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TITLE 42--THE PUBLIC HEALTH AND WELFARE

CHAPTER 130--NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I--GENERAL PROVISIONS AND POLICIES

Sec. 12712. 5-year energy efficiency plan

(a) Establishment

The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) of this section to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) Initial plan

The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on November 28, 1990.

(c) Updates

The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) of this section to the Congress (as provided in subsection (d) of this section). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) Submission to Congress

The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) of this section and any updated plans under subsection (c) of this section to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(Pub. L. 101-625, title IX, Sec. 945, Nov. 28, 1990, 104 Stat. 4416.)

References in Text

Section 944, referred to in subsec. (a), is section 944 of Pub. L.

101-625, which is set out below.

#### Codification

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

#### Energy Efficient Mortgages Pilot Program

Pub. L. 102-550, title V, Sec. 513, Oct. 28, 1992, 106 Stat. 3786, provided that:

((a) Establishment of Pilot Program.--

((1) In general.--Not later than 6 months after the date of enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development (hereafter referred to as the 'Secretary') shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

((2) Pilot program.--The pilot program established under this subsection shall include the following criteria, where applicable:

((A) Origination.--The lender shall originate a housing loan that is insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] in accordance with the applicable requirements.

((B) Approval.--The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

((C) Cost of improvements.--The cost of cost-effective energy efficiency improvements shall not exceed the greater of--

((i) 5 percent of the property value (not to exceed \$8,000); or

((ii) \$4,000.

((3) Authority for mortgagees.--In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority--

((A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act [12 U.S.C. 1707 et seq.] by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

((B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

((C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

((4) Promotion of pilot program.--The Secretary shall encourage participation in the energy efficient mortgage pilot program by--

((A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

((B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

((C) requiring each applicant for a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

((5) Training program.--Not later than 9 months after the date of enactment of this Act [Oct. 28, 1992], the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

((6) Report.--Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

((b) Expansion of Program.--Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

((c) Definitions.--For purposes of this section:

((1) The term 'base loan' means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

((2) The term 'cost-effective' means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

((3) The term 'energy efficient mortgage' means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would

otherwise have qualified for a base loan.

((4) The term 'residential building' means any attached or unattached single family residence.

((d) Rule of Construction.--This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

((e) Regulations.--The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

((f) Authorization of Appropriations.--There are authorized to be appropriated such sums as may be necessary to carry out this section.''

Similar provisions were contained in Pub. L. 102-486, title I, Sec. 106, Oct. 24, 1992, 106 Stat. 2792.

#### Energy Assessment Report

Section 944 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to submit a report to Congress, not later than one year after Nov. 28, 1990, assessing any activity undertaken by the Secretary to increase energy efficiency in housing, such report to include an analysis of the Aug. 15, 1990, DOE-HUD program to expand energy efficiency and increase affordability of federally-assisted housing, and provided that in such report Secretary of Housing and Urban Development (in consultation with Secretary of Energy) was to establish, and include a description of, a standard measure by which changes over time in residential energy efficiency could be compared.

#### Uniform Mortgage Financing Plan for Energy Efficiency

Section 946 of Pub. L. 101-625, as amended by Pub. L. 102-486, title I, Sec. 105(b), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102-550, title IX, Sec. 914(b), Oct. 28, 1992, 106 Stat. 3877, provided that:

((a) Uniform Plan.--The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through energy efficient mortgages (as such term is defined in section 104 of this Act [42 U.S.C. 12704]). The plan shall be promulgated not later than 2 years after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].

((b) Task Force.--To develop the plan, the Secretary shall form a task force to make recommendation[s] on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include, but not be limited to, individuals representing the Federal Housing Administration mortgage programs of the Department of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal

Home Loan Mortgage Corporation, and the Federal National Mortgage Association. The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.''

#### Energy Efficiency Demonstration

Section 961 of Pub. L. 101-625 directed Secretary of Housing and Urban Development to establish a program to demonstrate various methods of improving the energy efficiency of existing housing, provided for funding, provided that the demonstration determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed, and directed Secretary, as soon as practicable after Sept. 30, 1991, to submit to Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration.