

## CHAPTER 346

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**GOVERNMENT - STATE**

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**HOUSE BILL 13-1105**

BY REPRESENTATIVE(S) Tyler and Foote, Duran, Exum, Fischer, Hamner, Hullinghorst, Labuda, Lee, Mitsch Bush, Moreno, Pettersen, Primavera, Rosenthal, Salazar, Singer, Williams, Young;  
also SENATOR(S) Schwartz, Aguilar, Carroll, Giron, Guzman, Heath, Jones, Kefalas, Kerr, Newell, Nicholson, Steadman, Todd, Morse.

**AN ACT**

**CONCERNING THE ENERGY SAVING MORTGAGE PROGRAM, AND, IN CONNECTION THEREWITH, DEFINING THE PROGRAM, ESTABLISHING PROGRAM REQUIREMENTS, AND PROVIDING AN INCENTIVE TO PUBLIC UTILITIES TO PARTICIPATE IN THE PROGRAM.**

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

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

**24-38.5-102.7. Colorado energy saving mortgage program - definitions.**

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

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

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

(e) "ENERGY SAVING MORTGAGE" MEANS A MORTGAGE ISSUED TO A BORROWER BY A PARTICIPATING LENDER THROUGH THE COLORADO ENERGY SAVING MORTGAGE PROGRAM FOR THE PURPOSE OF FINANCING:

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

(II) IMPROVEMENTS TO AN EXISTING HOME THAT:

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

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

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

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

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

(I) PROVIDES ELECTRICITY OR NATURAL GAS TO RESIDENTIAL CUSTOMERS, WITHOUT REGARD TO WHETHER THE UTILITY, ASSOCIATION, OR CORPORATION IS SUBJECT TO OR EXEMPT, IN WHOLE OR IN PART, FROM THE "PUBLIC UTILITIES LAW", ARTICLES 1 TO 7 OF TITLE 40, C.R.S.;

(II) CHOOSES TO PARTICIPATE IN THE COLORADO ENERGY SAVING MORTGAGE

PROGRAM BY MEETING ALL REQUIREMENTS FOR PARTICIPATION SET FORTH IN GUIDELINES ADOPTED BY THE COLORADO ENERGY OFFICE; AND

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

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

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

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

(b) EACH ENERGY SAVING MORTGAGE MAY INCLUDE FUNDING THAT REDUCES THE TOTAL COST OF THE MORTGAGE TO THE BORROWER FROM BOTH A PARTICIPATING PUBLIC UTILITY AND A PARTICIPATING LENDER. THE COLORADO ENERGY OFFICE MAY ADOPT GUIDELINES TO SPECIFY MINIMUM PERCENTAGES OF TOTAL FUNDING FOR AN ENERGY SAVING MORTGAGE THAT EACH NONSTATE SOURCE OF FUNDING MUST PROVIDE.

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

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

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

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

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

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

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

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

(g) THE COLORADO ENERGY OFFICE MAY SPEND MONEYS CONTRIBUTED BY A PARTICIPATING PUBLIC UTILITY ONLY FOR ENERGY SAVING MORTGAGES FOR HOMES WITHIN THE SERVICE AREA OF THE PARTICIPATING PUBLIC UTILITY.

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

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

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

(4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF ANOTHER INDEX OR MEASURE SUPERSEDES THE HERS INDEX AS THE INDUSTRY STANDARD FOR

MEASURING BUILDING ENERGY EFFICIENCY, THE COLORADO ENERGY OFFICE MAY ADOPT GUIDELINES THAT:

(a) ADOPT THE OTHER INDEX OR MEASURE AS THE STANDARD FOR DETERMINING THE ENERGY EFFICIENCY OF A NEW HOME OR EXISTING RESIDENCE;

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

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

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

Approved: May 28, 2013