

21 “(III) shall not be due and pay-
22 able by the low- or moderate-income
23 homebuyer unless—

1 “(aa) the real property se-
 2 curing such loan is sold, trans-
 3 ferred, or refinanced; or

4 “(bb) the last surviving
 5 homeowner of such real property
 6 dies; and

7 “(IV) may be subordinated.

8 “(iv) EXISTING LOAN FUNDS.—Any
 9 State or State designated entity with a
 10 previously existing fund established to
 11 make loans for the purposes of this sub-
 12 paragraph may use funds appropriated for
 13 purposes of this subparagraph for that ex-
 14 isting loan fund, even if the eligibility, ap-
 15 plication, program, or use requirements for
 16 that loan program differ from the eligi-
 17 bility, application, program, and use re-
 18 quirements of this subparagraph, unless
 19 such use is expressly determined by the
 20 Secretary to be inappropriate.

21 “(c) ALLOCATION FOR AFFORDABLE HOUSING
 22 BLOCK GRANTS IN 2009 AND SUBSEQUENT YEARS.—

23 “(1) IN GENERAL.—Except as provided in sub-
 24 section (b), during each fiscal year the Secretary of
 25 Housing and Urban Development shall distribute the

1 amounts allocated for the affordable housing block
2 grant program under this section to provide afford-
3 able housing as described in this subsection.

4 “(2) PERMISSIBLE DESIGNEES.—A State re-
5 ceiving grant amounts under this subsection may
6 designate a State housing finance agency, housing
7 and community development entity, tribally des-
8 ignated housing entity (as such term is defined in
9 section 4 of the Native American Housing Assist-
10 ance and Self-Determination Act of 1997 (25 U.S.C.
11 4103)), or any other qualified instrumentality of the
12 State to receive such grant amounts.

13 “(3) DISTRIBUTION TO STATES BY NEEDS-
14 BASED FORMULA.—

15 “(A) IN GENERAL.—The Secretary of
16 Housing and Urban Development shall, by reg-
17 ulation, establish a formula within 12 months
18 of the date of enactment of the Government
19 Sponsored Enterprise Mission Improvement
20 Act, to distribute amounts made available under
21 this subsection to each State to provide afford-
22 able housing to extremely low- and very low-in-
23 come households.

1 “(B) BASIS FOR FORMULA.—The formula
2 required under subparagraph (A) shall include
3 the following:

4 “(i) The ratio of the shortage of
5 standard rental units both affordable and
6 available to extremely low-income renter
7 households in the State to the aggregate
8 shortage of standard rental units both af-
9 fordable and available to extremely low-in-
10 come renter households in all the States.

11 “(ii) The ratio of the shortage of
12 standard rental units both affordable and
13 available to very low-income renter house-
14 holds in the State to the aggregate short-
15 age of standard rental units both afford-
16 able and available to very low-income
17 renter households in all the States.

18 “(iii) The ratio of extremely-low in-
19 come renter households in the State living
20 with either (I) incomplete kitchen or
21 plumbing facilities, (II) more than 1 per-
22 son per room, or (III) paying more than
23 50 percent of income for housing costs, to
24 the aggregate number of extremely low-in-
25 come renter households living with either

1 (IV) incomplete kitchen or plumbing facili-
2 ties, (V) more than 1 person per room, or
3 (VI) paying more than 50 percent of in-
4 come for housing costs in all the States.

5 “(iv) The ratio of very low-income
6 renter households in the State paying more
7 than 50 percent of income on rent relative
8 to the aggregate number of very low-in-
9 come renter households paying more than
10 50 percent of income on rent in all the
11 States.

12 “(v) The resulting sum calculated
13 from the factors described in clauses (i)
14 through (iv) shall be multiplied by the rel-
15 ative cost of construction in the State. For
16 purposes of this subclause, the term ‘cost
17 of construction’—

18 “(I) means the cost of construc-
19 tion or building rehabilitation in the
20 State relative to the national cost of
21 construction or building rehabilitation;
22 and

23 “(II) shall be calculated such
24 that values higher than 1.0 indicate
25 that the State’s construction costs are

1 higher than the national average, a
2 value of 1.0 indicates that the State's
3 construction costs are exactly the
4 same as the national average, and val-
5 ues lower than 1.0 indicate that the
6 State's cost of construction are lower
7 than the national average.

8 “(C) PRIORITY.—The formula required
9 under subparagraph (A) shall give priority em-
10 phasis and consideration to the factor described
11 in subparagraph (B)(i).

12 “(4) ALLOCATION OF GRANT AMOUNTS.—

13 “(A) NOTICE.—Not later than 60 days
14 after the date that the Secretary of Housing
15 and Urban Development determines the for-
16 mula amounts described in paragraph (3), the
17 Secretary shall caused to be published in the
18 Federal Register a notice that such amounts
19 shall be so available.

20 “(B) GRANT AMOUNT.—In each fiscal year
21 other than fiscal year 2008, the Secretary of
22 Housing and Urban Development shall make a
23 block grant to each State in an amount that is
24 equal to the formula amount determined under
25 paragraph (3) for that State.

1 “(C) MINIMUM STATE ALLOCATIONS.—If
2 the formula amount determined under para-
3 graph (3) for a fiscal year would allocate less
4 than \$3,000,000 to any State, the allocation for
5 such State shall be \$3,000,000, and the in-
6 crease shall be deducted pro rata from the allo-
7 cations made to all other States.

8 “(5) ALLOCATION PLANS REQUIRED.—

9 “(A) IN GENERAL.—For each year that a
10 State or State designated entity receives an af-
11 fordable housing block grant under this sub-
12 section, the State or State designated entity
13 shall establish an allocation plan. Such plan
14 shall—

15 “(i) set forth a plan for the distribu-
16 tion of grant amounts received by the
17 State or State designated entity for such
18 year;

19 “(ii) be based on priority housing
20 needs, as determined by the State or State
21 designated entity in accordance with the
22 regulations established under subsection
23 (g)(2)(C);

24 “(iii) comply with paragraph (6); and

1 “(iv) include performance goals that
2 comply with the requirements established
3 by the Secretary pursuant to subsection
4 (g)(2).

5 “(B) ESTABLISHMENT.—In establishing
6 an allocation plan under this paragraph, a
7 State or State designated entity shall—

8 “(i) notify the public of the establish-
9 ment of the plan;

10 “(ii) provide an opportunity for public
11 comments regarding the plan;

12 “(iii) consider any public comments
13 received regarding the plan; and

14 “(iv) make the completed plan avail-
15 able to the public.

16 “(C) CONTENTS.—An allocation plan of a
17 State or State designated entity under this
18 paragraph shall set forth the requirements for
19 eligible recipients under paragraph (8) to apply
20 for such grant amounts, including a require-
21 ment that each such application include—

22 “(i) a description of the eligible activi-
23 ties to be conducted using such assistance;
24 and

1 “(ii) a certification by the eligible re-
2 cipient applying for such assistance that
3 any housing units assisted with such as-
4 sistance will comply with the requirements
5 under this section.

6 “(6) SELECTION OF ACTIVITIES FUNDED USING
7 AFFORDABLE HOUSING FUND GRANT AMOUNTS.—
8 Grant amounts received by a State or State des-
9 ignated entity under this subsection may be used, or
10 committed for use, only for activities that—

11 “(A) are eligible under paragraph (7) for
12 such use;

13 “(B) comply with the applicable allocation
14 plan of the State or State designated entity
15 under paragraph (5); and

16 “(C) are selected for funding by the State
17 or State designated entity in accordance with
18 the process and criteria for such selection estab-
19 lished pursuant to subsection (g)(2)(C).

20 “(7) ELIGIBLE ACTIVITIES.—Grant amounts al-
21 located to a State or State designated entity under
22 this subsection shall be eligible for use, or for com-
23 mitment for use, only for assistance for—

24 “(A) the production, preservation, and re-
25 habilitation of rental housing, including housing

1 under the programs identified in section
2 1335(a)(2)(B) and for operating costs, except
3 that such grant amounts may be used for the
4 benefit only of extremely low- and very low-in-
5 come families; and

6 “(B) the production, preservation, and re-
7 habilitation of housing for homeownership, in-
8 cluding such forms as downpayment assistance,
9 closing cost assistance, and assistance for inter-
10 est rate buy-downs, that—

11 “(i) is available for purchase only for
12 use as a principal residence by families
13 that qualify both as—

14 “(I) extremely low- and very low-
15 income families at the times described
16 in subparagraphs (A) through (C) of
17 section 215(b)(2) of the Cranston-
18 Gonzalez National Affordable Housing
19 Act (42 U.S.C. 12745(b)(2)); and

20 “(II) first-time homebuyers, as
21 such term is defined in section 104 of
22 the Cranston-Gonzalez National Af-
23 fordable Housing Act (42 U.S.C.
24 12704), except that any reference in
25 such section to assistance under title

1 II of such Act shall for purposes of
2 this subsection be considered to refer
3 to assistance from affordable housing
4 fund grant amounts;

5 “(ii) has an initial purchase price that
6 meets the requirements of section
7 215(b)(1) of the Cranston-Gonzalez Na-
8 tional Affordable Housing Act;

9 “(iii) is subject to the same resale re-
10 strictions established under section
11 215(b)(3) of the Cranston-Gonzalez Na-
12 tional Affordable Housing Act and applica-
13 ble to the participating jurisdiction that is
14 the State in which such housing is located;
15 and

16 “(iv) is made available for purchase
17 only by, or in the case of assistance under
18 this subsection, is made available only to
19 homebuyers who have, before purchase
20 completed a program of counseling with re-
21 spect to the responsibilities and financial
22 management involved in homeownership
23 that is approved by the Secretary;

24 “(8) ELIGIBLE RECIPIENTS.—Grant amounts
25 allocated to a State or State designated entity under

1 this subsection may be provided only to a recipient
2 that is an organization, agency, or other entity (in-
3 cluding a for-profit entity or a nonprofit entity)
4 that—

5 “(A) has demonstrated experience and ca-
6 pacity to conduct an eligible activity under
7 paragraph (7), as evidenced by its ability to—

8 “(i) own, construct or rehabilitate,
9 manage, and operate an affordable multi-
10 family rental housing development;

11 “(ii) design, construct or rehabilitate,
12 and market affordable housing for home-
13 ownership; or

14 “(iii) provide forms of assistance, such
15 as downpayments, closing costs, or interest
16 rate buy-downs for purchasers;

17 “(B) demonstrates the ability and financial
18 capacity to undertake, comply, and manage the
19 eligible activity;

20 “(C) demonstrates its familiarity with the
21 requirements of any other Federal, State, or
22 local housing program that will be used in con-
23 junction with such grant amounts to ensure
24 compliance with all applicable requirements and
25 regulations of such programs; and

1 “(D) makes such assurances to the State
2 or State designated entity as the Secretary
3 shall, by regulation, require to ensure that the
4 recipient will comply with the requirements of
5 this subsection during the entire period that be-
6 gins upon selection of the recipient to receive
7 such grant amounts and ending upon the con-
8 clusion of all activities under paragraph (8)
9 that are engaged in by the recipient and funded
10 with such grant amounts.

11 “(9) LIMITATIONS ON USE.—

12 “(A) REQUIRED AMOUNT FOR HOME-
13 OWNERSHIP ACTIVITIES.—Of the aggregate
14 amount allocated to a State or State designated
15 entity under this subsection not more than 10
16 percent shall be used for activities under sub-
17 paragraph (B) of paragraph (7).

18 “(B) DEADLINE FOR COMMITMENT OR
19 USE.—Grant amounts allocated to a State or
20 State designated entity under this subsection
21 shall be used or committed for use within 2
22 years of the date that such grant amounts are
23 made available to the State or State designated
24 entity. The Secretary shall recapture any such
25 amounts not so used or committed for use and

1 reallocate such amounts under this subsection
2 in the first year after such recapture.

3 “(C) USE OF RETURNS.—The Secretary
4 shall, by regulation, provide that any return on
5 a loan or other investment of any grant amount
6 used by a State or State designated entity to
7 provide a loan under this subsection shall be
8 treated, for purposes of availability to and use
9 by the State or State designated entity, as a
10 block grant amount authorized under this sub-
11 section.

12 “(D) PROHIBITED USES.—The Secretary
13 shall, by regulation—

14 “(i) set forth prohibited uses of grant
15 amounts allocated under this subsection,
16 which shall include use for—

17 “(I) political activities;

18 “(II) advocacy;

19 “(III) lobbying, whether directly
20 or through other parties;

21 “(IV) counseling services;

22 “(V) travel expenses; and

23 “(VI) preparing or providing ad-
24 vice on tax returns;

1 “(ii) provide that, except as provided
2 in clause (iii), affordable housing block
3 grant amounts of a State or State des-
4 ignated entity may not be used for admin-
5 istrative, outreach, or other costs of—

6 “(I) the State or State des-
7 ignated entity; or

8 “(II) any other recipient of such
9 grant amounts; and

10 “(iii) limit the amount of any afford-
11 able housing block grant amounts for a
12 year that may be used by the State or
13 State designated entity for administrative
14 costs of carrying out the program required
15 under this subsection to a percentage of
16 such grant amounts of the State or State
17 designated entity for such year, which may
18 not exceed 10 percent.

19 “(E) PROHIBITION OF CONSIDERATION OF
20 USE FOR MEETING HOUSING GOALS OR DUTY
21 TO SERVE.—In determining compliance with
22 the housing goals under this subpart and the
23 duty to serve underserved markets under sec-
24 tion 1335, the Secretary may not consider any
25 affordable housing block grant amounts used

1 under this section for eligible activities under
2 paragraph (7). The Secretary shall give credit
3 toward the achievement of such housing goals
4 and such duty to serve underserved markets to
5 purchases by the enterprises of mortgages for
6 housing that receives funding from such block
7 grant amounts, but only to the extent that such
8 purchases by the enterprises are funded other
9 than with such grant amounts.

10 “(d) REDUCTION FOR FAILURE TO OBTAIN RETURN
11 OF MISUSED FUNDS.—If in any year a State or State des-
12 ignated entity fails to obtain reimbursement or return of
13 the full amount required under subsection (e)(1)(B) to be
14 reimbursed or returned to the State or State designated
15 entity during such year—

16 “(1) except as provided in paragraph (2)—

17 “(A) the amount of the grant for the State
18 or State designated entity for the succeeding
19 year, as determined pursuant to this section,
20 shall be reduced by the amount by which such
21 amounts required to be reimbursed or returned
22 exceed the amount actually reimbursed or re-
23 turned; and

24 “(B) the amount of the grant for the suc-
25 ceeding year for each other State or State des-

1 ignated entity whose grant is not reduced pur-
2 suant to subparagraph (A) shall be increased by
3 the amount determined by applying the formula
4 established pursuant to this section to the total
5 amount of all reductions for all State or State
6 designated entities for such year pursuant to
7 subparagraph (A); or

8 “(2) in any case in which such failure to obtain
9 reimbursement or return occurs during a year imme-
10 diately preceding a year in which grants under this
11 section will not be made, the State or State des-
12 ignated entity shall pay to the Secretary for realloca-
13 tion among the other grantees an amount equal to
14 the amount of the reduction for the entity that
15 would otherwise apply under paragraph (1)(A).

16 “(e) ACCOUNTABILITY OF RECIPIENTS AND GRANT-
17 EES.—

18 “(1) RECIPIENTS.—

19 “(A) TRACKING OF FUNDS.—The Sec-
20 retary shall—

21 “(i) require each State or State des-
22 ignated entity to develop and maintain a
23 system to ensure that each recipient of as-
24 sistance under this section uses such
25 amounts in accordance with this section,

1 the regulations issued under this section,
2 and any requirements or conditions under
3 which such amounts were provided; and

4 “(ii) establish minimum requirements
5 for agreements, between the State or State
6 designated entity and recipients, regarding
7 assistance under this section, which shall
8 include—

9 “(I) appropriate periodic finan-
10 cial and project reporting, record re-
11 tention, and audit requirements for
12 the duration of the assistance to the
13 recipient to ensure compliance with
14 the limitations and requirements of
15 this section and the regulations under
16 this section; and

17 “(II) any other requirements that
18 the Secretary determines are nec-
19 essary to ensure appropriate adminis-
20 tration and compliance.

21 “(B) MISUSE OF FUNDS.—

22 “(i) REIMBURSEMENT REQUIRE-
23 MENT.—If any recipient of assistance
24 under this section is determined, in accord-
25 ance with clause (ii), to have used any

1 such amounts in a manner that is materi-
2 ally in violation of this section, the regula-
3 tions issued under this section, or any re-
4 quirements or conditions under which such
5 amounts were provided, the State or State
6 designated entity shall require that, within
7 12 months after the determination of such
8 misuse, the recipient shall reimburse the
9 State or State designated entity for such
10 misused amounts and return to the State
11 or State designated entity any such
12 amounts that remain unused or uncommit-
13 ted for use. The remedies under this clause
14 are in addition to any other remedies that
15 may be available under law.

16 “(ii) DETERMINATION.—A determina-
17 tion is made in accordance with this clause
18 if the determination is made by the Sec-
19 retary or made by the State or State des-
20 ignated entity, provided that—

21 “(I) the State or State des-
22 ignated entity provides notification of
23 the determination to the Secretary for
24 review, in the discretion of the Sec-
25 retary, of the determination; and

1 “(II) the Secretary does not sub-
2 sequently reverse the determination.

3 “(2) GRANTEEES.—

4 “(A) REPORT.—

5 “(i) IN GENERAL.—The Secretary
6 shall require each State or State des-
7 ignated entity receiving grant amounts in
8 any given year under this section to submit
9 a report, for such year, to the Secretary
10 that—

11 “(I) describes the activities fund-
12 ed under this section during such year
13 with such grant amounts; and

14 “(II) the manner in which the
15 State or State designated entity com-
16 plied during such year with any allo-
17 cation plan established pursuant to
18 subsection (c).

19 “(ii) PUBLIC AVAILABILITY.—The
20 Secretary shall make such reports pursu-
21 ant to this subparagraph publicly available.

22 “(B) MISUSE OF FUNDS.—If the Secretary
23 determines, after reasonable notice and oppor-
24 tunity for hearing, that a State or State des-
25 ignated entity has failed to comply substantially

1 with any provision of this section, and until the
2 Secretary is satisfied that there is no longer
3 any such failure to comply, the Secretary
4 shall—

5 “(i) reduce the amount of assistance
6 under this section to the State or State
7 designated entity by an amount equal to
8 the amount of block grant amounts which
9 were not used in accordance with this sec-
10 tion;

11 “(ii) require the State or State des-
12 ignated entity to repay the Secretary an
13 amount equal to the amount of the amount
14 block grant amounts which were not used
15 in accordance with this section;

16 “(iii) limit the availability of assist-
17 ance under this section to the State or
18 State designated entity to activities or re-
19 cipients not affected by such failure to
20 comply; or

21 “(iv) terminate any assistance under
22 this section to the State or State des-
23 ignated entity.

24 “(f) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

1 “(1) EXTREMELY LOW-INCOME RENTER
2 HOUSEHOLD.—The term ‘extremely low-income
3 renter household’ means a household whose income
4 is not in excess of 30 percent of the area median in-
5 come, with adjustments for smaller and larger fami-
6 lies, as determined by the Secretary.

7 “(2) RECIPIENT.—The term ‘recipient’ means
8 an individual or entity that receives assistance from
9 a State or State designated entity from amounts
10 made available to the State or State designated enti-
11 ty under this section.

12 “(3) SHORTAGE OF STANDARD RENTAL UNITS
13 BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY
14 LOW-INCOME RENTER HOUSEHOLDS.—

15 “(A) IN GENERAL.—The term ‘shortage of
16 standard rental units both affordable and avail-
17 able to extremely low-income renter households’
18 means for any State or other geographical area
19 the gap between—

20 “(i) the number of units with com-
21 plete plumbing and kitchen facilities with a
22 rent that is 30 percent or less of 30 per-
23 cent of the adjusted area median income as
24 determined by the Secretary that are occu-

1 pied by extremely low-income renter house-
2 holds or are vacant for rent; and

3 “(ii) the number of extremely low-in-
4 come renter households.

5 “(B) RULE OF CONSTRUCTION.—If the
6 number of units described in subparagraph
7 (A)(i) exceeds the number of extremely low-in-
8 come households as described in subparagraph
9 (A)(ii), there is no shortage.

10 “(4) SHORTAGE OF STANDARD RENTAL UNITS
11 BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-
12 INCOME RENTER HOUSEHOLDS.—

13 “(A) IN GENERAL.—The term ‘shortage of
14 standard rental units both affordable and avail-
15 able to very low-income renter households’
16 means for any State or other geographical area
17 the gap between—

18 “(i) the number of units with com-
19 plete plumbing and kitchen facilities with a
20 rent that is 30 percent or less of 50 per-
21 cent of the adjusted area median income as
22 determined by the Secretary that are occu-
23 pied by very low-income renter households
24 or are vacant for rent; and

1 “(ii) the number of very low-income
2 renter households.

3 “(B) RULE OF CONSTRUCTION.—If the
4 number of units described in subparagraph
5 (A)(i) exceeds the number of very low-income
6 households as described in subparagraph
7 (A)(ii), there is no shortage.

8 “(5) VERY LOW-INCOME FAMILY.—The term
9 ‘very low-income family’ has the meaning given such
10 term in section 1303, except that such term includes
11 any family that resides in a rural area that has an
12 income that does not exceed the poverty line (as
13 such term is defined in section 673(2) of the Omni-
14 bus Budget Reconciliation Act of 1981 (42 U.S.C.
15 9902(2)), including any revision required by such
16 section) applicable to a family of the size involved.

17 “(6) VERY LOW-INCOME RENTER HOUSE-
18 HOLDS.—The term ‘very low-income renter house-
19 holds’ means a household whose income is in excess
20 of 30 percent but not greater than 50 percent of the
21 area median income, with adjustments for smaller
22 and larger families, as determined by the Secretary.

23 “(g) REGULATIONS.—

1 “(1) IN GENERAL.—The Secretary of Housing
2 and Urban Development, shall issue regulations to
3 carry out this section.

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

6 “(A) a requirement that the Secretary en-
7 sure that the use of block grant amounts under
8 this section by States or State designated enti-
9 ties is audited not less than annually to ensure
10 compliance with this section;

11 “(B) authority for the Secretary to audit,
12 provide for an audit, or otherwise verify a State
13 or State designated entity’s activities to ensure
14 compliance with this section;

15 “(C) requirements for a process for appli-
16 cation to, and selection by, each State or State
17 designated entity for activities meeting the
18 State or State designated entity’s priority hous-
19 ing needs to be funded with block grant
20 amounts under this section, which shall provide
21 for priority in funding to be based upon—

22 “(i) geographic diversity;

23 “(ii) ability to obligate amounts and
24 undertake activities so funded in a timely
25 manner;

1 “(iii) in the case of rental housing
2 projects under subsection (c)(7)(A), the ex-
3 tent to which rents for units in the project
4 funded are affordable, especially for ex-
5 tremely low-income families;

6 “(iv) in the case of rental housing
7 projects under subsection (c)(7)(A), the ex-
8 tent of the duration for which such rents
9 will remain affordable;

10 “(v) the extent to which the applica-
11 tion makes use of other funding sources;
12 and

13 “(vi) the merits of an applicant’s pro-
14 posed eligible activity;

15 “(D) requirements to ensure that block
16 grant amounts provided to a State or State des-
17 ignated entity under this section that are used
18 for rental housing under subsection (c)(7)(A)
19 are used only for the benefit of extremely low-
20 and very low-income families; and

21 “(E) requirements and standards for es-
22 tablishment, by a State or State designated en-
23 tity, for use of block grant amounts in 2009
24 and subsequent years of performance goals,
25 benchmarks, and timetables for the production,

1 preservation, and rehabilitation of affordable
2 rental and homeownership housing with such
3 grant amounts.

4 “(h) AFFORDABLE HOUSING TRUST FUND.—If,
5 after the date of enactment of the Government Sponsored
6 Enterprise Mission Improvement Act, in any year, there
7 is enacted any provision of Federal law establishing an
8 affordable housing trust fund other than under this title
9 for use only for grants to provide affordable rental housing
10 and affordable homeownership opportunities, and the sub-
11 sequent year is a year referred to in subsection (c), the
12 Secretary shall in such subsequent year and any remaining
13 years referred to in subsection (c) transfer to such afford-
14 able housing trust fund the aggregate amount allocated
15 pursuant to subsection (c) in such year. Notwithstanding
16 any other provision of law, assistance provided using
17 amounts transferred to such affordable housing trust fund
18 pursuant to this subsection may not be used for any of
19 the activities specified in clauses (i) through (vi) of sub-
20 section (c)(9)(D).

21 “(i) FUNDING ACCOUNTABILITY AND TRANS-
22 PARENCY.—Any grant under this section to a grantee by
23 a State or State designated entity, any assistance provided
24 to a recipient by a State or State designated entity, and
25 any grant, award, or other assistance from an affordable

1 housing trust fund referred to in subsection (h) shall be
2 considered a Federal award for purposes of the Federal
3 Funding Accountability and Transparency Act of 2006
4 (31 U.S.C. 6101 note). Upon the request of the Secretary
5 of the Office of Management and Budget, the Secretary
6 shall obtain and provide such information regarding any
7 such grants, assistance, and awards as the Secretary of
8 the Office of Management and Budget considers necessary
9 to comply with the requirements of such Act, as applica-
10 ble, pursuant to the preceding sentence.

11 **“SEC. 1339. CAPITAL MAGNET FUND.**

12 “(a) ESTABLISHMENT.—There is established in the
13 Treasury of the United States a trust fund to be known
14 as the Capital Magnet Fund, which shall be a special ac-
15 count within the Community Development Financial Insti-
16 tutions Fund.

17 “(b) DEPOSITS TO TRUST FUND.—The Capital Mag-
18 net Fund shall consist of—

19 “(1) any amounts transferred to the Fund pur-
20 suant to section 1337; and

21 “(2) any amounts as are or may be appro-
22 priated, transferred, or credited to such Fund under
23 any other provisions of law.

24 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
25 in the Capital Magnet Fund shall be available to the Sec-

1 retary of the Treasury to carry out a competitive grant
2 program to attract private capital for and increase invest-
3 ment in—

4 “(1) the development, preservation, rehabilita-
5 tion, and purchase of affordable housing for pri-
6 marily extremely low-, very low-, and low-income
7 families; and

8 “(2) economic development activities or commu-
9 nity service facilities, such as day care centers, work-
10 force development centers, and health care clinics,
11 which in conjunction with affordable housing activi-
12 ties implement a concerted strategy to stabilize or
13 revitalize a low-income area or underserved rural
14 area.

15 “(d) FEDERAL ASSISTANCE.—All assistance provided
16 using amounts in the Capital Magnet Fund shall be con-
17 sidered to be Federal financial assistance.

18 “(e) ELIGIBLE GRANTEES.—A grant under this sec-
19 tion may be made, pursuant to such requirements as the
20 Secretary of the Treasury shall establish for experience
21 and success in attracting private financing and carrying
22 out the types of activities proposed under the application
23 of the grantee, only to—

24 “(1) a community development financial institu-
25 tion; or

1 “(2) a nonprofit organization having as 1 of its
2 principal purposes the development or management
3 of affordable housing.

4 “(f) ELIGIBLE USES.—Grant amounts awarded from
5 the Capital Magnet Fund pursuant to this section may
6 be used for the purposes described in paragraphs (1) and
7 (2) of subsection (e), including for the following uses:

8 “(1) To provide loan loss reserves.

9 “(2) To capitalize a revolving loan fund.

10 “(3) To capitalize an affordable housing fund.

11 “(4) To capitalize a fund to support activities
12 described in subsection (e)(2).

13 “(5) For risk-sharing loans.

14 “(g) APPLICATIONS.—

15 “(1) IN GENERAL.—The Secretary of the
16 Treasury shall provide, in a competitive application
17 process established by regulation, for eligible grant-
18 ees under subsection (e) to submit applications for
19 Capital Magnet Fund grants to the Secretary at
20 such time and in such manner as the Secretary shall
21 determine.

22 “(2) CONTENT OF APPLICATION.—The applica-
23 tion required under paragraph (1) shall include a de-
24 tailed description of—

1 “(A) the types of affordable housing, eco-
2 nomic, and community revitalization projects
3 that support or sustain residents of an afford-
4 able housing project funded by a grant under
5 this section for which such grant amounts
6 would be used, including the proposed use of el-
7 igible grants as authorized under this section;

8 “(B) the types, sources, and amounts of
9 other funding for such projects; and

10 “(C) the expected timeframe of any grant
11 used for such project.

12 “(h) GRANT LIMITATION.—

13 “(1) IN GENERAL.—Any 1 eligible grantee and
14 its subsidiaries and affiliates may not be awarded
15 more than 15 percent of the aggregate funds avail-
16 able for grants during any year from the Capital
17 Magnet Fund.

18 “(2) GEOGRAPHIC DIVERSITY.—

19 “(A) GOAL.—The Secretary of the Treas-
20 ury shall seek to fund activities in geographi-
21 cally diverse areas of economic distress, includ-
22 ing metropolitan and underserved rural areas in
23 every State.

24 “(B) DIVERSITY DEFINED.—For purposes
25 of this paragraph, geographic diversity includes

1 those areas that meet objective criteria of eco-
2 nomic distress developed by the Secretary of the
3 Treasury, which may include—

4 “(i) the percentage of low-income
5 families or the extent of poverty;

6 “(ii) the rate of unemployment or
7 underemployment;

8 “(iii) extent of blight and disinvest-
9 ment;

10 “(iv) projects that target extremely
11 low-, very low-, and low-income families in
12 or outside a designated economic distress
13 area; or

14 “(v) any other criteria designated by
15 the Secretary of the Treasury.

16 “(3) LEVERAGE OF FUNDS.—Each grant from
17 the Capital Magnet Fund awarded under this section
18 shall be reasonably expected to result in eligible
19 housing, or economic and community development
20 projects that support or sustain an affordable hous-
21 ing project funded by a grant under this section
22 whose aggregate costs total at least 10 times the
23 grant amount.

24 “(4) COMMITMENT FOR USE DEADLINE.—
25 Amounts made available for grants under this sec-

1 tion shall be committed for use within 2 years of the
2 date of such allocation. The Secretary of the Treas-
3 ury shall recapture into the Capital Magnet Fund
4 any amounts not so used or committed for use and
5 allocate such amounts in the first year after such re-
6 capture.

7 “(5) LOBBYING RESTRICTIONS.—No assistance
8 or amounts made available under this section may
9 be expended by an eligible grantee to pay any person
10 to influence or attempt to influence any agency,
11 elected official, officer or employee of a State or
12 local government in connection with the making,
13 award, extension, continuation, renewal, amendment,
14 or modification of any State or local government
15 contract, grant, loan, or cooperative agreement as
16 such terms are defined in section 1352 of title 31,
17 United States Code.

18 “(6) PROHIBITION OF CONSIDERATION OF USE
19 FOR MEETING HOUSING GOALS OR DUTY TO
20 SERVE.—In determining the compliance of enter-
21 prises with the housing goals under this section and
22 the duty to serve underserved markets under section
23 1335, the Secretary of Housing and Urban Develop-
24 ment may not consider any Capital Magnet Fund
25 amounts used under this section for eligible activities

1 under subsection (f). The Secretary of Housing and
2 Urban Development shall give credit toward the
3 achievement of such housing goals and such duty to
4 serve underserved markets to purchases by the en-
5 terprises of mortgages for housing that receives
6 funding from Capital Magnet Fund grant amounts,
7 but only to the extent that such purchases by the
8 enterprises are funded other than with such grant
9 amounts.

10 “(7) ACCOUNTABILITY OF RECIPIENTS AND
11 GRANTEES.—

12 “(A) TRACKING OF FUNDS.—The Sec-
13 retary of the Treasury shall—

14 “(i) require each grantee to develop
15 and maintain a system to ensure that each
16 recipient of assistance from the Capital
17 Magnet Fund uses such amounts in ac-
18 cordance with this section, the regulations
19 issued under this section, and any require-
20 ments or conditions under which such
21 amounts were provided; and

22 “(ii) establish minimum requirements
23 for agreements, between the grantee and
24 the Capital Magnet Fund, regarding as-

1 assistance from the Capital Magnet Fund,
2 which shall include—

3 “(I) appropriate periodic finan-
4 cial and project reporting, record re-
5 tention, and audit requirements for
6 the duration of the grant to the re-
7 cipient to ensure compliance with the
8 limitations and requirements of this
9 section and the regulations under this
10 section; and

11 “(II) any other requirements that
12 the Secretary determines are nec-
13 essary to ensure appropriate grant ad-
14 ministration and compliance.

15 “(B) MISUSE OF FUNDS.—If the Secretary
16 of the Treasury determines, after reasonable
17 notice and opportunity for hearing, that a
18 grantee has failed to comply substantially with
19 any provision of this section and until the Sec-
20 retary is satisfied that there is no longer any
21 such failure to comply, the Secretary shall—

22 “(i) reduce the amount of assistance
23 under this section to the grantee by an
24 amount equal to the amount of Capital

1 Magnet Fund grant amounts which were
2 not used in accordance with this section;

3 “(ii) require the grantee to repay the
4 Secretary an amount equal to the amount
5 of the amount of Capital Magnet Fund
6 grant amounts which were not used in ac-
7 cordance with this section;

8 “(iii) limit the availability of assist-
9 ance under this section to the grantee to
10 activities or recipients not affected by such
11 failure to comply; or

12 “(iv) terminate any assistance under
13 this section to the grantee.

14 “(i) PERIODIC REPORTS.—

15 “(1) IN GENERAL.—The Secretary of the
16 Treasury shall submit a report, on a periodic basis,
17 to the Committee on Banking, Housing, and Urban
18 Affairs of the Senate and the Committee on Finan-
19 cial Services of the House of Representatives de-
20 scribing the activities to be funded under this sec-
21 tion.

22 “(2) REPORTS AVAILABLE TO PUBLIC.—The
23 Secretary of the Treasury shall make the reports re-
24 quired under paragraph (1) publicly available.

1 “(j) AFFORDABLE HOUSING TRUST FUND.—If, after
2 the date of enactment of the Government Sponsored En-
3 terprise Mission Improvement Act, in any year, there is
4 enacted any provision of Federal law establishing an af-
5 fordable housing trust fund other than under this title for
6 use only for grants to provide affordable rental housing
7 and affordable homeownership opportunities, the Sec-
8 retary of the Treasury shall in such year and any subse-
9 quent years transfer to that affordable housing trust fund
10 the aggregate amount allocated pursuant to this section
11 in such year or years. Notwithstanding any other provision
12 of law, assistance provided using amounts transferred to
13 such affordable housing trust fund pursuant to this sub-
14 section may not be used for any of the activities specified
15 in subsection (h)(5).

16 “(k) REGULATIONS.—

17 “(1) IN GENERAL.—The Secretary of the
18 Treasury shall issue regulations to carry out this
19 section.

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

22 “(A) authority for the Secretary to audit,
23 provide for an audit, or otherwise verify an en-
24 terprise’s activities, to ensure compliance with
25 this section;

1 “(B) a requirement that the Secretary en-
2 sure that the allocation of each enterprise is au-
3 dited not less than annually to ensure compli-
4 ance with this section; and

5 “(C) requirements for a process for appli-
6 cation to, and selection by, the Secretary for ac-
7 tivities to be funded with amounts from the
8 Capital Magnet Fund, which shall provide
9 that—

10 “(i) funds be fairly distributed to
11 urban, suburban, and rural areas;

12 “(ii) selection shall be based upon spe-
13 cific criteria, including a prioritization of
14 funding based upon—

15 “(I) the ability to use such funds
16 to generate additional investments;

17 “(II) affordable housing need
18 (taking into account the distinct needs
19 of different regions of the country);
20 and

21 “(III) ability to obligate amounts
22 and undertake activities so funded in
23 a timely manner.”.

1 **SEC. 8. ENFORCEMENT.**

2 (a) CEASE-AND-DESIST PROCEEDINGS.—Section
3 1341 of the Housing and Community Development Act
4 of 1992 (12 U.S.C. 4581) is amended—

5 (1) by striking subsection (a) and inserting the
6 following new subsection:

7 “(a) GROUNDS FOR ISSUANCE.—The Secretary may
8 issue and serve a notice of charges under this section upon
9 an enterprise if the Secretary determines—

10 “(1) the enterprise has failed to meet any hous-
11 ing goal established under subpart B, following a
12 written notice and determination of such failure in
13 accordance with section 1336;

14 “(2) the enterprise has failed to submit a report
15 under section 1314, following a notice of such fail-
16 ure, an opportunity for comment by the enterprise,
17 and a final determination by the Secretary;

18 “(3) the enterprise has failed to submit the in-
19 formation required under subsection (m) or (n) of
20 section 309 of the Federal National Mortgage Asso-
21 ciation Charter Act, or subsection (e) or (f) of sec-
22 tion 307 of the Federal Home Loan Mortgage Cor-
23 poration Act;

24 “(4) the enterprise has violated any provision of
25 this part or any order, rule, or regulation under this
26 part;

1 “(5) the enterprise has failed to submit a hous-
2 ing plan that complies with section 1336(c) within
3 the applicable period; or

4 “(6) the enterprise has failed to comply with a
5 housing plan under section 1336(c).”;

6 (2) in subsection (b)(2), by striking “requiring
7 the enterprise to” and all that follows through the
8 end of the paragraph and inserting the following:
9 “requiring the enterprise to—

10 “(A) comply with the goal or goals of this
11 subpart;

12 “(B) submit a report under section 1314;

13 “(C) comply with any provision of this part
14 or any order, rule, or regulation under such
15 part;

16 “(D) submit a housing plan in compliance
17 with section 1336(c);

18 “(E) comply with a housing plan submitted
19 under section 1336(c); or

20 “(F) provide the information required
21 under subsection (m) or (n) of section 309 of
22 the Federal National Mortgage Association
23 Charter Act or subsection (e) or (f) of section
24 307 of the Federal Home Loan Mortgage Cor-
25 poration Act, as applicable.”;

1 (3) in subsection (c), by inserting “date of the”
2 before “service of the order”; and

3 (4) by striking subsection (d).

4 (b) **AUTHORITY OF SECRETARY TO ENFORCE NO-**
5 **TICES AND ORDERS.**—Section 1344 of the Housing and
6 Community Development Act of 1992 (12 U.S.C. 4584)
7 is amended by striking subsection (a) and inserting the
8 following new subsection:

9 “(a) **ENFORCEMENT.**—

10 “(1) **IN COURT.**—The Secretary may, in the
11 discretion of the Secretary, apply to the United
12 States District Court for the District of Columbia,
13 or the United States district court within the juris-
14 diction of which the headquarters of the enterprise
15 is located, for the enforcement of any effective and
16 outstanding notice or order issued under section
17 1341 or 1345, or request that the Attorney General
18 of the United States bring such an action.

19 “(2) **COURT AUTHORITY.**—A court described
20 under paragraph (1) shall have jurisdiction and
21 power to order and require compliance with any no-
22 tice or order issued pursuant to paragraph (1).”.

23 (c) **CIVIL MONEY PENALTIES.**—Section 1345 of the
24 Housing and Community Development Act of 1992 (12
25 U.S.C. 4585) is amended—

1 (1) by striking subsections (a) and (b) and in-
2 serting the following new subsections:

3 “(a) **AUTHORITY.**—The Secretary may impose a civil
4 money penalty, in accordance with the provisions of this
5 section, on any enterprise that has failed to—

6 “(1) meet any housing goal established under
7 subpart B, following a written notice and determina-
8 tion of such failure in accordance with section
9 1336(b);

10 “(2) submit a report under section 1314, fol-
11 lowing a notice of such failure, an opportunity for
12 comment by the enterprise, and a final determina-
13 tion by the Secretary;

14 “(3) submit the information required under
15 subsection (m) or (n) of section 309 of the Federal
16 National Mortgage Association Charter Act, or sub-
17 section (e) or (f) of section 307 of the Federal Home
18 Loan Mortgage Corporation Act;

19 “(4) comply with any provision of this part or
20 any order, rule, or regulation under this part;

21 “(5) submit a housing plan pursuant to section
22 1336(e) within the required period; or

23 “(6) comply with a housing plan for the enter-
24 prise under section 1336(e).

1 “(b) AMOUNT OF PENALTY.—The amount of a civil
2 money penalty under subsection (a), as determined by the
3 Secretary, may not exceed—

4 “(1) for any failure described in paragraph (1),
5 (5), or (6) of subsection (a), \$50,000 for each day
6 that the failure occurs; and

7 “(2) for any failure described in paragraph (2),
8 (3), or (4) of subsection (a), \$20,000 for each day
9 that the failure occurs.”;

10 (2) in subsection (c)—

11 (A) in paragraph (1)—

12 (i) in subparagraph (A), by inserting
13 “and” after the semicolon at the end;

14 (ii) in subparagraph (B), by striking
15 “; and” and inserting a period; and

16 (iii) by striking subparagraph (C);

17 and

18 (B) in paragraph (2), by inserting after
19 the period at the end the following: “In deter-
20 mining the penalty under subsection (a)(1), the
21 Secretary shall give consideration to the length
22 of time the enterprise should reasonably take to
23 achieve the goal.”;

24 (3) in the first sentence of subsection (d)—

1 (A) by striking “request the Attorney Gen-
 2 eral of the United States to” and inserting “,
 3 in the discretion of the Secretary,”; and

4 (B) by inserting “, or request that the At-
 5 torney General of the United States bring such
 6 an action” before the period at the end;

7 (4) by striking subsection (f); and

8 (5) by redesignating subsection (g) as sub-
 9 section (f).

10 (d) ENFORCEMENT OF SUBPOENAS.—Section
 11 1348(c) of the Housing and Community Development Act
 12 of 1992 (12 U.S.C. 4588(c)) is amended—

13 (1) by striking “request the Attorney General
 14 of the United States to” and inserting “, in the dis-
 15 cretion of the Secretary,”; and

16 (2) by inserting “or request that the Attorney
 17 General of the United States bring such an action,”
 18 after “District of Columbia,”.

19 (e) CONFORMING AMENDMENT.—The heading for
 20 subpart C of part 2 of subtitle A of title XIII of the Hous-
 21 ing and Community Development Act of 1992 is amended
 22 to read as follows:

23 **“Subpart C—Enforcement”.**

