

Subsec. (a)(3). Pub. L. 111-39, §402(d)(1)(A)(iii)(II), substituted “sale or assignment.” for “sale.”

Pub. L. 111-39, §402(d)(1)(A)(iii)(I), which directed substitution of “sold or assigned under paragraph (1)(A)” for “sold under paragraph (2)”, was executed by making the substitution for “sold under paragraph (1)” to reflect the probable intent of Congress.

Subsec. (a)(4). Pub. L. 111-39, §402(d)(1)(A)(iv), substituted “that is sold or assigned under paragraph (1)” for “which is sold under paragraph (1) of this subsection”.

Subsec. (a)(5). Pub. L. 111-39, §402(d)(1)(A)(v), inserted “(whether by loan sale or assignment)” after “rehabilitating a loan”.

Subsec. (b). Pub. L. 111-39, §402(d)(1)(B), inserted “or assigned to the Secretary” after “sold to an eligible lender”.

2008—Subsec. (a)(1)(A). Pub. L. 110-315, §426(1)(A), inserted at end “Upon the sale of the loan to an eligible lender, the guaranty agency or other holder of the loan shall request any consumer reporting agency to which the guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of default from the borrower’s credit history.”

Subsec. (a)(5). Pub. L. 110-315, §426(1)(B), added par. (5).

Subsec. (c). Pub. L. 110-315, §426(2), added subsec. (c). 2006—Subsec. (a)(1)(A). Pub. L. 109-171, §8014(h)(1), substituted “9 payments made within 20 days of the due date during 10 consecutive months” for “consecutive payments for 12 months”.

Subsec. (a)(1)(C), (D). Pub. L. 109-171, §8014(h)(2), (3), added subpar. (C) and redesignated former subpar. (C) as (D).

1998—Subsec. (b). Pub. L. 105-244 substituted “Satisfactory repayment arrangements to renew eligibility” for “Special rule” in heading.

1993—Subsec. (a)(2). Pub. L. 103-208, §2(c)(38), substituted “paragraph (1) of this subsection” for “this paragraph” and “this subsection” for “this section”.

Subsec. (a)(4). Pub. L. 103-208, §2(c)(39), substituted “paragraph (1) of this subsection” for “this paragraph”.

Subsec. (b). Pub. L. 103-208, §2(c)(40), inserted at end “A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.”

1992—Subsec. (a). Pub. L. 102-325, §420(1)–(3), redesignated subsec. (b) as (a), in par. (1)(A) substituted “Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon” for “Upon” and inserted provision at end that neither the guaranty agency nor the Secretary demand from the borrower as monthly payments more than is reasonable and affordable based upon the borrower’s total financial circumstances, in par. (3) inserted “or grants” after “loans”, and struck out former subsec. (a) which related to program requirements for the default reduction program.

Subsec. (b). Pub. L. 102-325, §420(4), added subsec. (b). Former subsec. (b) redesignated (a).

1989—Pub. L. 101-239 amended section generally, substituting provisions relating to default reduction program for former provisions relating to rehabilitation of defaulted loans.

1987—Subsecs. (b), (c). Pub. L. 100-50 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-39, title IV, §402(d)(2), July 1, 2009, 123 Stat. 1942, provided that: “The amendments made by paragraph (1) [amending this section] shall be effective on the date of enactment of this Act [July 1, 2009], and shall apply to any loan on which monthly payments described in section 428F(a)(1)(A) [42 U.S.C. 1078-6(a)(1)(A)] were paid before, on, or after such date of enactment.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

PUBLICITY THROUGH COMMUNICATIONS MEDIA OF AVAILABILITY OF DEFAULT REDUCTION PROGRAM

Pub. L. 101-239, title II, §2005(b), Dec. 19, 1989, 103 Stat. 2118, provided that: “The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section [amending this section], and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program.”

§ 1078-7. Requirements for disbursement of student loans

(a) Multiple disbursement required

(1) Two disbursements required

The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) Minimum interval required

The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(3) Special rule

An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on February 8, 2006.

(4) Amendment to special rule

Beginning on October 1, 2011, the special rule under paragraph (3) shall be applied by substituting “15 percent” for “10 percent”.

(b) Disbursement and endorsement requirements**(1) First year students**

The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period. An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph. Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on February 8, 2006.

(2) Other students

The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(3) Amendment to cohort default rate exemption

Beginning on October 1, 2011, the exemption to the requirements of paragraph (1) in the second sentence of such paragraph shall be applied by substituting “15 percent” for “10 percent”.

(c) Method of multiple disbursement

Disbursements under subsection (a) of this section—

(1) shall be made in accordance with a schedule provided by the institution (under section 1078(a)(2)(A)(i)(II) of this title) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 1078 and 1078-1¹ of this title, may be disbursed pursuant to the escrow provisions of section 1078(i) of this title; and

(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed by the lender in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) Withholding of second disbursement**(1) Withdrawing students**

A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement.

Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) Students receiving over-awards

If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) Exclusion of consolidation and foreign study loans

The provisions of this section shall not apply in the case of a loan made under section 1078-3 of this title, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent.

(f) Beginning of period of enrollment

For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) Sales prior to disbursement prohibited

An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

(Pub. L. 89-329, title IV, §428G, as added Pub. L. 101-239, title II, §2004(a), Dec. 19, 1989, 103 Stat. 2115; amended Pub. L. 101-508, title III, §3003(a), Nov. 5, 1990, 104 Stat. 1388-26; Pub. L. 102-325, title IV, §421, July 23, 1992, 106 Stat. 534; Pub. L. 103-66, title IV, §4109(b), Aug. 10, 1993, 107 Stat. 369; Pub. L. 103-208, §2(c)(41), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105-244, title IV, §422(a)-(c), Oct. 7, 1998, 112 Stat. 1696; Pub. L. 109-171, title VIII, §8010, Feb. 8, 2006, 120 Stat. 164; Pub. L. 110-315, title IV, §427, Aug. 14, 2008, 122 Stat. 3235; Pub. L. 111-39, title IV, §402(f)(4), July 1, 2009, 123 Stat. 1943.)

REFERENCES IN TEXT

Section 422(d) of the Higher Education Amendments of 1998, referred to in subsecs. (a)(3) and (b)(1), is section 422(d) of Pub. L. 105-244, set out as an Effective and Termination Dates of 1998 Amendment note below.

Section 1078-1 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 103-66, title IV, §4047(b)-(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that sec-

¹ See References in Text note below.

tion as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078-1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105-244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

CODIFICATION

Text of subsec. (a)(3) and second sentence of subsec. (b)(1), which was temporarily added by Pub. L. 105-244, § 422(a), (b), and then omitted, was restored pursuant to amendment by Pub. L. 109-171, § 8010(1), (2). See 1998 and 2006 Amendment notes and Effective and Termination Dates of 1998 Amendment note below.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111-39, § 402(f)(4)(A), substituted “section 1078(a)(2)(A)(i)(II)” for “section 1078(a)(2)(A)(i)(III)”.

Subsec. (c)(3). Pub. L. 111-39, § 402(f)(4)(B), added par. (3) and struck out former par. (3) which read as follows: “notwithstanding subsection (a)(2) of this section, may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.”

2008—Subsec. (a)(4). Pub. L. 110-315, § 427(a), added par. (4).

Subsec. (b)(3). Pub. L. 110-315, § 427(b), added par. (3).

2006—Subsec. (a)(3). Pub. L. 109-171, § 8010(1), inserted “Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning February 8, 2006.” at end. See Codification note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 109-171, § 8010(2), inserted “Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning February 8, 2006.” at end. See Codification note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 109-171, § 8010(3), struck out “, made to a student to cover the cost of attendance at an eligible institution outside the United States” after “section 1078-3 of this title”.

1998—Subsec. (a)(3). Pub. L. 105-244, § 422(a), (d), temporarily added par. (3) which read as follows: “An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months.” See Codification note and 2006 Amendment note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 105-244, § 422(b), (d), temporarily inserted at end “An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph.” See Codification note and 2006 Amendment note above and Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 105-244, § 422(c), substituted “, made to a student” for “or made to a student” and inserted before the period at end “, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent”.

1993—Subsec. (c)(3). Pub. L. 103-208 directed the substitution of “disbursed by the lender” for “disbursed” and was executed by making the substitution the first place “disbursed” appeared, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 103-66 substituted “consolidation” for “PLUS, consolidation.” in heading and “section 1078-3” for “section 1078-2 or 1078-3” in text.

1992—Subsec. (c)(3). Pub. L. 102-325, § 421(a), added par. (3).

Subsec. (d)(2). Pub. L. 102-325, § 421(b), inserted “, except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph” before period at end of first sentence.

Subsec. (g). Pub. L. 102-325, § 421(c), added subsec. (g).

1990—Subsec. (b)(1). Pub. L. 101-508 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The first installment of the proceeds of any loan made under section 1078-1 of this title that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

“(A) 30 days after the borrower begins a course of study; and

“(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Amendment by section 422(c) of Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

Pub. L. 105-244, title IV, § 422(d), Oct. 7, 1998, 112 Stat. 1696, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.”

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103-66 effective with respect to loans for which the first disbursement is made on or after Oct. 1, 1993, see section 4109(c) of Pub. L. 103-66, set out as a note under section 1078-2 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title III, § 3003(b), Nov. 5, 1990, 104 Stat. 1388-26, provided that: “The amendment made by this section [amending this section] shall be effective for loans made on or after the date of enactment of this Act [Nov. 5, 1990] to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.”

EFFECTIVE DATE

Section applicable with respect to loans made to cover cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 1077 of this title.

§ 1078–8. Unsubsidized Stafford loans for middle-income borrowers

(a) In general

It is the purpose of this section to authorize insured loans under this part that are first disbursed before July 1, 2010, for borrowers who do not qualify for Federal interest subsidy payments under section 1078 of this title. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 1078 of this title shall apply to loans made pursuant to this section.

(b) Eligible borrowers

Prior to July 1, 2010, any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Federal Stafford Loan for which the first disbursement is made before such date if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 1087*ll* of this title) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 1078 of this title; and

(2) provided the lender a statement—

(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section; and

(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title.

(c) Determination of amount of loan

The determination of the amount of a loan by an eligible institution under subsection (b) of this section shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

(d) Loan limits

(1) In general

Except as provided in paragraphs (2), (3), and (4), the annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.

(2) Limits for graduate, professional, and independent postbaccalaureate students

(A) Annual limits

The maximum annual amount of loans under this section a graduate or professional

student, or a student described in clause (ii), may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the amount determined under paragraph (1), plus—

(i) in the case of such a student who is a graduate or professional student attending an eligible institution, \$12,000; and

(ii) notwithstanding paragraph (4), in the case of an independent student, or a dependent student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program, who has obtained a baccalaureate degree and who is enrolled in coursework specified in paragraph (3)(B) or (4)(B) of section 1091(b) of this title—

(I) \$7,000 for coursework necessary for enrollment in a graduate or professional program; and

(II) \$7,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school,

except in cases where the Secretary determines that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

(B) Aggregate limit

The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in subparagraph (A), as prescribed by the Secretary by regulation.

(3) Limits for undergraduate dependent students

(A) Annual limits

The maximum annual amount of loans under this section an undergraduate dependent student (except an undergraduate dependent student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the sum of the amount determined under paragraph (1), plus \$2,000.

(B) Aggregate limits

The maximum aggregate amount of loans under this section a student described in subparagraph (A) may borrow shall be \$31,000.

(4) Limits for undergraduate independent students

(A) Annual limits

The maximum annual amount of loans under this section an undergraduate inde-