

from its failure to perform its functions pursuant to the agreement;

(4) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(5) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(6) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) Origination

An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a) of this section;

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), and (6) of subsection (a) of this section, as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) Withdrawal and termination procedures

The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(Pub. L. 89-329, title IV, § 454, as added Pub. L. 99-498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 100-50, § 12, June 3, 1987, 101 Stat. 348; Pub. L. 102-325, title IV, § 451, July 23, 1992, 106 Stat. 571; Pub. L. 103-66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 345; Pub. L. 111-152, title II, § 2210(a), Mar. 30, 2010, 124 Stat. 1078.)

AMENDMENTS

2010—Subsec. (a)(4) to (7). Pub. L. 111-152, § 2210(a)(1), redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4), which read as follows: “provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this subchapter at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B of this subchapter for the same period of enrollment;”.

Subsec. (b)(2). Pub. L. 111-152, § 2210(a)(2), substituted “(5), and (6)” for “(5), (6), and (7)”.

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to agreements with institutions, consisting of subsecs. (a) to (c), for former provisions relating to requirements of agreements, consisting of pars. (1) to (7).

1992—Pub. L. 102-325 amended section generally, substituting provisions relating to requirements of agreements for former provisions relating to terms of loans under pilot program.

1987—Subsec. (a)(4). Pub. L. 100-50 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-152, title II, § 2210(b), Mar. 30, 2010, 124 Stat. 1078, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on July 1, 2010.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 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.

§ 1087e. Terms and conditions of loans

(a) In general

(1) Parallel terms, conditions, benefits, and amounts

Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers, and first disbursed on June 30, 2010, under sections 1078, 1078-2, 1078-3, and 1078-8 of this title.

(2) Designation of loans

Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 1078 of this title shall be known as “Federal Direct Stafford Loans”;

(B) section 1078-2 of this title shall be known as “Federal Direct PLUS Loans”;

(C) section 1078-3 of this title shall be known as “Federal Direct Consolidation Loans”; and

(D) section 1078-8 of this title shall be known as “Federal Direct Unsubsidized Stafford Loans”.

(3) Termination of authority to make interest subsidized loans to graduate and professional students

(A) In general

Subject to subparagraph (B) and notwithstanding any provision of this part or part B, for any period of instruction beginning on or after July 1, 2012—

(i) a graduate or professional student shall not be eligible to receive a Federal Direct Stafford loan under this part; and

(ii) the maximum annual amount of Federal Direct Unsubsidized Stafford loans such a student may borrow in any academic year (as defined in section 1088(a)(2)

of this title) or its equivalent shall be the maximum annual amount for such student determined under section 1078-8 of this title, plus an amount equal to the amount of Federal Direct Stafford loans the student would have received in the absence of this subparagraph.

(B) Exception

Subparagraph (A) shall not apply to an individual enrolled in course work specified in paragraph (3)(B) or (4)(B) of section 1091(b) of this title.

(b) Interest rate

(1) Rates for FDSL and FDUSL

For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Out-year rule

Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) Rates for FDPLUS

(A)(i) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on or before June 30, 2001, be determined on the preceding June 1 and be equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the applicable rate of interest determined under this subparagraph shall be determined on the preceding June 26 and be equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) Temporary interest rate provision

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July

1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

- (i) prior to the beginning of the repayment period of the loan; or
- (ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting “1.7 percent” for “2.3 percent”.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

- (i) by substituting “3.1 percent” for “2.3 percent”; and
- (ii) by substituting “9.0 percent” for “8.25 percent”.

(6) Interest rate provision for new loans on or after October 1, 1998, and before July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

- (i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus
- (ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

- (i) prior to the beginning of the repayment period of the loan; or
- (ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting “1.7 percent” for “2.3 percent”.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal

Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under subparagraph (A)—

- (i) by substituting “3.1 percent” for “2.3 percent”; and
- (ii) by substituting “9.0 percent” for “8.25 percent”.

(D) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after February 1, 1999, and before July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

- (i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or
- (ii) 8.25 percent.

(E) Temporary rules for consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after October 1, 1998, and before February 1, 1999, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

- (i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus
- (ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(7) Interest rate provision for new loans on or after July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(B) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(C) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

- (i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or
- (ii) 8.25 percent.

(D) Reduced rates for undergraduate FDSL

Notwithstanding the preceding paragraphs of this subsection and subparagraph (A) of this paragraph, for Federal Direct Stafford Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2013, the applicable rate of interest shall be as follows:

(i) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2008, 6.8 percent on the unpaid principal balance of the loan.

(ii) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 6.0 percent on the unpaid principal balance of the loan.

(iii) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 5.6 percent on the unpaid principal balance of the loan.

(iv) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.5 percent on the unpaid principal balance of the loan.

(v) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2013, 3.4 percent on the unpaid principal balance of the loan.

(8) Repayment incentives**(A) Incentives for loans disbursed before July 1, 2012**

Notwithstanding any other provision of this part¹ with respect to loans for which the first disbursement of principal is made before July 1, 2012,² the Secretary is authorized to prescribe by regulation such reductions in the interest rate or origination fee paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 1087h of this title and other administrative accounts.

(B) Accountability

Prior to publishing regulations proposing repayment incentives with respect to loans for which the first disbursement of principal is made before July 1, 2012, the Secretary shall ensure the cost neutrality of such reductions. The Secretary shall not prescribe such regulations in final form unless an official report from the Director of the Office of Management and Budget to the Secretary and a comparable report from the Director of the Congressional Budget Office to the Congress each certify that any such reduc-

tions will be completely cost neutral. Such reports shall be transmitted to the authorizing committees not less than 60 days prior to the publication of regulations proposing such reductions.

(C) No repayment incentives for new loans disbursed on or after July 1, 2012

Notwithstanding any other provision of this part, the Secretary is prohibited from authorizing or providing any repayment incentive not otherwise authorized under this part to encourage on-time repayment of a loan under this part for which the first disbursement of principal is made on or after July 1, 2012, including any reduction in the interest or origination fee rate paid by a borrower of such a loan, except that the Secretary may provide for an interest rate reduction for a borrower who agrees to have payments on such a loan automatically electronically debited from a bank account.

(9) Publication

The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) Loan fee**(1) In general**

The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

(2) Subsequent reduction

Paragraph (1) shall be applied to loans made under this part, other than Federal Direct Consolidation loans and Federal Direct PLUS loans—

(A) by substituting “3.0 percent” for “4.0 percent” with respect to loans for which the first disbursement of principal is made on or after February 8, 2006, and before July 1, 2007;

(B) by substituting “2.5 percent” for “4.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

(C) by substituting “2.0 percent” for “4.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009;

(D) by substituting “1.5 percent” for “4.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010; and

(E) by substituting “1.0 percent” for “4.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.

(d) Repayment plans**(1) Design and selection**

Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without

¹ So in original. Probably should be followed by a comma.

² So in original. The second comma probably should not appear.

penalty, repayment on the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, consistent with subsection (a)(1) of this section and with section 1078(b)(9)(A)(i) of this title;

(B) a graduated repayment plan, consistent with section 1078(b)(9)(A)(ii) of this title;

(C) an extended repayment plan, consistent with section 1078(b)(9)(A)(iv) of this title, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan made on behalf of a dependent student; and

(E) beginning on July 1, 2009, an income-based repayment plan that enables borrowers who have a partial financial hardship to make a lower monthly payment in accordance with section 1098e of this title, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS Loan made on behalf of a dependent student or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to discharge the liability on such Federal Direct PLUS Loan or a loan under section 1078-2 of this title made on behalf of a dependent student.

(2) Selection by Secretary

If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) Changes in selections

The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) Alternative repayment plans

The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) Repayment after default

The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) Income contingent repayment

(1) Information and procedures

The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of title 26) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of title 26. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) Repayment based on adjusted gross income

A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of title 26) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) Additional documents

A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) Repayment schedules

Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) Calculation of balance due

The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) Notification to borrowers

The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent re-

payment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of title 26; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(7) Maximum repayment period

In calculating the extended period of time for which an income contingent repayment plan under this subsection may be in effect for a borrower, the Secretary shall include all time periods during which a borrower of loans under part B, part C, or part D—

(A) is not in default on any loan that is included in the income contingent repayment plan; and

(B)(i) is in deferment due to an economic hardship described in section 1085(o) of this title;

(ii) makes monthly payments under paragraph (1) or (6) of section 1098e(b) of this title;

(iii) makes monthly payments of not less than the monthly amount calculated under section 1078(b)(9)(A)(i) of this title or subsection (d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in section 1098e(b)(1) of this title;

(iv) makes payments of not less than the payments required under a standard repayment plan under section 1078(b)(9)(A)(i) of this title or subsection (d)(1)(A) with a repayment period of 10 years; or

(v) makes payments under an income contingent repayment plan under subsection (d)(1)(D).

(f) Deferment

(1) Effect on principal and interest

A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsi-

dized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) Eligibility

A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 1085(a) of this title) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) during which the borrower—

(i) is serving on active duty during a war or other military operation or national emergency; or

(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in clause (i) or (ii); or

(D) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 1085(o) of this title, that the borrower has experienced or will experience an economic hardship.

(3) "Borrower" defined

For the purpose of this subsection, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

(4) Deferments for previous part B loan borrowers

A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of this subchapter prior to July 1, 1993, shall be eligible for a deferment under section 1077(a)(2)(C) of this title or section 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992.

(g) Federal Direct Consolidation Loans

A borrower of a loan made under this part may consolidate such loan with the loans described in section 1078-3(a)(4) of this title, including any loan made under part B and first disbursed be-

fore July 1, 2010. To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 1078-3(a)(3) of this title.

(h) Borrower defenses

Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) Loan application and promissory note

The common financial reporting form required in section 1090(a)(1) of this title shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) Loan disbursement

(1) In general

Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) Payment periods

The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of Federal Pell Grants under subpart 1 of part A of this subchapter.

(k) Fiscal control and fund accountability

(1) In general

(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this subchapter.

(B) Except as otherwise required by regulations of the Secretary¹ an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) Payments and refunds

Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A of this subchapter, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) Transaction histories

All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of Federal Pell Grants under subpart 1 of part A of this subchapter.

(l) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.

(m) Repayment plan for public service employees

(1) In general

The Secretary shall cancel the balance of interest and principal due, in accordance with paragraph (2), on any eligible Federal Direct Loan not in default for a borrower who—

(A) has made 120 monthly payments on the eligible Federal Direct Loan after October 1, 2007, pursuant to any one or a combination of the following—

(i) payments under an income-based repayment plan under section 1098e of this title;

(ii) payments under a standard repayment plan under subsection (d)(1)(A), based on a 10-year repayment period;

(iii) monthly payments under a repayment plan under subsection (d)(1) or (g) of not less than the monthly amount calculated under subsection (d)(1)(A), based on a 10-year repayment period; or

(iv) payments under an income contingent repayment plan under subsection (d)(1)(D); and

(B)(i) is employed in a public service job at the time of such forgiveness; and

(ii) has been employed in a public service job during the period in which the borrower makes each of the 120 payments described in subparagraph (A).

(2) Loan cancellation amount

After the conclusion of the employment period described in paragraph (1), the Secretary shall cancel the obligation to repay the balance of principal and interest due as of the time of such cancellation, on the eligible Federal Direct Loans made to the borrower under this part.

(3) Definitions

In this subsection:

(A) Eligible Federal Direct Loan

The term “eligible Federal Direct Loan” means a Federal Direct Stafford Loan, Federal Direct PLUS Loan, or Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan.

(B) Public service job

The term “public service job” means—

(i) a full-time job in emergency management, government (excluding time served as a member of Congress), military service, public safety, law enforcement, public health (including nurses, nurse practitioners, nurses in a clinical setting, and full-time professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics), public education, social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy on behalf of low-income communities at a non-profit organization), early childhood education (including licensed or regulated childcare, Head Start, and State funded prekindergarten), public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title; or

(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 1059c(b) of this title and other faculty teaching in high-needs subject areas or areas of shortage (including nurse faculty, foreign language faculty, and part-time faculty at community colleges), as determined by the Secretary.

(4) Ineligibility for double benefits

No borrower may, for the same service, receive a reduction of loan obligations under both this subsection and section 1078–10, 1078–11, 1078–12, or 1087j of this title.

(n) Identity fraud protection

The Secretary shall take such steps as may be necessary to ensure that monthly Federal Direct Loan statements and other publications of the Department do not contain more than four digits of the Social Security number of any individual.

(o) No accrual of interest for active duty service members**(1) In general**

Notwithstanding any other provision of this part and in accordance with paragraphs (2) and (4), interest shall not accrue for an eligible military borrower on a loan made under this part for which the first disbursement is made on or after October 1, 2008.

(2) Consolidation loans

In the case of any consolidation loan made under this part that is disbursed on or after October 1, 2008, interest shall not accrue pursuant to this subsection only on such portion of such loan as was used to repay a loan made under this part for which the first disbursement is made on or after October 1, 2008.

(3) Eligible military borrower

In this subsection, the term “eligible military borrower” means an individual who—

(A)(i) is serving on active duty during a war or other military operation or national emergency; or

(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; and

(B) is serving in an area of hostilities in which service qualifies for special pay under section 310 of title 37.

(4) Limitation

An individual who qualifies as an eligible military borrower under this subsection may receive the benefit of this subsection for not more than 60 months.

(p) Disclosures

Each institution of higher education with which the Secretary has an agreement under section 1087c of this title, and each contractor with which the Secretary has a contract under section 1087f of this title, shall, with respect to loans under this part and in accordance with such regulations as the Secretary shall prescribe, comply with each of the requirements under section 1083 of this title that apply to a lender with respect to a loan under part B.

(q) Eligibility for, and interest charges on, Federal Direct Stafford Loans for new borrowers on or after July 1, 2013**(1) In general**

Notwithstanding subsection (a) or any other provision of this subchapter, any borrower who was a new borrower on or after July 1, 2013, shall not be eligible for a Federal Direct Stafford Loan if the period of time for which the borrower has received Federal Direct Stafford Loans, in the aggregate, exceeds the period of enrollment described in paragraph (3). Such borrower may still receive any Federal Direct Unsubsidized Stafford Loan for which such borrower is otherwise eligible.

(2) Accrual of interest on Federal Direct Stafford Loans

Notwithstanding subsection (f)(1)(A) or any other provision of this subchapter and beginning on the date upon which a borrower who is enrolled in a program of education or training (including a course of study or program described in paragraph (3)(B) or (4)(B) of section 1091(b) of this title) for which borrowers are otherwise eligible to receive Federal Direct Stafford Loans, becomes ineligible for such loan as a result of paragraph (1), interest on all Federal Direct Stafford Loans that were disbursed to such borrower on or after July 1, 2013, shall accrue. Such interest shall be paid or capitalized in the same manner as interest on a Federal Direct Unsubsidized Stafford Loan is paid or capitalized under section 1078–8(e)(2) of this title.

(3) Period of enrollment**(A) In general**

The aggregate period of enrollment referred to in paragraph (1) shall not exceed the lesser of—

(i) a period equal to 150 percent of the published length of the educational program in which the student is enrolled; or

(ii) in the case of a borrower who was previously enrolled in one or more other educational programs that began on or after July 1, 2013, and subject to subparagraph (B), a period of time equal to the difference between—

(I) 150 percent of the published length of the longest educational program in which the borrower was, or is, enrolled; and

(II) any periods of enrollment in which the borrower received a Federal Direct Stafford Loan.

(B) Regulations

The Secretary shall specify in regulation—

(i) how the aggregate period described in subparagraph (A) shall be calculated with respect to a borrower who was or is enrolled on less than a full-time basis; and

(ii) how such aggregate period shall be calculated to include a course of study or program described in paragraph (3)(B) or (4)(B) of section 1091(b) of this title, respectively.

(Pub. L. 89-329, title IV, §455, as added Pub. L. 99-498, title IV, §404, Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102-325, title IV, §451, July 23, 1992, 106 Stat. 572; Pub. L. 103-66, title IV, §4021, Aug. 10, 1993, 107 Stat. 346; Pub. L. 103-382, title III, §359, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 105-178, title VIII, §8301(c), June 9, 1998, 112 Stat. 498; Pub. L. 105-244, title IV, §§401(g)(6), 452(a)(1), (b), (c), Oct. 7, 1998, 112 Stat. 1652, 1715-1717; Pub. L. 106-554, §1(a)(1) [title III, §318(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-49; Pub. L. 107-139, §1(b), (c), Feb. 8, 2002, 116 Stat. 9; Pub. L. 107-314, div. A, title VI, §651(c), Dec. 2, 2002, 116 Stat. 2580; Pub. L. 109-171, title VIII, §§8007(b), 8008(b), (c)(2), (3), 8009(d), Feb. 8, 2006, 120 Stat. 160, 162-164; Pub. L. 110-84, title II, §§201(b), 202(b), 203(b)(3), 205, title IV, §401, Sept. 27, 2007, 121 Stat. 791, 795, 800; Pub. L. 110-315, title I, §103(b)(8), title IV, §§425(b)(3), 451, Aug. 14, 2008, 122 Stat. 3089, 3234, 3261; Pub. L. 111-39, title IV, §404(b)(2), July 1, 2009, 123 Stat. 1946; Pub. L. 111-152, title II, §2211(a), Mar. 30, 2010, 124 Stat. 1078; Pub. L. 112-25, title V, §§502, 503, Aug. 2, 2011, 125 Stat. 266; Pub. L. 112-141, div. F, title III, §§100301, 100302(a), July 6, 2012, 126 Stat. 979.)

REFERENCES IN TEXT

Sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992, referred to in subsec. (f)(4), means sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title prior to being amended generally by sections 414(b) and 416(e)(1), respectively, of Pub. L. 102-325, title IV, July 23, 1992, 106 Stat. 513, 519.

AMENDMENTS

2012—Subsec. (b)(7)(D). Pub. L. 112-141, §100301(1), substituted “and before July 1, 2013,” for “and before July 1, 2012,” in introductory provisions.

Subsec. (b)(7)(D)(v). Pub. L. 112-141, §100301(2), substituted “and before July 1, 2013,” for “and before July 1, 2012,”.

Subsec. (q). Pub. L. 112-141, §100302(a), added subsec. (q).

2011—Subsec. (a)(3). Pub. L. 112-25, §502, added par. (3).

Subsec. (b)(8)(A). Pub. L. 112-25, §503(1), substituted “Incentives for loans disbursed before July 1, 2012” for “In general” in heading and inserted “with respect to

loans for which the first disbursement of principal is made before July 1, 2012,” after “of this part” in text.

Subsec. (b)(8)(B). Pub. L. 112-25, §503(2), inserted “with respect to loans for which the first disbursement of principal is made before July 1, 2012” after “repayment incentives”.

Subsec. (b)(8)(C). Pub. L. 112-25, §503(3), added subpar. (C).

2010—Subsec. (a)(1). Pub. L. 111-152, §2211(a)(1), inserted “, and first disbursed on June 30, 2010,” before “under sections 1078”.

Subsec. (g). Pub. L. 111-152, §2211(a)(2), inserted “, including any loan made under part B and first disbursed before July 1, 2010” after “section 1078-3(a)(4) of this title” and struck out at end “The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 1078-3(b)(1)(G) of this title.”

2009—Subsec. (d)(1)(C). Pub. L. 111-39, §404(b)(2)(A), substituted “1078(b)(9)(A)(iv)” for “1078(b)(9)(A)(v)”.

Subsec. (h). Pub. L. 111-39, §404(b)(2)(B), struck out “(except as authorized under section 1087g(a)(1) of this title)” after “regulations”.

Subsec. (k)(1)(B). Pub. L. 111-39, §404(b)(2)(C), struck out “, or in a notice under section 1087g(a)(1) of this title,” after “regulations of the Secretary”.

2008—Subsec. (b)(8)(B). Pub. L. 110-315, §103(b)(8), substituted “authorizing committees” for “Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives”.

Subsec. (d)(1)(E). Pub. L. 110-315, §451(a), added subpar. (E).

Subsec. (g). Pub. L. 110-315, §425(b)(3), substituted “section 1078-3(b)(1)(G)” for “section 1078-3(b)(1)(F)”.

Subsec. (m)(3)(B). Pub. L. 110-315, §451(b)(1), amended subpar. (B) generally. Prior to amendment, text read as follows: “The term ‘public service job’ means—

“(i) a full-time job in emergency management, government, military service, public safety, law enforcement, public health, public education (including early childhood education), social work in a public child or family service agency, public interest law services (including prosecution or public defense or legal advocacy in low-income communities at a non-profit organization), public child care, public service for individuals with disabilities, public service for the elderly, public library sciences, school-based library sciences and other school-based services, or at an organization that is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title; or

“(ii) teaching as a full-time faculty member at a Tribal College or University as defined in section 1059c(b) of this title and other faculty teaching in high-needs areas, as determined by the Secretary.”

Subsec. (m)(4). Pub. L. 110-315, §451(b)(2), added par. (4).

Subsec. (n). Pub. L. 110-315, §451(c), added subsec. (n).

Subsec. (o). Pub. L. 110-315, §451(d), added subsec. (o).

Subsec. (p). Pub. L. 110-315, §451(e), added subsec. (p).

2007—Subsec. (b)(7)(D). Pub. L. 110-84, §201(b), added subpar. (D).

Subsec. (d)(1)(D). Pub. L. 110-84, §203(b)(3), inserted “made on behalf of a dependent student” after “PLUS loan”.

Subsec. (e)(7). Pub. L. 110-84, §205, added par. (7).

Subsec. (f)(2)(C). Pub. L. 110-84, §202(b), struck out “not in excess of 3 years” before “during” in introductory provisions, substituted comma for “; or” at end of cl. (ii), and inserted concluding provisions.

Subsec. (m). Pub. L. 110-84, §401, added subsec. (m).

2006—Subsec. (a)(1). Pub. L. 109-171, §8009(d)(1), inserted “1078-3,” after “1078-2.”

Subsec. (a)(2)(C), (D). Pub. L. 109-171, §8009(d)(2), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (b)(8)(A). Pub. L. 109-171, §8008(c)(3), inserted “or origination fee” after “reductions in the interest rate”.

Subsec. (c). Pub. L. 109-171, § 8008(c)(2), designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsec. (d)(1)(A) to (C). Pub. L. 109-171, § 8008(b), added subpars. (A) to (C) and struck out former subpars. (A) to (C), which read as follows:

“(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

“(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

“(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower’s scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and”.

Subsec. (f)(2)(C), (D). Pub. L. 109-171, § 8007(b), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (g). Pub. L. 109-171, § 8009(d)(3), substituted “To be eligible for a consolidation loan under this part, a borrower shall meet the eligibility criteria set forth in section 1078-3(a)(3) of this title. The Secretary, upon application for such a loan, shall comply with the requirements applicable to a lender under section 1078-3(b)(1)(F) of this title.” for “Loans made under this subsection shall be known as ‘Federal Direct Consolidation Loans’.”

2002—Subsec. (b)(6) to (9). Pub. L. 107-139, in par. (6) relating to interest rate provision for new loans substituted “2006” for “2003” in heading and “July 1, 2006,” for “July 1, 2003,” wherever appearing in text, added par. (7), redesignated former par. (7) as (8), and redesignated par. (6) relating to publication of rate in Federal Register as (9).

Subsec. (l). Pub. L. 107-314 added subsec. (l).

2000—Subsec. (b)(4)(A). Pub. L. 106-554 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

“(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

“(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.”

1998—Subsec. (b)(5). Pub. L. 105-178, § 8301(c)(2), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by adding par. (5), was executed to this section, which is section 455(b) of Pub. L. 89-329, to reflect the probable intent of Congress. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 105-244, § 452(a)(1), added par. (6) relating to interest rate provision for new loans.

Pub. L. 105-178, § 8301(c)(1), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by redesignating par. (5) as (6), was executed to this section, which is section 455(b) of Pub. L. 89-329, to reflect the probable intent of Congress.

Subsec. (b)(7). Pub. L. 105-244, § 452(b), added par. (7).

Subsec. (g). Pub. L. 105-244, § 452(c), struck out “only under such terms and conditions as the Secretary shall establish pursuant to section 1087g(a)(1) of this title or regulations promulgated under this part” after “section 1078-3(a)(4) of this title”.

Subsecs. (j)(2), (k)(3). Pub. L. 105-244, § 401(g)(6), substituted “Federal Pell Grants” for “basic grants”.

1994—Subsec. (f)(3), (4). Pub. L. 103-382 added pars. (3) and (4).

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to terms and conditions of loans for former provisions relating to withdrawal and termination procedures.

1992—Pub. L. 102-325 amended section generally, substituting provisions relating to withdrawal and termination procedures for former provisions relating to feasibility study.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-152, title II, § 2211(b), Mar. 30, 2010, 124 Stat. 1078, provided that: “The amendment made by subsection (a)(1) [amending this section] shall apply with respect to loans first disbursed under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) on or after July 1, 2010.”

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 2007 AMENDMENT

Amendment by sections 201(b), 202(b), 205, and 401 of 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.

Amendment by section 203(b)(3) of Pub. L. 110-84 effective July 1, 2009, see section 203(c)(1) of Pub. L. 110-84, set out as a note under section 1078-3 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.

Amendment by section 8007(b) of Pub. L. 109-171 applicable with respect to all loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.), see section 8007(f) of Pub. L. 109-171, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-314 applicable with respect to interest, and any special allowance under section 1087-1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107-314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 401(g)(6) and 452(b), (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, § 452(d), Oct. 7, 1998, 112 Stat. 1717, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 [this part] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to a Federal Direct Consolidation Loan for which the application is received on or after October 1, 1998, and before July 1, 2003.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

CONSTRUCTION OF 2006 AMENDMENT

Nothing in amendment by section 8007(b) of Pub. L. 109-171 to be construed to authorize any refunding of any repayment of a loan, see section 8007(e) of Pub. L. 109-171, set out as a note under section 1078 of this title.

LIMITATION ON CONSOLIDATION LOANS DURING
TEMPORARY INTEREST RATE

Pub. L. 105-244, title IV, §452(a)(2), Oct. 7, 1998, 112 Stat. 1716, provided that: “Notwithstanding section 455(g) of the Higher Education Act of 1965 [subsec. (g) of this section], a borrower who is enrolled or accepted for enrollment in an institution of higher education may not consolidate loans under such section during the period beginning October 1, 1998, and ending February 1, 1999, unless the borrower certifies that the borrower has no outstanding loans made, insured, or guaranteed under title IV of such Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] other than loans made under part D of such title [this part].”

§ 1087f. Contracts

(a) Contracts for supplies and services

(1) In general

The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b) of this section. In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) Entities

The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 1078(b) and (c) of this title, if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) Rule of construction

Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(4) Servicing by eligible not-for-profit servicers

(A) Servicing contracts

(i) In general

The Secretary shall contract with each eligible not-for-profit servicer to service loans originated under this part, if the servicer—

- (I) meets the standards for servicing Federal assets that apply to contracts awarded pursuant to paragraph (1); and

(II) has the capacity to service the applicable loan volume allocation described in subparagraph (B).

(ii) Competitive market rate determination for first 100,000 borrower accounts

The Secretary shall establish a separate pricing tier for each of the first 100,000 borrower loan accounts at a competitive market rate.

(iii) Ineligibility

An eligible not-for-profit servicer shall no longer be eligible for a contract under this paragraph after July 1, 2014, if—

- (I) the servicer has not been awarded such a contract before that date; or
- (II) the servicer’s contract was terminated, and the servicer had not reapplied for, and been awarded, a contract under this paragraph.

(B) Allocations

(i) In general

The Secretary shall (except as provided in clause (ii)) allocate to an eligible not-for-profit servicer, subject to the contract of such servicer described in subparagraph (A), the servicing rights for the loan accounts of 100,000 borrowers (including borrowers who borrowed loans in a prior year that were serviced by the servicer).

(ii) Servicer allocation

The Secretary may reallocate, increase, reduce, or terminate an eligible not-for-profit servicer’s allocation of servicing rights under clause (i) based on the performance of such servicer, on the same terms as loan allocations provided by contracts awarded pursuant to paragraph (1).

(b) Contracts for origination, servicing, and data systems

The Secretary may enter into contracts for—

- (1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 1087d(b) of this title;
- (2) the servicing and collection of loans made or purchased under this part;
- (3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made or purchased under this part; and
- (4) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(c) Definition of eligible not-for-profit servicer

In this section:

(1) In general

The term “eligible not-for-profit servicer” means an entity—

- (A) that is not owned or controlled in whole or in part by—
 - (i) a for-profit entity; or
 - (ii) a nonprofit entity having its principal place of business in another State; and