

**§ 1701z-16. Energy efficient mortgages pilot program**

**(a) Establishment of pilot program**

**(1) In general**

Not later than 6 months after October 24, 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) Costs 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 5 percent of the limit established under section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A));<sup>1</sup> or
- (ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act [12 U.S.C. 1709(b)(2)(B)].

**(D) Limitation**

In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Development under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.

**(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 October 24, 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 October 24, 1992, 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 that does not include the cost of cost-effective energy improvements.

<sup>1</sup> So in original. There probably should be an additional closing parenthesis.

(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 October 24, 1992. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5 (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.

(Pub. L. 102-486, title I, §106, Oct. 24, 1992, 106 Stat. 2792; Pub. L. 110-289, div. B, title I, §2123, July 30, 2008, 122 Stat. 2839.)

#### REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a)(2)(A), (D), (3)(A), (4)(C), and (c)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the National Housing Act which comprises this chapter.

Section was formerly classified as a note under section 12712 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2008—Subsec. (a)(2)(C). Pub. L. 110-289, §2123(1), amended subpar. (C) generally. Prior to amendment, text read as follows: “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.”

Subsec. (a)(2)(D). Pub. L. 110-289, §2123(2), added subpar. (D).

#### SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 102-550, title V, §513, Oct. 28, 1992, 106 Stat. 3786.

### § 1701z-17. Increasing access and understanding of energy efficient mortgages

#### (a) Definition

As used in this section, the term “energy efficient mortgage” has the same meaning as given that term in paragraph (24) of section 12704 of title 42.

#### (b) Recommendations to eliminate barriers to use of energy efficient mortgages

##### (1) In general

Not later than 180 days after July 30, 2008, the Secretary of Housing and Urban Development, in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall consult with the residential mortgage industry and States to develop recommendations to eliminate the barriers that exist to increasing the availability, use, and purchase of energy efficient mortgages, including such barriers as—

(A) the lack of reliable and accessible information on such mortgages, including estimated energy savings and other benefits of energy efficient housing;

(B) the confusion regarding underwriting requirements and differences among various energy efficient mortgage programs;

(C) the complex and time consuming process of securing such mortgages;

(D) the lack of publicly available research on the default risk of such mortgages; and

(E) the availability of certified or accredited home energy rating services.

##### (2) Report to Congress

The Secretary of Housing and Urban Development shall submit a report to Congress that—

(A) summarizes the recommendations developed under paragraph (1); and

(B) includes any recommendations for statutory, regulatory, or administrative changes that the Secretary deems necessary to institute such recommendations.

#### (c) Energy efficient mortgages outreach campaign

##### (1) In general

The Secretary of Housing and Urban Development, in consultation and coordination with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and State Energy and Housing Finance Directors, shall carry out an education and outreach campaign to inform and educate consumers,