

Alliance to Save Energy ♦ American Council for an Energy Efficient Economy  
Building Energy Efficient Codes Network ♦ Consumer Federation of America  
Consumers Union ♦ Environmental Defense Fund ♦ Institute for Market Transformation  
International Code Council ♦ National Association of State Energy Officials  
National Consumer Law Center ♦ Natural Resources Defense Council  
North American Insulation Manufacturers Association  
Responsible Energy Codes Alliance

April 26, 2011

Shaun Donovan, Secretary  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street S.W.  
Washington, DC 20410

Thomas J. Vilsack, Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

**RE: Model energy codes for houses subject to Federal Housing  
Administration and US Department of Agriculture mortgage programs.**

Dear Secretary Donovan and Secretary Vilsack:

We are writing to strongly urge the U.S. Department of Housing and Urban Development (“HUD”) and the U.S. Department of Agriculture (“USDA”) to immediately take action necessary to implement the existing legal requirement that new single-family houses securing loans insured by the Federal Housing Administration (“FHA”) and the USDA must meet or exceed the requirements of the 2006 IECC model energy code.<sup>1</sup>

In the Cranston-Gonzalez National Affordable Housing Act<sup>2</sup> (“Cranston-Gonzalez”), as amended and updated by the Energy Policy Act of 1992,<sup>3</sup> the Energy Policy Act of 2005,<sup>4</sup> and the Energy Independence and Security Act of 2007,<sup>5</sup> Congress required that HUD and USDA limit various loan and grant programs to buildings that meet or exceed certain model energy code requirements. Under the current statute, codified at 42 U.S.C. § 12709, for a mortgage for the purchase of a newly-constructed single-family house to be eligible for insurance under the National Housing Act and

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<sup>1</sup> Although the statute also requires actions related to multifamily housing, public housing, and other buildings, in this letter we focus on the requirements applicable to loans secured by single-family houses.

<sup>2</sup> Cranston-Gonzalez National Affordable Housing Act (“Cranston-Gonzalez”), Pub. L. No. 101-625, 104 Stat. 4079 (Nov. 28, 1990).

<sup>3</sup> Energy Policy Act of 1992, Pub. L. No. 102-486 (Oct. 24, 1992).

<sup>4</sup> Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (Aug. 8, 2005).

<sup>5</sup> Energy Policy and Security Act of 2007 (“EISA”), Pub. L. No. 110-140, 121 Stat. 1648 (Dec. 19, 2007).

under Title VI of the Housing Act of 1949, the house must meet or exceed model energy code requirements.<sup>6</sup> The statute requires the 2006 IECC model code to be implemented in the absence of prior administrative action, and the statute requires updating the version of the model code implemented, as the model code is updated, if certain administrative determinations are made by your agencies.

There are many important reasons to limit federal mortgage insurance to houses that meet or exceed the requirements of the 2006 IECC model energy code. The model codes require building measures that have been demonstrated to be cost-effective. While better building methods and materials may add marginally to the cost of the house, homeowners with code-compliant houses can expect to have lower energy bills month after month, more than re-paying any added up-front cost.<sup>7</sup> This is especially important in light of the substantial cost advantage to installing efficiency measures during construction as opposed to later retrofit or weatherization.

Homeowners will realize substantial energy savings as a result of the better building methods required by model energy codes, with typical utility bill savings for heating and cooling between 20% and 50% through techniques such as proper insulation, air sealing, and the use of efficient systems for lighting, heating, cooling, hot water, and ventilation. Lower monthly energy bills should make homeowners in the HUD and USDA loan programs better borrowers.

It is also important that when construction of a home is completed, the materials and methods that drive energy usage are often hidden from prospective homebuyers and difficult to identify, even with a thorough home inspection. This fact makes it difficult for homebuyers to account for lower expected energy costs in the purchase transaction. Homes built in compliance with the 2006 IECC model code, in contrast, will include posted information about insulation levels and other related properties.

Increasing the efficiency of houses through better building methods and materials will also yield substantial widespread value to the nation in the form of reduced pollution, reduced costs for utilities to meet growing demand, increased economic vitality, and increased energy security.

It appears HUD and USDA are currently not in compliance with the statutory requirements. FHA loan documentation currently includes a “Builder’s Certification” form<sup>8</sup> referencing compliance with a 1992 energy code, not the 2006 IECC code required by the statute, and suggesting the requirement applies only to certain kinds of FHA loans.

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<sup>6</sup> 42 U.S.C. §12709(a)(1)(A) & (B).

<sup>7</sup> See Zachary Paquette, John Miller, and Mike DeWein, *Incremental Construction Cost Analysis for New Homes: Building to the 2009 IECC* (Building Codes Assistance Project 2010), located at <http://bcap-ocean.org/incremental-cost-analysis>.

<sup>8</sup> *Builder’s Certification of Plans, Specifications, & Site*, Form HUD-92541 (4/2001).

We recognize that the Administration, HUD, and the USDA have taken important steps to promote greater energy efficiency in existing programs, and we very much appreciate your leadership. Secretary Donovan's many statements supporting energy efficiency and actual improvements to various HUD programs have been recognized and welcomed. President Obama has repeatedly recognized the importance of improving residential energy efficiency, most recently in his March 30, 2011 speech on energy security.<sup>9</sup> Coming into compliance with the statutory requirements of 42 U.S.C. Section 12709 is an opportunity for HUD and USDA to make meaningful gains on energy efficiency under existing legislative authority.

The organizations named below strongly believe that requiring new homes to be constructed to meet the IECC model energy code will deliver substantial value to homeowners in the form of lower energy bills, to HUD in the form of better loan quality, and to the country in the form of increased economic vitality, greater energy security, and reduced pollution. We are eager to help both HUD and USDA identify measures to immediately achieve compliance with the requirements of the law.

For these reasons, we encourage HUD and USDA to immediately review all documentation and processes of the FHA and USDA mortgage programs for compliance with the statutory requirements of 42 U.S.C. Section 12709 and to implement a plan to assure that FHA and USDA insure loans for the purchase of newly constructed single-family houses only if the houses are built in compliance with the 2006 IECC model energy code.

Sincerely,

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<sup>9</sup> See <http://www.whitehouse.gov/the-press-office/2011/03/30/remarks-president-americas-energy-security>.

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