

amendment, subsec. (a) related to availability of funds for administrative costs and cost allowances.

Subsec. (b). Pub. L. 105-244, §454(2), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Funds made available under subsection (a) of this section shall remain available until expended."

Subsec. (c). Pub. L. 105-244, §454(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105-244, §454(4), redesignated subsec. (c) as (d).

Pub. L. 105-244, §454(3), struck out heading and text of subsec. (d). Text read as follows: "In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) of this section to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action."

1997—Subsec. (a). Pub. L. 105-33 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 1072(g) of this title and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B of this subchapter to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) \$260,000,000 in fiscal year 1994, \$284,000,000 in fiscal year 1995, \$550,000,000 in fiscal year 1996, \$595,000,000 in fiscal year 1997, and \$750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed \$2,439,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year."

Subsec. (a)(1). Pub. L. 105-78 substituted "\$507,000,000" for "\$532,000,000" in closing provisions.

1995—Subsec. (a). Pub. L. 104-19 substituted "\$284,000,000 in fiscal year 1995" for "\$345,000,000 in fiscal year 1995" and "\$2,439,000,000 in fiscal years 1994 through 1998" for "\$2,500,000,000 in fiscal years 1994 through 1998".

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to funds for administrative expenses for former provisions relating to reports.

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

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

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CONSTRUCTION

Pub. L. 105-78, title VI, §609(m), Nov. 13, 1997, 111 Stat. 1524, provided that: "Nothing in this Act [see Tables for classification] or an amendment made by this Act shall be construed to prohibit the Secretary of Education from using funds that are returned or otherwise recovered by the Secretary under section 422(g) of the Higher Education Act of 1965 (20 U.S.C. 1072(g)) including the balances of returned reserve funds, formerly held by the Higher Education Assistance Foundation, that are currently held in Higher Education Assistance Foundation Claims Reserves, Treasury account number 91X6192, for expenditure for expenses pursuant to section 458 of such Act (20 U.S.C. 1087h)."

USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF WILLIAM D. FORD DIRECT LOAN PROGRAM PROHIBITED

Pub. L. 104-208, div. A, title I, §101(e) [title III, §304], Sept. 30, 1996, 110 Stat. 3009-233, 3009-261, provided in part that: "Notwithstanding section 458 of the Higher Education Act [of 1965] [20 U.S.C. 1087h], the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104-134, title I, §101(d) [title III, §305], Apr. 26, 1996, 110 Stat. 1321-211, 1321-236; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

§ 1087i. Authority to sell loans

The Secretary, in consultation with the Secretary of the Treasury, is authorized to sell loans made under this part on such terms as the Secretary determines are in the best interest of the United States, except that any such sale shall not result in any cost to the Federal Government. Notwithstanding any other provision of law, the proceeds of any such sale may be used by the Secretary to offer reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment in accordance with section 1087e(b)(7) of this title. Such reductions may be offered only if the Secretary determines the reductions are in the best financial interests of the Federal Government.

(Pub. L. 89-329, title IV, §459, as added Pub. L. 105-244, title IV, §455, Oct. 7, 1998, 112 Stat. 1718.)

PRIOR PROVISIONS

A prior section 1087i, Pub. L. 89-329, title IV, §459, as added Pub. L. 102-325, title IV, §451, July 23, 1992, 106 Stat. 575, which related to schedule of regulatory activities by Secretary under Federal direct loan demonstration program, was omitted in the general amendment of this part by Pub. L. 103-66.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1087i-1. Temporary authority to purchase student loans

(a) Authority to purchase

(1) Authority; determination required

Upon a determination by the Secretary that there is an inadequate availability of loan cap-

ital to meet the demand for loans under sections 1078, 1078-2, or 1078-8 of this title, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender, as defined by section 1085(d)(1) of this title, loans first disbursed under sections 1078, 1078-2, or 1078-8 of this title on or after October 1, 2003, and before July 1, 2010, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this section shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(2) Federal Register notice

The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall jointly publish a notice in the Federal Register prior to any purchase of loans under paragraph (1) that—

(A) establishes the terms and conditions governing the purchases authorized by paragraph (1);

(B) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, will jointly consider in evaluating the price at which to purchase loans made under section 1078, 1078-2, or 1078-8 of this title; and

(C) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(3) Temporary authority to purchase rehabilitated loans

(A) Authority

In addition to the authority described in paragraph (1), the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender (as defined in section 1085(d)(1) of this title), loans that such lender purchased under section 1078-6 of this title on or after October 1, 2003, and before July 1, 2010, and that are not in default, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this paragraph shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(B) Federal Register notice

The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall jointly publish a notice in the Federal Register prior to any purchase of loans under this paragraph that—

(i) establishes the terms and conditions governing the purchases authorized by this paragraph;

(ii) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget will jointly consider in evaluating the price at which to purchase loans rehabilitated pursuant to section 1078-6(a) of this title; and

(iii) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(b) Proceeds

The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section be used—

(1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this subchapter; and

(2)(A) in the case of loans purchased pursuant to subsection (a)(1), to originate new Federal loans to students, as authorized under part B of this subchapter; or

(B) in the case of loans purchased pursuant to subsection (a)(3), to originate such new Federal loans to students, or to purchase loans in accordance with section 1078-6(a) of this title.

(c) Maintaining servicing arrangements

The Secretary may, if agreed upon by an eligible lender selling loans under this section, contract with such lender for the servicing of the loans purchased, provided that—

(1) the cost of such servicing arrangement does not exceed the cost the Federal Government would otherwise incur for the servicing of loans purchased, as determined under subsection (a); and

(2) such servicing arrangement is in the best interest of the borrowers whose loans are purchased.

(d) Guaranty agency responsibilities and payments

Notwithstanding any other provision of this chapter, beginning on the date on which the Secretary purchases a loan under this section—

(1) the guaranty agency that insured such loan shall cease to have any obligations, responsibilities, or rights (including rights to any payment) under this chapter for any activity related to the administration of such loan that is carried out or required to be carried out on or after the date of such purchase; and

(2) the insurance issued by such agency pursuant to section 1078(b) of this title for such

loan shall cease to be effective with respect to any default on such loan that occurs on or after the date of such purchase.

(e) Reports and cost estimates

The Secretary shall prepare, transmit to the authorizing committees, and make available to the public, the following:

(1) Quarterly reports

(A) Contents

Not later than 60 days after the end of each quarter during the period beginning July 1, 2008, and ending September 30, 2010, a quarterly report on—

(i) the number of loans the Secretary has agreed to purchase, or has purchased, using the authority provided under this section, and the total amount of outstanding principal and accrued interest of such loans, during such period; and

(ii) the number of loans in which the Secretary has purchased a participation interest, and the total amount of outstanding principal and accrued interest of such loans, during such period.

(B) Disaggregated information

For each quarterly report, the information described in clauses (i) and (ii) of subparagraph (A) shall be disaggregated by lender and, for each lender, by category of institution (using the categories described in section 1015a(d) of this title) and type of loan.

(2) Estimates of purchase program costs

Not later than February 15, 2011, an estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i) during the period beginning July 1, 2008, and ending September 30, 2010, and an estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii) during such period. Each such estimate shall—

(A) contain the same level of detail, and be reported in a similar manner, as the budget estimates provided for the loan program under part B and the direct student loan program under this part in the President's annual budget submission to Congress, except that current and future administrative costs shall also be reported;

(B) include an estimate of the gross and net outlays that have been, or will be, incurred by the Federal Government (including subsidy and administrative costs, and any payments made by the Department to lenders, trusts, or other entities related to such activities) in purchasing such loans or purchasing a participation interest in such loans during such period (as applicable); and

(C) include a comparison of—

(i) the average amount of the gross and net outlays (including costs and payments) described in subparagraph (B) for each \$100 of loans purchased or for which a participation interest was purchased (as applicable) during such period, disaggregated by type of loan; with

(ii) the average amount of such gross and net outlays (including costs and payments)

to the Federal Government for each \$100 of comparable loans made under this part and part B during such period, disaggregated by part and by type of loan.

(3) Annual cost estimates

Not later than February 15 of the fiscal year following each of the fiscal years 2008, 2009, 2010, and 2011, an annual estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i), and an annual estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii), that includes the information described in paragraph (2) for such fiscal year.

(f) Expiration of authority

The Secretary's authority to purchase loans under this section shall expire on July 1, 2010.

(Pub. L. 89-329, title IV, § 459A, as added Pub. L. 110-227, § 7(b), May 7, 2008, 122 Stat. 746; amended Pub. L. 110-315, title IV, § 453, Aug. 14, 2008, 122 Stat. 3263; Pub. L. 110-350, § 1, Oct. 7, 2008, 122 Stat. 3947; Pub. L. 111-39, title IV, § 404(a), July 1, 2009, 123 Stat. 1945.)

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111-39, § 404(a)(1)(A), substituted “purchase of loans under paragraph (1)” for “purchase of loans under this section” in introductory provisions.

Subsec. (a)(3). Pub. L. 111-39, § 404(a)(1)(B), added par. (3).

Subsec. (b). Pub. L. 111-39, § 404(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section shall be used: (1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this subchapter; and (2) to originate new Federal loans to students, as authorized under part B of this subchapter.”

2008—Subsec. (a)(1). Pub. L. 110-350, § 1(1), substituted “July 1, 2010” for “July 1, 2009”.

Subsecs. (d), (e). Pub. L. 110-315, § 453(2), added subsecs. (d) and (e). Former subsec. (d) redesignated (f).

Subsec. (e)(1)(A). Pub. L. 110-350, § 1(2)(A), substituted “September 30, 2010” for “September 30, 2009” in introductory provisions.

Subsec. (e)(2). Pub. L. 110-350, § 1(2)(A), (B), substituted “February 15, 2011” for “February 15, 2010” and “September 30, 2010” for “September 30, 2009” in introductory provisions.

Subsec. (e)(3). Pub. L. 110-350, § 1(2)(C), substituted “2009, 2010, and 2011” for “2009, and 2010”.

Subsec. (f). Pub. L. 110-350, § 1(1), substituted “July 1, 2010” for “July 1, 2009”.

Pub. L. 110-315, § 453(1), redesignated subsec. (d) as (f).

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.

§ 1087i-2. Temporary loan consolidation authority

(a) Temporary loan consolidation authority

(1) In general

A borrower who has 1 or more loans in 2 or more of the categories described in paragraph (2), and who has not yet entered repayment on