

111TH CONGRESS  
1ST SESSION

# H. R. 4106

To authorize the Secretary of Housing and Urban Development to make grants and loans to owners of federally assisted housing projects for costs of making green retrofit improvements to such projects.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2009

Mr. HIMES (for himself, Mr. WELCH, and Mr. OLVER) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To authorize the Secretary of Housing and Urban Development to make grants and loans to owners of federally assisted housing projects for costs of making green retrofit improvements to such projects.

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 “Green Affordable  
5       Housing Act of 2009”.

6       **SEC. 2. GREEN RETROFIT GRANT AND LOAN PROGRAM.**

7       (a) ESTABLISHMENT.—The Secretary of Housing  
8       and Urban Development shall carry out a program to

1 make grants and loans under this section to owners of eli-  
2 gible federally assisted housing projects for making eligible  
3 green retrofit improvements to such projects.

4 (b) ELIGIBLE FEDERALLY ASSISTED HOUSING  
5 PROJECTS.—Grants and loans under this section may be  
6 provided only for eligible green retrofit improvements  
7 under subsection (c) for—

8 (1) housing for which project-based assistance  
9 is provided under section 8 of the United States  
10 Housing Act of 1937 (42 U.S.C. 1437f);

11 (2) housing that is assisted under section 202  
12 of the Housing Act of 1959 (12 U.S.C. 1701q);

13 (3) housing that is assisted under section 202  
14 of the Housing Act of 1959, as such section existed  
15 before the enactment of the Cranston-Gonzalez Na-  
16 tional Affordable Housing Act (Public Law 101–  
17 625);

18 (4) housing that is assisted under section 811  
19 of the Cranston-Gonzalez National Affordable Hous-  
20 ing Act (42 U.S.C. 8013);

21 (5) housing financed by a loan or mortgage in-  
22 sured under section 221(d)(3) of the National Hous-  
23 ing Act (12 U.S.C. 1715l(d)(3)) that bears interest  
24 at a rate determined under the proviso of section  
25 221(d)(5) of such Act (12 U.S.C. 1715l(d)(5));

1           (6) housing insured, assisted, or held by the  
2           Secretary or a State or State agency under section  
3           236 of the National Housing Act (12 U.S.C. 1715z–  
4           1);

5           (7) housing constructed or substantially reha-  
6           bilitated pursuant to assistance provided under sec-  
7           tion 8(b)(2) of the United States Housing Act of  
8           1937, as in effect before October 1, 1983, that is as-  
9           sisted under a contract for assistance under such  
10          section;

11          (8) housing assisted or formerly assisted under  
12          section 101 of the Housing and Urban Development  
13          Act of 1965 (12 U.S.C. 1701s);

14          (9) multifamily housing projects assisted with  
15          amounts made available under the HOME Invest-  
16          ment Partnerships Act (42 U.S.C. 12721 et seq.);

17          (10) housing for which a loan is made or in-  
18          sured under section 515 of the Housing Act of 1949  
19          (42 U.S.C. 1485); and

20          (11) housing for which a low-income housing  
21          tax credit is provided pursuant to section 42 of the  
22          Internal Revenue Code of 1986 (26 U.S.C. 42).

23          (c) ELIGIBLE GREEN RETROFIT IMPROVEMENTS.—

24                  (1) IN GENERAL.—For purposes of this section,  
25          eligible green retrofit improvements are improve-

1       ments to an eligible federally assisted housing  
2       project that are approved by the Secretary as having  
3       one or more of the following attributes, as compared  
4       with the comparable component that would normally  
5       be used by owners of similar properties in the same  
6       market area:

7               (A) Materially lower electric, heating fuel,  
8               or water consumption.

9               (B) Materially lower emissions of chemicals  
10              thought to be harmful to humans.

11              (C) Materially longer useful life.

12              (D) Materially more biodegradable.

13              (E) Materially more easily recycled.

14              (F) Materially lower use of raw materials  
15              or use of materially more recycled content.

16              (G) Materially lower transportation costs  
17              of products delivered to the project.

18       For purposes of this paragraph, determinations of  
19       materiality shall be made by the Secretary in the  
20       sole discretion of the Secretary.

21              (2) RELATED IMPROVEMENTS.—For purposes  
22       of this section, eligible green retrofit improvements  
23       shall include improvements approved by the Sec-  
24       retary as related or collateral to the undertaking or  
25       provision of eligible green retrofit improvements ap-

1 proved pursuant to paragraph (1) for an eligible fed-  
2 erally assisted housing project.

3 (3) VERIFICATION.—For purposes of verifying  
4 improvements as eligible green retrofit improvements  
5 under this subsection, the Secretary shall, by regula-  
6 tion, provide for the following:

7 (A) Certification of building energy and  
8 environment auditors, inspectors, and raters by  
9 the Residential Energy Services Network  
10 (RESNET), or an equivalent certification sys-  
11 tem as determined by the Secretary.

12 (B) Certification or licensing of building  
13 energy and environmental retrofit contractors  
14 by the Building Performance Institute (BPI),  
15 or an equivalent certification or licensing sys-  
16 tem as determined by the Secretary.

17 (C) Use of equipment and procedures of  
18 the Building Performance Institute, Residential  
19 Energy Services Network, or other appropriate  
20 equipment and procedures (such as infrared  
21 photography and pressurized testing, and tests  
22 for water use and indoor air quality), as deter-  
23 mined by the Secretary, to test the energy and  
24 environmental efficiency of buildings effectively.

1           (D) Determination of energy savings by  
2 comparison of scores on the Home Energy Rat-  
3 ing System (HERS) Index before and after ret-  
4 rofit, with the final score produced by an objec-  
5 tive third party.

6           (d) EXTENSION OF AFFORDABILITY RESTRIC-  
7 TIONS.—

8           (1) GRANTS.—

9           (A) IN GENERAL.—The Secretary may  
10 provide a grant under this section for an eligi-  
11 ble federally assisted housing project only if the  
12 owner of the project enters into such binding  
13 commitments as the Secretary shall require,  
14 which shall be applicable to any subsequent  
15 owner, to ensure that the project will be oper-  
16 ated, until the expiration of the period specified  
17 in subparagraph (B), in accordance with all af-  
18 fordability restrictions that are applicable to the  
19 project under the federal assistance program re-  
20 ferred to in subsection (b) under which assist-  
21 ance is provided for the project.

22           (B) PERIOD.—The period specified in this  
23 paragraph for an eligible federally assisted  
24 housing project is the period that—

1 (i) begins upon the date of the expira-  
2 tion of applicability, to the project, of the  
3 affordability restrictions under the federal  
4 assistance program referred to in sub-  
5 section (b) under which assistance is pro-  
6 vided for the project;

7 (ii) has such duration, as determined  
8 by the Secretary, as commensurate with  
9 the amount of the loan or grant assistance  
10 provided under this section for the project;

11 and

12 (iii) in no case exceeds 30 years.

13 The Secretary may make such adjustments to  
14 such period as may be necessary to take into  
15 consideration any more significant restrictions  
16 accompanying other subsidies for the project.

17 (2) LOANS.—In providing loans under this sec-  
18 tion for eligible federally assisted housing projects,  
19 the Secretary may require the project to comply with  
20 affordability restrictions as the Secretary may estab-  
21 lish, the terms of which shall be commensurate with  
22 the term and amount of the loan.

23 (e) LIMITATION ON AMOUNT.—The amount of a  
24 grant or loan under this section for an eligible federally  
25 assisted housing project may not exceed—

1           (1) a percentage, as determined by the Sec-  
2           retary, of the cost of the eligible green retrofit im-  
3           provements for the project described in the retrofit  
4           plan under subsection (f)(2) for the project; and

5           (2) a dollar amount limitation, as the Secretary  
6           may establish.

7           (f) APPLICATIONS.—

8           (1) IN GENERAL.—The Secretary shall provide  
9           for owners of eligible federally assisted housing  
10          project to submit applications to the Secretary for  
11          grants and loans under this subsection. The Sec-  
12          retary shall require each such application to include  
13          a retrofit plan under paragraph (2).

14          (2) RETROFIT PLAN.—

15           (A) REQUIREMENTS.—The Secretary may  
16           not make any grant or loan under this section  
17           for any eligible green retrofit improvements for  
18           an eligible federally assisted housing project un-  
19           less the owner of the project has submitted to  
20           the Secretary, and the Secretary has approved  
21           (pursuant to any amendments or changes as  
22           the Secretary may require), a detailed written  
23           plan regarding such improvements that com-  
24           plies with such requirements as the Secretary



1 shall establish, which shall include the fol-  
2 lowing:

3 (i) The plan shall set forth the cur-  
4 rent utility costs for the project, including  
5 costs for water, heat, and electricity.

6 (ii) The plan shall describe the eligible  
7 green retrofit improvements to be made for  
8 the project, setting forth—

9 (I) a schedule for completing  
10 each such improvement;

11 (II) the cost of and sources of  
12 funding for each such improvement;

13 (III) the amount of anticipated  
14 cost savings resulting from each such  
15 improvement; and

16 (IV) a schedule for such savings  
17 for each such improvement based on  
18 the current utility costs for the project  
19 set forth pursuant to clause (i), except  
20 that such cost-savings schedule may  
21 not have a term exceeding 10 years.

22 (B) COST-EFFICIENCY; COST SAVINGS.—

23 The Secretary may approve a retrofit plan  
24 under this subsection only if the Secretary de-  
25 termines that—

1 (i) the total present value of the cost  
2 savings resulting from the eligible green  
3 retrofit improvements specified in the plan  
4 and to be recovered over the term of the  
5 cost-savings schedule included in the plan  
6 will exceed the cost of making such im-  
7 provements; and

8 (ii) the eligible green retrofit improve-  
9 ments specified in the plan will result in  
10 savings in utility or other operating costs  
11 for the eligible federally assisted housing  
12 project of not less than 20 percent, in com-  
13 parison to utility and operating costs of  
14 such project absent the eligible green ret-  
15 rofit improvements to be undertaken under  
16 the plan.

17 (3) SELECTION PRIORITIES.—In selecting appli-  
18 cations for loans and grants under this section the  
19 Secretary may—

20 (A) give priority to applications providing  
21 for eligible green retrofit improvements that are  
22 funded in part with amounts from sources other  
23 than grants and loans under this section, and  
24 the extent of such priority provided may be

1 based on the ratio of such funding from other  
2 sources; and

3 (B) give priority to applications based on  
4 the net amount of energy efficiency savings re-  
5 sulting from the eligible green retrofit improve-  
6 ments to be funded by such loans and grants.

7 (g) LOANS.—In such circumstances as the Secretary  
8 may provide, the Secretary may provide assistance under  
9 this section in the form of a loan, which shall have such  
10 term to maturity, shall bear interest, and shall have such  
11 other terms and conditions as the Secretary may establish.

12 (h) TREATMENT OF GRANT AMOUNTS.—Notwith-  
13 standing any other provision of law, assistance amounts  
14 under this section may be treated as amounts not derived  
15 from a Federal grant.

16 (i) MONITORING.—

17 (1) SUBMISSION OF INFORMATION TO SEC-  
18 RETARY.—The Secretary shall require each owner of  
19 an eligible federally assisted housing project for  
20 which a grant or loan under this section is made to  
21 submit to the Secretary such information, on a reg-  
22 ular basis during the term of the cost savings sched-  
23 ule included in the retrofit plan for project for which  
24 such grant or loan is made or during such other  
25 term, and in such form and manner, as the Sec-

1       retary considers appropriate to determine the cost  
2       savings resulting from the eligible green retrofit im-  
3       provements funded with such grant or loan and to  
4       provide such other information as the Secretary con-  
5       siders necessary.

6               (2) OTHER MONITORING.—With respect to eli-  
7       gible federally assisted housing projects for which eli-  
8       gible green retrofit improvements have been made  
9       with assistance under this section, the Secretary  
10      shall—

11               (A) establish guidelines for obtaining cer-  
12              tification of such projects, after retrofit, as En-  
13              ergy Star buildings, for assigning Home Energy  
14              Rating System (HERS) rating for such  
15              projects, and for completing applicable building  
16              performance labels; and

17               (B) establish processes for tracking the  
18              numbers and locations of such projects and ob-  
19              taining information on projected and actual  
20              savings of energy and its value over time.

21               (j) DEFINITIONS.—For purposes of this section, the  
22      following definitions shall apply:

23               (1) AFFORDABILITY RESTRICTIONS.—The term  
24              “affordability restrictions” means, with respect to an  
25              eligible federally assisted housing project, limits im-

1 posed by statute, regulation, or regulatory agree-  
2 ment on tenant rents, rent contributions, or income  
3 eligibility.

4 (2) COST-SAVINGS SCHEDULE.—The term  
5 “cost-savings schedule” means, with respect to a ret-  
6 rofit plan for an eligible federally assisted housing  
7 project, the schedule included in such plan pursuant  
8 to subsection (f)(2)(A)(ii)(IV).

9 (3) ELIGIBLE FEDERALLY ASSISTED HOUSING  
10 PROJECT.—The term “eligible federally assisted  
11 housing project” means a housing project described  
12 in subsection (b).

13 (4) RETROFIT PLAN.—The term “retrofit plan”  
14 means a plan required under subsection (f)(2).

15 (5) SECRETARY.—The term “Secretary” means  
16 the Secretary of Housing and Urban Development.

17 (k) AUTHORIZATION OF APPROPRIATIONS.—There is  
18 authorized to be appropriated such sums for each of fiscal  
19 years 2010 through 2014, which shall be available for—

20 (1) grants under this section; and

21 (2) costs (as such term is defined in section  
22 502 of the Federal Credit Reform Act of 1990 (2  
23 U.S.C. 661a) of loans under this section.

1       (1) REGULATIONS.—The Secretary shall issue any  
2 regulations necessary to carry out this section.

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