

§2014(a)(2), June 10, 1993, 107 Stat. 215; Pub. L. 105-392, title I, §§142(a), (b), 144(a), Nov. 13, 1998, 112 Stat. 3579, 3581.)

REFERENCES IN TEXT

The Federal False Claims Act, referred to in subsec. (a)(2)(J), probably means the False Claims Act which was the popular name for sections 231, 232, 233, and 235 of former Title 31, Money and Finance. Sections 231, 232, 233, and 235 were repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1084, and reenacted by the first section thereof as sections 3729 to 3731 of Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 292f, act July 1, 1944, ch. 373, title VII, §706, as added Oct. 12, 1976, Pub. L. 94-484, title II, §204, 90 Stat. 2249, authorized contracts under this subchapter without regard to certain provisions, prior to the general revision of this subchapter by Pub. L. 102-408.

Another prior section 292f, act July 1, 1944, ch. 373, title VII, §707, as added July 30, 1956, ch. 779, §2, 70 Stat. 720; amended Oct. 5, 1961, Pub. L. 87-395, §8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, §2(a), 77 Stat. 164; Nov. 18, 1971, Pub. L. 92-157, title I, §102(k)(2)(A), 85 Stat. 437, provided for recapture of payments relating to grants for construction of health research facilities, prior to repeal by Pub. L. 94-484, title II, §201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 707 of act July 1, 1944, was classified to section 292g of this title prior to the general revision of this subchapter by Pub. L. 102-408.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-392, §142(a), designated existing provisions as par. (1), inserted heading, substituted “determined, except that, if the insurance beneficiary including any servicer of the loan is not designated for ‘exceptional performance’, as set forth in paragraph (2), the Secretary shall pay to the beneficiary a sum equal to 98 percent of the amount of the loss sustained by the insured upon that loan.” for “determined.”, struck out at end “Not later than one year after October 13, 1992, the Secretary shall establish performance standards for lenders and holders of loans under this subpart, including fees to be imposed for failing to meet such standards.”, and added par. (2).

Subsec. (e)(4). Pub. L. 105-392, §142(b), added par. (4).

Subsec. (g). Pub. L. 105-392, §144(a), substituted “Notwithstanding any other provision of Federal or State law, a debt that is a loan insured” for “A debt which is a loan insured” in introductory provisions.

1993—Subsec. (g)(1). Pub. L. 103-43, §2014(a)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “after the expiration of the five-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 292d(a)(2) of this title, when repayment of such loan is required;”.

Subsec. (j). Pub. L. 103-43, §2014(a)(2)(B), added subsec. (j).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-392, title I, §142(c), Nov. 13, 1998, 112 Stat. 3581, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to loans submitted to the Secretary for payment on or after the first day of the sixth month that begins after the date of enactment of this Act [Nov. 13, 1998].”

Pub. L. 105-392, title I, §144(b), Nov. 13, 1998, 112 Stat. 3581, provided that: “The amendment made by subsection (a) [amending this section] shall apply to any loan insured under the authority of subpart I of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) that is listed or scheduled by the debtor in a case under title XI, United States Code [Title 11, Bankruptcy], filed—

“(1) on or after the date of enactment of this Act [Nov. 13, 1998]; or

“(2) prior to such date of enactment in which a discharge has not been granted.”

§ 292g. Risk-based premiums

(a) Authority

With respect to a loan made under this subpart on or after January 1, 1993, the Secretary, in accordance with subsection (b) of this section, shall assess a risk-based premium on an eligible borrower and, if required under this section, an eligible institution that is based on the default rate of the eligible institution involved (as defined in section 292o of this title).

(b) Assessment of premium

Except as provided in subsection (d)(2) of this section, the risk-based premium to be assessed under subsection (a) of this section shall be as follows:

(1) Low-risk rate

With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

(2) Medium-risk rate

(A) In general

With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 10 percent—

(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

(B) Default management plan

An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-term and long-term procedures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

(3) High-risk rate

(A) In general

With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 10 percent but not to exceed 20 percent—

(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

(B) Default management plan

An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval a plan that meets the requirements of paragraph (2)(B).

(4) Ineligibility

An individual shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate in excess of 20 percent.

(c) Reduction of risk-based premium

Lenders shall reduce by 50 percent the risk-based premium to eligible borrowers if a credit worthy parent or other responsible party co-signs the loan note.

(d) Administrative waivers

(1) Hearing

The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to making such institution ineligible for participation in the program under this subpart.

(2) Exceptions

In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of paragraphs (2) through (4) of subsection (b) of this section if the Secretary determines that the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient.

(3) Transition for certain institutions

During the 3-year period beginning on October 13, 1992—

(A) subsection (b)(4) of this section shall not apply with respect to any eligible institution that is a Historically Black College or University; and

(B) any such institution that has a default rate in excess of 20 percent, and any eligible borrower seeking a loan for attendance at the institution, shall be subject to subsection (b)(3) of this section to the same extent and in the same manner as eligible institutions and borrowers described in such subsection.

(e) Payoff to reduce risk category

An institution may pay off the outstanding principal and interest owed by the borrowers of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.

(July 1, 1944, ch. 373, title VII, §708, as added Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 2004.)

PRIOR PROVISIONS

A prior section 292g, act July 1, 1944, ch. 373, title VII, §707, as added Oct. 12, 1976, Pub. L. 94-484, title II, §205, 90 Stat. 2249; amended Aug. 1, 1977, Pub. L. 95-83, title III, §307(r), 91 Stat. 395, related to delegation of author-

ity by the Secretary, prior to the general revision of this subchapter by Pub. L. 102-408.

Another prior section 292g, act July 1, 1944, ch. 373, title VII, §708, as added July 30, 1956, ch. 779, §2, 70 Stat. 720; amended Oct. 5, 1961, Pub. L. 87-395, §8(d), 75 Stat. 827; Sept. 24, 1963, Pub. L. 88-129, §2(a), 77 Stat. 164, prohibited Federal interference with administration of institutions where grants were made for construction of health research facilities, prior to repeal by Pub. L. 94-484, title II, §201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 708 of act July 1, 1944, was classified to section 292h of this title prior to the general revision of this subchapter by Pub. L. 102-408.

EFFECTIVE DATE

Section effective Jan. 1, 1993, and until such date, former section 294e(c) of this title, as in effect on the day before Oct. 13, 1992, to continue in effect in lieu of this section, see section 103 of Pub. L. 102-408, set out as a note under section 292 of this title.

§ 292h. Office for Health Education Assistance Loan Default Reduction

(a) Establishment

The Secretary shall establish, within the Division of Student Assistance of the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loan Default Reduction (in this section referred to as the "Office").

(b) Purpose and functions

It shall be the purpose of the Office to achieve a reduction in the number and amounts of defaults on loans guaranteed under this subpart. In carrying out such purpose the Office shall—

(1) conduct analytical and evaluative studies concerning loans and loan defaults;

(2) carry out activities designed to reduce loan defaults;

(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

(4) coordinate with other Federal entities that are involved with student loan programs, including—

(A) with respect to the Department of Education, in the development of a single student loan application form, a single student loan deferment form, a single disability form, and a central student loan database; and

(B) with respect to the Department of Justice, in the recovery of payments from health professionals who have defaulted on loans guaranteed under this subpart; and

(5) provide technical assistance to borrowers, lenders, holders, and institutions concerning deferments and collection activities.

(c) Additional duties

In conjunction with the report submitted under subsection (b) of this section, the Office shall—

(1) compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart; and

(2) send the report and notices of default with respect to these borrowers to relevant Federal agencies and to schools, school associations, professional and specialty associations, State licensing boards, hospitals with which such borrowers may be associated, and any other relevant organizations.