

Date of 2007 Amendment note under section 1078 of this title.

§ 1078-10. Loan forgiveness for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 1078 or 1078-8 of this title, in accordance with subsection (c) of this section, for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school or location that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools or locations; and

(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 7801 of this title,¹ or meets the requirements of subsection (g)(3); and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) Qualified loans amount

(1) In general

The Secretary shall repay not more than \$5,000 in the aggregate of the loan obligation on a loan made under section 1078 or 1078-8 of this title that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1) of this section. No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title.

(2) Treatment of consolidation loans

A loan amount for a loan made under section 1078-3 of this title may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078-8 of this title for a borrower who meets the requirements of subsection (b) of this section, as determined in accordance with regulations prescribed by the Secretary.

(3) Additional amounts for teachers in mathematics, science, or special education

Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than \$17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b) of this section; and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b) of this section;

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 1401 of this title); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) of this section in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b) of this section.

(2) Prevention of double benefits

No borrower may, for the same service, receive a benefit under both this section and—

(A) section 1078-11 of this title;

(B) section 1087e(m) of this title; or

(C) subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(3) Private school teachers

An individual who is employed as a teacher in a private school and is exempt from State certification requirements (unless otherwise applicable under State law), may, in lieu of the requirement of subsection (b)(1)(B), have

¹ See References in Text note below.

such employment treated as qualifying employment under this section if such individual is permitted to and does satisfy rigorous subject knowledge and skills tests by taking competency tests in the applicable grade levels and subject areas. For such purposes, the competency tests taken by such a private school teacher shall be recognized by 5 or more States for the purpose of fulfilling the highly qualified teacher requirements under section 7801 of this title, and the score achieved by such teacher on each test shall equal or exceed the average passing score of those 5 States.

(h) “Year” defined

For purposes of this section, the term “year”, where applied to service as a teacher, means an academic year as defined by the Secretary.

(Pub. L. 89-329, title IV, §428J, as added Pub. L. 102-325, title IV, §422, July 23, 1992, 106 Stat. 541; amended Pub. L. 103-82, title I, §102(c)(2), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103-208, §2(c)(47)-(51), Dec. 20, 1993, 107 Stat. 2467; Pub. L. 105-244, title IV, §424, Oct. 7, 1998, 112 Stat. 1698; Pub. L. 108-409, §3(a)(1)(A), (b)(1), Oct. 30, 2004, 118 Stat. 2300; Pub. L. 109-171, title VIII, §8013(e)(1), Feb. 8, 2006, 120 Stat. 167; Pub. L. 110-315, title IV, §429, Aug. 14, 2008, 122 Stat. 3236; Pub. L. 111-39, title IV, §402(f)(6), July 1, 2009, 123 Stat. 1944.)

REFERENCES IN TEXT

Section 7801 of this title, referred to in subsec. (b)(1)(B), was in the original “section 9101 of the Elementary Secondary Education Act of 1965”, which was translated as meaning section 9101 of the Elementary and Secondary Education Act of 1965, to reflect the probable intent of Congress.

The National and Community Service Act of 1990, referred to in subsec. (g)(2)(C), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111-39, §402(f)(6)(A), inserted at end “No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title.”

Subsec. (g)(2)(B) to (D). Pub. L. 111-39, §402(f)(6)(B), inserted “or” at end of subpar. (B), redesignated subpar. (D) as (C) and substituted “12601” for “12571”, and struck out former subpar. (C) which read as follows: “section 1087j of this title; or”.

2008—Subsec. (b)(1)(A). Pub. L. 110-315, §429(1), inserted “or location” after “a school” and “or locations” after “schools”.

Subsec. (c)(1). Pub. L. 110-315, §429(2), struck out at end “No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title.”

Subsec. (c)(3)(B)(iii). Pub. L. 110-315, §429(3), inserted “or, in the case of a teacher who is employed by an educational service agency, as certified by the chief administrative officer of such agency,” after “borrower is employed.”

Subsec. (g)(2). Pub. L. 110-315, §429(4), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “No borrower may, for the same service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)”

2006—Subsec. (b)(1)(B). Pub. L. 109-171, §8013(e)(1)(A), inserted “, or meets the requirements of subsection (g)(3)” after “section 7801 of this title”.

Subsec. (g)(3). Pub. L. 109-171, §8013(e)(1)(B), added par. (3).

2004—Subsec. (b)(1). Pub. L. 108-409, §3(a)(1)(A), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

“(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower’s academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

“(C) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and”.

Subsec. (c)(3). Pub. L. 108-409, §3(b)(1), added par. (3).

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to carry out demonstration program for loan forgiveness for teachers, individuals performing national community service, and nurses.

1993—Subsec. (b)(1). Pub. L. 103-208, §2(c)(47), substituted “section” for “sections” in introductory provisions.

Pub. L. 103-82, §102(c)(2)(A), substituted “October 1, 1989” for “October 1, 1992” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 103-208, §2(c)(48), substituted “serves as a full-time volunteer” for “agrees in writing to volunteer for service”.

Subsec. (c)(1). Pub. L. 103-208, §2(c)(49), substituted “year of service” for “academic year” wherever appearing.

Subsec. (c)(5). Pub. L. 103-82, §102(c)(2)(B), added par. (5).

Subsec. (d). Pub. L. 103-208, §2(c)(50), substituted “to eligible” for “of eligibility” in heading.

Subsec. (e). Pub. L. 103-208, §2(c)(51), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.”

EFFECTIVE DATE OF 2009 AMENDMENT

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

EFFECTIVE DATE OF 2006 AMENDMENT

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

EFFECTIVE DATE OF 2004 AMENDMENT; TRANSITION RULE

Pub. L. 108-409, §3(a)(2), Oct. 30, 2004, 118 Stat. 2300, provided that:

“(A) RULE.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 [sections 1078-10(b)(1) and 1087j(b)(1)(A) of this title] shall not be applied to disqualify any individual who, before the date of enactment of this Act [Oct. 30, 2004], commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

“(B) RULE NOT APPLICABLE TO INCREASED QUALIFIED LOAN AMOUNTS.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and

460(c)(3) of the Higher Education Act of 1965 [sections 1078-10(c)(3) and 1087j(c)(3) of this title] as added by subsection (b) of this section.”

Pub. L. 108-409, §3(b)(3), Oct. 30, 2004, 118 Stat. 2301, as amended by Pub. L. 109-150, §2(c)(1), Dec. 30, 2005, 119 Stat. 2884; Pub. L. 109-171, title VIII, §8013(c)(2), (d)(1), Feb. 8, 2006, 120 Stat. 167, provided that: “The amendments made by this subsection [amending this section and section 1087j] of this title] shall apply only with respect to eligible individuals who are new borrowers (as such term is defined in 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)) on or after October 1, 1998.”

[Pub. L. 109-150, §2(c)(1), which amended section 3(b)(3) of Pub. L. 108-409, set out above, was repealed by Pub. L. 109-171, §8013(d)(1), eff. July 1, 2006.]

[Amendment by Pub. L. 109-150 effective as if enacted on Oct. 1, 2005, see section 2(d)(2) of Pub. L. 109-150, set out as an Effective Date of 2005 Amendment note under section 1087-1 of this title.]

[Amendment by Pub. L. 109-171, §8013(c)(2), effective as if enacted on Oct. 1, 2005, and as if amendment by section 2(c)(1) of Pub. L. 109-150 had not been enacted, see section 8013(c)(3), (d)(2) of Pub. L. 109-171, set out as notes under section 1087-1 of this title.]

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENTS

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

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

INFORMATION ON BENEFITS TO RURAL SCHOOL DISTRICTS

Pub. L. 108-409, §3(c), Oct. 30, 2004, 118 Stat. 2302, provided that: “The Secretary shall—

“(1) notify local educational agencies eligible to participate in the Small Rural Achievement Program authorized under subpart 1 of part B of title VI of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7345 et seq.] of the benefits available under the amendments made by this section [amending this section and section 1087j] of this title]; and

“(2) encourage such agencies to notify their teachers of such benefits.”

§ 1078-11. Loan forgiveness for service in areas of national need

(a) Program authorized

(1) Loan forgiveness authorized

The Secretary shall forgive, in accordance with this section, the qualified loan amount described in subsection (c) of the student loan obligation of a borrower who—

(A) is employed full-time in an area of national need, as described in subsection (b); and

(B) is not in default on a loan for which the borrower seeks forgiveness.

(2) Method of loan forgiveness

To provide loan forgiveness under paragraph (1), the Secretary is authorized to carry out a program—

(A) through the holder of the loan, to assume the obligation to repay a qualified loan amount for a loan made, insured, or guaran-

teed under this part (other than an excepted PLUS loan or an excepted consolidation loan (as such terms are defined in section 1098e(a) of this title)); and

(B) to cancel a qualified loan amount for a loan made under part C of this subchapter (other than an excepted PLUS loan or an excepted consolidation loan).

(3) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out this section.

(b) Areas of national need

For purposes of this section, an individual is employed in an area of national need if the individual meets the requirements of one of the following:

(1) Early childhood educators

The individual is employed full-time as an early childhood educator.

(2) Nurses

The individual is employed full-time—

(A) as a nurse in a clinical setting; or

(B) as a member of the nursing faculty at an accredited school of nursing (as those terms are defined in section 296 of title 42).

(3) Foreign language specialists

The individual—

(A) has obtained a baccalaureate or advanced degree in a critical foreign language; and

(B) is employed full-time—

(i) in an elementary school or secondary school as a teacher of a critical foreign language;

(ii) in an agency of the United States Government in a position that regularly requires the use of such critical foreign language; or

(iii) in an institution of higher education as a faculty member or instructor teaching a critical foreign language.

(4) Librarians

The individual is employed full-time as a librarian in—

(A) a public library that serves a geographic area within which the public schools have a combined average of 30 percent or more of the schools' total student enrollments composed of children meeting a measure of poverty under section 6313(a)(5) of this title; or

(B) a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such a school.

(5) Highly qualified teachers serving students who are limited English proficient, low-income communities, and underrepresented populations

The individual—

(A) is highly qualified, as such term is defined in section 7801 of this title; and

(B) is employed full-time—

(i) as a teacher educating students who are limited English proficient;