

1998—Subsec. (a). Pub. L. 105-244, §428(a), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: “Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 1078-3 of this title), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender 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 disclosure shall include—”.

Subsec. (b). Pub. L. 105-244, §428(b), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: “Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078-2 or 1078-3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—”.

1993—Subsec. (b). Pub. L. 103-208, §2(c)(53), substituted “30 days” for “60 days” in introductory provisions.

Subsec. (e). Pub. L. 103-208, §2(k)(4), amended directory language of Pub. L. 102-325, §426(c). See 1992 Amendment note below.

Pub. L. 103-208, §2(c)(54), substituted “sections” for “section” before “1078-1”.

1992—Subsec. (a). Pub. L. 102-325, §426(a), added par. (1) and redesignated former pars. (1) to (13) as (2) to (14), respectively.

Subsec. (b). Pub. L. 102-325, §426(b)(1), in introductory provisions, inserted second sentence and struck out former second sentence which read as follows: “Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower.”

Subsec. (b)(8). Pub. L. 102-325, §426(b)(2), inserted “except as provided in subsection (e) of this section,” before “the projected”.

Subsec. (e). Pub. L. 102-325, §426(c), as amended by Pub. L. 103-208, §2(k)(4), added subsec. (e).

1987—Subsec. (a). Pub. L. 100-50, §10(z)(1), inserted “(other than a loan made under section 1078-3 of this title)” after “this part” in first sentence.

Subsec. (a)(8). Pub. L. 100-50, §10(z)(2), added par. (8) and struck out former par. (8) which read as follows: “a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;”.

Subsec. (b)(7). Pub. L. 100-50, §10(z)(3), inserted “, except that such explanation is not required when the loan being made is a consolidation loan under section 1078-3 of this title” before semicolon at end.

Subsec. (d). Pub. L. 100-50, §10(z)(4), substituted “notifies a borrower of approval of a loan” for “makes the first disbursement of a loan with respect to a borrower”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, §434(b), Aug. 14, 2008, 122 Stat. 3252, provided that:

“(1) REGULAR DISCLOSURE REQUIREMENTS AND DISCLOSURE REQUIREMENTS TO BORROWERS HAVING DIFFICULTY MAKING PAYMENTS.—Paragraphs (1) and (2) of section 433(e) of the Higher Education Act of 1965 [20 U.S.C. 1083(e)(1), (2)], as amended by subsection (a), shall apply with respect to loans for which the first payment is due on or after July 1, 2009.

“(2) DISCLOSURE REQUIREMENTS FOR BORROWERS WITH DELINQUENT LOANS.—Section 433(e)(3) of the Higher Education Act of 1965 [20 U.S.C. 1083(e)(3)], as amended by subsection (a), shall apply with respect to loans that become delinquent on or after July 1, 2009.”

#### 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 section 2(c)(53) of Pub. L. 103-208 effective on and after 60 days after Dec. 20, 1993 and amendments by section 2(c)(54), (k)(4) 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)(4) 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 effective Oct. 17, 1986, with subsecs. (a), (b), and (d) of this section applicable only with respect to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99-498, set out as a note under section 1071 of this title.

### § 1083a. Consumer education information

#### (a) In general

Each guaranty agency participating in a program under this part, working with the institutions of higher education served by such guaranty agency, shall develop and make available high-quality educational programs and materials to provide training for students and families in budgeting and financial management, including debt management and other aspects of financial literacy, such as the cost of using high interest loans to pay for postsecondary education, particularly as budgeting and financial management relates to student loan programs authorized by this subchapter. Such programs and materials shall be in formats that are simple and understandable to students and families, and shall be provided before, during, and after the students' enrollment in an institution of higher education. The activities described in this section shall be considered default reduction activities for the purposes of section 1072 of this title.

#### (b) Rule of construction

Nothing in this section shall be construed to prohibit—

(1) a guaranty agency from using existing activities, programs, and materials in meeting the requirements of this section;

(2) a guaranty agency from providing programs or materials similar to the programs or materials described in subsection (a) to an institution of higher education that provides loans exclusively through part D; or

(3) a lender or loan servicer from providing outreach or financial aid literacy information in accordance with subsection (a).

(Pub. L. 89-329, title IV, § 433A, as added Pub. L. 110-315, title IV, § 435, Aug. 14, 2008, 122 Stat. 3252.)

#### PRIOR PROVISIONS

A prior section 1083a, Pub. L. 89-329, title IV, § 433A, as added Pub. L. 96-374, title IV, § 418, Oct. 3, 1980, 94 Stat. 1423; amended Pub. L. 97-301, § 13(a), Oct. 13, 1982, 96 Stat. 1404; Pub. L. 98-79, § 3(a), Aug. 15, 1983, 97 Stat. 476; Pub. L. 99-272, title XVI, § 16012(c), Apr. 7, 1986, 100 Stat. 340, related to student loan information to be provided by eligible lenders, prior to the general revision of this part by Pub. L. 99-498. See section 1083 of this title.

#### § 1084. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 1078(a)(1)(B) of this title.

(Pub. L. 89-329, title IV, § 434, as added Pub. L. 99-498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1408.)

#### PRIOR PROVISIONS

A prior section 1084, Pub. L. 89-329, title IV, § 434, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90-575, title I, § 116(b)(4), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 91-206, § 6, Mar. 10, 1970, 84 Stat. 51; Pub. L. 92-318, title I, § 132D(e), June 23, 1972, 86 Stat. 264; Pub. L. 94-482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95-630, title V, § 502(a), Nov. 10, 1978, 92 Stat. 3681, related to participation by Federal credit unions in Federal, State, and private student loan insurance programs, prior to the general revision of this part by Pub. L. 99-498.

#### § 1085. Definitions for student loan insurance program

As used in this part:

##### (a) Eligible institution

###### (1) In general

Except as provided in paragraph (2), the term “eligible institution” means an institution of higher education, as defined in section 1002 of this title, except that, for the purposes of sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title, an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this subchapter and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

###### (2) Ineligibility based on high default rates

(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is

made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary’s calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B);

(ii) there are exceptional mitigating circumstances within the meaning of paragraph (5); or

(iii) there are, in the judgment of the Secretary, other exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part. If an institution continues to participate in a program under this part, and the institution’s appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993;

(iii) 25 percent for fiscal year 1994 through fiscal year 2011; and

(iv) 30 percent for fiscal year 2012 and any succeeding fiscal year.

(C) Until July 1, 1999, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 1061(2) of this title;

(ii) a tribally controlled college or university, as defined in section 1801(a)(4) of title 25; or

(iii) a Navajo Community College under the Navajo Community College Act.

(D) Notwithstanding the first sentence of subparagraph (A), the Secretary shall restore the eligibility to participate in a program under subpart 1 of part A, part B, or part E of an institution that did not appeal its loss of eligibility within 30 days of receiving notification if the Secretary determines, on a case-by-case basis, that the institution’s failure to appeal was substantially justified under the circumstances, and that—

(i) the institution made a timely request that the appropriate guaranty agency correct errors in the draft data used to calculate the institution’s cohort default rate;