

**[DISCUSSION DRAFT]**

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To amend title 11 of the United States Code in order to facilitate the resolution of an insolvent financial institution in bankruptcy.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend title 11 of the United States Code in order to facilitate the resolution of an insolvent financial institution in bankruptcy.

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.**

4        This Act may be cited as the “Financial Institution  
5        Bankruptcy Act of 2014”.

1 **SEC. 2. GENERAL PROVISIONS RELATING TO COVERED FI-**  
2 **NANCIAL CORPORATIONS.**

3 (a) DEFINITION.—Section 101 of title 11, United  
4 States Code, is amended by inserting the following after  
5 paragraph (9):

6 “(9A) The term ‘covered financial corporation’  
7 means any corporation incorporated or organized  
8 under any Federal or State law, other than a stock-  
9 broker, a commodity broker, or an entity of the kind  
10 specified in paragraph (2) or (3) of section 109(b),  
11 that is—

12 “(A) a bank holding company, as defined  
13 in section 2(a) of the Bank Holding Company  
14 Act of 1956; or

15 “(B) a corporation that exists for the sole  
16 purpose of owning the equity securities of its  
17 subsidiaries, with total consolidated assets of  
18 \$50,000,000,000 or greater.”.

19 (b) APPLICABILITY OF CHAPTERS.—Section 103 of  
20 title 11, United States Code, is amended by adding at the  
21 end the following:

22 “(l) Subchapter V of chapter 11 of this title applies  
23 only in a case under chapter 11 concerning a covered fi-  
24 nancial corporation.”.

25 (c) WHO MAY BE A DEBTOR.—Section 109 of title  
26 11, United States Code, is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (2), by striking “or” at  
3 the end;

4 (B) in paragraph (3)(B), by striking the  
5 period at the end and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(4) a covered financial corporation.”; and

8 (2) in subsection (d)—

9 (A) by striking “and” before “an unin-  
10 sured State member bank”;

11 (B) by striking “or” before “a corpora-  
12 tion”; and

13 (C) by inserting “, or a covered financial  
14 corporation” after “Federal Deposit Insurance  
15 Corporation Improvement Act of 1991”.

16 (d) CONVERSION TO CHAPTER 7.—Section 1112 of  
17 title 11, the United States Code, is amended by adding  
18 at the end the following:

19 “(g) Notwithstanding section 109(b), the court may  
20 convert a case under subchapter V to a case under chapter  
21 7 if—

22 “(1) a transfer approved under section 1185  
23 has been consummated;

24 “(2) the court has ordered the appointment of  
25 a special trustee under section 1186; and

1           “(3) the court finds, after notice and a hearing,  
2           that conversion is in the best interest of the credi-  
3           tors and the estate.”.

4           (e)(1) Section 726(a)(1) of title 11, the United States  
5           Code, is amended by inserting after “first,” the following:  
6           “in payment of any unpaid fees, costs, and expenses of  
7           a special trustee appointed under section 1186, and then”.

8           (2) Section 1129(a) of title 11, the United States  
9           Code, is amended by inserting after paragraph (16) the  
10          following:

11           “(17) In a case under subchapter V, all payable  
12          fees, costs, and expenses of the special trustee have  
13          been paid or the plan provides for the payment of  
14          all such fees, costs, and expenses on the effective  
15          date of the plan.

16           “(18) In a case under subchapter V, confirma-  
17          tion of the plan is not likely to cause serious adverse  
18          effects on financial stability in the United States.”.

19          (f) Section 322(b)(2) of title 11, the United States  
20          Code, is amended by striking “The” and inserting “In  
21          cases under subchapter V, the United States trustee shall  
22          recommend to the court, and in all other cases, the”.

1 **SEC. 3. LIQUIDATION, REORGANIZATION, OR RECAPITAL-**  
2 **IZATION OF A COVERED FINANCIAL COR-**  
3 **PORATION.**

4 Chapter 11 of title 11, United States Code, is amend-  
5 ed by adding at the end the following:

6 “SUBCHAPTER V—LIQUIDATION, REORGANIZA-  
7 TION, OR RECAPITALIZATION OF A COV-  
8 ERED FINANCIAL CORPORATION

9 **“§ 1181. Inapplicability of other sections**

10 “Sections 303 and 321(c) do not apply in a case  
11 under this subchapter concerning a covered financial cor-  
12 poration.

13 **“§ 1182. Definitions for this subchapter**

14 “In this subchapter, the following definitions shall  
15 apply:

16 “(1) The term ‘Board’ means the Board of  
17 Governors of the Federal Reserve System.

18 “(2) The term ‘bridge company’ means a newly-  
19 formed corporation to which property of the estate  
20 may be transferred under section 1185(a) and the  
21 equity securities of which may be transferred to a  
22 special trustee under section 1186(a).

23 “(3) The term ‘capital structure debt’ means all  
24 unsecured debt of the debtor for borrowed money,  
25 other than a qualified financial contract, for which  
26 the debtor is the primary obligor.



1 “(ii) is insolvent;

2 “(iii) is not paying, or is unable to  
3 pay, the debts of the covered financial cor-  
4 poration (other than debts subject to a  
5 bona fide dispute as to liability or amount)  
6 as they become due; or

7 “(iv) is likely to be in a financial con-  
8 dition specified in clause (i), (ii), or (iii)  
9 sufficiently soon such that the immediate  
10 commencement of a case under this sub-  
11 chapter is necessary to prevent serious ad-  
12 verse effects on financial stability in the  
13 United States; and

14 “(B) the commencement of a case under  
15 this title and effecting a transfer under section  
16 1185 is necessary to prevent serious adverse ef-  
17 fects on financial stability in the United States;  
18 or

19 “(2) by the Board only if the Board states to  
20 the best of its knowledge under penalty of perjury  
21 in the petition that—

22 “(A) the covered financial corporation—

23 “(i) has incurred losses that will de-  
24 plete all or substantially all of the capital  
25 of the covered financial corporation, and

1           there is no reasonable prospect for the cov-  
2           ered financial corporation to avoid such de-  
3           pletion;

4                   “(ii) is insolvent;

5                   “(iii) is not paying, or is unable to  
6           pay, the debts of the covered financial cor-  
7           poration (other than debts subject to a  
8           bona fide dispute as to liability or amount)  
9           as they become due; or

10                   “(iv) is likely to be in a financial con-  
11           dition specified in clause (i), (ii), or (iii)  
12           sufficiently soon such that the immediate  
13           commencement of a case under this sub-  
14           chapter is necessary to prevent serious ad-  
15           verse effects on financial stability in the  
16           United States; and

17                   “(B) the commencement of a case under  
18           this title and effecting a transfer under section  
19           1185 is necessary to prevent serious adverse ef-  
20           fects on financial stability in the United States.

21           “(b)(1) Unless the debtor consents to an order for  
22           relief, the court shall hold a hearing on the Board’s peti-  
23           tion under subsection (a)(2) as soon as practicable but not  
24           later than 16 hours after the Board files such a petition,  
25           with notice only to—

1           “(A) the covered financial corporation;

2           “(B) the Federal Deposit Insurance Corpora-  
3           tion;

4           “(C) the Office of the Comptroller of the Cur-  
5           rency of the Department of the Treasury; and

6           “(D) the Secretary of the Treasury.

7           “(2) Only the Board and the entities specified in  
8           paragraph (1) and their counsel may participate in a hear-  
9           ing described in this subsection. The Board or the trustee  
10          may request that pleadings, hearings, transcripts, and or-  
11          ders in connection with a hearing described in this sub-  
12          section be sealed if their disclosure could create financial  
13          instability in the United States.

14          “(3) All pleadings, hearings, transcripts, and orders  
15          sealed under paragraph (2) shall be available to only the  
16          court, the appellate panel, the covered financial corpora-  
17          tion, the Federal Deposit Insurance Corporation, the Of-  
18          fice of the Comptroller of the Currency of the Department  
19          of the Treasury, the Secretary of the Treasury, and the  
20          Board. Notwithstanding paragraph (2), if the case is dis-  
21          missed, all court documents, including pleadings, hearings,  
22          transcripts, and orders, shall be permanently sealed.

23          “(c)(1) The commencement of a case under sub-  
24          section (a)(1) constitutes an order for relief under this  
25          subchapter.

1           “(2) In a case commenced under subsection (a)(2),  
2 after notice and hearing required under subsection (b) and  
3 not later than 18 hours after the filing of the Board’s peti-  
4 tion, the court shall enter—

5                   “(A) an order for relief—

6                           “(i) if the Board has shown by a prepon-  
7 derance of the evidence at the hearing under  
8 this subsection that the requirements under  
9 subsection (a)(2) have been satisfied, or

10                           “(ii) if the debtor consents to the Board’s  
11 petition under subsection (a)(2); or

12                   “(B) an order dismissing the case.

13           “(d)(1) The covered financial corporation or the  
14 Board may appeal to the court of appeals from an order  
15 entered by the court under subsection (c)(2) not later than  
16 1 hour after the court enters such order, with notice only  
17 to the entities specified in subsection (b)(1) and the  
18 Board. Such order shall be stayed pending such appeal.

19           “(2) The appellate panel specified under section  
20 298(c)(1) of title 28 for the judicial circuit in which the  
21 case is pending shall hear the appeal under paragraph (1)  
22 within 12 hours of the filing of the notice of appeal under  
23 this subsection. The standard of review shall be abuse of  
24 discretion. The appellate panel shall enter an order deter-

1 mining the matter that is the subject of the appeal not  
2 later than 14 hours after the notice of appeal is filed.

3 “(3) The court may not, on account of an appeal  
4 from an order for relief under section 1183(d)(1), delay  
5 any proceeding under section 1185, except that the court  
6 shall not authorize a transfer under section 1185 before  
7 the determination of the appeal.

8 “(e) The members of the board of directors (or body  
9 performing similar functions) of a covered financial com-  
10 pany shall have no liability to shareholders, creditors or  
11 other parties in interest for a good faith filing or con-  
12 senting in good faith to a petition with respect to a case  
13 under this subchapter, or for any reasonable action taken  
14 in good faith in contemplation of or in connection with  
15 such a petition or a transfer under section 1185 or section  
16 1186, whether prior to or after commencement of the case.

17 “(f) Counsel to the debtor or the Board shall provide,  
18 to the greatest extent practicable, sufficient confidential  
19 notice to the Office of Court Services of the Administrative  
20 Office of the United States Courts regarding the potential  
21 commencement of a subchapter V case without disclosing  
22 the identity of the potential debtor in order to allow such  
23 office to randomly designate and ensure the ready avail-  
24 ability of one of the bankruptcy judges designated under

1 section 298(b)(1) of title 28 to be available to preside over  
2 such subchapter V case.

3 **“§ 1184. Regulators**

4 “The Board, the Securities Exchange Commission,  
5 the Office of the Comptroller of the Currency of the De-  
6 partment of the Treasury, and the Federal Deposit Insur-  
7 ance Corporation may raise and may appear and be heard  
8 on any issue in any case or proceeding under this sub-  
9 chapter.

10 **“§ 1185. Special transfer of property of the estate**

11 “(a) On request of the trustee or the Board, and after  
12 notice and a hearing that shall occur not less than 24  
13 hours after the order for relief, the court may order a  
14 transfer under this section of property of the estate, and  
15 the assignment of executory contracts, unexpired leases,  
16 and qualified financial contracts of the debtor, to a bridge  
17 company. Upon the entry of an order approving such a  
18 transfer, any property transferred under such order shall  
19 no longer be property of the estate. Except as provided  
20 under this section, the provisions of sections 363 and 365  
21 shall apply to a transfer and assignment under this sec-  
22 tion.

23 “(b) Unless the court orders otherwise, notice of a  
24 request for an order under subsection (a) shall consist of

1 electronic or telephonic notice of not less than 24 hours

2 to—

3 “(1) the debtor;

4 “(2) the holders of the 20 largest secured  
5 claims against the debtor;

6 “(3) the holders of the 20 largest unsecured  
7 claims against the debtor;

8 “(4) counterparties to any debt, executory con-  
9 tract, unexpired lease, and qualified financial con-  
10 tract requested to be transferred under this section;

11 “(5) the Board;

12 “(6) the Federal Deposit Insurance Corpora-  
13 tion;

14 “(7) the Secretary of the Treasury and the Of-  
15 fice of the Comptroller of the Currency of the Treas-  
16 ury;

17 “(8) the Securities and Exchange Commission;

18 “(9) the United States trustee or bankruptcy  
19 administrator; and

20 “(10) each primary financial regulatory agency,  
21 as defined in section 2(12) of the Dodd-Frank Wall  
22 Street Reform and Consumer Protection Act, with  
23 respect to any affiliate the equity securities of which  
24 are proposed to be transferred under this section.

1       “(c) The court may not order a transfer under this  
2 section unless the court determines, based upon a prepon-  
3 derance of the evidence, that—

4               “(1) the transfer under this section is necessary  
5 to prevent serious adverse effects on financial sta-  
6 bility in the United States;

7               “(2) the proposed transfer does not provide for  
8 the assumption of any capital structure debt by the  
9 bridge company;

10              “(3) the proposed transfer does not provide for  
11 the transfer of the equity of the debtor;

12              “(4) the party requesting the transfer under  
13 this subsection has demonstrated that the bridge  
14 company is not likely to fail to meet the obligations  
15 of any debt, executory contract, qualified financial  
16 contract, or unexpired lease assumed and assigned  
17 to the bridge company;

18              “(5) the proposed transfer provides for the  
19 transfer to a special trustee all of the equity securi-  
20 ties in the bridge company and appointment of a  
21 special trustee in accordance with section 1186;

22              “(6) after giving effect to the transfer, ade-  
23 quate provision has been made for the fees, costs,  
24 and expenses of the estate and special trustee; and

1           “(7) the bridge company will have governing  
2 documents, and initial directors and senior officers,  
3 that are in the best interest of creditors and the es-  
4 tate.

5           “(d) Immediately before a transfer under the section,  
6 the bridge company that is the recipient of the transfer  
7 shall—

8           “(1) not have any property, executory con-  
9 tracts, unexpired leases, or debts, other than any  
10 property acquired or executory contracts, unexpired  
11 leases, or debts assumed when acting as a transferee  
12 of a transfer under this section; and

13           “(2) have equity securities that are property of  
14 the estate, which may be sold or distributed in ac-  
15 cordance with this title.

16 **“§ 1186. Special trustee**

17           “(a) A transfer approved under section 1185 shall  
18 provide for the trustee to transfer to a special trustee all  
19 of the equity securities in the bridge company that is the  
20 recipient of a transfer under section 1185 to hold in trust  
21 for the sole benefit of the estate as well as assets sufficient  
22 to satisfy the special trustee’s fees, costs, and expenses  
23 if—

24           “(1) the special trustee is the trustee of the  
25 trust that is newly-formed at the direction of the

1 court and exists for the sole purpose of holding and  
2 administering the equity securities of the bridge  
3 company in accordance with the trust agreement;

4 “(2) the Board is consulted regarding the iden-  
5 tity of the proposed special trustee and the results  
6 of such consultation are disclosed to the court;

7 “(3) the court approves—

8 “(A) the trust agreement governing the  
9 trust; and

10 “(B) the appointment of a special trustee  
11 to administer such trust; and

12 “(4) the court determines by a preponderance  
13 of the evidence that the transfer of the equity securi-  
14 ties of the bridge company to the special trustee is  
15 in the best interest of the creditors and the estate.

16 “(b) The trust agreement governing the trust shall  
17 provide—

18 “(1) for the payment of the fees, costs, ex-  
19 penses, and indemnities of the special trustee from  
20 the assets of the debtor’s estate;

21 “(2) that the special trustee provide—

22 “(A) quarterly reporting to the estate,  
23 which shall be filed with the court; and

24 “(B) information about the bridge com-  
25 pany reasonably requested by a party in inter-

1 est to prepare a disclosure statement for a plan  
2 providing for distribution of any securities of  
3 the bridge company if such information is nec-  
4 essary to prepare such disclosure statement;

5 “(3) that for as long as the equity securities of  
6 the bridge company are held by the trust, the special  
7 trustee shall file a notice with the court in connec-  
8 tion with—

9 “(A) any change in a director or senior of-  
10 ficer of the bridge company;

11 “(B) any modification to the governing  
12 documents of the bridge company; and

13 “(C) any material corporate action of the  
14 bridge company, including—

15 “(i) recapitalization;

16 “(ii) a material borrowing;

17 “(iii) termination of an intercompany  
18 debt or guarantee;

19 “(iv) a transfer of a substantial por-  
20 tion of the assets of the bridge company;

21 or

22 “(v) the issuance or sale of any secu-  
23 rities of the bridge company;

24 “(4) that any sale of any equity securities of  
25 the bridge company shall not be consummated until

1 the special trustee consults with the Federal Deposit  
2 Insurance Corporation and the Board regarding  
3 such sale and discloses the results of such consulta-  
4 tion with the court;

5 “(5) that, subject to reserves for payments per-  
6 mitted under paragraph (1) provided for in the trust  
7 agreement, the proceeds of the sale of any equity se-  
8 curities of the bridge company by the special trustee  
9 be held in trust for the benefit of or transferred to  
10 the estate;

11 “(6) the process and guidelines for the replace-  
12 ment of the special trustee; and

13 “(7) that the property held in trust by the spe-  
14 cial trustee is subject to distribution in accordance  
15 with subsection (c).

16 “(c)(1) The special trustee shall distribute the assets  
17 held in trust—

18 “(A) if the court confirms a plan in the case,  
19 in accordance with the plan on the effective date of  
20 the plan; or

21 “(B) if the case is converted to a case under  
22 chapter 7, as ordered by the court.

23 “(2) As soon as practicable after a final distribution  
24 under paragraph (1), the office of the special trustee shall

1 terminate, except as may be necessary to wind up and con-  
2 clude the business and financial affairs of the trust.

3 “(d) After a transfer to the special trustee under this  
4 section, the special trustee shall be subject only to applica-  
5 ble nonbankruptcy law, and the actions and conduct of  
6 the special trustee shall no longer be subject to approval  
7 by the court in the case under this subchapter.

8 **“§ 1187. Temporary and supplemental automatic stay;  
9 assumed debt**

10 “(a)(1) A petition filed under section 1183 operates  
11 as a stay, applicable to all entities, of the termination, ac-  
12 celeration, or modification of any debt, contract, lease, or  
13 agreement of the kind described in paragraph (2), or of  
14 any right or obligation under any such debt, contract,  
15 lease, or agreement, solely because of—

16 “(A) a default by the debtor under any such  
17 debt, contract, lease, or agreement;

18 “(B) a provision in such debt, contract, lease,  
19 or agreement, or in applicable nonbankruptcy law,  
20 that is conditioned on—

21 “(i) the insolvency or financial condition of  
22 the debtor at any time before the closing of the  
23 case;

24 “(ii) the commencement of a case under  
25 this title concerning the debtor;

1           “(iii) the appointment of or taking posses-  
2           sion by a trustee in a case under this title con-  
3           cerning the debtor or by a custodian before the  
4           commencement of the case;

5           “(iv) a credit rating agency rating, or ab-  
6           sence or withdrawal of a credit rating agency  
7           rating—

8           “(I) of the debtor at any time after  
9           the commencement of the case;

10          “(II) of an affiliate during the period  
11          from the commencement of the case until  
12          48 hours after such order is entered;

13          “(III) of the bridge company while the  
14          trustee or the special trustee is a direct or  
15          indirect beneficial holder of more than 50  
16          percent of the equity securities of—

17                 “(aa) the bridge company; or

18                 “(bb) the affiliate, if all of the di-  
19                 rect or indirect interests in the affil-  
20                 iate that are property of the estate  
21                 are transferred under section 1185; or

22          “(IV) of an affiliate while the trustee  
23          or the special trustee is a direct or indirect  
24          beneficial holder of more than 50 percent  
25          of the equity securities of—

1 “(aa) the bridge company; or

2 “(bb) the affiliate, if all of the di-  
3 rect or indirect interests in the affil-  
4 iate that are property of the estate  
5 are transferred under section 1185.

6 “(2) A debt, contract, lease, or agreement described  
7 in this paragraph is—

8 “(A) any debt (other than capital structure  
9 debt), executory contract, or unexpired lease of the  
10 debtor (other than a qualified financial contract);

11 “(B) any agreement under which the debtor  
12 issued or is obligated for debt (other than capital  
13 structure debt);

14 “(C) any debt, executory contract, or unexpired  
15 lease of an affiliate (other than a qualified financial  
16 contract); or

17 “(D) any agreement under which an affiliate  
18 issued or is obligated for debt.

19 “(3) The stay under this subsection terminates—

20 “(A) for the benefit of the debtor, upon the ear-  
21 liest of—

22 “(i) 48 hours after the commencement of  
23 the case;

24 “(ii) assumption of the debt, contract,  
25 lease, or agreement by the bridge company

1 under an order authorizing a transfer under  
2 section 1185; or

3 “(iii) a final order of the court denying the  
4 request for a transfer under section 1185; and

5 “(B) for the benefit of an affiliate, upon the  
6 earliest of—

7 “(i) the entry of an order authorizing a  
8 transfer under section 1185 in which the direct  
9 or indirect interests in the affiliate that are  
10 property of the estate are not transferred under  
11 section 1185;

12 “(ii) a final order by the court denying the  
13 request for a transfer under section 1185; or

14 “(iii) 48 hours after the commencement of  
15 the case if the court has not ordered a transfer  
16 under section 1185.

17 “(4) Subsections (d), (e), (f), and (g) of section 362  
18 apply to a stay under this subsection.

19 “(b) A debt, executory contract (other than a quali-  
20 fied financial contract), or unexpired lease of the debtor,  
21 or an agreement under which the debtor has issued or is  
22 obligated for any debt, may be assumed by a bridge com-  
23 pany in a transfer under section 1185 notwithstanding  
24 any provision in an agreement or in applicable nonbank-  
25 ruptcy law that—

1           “(1) prohibits, restricts, or conditions the as-  
2           signment of the debt, contract, lease, or agreement;  
3           or

4           “(2) terminates or modifies, or permits a party  
5           other than the debtor to terminate or modify, the  
6           debt, contract, lease, or agreement on account of—

7                   “(A) the assignment of the debt, contract,  
8                   lease, or agreement; or

9                   “(B) a change in control of any party to  
10                  the debt, contract, lease, or agreement.

11          “(c)(1) A debt, contract, lease, or agreement of the  
12          kind described in subparagraph (A) or (B) of subsection  
13          (a)(2) may not be terminated or modified, and any right  
14          or obligation under such debt, contract, lease, or agree-  
15          ment may not be terminated or modified, as to the bridge  
16          company solely because of a provision in the debt, con-  
17          tract, lease, or agreement or in applicable nonbankruptcy  
18          law—

19                   “(A) of the kind described in subsection  
20                   (a)(1)(B) as applied to the debtor;

21                   “(B) that prohibits, restricts, or conditions the  
22                   assignment of the debt, contract, lease, or agree-  
23                   ment; or

24                   “(C) that terminates or modifies, or permits a  
25                   party other than the debtor to terminate or modify,

1 the debt, contract, lease or agreement on account  
2 of—

3 “(i) the assignment of the debt, contract,  
4 lease, or agreement; or

5 “(ii) a change in control of any party to  
6 the debt, contract, lease, or agreement.

7 “(2) If there is a default by the debtor under a provi-  
8 sion other than the kind described in paragraph (1) in  
9 a debt, contract, lease or agreement of the kind described  
10 in subparagraph (A) or (B) of subsection (a)(2), the  
11 bridge company may assume such debt, contract, lease,  
12 or agreement only if the bridge company—

13 “(A) shall cure the default;

14 “(B) compensates, or provides adequate assur-  
15 ance in connection with a transfer under section  
16 1185 that the bridge company will promptly com-  
17 pensate, a party other than the debtor to the debt,  
18 contract, lease, or agreement, for any actual pecu-  
19 niary loss to the party resulting from the default;  
20 and

21 “(C) provides adequate assurance in connection  
22 with a transfer under section 1185 of future per-  
23 formance under the debt, contract, lease, or agree-  
24 ment, as determined by the court under section  
25 1185(e)(3).

1 **“§ 1188. Treatment of qualified financial contracts**  
2 **and affiliate contracts**

3 “(a) Notwithstanding sections 362(b)(6), 362(b)(7),  
4 362(b)(17), 362(b)(27), 362(o), 555, 556, 559, 560, and  
5 561, a petition filed under section 1183 operates as a stay,  
6 during the period specified in section 1187(a)(3)(A), ap-  
7 plicable to all entities, of the exercise of a contractual  
8 right—

9 “(1) to cause the modification, liquidation, ter-  
10 mination, or acceleration of a qualified financial con-  
11 tract of the debtor or an affiliate;

12 “(2) to offset or net out any termination value,  
13 payment amount, or other transfer obligation arising  
14 under or in connection with a qualified financial con-  
15 tract of the debtor or an affiliate;

16 “(3) under any security agreement or arrange-  
17 ment or other credit enhancement forming a part of  
18 or related to a qualified financial contract of the  
19 debtor or an affiliate.

20 “(b)(1) During the period specified in section  
21 1187(a)(3)(A), the trustee or the affiliate shall perform  
22 all payment and delivery obligations under such qualified  
23 financial contract of the debtor or the affiliate, as the case  
24 may be, that become due after the commencement of the  
25 case. The stay provided under subsection (a) terminates  
26 as to a qualified financial contract of the debtor or an

1 affiliate immediately upon the failure of the trustee or the  
2 affiliate, as the case may be, to perform any such obliga-  
3 tion during such period.

4 “(2) Any failure by a counterparty to any qualified  
5 financial contract of the debtor or any affiliate to perform  
6 any payment or delivery obligation under such qualified  
7 financial contract, including during the pendency of the  
8 stay provided under subsection (a), shall constitute a  
9 breach of such qualified financial contract by the  
10 counterparty.

11 “(c) A qualified financial contract between an entity  
12 and the debtor may not be assigned to or assumed by the  
13 bridge company in a transfer under section 1185 unless—

14 “(1) all qualified financial contracts between  
15 the entity and the debtor are assigned to and as-  
16 sumed by the bridge company in the transfer under  
17 section 1185;

18 “(2) all claims of the entity against the debtor  
19 under any qualified financial contract between the  
20 entity and the debtor (other than any claim that,  
21 under the terms of the qualified financial contract,  
22 is subordinated to the claims of general unsecured  
23 creditors) are assigned to and assumed by the bridge  
24 company;

1           “(3) all claims of the debtor against the entity  
2           under any qualified financial contract between the  
3           entity and the debtor are assigned to and assumed  
4           by the bridge company; and

5           “(4) all property securing or any other credit  
6           enhancement furnished by the debtor for any quali-  
7           fied financial contract described in paragraph (1) or  
8           any claim described in paragraph (2) or (3) under  
9           any qualified financial contract between the entity  
10          and the debtor is assigned to and assumed by the  
11          bridge company.

12          “(d) Notwithstanding any provision of a qualified fi-  
13          nancial contract or of applicable nonbankruptcy law, a  
14          qualified financial contract of the debtor that is assumed  
15          or assigned in a transfer under section 1185 may not be  
16          accelerated, terminated, or modified, after the entry of the  
17          order approving a transfer under section 1185, and any  
18          right or obligation under the qualified financial contract  
19          may not be accelerated, terminated, or modified, after the  
20          entry of the order approving a transfer under section 1185  
21          solely because of a condition described in section  
22          1187(c)(1), other than a condition of the kind specified  
23          in section 1187(a)(1)(B)(iv)(III) or section 1187(b) that  
24          occurs after property of the estate no longer includes a  
25          direct beneficial interest or an indirect beneficial interest

1 through the special trustee, in more than 50 percent of  
2 the equity securities of the bridge company.

3 “(e) Notwithstanding any provision of any agreement  
4 or in applicable nonbankruptcy law, an agreement of an  
5 affiliate (including an executory contract, an unexpired  
6 lease, qualified financial contract, or an agreement under  
7 which the affiliate issued or is obligated for debt) and any  
8 right or obligation under such agreement may not be ter-  
9 minated or modified, solely because of a condition de-  
10 scribed in section 1187(c)(1), other than a condition of  
11 the kind specified in section 1187(a)(1)(B)(iv)(III) or sec-  
12 tion 1187(b) that occurs after the bridge company is no  
13 longer a direct or indirect beneficial holder of more than  
14 50 percent of the equity securities of the affiliate, at any  
15 time after the commencement of the case if—

16 “(1) all direct or indirect interests in the affil-  
17 iate that are property of the estate are transferred  
18 under section 1185 to the bridge company within the  
19 period specified in subsection (a);

20 “(2) the bridge company assumes—

21 “(A) any guarantee or other credit en-  
22 hancement issued by the debtor relating to the  
23 agreement of the affiliate; and

24 “(B) any right of setoff, netting arrange-  
25 ment, or debt of the debtor that directly arises

1 out of or directly relates to the guarantee or  
2 credit enhancement; and

3 “(3) any property of the estate that directly  
4 serves as collateral for the guarantee or credit en-  
5 hancement is transferred to the bridge company.

6 **“§ 1189. Licenses, permits, and registrations**

7 “(a) Notwithstanding any otherwise applicable non-  
8 bankruptcy law, if a request is made under section 1185  
9 for a transfer of property of the estate, any Federal, State,  
10 or local license, permit, or registration that the debtor or  
11 an affiliate had immediately before the commencement of  
12 the case and that is proposed to be transferred under sec-  
13 tion 1185 may not be terminated or modified at any time  
14 after the request solely on account of—

15 “(1) the insolvency or financial condition of the  
16 debtor at any time before the closing of the case;

17 “(2) the commencement of a case under this  
18 title concerning the debtor;

19 “(3) the appointment of or taking possession by  
20 a trustee in a case under this title concerning the  
21 debtor or by a custodian before the commencement  
22 of the case; or

23 “(4) a transfer under section 1185.

24 “(b) Notwithstanding any otherwise applicable non-  
25 bankruptcy law, any Federal, State, or local license, per-

1 mit, or registration that the debtor had immediately before  
2 the commencement of the case that is included in a trans-  
3 fer under section 1185 shall be valid and all rights and  
4 obligations thereunder shall vest in the bridge company.

5 **“§ 1190. Exemption from securities laws**

6 “For purposes of section 1145, a security of the  
7 bridge company shall be deemed to be a security of a suc-  
8 cessor to the debtor under a plan if the court approves  
9 the disclosure statement for the plan as providing ade-  
10 quate information (as defined in section 1125(a)) about  
11 the bridge company and the security.

12 **“§ 1191. Inapplicability of certain avoiding powers**

13 “A transfer made or an obligation incurred by the  
14 debtor to an affiliate prior to or after the commencement  
15 of the case, including any obligation released by the debtor  
16 or the estate to or for the benefit of an affiliate, in con-  
17 templation of or in connection with a transfer under sec-  
18 tion 1185 is not avoidable under section 544, 547,  
19 548(a)(1)(B), or 549, or under any similar nonbankruptcy  
20 law.

21 **“§ 1192. Consideration of Financial Stability**

22 “The court may consider the effect that any decision  
23 in connection with this subchapter may have on financial  
24 stability in the United States.”.

1 **SEC. 4. AMENDMENTS TO TITLE 28, UNITED STATES CODE.**

2 (a) AMENDMENT TO CHAPTER 13.—Chapter 13 of  
3 title 28, United States Code, is amended by adding at the  
4 end the following:

5 **“§ 298. Judge for a case under subchapter V of chap-**  
6 **ter 11 of title 11**

7 “(a) Notwithstanding section 295, the Chief Justice  
8 of the United States shall designate not fewer than 3  
9 judges of the courts of appeals in not fewer than 4 circuits  
10 to serve on an appellate panel to be available to hear an  
11 appeal under section 1183 of title 11 in a case under such  
12 title concerning a covered financial corporation. Appellate  
13 judges may request to be considered by the Chief Justice  
14 of the United States for such designation.

15 “(b)(1) Notwithstanding section 295, the Chief Jus-  
16 tice of the United States shall designate not fewer than  
17 10 bankruptcy judges to be available to hear a case under  
18 subchapter V of chapter 11 of title 11. Bankruptcy judges  
19 may request to be considered by the Chief Justice of the  
20 United States for such designation.

21 “(2) Notwithstanding section 155, a case under sub-  
22 chapter V of chapter 11 of title 11 shall be heard under  
23 section 157 by a bankruptcy judge designated under para-  
24 graph (1), who shall be assigned to hear such case by the  
25 chief judge of the court of appeals for the circuit embrac-  
26 ing the district in which the case is pending. To the great-

1 est extent practicable, the parties should obtain the ap-  
2 provals required under section 155.

3 “(3) If the bankruptcy judge assigned to hear a case  
4 under paragraph (2) is not assigned to the district in  
5 which the case is pending, the bankruptcy judge shall be  
6 temporarily assigned to the district.

7 “(c)(1) The court of appeals shall have jurisdiction  
8 of appeals from all orders for relief and orders of dismissal  
9 under section 1183 of title 11.

10 “(2) Notwithstanding section 295, in an appeal under  
11 paragraph (1) in a case under title 11 concerning a cov-  
12 ered financial corporation shall be heard by—

13 “(A) 3 judges selected from the appellate panel  
14 designated under subsection (a); or

15 “(B) if the 3 judges of such panel are not im-  
16 mediately available to hear the case, 3 judges des-  
17 igned under subsection (a) from another circuit  
18 and assigned by the Chief Justice of the United  
19 States to hear the case.

20 “(3) If any of the judges of the appellate panel speci-  
21 fied in paragraph (2) are not assigned to the circuit in  
22 which the appeal is pending, the judges shall be tempo-  
23 rarily assigned to the circuit.

1       “(4) A case under subchapter V of chapter 11 of title  
2 11, and all proceedings in the case, shall take place in  
3 the district in which the case is pending.

4       “(d) In this section, the term ‘covered financial cor-  
5 poration’ has the meaning given that term in section  
6 101(9A) of title 11.”.

7       (b) AMENDMENT TO SECTION 1334.—Section 1334  
8 of title 28, United States Code, is amended by adding at  
9 the end the following:

10       “(f) This section does not grant jurisdiction to the  
11 district court after a transfer pursuant to an order under  
12 section 1185 of title 11 of any proceeding related to a spe-  
13 cial trustee appointed, or to a bridge company formed, in  
14 connection with a case under subchapter V of chapter 11  
15 of title 11.”.

16       (c) TECHNICAL AND CONFORMING AMENDMENT.—  
17 The table of sections for chapter 13 of title 28, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

“298. Judge for a case under subchapter V of chapter 11 of title 11.”.