

## § 12709. Energy efficiency standards

### (a) Establishment

#### (1) In general

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than September 30, 2006, jointly establish, by rule, energy efficiency standards for—

(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.];

(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; and

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title.

#### (2) Contents

Such standards shall meet or exceed the requirements of the 2006 International Energy Conservation Code (hereafter in this section referred to as “the 2006 IECC”), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-2004 (hereafter in this section referred to as “ASHRAE Standard 90.1-2004”), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

### (b) International Energy Conservation Code

If the Secretaries have not, by September 30, 2006, established energy efficiency standards under subsection (a), all new construction and rehabilitation of housing specified in such subsection shall meet the requirements of the 2006 IECC, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1-2004.

### (c) Revisions of the International Energy Conservation Code

If the requirements of the 2006 IECC, or, in the case of multifamily high rises, ASHRAE Standard 90.1-2004, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.

### (d) Failure to amend the standards

If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1-2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

(2) the Secretary of Energy has made a determination under section 6833 of this title that the revised code or standard would improve energy efficiency.

(Pub. L. 101-625, title I, §109, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102-486, title I, §101(c)(1), Oct. 24, 1992, 106 Stat. 2786; Pub. L. 109-58, title I, §153, Aug. 8, 2005, 119 Stat. 649; Pub. L. 110-140, title IV, §481, Dec. 19, 2007, 121 Stat. 1648.)

#### REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a)(1)(A) and (d)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Housing Act of 1949, referred to in subsecs. (a)(1)(B) and (d)(1), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Act is classified generally to subchapter III (§1471 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

#### AMENDMENTS

2007—Pub. L. 110-140, §481(6), substituted “2004” for “1989” wherever appearing in subsecs. (a) to (c).

Subsec. (a)(1)(C). Pub. L. 110-140, §481(1)(A), struck out “, where such standards are determined to be cost effective by the Secretary of Housing and Urban Development” before period at end.

Subsec. (a)(2). Pub. L. 110-140, §481(1)(B), (5), in first sentence, substituted “2006 International Energy Conservation Code” for “Council of American Building Officials Model Energy Code, 1992” and “the 2006 IECC” for “CABO Model Energy Code, 1992” and struck out “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before “, and shall be”.

Subsec. (b). Pub. L. 110-140, §481(2), (5), in heading, substituted “International Energy Conservation” for “Model Energy” and, in text, inserted “and rehabilitation” after “all new construction”, substituted “the 2006 IECC” for “CABO Model Energy Code, 1992”, and struck out “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before period at end.

Subsec. (c). Pub. L. 110-140, §481(3), (5), in heading, struck out “Model Energy Code and” after “Revisions of” and, in text, substituted “the 2006 IECC” for “CABO Model Energy Code, 1992”, and struck out “, or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before “, are revised”.

Subsec. (d). Pub. L. 110-140, §481(4), added subsec. (d). 2005—Subsec. (a)(1). Pub. L. 109-58, §153(1)(A)(i), substituted “September 30, 2006” for “1 year after October 24, 1992” in introductory provisions.

Subsec. (a)(1)(C). Pub. L. 109-58, §153(1)(A)(ii)-(iv), added subpar. (C).

Subsec. (a)(2). Pub. L. 109-58, §153(1)(B), inserted “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” after “90.1-1989”.

Subsec. (b). Pub. L. 109-58, §153(2), substituted “by September 30, 2006” for “within 1 year after October 24, 1992” and inserted “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before period at end.

Subsec. (c). Pub. L. 109-58, §153(3), inserted “and the International Energy Conservation Code” after “Model Energy Code” in heading and “, or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” after “90.1-1989” in text.

1992—Pub. L. 102-486 amended section generally. Prior to amendment, section read as follows: “The Secretary of Housing and Urban Development shall, not later than one year after November 28, 1990, promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.”

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 12710. Capacity study

#### (a) In general

The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program, and the ability to respond to areas identified as “material weaknesses” by the Office of the Inspector General in financial audits or other reports.

#### (b) Report

Not later than 60 days after November 28, 1990, and annually thereafter, the Secretary shall pre-

pare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department’s plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

(Pub. L. 101-625, title I, §110, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102-550, title IV, §407, Oct. 28, 1992, 106 Stat. 3778.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

#### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 struck out “, and” after “responsibilities” and substituted for period at end “and the ability to respond to areas identified as ‘material weaknesses’ by the Office of the Inspector General in financial audits or other reports.”

#### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

### § 12711. Protection of State and local authority

Notwithstanding any other provision of this subchapter or subchapter II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction’s duly established authority, and (2) not in violation of any Federal law.

(Pub. L. 101-625, title I, §111, Nov. 28, 1990, 104 Stat. 4093.)

### § 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) 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