

112TH CONGRESS
2D SESSION

S. 2216

To amend 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 cost-effective energy efficiency measures to promote energy cost savings and rural development.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2012

Mr. MERKLEY (for himself and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend 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 cost-effective energy efficiency measures to promote energy cost savings and rural development.

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”.

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

2 Subtitle E of title VI of the Farm Security and Rural
3 Investment Act of 2002 (Public Law 107–71; 116 Stat.
4 424) is amended by adding at the end the following:

5 **“SEC. 6407. RURAL ENERGY SAVINGS PROGRAM.**

6 “(a) PURPOSE.—The purpose of this section is to cre-
7 ate jobs, promote rural development, and help rural fami-
8 lies and small businesses achieve cost savings by providing
9 loans to qualified consumers to implement durable cost-
10 effective energy efficiency measures.

11 “(b) DEFINITIONS.—In this section:

12 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
13 tity’ means—

14 “(A) any public power district, public util-
15 ity district, or similar entity, or any electric co-
16 operative described in section 501(c)(12) or
17 1381(a)(2) of the Internal Revenue Code of
18 1986, that borrowed and repaid, prepaid, or is
19 paying an electric loan made or guaranteed by
20 the Rural Utilities Service (or any predecessor
21 agency);

22 “(B) any entity primarily owned or con-
23 trolled by one or more entities described in sub-
24 paragraph (A); or

25 “(C) any other entity that is an eligible
26 borrower of the Rural Utility Service, as deter-

1 mined under section 1710.101 of title 7, Code
2 of Federal Regulations (or a successor regula-
3 tion).

4 “(2) ENERGY EFFICIENCY MEASURES.—The
5 term ‘energy efficiency measures’ means, for or at
6 property served by an eligible entity, structural im-
7 provements and investments in cost-effective, com-
8 mercial technologies to increase energy efficiency.

9 “(3) QUALIFIED CONSUMER.—The term ‘quali-
10 fied consumer’ means a consumer served by an eligi-
11 ble entity that has the ability to repay a loan made
12 under subsection (d), as determined by the eligible
13 entity.

14 “(4) SECRETARY.—The term ‘Secretary’ means
15 the Secretary of Agriculture, acting through the Ad-
16 ministrator of the Rural Utilities Service.

17 “(c) LOANS TO ELIGIBLE ENTITIES.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 the Secretary shall make loans to eligible entities
20 that agree to use the loan funds to make loans to
21 qualified consumers for the purpose of implementing
22 energy efficiency measures.

23 “(2) REQUIREMENTS.—

“(A) IN GENERAL.—As a condition of receiving a loan under this subsection, an eligible entity shall—

“(i) establish a list of energy efficiency measures that is expected to decrease energy use or costs of qualified consumers;

“(ii) prepare an implementation plan for use of the loan funds, including use of any interest to be received pursuant to subsection (d)(1)(A);

“(iii) provide for appropriate measurement and verification to ensure—

“(I) the effectiveness of the energy efficiency loans made by the eligible entity; and

“(II) that there is no conflict of interest in carrying out this section; and

“(iv) demonstrate expertise in effective use of energy efficiency measures at an appropriate scale.

“(B) REVISION OF LIST OF ENERGY EFFICIENCY MEASURES.—Subject to the approval of the Secretary, an eligible entity may update the

list required under subparagraph (A)(i) to account for newly available efficiency technologies.

“(C) EXISTING ENERGY EFFICIENCY PROGRAMS.—An eligible entity that, at any time before the date that is 60 days after the date of enactment of this section, has established an energy efficiency program for qualified consumers may use an existing list of energy efficiency measures, implementation plan, or measurement and verification system of that program to satisfy the requirements of subparagraph (A) if the Secretary determines the list, plan, or systems are consistent with the purposes of this section.

“(3) NO INTEREST.—A loan under this subsection shall bear no interest.

“(4) REPAYMENT.—With respect to a loan under paragraph (1)—

“(A) the term shall not exceed 20 years from the date on which the loan is closed; and

“(B) except as provided in paragraph (6), the repayment of each advance shall be amortized for a period not to exceed 10 years.

“(5) AMOUNT OF ADVANCES.—Any advance of loan funds to an eligible entity in any single year

1 shall not exceed 50 percent of the approved loan
2 amount.

3 “(6) SPECIAL ADVANCE FOR START-UP ACTIVITIES.—
4

5 “(A) IN GENERAL.—In order to assist an
6 eligible entity in defraying the appropriate
7 start-up costs (as determined by the Secretary)
8 of establishing new programs or modifying ex-
9 isting programs to carry out subsection (d), the
10 Secretary shall allow an eligible entity to re-
11 quest a special advance.

12 “(B) AMOUNT.—No eligible entity may re-
13 ceive a special advance under this paragraph
14 for an amount that is greater than 4 percent of
15 the loan amount received by the eligible entity
16 under paragraph (1).

17 “(C) REPAYMENT.—Repayment of the spe-
18 cial advance—

19 “(i) shall be required during the 10-
20 year period beginning on the date on which
21 the special advance is made; and

22 “(ii) at the election of the eligible en-
23 tity, may be deferred to the end of the 10-
24 year period.

1 “(7) LIMITATION.—All special advances shall be
2 made under a loan described in paragraph (1) dur-
3 ing the first 10 years of the term of the loan.

4 “(d) LOANS TO QUALIFIED CONSUMERS.—

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

8 “(A) may bear interest, not to exceed 3
9 percent, to be used for purposes that include—

10 “(i) to establish a loan loss reserve;
11 and

12 “(ii) to offset personnel and program
13 costs of eligible entities to provide the
14 loans;

15 “(B) shall finance energy efficiency meas-
16 ures for the purpose of decreasing energy usage
17 or costs of the qualified consumer by an
18 amount that ensures, to the maximum extent
19 practicable, that a loan term of not more than
20 10 years will not pose an undue financial bur-
21 den on the qualified consumer, as determined
22 by the eligible entity;

23 “(C) shall not be used to fund purchases
24 of, or modifications to, personal property unless
25 the personal property is or becomes attached to

1 real property (including a manufactured home)
 2 as a fixture;

3 “(D) shall be repaid through charges
 4 added to the electric bill for the property for, or
 5 at which, energy efficiency measures are or will
 6 be implemented, on the condition that this re-
 7 quirement does not prohibit—

8 “(i) the voluntary prepayment of a
 9 loan by the owner of the property; or

10 “(ii) the use of any additional repay-
 11 ment mechanisms that are—

12 “(I) demonstrated to have appro-
 13 priate risk mitigation features, as de-
 14 termined by the eligible entity; or

15 “(II) required if the qualified
 16 consumer is no longer a customer of
 17 the eligible entity; and

18 “(E) shall require an energy audit by an
 19 eligible entity to determine the impact of pro-
 20 posed energy efficiency measures on the energy
 21 costs and consumption of the qualified con-
 22 sumer.

23 “(2) CONTRACTORS.—In addition to any other
 24 qualified general contractor, eligible entities may
 25 serve as general contractors.

1 “(e) CONTRACT FOR MEASUREMENT AND
 2 VERIFICATION, TRAINING, AND TECHNICAL ASSIST-
 3 ANCE.—

4 “(1) IN GENERAL.—Not later than 90 days
 5 after the date of enactment of this section, the Sec-
 6 retary—

7 “(A) shall establish a plan for measure-
 8 ment and verification, training, and technical
 9 assistance of the program; and

10 “(B) may enter into one or more contracts
 11 with a qualified entity for the purposes of—

12 “(i) providing measurement and
 13 verification activities; and

14 “(ii) developing a program to provide
 15 technical assistance and training to the
 16 employees of eligible entities to carry out
 17 this section.

18 “(2) USE OF SUBCONTRACTORS AUTHOR-
 19 IZED.—A qualified entity that enters into a contract
 20 under paragraph (1) may use subcontractors to as-
 21 sist the qualified entity in carrying out the contract.

22 “(f) FAST START DEMONSTRATION PROJECTS.—

23 “(1) IN GENERAL.—The Secretary shall offer to
 24 enter into agreements with eligible entities (or
 25 groups of eligible entities) that have energy effi-

1 ciency programs described in subsection (c)(2)(C) to
2 establish an energy efficiency loan demonstration
3 projects consistent with the purposes of this section.

4 “(2) EVALUATION CRITERIA.—In determining
5 which eligible entities to award loans under this sec-
6 tion, the Secretary shall take into consideration eligi-
7 ble entities that—

8 “(A) implement approaches to energy au-
9 dits and investments in energy efficiency meas-
10 ures that yield measurable and predictable sav-
11 ings;

12 “(B) use measurement and verification
13 processes to determine the effectiveness of en-
14 ergy efficiency loans made by eligible entities;

15 “(C) include training for employees of eli-
16 gible entities, including any contractors of such
17 entities, to implement or oversee the activities
18 described in subparagraphs (A) and (B);

19 “(D) provide for the participation of a ma-
20 jority of eligible entities in a State;

21 “(E) reduce the need for generating capac-
22 ity;

23 “(F) provide efficiency loans to—

24 “(i) in the case of a single eligible en-
25 tity, not fewer than 20,000 consumers; or

1 “(ii) in the case of a group of eligible
2 entities, not fewer than 80,000 consumers;
3 and

4 “(G) serve areas in which, as determined
5 by the Secretary, a large percentage of con-
6 sumers reside—

7 “(i) in manufactured homes; or

8 “(ii) in housing units that are more
9 than 50 years old.

10 “(3) DEADLINE FOR IMPLEMENTATION.—To
11 the maximum extent practicable, the Secretary shall
12 enter into agreements described in paragraph (1) by
13 not later than 90 days after the date of enactment
14 of this section.

15 “(4) EFFECT ON AVAILABILITY OF LOANS NA-
16 TIONALLY.—Nothing in this subsection shall delay
17 the availability of loans to eligible entities on a na-
18 tional basis beginning not later than 180 days after
19 the date of enactment of this section.

20 “(5) ADDITIONAL DEMONSTRATION PROJECT
21 AUTHORITY.—

22 “(A) IN GENERAL.—The Secretary may
23 conduct demonstration projects in addition to
24 the project required by paragraph (1).

1 “(B) INAPPLICABILITY OF CERTAIN CRI-
 2 TERIA.—The additional demonstration projects
 3 may be carried out without regard to subpara-
 4 graphs (D), (F), or (G) of paragraph (2).

5 “(g) ADDITIONAL AUTHORITY.—The authority pro-
 6 vided in this section is in addition to any other authority
 7 of the Secretary to offer loans under any other law.

8 “(h) EFFECTIVE PERIOD.—Subject to the availability
 9 of funds and except as otherwise provided in this section,
 10 the loans and other expenditures required to be made
 11 under this section shall be available until expended, with
 12 the Secretary authorized to make new loans as loans are
 13 repaid.

14 “(i) REGULATIONS.—

15 “(1) IN GENERAL.—Except as otherwise pro-
 16 vided in this subsection, not later than 180 days
 17 after the date of enactment of this section, the Sec-
 18 retary shall promulgate such regulations as are nec-
 19 essary to implement this section.

20 “(2) PROCEDURE.—The promulgation of the
 21 regulations and administration of this section shall
 22 be made without regard to—

23 “(A) the Statement of Policy of the Sec-
 24 retary of Agriculture effective July 24, 1971
 25 (36 Fed. Reg. 13804), relating to notices of

1 proposed rulemaking and public participation in
2 rulemaking; and

3 “(B) chapter 35 of title 44, United States
4 Code (commonly known as the ‘Paperwork Re-
5 duction Act’).

6 “(3) CONGRESSIONAL REVIEW OF AGENCY
7 RULEMAKING.—In carrying out this section, the Sec-
8 retary shall use the authority provided under section
9 808 of title 5, United States Code.

10 “(4) INTERIM REGULATIONS.—Notwithstanding
11 paragraphs (1) and (2), to the extent regulations are
12 necessary to carry out any provision of this section,
13 the Secretary shall implement such regulations
14 through the promulgation of an interim rule.”.

○