

ervation Code” for “Council of American Building Officials Model Energy Code, 1992” and “the 2006 IECC” for “CABO Model Energy Code, 1992” and struck out “, and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code” before “, and shall be”.

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

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

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

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

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

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

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

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

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub.

L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### § 12710. Capacity study

##### (a) In general

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

##### (b) Report

Not later than 60 days after November 28, 1990, and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department’s plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

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

#### Editorial Notes

##### REFERENCES IN TEXT

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

##### AMENDMENTS

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

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

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

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

Notwithstanding any other provision of this subchapter or subchapter II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that

is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

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

### § 12712. 5-year energy efficiency plan

#### (a) Establishment

The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

#### (b) Initial plan

The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on November 28, 1990.

#### (c) Updates

The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

#### (d) Submission to Congress

The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(Pub. L. 101-625, title IX, §945, Nov. 28, 1990, 104 Stat. 4416.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 944, referred to in subsec. (a), is section 944 of Pub. L. 101-625, which is set out below.

##### CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

#### Statutory Notes and Related Subsidiaries

##### BUDGET-NEUTRAL DEMONSTRATION PROGRAM FOR ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS

Pub. L. 114-94, div. G, title LXXXI, §81001, Dec. 4, 2015, 129 Stat. 1792, provided that:

“(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development (in this section referred to as the ‘Secretary’) shall establish a demonstration program under which the Secretary may execute budget-neutral,

performance-based agreements in fiscal years 2016 through 2019 that result in a reduction in energy or water costs with such entities as the Secretary determines to be appropriate under which the entities shall carry out projects for energy or water conservation improvements at not more than 20,000 residential units in multifamily buildings participating in—

“(1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act;

“(2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q); or

“(3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

“(b) REQUIREMENTS.—

“(1) PAYMENTS CONTINGENT ON SAVINGS.—

“(A) IN GENERAL.—The Secretary shall provide to an entity a payment under an agreement under this section only during applicable years for which an energy or water cost savings is achieved with respect to the applicable multifamily portfolio of properties, as determined by the Secretary, in accordance with subparagraph (B).

“(B) PAYMENT METHODOLOGY.—

“(i) IN GENERAL.—Each agreement under this section shall include a pay-for-success provision that—

“(I) shall serve as a payment threshold for the term of the agreement; and

“(II) requires that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties.

“(ii) LIMITATIONS.—A payment made by the Secretary under an agreement under this section—

“(I) shall be contingent on documented utility savings; and

“(II) shall not exceed the utility savings achieved by the date of the payment, and not previously paid, as a result of the improvements made under the agreement.

“(C) THIRD-PARTY VERIFICATION.—Savings payments made by the Secretary under this section shall be based on a measurement and verification protocol that includes at least—

“(i) establishment of a weather-normalized and occupancy-normalized utility consumption baseline established pre-retrofit;

“(ii) annual third-party confirmation of actual utility consumption and cost for utilities;

“(iii) annual third-party validation of the tenant utility allowances in effect during the applicable year and vacancy rates for each unit type; and

“(iv) annual third-party determination of savings to the Secretary.

An agreement under this section with an entity shall provide that the entity shall cover costs associated with third-party verification under this subparagraph.

“(2) TERMS OF PERFORMANCE-BASED AGREEMENTS.—A performance-based agreement under this section shall include—

“(A) the period that the agreement will be in effect and during which payments may be made, which may not be longer than 12 years;

“(B) the performance measures that will serve as payment thresholds during the term of the agreement;

“(C) an audit protocol for the properties covered by the agreement;

“(D) a requirement that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties; and

“(E) such other requirements and terms as determined to be appropriate by the Secretary.