

## 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 2008 AMENDMENT

Pub. L. 110-315, title IV, § 436(a)(2), Aug. 14, 2008, 122 Stat. 3254, provided that: “The amendment made by paragraph (1)(F) [amending this section] shall take effect for fiscal years beginning on or after October 1, 2011.”

Pub. L. 110-315, title IV, § 436(e)(2), Aug. 14, 2008, 122 Stat. 3257, provided that:

“(A) EFFECTIVE DATE.—The amendments made by paragraph (1) [amending this section] shall take effect for purposes of calculating cohort default rates for fiscal year 2009 and succeeding fiscal years.

“(B) TRANSITION.—Notwithstanding subparagraph (A), the method of calculating cohort default rates under section 435(m) of the Higher Education Act of 1965 [20 U.S.C. 1085(m)] as in effect on the day before the date of enactment of this Act [Aug. 14, 2008] shall continue in effect, and the rates so calculated shall be the basis for any sanctions imposed on institutions of higher education because of their cohort default rates, until three consecutive years of cohort default rates calculated in accordance with the amendments made by paragraph (1) are available.”

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as a note under section 1070a of this title.

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-292, § 3(b), Sept. 30, 2006, 120 Stat. 1341, provided that: “The amendment made by subsection (a) [amending this section] shall not apply with respect to any loan under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) disbursed before January 1, 2007.”

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 2000 AMENDMENT

Pub. L. 106-554, § 1(a)(1) [title III, § 308(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-45, provided that: “The amendment made by subsection (a) of this section [amending this section] shall be effective for cohort default rate calculations for fiscal years 1997 and 1998.”

## EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(b)(2) and 429(a), (b), (d) 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, § 429(c)(2), Oct. 7, 1998, 112 Stat. 1708, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to loans for which the first day of delinquency occurs on or after the date of enactment of this Act [Oct. 7, 1998].”

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective on reorganization effective date as defined in section 1087-3(h) of this title, see section 101(e) [title VI, § 602(b)(1)(B)] of Pub. L. 104-208, set out as a note under section 1078-3 of this title.

## EFFECTIVE DATE OF 1993 AMENDMENTS

Amendments by section 2(c)(55), (60)(B) of Pub. L. 103-208 applicable with respect to determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year,

amendments by section 2(c)(56)–(58), (61) of Pub. L. 103-208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, amendment by section 2(c)(59) of Pub. L. 103-208 effective on and after 30 days after Dec. 20, 1993, amendment by section 2(c)(60)(A) of Pub. L. 103-208 effective on and after Oct. 1, 1994, and amendment by section 2(c)(62) effective on and after Dec. 20, 1993, see section 5(a), (b)(2), (3), (7), (8) of Pub. L. 103-208, set out as a note under section 1051 of this title.

Amendment by section 4046(b)(1) of Pub. L. 103-66 effective July 1, 1994, see section 4046(c) of Pub. L. 103-66, set out as a note under section 1078-3 of this title.

## EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-26, § 2(d)(1), Apr. 9, 1991, 105 Stat. 124, provided that: “The amendments made by this section [amending this section and sections 1078-1, 1088, 1091, 1094, and 1141 of this title] shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991.”

## EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title III, § 3004(d), Nov. 5, 1990, 104 Stat. 1388-27, provided that: “The amendments made by this section [amending this section, section 1078 of this title, and provisions set out as a note under section 1078-1 of this title] shall be effective July 1, 1991, except that the amendment made by subsection (b) [amending section 1078 of this title] shall be effective upon enactment.”

## 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.

## EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (d)(5) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99-498, set out as a note under section 1071 of this title.

## DEFINITION OF INSTITUTION OF HIGHER EDUCATION

Pub. L. 102-325, title IV, § 427(b)(2), July 23, 1992, 106 Stat. 549, provided that: “With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act [former 20 U.S.C. 1085(b)], such provision shall be deemed to refer to section 481(a) of the Act [former 20 U.S.C. 1088(a)].”

**§ 1086. Delegation of functions****(a) In general**

An eligible lender or guaranty agency that contracts with another entity to perform any of the lender’s or agency’s functions under this subchapter and part C of subchapter I of chapter 34 of title 42, or otherwise delegates the performance of such functions to such other entity—

(1) shall not be relieved of the lender’s or agency’s duty to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) shall monitor the activities of such other entity for compliance with such requirements.

**(b) Special rule**

A lender that holds a loan made under this part in the lender’s capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

(Pub. L. 89-329, title IV, § 436, as added Pub. L. 99-498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1413; amended Pub. L. 105-244, title IV, § 430, Oct. 7, 1998, 112 Stat. 1709.)

#### PRIOR PROVISIONS

A prior section 1086, Pub. L. 89-329, title IV, § 436, as added Pub. L. 89-752, § 12, Nov. 3, 1966, 80 Stat. 1244; amended Pub. L. 90-575, title I, § 116(b)(5), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 94-482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2132; Pub. L. 96-374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a District of Columbia student loan insurance program, prior to the general revision of this part by Pub. L. 99-498.

#### AMENDMENTS

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section authorized establishment of a District of Columbia student loan insurance program.

#### 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.

### § 1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow

#### (a) Repayment in full for death and disability

##### (1) In general

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan. The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

(i) receives a loan made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) has earned income in excess of the poverty line; or

(B) the Secretary determines the reinstatement and resumption to be necessary.

##### (2) Disability determinations

A borrower who has been determined by the Secretary of Veterans Affairs to be unemploy-

able due to a service-connected condition and who provides documentation of such determination to the Secretary of Education, shall be considered permanently and totally disabled for the purpose of discharging such borrower's loans under this subsection, and such borrower shall not be required to present additional documentation for purposes of this subsection.

#### (b) Payment of claims on loans in bankruptcy

The Secretary shall pay to the holder of a loan described in section 1078(a)(1)(A) or (B), 1078-1,<sup>1</sup> 1078-2, 1078-3, or 1078-8 of this title, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

#### (c) Discharge

##### (1) In general

If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution or was falsely certified as a result of a crime of identity theft, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part G of this subchapter. In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the authorizing committees annually as to the dollar amount of loan discharges attributable to failures to make refunds.

##### (2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

##### (3) Eligibility for additional assistance

The period of a student's attendance at an institution at which the student was unable to

<sup>1</sup> See References in Text note below.