

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (d)(5) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99-498, set out as a note under section 1071 of this title.

WAIVER OF MITIGATING CIRCUMSTANCES REQUIREMENT FOR STUDENT LOAN INSURANCE PROGRAM ELIGIBILITY

Pub. L. 115-141, div. H, title III, §314, Mar. 23, 2018, 132 Stat. 752, provided that:

“(a) IN GENERAL.—For the purpose of carrying out section 435(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)(2)), the Secretary of Education may waive the requirements under sections 435(a)(5)(A)(i) and 435(a)(5)(A)(ii) of such Act (20 U.S.C. 1085(a)(5)(A)(i) and 20 U.S.C. 1085(a)(5)(A)(ii))—

“(1) for an institution of higher education that offers an associate degree, is a public institution, and is located in an economically distressed county, defined as a county that ranks in the lowest 5 percent of all counties in the United States based on a national index of county economic status; and

“(2) for an institution—

“(A) that is a public institution of higher education or a Tribal College or University (as defined in section 316(b) of such Act (20 U.S.C. 1059c(b))); and

“(B) whose fall enrollment for the most recently completed academic year was comprised of a majority of students who are Indian (as defined in such section) or Alaska Natives (as defined in section 317(b) of such Act (20 U.S.C. 1059d(b))[]).

“(b) APPLICABILITY.—Subsection (a) shall apply to an institution of higher education that otherwise would be ineligible to participate in a program under part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.] on or after the date of enactment of this Act [Mar. 23, 2018] due to the application of section 435(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)(2)).

“(c) COVERAGE.—This section shall be in effect for the period covered by this Act [div. H of Pub. L. 114-141, 132 Stat. 696] and for the succeeding fiscal year.”

DEFINITION OF INSTITUTION OF HIGHER EDUCATION

Pub. L. 102-325, title IV, §427(b)(2), July 23, 1992, 106 Stat. 549, provided that: “With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act [former 20 U.S.C. 1085(b)], such provision shall be deemed to refer to section 481(a) of the Act [former 20 U.S.C. 1088(a)].”

§ 1086. Delegation of functions**(a) In general**

An eligible lender or guaranty agency that contracts with another entity to perform any of the lender’s or agency’s functions under this subchapter, or otherwise delegates the performance of such functions to such other entity—

(1) shall not be relieved of the lender’s or agency’s duty to comply with the requirements of this subchapter; and

(2) shall monitor the activities of such other entity for compliance with such requirements.

(b) Special rule

A lender that holds a loan made under this part in the lender’s capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

(Pub. L. 89-329, title IV, §436, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1413; amended Pub. L. 105-244, title IV, §430, Oct. 7, 1998, 112 Stat. 1709.)

PRIOR PROVISIONS

A prior section 1086, Pub. L. 89-329, title IV, §436, as added Pub. L. 89-752, §12, Nov. 3, 1966, 80 Stat. 1244; amended Pub. L. 90-575, title I, §116(b)(5), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 94-482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2132; Pub. L. 96-374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a District of Columbia student loan insurance program, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

1998—Pub. L. 105-244 amended section catchline and text generally. Prior to amendment, section authorized establishment of a District of Columbia student loan insurance program.

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.

§ 1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow

(a) Repayment in full for death and disability**(1) In general**

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months then the Secretary shall discharge the borrower’s liability on the loan by repaying the amount owed on the loan. The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

(i) receives a loan made, insured, or guaranteed under this subchapter; or

(ii) has earned income in excess of the poverty line; or

(B) the Secretary determines the reinstatement and resumption to be necessary.

(2) Disability determinations

A borrower who has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition and who provides documentation of such determination to the Secretary of Education, shall be considered permanently and totally dis-