

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0435.02 Jason Gelender x4330

HOUSE BILL 13-1105

HOUSE SPONSORSHIP

Tyler and Foote,

SENATE SPONSORSHIP

Schwartz,

House Committees

Transportation & Energy
Appropriations

Senate Committees

Agriculture, Natural Resources, & Energy
Finance

A BILL FOR AN ACT

101 **CONCERNING THE ENERGY SAVING MORTGAGE PROGRAM, AND, IN**
102 **CONNECTION THEREWITH, DEFINING THE [REDACTED] PROGRAM,**
103 **ESTABLISHING PROGRAM REQUIREMENTS, AND PROVIDING AN**
104 **INCENTIVE TO PUBLIC UTILITIES TO PARTICIPATE IN THE**
105 **PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The Colorado energy office (office) currently administers the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
April 26, 2013

HOUSE
3rd Reading Unamended
March 27, 2013

HOUSE
Amended 2nd Reading
March 26, 2013

Colorado energy star/energy saving mortgage program, which provides loan benefits in the form of interest rate buy-downs to persons who take out mortgages to finance purchases of new energy efficient homes or improvements that make existing homes more energy efficient. The bill defines the Colorado energy saving mortgage program (program) as the Colorado energy star/energy saving mortgage program, as modified by the bill or by any program changes implemented by the office within the limitations specified in the bill, creates a Colorado energy saving mortgage program fund (fund) that is continuously appropriated to the office and is to be used by the office to fund the program, limits the amount of fund principal allowed to be appropriated or transferred to the fund from state sources to the total amount of fund principal credited to the fund from all nonstate sources combined, and specifies requirements for program participation and limitations on the maximum amount of financial benefits that a borrower may receive from an energy saving mortgage.

An energy saving mortgage must be funded with contributions from the state, a participating public utility, and a participating lender, and the office may promulgate rules specifying minimum percentages of the total funding that each nonstate source of funding must provide. The office may spend moneys contributed to the fund by a participating public utility only for energy saving mortgages for homes within the service area of the participating public utility. A public utility participates in the program by contributing moneys to the fund and may receive credit against its demand side management program goals, and any carbon emission program goals that may be established in the future, for its participation. The public utilities commission may promulgate rules that establish the requirements for claiming and methods for calculating the amount of any such credit.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add 24-38.5-102.7**
3 as follows:

4 **24-38.5-102.7. Colorado energy saving mortgage program -**
5 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "ACCREDITED HOME ENERGY RATING PROVIDER" MEANS A
8 PERSON WHO RESNET HAS ACCREDITED THROUGH THE MORTGAGE

1 INDUSTRY NATIONAL HOME ENERGY RATING SYSTEM ACCREDITATION
2 STANDARD AS A RATING PROVIDER AND WHO APPEARS ON RESNET'S
3 NATIONAL REGISTRY OF ACCREDITED RATING PROVIDERS OR A PERSON
4 WHO MEETS OTHER RATING PROVIDER REQUIREMENTS ADOPTED IN
5 GUIDELINES BY THE COLORADO ENERGY OFFICE PURSUANT TO PARAGRAPH
6 (c) OF SUBSECTION (4) OF THIS SECTION.

7 (b) "CERTIFIED HOME ENERGY RATER" MEANS AN INDIVIDUAL WHO
8 AN ACCREDITED HOME ENERGY RATING PROVIDER HAS CERTIFIED AS A
9 RESNET HOME ENERGY RATER TO INSPECT AND EVALUATE A HOME'S
10 ENERGY FEATURES, ASSIGN A HERS INDEX SCORE TO THE HOME, AND
11 RECOMMEND ENERGY EFFICIENCY IMPROVEMENTS OR AN INDIVIDUAL WHO
12 MEETS OTHER RATER CERTIFICATION REQUIREMENTS ADOPTED IN
13 GUIDELINES BY THE COLORADO ENERGY OFFICE PURSUANT TO PARAGRAPH
14 (c) OF SUBSECTION (4) OF THIS SECTION.

15 (c) "COLORADO ENERGY SAVING MORTGAGE PROGRAM" OR
16 "PROGRAM" MEANS THE COLORADO ENERGY STAR/ENERGY SAVING
17 MORTGAGE PROGRAM ADMINISTERED BY THE COLORADO ENERGY OFFICE
18 AS OF JANUARY 1, 2013, AS MODIFIED BY THIS SECTION OR BY ANY
19 PROGRAM CHANGES IMPLEMENTED BY THE COLORADO ENERGY OFFICE
20 WITHIN THE LIMITATIONS SPECIFIED IN THIS SECTION, OR ANY SUCCESSOR
21 PROGRAM.

22 (d) "ENERGY EFFICIENT HOME" MEANS A HOME THAT A CERTIFIED
23 HOME ENERGY RATER HAS CERTIFIED AS HAVING A HERS INDEX SCORE OF
24 NOT MORE THAN FIFTY OR THAT MEETS OTHER REQUIREMENTS FOR BEING
25 AN ENERGY EFFICIENT HOME THAT THE COLORADO ENERGY OFFICE
26 ADOPTS IN GUIDELINES PURSUANT TO SUBSECTION (4) OF THIS SECTION.

27 (e) "ENERGY SAVING MORTGAGE" MEANS A MORTGAGE ISSUED TO

1 A BORROWER BY A PARTICIPATING LENDER THROUGH THE COLORADO
2 ENERGY SAVING MORTGAGE PROGRAM FOR THE PURPOSE OF FINANCING:

3 (I) THE PURCHASE OF A NEWLY BUILT ENERGY EFFICIENT HOME; OR

4 (II) IMPROVEMENTS TO AN EXISTING HOME THAT:

5 (A) ARE MADE IN ACCORDANCE WITH RECOMMENDATIONS MADE
6 BY OR APPROVED BY THE COLORADO ENERGY OFFICE FOLLOWING A
7 RESIDENTIAL ENERGY AUDIT OF THE HOME; AND

8 (B) ARE CONFIRMED BY POST-INSTALLATION VERIFICATION
9 CONDUCTED BY THE COLORADO ENERGY OFFICE OR A VENDOR, INCLUDING
10 BUT NOT LIMITED TO A PARTICIPATING UTILITY, UNDER CONTRACT WITH
11 THE OFFICE TO HAVE IMPROVED THE ENERGY EFFICIENCY OF THE HOME TO
12 THE EXTENT REQUIRED BY THE COLORADO ENERGY OFFICE.

13 (f) "HERS INDEX" MEANS THE HOME ENERGY RATING SYSTEM
14 INDEX ESTABLISHED BY RESNET TO MEASURE THE ENERGY EFFICIENCY
15 OF A HOME.

16 (g) "PARTICIPATING LENDER" MEANS A BANK, CREDIT UNION,
17 OTHER FINANCIAL INSTITUTION, OR INDEPENDENT MORTGAGE BROKER
18 THAT PARTICIPATES IN THE COLORADO ENERGY SAVING MORTGAGE
19 PROGRAM BY ISSUING ENERGY SAVING MORTGAGES AND CONTRIBUTING
20 FUNDING THAT REDUCES THE TOTAL COST OF THE MORTGAGES TO THE
21 BORROWERS.

22 (h) "PARTICIPATING PUBLIC UTILITY" MEANS A PUBLIC UTILITY, AS
23 DEFINED IN SECTION 40-1-103, C.R.S., INCLUDING ANY MUNICIPALITY
24 THAT OPERATES AN ELECTRIC UTILITY AND ANY COOPERATIVE ELECTRIC
25 OR GAS ASSOCIATION OR NONPROFIT ELECTRIC CORPORATION OR
26 ASSOCIATION, THAT:

27 (I) PROVIDES ELECTRICITY OR NATURAL GAS TO RESIDENTIAL

1 CUSTOMERS, WITHOUT REGARD TO WHETHER THE UTILITY, ASSOCIATION,
2 OR CORPORATION IS SUBJECT TO OR EXEMPT, IN WHOLE OR IN PART, FROM
3 THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO 7 OF TITLE 40, C.R.S.;

4 (II) CHOOSES TO PARTICIPATE IN THE COLORADO ENERGY SAVING
5 MORTGAGE PROGRAM BY MEETING ALL REQUIREMENTS FOR
6 PARTICIPATION SET FORTH IN GUIDELINES ADOPTED BY THE COLORADO
7 ENERGY OFFICE; AND

8 (III) IF IT IS REQUIRED TO COMPLY WITH THE PROVISIONS OF
9 ARTICLE 3.2 OF TITLE 40, HAS, PRIOR TO ITS INITIAL PARTICIPATION IN THE
10 COLORADO ENERGY SAVINGS MORTGAGE PROGRAM, HAD THE PUBLIC
11 UTILITIES COMMISSION APPROVE A PARTICIPATION PLAN.

12 (i) "RESNET" MEANS THE RESIDENTIAL ENERGY SERVICES
13 NETWORK THAT IS A RECOGNIZED NATIONAL STANDARDS-MAKING BODY
14 FOR BUILDING ENERGY EFFICIENCY RATING AND CERTIFICATION SYSTEMS
15 IN THE UNITED STATES.

16 (2) THE COLORADO ENERGY OFFICE MAY SPEND ANY AVAILABLE
17 MONEYS TO FUND ENERGY SAVING MORTGAGES SUBJECT TO THE
18 FOLLOWING LIMITATIONS:

19 (a) TO THE EXTENT FEASIBLE, THE COLORADO ENERGY OFFICE
20 SHALL SPEND MONEY EVENLY ON ENERGY SAVING MORTGAGES THAT
21 FINANCE PURCHASES OF NEWLY BUILT ENERGY EFFICIENT HOMES AND
22 ENERGY SAVING MORTGAGES THAT FINANCE IMPROVEMENTS TO EXISTING
23 RESIDENCES;

24 (b) EACH ENERGY SAVING MORTGAGE MAY INCLUDE FUNDING
25 THAT REDUCES THE TOTAL COST OF THE MORTGAGE TO THE BORROWER
26 FROM BOTH A PARTICIPATING PUBLIC UTILITY AND A PARTICIPATING
27 LENDER. THE COLORADO ENERGY OFFICE MAY ADOPT GUIDELINES TO

1 SPECIFY MINIMUM PERCENTAGES OF TOTAL FUNDING FOR AN ENERGY
2 SAVING MORTGAGE THAT EACH NONSTATE SOURCE OF FUNDING MUST
3 PROVIDE.

4 (c) IF A UTILITY CHOOSES TO PARTICIPATE IN THE COLORADO
5 ENERGY SAVINGS MORTGAGE PROGRAM BY PROVIDING DEMAND-SIDE
6 MANAGEMENT PROGRAM MONEYS, SUCH MONEYS MAY ONLY BE USED
7 TOWARDS ENERGY SAVINGS ATTRIBUTABLE TO ENERGY EFFICIENCY
8 IMPROVEMENTS AND NOT TOWARDS ENERGY SAVINGS ATTRIBUTABLE TO
9 RENEWABLE ENERGY OR ON-SITE ENERGY GENERATION IMPROVEMENTS.

10 (d) IF A UTILITY HAS EXISTING DEMAND-SIDE MANAGEMENT
11 PROGRAMS FOR RESIDENTIAL NEW CONSTRUCTION OR WHOLE-HOUSE
12 EXISTING RETROFITS, THE UTILITY MUST IDENTIFY, IN A DEMAND-SIDE
13 MANAGEMENT PLAN APPROVED BY THE PUBLIC UTILITIES COMMISSION
14 PRIOR TO THE UTILITY'S INITIAL PARTICIPATION IN THE COLORADO ENERGY
15 MORTGAGE SAVINGS PROGRAM, HOW IT WILL TRACK PARTICIPATION IN ALL
16 PROGRAMS, INCLUDING THE COLORADO ENERGY SAVINGS MORTGAGE
17 PROGRAM, TO ENSURE THAT CUSTOMERS DO NOT RECEIVE MULTIPLE
18 INCENTIVES.

19 (e) THE COLORADO ENERGY OFFICE MAY ONLY APPROVE AN
20 ENERGY SAVING MORTGAGE THAT FINANCES IMPROVEMENTS TO AN
21 EXISTING HOME IF THE IMPROVEMENTS ARE MADE BY OR APPROVED BY
22 THE OFFICE FOLLOWING A RESIDENTIAL ENERGY AUDIT OF THE HOME AND
23 ARE CONFIRMED BY POST-INSTALLATION VERIFICATION TO HAVE
24 INCREASED THE ENERGY EFFICIENCY OF THE HOME TO THE EXTENT
25 REQUIRED BY THE OFFICE. THE OFFICE MAY ADOPT GUIDELINES THAT
26 SPECIFY REQUIREMENTS FOR ENERGY EFFICIENCY INCREASES AND THE
27 CONDUCT OF RESIDENTIAL ENERGY AUDITS AND POST-INSTALLATION

1 TESTING.

2 (f) SUBJECT TO THE FOLLOWING MAXIMUM VALUE LIMITATIONS,
3 THE COLORADO ENERGY OFFICE MAY ADOPT ENERGY SAVINGS-BASED
4 GUIDELINES THAT SET FORTH THE MAXIMUM TOTAL VALUE TO THE
5 BORROWER IN TERMS OF REDUCTION IN THE TOTAL COSTS OF AN ENERGY
6 SAVING MORTGAGE:

7 (I) FOR AN ENERGY SAVING MORTGAGE THAT FINANCES THE
8 PURCHASE OF A NEW ENERGY EFFICIENT HOME, THE MAXIMUM TOTAL
9 VALUE TO THE BORROWER IN TERMS OF REDUCTION IN THE TOTAL COSTS
10 OF AN ENERGY SAVING MORTGAGE IS:

11 (A) FOR A HOME THAT HAS A HERS INDEX SCORE OF ZERO, EIGHT
12 THOUSAND DOLLARS OR ANY LOWER AMOUNT THAT THE COLORADO
13 ENERGY OFFICE ESTABLISHES IN GUIDELINES; OR

14 (B) FOR A HOME THAT HAS A HERS INDEX SCORE THAT IS
15 GREATER THAN ZERO BUT NO MORE THAN FIFTY, ANY LOWER AMOUNTS
16 THAT THE COLORADO ENERGY OFFICE ESTABLISHES IN GUIDELINES
17 SUBJECT TO THE LIMITATION THAT IF THE OFFICE ESTABLISHES MULTIPLE
18 LOWER AMOUNTS, THOSE AMOUNTS MUST INCREASE AS THE HERS INDEX
19 SCORE OF A HOME DECREASES;

20 (II) FOR AN ENERGY SAVING MORTGAGE THAT FINANCES
21 IMPROVEMENTS TO AN EXISTING HOME, THE MAXIMUM TOTAL VALUE TO
22 THE BORROWER IN TERMS OF REDUCTION IN THE TOTAL COSTS OF AN
23 ENERGY SAVING MORTGAGE IS THE LESSER OF ANY ENERGY
24 SAVINGS-BASED AMOUNT ADOPTED IN GUIDELINES BY THE COLORADO
25 ENERGY OFFICE OR EIGHT THOUSAND DOLLARS.

26 (g) THE COLORADO ENERGY OFFICE MAY SPEND MONEYS
27 CONTRIBUTED BY A PARTICIPATING PUBLIC UTILITY ONLY FOR ENERGY

1 SAVING MORTGAGES FOR HOMES WITHIN THE SERVICE AREA OF THE
2 PARTICIPATING PUBLIC UTILITY.

3 (h) IF DEMAND-SIDE MANAGEMENT MONEYS CONTRIBUTED BY A
4 PARTICIPATING UTILITY, WHEN COMBINED WITH MONEYS FROM ALL OTHER
5 SOURCES, YIELD AN INCENTIVE AMOUNT THAT EXCEEDS THE INCREMENTAL
6 COST OF THE ENERGY SAVING IMPROVEMENTS, THE UTILITY MUST SET
7 FORTH THE TREATMENT OF THE DEMAND-SIDE MANAGEMENT MONEYS IN
8 ITS DEMAND-SIDE MANAGEMENT PLAN AND HAVE THAT TREATMENT
9 APPROVED BY THE PUBLIC UTILITIES COMMISSION.

10 (i) IF THE PARTICIPATION OF A PARTICIPATING UTILITY CAUSES
11 ADDITIONAL ENERGY SAVINGS IMPROVEMENTS TO BE MADE, DUE TO THE
12 MATCHING COLORADO ENERGY OFFICE AND LENDER MONEYS, THE PUBLIC
13 UTILITIES COMMISSION MAY INCLUDE THE ADDITIONAL ENERGY SAVINGS
14 BENEFITS AND EXCLUDE THE ADDITIONAL LEVERAGED MONEYS FROM THE
15 BENEFIT-COST RATIO CALCULATION DESCRIBED IN SECTION 40-1-102 (5)
16 (b), C.R.S.

17 (3) A PARTICIPATING PUBLIC UTILITY RECEIVES CREDIT FOR ITS
18 PARTICIPATION IN THE PROGRAM TOWARDS ANY DEMAND SIDE
19 MANAGEMENT PROGRAM TARGETS, CONTINGENT UPON PUBLIC UTILITIES
20 COMMISSION APPROVAL, PURSUANT TO ARTICLE 3.2 OF TITLE 40, C.R.S.,
21 OR MAY RECEIVE CREDIT TOWARDS ANY GREENHOUSE GAS EMISSIONS
22 REQUIREMENTS THAT MAY BE ESTABLISHED IN THE FUTURE.

23 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,
24 IF ANOTHER INDEX OR MEASURE SUPERSEDES THE HERS INDEX AS THE
25 INDUSTRY STANDARD FOR MEASURING BUILDING ENERGY EFFICIENCY, THE
26 COLORADO ENERGY OFFICE MAY ADOPT GUIDELINES THAT:

27 (a) ADOPT THE OTHER INDEX OR MEASURE AS THE STANDARD FOR

1 DETERMINING THE ENERGY EFFICIENCY OF A NEW HOME OR EXISTING
2 RESIDENCE;

3 (b) SPECIFY VALUES ON THE NEW INDEX OR MEASURE THAT ARE
4 COMPARABLE TO THE HERS INDEX SCORES AND POINT IMPROVEMENTS
5 SPECIFIED IN THIS SECTION AND ARE TO BE USED TO DETERMINE
6 ELIGIBILITY FOR AND THE MAXIMUM VALUE OF ENERGY SAVING
7 MORTGAGES; AND

8 (c) SPECIFY THE REQUIREMENTS AND PROCEDURES, INCLUDING
9 ANY REQUIRED ACCREDITATION OF RATING PROVIDERS OR CERTIFICATION
10 OF RATERS, THAT MUST BE COMPLIED WITH IN RATING A NEW HOME OR
11 EXISTING RESIDENCE UNDER THE OTHER INDEX OR MEASURE.

12 **SECTION 2. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.