

§ 1078-12. Loan repayment for civil legal assistance attorneys

(a) Purpose

The purpose of this section is to encourage qualified individuals to enter and continue employment as civil legal assistance attorneys.

(b) Definitions

In this section:

(1) Civil legal assistance attorney

The term “civil legal assistance attorney” means an attorney who—

(A) is a full-time employee of—

(i) a nonprofit organization that provides legal assistance with respect to civil matters to low-income individuals without a fee; or

(ii) a protection and advocacy system or client assistance program that provides legal assistance with respect to civil matters and receives funding under—

(I) subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.);

(II) section 732 or 794e of title 29;

(III) part A of title I of the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.);

(IV) section 3004 of title 29;

(V) section 1320b-21 of title 42;

(VI) section 300d-53 of title 42; or

(VII) section 21061 of title 52;

(B) as such employee, provides civil legal assistance as described in subparagraph (A) on a full-time basis; and

(C) is continually licensed to practice law.

(2) Student loan

(A) In general

Except as provided in subparagraph (B), the term “student loan” means—

(i) subject to clause (ii), a loan made, insured, or guaranteed under this part, part D, or part E; and

(ii) a loan made under section 1078-3 or 1087e(g) of this title, to the extent that such loan was used to repay—

(I) a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct PLUS Loan;

(II) a loan made under section 1078, 1078-2, or 1078-8 of this title; or

(III) a loan made under part E.

(B) Exclusion of parent plus loans

The term “student loan” does not include any of the following loans:

(i) A loan made to the parents of a dependent student under section 1078-2 of this title.

(ii) A Federal Direct PLUS Loan made to the parents of a dependent student.

(iii) A loan made under section 1078-3 or 1087e(g) of this title, to the extent that such loan was used to repay—

(I) a loan made to the parents of a dependent student under section 1078-2 of this title; or

(II) a Federal Direct PLUS Loan made to the parents of a dependent student.

(c) Program authorized

From amounts appropriated under subsection (i) for a fiscal year, the Secretary shall carry out a program of assuming the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

(1) is employed as a civil legal assistance attorney; and

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

(d) Terms of agreement

(1) In general

To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement with the Secretary that specifies that—

(A) the borrower will remain employed as a civil legal assistance attorney for a required period of service of not less than three years, unless involuntarily separated from that employment;

(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Secretary the amount of any benefits received by such employee under this agreement;

(C) if the borrower is required to repay an amount to the Secretary under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

(D) the Secretary may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be contrary to the public interest; and

(E) the Secretary shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

(2) Repayments

(A) In general

Any amount repaid by, or recovered from, an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

(B) Merger

Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

(3) Limitations

(A) Student loan payment amount

Student loan repayments made by the Secretary under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the

borrower and the Secretary in an agreement under paragraph (1), except that the amount paid by the Secretary under this section shall not exceed—

- (i) \$6,000 for any borrower in any calendar year; or
- (ii) an aggregate total of \$40,000 in the case of any borrower.

(B) Beginning of payments

Nothing in this section shall authorize the Secretary to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Secretary entered into an agreement with the borrower under this subsection.

(e) Additional agreements

(1) In general

On completion of the required period of service under an agreement under subsection (d), the borrower and the Secretary may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

(2) Term

An agreement entered into under paragraph (1) may require the borrower to remain employed as a civil legal assistance attorney for less than three years.

(f) Award basis; priority

(1) Award basis

Subject to paragraph (2), the Secretary shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.

(2) Priority

The Secretary shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

- (A) has practiced law for five years or less and, for not less than 90 percent of the time in such practice, has served as a civil legal assistance attorney;
- (B) received repayment benefits under this section during the preceding fiscal year; and
- (C) has completed less than three years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

(g) Ineligibility for double benefits

No borrower may, for the same service, receive a reduction of loan obligations under both this section and section 1078-11 or 1087e(m) of this title.

(h) Regulations

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

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2009 and such sums as may be necessary for each of the five succeeding fiscal years.

(Pub. L. 89-329, title IV, § 428L, as added Pub. L. 110-315, title IV, § 431, Aug. 14, 2008, 122 Stat. 3242.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in (b)(1)(A)(ii)(I), is Pub.

L. 106-402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of title I of the Act is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 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 15001 of Title 42 and Tables.

The Protection and Advocacy for Individuals with Mental Illness Act, referred to in subsec. (b)(1)(A)(ii)(III), is Pub. L. 99-319, May 23, 1986, 100 Stat. 478. Part A of title I of the Act is classified generally to part A (§10801 et seq.) of subchapter I of chapter 114 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 10801 of Title 42 and Tables.

§ 1079. Certificate of Federal loan insurance—effective date of insurance

(a) Loan-by-loan insurance

(1) Authority to issue certificates on application

If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effectiveness of certificate

Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) Contents of applications

An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Comprehensive insurance coverage certificate

(1) Establishment of system by regulation

In lieu of requiring a separate insurance application and issuing a separate certificate of