

# Union Calendar No. 335

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4785

**[Report No. 111-585, Part I]**

To amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds 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 home energy use.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2010

Mr. CLYBURN (for himself, Mr. WHITFIELD, Mr. PERRIELLO, and Mr. SPRATT) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 14, 2010

Reported from the Committee on Agriculture with amendments

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 14, 2010

Additional sponsors: Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, Mr. INGLIS, Mr. STUPAK, Mr. JOHNSON of Georgia, Mr. GORDON of Tennessee, Mr. PASTOR of Arizona, Ms. MARKEY of Colorado, Mr. BRIGHT, Mr. BUTTERFIELD, Mr. MARSHALL, Mr. ROE of Tennessee, Ms. HERSETH SANDLIN, Mr. CHANDLER, Mr. FILNER, Mr. ELLSWORTH, Mr. CUELLAR, Mr. WALZ, Mr. BISHOP of Georgia, Ms. GIFFORDS, Mr. BOSWELL, Mr. ROGERS of Alabama, Mr. THOMPSON of Mississippi, Mr. ROGERS of Kentucky, Mr. HILL, Mr. SALAZAR, Mr. KISSELL, Mr. BOOZMAN, Mr. MOORE of Kansas, Mr. WILSON of Ohio, Mr. BOUCHER, Mr. RODRIGUEZ, Ms. HIRONO, Mr. LUJÁN, Mr. SPACE, Mr. HARE, Mr. PLATTS, Mr. ROSS, Mr. BOCCIERI, Mr. GUTHRIE, Mr. PRICE of North Carolina, Mr. KRATOVL, Mr. THOMPSON of Pennsylvania, Mr.

BLUMENAUER, Mr. DINGELL, Mr. DAVIS of Illinois, Mr. HASTINGS of Florida, Mr. MCINTYRE, Mr. CARNAHAN, Mr. TOWNS, Mr. SCHOCK, Mr. WELCH, and Ms. SUTTON

SEPTEMBER 14, 2010

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 9, 2010]

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## **A BILL**

To amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds 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 home energy use.

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 “Rural Energy Savings*  
5 *Program Act”.*

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

7        (a) *PURPOSE.*—*The purpose of this section is to create*  
8 *and save jobs by providing loans to qualified consumers who*  
9 *will use the loan proceeds to implement energy efficiency*  
10 *measures to achieve significant reductions in energy costs,*  
11 *energy consumption, or carbon emissions.*

12        (b) *DEFINITIONS.*—*In this section:*

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

15                    (A) *any public or cooperative electric utility*  
16 *that is eligible to borrow from the Rural Utilities*  
17 *Service electrification program authorized under*  
18 *the Rural Electrification Act of 1936 (7 U.S.C.*  
19 *901 et seq.) that serves a rural area defined by*  
20 *that Act;*

21                    (B) *any current borrower of the Rural Util-*  
22 *ities Service electrification program authorized*  
23 *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 property  
6           served by an eligible entity, means a structural im-  
7           provement and investment in a cost-effective, commer-  
8           cial off-the-shelf technology to reduce energy use.

9           (3) *QUALIFIED CONSUMER*.—The term “qualified  
10          consumer” means a consumer served by an eligible  
11          entity that has the ability to repay a loan made  
12          under subsection (d), as determined by an eligible en-  
13          tity.

14          (4) *QUALIFIED ENTITY*.—The term “qualified en-  
15          tity” means any organization that the Secretary de-  
16          termines has significant experience in providing eligi-  
17          ble entities with—

18               (A) advice on energy, environmental, energy  
19               efficiency, and information research and tech-  
20               nology;

21               (B) training, education, and consulting;

22               (C) guidance in energy and operational  
23               issues and rural community and economic devel-  
24               opment; and

1                   (D) other relevant assistance, as determined  
2                   by the Secretary.

3                   (5) *RURAL AREA.*—The term “rural area” means  
4                   any area other than—

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

7                   (B) any urbanized area contiguous and ad-  
8                   jacent to a city or town described in subpara-  
9                   graph (A).

10                  (6) *SECRETARY.*—The term “Secretary” means  
11                  the Secretary of Agriculture, acting through the Rural  
12                  Utilities Service.

13                  (c) *LOANS TO ELIGIBLE ENTITIES.*—

14                  (1) *LOANS AUTHORIZED.*—Subject to paragraph  
15                  (2), the Secretary shall make loans to an eligible enti-  
16                  ty that agrees that the loan funds will be used to  
17                  make loans to qualified consumers as described in  
18                  subsection (d) for the purpose of implementing an en-  
19                  ergy efficiency measure.

20                  (2) *LIST, PLAN, AND MEASUREMENT AND*  
21                  *VERIFICATION REQUIRED.*—

22                  (A) *IN GENERAL.*—As a condition to receiv-  
23                  ing a loan under paragraph (1), an eligible enti-  
24                  ty shall—

1           (i) establish a list of energy efficiency  
2           measures expected to decrease energy use or  
3           costs of a qualified consumer;

4           (ii) prepare an implementation plan  
5           for use of the loan funds to ensure that a  
6           loan to a qualified consumer is at least  
7           commensurate with the expected energy sav-  
8           ings the qualified consumer shall expect to  
9           receive from the activities funded by the  
10          loan; and

11          (iii) provide for appropriate measure-  
12          ment and verification to ensure the effective-  
13          ness of the energy efficiency loans made by  
14          the eligible entity.

15          (B) *REVISION OF LIST OF ENERGY EFFI-*  
16          *CIENCY MEASURES.*—An eligible entity may up-  
17          date the list required under subparagraph (A)(i)  
18          to account for newly available efficiency tech-  
19          nologies, subject to the approval of the Secretary.

20          (C) *EXISTING ENERGY EFFICIENCY PRO-*  
21          *GRAMS.*—An eligible entity that, on or before the  
22          date of the enactment of this Act or within 60  
23          days after such date, has already established an  
24          energy efficiency program for qualified con-  
25          sumers may use an existing list of energy effi-

1           *ciency measures, implementation plans, or meas-*  
2           *urement and verification systems to satisfy the*  
3           *requirements of subparagraph (A) if the Sec-*  
4           *retary determines the list, plans, or systems are*  
5           *consistent with the purposes of sub section (a).*

6           (3) *LOAN TERMS FOR LOANS TO ELIGIBLE ENTI-*  
7           *TIES.—*

8                   (A) *NO INTEREST.—A loan made to an eli-*  
9                   *gible entity under paragraph (1) shall bear no*  
10                   *interest.*

11                   (B) *REPAYMENT.—With respect to a loan*  
12                   *under paragraph (1)—*

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

15                           (ii) *except as provided in subpara-*  
16                           *graph (D), the repayment of each advance*  
17                           *shall be amortized for a period not to exceed*  
18                           *10 years.*

19                   (C) *AMOUNT OF ADVANCES.—Any advance*  
20                   *of loan funds to an eligible entity in any single*  
21                   *year shall not exceed 30 percent of the approved*  
22                   *loan amount.*

23                   (D) *SPECIAL ADVANCE FOR START-UP AC-*  
24                   *TIVITIES.—*

1                   (i) *IN GENERAL.*—*In order to assist an*  
2                   *eligible entity in defraying initial start-up*  
3                   *costs, the Secretary shall allow an eligible*  
4                   *entity to request a special advance.*

5                   (ii) *AMOUNT OF SPECIAL ADVANCE.*—  
6                   *No eligible entity may receive a special ad-*  
7                   *vance under this subparagraph for an*  
8                   *amount that is greater than 4 percent of the*  
9                   *loan amount received by the eligible entity*  
10                  *under paragraph (1).*

11                  (iii) *REPAYMENT.*—*The repayment of*  
12                  *the special advance shall be required within*  
13                  *10 years after the special advance is made*  
14                  *and, at the election of the eligible entity,*  
15                  *may be deferred to the end of the 10-year*  
16                  *period.*

17                  (E) *LIMITATION ON ADVANCES.*—*All ad-*  
18                  *vances shall be made under a loan described in*  
19                  *paragraph (1) within the first 10 years of the*  
20                  *term of the loan.*

21                  (d) *LOANS TO QUALIFIED CONSUMERS.*—

22                         (1) *TERMS OF LOANS.*—*Loans made by an eligi-*  
23                         *ble entity to qualified consumers using loan funds*  
24                         *provided by the Secretary under subsection (c)—*



1           (A) may bear interest, not to exceed three  
2 percent, to be used by the eligible entity for pur-  
3 poses such as establishing a loan loss reserve and  
4 to offset personnel and program costs of the eligi-  
5 ble entity to provide the loans;

6           (B) shall finance energy efficiency measures  
7 for the purpose of decreasing energy usage or  
8 costs of a qualified consumer by an amount such  
9 that a loan term of not more than 10 years will  
10 not pose an undue financial burden on the quali-  
11 fied consumer, as determined by the eligible enti-  
12 ty;

13           (C) shall not be used to fund purchases of,  
14 or modifications to, personal property unless the  
15 personal property—

16                 (i) is or becomes attached to real prop-  
17 erty as a fixture; or

18                 (ii) is a manufactured home;

19           (D) shall be repaid through charges added  
20 to the electric bill for the property for, or at  
21 which energy efficiency measures are or will be  
22 implemented, except that this requirement shall  
23 not be construed to prohibit—

24                 (i) the voluntary prepayment of a loan  
25 by the owner of the property; or

1                   (ii) the use of any additional repay-  
2                   ment mechanisms that are—

3                               (I) demonstrated to have appro-  
4                               priate risk mitigation features, as de-  
5                               termined by the eligible entity; or

6                               (II) required if the qualified con-  
7                               sumer is no longer a customer of the el-  
8                               igible entity; and

9                               (E) shall require an energy audit to deter-  
10                              mine the impact of proposed energy efficiency  
11                              measures on the energy costs and consumption of  
12                              the qualified consumer.

13                   (2) *CONTRACTORS.*—In addition to any other  
14                   qualified general contractor, eligible entities may  
15                   serve as general contractors.

16                   (3) *USE OF OTHER ENERGY EFFICIENCY INCEN-*  
17                   *TIVES.*—Energy efficiency incentives made available  
18                   under any other Act, including rebates, grants, or any  
19                   other payments, may be used to reduce the amount of  
20                   a loan made under this subsection to qualified con-  
21                   sumers in order to meet the requirement of paragraph  
22                   (1)(B).

23                   (e) *MEASUREMENT, VERIFICATION, TRAINING, AND*  
24                   *TECHNICAL ASSISTANCE.*—

1           (1) *DUTIES OF THE SECRETARY.*—Not later than  
2           60 days after the date of enactment of this Act, the  
3           Secretary shall—

4                   (A) develop a protocol for eligible entities  
5                   and qualified entities to use in measuring energy  
6                   consumption and verifying the effectiveness of  
7                   energy efficiency measures;

8                   (B) establish a measurement and  
9                   verification advisory committee consisting of  
10                  representatives of eligible entities and qualified  
11                  entities;

12                  (C) enter into one or more cooperative  
13                  agreements with qualified entities to provide  
14                  technical assistance and training to the employ-  
15                  ees of eligible entities to carry out this section;  
16                  and

17                  (D) establish a process to compile and  
18                  maintain a directory of energy efficiency audi-  
19                  tors that are used by eligible entities to carry out  
20                  this section.

21           (2) *EXCEPTION.*—

22                   (A) The Secretary shall not utilize the au-  
23                   thority provided under this subsection or sub-  
24                   section (k) to—

1           (i) develop, adopt, or implement a pub-  
2           lic labeling system that rates and compares  
3           the energy performance among qualified  
4           consumers; or

5           (ii) require the public disclosure of an  
6           energy performance evaluation or rating de-  
7           veloped for any qualified consumer.

8           (B) Nothing in this paragraph shall pre-  
9           clude—

10           (i) the computation, collection, or use,  
11           by the Secretary, eligible entity, or qualified  
12           entity for the purposes aggregating informa-  
13           tion on the rating and comparison of the  
14           energy performance among qualified con-  
15           sumers with and without energy efficiency  
16           features or on energy performance evalua-  
17           tion or rating;

18           (ii) the use and publication of aggre-  
19           gate data (without identifying individual  
20           qualified consumers) based on information  
21           referred to in clause (i) to determine or  
22           demonstrate the performance of this pro-  
23           gram; or

1                   (iii) the provision of information re-  
2                   ferred to in clause (i) with respect to a  
3                   qualified consumer:

4                   (I) to the State, eligible consumer,  
5                   eligible entity, or qualified entity, as  
6                   necessary to enable carrying out this  
7                   Act; or

8                   (II) for purposes of prosecuting  
9                   fraud and abuse.

10           (f) *FAST START DEMONSTRATION PROJECTS.*—

11                   (1) *DEMONSTRATION PROJECTS REQUIRED.*—*The*  
12                   *Secretary shall enter into agreements with eligible en-*  
13                   *tities (or groups of eligible entities) that have estab-*  
14                   *lished an energy efficiency program described in sub-*  
15                   *section (c)(2)(C) to establish an energy efficiency loan*  
16                   *demonstration projects consistent with the purposes of*  
17                   *this section that—*

18                   (A) *implement approaches to energy audits*  
19                   *and investments in energy efficiency measures*  
20                   *that yield measurable and predictable savings;*

21                   (B) *use measurement and verification proc-*  
22                   *esses to determine the effectiveness of energy effi-*  
23                   *ciency loans made by eligible entities;*

24                   (C) *include training for employees of eligi-*  
25                   *ble entities, including any contractors of such en-*

1            *tities, to implement or oversee the activities de-*  
2            *scribed in subparagraphs (A) and (B);*

3                    *(D) provide for the participation of a ma-*  
4            *jority of eligible entities in a State;*

5                    *(E) reduce the need for generating capacity;*

6                    *(F) provide efficiency loans to—*

7                            *(i) not fewer than 20,000 consumers,*  
8            *in the case of a single eligible entity; or*

9                            *(ii) not fewer than 80,000 consumers,*  
10           *in the case of a group of eligible entities;*

11                    *and*

12                    *(G) serve areas where a large percentage of*  
13           *consumers reside—*

14                            *(i) in manufactured homes; or*

15                            *(ii) in housing units that are more*  
16           *than 50 years old.*

17            *(2) DEADLINE FOR IMPLEMENTATION.—The*  
18           *agreements required by paragraph (1) shall be entered*  
19           *into not later than 90 days after the date of enact-*  
20           *ment of this Act.*

21            *(3) EFFECT ON AVAILABILITY OF LOANS NATION-*  
22           *ALLY.—Nothing in this subsection shall delay the*  
23           *availability of loans to eligible entities on a national*  
24           *basis beginning not later than 180 days after the date*  
25           *of the enactment of this Act.*

1           (4) *ADDITIONAL DEMONSTRATION PROJECT AU-*  
2           *THORITY.*—*The Secretary may conduct demonstration*  
3           *projects in addition to the project required by para-*  
4           *graph (1). An additional demonstration project may*  
5           *be carried out without regard to subparagraphs (D),*  
6           *(F), or (G) of paragraph (1).*

7           (g) *ADDITIONAL AUTHORITY.*—*The authority provided*  
8           *in this section is in addition to any authority of the Sec-*  
9           *retary to offer loans under any other law.*

10          (h) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*  
11          *authorized to be appropriated to the Secretary \$993,000,000*  
12          *to carry out this section, which shall remain available until*  
13          *expended.*

14          (i) *EFFECTIVE PERIOD.*—*Subject to subsection (h)(1)*  
15          *and except as otherwise provided in this section, the loans*  
16          *and other expenditures required to be made under this sec-*  
17          *tion are authorized to be made during each of fiscal years*  
18          *2010 through 2014.*

19          (j) *REPORTING REQUIREMENT.*—*Not later than one*  
20          *year after the date of the enactment of this Act, the Sec-*  
21          *retary shall submit to the Committee on Agriculture, Nutri-*  
22          *tion, and Forestry of the Senate and the Committee on Ag-*  
23          *riculture of the House of Representatives a report describing*  
24          *the implementation of this section.*

25          (k) *REGULATIONS.*—

1           (1) *IN GENERAL.*—*Except as otherwise provided*  
2 *in this subsection, not later than 180 days after the*  
3 *date of enactment of this section, the Secretary shall*  
4 *promulgate such regulations as are necessary to im-*  
5 *plement this section.*

6           (2) *PROCEDURE.*—*The promulgation of the regu-*  
7 *lations and administration of this section shall be*  
8 *made without regard to—*

9                   (A) *chapter 35 of title 44, United States*  
10 *Code (commonly known as the “Paperwork Re-*  
11 *duction Act”); and*

12                   (B) *the Statement of Policy of the Secretary*  
13 *of Agriculture effective July 24, 1971 (36 Fed.*  
14 *Reg. 13804), relating to notices of proposed rule-*  
15 *making and public participation in rulemaking.*

16           (3) *CONGRESSIONAL REVIEW OF AGENCY RULE-*  
17 *MAKING.*—*In carrying out this section, the Secretary*  
18 *shall use the authority provided under section 808 of*  
19 *title 5, United States Code.*

20           (4) *INTERIM REGULATIONS.*—*Notwithstanding*  
21 *paragraphs (1) and (2), to the extent regulations are*  
22 *necessary to carry out any provision of this section,*  
23 *the Secretary shall implement such regulations*  
24 *through the promulgation of an interim rule.*



1           *(l) AUDIT OF PROGRAM.—The Secretary shall conduct*  
2 *an audit of the program authorized by this section to ensure*  
3 *that the funds provided to eligible entities under this section*  
4 *are used in accordance with the purpose of this section.*

Amend the title so as to read: “A bill 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.”.

Union Calendar No. 335

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 4785**

[Report No. 111-585, Part I]

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## **A BILL**

To amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds 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 home energy use.

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SEPTEMBER 14, 2010

Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed