

permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.)”

1988—Subsec. (a)(2)(C)(v). Pub. L. 100-369, §7(c), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (a)(2)(C)(vii). Pub. L. 100-369, §11(a), inserted “after January 1, 1986,” after “service”.

Subsec. (b)(2). Pub. L. 100-369, §5(b)(1), substituted “section 1078-2 or 1078-3” for “section 1078-1, 1078-2, or 1078-3”.

1987—Subsec. (a)(2)(C)(vi). Pub. L. 100-50, §10(b)(1), inserted “nonprofit” before “private”.

Subsec. (a)(2)(C)(vii). Pub. L. 100-50, §10(b)(2), inserted “or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training” before semicolon at end.

Subsec. (a)(4). Pub. L. 100-50, §10(c), substituted “\$1,000 or more” for “more than \$1,000”.

#### EFFECTIVE DATE OF 1993 AMENDMENT

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 1003 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective July 23, 1992, except that changes made in subsec. (a)(2)(C), relating to deferments, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, and except that changes made in subsec. (a)(2)(H), relating to offering graduated or income sensitive repayment options, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, see section 432 of Pub. L. 102-325, set out as a note under section 1078 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title II, §2002(a)(4), Dec. 19, 1989, 103 Stat. 2111, provided that: “The amendments made by this subsection [amending this section and sections 1078 and 1087dd of this title] shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.], including a loan made before the enactment of this Act [Dec. 19, 1989], and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 [sections 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), 1087dd(c)(2)(A)(i) of this title] for service in a medical internship or residency program that is completed prior to the effective date of this section [Dec. 19, 1989].”

Pub. L. 101-239, title II, §2004(c), Dec. 19, 1989, 103 Stat. 2116, provided that: “The amendments made by this section [enacting section 1078-7 of this title and amending this section and section 1078 of this title] shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-369, §11(b), July 18, 1988, 102 Stat. 838, provided that: “The amendments made by subsection (a) [amending this section and section 1078 of this title] and section 10(b) of the Higher Education Technical Amendments Act of 1987 [section 10(b) of Pub. L. 100-50, amending this section and section 1078 of this title]

shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965 [probably means part B of title IV of Pub. L. 89-329 which is classified to this part], on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987 [June 3, 1987].”

Amendment by section 5(b)(1) of Pub. L. 100-369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100-369 effective July 18, 1988, see section 13(b) of Pub. L. 100-369, set out as a note under section 1091 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10(b) of Pub. L. 100-50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100-369, set out as an Effective Date of 1988 Amendment note above.

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a)(2)(C) (other than cls. (viii), (ix), and (x) thereof) of this section shall apply only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, see section 402(b) of Pub. L. 99-498, set out as a note under section 1071 of this title.

### § 1077a. Applicable interest rates

#### (a) Rates to be consistent for borrower's entire debt

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) of this section in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

#### (b) Reduction for new borrowers after decline in Treasury bill rates

If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury,

determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) of this section for borrowers described in such subsection.

**(c) Rates for supplemental loans for students and loans for parents**

**(1) In general**

Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 1078-1<sup>1</sup> or 1078-2 of this title on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

**(2) Reduction of rate after decline in Treasury bill rates**

If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 1078-1<sup>1</sup> or 1078-2 of this title on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

**(3) Increase of rate after increase in Treasury bill rates**

If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 1078-1<sup>1</sup> or 1078-2 of this title on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

**(4) Availability of variable rates**

(A) For any loan made pursuant to section 1078-1<sup>1</sup> or 1078-2 of this title and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 1078-1(d)<sup>1</sup> or 1078-2(d) of this title, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

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

(II) 3.25 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is 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) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) 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.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 1078-1<sup>1</sup> of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting “3.1” for “3.25”; and

(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 1078-2 of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting “3.1” for “3.25”; and

(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 1078-2 of this title for which the first disbursement is made on or after July 1, 1994—

(i) subparagraph (B) shall be applied by substituting “3.1” for “3.25”; and

(ii) the interest rate shall not exceed 9 percent.

**(d) Interest rates for new borrowers after July 1, 1988**

Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 1078-1,<sup>1</sup> 1078-2, and 1078-3 of this title) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

**(e) Interest rates for new borrowers after October 1, 1992**

**(1) In general**

Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other

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

than a loan made pursuant to sections 1078-1,<sup>1</sup> 1078-2 and 1078-3 of this title) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 1077, 1078, or 1078-8 of this title, 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) 3.10 percent,

except that such rate shall not exceed 9 percent.

**(2) Consultation**

The Secretary shall determine the applicable rate of interest under paragraph (1) 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.

**(f) Interest rates for new loans after July 1, 1994**

**(1) In general**

Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078-2 or 1078-3 of this title) 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) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

**(2) Consultation**

The Secretary shall determine the applicable rate of interest under paragraph (1) 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.

**(g) In school and grace period rules**

**(1) General rule**

Notwithstanding the provisions of subsection (f) of this section, but subject to subsection (h) of this section, with respect to any loan under section 1078 or 1078-8 of this title for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

- (A) prior to the beginning of the repayment period of the loan; or
- (B) 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 paragraph (2).

**(2) Rate determination**

For purposes of paragraph (1), the rate determined under this paragraph 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 prior to such June 1; plus
- (B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

**(3) Consultation**

The Secretary shall determine the applicable rate 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.

**(h) Interest rates for new loans after July 1, 1998**

**(1) In general**

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 1078-2 and 1078-3 of this title) for which the first disbursement is 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 securities with a comparable maturity as established by the Secretary; plus
- (B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

**(2) Interest rates for new PLUS loans after July 1, 1998**

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made under section 1078-2 of this title for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

- (A) by substituting “2.1 percent” for “1.0 percent” in subparagraph (B); and
- (B) by substituting “9.0 percent” for “8.25 percent” in the matter following such subparagraph.

**(3) Consultation**

The Secretary shall determine the applicable rate 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.

**(i) Treatment of excess interest payments on new borrower accounts resulting from decline in Treasury bill rates**

**(1) Excess interest on 10 percent loans**

If, with respect to a loan for which the applicable interest rate is 10 percent under sub-

section (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

**(2) Amount of adjustment for 10 percent loans**

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

**(3) Excess interest on loans after 1992 amendments, to borrowers with outstanding balances**

If, with respect to a loan made on or after July 23, 1992, to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

**(4) Amount of adjustment**

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest

added to principal) during such calendar quarter; divided by

(C) four.

**(5) Annual adjustment of interest and borrower eligibility for credit**

Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title.

**(6) Publication of Treasury bill rate**

For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

**(7) Conversion to variable rate**

(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan

that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 1083(b) of this title if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

**(j) Interest rates for new loans between July 1, 1998, and October 1, 1998**

**(1) In general**

Notwithstanding subsection (h) of this section, but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078-2 or 1078-3 of this title) 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—

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

except that such rate shall not exceed 8.25 percent.

**(2) In school and grace period rules**

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078-2 or 1078-3 of this title) 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—

- (A) prior to the beginning of the repayment period of the loan; or
- (B) 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 paragraph (1) by substituting “1.7 percent” for “2.3 percent”.

**(3) PLUS loans**

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078-2 of this title 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 the lesser of—

- (A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus
- (ii) 3.1 percent; or
- (B) 9.0 percent.

**(4) Consultation**

The Secretary shall determine the applicable rate 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.

**(k) Interest rates for new loans on or after October 1, 1998, and before July 1, 2006**

**(1) In general**

Notwithstanding subsection (h) of this section and subject to paragraph (2) of this subsection, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078-2 or 1078-3 of this title) 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—

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

except that such rate shall not exceed 8.25 percent.

**(2) In school and grace period rules**

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078-2 or 1078-3 of this title) 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—

- (A) prior to the beginning of the repayment period of the loan; or
- (B) 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 1077(a)(2)(C) or 1078(b)(1)(M) of this title, shall be determined under paragraph (1) by substituting “1.7 percent” for “2.3 percent”.

**(3) PLUS loans**

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078-2 of this title 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 paragraph (1)—

(A) by substituting “3.1 percent” for “2.3 percent”; and

(B) by substituting “9.0 percent” for “8.25 percent”.

**(4) Consolidation loans**

With respect to any consolidation loan under section 1078-3 of this title for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

**(5) Consultation**

The Secretary shall determine the applicable rate 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.

**(I) Interest rates for new loans on or after July 1, 2006, and before July 1, 2010**

**(1) In general**

Notwithstanding subsection (h) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078-2 or 1078-3 of this title) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

**(2) PLUS loans**

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078-2 of this title for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be 8.5 percent on the unpaid principal balance of the loan.

**(3) Consolidation loans**

With respect to any consolidation loan under section 1078-3 of this title for which the application is received by an eligible lender on or after July 1, 2006, and that was disbursed before July 1, 2010, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to

the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

**(4) Reduced rates for undergraduate subsidized loans**

Notwithstanding subsection (h) and paragraph (1) of this subsection, with respect to any loan to an undergraduate student made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078-2, 1078-3, or 1078-8 of this title) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, the applicable rate of interest shall be as follows:

(A) 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.

(B) 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.

(C) 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.

**(m) Lesser rates permitted**

Nothing in this section or section 1078-3 of this title shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

**(n) Definitions**

For the purpose of subsections (a) and (d) of this section—

(1) the term “period of instruction” shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term “period of enrollment” shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(Pub. L. 89-329, title IV, §427A, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1364; amended Pub. L. 100-50, §10(d)(1), June 3, 1987, 101 Stat. 342; Pub. L. 102-325, title IV, §415, July 23, 1992, 106 Stat. 514; Pub. L. 103-66, title IV, §4101, Aug. 10, 1993, 107 Stat. 364; Pub. L. 103-208, §2(c)(5)-(10), Dec. 20, 1993, 107 Stat. 2461; Pub. L. 105-178, title VIII, §8301(a)(1), June 9, 1998, 112 Stat. 496; Pub. L. 105-244, title IV, §416(a)(1), Oct. 7, 1998, 112 Stat. 1679; Pub. L. 106-554, §1(a)(1) [title III, §318(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-49; Pub. L. 107-139, §1(a)(1), (c), Feb. 8, 2002, 116 Stat. 8, 9; Pub. L. 109-171, title VIII, §8006(a), Feb. 8, 2006, 120 Stat. 159; Pub. L. 110-84, title II, §201(a)(1), Sept. 27, 2007, 121 Stat. 790; Pub. L. 111-152, title II, §2203, Mar. 30, 2010, 124 Stat. 1074.)

REFERENCES IN TEXT

Section 1078-1 of this title, referred to in subsecs. (c) to (e)(1), was repealed by Pub. L. 103-66, title IV, §4047(b)-(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994,

except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078-1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105-244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

#### CODIFICATION

Amendments by section 2(c)(6)–(10) of Pub. L. 103-208 (which were effective as if included in Pub. L. 102-325) were executed to this section as amended by Pub. L. 102-325 and Pub. L. 103-66, to reflect the probable intent of Congress.

#### PRIOR PROVISIONS

A prior section 1077a, Pub. L. 89-329, title IV, § 427A, as added Pub. L. 96-374, title IV, § 415(a)(1), Oct. 3, 1980, 94 Stat. 1419; amended Pub. L. 97-35, title V, § 534(a)(1), Aug. 13, 1981, 95 Stat. 454; Pub. L. 98-79, § 5(a), (b)(1), Aug. 15, 1983, 97 Stat. 481, 482, prescribed applicable interest rates on loans, prior to the general revision of this part by Pub. L. 99-498.

#### AMENDMENTS

2010—Subsec. (l). Pub. L. 111-152, § 2203(1), inserted “and before July 1, 2010” in heading.

Subsec. (l)(1), (2). Pub. L. 111-152, § 2203(2), (3), inserted “and before July 1, 2010,” after “July 1, 2006.”

Subsec. (l)(3). Pub. L. 111-152, § 2203(4), inserted “and that was disbursed before July 1, 2010,” after “July 1, 2006.”

Subsec. (l)(4). Pub. L. 111-152, § 2203(5)(A), substituted “July 1, 2010” for “July 1, 2012” in introductory provisions.

Subsec. (l)(4)(D), (E). Pub. L. 111-152, § 2203(5)(B), struck out subpars. (D) and (E) which read as follows: “(D) 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.

“(E) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2012, 3.4 percent on the unpaid principal balance of the loan.”

2007—Subsec. (l)(4). Pub. L. 110-84 added par. (4).

2006—Subsec. (l)(2). Pub. L. 109-171 substituted “8.5 percent” for “7.9 percent”.

2002—Subsec. (k). Pub. L. 107-139, § 1(c), substituted “2006” for “2003” in heading and “July 1, 2006,” for “July 1, 2003,” wherever appearing in text.

Subsecs. (l) to (n). Pub. L. 107-139, § 1(a)(1), added subsec. (l) and redesignated former subsecs. (l) and (m) as (m) and (n), respectively.

2000—Subsec. (c)(4)(B). Pub. L. 106-554 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

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

“(ii) 3.25 percent.”

1998—Subsec. (j). Pub. L. 105-178, § 8301(a)(1)(B), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 105-244, § 416(a)(1)(B), added subsec. (k). Former subsec. (k) redesignated (l).

Pub. L. 105-178, § 8301(a)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 105-244, § 416(a)(1)(A), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Pub. L. 105-178, § 8301(a)(1)(A), redesignated subsec. (k) as (l).

Subsec. (m). Pub. L. 105-244, § 416(a)(1)(A), redesignated subsec. (l) as (m).

1993—Subsec. (c)(4)(E). Pub. L. 103-66, § 4101(1), added subpar. (E).

Subsec. (e)(1). Pub. L. 103-208, § 2(c)(5), substituted “under section 1077, 1078, or 1078-8 of this title” for “under this part”.

Subsecs. (f) to (h). Pub. L. 103-66, § 4101(3), added subsecs. (f) to (h). Former subsecs. (f) to (h) redesignated (i) to (k), respectively.

Subsec. (i). Pub. L. 103-66, § 4101(2), redesignated subsec. (f) as (i).

Subsec. (i)(1)(B). Pub. L. 103-208, § 2(c)(6), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (5) of this subsection.” See Codification note above.

Subsec. (i)(2)(B). Pub. L. 103-208, § 2(c)(7), substituted “average daily principal balance” for “outstanding principal balance” and “during” for “at the end of”. See Codification note above.

Subsec. (i)(4)(B). Pub. L. 103-208, § 2(c)(8), substituted “average daily principal balance” for “outstanding principal balance” and “during” for “at the end of”. See Codification note above.

Subsec. (i)(5). Pub. L. 103-208, § 2(c)(9)(A)(i), (B), substituted “paragraphs (2) and (4)” for “paragraph (2)” in first sentence and inserted “, but the excess interest shall be calculated and credited to the Secretary” after “required payment on the loan” in second sentence. See Codification note above.

Pub. L. 103-208, § 2(c)(9)(A)(ii), which directed substitution of “principal” for “principle” in first sentence, could not be executed because the word “principle” does not appear in text.

Subsec. (i)(7). Pub. L. 103-208, § 2(c)(10), added par. (7). See Codification note above.

Subsecs. (j), (k). Pub. L. 103-66, § 4101(2), redesignated subsecs. (g) and (h) as (j) and (k), respectively.

1992—Subsec. (c)(4)(D). Pub. L. 102-325, § 415(a), added subpar. (D).

Subsec. (e). Pub. L. 102-325, § 415(c)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 102-325, § 415(b), amended par. (1) heading and substituted “paragraph (5)” for “paragraph (3)” in par. (1)(B), amended par. (2) heading, added pars. (3) and (4), redesignated former par. (3) as (5), struck out “or” before “by reducing the number” and inserted “, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title” before period at end, redesignated former par. (4) as (6), and struck out former par. (5) which provided for study of treatment of excess interest payments provisions.

Subsecs. (f) to (h). Pub. L. 102-325, § 415(c)(1), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1987—Subsec. (c)(4)(A). Pub. L. 100-50, § 10(d)(1)(A), (B), substituted “and disbursed on or after July 1, 1987” for “to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987” and “any 12-month period beginning on or after July 1 and ending on June 30” for “any calendar year”.

Subsec. (c)(4)(B). Pub. L. 100-50, § 10(d)(1)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: “For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

“(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

“(ii) 3.75 percent.”

#### EFFECTIVE DATE OF 2007 AMENDMENT

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

#### EFFECTIVE DATE OF 2006 AMENDMENT

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 1998 AMENDMENT

Pub. L. 105-244, title IV, § 416(c), Oct. 7, 1998, 112 Stat. 1682, provided that: “The amendments made by this

section [amending this section and sections 1078-2, 1078-3, and 1087-1 of this title] shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] 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 any loan made under section 428C of such Act [20 U.S.C. 1078-3] for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(5) of Pub. L. 103-208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(6)-(10) of Pub. L. 103-208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, see section 5(a), (b)(2) of Pub. L. 103-208, set out as a note under section 1051 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.

**§ 1078. Federal payments to reduce student interest costs**

**(a) Federal interest subsidies**

**(1) Types of loans that qualify**

Each student who has received a loan for study at an eligible institution for which the first disbursement is made before July 1, 2010, and—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) of this section and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) of this section) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b) of this section,

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

**(2) Additional requirements to receive subsidy**

(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth the loan amount for which the student shows financial need; and

(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078-7 of this title;

(ii) meet the requirements of subparagraph (B); and

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, expected family contribution (as determined under part E of this subchapter), subject to the provisions of subparagraph (D).

(C) For the purpose of this paragraph—

(i) a student's cost of attendance shall be determined under section 1087ll of this title;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter; plus

(II) other scholarship, grant, or loan assistance, but excluding—

(aa) any national service education award or post-service benefit under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.]; and

(bb) any veterans' education benefits as defined in section 1087vv(c) of this title; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 1078-1<sup>1</sup> or 1078-8 of this title or a parent under section 1078-2 of this title or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to off-

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