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2^D SESSION

H. R. 4785

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2010

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To authorize the Secretary of Agriculture to make loans to certain entities that agree that the funds will be used to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce energy use, and for other purposes.

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. HOME STAR ENERGY EFFICIENCY LOAN PRO-**
4 **GRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) ELIGIBLE PARTICIPANT.—The term “eligi-
7 ble participant” means a homeowner with a gross
8 annual household income of less than \$250,000 who
9 receives financial assistance from a qualified financ-
10 ing entity to carry out qualifying energy savings
11 measures pursuant to this section, and who is not
12 also a qualified consumer under section 2. A home-
13 owner may not qualify as an eligible participant if
14 the homeowner has been more than 6 months delin-
15 quent in child support payments.

16 (2) QUALIFIED FINANCING ENTITY.—The term
17 “qualified financing entity” means a State, political
18 subdivision of a State, tribal government, electric
19 utility, natural gas utility, nonprofit organization,
20 energy service company, retailer, or any other entity
21 that—

22 (A) meets the eligibility requirements of
23 this section;

24 (B) is not an entity that has an ongoing
25 capital repayment obligation to the Department

1 of the Treasury pursuant to the Troubled Asset
2 Relief Program (Public Law 110–343, 122
3 Stat. 3765); and

4 (C) is designated by the Governor of a
5 State in accordance with subsection (f)(1),
6 except that an entity that is an eligible entity under
7 section 2 shall not be a qualified financing entity.

8 (3) QUALIFIED LOAN PROGRAM MECHANISM.—
9 The term “qualified loan program mechanism”
10 means a mechanism for the establishment and oper-
11 ation of a loan program that is—

12 (A) administered by a qualified financing
13 entity; and

14 (B) funded in significant part—

15 (i) by funds provided by or overseen
16 by a State; or

17 (ii) through the energy loan program
18 of the Federal National Mortgage Associa-
19 tion.

20 (4) QUALIFYING ENERGY SAVINGS MEASURE.—
21 The term “qualifying energy savings measure”
22 means a measure listed under subsection (c)(1) or
23 (2) or stipulated in a whole-house analysis under
24 subsection (c)(3).

1 (b) ESTABLISHMENT.—The Secretary of Energy
2 shall establish a Home Star Energy Efficiency Loan Pro-
3 gram under which the Secretary of Energy shall offer
4 loans at zero percent interest to States to support finan-
5 cial assistance provided by qualified financing entities for
6 the installation of qualifying energy savings measures.

7 (c) ENERGY EFFICIENCY MEASURES AND STAND-
8 ARDS.—The Secretary of Energy, in consultation with the
9 Secretary of Agriculture, shall publish—

10 (1) not later than 90 days after the date of en-
11 actment of this Act, a master list of residential en-
12 ergy efficiency measures determined to be cost-effec-
13 tive, readily available from commercial sources, to be
14 permanently installed in a primary residence, and
15 capable of supporting measurement and verification
16 of the energy savings that results from their adop-
17 tion, but which shall not include the installation or
18 replacement of pool heaters or the installation of
19 Energy Star televisions;

20 (2) additions to such a list, approved by the
21 Secretary of Energy, of other residential energy effi-
22 ciency measures that are—

23 (A) recommended by the Secretary of Agri-
24 culture;

1 (B) calculated to achieve sufficient energy
2 savings that they will achieve a simple payback
3 within 10 years or less; and

4 (C) permanently installed in a primary res-
5 idence;

6 (3) specifications for whole-house energy per-
7 formance analyses simulating energy use before and
8 after a retrofit utilizing measures from the master
9 list published pursuant to paragraphs (1) and (2)
10 and such other permanent structural measures as
11 can be demonstrated, when installed and operated as
12 intended, to improve residential energy efficiency in
13 a manner that can be determined with confidence to
14 be cost-effective and to recover their own cost in en-
15 ergy cost savings within the term of a proposed loan;
16 and

17 (4) a protocol for measurement and verification
18 of the energy savings that have resulted from any
19 and all energy efficiency measures taken with re-
20 spect to a residence and financed in whole or in part
21 pursuant to this title. In determining which residen-
22 tial energy efficiency measures to include in the list
23 published under paragraph (1) or (2), the Secretary
24 of Energy, in consultation with the Secretary of Ag-
25 riculture, shall consider advanced performance initia-

1 tives, such as the Passive House Standard as cer-
2 tified by the Passive House Institute US.

3 (d) ELIGIBILITY OF QUALIFIED FINANCING ENTI-
4 TIES.—To be eligible to participate in the Home Star
5 Loan Program, a qualified financing entity shall—

6 (1) offer a financing product under which eligi-
7 ble participants may pay over time for the cost to
8 the eligible participant (after all applicable Federal,
9 State, local, and other rebates or incentives are ap-
10 plied) of installations described in subsection (b);

11 (2) require all financed installations to be per-
12 formed by contractors in a manner that meets build-
13 ing code requirements and other appropriate min-
14 imum standards;

15 (3) establish standard underwriting criteria to
16 determine the eligibility of Home Star Loan Pro-
17 gram applicants, which criteria shall be consistent
18 with—

19 (A) with respect to unsecured consumer
20 loan programs, standard underwriting criteria
21 used under the energy loan program of the
22 Federal National Mortgage Association; or

23 (B) with respect to secured loans or other
24 forms of financial assistance, commercially rec-
25 ognized best practices applicable to the form of

1 financial assistance being provided (as deter-
2 mined by the designated entity administering
3 the Home Star Loan Program in the State);
4 and

5 (4) undertake particular efforts, consistent with
6 paragraph (3), to make such loans available in pub-
7 lic use microdata areas that have a poverty rate of
8 12 percent or more in a proportion of total loans
9 made at least equal to the proportion the number of
10 residents in such areas bears to the total population
11 of the area served by that qualified financing entity.

12 (e) ALLOCATION.—In allocating 75 percent of the
13 loan funds made available to States for each fiscal year
14 under this section, the Secretary of Energy shall use the
15 formula used to allocate funds to States to carry out State
16 energy conservation plans established under part D of title
17 III of the Energy Policy and Conservation Act (42 U.S.C.
18 6321 et seq.), with appropriate modifications to reflect the
19 funds to be provided in States for loans under section 2.
20 In allocating the remaining 25 percent of the loan funds
21 made available to States for each fiscal year under this
22 section, the Secretary of Energy may vary the result of
23 the formula to recognize and reward those States that
24 make the best progress in providing loans to low-income
25 areas pursuant to subsection (d)(4).

1 (f) QUALIFIED FINANCING ENTITIES.—Before mak-
2 ing funds available to a State under this section, the Sec-
3 retary of Energy shall require the Governor of the State
4 to provide to the Secretary of Energy a letter of agreement
5 that the State—

6 (1) will use the funds provided pursuant to this
7 section solely as provided in this section;

8 (2) will use the funds provided under this sec-
9 tion to supplement and not supplant any prior or
10 planned Federal and State funding provided to carry
11 out energy efficiency programs, on the condition
12 that, to the extent the Secretary finds that a State
13 has supplanted other such programs with funding
14 under this section, the Secretary may with hold an
15 equivalent amount of funding from allocations for
16 the State under this section;

17 (3) has 1 or more qualified financing entities
18 that meet the requirements of this section;

19 (4) has established, or has required its des-
20 ignated qualified financing entities to establish, a
21 qualified loan program mechanism that—

22 (A) will use a quality assurance program
23 or another appropriate methodology to ensure
24 energy savings;

- 1 (B) incorporates an effective repayment
2 mechanism, which may include—
- 3 (i) on-utility-bill repayment;
 - 4 (ii) tax assessment or other form of
5 property assessment financing;
 - 6 (iii) municipal service charges;
 - 7 (iv) energy or energy efficiency serv-
8 ices contracts;
 - 9 (v) energy efficiency power purchase
10 agreements;
 - 11 (vi) unsecured loans applying the un-
12 derwriting requirements of the energy loan
13 program of the Federal National Mortgage
14 Association; or
 - 15 (vii) alternative contractual repayment
16 mechanisms that have been demonstrated
17 to have appropriate risk mitigation fea-
18 tures;
- 19 (5) will provide, in a timely manner, all infor-
20 mation regarding the administration of the Home
21 Star Loan Program as the Secretary of Energy may
22 require to permit the Secretary of Energy to meet
23 program evaluation requirements; and
- 24 (6) will commit to the full repayment of the
25 loaned funds to the Secretary of Energy by a date

1 not later than 20 years from the date of the loan
2 closing.

3 (g) USE OF FUNDS.—Funds made available to States
4 for carrying out the Home Star Loan Program may be
5 used to support financing mechanisms offered by qualified
6 financing entities to eligible participants, including—

7 (1) interest rate reductions to interest rates as
8 low as zero percent;

9 (2) loan loss reserves or other forms of credit
10 enhancement;

11 (3) revolving loan funds from which qualified fi-
12 nancing entities may offer direct loans; or

13 (4) other debt instruments necessary—

14 (A) to use available funds to obtain appro-
15 priate leverage through private investment; and

16 (B) to support widespread deployment of
17 energy efficiency programs.

18 (h) ADMINISTRATIVE COSTS.—A State may permit a
19 qualified financing entity to charge interest of 3 percent
20 to cover the costs of loan administration and personnel
21 and program management, or for establishing a loan loss
22 reserve.

23 (i) REPORTING REQUIREMENTS.—The Secretary of
24 Energy shall report to the Congress on the implementation
25 of this title, including the energy savings and cost savings

1 estimated to be achieved, not later than 1 year after the
2 date of enactment of this Act, and again by not later than
3 2 years after the date of enactment of this section. The
4 Secretary of Energy shall also include a detailed account-
5 ing of any waste, fraud, or abuse occurring in the adminis-
6 tration of this Act in such reports.

7 (j) ASSESSMENT BY GOVERNMENT ACCOUNTABILITY
8 OFFICE.—The Comptroller General shall, by not later
9 than 18 months after the date of enactment of this Act,
10 prepare and submit to the Congress an analysis and report
11 determining—

12 (1) the actual taxpayer funds made available
13 for the program created in this section;

14 (2) the actual amounts of such funds made
15 available to eligible participants or qualified con-
16 sumers in the program created in this section;

17 (3) the extent of measured and verified residen-
18 tial energy savings achieved and expected to be
19 achieved on an ongoing basis as a function of this
20 program;

21 (4) the extent to which funds made available
22 were expended for training, administration, program
23 support by contractors, or trade association activities
24 under this program;

1 (5) the consistency and rigor of the standards
2 for energy efficiency and for measurement and
3 verification adopted and implemented by this pro-
4 gram; and

5 (6) the extent to which any waste, fraud, or
6 abuse occurred under this program.

7 (k) AUTHORIZATION.—There are authorized to be ap-
8 propriated for purposes of this section, provided that en-
9 actment of this Act would not increase direct spending,
10 \$850,000,000 for each of fiscal years 2010 through 2014,
11 which shall remain available until expended.

12 **SEC. 2. RURAL ENERGY SAVINGS PROGRAM.**

13 (a) DEFINITIONS.—In this section:

14 (1) ELIGIBLE ENTITY.—The term “eligible enti-
15 ty” means—

16 (A) any public or cooperative electric util-
17 ity that is eligible to borrow from the Rural
18 Utilities Service electrification program author-
19 ized under the Rural Electrification Act of
20 1936 (7 U.S.C. 901 et seq.) that serves a rural
21 area;

22 (B) any current borrower of the Rural
23 Utilities Service electrification program author-
24 ized under that Act; or

1 (C) any entity primarily owned or con-
2 trolled by an entity described in subparagraph
3 (A) or (B).

4 (2) ENERGY EFFICIENCY MEASURE.—The term
5 “energy efficiency measure”, with respect to prop-
6 erty served by an eligible entity, means a fixed struc-
7 tural improvement and investment in a cost-effec-
8 tive, commercial off-the-shelf technology to reduce
9 residential energy use that is either—

10 (A) included in the master list published
11 under section 1(c)(1) and (2); or

12 (B) stipulated in a whole-house simulation
13 conducted pursuant to section 1(c)(3).

14 (3) FARM EFFICIENCY MEASURE.—The term
15 “farm efficiency measure” means an energy saving
16 application that is a fixed improvement installed in
17 or attached to a building or structure on a farm at
18 a total loan value for that farm of \$50,000 or less,
19 that is not otherwise an energy efficiency measure,
20 and that would achieve energy savings sufficient to
21 repay the cost of the measure in 10 years or fewer.

22 (4) QUALIFIED CONSUMER.—The term “quali-
23 fied consumer” means a consumer served by an eli-
24 gible entity that has the ability to repay a loan made
25 under subsection (d), as determined by an eligible

1 entity, and who has not accepted any loan as an eli-
2 gible participant pursuant to section 1.

3 (5) QUALIFIED ENTITY.—The term “qualified
4 entity” means any organization that the Secretary of
5 Agriculture determines has significant experience in
6 providing eligible entities with—

7 (A) advice on energy, environmental, en-
8 ergy efficiency, and information research and
9 technology;

10 (B) training, education, and consulting;

11 (C) guidance in energy and operational
12 issues and rural community and economic de-
13 velopment; and

14 (D) other relevant assistance, as deter-
15 mined by the Secretary of Agriculture.

16 (6) RURAL AREA.—The term “rural area”
17 means any area other than—

18 (A) a city or town that has a population of
19 greater than 50,000 inhabitants; and

20 (B) any urbanized area contiguous and ad-
21 jacent to a city or town described in subpara-
22 graph (A).

23 (b) ESTABLISHMENT.—The Secretary of Agriculture,
24 acting through the Rural Utility Service, shall establish
25 the Rural Star Energy Savings Program for the purpose

1 of making loans to eligible entities that agree to accept
2 the loan funds authorized pursuant to this section to make
3 loans to qualified consumers for the purpose of imple-
4 menting residential energy efficiency measures or farm ef-
5 ficiency measures approved by the Secretary of Agri-
6 culture.

7 (c) LOANS TO ELIGIBLE ENTITIES.—

8 (1) LOANS AUTHORIZED.—Subject to para-
9 graph (2), the Secretary of Agriculture shall make
10 loans to an eligible entity that agrees that the loan
11 funds will be used to make loans to qualified con-
12 sumers as described in subsection (d) for the pur-
13 pose of implementing one or more energy efficiency
14 measures, or a farm efficiency measure in response
15 to an application by an eligible entity.

16 (2) LIST, PLAN, AND MEASUREMENT AND
17 VERIFICATION REQUIRED.—

18 (A) IN GENERAL.—As a condition to re-
19 ceiving a loan under paragraph (1), an eligible
20 entity shall—

21 (i) establish a list of energy efficiency
22 measures or farm efficiency measures ex-
23 pected to decrease energy use or costs of a
24 qualified consumer from the master list
25 published under section 1(c)(1) and (2);

1 (ii) establish a procedure to identify to
2 the Secretary of Agriculture any specific
3 farm efficiency measures for which the eli-
4 gible entity seeks authority to make a loan;

5 (iii) prepare an implementation plan
6 for use of the loan funds to ensure that a
7 loan to a qualified consumer is for energy
8 efficiency investments that will achieve sav-
9 ings sufficient to service the loan during
10 the term of the loan; and

11 (iv) provide for appropriate measure-
12 ment and verification as prescribed by the
13 Secretary of Agriculture to ensure the ac-
14 tual use and effectiveness of the energy ef-
15 ficiency loans made by the eligible entity.

16 (B) REVISION OF LIST OF ENERGY EFFI-
17 CIENCY MEASURES.—An eligible entity may up-
18 date the list required under subparagraph
19 (A)(I) to account for efficiency technologies
20 added to the master list published under section
21 1(c)(1) pursuant to section 1(c)(2), or farm ef-
22 ficiency measures approved by the Secretary of
23 Agriculture.

24 (C) EXISTING ENERGY EFFICIENCY PRO-
25 GRAMS.—An eligible entity that, on or before

1 the date of the enactment of this Act, has al-
2 ready established an energy efficiency program
3 for qualified consumers may submit an existing
4 list of energy efficiency measures or farm effi-
5 ciency measures, implementation plans, or
6 measurement and verification systems to satisfy
7 the requirements of subparagraph (A) to the
8 Secretary of Agriculture and may use such list
9 until and unless such list is inconsistent with
10 the measures published pursuant to section
11 1(e)(1) and (2).

12 (3) LOAN TERMS FOR LOANS TO ELIGIBLE EN-
13 TITIES.—

14 (A) NO INTEREST.—A loan made to an eli-
15 gible entity under paragraph (1) shall bear no
16 interest.

17 (B) REPAYMENT.—With respect to a loan
18 under paragraph (1)—

19 (i) the term shall not exceed 20 years
20 from the date the loan is closed; and

21 (ii) except as provided in subpara-
22 graph (D), the repayment of each advance
23 shall be amortized for a period not to ex-
24 ceed 10 years.

1 (C) AMOUNT OF ADVANCES.—Any advance
2 of loan funds to an eligible entity in any single
3 year shall not exceed 30 percent of the ap-
4 proved loan amount.

5 (D) SPECIAL ADVANCE FOR START-UP AC-
6 TIVITIES.—

7 (i) IN GENERAL.—In order to assist
8 an eligible entity in defraying initial start-
9 up costs, the Secretary of Agriculture shall
10 allow an eligible entity to request a special
11 advance.

12 (ii) AMOUNT OF SPECIAL ADVANCE.—
13 No eligible entity may receive a special ad-
14 vance under this subparagraph for an
15 amount that is greater than 4 percent of
16 the loan amount received by the eligible en-
17 tity under paragraph (1).

18 (iii) REPAYMENT.—The repayment of
19 the special advance shall be required with-
20 in 10 years after the special advance is
21 made and, at the election of the eligible en-
22 tity, may be deferred to the end of the 10-
23 year period.

24 (E) LIMITATION ON ADVANCES.—All ad-
25 vances shall be made under a loan described in

1 paragraph (1) within the first 10 years of the
2 term of the loan.

3 (d) LOANS TO QUALIFIED CONSUMERS.—

4 (1) TERMS OF LOANS.—Loans made by an eli-
5 gible entity to qualified consumers using loan funds
6 provided by the Secretary of Agriculture under sub-
7 section (c)—

8 (A) may bear interest, not to exceed three
9 percent, to be used by the eligible entity for
10 purposes such as establishing a loan loss re-
11 serve and to offset personnel and program costs
12 of the eligible entity to provide the loans;

13 (B) shall finance only energy efficiency
14 measures or farm efficiency measures for the
15 purpose of decreasing energy usage or costs of
16 a qualified consumer by an amount such that a
17 loan term of not more than 10 years will
18 achieve a simple payback of the amount in-
19 vested;

20 (C) shall not be used to fund—

21 (i) the purchase of a manufactured
22 home; or

23 (ii) the purchase of any other personal
24 property unless the personal property is or

1 becomes attached to real property as a fix-
2 ture;

3 (D) shall not be used to fund modifications
4 to personal property unless the personal prop-
5 erty—

6 (i) is or becomes attached to real
7 property as a fixture; or

8 (ii) is a manufactured home;

9 (E) shall be repaid through charges added
10 to the electric bill for the property for, or at
11 which energy efficiency measures are or will be
12 implemented, except that this requirement shall
13 not be construed to prohibit—

14 (i) the voluntary prepayment of a loan
15 by the owner of the property; or

16 (ii) the use of any additional repay-
17 ment mechanisms that are—

18 (I) demonstrated to have appro-
19 priate risk mitigation features, as de-
20 termined by the eligible entity; or

21 (II) required if the qualified con-
22 sumer is no longer a customer of the
23 eligible entity; and

24 (F) shall require an energy audit to deter-
25 mine the impact of proposed energy efficiency

1 measures on the energy costs and consumption
2 of the qualified consumer.

3 (2) CONTRACTORS.—In addition to any other
4 qualified general contractor, eligible entities may
5 serve as general contractors.

6 (3) USE OF OTHER ENERGY EFFICIENCY IN-
7 CENTIVES.—Energy efficiency incentives made avail-
8 able under any other Act, including rebates, grants,
9 or any other payments, may be used to reduce the
10 amount of a loan made under this subsection to
11 qualified consumers in order to meet the require-
12 ment of paragraph (1)(B).

13 (e) MEASUREMENT, VERIFICATION, TRAINING, AND
14 TECHNICAL ASSISTANCE.—

15 (1) DUTIES OF THE SECRETARY.—The Sec-
16 retary of Agriculture—

17 (A) shall establish an implementation and
18 measurement and verification advisory com-
19 mittee consisting of representatives of eligible
20 entities and qualified entities;

21 (B) may enter into cooperative agreements
22 with qualified entities to provide technical as-
23 sistance and training to the employees of eligi-
24 ble entities to carry out this section; and

1 (C) shall establish a process to compile and
2 maintain a directory of energy efficiency audi-
3 tors that are used by eligible entities to carry
4 out this section.

5 (2) EXCEPTION.—

6 (A) The Secretary of Agriculture shall not
7 utilize the authority provided under this sub-
8 section or subsection (i) to—

9 (i) develop, adopt, or implement a
10 public labeling system that rates and com-
11 pares the energy performance among quali-
12 fied consumers; or

13 (ii) require the public disclosure of an
14 energy performance evaluation or rating
15 developed for any qualified consumer.

16 (B) Nothing in this paragraph shall pre-
17 clude—

18 (i) the computation, collection, or use,
19 by the Secretary of Agriculture, eligible en-
20 tity, or qualified entity for the purposes of
21 aggregating information on the rating and
22 comparison of the energy performance
23 among qualified consumers with and with-
24 out energy efficiency features or on energy
25 performance evaluation or rating;

1 (ii) the use and publication of aggregate data (without identifying individual
2 qualified consumers) based on information
3 referred to in clause (i) to determine or
4 demonstrate the performance of this program;
5 or
6

7 (iii) the provision of information referred to in clause (i) with respect to a
8 qualified consumer—
9

10 (I) to the State, eligible consumer, eligible entity, or qualified entity,
11 as necessary to enable carrying
12 out this title; or
13

14 (II) for purposes of prosecuting
15 fraud and abuse.

16 (f) FAST START DEMONSTRATION PROJECTS.—The
17 Secretary of Agriculture shall, not later than 90 days after
18 the enactment of this section, enter into agreements with
19 eligible entities (or groups of eligible entities) that have
20 established an energy efficiency program described in sub-
21 section (c)(2)(C) to establish an energy efficiency loan
22 demonstration projects consistent with the purposes of
23 this section that—

24 (1) implement approaches to energy audits and
25 investments in energy efficiency measures or farm

1 efficiency measures that yield measurable and pre-
2 dictable savings;

3 (2) use measurement and verification processes
4 to determine the effectiveness of energy efficiency
5 loans made by eligible entities;

6 (3) include training for employees of eligible en-
7 tities, including any contractors of such entities, to
8 implement or oversee the activities described in
9 paragraphs (1) and (2);

10 (4) provide for the participation of a majority
11 of eligible entities in a State;

12 (5) reduce the need for generating capacity;

13 (6) provide efficiency loans to—

14 (A) not fewer than 20,000 consumers, in
15 the case of a single eligible entity; or

16 (B) not fewer than 80,000 consumers, in
17 the case of a group of eligible entities; and

18 (7) serve areas where 15 percent or more of
19 consumers reside—

20 (A) in manufactured homes; or

21 (B) in housing units that are more than 50
22 years old.

23 (g) **ADDITIONAL AUTHORITY.**—The authority pro-
24 vided in this section is in addition to any authority of the

1 Secretary of Agriculture to offer loans under any other
2 law.

3 (h) EFFECTIVE PERIOD.—Except as otherwise pro-
4 vided in this section, the loans and other expenditures re-
5 quired to be made under this section are authorized to
6 be made during each of fiscal years 2010 through 2014.

7 (i) REGULATIONS.—

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided in this subsection, not later than 180 days
10 after the date of enactment of this section, the Sec-
11 retary of Agriculture shall promulgate such regula-
12 tions as are necessary to implement this section.

13 (2) PROCEDURE.—The promulgation of the reg-
14 ulations and administration of this section shall be
15 made without regard to—

16 (A) chapter 35 of title 44, United States
17 Code (commonly known as the “Paperwork Re-
18 duction Act”); and

19 (B) the Statement of Policy of the Sec-
20 retary of Agriculture effective July 24, 1971
21 (36 Fed. Reg. 13804), relating to notices of
22 proposed rulemaking and public participation in
23 rulemaking.

24 (3) CONGRESSIONAL REVIEW OF AGENCY RULE-
25 MAKING.—In carrying out this section, the Secretary

1 of Agriculture shall use the authority provided under
2 section 808 of title 5, United States Code.

3 (4) INTERIM REGULATIONS.—Notwithstanding
4 paragraphs (1) and (2), to the extent regulations are
5 necessary to carry out any provision of this section,
6 the Secretary of Agriculture shall implement such
7 regulations through the promulgation of an interim
8 rule.

9 (j) AUDIT OF PROGRAM.—The Secretary of Agri-
10 culture shall conduct an audit of the program authorized
11 by this section to ensure that the funds provided to eligible
12 entities under this section are used in accordance with the
13 purpose of this section.

14 (k) REPORTING REQUIREMENTS.—The Secretary of
15 Agriculture shall report to the Congress on the implemen-
16 tation of this Act, including the energy savings and costs
17 savings estimated to be achieved, not later than 1 year
18 after the date of enactment of this Act, and again not later
19 than 2 years after the date of enactment of this Act.

20 (l) ASSESSMENT BY GOVERNMENT ACCOUNTABILITY
21 OFFICE.—The Comptroller General shall, by not later
22 than 18 months after the date of enactment of this Act,
23 prepare and submit to the Congress an analysis and report
24 determining—

1 (1) the actual taxpayer funds made available
2 for the program created in this section;

3 (2) the actual amounts of such funds made
4 available to eligible entities for qualified consumers
5 in the program created in this section;

6 (3) the extent of measured and verified energy
7 savings achieved and expected to be achieved on an
8 ongoing basis as a function of the program created
9 in this section;

10 (4) the extent to which funds made available
11 were expended for training, administration, and pro-
12 gram support by eligible entities and qualified enti-
13 ties under the program created in this section; and

14 (5) the consistency and rigor of the standards
15 for energy efficiency and for measurement and
16 verification adopted and implemented by program
17 created in this section.

18 (m) AUTHORIZATION.—There are authorized to be
19 appropriated for purposes of this section, provided that
20 enactment of this Act would not increase direct spending,
21 \$150,000,000 for each of fiscal years 2010 through 2014,
22 which shall remain available until expended.

23 (n) The Secretary of Agriculture shall provide assist-
24 ance and technical advice to the qualified entities pro-
25 viding loans under this bill in conducting outreach for the

1 purposes of increasing participation of economically dis-
2 tressed rural communities with unemployment rates above
3 the national average, or rural areas that lack basic living
4 necessities, such as water and sewer systems, electricity,
5 and safe, sanitary housing, in the program established
6 under this section.

7 **SEC. 3. PRIORITY FOR ACTIVE DUTY MEMBERS OF THE**
8 **ARMED FORCES AND VETERANS.**

9 In providing loans to eligible participants under sec-
10 tion 1 or qualified consumers under section 2, the lender
11 shall give priority to members of the Armed Forces serving
12 on active duty and to veterans (as defined in section 101
13 of title 38, United States Code).

14 **SEC. 4. PROHIBITION.**

15 Neither the Secretary of Energy nor the Secretary
16 of Agriculture shall provide any funds authorized by this
17 Act to any contractor that employs an employee to work
18 in a consumer's home if that employee has been convicted
19 of, or plead guilty to, a crime of child molestation, rape,
20 or any other form of sexual assault.

21 **SEC. 5. FEDERAL EMPLOYEES.**

22 (a) A loan shall not be provided to a Federal em-
23 ployee under this Act if any of the following apply to the
24 employee:

1 (1) The employee has a seriously delinquent tax
2 debt (as determined under subsection (b)).

3 (2) The employee received a payment under the
4 Low-Income Home Energy Assistance Act of 1981
5 (42 U.S.C. 8621 et seq.) but was ineligible to receive
6 the payment under the criteria described in section
7 2605(b)(2) of such Act (42 U.S.C. 8624(b)(2)).

8 (3) The employee has been officially disciplined
9 for violations of subpart G of the Standards of Eth-
10 ical Conduct for Employees of the Executive Branch
11 for viewing, downloading, or exchanging pornog-
12 raphy, including child pornography, on a Federal
13 Government computer or while performing official
14 Federal Government duties.

15 (b) For purposes of subsection (a)(1), a “seriously
16 delinquent tax debt” means an outstanding debt under the
17 Internal Revenue Code of 1986 for which a notice of lien
18 has been filed in public records pursuant to section 6323
19 of such Code, except that such term does not include—

20 (1) a debt that is being paid in a timely manner
21 pursuant to an agreement under section 6159 or
22 section 7122 of such Code; or

23 (2) a debt with respect to which a collection due
24 process hearing under section 6330 of such Code is

1 requested, pending, or completed and no payment is
2 required.

3 **SEC. 6. WRONGFUL USE OR DIVERSION OF PROGRAM**
4 **FUNDS.**

5 The Secretary of Energy and the Secretary of Agri-
6 culture shall take such steps as are necessary and appro-
7 priate, including requirements for the immediate repay-
8 ment of Federal assistance, to ensure that none of the
9 funds authorized in this Act are used—

10 (1) in violation of law;

11 (2) in a manner that creates a significant
12 threat to human health or safety;

13 (3) in a manner that undercuts the integrity
14 and accountability of the program under this Act; or

15 (4) for purposes other than those serving the
16 objectives of this Act.

17 **SEC. 7. PROHIBITION.**

18 (a) Funds authorized by this Act shall only be made
19 available for the purpose of carrying out qualifying energy
20 savings measures on a primary residence.

21 (b) Neither the Secretary of Energy nor the Secretary
22 of Agriculture shall provide any funds authorized by this
23 Act to any contractor that has been convicted of or plead-
24 ed guilty to any fraudulent offense.

1 **SEC. 8. SUNSET.**

2 The provisions of this Act shall be suspended and
3 shall not apply if this Act will have a negative net effect
4 on the national budget deficit of the United States.

 Passed the House of Representatives September 16,
2010.

Attest:

LORRAINE C. MILLER,

Clerk.