

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

(B) that—  
 (i) as of July 1, 2009—  
 (I) meets the definition of an eligible not-for-profit holder under section 1085(p) of this title, except that such term does not include eligible lenders described in paragraph (1)(D) of such section; and

(II) was performing, or had entered into a contract with a third party servicer (as such term is defined in section 1088(c) of this title) who was performing, student loan servicing functions for loans made under part B of this subchapter;

(ii) notwithstanding clause (i), as of July 1, 2009—

(I) is the sole beneficial owner of a loan for which the special allowance rate is calculated under section 1087-1(b)(2)(I)(vi)(II) of this title because the loan is held by an eligible lender trustee that is an eligible not-for-profit holder as defined under section 1085(p)(1)(D) of this title; and

(II) was performing, or had entered into a contract with a third party servicer (as such term is defined in section 1088(c) of this title) who was performing, student loan servicing functions for loans made under part B of this subchapter; or

(iii) is an affiliated entity of an eligible not-for-profit servicer described in clause (i) or (ii) that—

(I) directly employs, or will directly employ (on or before the date the entity begins servicing loans under a contract awarded by the Secretary pursuant to subsection (a)(3)(A)),<sup>1</sup> the majority of individuals who perform borrower-specific student loan servicing functions; and

(II) as of July 1, 2009, was performing, or had entered into a contract with a third party servicer (as such term is defined in section 1088(c) of this title) who was performing, student loan servicing functions for loans made under part B of this subchapter.

**(2) Affiliated entity**

For the purposes of paragraph (1), the term “affiliated entity”—

(A) means an entity contracted to perform services for an eligible not-for-profit servicer that—

(i) is a nonprofit entity or is wholly owned by a nonprofit entity; and

(ii) is not owned or controlled, in whole or in part, by—

- (I) a for-profit entity; or
- (II) an entity having its principal place of business in another State; and

(B) may include an affiliated entity that is established by an eligible not-for-profit servicer after March 30, 2010, if such affiliated entity is otherwise described in paragraph (1)(B)(iii)(I) and subparagraph (A) of this paragraph.

<sup>1</sup> So in original. Probably should be “subsection (a)(4)(A).”.

(Pub. L. 89-329, title IV, §456, as added Pub. L. 102-325, title IV, §451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103-66, title IV, §4021, Aug. 10, 1993, 107 Stat. 352; Pub. L. 105-244, title IV, §453, Oct. 7, 1998, 112 Stat. 1717; Pub. L. 110-227, §7(c), May 7, 2008, 122 Stat. 747; Pub. L. 111-152, title II, §2212(a), Mar. 30, 2010, 124 Stat. 1078.)

AMENDMENTS

2010—Subsec. (a)(4). Pub. L. 111-152, §2212(a)(1)(A), added par. (4).

Subsec. (c). Pub. L. 111-152, §2212(a)(2), added subsec. (c).

2008—Subsec. (b)(2), (3). Pub. L. 110-227 inserted “or purchased” after “loans made”.

1998—Subsec. (b)(3). Pub. L. 105-244, §453(1), inserted “and” after semicolon.

Subsec. (b)(4), (5). Pub. L. 105-244, §453(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: “services to assist in the orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part; and”.

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to contracts for former provisions relating to terms and conditions.

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

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

**§ 1087g. Repealed. Pub. L. 111-39, title IV, § 404(b)(3), July 1, 2009, 123 Stat. 1946**

Section, Pub. L. 89-329, title IV, §457, as added Pub. L. 102-325, title IV, §451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103-66, title IV, §4021, Aug. 10, 1993, 107 Stat. 352, related to regulatory activities associated with implementation of the first year of the direct student loan program authorized by part C, including establishment of closing date for applications not later than Oct. 1, 1993, and publication of list of selected institutions not later than Jan. 1, 1994.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 2009 Amendment note under section 1001 of this title.

**§ 1087h. Funds for administrative expenses**

**(a) Administrative expenses**

**(1) Mandatory funds for fiscal year 2006**

For fiscal year 2006, there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) \$820,000,000 in fiscal year 2006.

**(2) Mandatory funds for eligible not-for-profit servicers**

For fiscal years 2010 through 2019, there shall be available to the Secretary, in addition to