

**Suspend the Rules and Pass the Bill (H.R. 1667) With An  
Amendment**

**(The amendment strikes all after the enacting clause and inserts a  
new text.)**

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1667

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

MARCH 22, 2017

Mr. MARINO (for himself, Mr. GOODLATTE, Mr. CONYERS, and Mr.  
CICILLINE) introduced the following bill; which was referred to the Com-  
mittee on the Judiciary

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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 institu-  
tion 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 2017”.

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 pri-  
16 mary purpose of owning, controlling and financ-  
17 ing its subsidiaries, that has total consolidated  
18 assets of \$50,000,000,000 or greater, and for  
19 which, in its most recently completed fiscal  
20 year—

21 “(i) annual gross revenues derived by  
22 the corporation and all of its subsidiaries  
23 from activities that are financial in nature  
24 (as defined in section 4(k) of the Bank  
25 Holding Company Act of 1956) and, if ap-  
26 plicable, from the ownership or control of

1 one or more insured depository institu-  
2 tions, represents 85 percent or more of the  
3 consolidated annual gross revenues of the  
4 corporation; or

5 “(ii) the consolidated assets of the  
6 corporation and all of its subsidiaries re-  
7 lated to activities that are financial in na-  
8 ture (as defined in section 4(k) of the  
9 Bank Holding Company Act of 1956) and,  
10 if applicable, related to the ownership or  
11 control of one or more insured depository  
12 institutions, represents 85 percent or more  
13 of the consolidated assets of the corpora-  
14 tion.”.

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

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

21 (c) WHO MAY BE A DEBTOR.—Section 109 of title  
22 11, United States Code, is amended—

23 (1) in subsection (b)—

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

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

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

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

5 (2) in subsection (d)—

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

8 (B) by striking “or” before “a corpora-  
9 tion”; and

10 (C) by inserting “, or a covered financial  
11 corporation” after “Federal Deposit Insurance  
12 Corporation Improvement Act of 1991”.

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

16 “(g) Notwithstanding section 109(b), the court may  
17 convert a case under subchapter V to a case under chapter  
18 7 if—

19 “(1) a transfer approved under section 1185  
20 has been consummated;

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

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

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

5 (2) Section 1129(a) of title 11, United States Code,  
6 is amended by inserting after paragraph (16) the fol-  
7 lowing:

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

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

16 (f) Section 322(b)(2) of title 11, United States Code,  
17 is amended by striking “The” and inserting “In cases  
18 under subchapter V, the United States trustee shall rec-  
19 ommend to the court, and in all other cases, the”.

20 **SEC. 3. LIQUIDATION, REORGANIZATION, OR RECAPITAL-**  
21 **IZATION OF A COVERED FINANCIAL COR-**  
22 **PORATION.**

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

1 “SUBCHAPTER V—LIQUIDATION, REORGANIZA-  
2 TION, OR RECAPITALIZATION OF A COV-  
3 ERED FINANCIAL CORPORATION

4 **“§ 1181. Inapplicability of other sections**

5 “Sections 303 and 321(c) do not apply in a case  
6 under this subchapter concerning a covered financial cor-  
7 poration. Section 365 does not apply to a transfer under  
8 section 1185, 1187, or 1188.

9 **“§ 1182. Definitions for this subchapter**

10 “In this subchapter, the following definitions shall  
11 apply:

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

14 “(2) The term ‘bridge company’ means a newly  
15 formed corporation to which property of the estate  
16 may be transferred under section 1185(a) and the  
17 equity securities of which may be transferred to a  
18 special trustee under section 1186(a).

19 “(3) The term ‘capital structure debt’ means all  
20 unsecured debt of the debtor for borrowed money for  
21 which the debtor is the primary obligor, other than  
22 a qualified financial contract and other than debt se-  
23 cured by a lien on property of the estate that is to  
24 be transferred to a bridge company pursuant to an  
25 order of the court under section 1185(a).

1           “(4) The term ‘contractual right’ means a con-  
2           tractual right of a kind defined in section 555, 556,  
3           559, 560, or 561.

4           “(5) The term ‘qualified financial contract’  
5           means any contract of a kind defined in paragraph  
6           (25), (38A), (47), or (53B) of section 101, section  
7           741(7), or paragraph (4), (5), (11), or (13) of sec-  
8           tion 761.

9           “(6) The term ‘special trustee’ means the trust-  
10          ee of a trust formed under section 1186(a)(1).

11    **“§ 1183. Commencement of a case concerning a cov-  
12          ered financial corporation**

13          “(a) A case under this subchapter concerning a cov-  
14          ered financial corporation may be commenced by the filing  
15          of a petition with the court by the debtor under section  
16          301 only if the debtor states to the best of its knowledge  
17          under penalty of perjury in the petition that it is a covered  
18          financial corporation.

19          “(b) The commencement of a case under subsection  
20          (a) constitutes an order for relief under this subchapter.

21          “(c) The members of the board of directors (or body  
22          performing similar functions) of a covered financial cor-  
23          poration shall have no liability to shareholders, creditors,  
24          or other parties in interest for a good faith filing of a peti-  
25          tion to commence a case under this subchapter, or for any

1 reasonable action taken in good faith in contemplation of  
2 such a petition or a transfer under section 1185 or section  
3 1186, whether prior to or after commencement of the case.

4 “(d) Counsel to the debtor shall provide, to the great-  
5 est extent practicable without disclosing the identity of the  
6 potential debtor, sufficient confidential notice to the chief  
7 judge of the court of appeals for the circuit embracing the  
8 district in which such counsel intends to file a petition to  
9 commence a case under this subchapter regarding the po-  
10 tential commencement of such case. The chief judge of  
11 such court shall randomly assign to preside over such case  
12 a bankruptcy judge selected from among the bankruptcy  
13 judges designated by the Chief Justice of the United  
14 States under section 298 of title 28.

15 **“§ 1184. Regulators**

16 “The Board, the Securities Exchange Commission,  
17 the Office of the Comptroller of the Currency of the De-  
18 partment of the Treasury, the Commodity Futures Trad-  
19 ing Commission, and the Federal Deposit Insurance Cor-  
20 poration may raise and may appear and be heard on any  
21 issue in any case or proceeding under this subchapter.

22 **“§ 1185. Special transfer of property of the estate**

23 “(a) On request of the trustee, and after notice and  
24 a hearing that shall occur not less than 24 hours after  
25 the order for relief, the court may order a transfer under



1 this section of property of the estate, and the assignment  
2 of executory contracts, unexpired leases, and qualified fi-  
3 nancial contracts of the debtor, to a bridge company.  
4 Upon the entry of an order approving such transfer, any  
5 property transferred, and any executory contracts, unex-  
6 pired leases, and qualified financial contracts assigned  
7 under such order shall no longer be property of the estate.  
8 Except as provided under this section, the provisions of  
9 section 363 shall apply to a transfer and assignment under  
10 this section.

11 “(b) Unless the court orders otherwise, notice of a  
12 request for an order under subsection (a) shall consist of  
13 electronic or telephonic notice of not less than 24 hours  
14 to—

15 “(1) the debtor;

16 “(2) the holders of the 20 largest secured  
17 claims against the debtor;

18 “(3) the holders of the 20 largest unsecured  
19 claims against the debtor;

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

23 “(5) the Board;

24 “(6) the Federal Deposit Insurance Corpora-  
25 tion;

1           “(7) the Secretary of the Treasury and the Of-  
2           fice of the Comptroller of the Currency of the Treas-  
3           ury;

4           “(8) the Commodity Futures Trading Commis-  
5           sion;

6           “(9) the Securities and Exchange Commission;

7           “(10) the United States trustee or bankruptcy  
8           administrator; and

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

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

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

20                 “(2) the transfer does not provide for the as-  
21                 sumption of any capital structure debt by the bridge  
22                 company;

23                 “(3) the transfer does not provide for the trans-  
24                 fer to the bridge company of any property of the es-  
25                 tate that is subject to a lien securing a debt, execu-

1 tory contract, unexpired lease or agreement (includ-  
2 ing a qualified financial contract) of the debtor un-  
3 less—

4 “(A)(i) the bridge company assumes such  
5 debt, executory contract, unexpired lease or  
6 agreement (including a qualified financial con-  
7 tract), including any claims arising in respect  
8 thereof that would not be allowed secured  
9 claims under section 506(a)(1) and after giving  
10 effect to such transfer, such property remains  
11 subject to the lien securing such debt, executory  
12 contract, unexpired lease or agreement (includ-  
13 ing a qualified financial contract); and

14 “(ii) the court has determined that as-  
15 sumption of such debt, executory contract, un-  
16 expired lease or agreement (including a quali-  
17 fied financial contract) by the bridge company  
18 is in the best interests of the estate; or

19 “(B) such property is being transferred to  
20 the bridge company in accordance with the pro-  
21 visions of section 363;

22 “(4) the transfer does not provide for the as-  
23 sumption by the bridge company of any debt, execu-  
24 tory contract, unexpired lease or agreement (includ-  
25 ing a qualified financial contract) of the debtor se-

1       cured by a lien on property of the estate unless the  
2       transfer provides for such property to be transferred  
3       to the bridge company in accordance with paragraph  
4       (3)(A) of this subsection;

5             “(5) the transfer does not provide for the trans-  
6       fer of the equity of the debtor;

7             “(6) the trustee has demonstrated that the  
8       bridge company is not likely to fail to meet the obli-  
9       gations of any debt, executory contract, qualified fi-  
10      nancial contract, or unexpired lease assumed and as-  
11      signed to the bridge company;

12            “(7) the transfer provides for the transfer to a  
13      special trustee all of the equity securities in the  
14      bridge company and appointment of a special trustee  
15      in accordance with section 1186;

16            “(8) after giving effect to the transfer, ade-  
17      quate provision has been made for the fees, costs,  
18      and expenses of the estate and special trustee; and

19            “(9) the bridge company will have governing  
20      documents, and initial directors and senior officers,  
21      that are in the best interest of creditors and the es-  
22      tate.

23            “(d) Immediately before a transfer under this section,  
24      the bridge company that is the recipient of the transfer  
25      shall—

1           “(1) not have any property, executory con-  
2           tracts, unexpired leases, qualified financial contracts,  
3           or debts, other than any property acquired or execu-  
4           tory contracts, unexpired leases, or debts assumed  
5           when acting as a transferee of a transfer under this  
6           section; and

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

10 **“§ 1186. Special trustee**

11           “(a)(1) An order approving a transfer under section  
12 1185 shall require the trustee to transfer to a qualified  
13 and independent special trustee, who is appointed by the  
14 court, all of the equity securities in the bridge company  
15 that is the recipient of a transfer under section 1185 to  
16 hold in trust for the sole benefit of the estate, subject to  
17 satisfaction of the special trustee’s fees, costs, and ex-  
18 penses. The trust of which the special trustee is the trust-  
19 ee shall be a newly formed trust governed by a trust agree-  
20 ment approved by the court as in the best interests of the  
21 estate, and shall exist for the sole purpose of holding and  
22 administering, and shall be permitted to dispose of, the  
23 equity securities of the bridge company in accordance with  
24 the trust agreement.

1           “(2) In connection with the hearing to approve a  
2 transfer under section 1185, the trustee shall confirm to  
3 the court that the Board has been consulted regarding the  
4 identity of the proposed special trustee and advise the  
5 court of the results of such consultation.

6           “(b) The trust agreement governing the trust shall  
7 provide—

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

11                   “(2) that the special trustee provide—

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

14                           “(B) information about the bridge com-  
15 pany reasonably requested by a party in inter-  
16 est to prepare a disclosure statement for a plan  
17 providing for distribution of any securities of  
18 the bridge company if such information is nec-  
19 essary to prepare such disclosure statement;

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

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

1           “(B) any modification to the governing  
2 documents of the bridge company; and

3           “(C) any material corporate action of the  
4 bridge company, including—

5                   “(i) recapitalization;

6                   “(ii) a material borrowing;

7                   “(iii) termination of an intercompany  
8 debt or guarantee;

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

11           or

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

14           “(4) that any sale of any equity securities of  
15 the bridge company shall not be consummated until  
16 the special trustee consults with the Federal Deposit  
17 Insurance Corporation and the Board regarding  
18 such sale and discloses the results of such consulta-  
19 tion with the court;

20           “(5) that, subject to reserves for payments per-  
21 mitted under paragraph (1) provided for in the trust  
22 agreement, the proceeds of the sale of any equity se-  
23 curities of the bridge company by the special trustee  
24 be held in trust for the benefit of or transferred to  
25 the estate;

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

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

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

8           “(A) if the court confirms a plan in the case,  
9           in accordance with the plan on the effective date of  
10          the plan; or

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

13          “(2) As soon as practicable after a final distribution  
14 under paragraph (1), the office of the special trustee shall  
15 terminate, except as may be necessary to wind up and con-  
16 clude the business and financial affairs of the trust.

17          “(d) After a transfer to the special trustee under this  
18 section, the special trustee shall be subject only to applica-  
19 ble nonbankruptcy law, and the actions and conduct of  
20 the special trustee shall no longer be subject to approval  
21 by the court in the case under this subchapter.

22   **“§ 1187. Temporary and supplemental automatic stay;  
23          assumed debt**

24          “(a)(1) A petition filed under section 1183 operates  
25 as a stay, applicable to all entities, of the termination, ac-



1 celeration, or modification of any debt, contract, lease, or  
2 agreement of the kind described in paragraph (2), or of  
3 any right or obligation under any such debt, contract,  
4 lease, or agreement, solely because of—

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

7           “(B) a provision in such debt, contract, lease,  
8 or agreement, or in applicable nonbankruptcy law,  
9 that is conditioned on—

10           “(i) the insolvency or financial condition of  
11 the debtor at any time before the closing of the  
12 case;

13           “(ii) the commencement of a case under  
14 this title concerning the debtor;

15           “(iii) the appointment of or taking posses-  
16 sion by a trustee in a case under this title con-  
17 cerning the debtor or by a custodian before the  
18 commencement of the case; or

19           “(iv) a credit rating agency rating, or ab-  
20 sence or withdrawal of a credit rating agency  
21 rating—

22           “(I) of the debtor at any time after  
23 the commencement of the case;

1           “(II) of an affiliate during the period  
2           from the commencement of the case until  
3           48 hours after such order is entered;

4           “(III) of the bridge company while the  
5           trustee or the special trustee is a direct or  
6           indirect beneficial holder of more than 50  
7           percent of the equity securities of—

8                   “(aa) the bridge company; or

9                   “(bb) the affiliate, if all of the di-  
10                  rect or indirect interests in the affil-  
11                  iate that are property of the estate  
12                  are transferred under section 1185; or

13           “(IV) of an affiliate while the trustee  
14           or the special trustee is a direct or indirect  
15           beneficial holder of more than 50 percent  
16           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.

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

1           “(A) any debt (other than capital structure  
2 debt), executory contract, or unexpired lease of the  
3 debtor (other than a qualified financial contract);

4           “(B) any agreement under which the debtor  
5 issued or is obligated for debt (other than capital  
6 structure debt);

7           “(C) any debt, executory contract, or unexpired  
8 lease of an affiliate (other than a qualified financial  
9 contract); or

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

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

13           “(A) for the benefit of the debtor, upon the ear-  
14 liest of—

15           “(i) 48 hours after the commencement of  
16 the case;

17           “(ii) assumption of the debt, contract,  
18 lease, or agreement by the bridge company  
19 under an order authorizing a transfer under  
20 section 1185;

21           “(iii) a final order of the court denying the  
22 request for a transfer under section 1185; or

23           “(iv) the time the case is dismissed; and

24           “(B) for the benefit of an affiliate, upon the  
25 earliest of—

1           “(i) the entry of an order authorizing a  
2           transfer under section 1185 in which the direct  
3           or indirect interests in the affiliate that are  
4           property of the estate are not transferred under  
5           section 1185;

6           “(ii) a final order by the court denying the  
7           request for a transfer under section 1185;

8           “(iii) 48 hours after the commencement of  
9           the case if the court has not ordered a transfer  
10          under section 1185; or

11          “(iv) the time the case is dismissed.

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

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

21                 “(1) prohibits, restricts, or conditions the as-  
22                 signment of the debt, contract, lease, or agreement;  
23                 or

24                 “(2) accelerates, terminates, or modifies, or  
25                 permits a party other than the debtor to terminate

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

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

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

7 “(c)(1) A debt, contract, lease, or agreement of the  
8 kind described in subparagraph (A) or (B) of subsection  
9 (a)(2) may not be accelerated, terminated, or modified,  
10 and any right or obligation under such debt, contract,  
11 lease, or agreement may not be accelerated, terminated,  
12 or modified, as to the bridge company solely because of  
13 a provision in the debt, contract, lease, or agreement or  
14 in applicable nonbankruptcy law—

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

17 “(B) that prohibits, restricts, or conditions the  
18 assignment of the debt, contract, lease, or agree-  
19 ment; or

20 “(C) that accelerates, terminates, or modifies,  
21 or permits a party other than the debtor to termi-  
22 nate or modify, the debt, contract, lease or agree-  
23 ment on account of—

24 “(i) the assignment of the debt, contract,  
25 lease, or agreement; or

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

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

9           “(A) shall cure the default;

10          “(B) compensates, or provides adequate assur-  
11 ance in connection with a transfer under section  
12 1185 that the bridge company will promptly com-  
13 pensate, a party other than the debtor to the debt,  
14 contract, lease, or agreement, for any actual pecu-  
15 niary loss to the party resulting from the default;  
16 and

17          “(C) provides adequate assurance in connection  
18 with a transfer under section 1185 of future per-  
19 formance under the debt, contract, lease, or agree-  
20 ment, as determined by the court under section  
21 1185(c)(4).

22 **“§ 1188. Treatment of qualified financial contracts**  
23 **and affiliate contracts**

24          “(a) Notwithstanding sections 362(b)(6), 362(b)(7),  
25 362(b)(17), 362(b)(27), 362(o), 555, 556, 559, 560, and

1 561, a petition filed under section 1183 operates as a stay,  
2 during the period specified in section 1187(a)(3)(A), ap-  
3 plicable to all entities, of the exercise of a contractual  
4 right—

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

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

12 “(3) under any security agreement or arrange-  
13 ment or other credit enhancement forming a part of  
14 or related to a qualified financial contract of the  
15 debtor or an affiliate.

16 “(b)(1) During the period specified in section  
17 1187(a)(3)(A), the trustee or the affiliate shall perform  
18 all payment and delivery obligations under such qualified  
19 financial contract of the debtor or the affiliate, as the case  
20 may be, that become due after the commencement of the  
21 case. The stay provided under subsection (a) terminates  
22 as to a qualified financial contract of the debtor or an  
23 affiliate immediately upon the failure of the trustee or the  
24 affiliate, as the case may be, to perform any such obliga-  
25 tion during such period.

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

8           “(c) Subject to the court’s approval, a qualified finan-  
9 cial contract between an entity and the debtor may be as-  
10 signed to or assumed by the bridge company in a transfer  
11 under, and in accordance with, section 1185 if and only  
12 if—

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

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

24           “(3) all claims of the debtor against the entity  
25 under any qualified financial contract between the



1       entity and the debtor are assigned to and assumed  
2       by the bridge company; and

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

10       “(d) Notwithstanding any provision of a qualified fi-  
11      nancial contract or of applicable nonbankruptcy law, a  
12      qualified financial contract of the debtor that is assumed  
13      or assigned in a transfer under section 1185 may not be  
14      accelerated, terminated, or modified, after the entry of the  
15      order approving a transfer under section 1185, and any  
16      right or obligation under the qualified financial contract  
17      may not be accelerated, terminated, or modified, after the  
18      entry of the order approving a transfer under section 1185  
19      solely because of a condition described in section  
20      1187(c)(1), other than a condition of the kind specified  
21      in section 1187(b) that occurs after property of the estate  
22      no longer includes a direct beneficial interest or an indi-  
23      rect beneficial interest through the special trustee, in more  
24      than 50 percent of the equity securities of the bridge com-  
25      pany.

1           “(e) Notwithstanding any provision of any agreement  
2 or in applicable nonbankruptcy law, an agreement of an  
3 affiliate (including an executory contract, an unexpired  
4 lease, qualified financial contract, or an agreement under  
5 which the affiliate issued or is obligated for debt) and any  
6 right or obligation under such agreement may not be ac-  
7 celerated, terminated, or modified, solely because of a con-  
8 dition described in section 1187(c)(1), other than a condi-  
9 tion of the kind specified in section 1187(b) that occurs  
10 after the bridge company is no longer a direct or indirect  
11 beneficial holder of more than 50 percent of the equity  
12 securities of the affiliate, at any time after the commence-  
13 ment of the case if—

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

18           “(2) the bridge company assumes—

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

22           “(B) any obligations in respect of rights of  
23 setoff, netting arrangement, or debt of the debt-  
24 or that directly arises out of or directly relates  
25 to the guarantee or credit enhancement; and

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

4   **“§ 1189. Licenses, permits, and registrations**

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

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

15           “(2) the commencement of a case under this  
16          title concerning the debtor;

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

21           “(4) a transfer under section 1185.

22          “(b) Notwithstanding any otherwise applicable non-  
23          bankruptcy law, any Federal, State, or local license, per-  
24          mit, or registration that the debtor had immediately before  
25          the commencement of the case that is included in a trans-

1 fer under section 1185 shall be valid and all rights and  
2 obligations thereunder shall vest in the bridge company.

3 **“§ 1190. Exemption from securities laws**

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

10 **“§ 1191. Inapplicability of certain avoiding powers**

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

19 **“§ 1192. Consideration of financial stability**

20 “The court may consider the effect that any decision  
21 in connection with this subchapter may have on financial  
22 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)(1) Notwithstanding section 295, the Chief Jus-  
8 tice of the United States shall designate not fewer than  
9 10 bankruptcy judges to be available to hear a case under  
10 subchapter V of chapter 11 of title 11. Bankruptcy judges  
11 may request to be considered by the Chief Justice of the  
12 United States for such designation.

13 “(2) Notwithstanding section 155, a case under sub-  
14 chapter V of chapter 11 of title 11 shall be heard under  
15 section 157 by a bankruptcy judge designated under para-  
16 graph (1), who shall be randomly assigned to hear such  
17 case by the chief judge of the court of appeals for the cir-  
18 cuit embracing the district in which the case is pending.  
19 To the greatest extent practicable, the approvals required  
20 under section 155 should be obtained.

21 “(3) If the bankruptcy judge assigned to hear a case  
22 under paragraph (2) is not assigned to the district in  
23 which the case is pending, the bankruptcy judge shall be  
24 temporarily assigned to the district.

1           “(b) 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           “(c) 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 OF TITLE 28.—  
8 Section 1334 of title 28, United States Code, is amended  
9 by adding at 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 AMENDMENTS.—

17           (1) The table of sections of chapter 13 of title  
18 28, United States Code, is amended by adding at  
19 the end the following:

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

20           (2) The table of subchapters of chapter 11 of  
21 title 11, United States Code, is amended by adding  
22 at the end the following:

“SUBCHAPTER V—LIQUIDATION, REORGANIZATION, OR RECAPITALIZATION OF  
A COVERED FINANCIAL CORPORATION

“1181. Inapplicability of other sections.

“1182. Definitions for this subchapter.

“1183. Commencement of a case concerning a covered financial corporation.

- “1184. Regulators.
- “1185. Special transfer of property of the estate.
- “1186. Special trustee.
- “1187. Temporary and supplemental automatic stay; assumed debt.
- “1188. Treatment of qualified financial contracts and affiliate contracts.
- “1189. Licenses, permits, and registrations.
- “1190. Exemption from securities laws.
- “1191. Inapplicability of certain avoiding powers.
- “1192. Consideration of financial stability.”.