

AFFORDABLE HOUSING OVER MANDATING EFFICIENCY
STANDARDS ACT

MARCH 12, 2024.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mrs. RODGERS of Washington, from the Committee on Energy and
Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 6421]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 6421) to prohibit the Secretary of Energy from enforcing energy efficiency standards applicable to manufactured housing, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Committee Action	3
Committee Votes	4
Oversight Findings and Recommendations	6
New Budget Authority, Entitlement Authority, and Tax Expenditures	6
Congressional Budget Office Estimate	6
Federal Mandates Statement	7
Statement of General Performance Goals and Objectives	7
Duplication of Federal Programs	7
Related Committee and Subcommittee Hearings	7
Committee Cost Estimate	8
Earmark, Limited Tax Benefits, and Limited Tariff Benefits	8
Advisory Committee Statement	8
Applicability to Legislative Branch	8
Section-by-Section Analysis of the Legislation	8

Changes in Existing Law Made by the Bill, as Reported	8
Minority Views	11

PURPOSE AND SUMMARY

H.R. 6421, the “Affordable Housing Over Mandating Efficiency Standards Act” or the “Affordable HOMES Act,” was introduced by Representative Bucshon (R-OH) on November 15, 2023. This legislation would repeal section 413 of the Energy Independence and Security Act (EISA) of 2007 relating to energy efficiency standards related to manufactured housing. The legislation would also vitiate the final rule titled “Energy Conservation Program: Standards for Manufactured Housing” published in Federal Register on May 31, 2022.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, both the U.S. Department of Housing and Urban Development (HUD) and the Department of Energy (DOE) have authority to impose energy efficiency mandates on manufactured housing. In 1974, Congress passed the Manufactured Housing Construction Safety Standards Act of 1974 (MHCSS), which designated HUD as the primary agency with authority over manufactured home construction standards, known as the “HUD Code.” It delegated to HUD with preemptive authority to regulate energy efficiency standards for manufactured housing and specifically requires that the energy conservation standards be cost-effective and take into consideration the design and factory construction techniques of manufactured homes.¹ Congress’s goal in passing MHCSS was to balance safety, efficiency, and housing costs for Americans.

In 2007, Congress passed the EISA, which included an amendment that required the DOE to establish energy efficiency standards for manufactured housing based on the most recent version of the International Energy Conservation Code (IECC) in contravention of the MHCSS.²

The Committee finds that the IECC standards are overly prescriptive and incompatible with the HUD code. The IECC standards are based on site-built homes, where the builder designs the home to a specific locale and conditions of that locale. In contrast, manufactured housing producers and retailers do not ultimately know the home’s ultimate location and orientation, and therefore are unable to conform with the IECC requirements. The Committee additionally finds that unlike HUD, the DOE lacks the requisite knowledge and expertise to establish regulations that adequately consider the unique attributes of factory-built housing.

Pursuant to EISA authorities, the DOE published a final rule titled “Energy Conservation Program: Energy Conservation Standards for Manufactured Housing” published in the Federal Register on May 31, 2022.³ The Committee finds significant problems with DOE’s efficiency standards for manufactured homes: they rely on the IECC, which is incompatible with off-site built homes; they lack testing, compliance, and enforcement capabilities; and they create conflicting sets of energy standards between DOE and HUD.

¹ 42 U.S.C. § 5403(g).

² 42 U.S.C. § 17071.

³ 87 Fed. Reg. 32728.

If the DOE standards are enforced, there will be two different sets of manufactured home energy standards which would create a significant compliance burden for manufactured home manufacturers, which will discourage the production of new affordable homes, thereby threatening the supply of these homes and increasing cost. This will add to our nation's existing housing affordability crisis as manufactured homes are the most affordable homeownership option. In 2022, the average price of a manufactured home was \$127,250, while the average price of a site-built home was \$413,000. The average income of a manufactured home buyer was around \$35,000, while the average income of a site-built homebuyer was over \$100,000.⁴

To support housing affordability and improve energy efficiency, this Committee finds it necessary to halt the implementation of DOE's flawed final rule. The Committee also finds it necessary to clarify HUD's primacy over the regulation of manufactured housing by rescinding the provision from EISA that gives DOE the duplicative authority to establish energy efficiency standards for manufactured housing.

COMMITTEE ACTION

On September 13, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing related to H.R. 6421. The title of the hearing was "Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes."

During this hearing, the DOE testified on the agency's process for implementing and reviewing energy efficiency and conservation standards. Energy efficiency experts also testified as to how these standards impact regulated industries. The Subcommittee received testimony from:

- Gene Rodrigues, Assistant Secretary for Electricity, Office of Electricity, U.S. Department of Energy;
- David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission;
- Kevin Messner, Executive Vice President and Chief Policy Officer, Association of Home Appliance Manufacturers;
- B. Robert Paulling, President and Chief Executive Officer, Mid-Carolina Electric Cooperative on behalf of the National Rural Electrical Cooperatives Association;
- Ben Lieberman, Senior Fellow, Competitive Enterprise Institute; and
- Andrew deLaski, Executive Director, Appliance Standards Awareness Project.

On October 24 and 25, 2023, the Subcommittee on Energy, Climate, and Grid Security met in open markup session and forwarded a discussion draft titled "Affordable Housing Over Mandating Efficiency Standards Act" or the "Affordable HOMES Act," without amendment, to the full Committee by a record vote of 15 yeas and 12 nays.

On December 5 and 6, 2023, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 6421,

⁴2023 *Manufactured Housing Facts Industry Overview*, The Manufactured Housing Institute (June 2023), *2023-Industry-Overview.pdf* (manufacturedhousing.org).

without amendment, favorably reported to the House by a record vote of 24 yeas and 20 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
118TH CONGRESS
ROLL CALL VOTE # 11**

BILL: H.R. 6421, Affordable HOMES Act

AMENDMENT: A motion by Chair Rodgers to order H.R. 6421 favorably reported to the House, without amendment. (Final Passage).

DISPOSITION: AGREED TO, by a roll call vote of 24 yeas to 20 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Rodgers	X			Rep. Pallone		X	
Rep. Burgess	X			Rep. Eshoo		X	
Rep. Latta	X			Rep. DeGette		X	
Rep. Guthrie	X			Rep. Schakowsky		X	
Rep. Griffith	X			Rep. Matsui		X	
Rep. Bilirakis	X			Rep. Castor		X	
Rep. Johnson				Rep. Sarbanes		X	
Rep. Bucshon	X			Rep. Tonko		X	
Rep. Hudson				Rep. Clarke		X	
Rep. Walberg	X			Rep. Cárdenas		X	
Rep. Carter	X			Rep. Ruiz		X	
Rep. Duncan	X			Rep. Peters		X	
Rep. Palmer	X			Rep. Dingell		X	
Rep. Dunn				Rep. Veasey		X	
Rep. Curtis				Rep. Kuster			
Rep. Lesko	X			Rep. Kelly		X	
Rep. Pence	X			Rep. Barragán		X	
Rep. Crenshaw	X			Rep. Blunt Rochester		X	
Rep. Joyce	X			Rep. Soto		X	
Rep. Armstrong	X			Rep. Craig			
Rep. Weber	X			Rep. Schrier		X	
Rep. Allen	X			Rep. Trahan		X	
Rep. Balderson	X			Rep. Fletcher			
Rep. Fulcher	X						
Rep. Pfluger	X						
Rep. Harshbarger	X						
Rep. Miller-Meeks							
Rep. Cammack	X						
Rep. Obernolte	X						

12/05/2023

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held a hearing and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 6421 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 6421, Affordable HOMES Act				
As ordered reported by the House Committee on Energy and Commerce on December 5, 2023				
By Fiscal Year, Millions of Dollars		2024	2024-2029	2024-2034
Direct Spending (Outlays)		0	0	0
Revenues		0	*	*
Increase or Decrease (-) in the Deficit		0	*	*
Spending Subject to Appropriation (Outlays)		0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?		No	Statutory pay-as-you-go procedures apply? Yes	
			Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?		*	Contains intergovernmental mandate?	No
			Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.				

H.R. 6421 would repeal the authority for the Department of Energy (DOE) to establish energy conservation standards for manufactured housing and would prohibit DOE from implementing the rule, “Energy Conservation Program: Energy Conservation Standards for Manufactured Housing,” as published in the *Federal Register* in May 2022.⁵ Manufacturers must comply with that rule at different times depending on the type of home they manufacture; however, CBO expects none would be required to comply until 2025.

Under current law, manufacturers that do not comply with DOE’s standards for manufactured housing would be liable for civil penalties, which are recorded in the budget as revenues. Accordingly, enacting the bill could reduce revenues if fewer civil penalties were collected. Based on the number of cases likely to be affected, CBO estimates that any effect under the bill would reduce revenues by an insignificant amount over the 2024–2034 period.

⁵ See Office of Energy Efficiency and Renewable Energy, Department of Energy, “Energy Conservation Program: Energy Conservation Standards for Manufactured Housing,” Final Rule, 87 *Fed. Reg.* 32728 (May 31, 2022), <http://tinyurl.com/mrtecmx2>.

CBO estimates that implementing the bill would reduce spending subject to appropriation by less than \$500,000 because the bill would lessen DOE's requirement to establish energy conservation standards. Any reduction in spending would depend on future appropriations being reduced by the estimated amount.

The CBO staff contact for this estimate is Aaron Krupkin. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to ensure housing affordability by repealing duplicative regulation of manufactured housing by rescinding the provision from EISA, which grants DOE the duplicative authority to establish energy efficiency standards for manufactured housing.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 6421 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 6421:

- On September 13, 2023, the Subcommittee on Energy, Climate, and Grid Security held a hearing related to H.R. 6421. The title of the hearing was “Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes.”

During this hearing, the DOE testified on the agency's process for implementing and reviewing energy efficiency and conservation standards. Energy efficiency experts also testified as to how these standards impact regulated industries. The Subcommittee received testimony from:

- Gene Rodrigues, Assistant Secretary for Electricity, Office of Electricity, U.S. Department of Energy;
- David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission;
- Kevin Messner, Executive Vice President and Chief Policy Officer, Association of Home Appliance Manufacturers;
- B. Robert Paulling, President and Chief Executive Officer, Mid-Carolina Electric Cooperative on behalf of the National Rural Electrical Cooperatives Association;

- Ben Lieberman, Senior Fellow, Competitive Enterprise Institute; and
- Andrew deLaski, Executive Director, Appliance Standards Awareness Project.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 6421 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides the Act may be cited as the “Affordable Housing Over Mandating Efficiency Standards Act” or the “Affordable HOMES Act.”

Section 2. Prescribing new or amended energy conservation standards

Section 2(a) strikes section 413 of the Energy Independence and Security Act of 2007, which directs the DOE to establish energy standards for manufactured homes.

Section 2(b) vitiates the final rule titled “Energy Conservation Program: Energy Conservation Standards for Manufactured Housing” published by the DOE on May 31, 2022.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Energy Independence and Security Act of 2007”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

* * * * *

TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

Sec. 401. Definitions.

Subtitle A—Residential Building Efficiency

Sec. 411. Reauthorization of weatherization assistance program.

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[Sec. 413. Energy code improvements applicable to manufactured housing.]

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TITLE IV—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

* * * * *

Subtitle A—Residential Building Efficiency

* * * * *

[SEC. 413. ENERGY CODE IMPROVEMENTS APPLICABLE TO MANUFACTURED HOUSING

[(a) ESTABLISHMENT OF STANDARDS.—

[(1) IN GENERAL.]—Not later than 4 years after the date of enactment of this Act, the Secretary shall by regulation establish standards for energy efficiency in manufactured housing.

[(2) NOTICE, COMMENT, AND CONSULTATION.]—Standards described in paragraph (1) shall be established after—

[(A)] notice and an opportunity for comment by manufacturers of manufactured housing and other interested parties; and

[(B)] consultation with the Secretary of Housing and Urban Development, who may seek further counsel from the Manufactured Housing Consensus Committee.

[(b) REQUIREMENTS.—

[(1) INTERNATIONAL ENERGY CONSERVATION CODE.]—The energy conservation standards established under this section shall be based on the most recent version of the International Energy Conservation Code (including supplements), except in cases in which the Secretary finds that the code is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the code on the purchase price of manufactured housing and on total life-cycle construction and operating costs.

[(2) CONSIDERATIONS.]—The energy conservation standards established under this section may—

[(A) take into consideration the design and factory construction techniques of manufactured homes;

[(B) be based on the climate zones established by the Department of Housing and Urban Development rather than the climate zones under the International Energy Conservation Code; and

[(C) provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

[(3) UPDATING.—The energy conservation standards established under this section shall be updated not later than—

[(A) 1 year after the date of enactment of this Act; and

[(B) 1 year after any revision to the International Energy Conservation Code.

[(c) ENFORCEMENT.—Any manufacturer of manufactured housing that violates a provision of the regulations under subsection (a) is liable to the United States for a civil penalty in an amount not exceeding 1 percent of the manufacturer's retail list price of the manufactured housing.

[(e) COST SHARING.—In carrying out this section, the Commercial Director shall require cost sharing in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

[(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

[(1) \$20,000,000 for fiscal year 2008;

[(2) \$50,000,000 for each of fiscal years 2009 and 2010;

[(3) \$100,000,000 for each of fiscal years 2011 and 2012; and

[(4) \$200,000,000 for each of fiscal years 2013 through 2018.]

* * * * *

MINORITY VIEWS

H.R. 6421, the “Affordable Housing Over Mandating Efficiency Standards Act,” prevents households that live in manufactured housing from benefiting from energy efficiency standards that are established by energy sector experts. Specifically, H.R. 6421 repeals Section 413 of the Energy Independence and Security Act of 2007 (EISA) and removes this authority from the Department of Energy’s (DOE) jurisdiction, thus sending energy efficiency standards for manufactured homes to another federal agency that does not specialize in energy efficiency rulemaking. Additionally, the bill prevents a recently finalized energy efficiency standard for manufactured housing from taking effect and lowering household utility bills. H.R. 6421 also was not supported by expert testimony as the bill was not included in a Committee hearing and instead sent straight to markup without the necessary witness testimony. For these reasons, the Committee Minority strongly opposes H.R. 6421.

Repealing section 413 of EISA will send authority of manufactured housing efficiency standards to the Department of Housing and Urban Development (HUD). EISA passed in a bipartisan fashion, and Congress explicitly directed DOE to develop energy efficiency standards for manufactured homes. The law directs DOE to base the standards on the most recent International Energy Conservation Code (IECC) unless the Secretary finds that IECC is not cost-effective or that a more stringent standard would be cost-effective.¹ Prior to the passage of EISA, HUD, which was responsible for energy standards for manufactured homes, had not updated its energy provisions since 1994.² EISA requires DOE to provide notice and the opportunity for comment from manufacturers and stakeholders, and to consult with the Secretary of HUD on energy efficiency standards for manufactured housing.³ DOE has a rigorous rulemaking process with extensive stakeholder engagement and energy sector expert input, and has significant experience setting energy efficiency standards. Repealing Section 413 of EISA removes this important DOE authority.

H.R. 6421 also prevents the final rule titled “Energy Conservation Program: Standards for Manufactured Housing” published in the Federal Register on May 31, 2022 from having any effect. In May 2022, DOE finalized a court-mandated rule adopting energy conservation standards for new manufactured homes. The rule will help those living in manufactured housing save up to \$475 per year

¹Congressional Research Service, *Housing Issues in the 118th Congress* (Jan. 19, 2024) (R47628).

²American Council for an Energy-Efficient Economy, *Biden Standard for Manufactured Homes Will Leave Low-Income Households with High Energy Bills* (May 18, 2022) (press release).

³See note 1.

on average on their utility bills.⁴ Energy costs are about 70 percent higher per square foot in manufactured homes compared to site-built homes.⁵ The median energy burden of manufactured housing residents is 39 percent higher than that of single-family households.⁶ The Committee Minority believes it is important to support this standard and the crucial savings the standard will provide for these households.

In the Committee report for H.R. 6421, the Majority cites a Subcommittee on Energy, Climate, and Grid Security hearing on September 13, 2023 as what was used to develop this bill. This hearing, titled “Keeping the Lights On: Enhancing Reliability and Efficiency to Power American Homes” did not include testimony on H.R. 6421 or manufactured homes energy efficiency standards. As a result, the Committee did not receive any expert witness testimony on the need for the bill or its effects. Given the significant impacts of this bill, and the striking of a section from a long-standing energy statute, this bill should have been given proper consideration and moved through regular Committee order, which includes a legislative hearing.

For the reasons stated above, we dissent from the views contained in the Committee’s report.

FRANK PALLONE, Jr.,

Ranking Member, Committee on Energy and Commerce.



⁴Department of Energy, *DOE Updates Mobile Home Efficiency Standards to Lower Household Energy Bills* (May 18, 2022) (press release).

⁵See note 2.

⁶American Council for an Energy-Efficient Economy, *How High Are Household Energy Burdens?* (Sept. 2020).