

Amendment by section 462(b)–(e) 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.

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 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.

EFFECTIVE DATE

Section applicable with respect to academic year 1988–1989 and succeeding academic years, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

**§ 1087cc. Agreements with institutions of higher education**

**(a) Contents of agreements**

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 1087aa of this title;

(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(H) of this title; and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b) of this section;

(C) capital distributions, as provided in section 1087ff of this title; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(H) of this title;

(4) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 1087bb of this title; or

(B) if the institution is not one described in subparagraph (A), the Secretary may allow such institution to refer such note or agreement to the Secretary, without recompense, except that, once every six months, any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution and treated as an additional capital contribution under section 1087bb of this title;

(5) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 1087bb of this title;

(6) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(7) provide assurances that the institution will comply with the provisions of section 1087cc–1 of this title;

(8) provide that the institution of higher education will make loans first to students with exceptional need; and

(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution, except that nothing in this paragraph shall be construed to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5).

**(b) Administrative expenses**

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1096 of this title.

**(c) Cooperative agreements with consumer reporting agencies**

(1) For the purpose of promoting responsible repayment of loans made pursuant to this part,

the Secretary and each institution of higher education participating in the program under this part shall enter into cooperative agreements with consumer reporting agencies to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 1087gg of this title and regarding loans held by the Secretary or an institution.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 1080a of this title except that such agreement shall provide for the disclosure by the Secretary or an institution, as the case may be, to such consumer reporting agencies, with respect to any loan held by the Secretary or the institution, respectively, of—

(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;

(B) information concerning the repayment and collection of any such loan, including information concerning the status of such loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan, or upon cancellation or discharge of the borrower's obligation on the loan for any reason.

(3) Notwithstanding paragraphs (4) and (5) of subsection (a) of section 1681c of title 15, a consumer reporting agency may make a report containing information received from the Secretary or an institution regarding the status of a borrower's account on a loan made under this part until the loan is paid in full.

(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any consumer reporting agency with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such consumer reporting agency any changes to the information previously disclosed.

(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.

(5) Each institution of higher education shall notify the appropriate consumer reporting agencies whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such consumer reporting agencies to update the status of information maintained with respect to that borrower.

**(d) Limitation on use of interest bearing accounts**

In carrying out the provisions of subsection (a)(9) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless

such agency, attorney, or servicer holds such amounts for more than 45 days.

**(e) Special due diligence rule**

In carrying out the provisions of subsection (a)(5)<sup>1</sup> of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(Pub. L. 89-329, title IV, § 463, as added Pub. L. 99-498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1444; amended Pub. L. 100-50, § 13(e), (f), June 3, 1987, 101 Stat. 349; Pub. L. 102-325, title IV, § 463(a), (b), July 23, 1992, 106 Stat. 579; Pub. L. 103-208, § 2(f)(5)-(7), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105-244, title IV, § 463, Oct. 7, 1998, 112 Stat. 1724; Pub. L. 110-315, title IV, §§ 432(b)(5), 463, Aug. 14, 2008, 122 Stat. 3246, 3266; Pub. L. 111-39, title IV, § 405(2), July 1, 2009, 123 Stat. 1947.)

REFERENCES IN TEXT

Subsection (a)(5) of this section relating to due diligence, referred to in subsec. (e), was redesignated subsec. (a)(4), by Pub. L. 105-244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

PRIOR PROVISIONS

A prior section 1087cc, Pub. L. 89-329, title IV, § 463, as added Pub. L. 92-318, title I, § 137(b), June 23, 1972, 86 Stat. 274; amended Pub. L. 94-482, title I, § 130(c), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96-374, title IV, §§ 442(b)(1)-(4), 445(a), (b)(1), 447(a), 448(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1439, 1440, 1442, 1443, 1503; Pub. L. 99-272, title XVI, §§ 16025, 16026, Apr. 7, 1986, 100 Stat. 352, 353, related to agreements with institutions of higher education, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2009—Subsec. (c)(2)(A). Pub. L. 111-39, § 405(2)(A)(i), realigned margins.

Subsec. (c)(2)(B). Pub. L. 111-39, § 405(2)(A)(ii), added subpar. (B) and struck out former subpar. (B), resulting in text identical to that after execution of the amendment by Pub. L. 105-244, § 463(b)(2)(C). See 1998 Amendment note below.

Subsec. (c)(3). Pub. L. 111-39, § 405(2)(B), substituted “and (5)” for “and (6)” and made technical amendment to reference in original act which appears in text as reference to section 1681c of title 15.

2008—Subsec. (a)(4)(B). Pub. L. 110-315, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if the institution is not one described in subparagraph (A), the Secretary may—

“(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 1087bb of this title; or

“(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution.”

Subsec. (a)(9). Pub. L. 110-315, § 463(b), inserted “, except that nothing in this paragraph shall be con-

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

strued to permit the Secretary to require the assignment of loans to the Secretary other than as is provided for in paragraphs (4) and (5)” before period.

Subsec. (c). Pub. L. 110-315, § 432(b)(5)(A), substituted “consumer reporting agencies” for “credit bureau organizations” in heading.

Subsec. (c)(1). Pub. L. 110-315, § 432(b)(5)(B), substituted “consumer reporting agencies” for “credit bureau organizations”.

Subsec. (c)(2). Pub. L. 110-315, § 432(b)(5)(C), substituted “such consumer reporting agencies” for “such organizations”.

Subsec. (c)(4)(A). Pub. L. 110-315, § 432(b)(5)(D), substituted “consumer reporting agency” for “credit bureau organization” in two places.

Subsec. (c)(5). Pub. L. 110-315, § 432(b)(5)(E), substituted “consumer reporting agencies” for “credit bureau organizations” and “such consumer reporting agencies” for “such organizations”.

1998—Subsec. (a)(2)(B). Pub. L. 105-244, § 463(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “a capital contribution—

“(i) by an institution that—

“(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

“(II) has a default rate which does not exceed 7.5 percent for award year 1993-1994 and has a cohort default rate which does not exceed 15 percent for award year 1994-1995 or for any succeeding award year,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

“(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);”.

Subsec. (a)(4) to (10). Pub. L. 105-244, § 463(a)(2), (3), re-designated pars. (5) to (10) as (4) to (9), respectively, and struck out former par. (4) which read as follows: “provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;”.

Subsec. (c)(1). Pub. L. 105-244, § 463(b)(1), substituted “the Secretary and each institution of higher education participating in the program under this part shall” for “the Secretary shall” and inserted “and regarding loans held by the Secretary or an institution” after “section 1087gg of this title”.

Subsec. (c)(2). Pub. L. 105-244, § 463(b)(2)(A), in introductory provisions, substituted “by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—” for “by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—”.

Subsec. (c)(2)(A). Pub. L. 105-244, § 463(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the date of disbursement and the amount of any such loan;”.

Subsec. (c)(2)(B). Pub. L. 105-244, § 463(b)(2)(C), inserted “the repayment and” after “concerning” the first place appearing and substituted “status of such” for “status of any defaulted”.

Subsec. (c)(2)(C). Pub. L. 105-244, § 463(b)(2)(D), inserted “, or upon cancellation or discharge of the borrower’s obligation on the loan for any reason” before period at end.

Subsec. (c)(3). Pub. L. 105-244, § 463(b)(3)(A), in introductory provisions, inserted “or an institution” after “from the Secretary” and substituted “until the loan is paid in full.” for “until—”.

Subsec. (c)(3)(A), (B). Pub. L. 105-244, § 463(b)(3)(B), struck out subpars. (A) and (B) which read as follows:

“(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

“(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency.”

Subsec. (c)(4). Pub. L. 105-244, § 463(b)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

“(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

“(B) the information set forth in section 1080a(a) of this title.”

Subsec. (c)(5). Pub. L. 105-244, § 463(b)(4), added par. (5).

Subsec. (d). Pub. L. 105-244, § 463(c), substituted “subsection (a)(9)” for “subsection (a)(10)”.

1993—Subsec. (a)(2)(B)(i)(II). Pub. L. 103-208, § 2(f)(5), substituted “7.5 percent for award year 1993-1994 and has a cohort default rate which does not exceed 15 percent for award year 1994-1995 or for any succeeding award year” for “7.5 percent”.

Subsec. (c)(4). Pub. L. 103-208, § 2(f)(6), substituted “shall disclose at least annually” for “shall disclose” in introductory provisions.

Subsecs. (d), (e). Pub. L. 103-208, § 2(f)(7), added subsecs. (d) and (e).

1992—Subsec. (a)(2)(B). Pub. L. 102-325, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);”.

Subsec. (c)(3)(B). Pub. L. 102-325, § 463(b)(1), struck out “, if that account has not been previously reported by any other holder of the note” after “agency”.

Subsec. (c)(4). Pub. L. 102-325, § 463(b)(2), added par. (4).

1987—Subsec. (a)(4). Pub. L. 100-50, § 13(e), substituted “in an annual report” for “in a report” and struck out “, and made to the Secretary at least semiannually” after “in such default”.

Subsec. (b). Pub. L. 100-50, § 13(f), substituted “section 1096 of this title” for “section 1092 of this title”.

#### 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 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 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 1051 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)(B), relating to the matching of Federal capital contributions, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 468 of Pub. L. 102-325, set out as a note under section 1087dd 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.

#### EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99-498, set out as a note under section 1001 of this title.

Subsection (a)(9) of this section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99-498, set out as a note under section 1087dd of this title.

### § 1087cc-1. Student loan information by eligible institutions

#### (a) Disclosure required prior to disbursement

Each institution of higher education shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

- (1) the name of the institution of higher education, and the address to which communications and payments should be sent;
- (2) the principal amount of the loan;
- (3) the amount of any charges collected by the institution at or prior to the disbursement of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;
- (4) the stated interest rate on the loan;
- (5) the yearly and cumulative maximum amounts that may be borrowed;
- (6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;
- (7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;
- (8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;
- (9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;
- (10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);
- (11) a definition of default and the consequences to the borrower if the borrower de-

faults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a consumer reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance;

(13) an explanation of any cost the borrower may incur in the making or collection of the loan;

(14) a notice and explanation regarding the end to future availability of loans made under this part;

(15) a notice and explanation that repayment and forgiveness benefits available to borrowers of loans made under part C are not available to borrowers participating in the loan program under this part;

(16) a notice and explanation regarding a borrower's option to consolidate a loan made under this part into a Federal Direct Loan under part C, including any benefit of such consolidation;

(17) with respect to new undergraduate Federal Perkins loan borrowers, as described in section 1087aa(b)(1)(A) of this title, a notice and explanation providing a comparison of the interest rates of loans under this part and part C and informing the borrower that the borrower has reached the maximum annual borrowing limit for which the borrower is eligible as referenced under subparagraphs (A) and (D) of section 1087e(a)(2) of this title; and

(18) with respect to current undergraduate Federal Perkins loan borrowers, as described in section 1087aa(b)(1)(B) of this title, a notice and explanation providing a comparison of the interest rates of loans under this part and part C and informing the borrower that the borrower has reached the maximum annual borrowing limit for which the borrower is eligible on Federal Direct Stafford Loans as referenced under section 1087e(a)(2)(A) of this title.

#### (b) Disclosure required prior to repayment

Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

- (1) the name of the institution of higher education, and the address to which communications and payments should be sent;
- (2) the scheduled date upon which the repayment period is to begin;
- (3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);
- (4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;