

PRIOR PROVISIONS

A prior section 292c, act July 1, 1944, ch. 373, title VII, § 703, formerly § 799, as added Nov. 2, 1970, Pub. L. 91-519, title II, § 206, 84 Stat. 1354; amended Nov. 18, 1971, Pub. L. 92-157, title I, § 109, 85 Stat. 461; renumbered § 703 and amended Oct. 12, 1976, Pub. L. 94-484, title II, §§ 201(c), 203, 90 Stat. 2247, 2248; Aug. 13, 1981, Pub. L. 97-35, title XXVII, § 2717, 95 Stat. 914, related to advance funding for grants and contracts, prior to repeal by Pub. L. 99-129, title II, § 220(a), Oct. 22, 1985, 99 Stat. 543.

Another prior section 292c, act July 1, 1944, ch. 373, title VII, § 704, as added July 30, 1956, 779, § 2, 70 Stat. 718; amended Aug. 27, 1958, Pub. L. 85-777, § 1(a), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87-395, § 8(a), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87-838, § 4(a), 76 Stat. 1074; Aug. 9, 1965, Pub. L. 89-115, § 2(a), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90-490, title IV, § 401(a), 82 Stat. 789, related to authorization of appropriations and availability of funds for grants for construction of health research facilities, prior to repeal by Pub. L. 94-484, title II, § 201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 704 of act July 1, 1944, was classified to section 292d of this title prior to the general revision of this subchapter by Pub. L. 102-408.

§ 292d. Eligibility of borrowers and terms of insured loans

(a) In general

A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

(1) made to—

(A) a student who—

(i) (I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

(ii) is or will be a full-time student at the eligible institution;

(iii) has agreed that all funds received under such loan shall be used solely for tuition, other reasonable educational expenses, including fees, books, and laboratory expenses, and reasonable living expenses, incurred by such students;

(iv) if required under section 3802 of title 50 to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section; and

(v) in the case of a pharmacy student, has satisfactorily completed three years of training; or

(B) an individual who—

(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid;

(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and

(iv) if required under section 3802 of title 50 to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section;

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 25 years beginning not earlier than 9 months nor later than 12 months after the date of—

(i) the date on which—

(I) the borrower ceases to be a participant in an accredited internship or residency program of not more than four years in duration;

(II) the borrower completes the fourth year of an accredited internship or residency program of more than four years in duration; or

(III) the borrower, if not a participant in a program described in subclause (I) or (II), ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution; or

(ii) the date on which a borrower who is a graduate of an eligible institution ceases to be a participant in a fellowship training program not in excess of two years or a participant in a full-time educational activity not in excess of two years, which—

(I) is directly related to the health profession for which the borrower prepared at an eligible institution, as determined by the Secretary; and

(II) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in a program described in subclause (I) or (II) of clause (i) or prior to the completion of the borrower's participation in such program,

except as provided in subparagraph (C), except that the period of the loan may not exceed 33 years from the date of execution of the note or written agreement evidencing it, and except that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the costs of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

(C) provides that periodic installments of principal and interest need not be paid, but interest shall accrue, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 1002(a) of title 20); (ii) not in excess of four years during which the borrower is a participant in an accredited internship or residency program (including any period in such a program described in subclause (I) or subclause (II) of subparagraph (B)(i)); (iii) not in excess of three years, during which the borrower is

a member of the Armed Forces of the United States; (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.]; (v) not in excess of three years during which the borrower is a member of the National Health Service Corps; (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.]; (vii) not in excess of 3 years, for a borrower who has completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine, preventive medicine, or general pediatrics and who is practicing primary care; (viii) not in excess of 1 year, for borrowers who are graduates of schools of chiropractic; (ix) any period not in excess of two years which is described in subparagraph (B)(ii); (x) not in excess of three years, during which the borrower is providing health care services to Indians through an Indian health program (as defined in section 1616a(a)(2)(A) of title 25;¹ and (xi) in addition to all other deferments for which the borrower is eligible under clauses (i) through (x), any period during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (xi) shall not be included in determining the 25-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be compounded not more frequently than annually and payable in installments over the period of the loan except as provided in subparagraph (C), except that the note or other written agreement may provide that payment of any interest may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal for the purposes of calculating a repayment schedule;

(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;

(F) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G) provides that the check for the proceeds of the loan shall be made payable

jointly to the borrower and the eligible institution in which the borrower is enrolled; and

(H) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan; and

(3) subject to the consent of the student and subject to applicable law, the eligible lender has obtained from the student appropriate demographic information regarding the student, including racial or ethnic background.

(b) Limitation on rate of interest

The rate of interest prescribed and defined by the Secretary for the purpose of subsection (a)(2)(D) may not exceed the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 3 percentage points, rounded to the next higher one-eighth of 1 percent.

(c) Minimum annual payment by borrower

The total of the payments by a borrower during any year or any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal, except as provided in subsection (a)(2)(C), unless the borrower, in the written agreement described in subsection (a)(2), agrees to make payments during any year or any repayment period in a lesser amount.

(d) Applicability of certain laws on rate or amount of interest

No provision of any law of the United States (other than subsections (a)(2)(D) and (b)) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

(e) Determination regarding forbearance

Any period of time granted to a borrower under this subpart in the form of forbearance on the loan shall not be included in the 25-year total loan repayment period under subsection (a)(2)(C).

(f) Loan repayment schedule

Lenders and holders under this subpart shall offer borrowers graduated loan repayment schedules that, during the first 5 years of loan repayment, are based on the borrower's debt-to-income ratio.

(g) Rule of construction regarding determination of need of students

With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for students with special circumstances as the school determines appropriate.

(h) Definitions

For purposes of this section:

¹So in original. Probably should be preceded by a closing parenthesis.

(1) The term “active duty” has the meaning given such term in section 101(18) of title 37, except that such term does not include active duty for training.

(2) The term “Persian Gulf conflict” means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(July 1, 1944, ch. 373, title VII, §705, as added Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 1996; amended Pub. L. 103-43, title XX, §2014(a)(1), June 10, 1993, 107 Stat. 215; Pub. L. 105-244, title I, §102(a)(13)(A), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 105-392, title I, §141(a)(1), (2), Nov. 13, 1998, 112 Stat. 3578.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(2)(C), is Pub. L. 87-293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(C), is Pub. L. 93-113, Oct. 1, 1973, 87 Stat. 394, as amended. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 292d, act July 1, 1944, ch. 373, title VII, §704, formerly §799A, as added Nov. 2, 1970, Pub. L. 91-519, title II, §207, 84 Stat. 1355; amended Nov. 18, 1971, Pub. L. 92-157, title I, §110(2), 85 Stat. 461; July 12, 1974, Pub. L. 93-348, title I, §105, 88 Stat. 347; renumbered §704, Oct. 12, 1976, Pub. L. 94-484, title II, §201(c), 90 Stat. 2247; Nov. 4, 1988, Pub. L. 100-607, title VI, §§620(c), 628(3), 629(b)(2), 102 Stat. 3141, 3145, 3146, prohibited discrimination on the basis of sex, prior to the general revision of this subchapter by Pub. L. 102-408. See section 295m of this title.

Another prior section 292d, act July 1, 1944, ch. 373, title VII, §705, as added July 30, 1956, ch. 779, §2, 70 Stat. 718; amended Aug. 27, 1958, Pub. L. 85-777, §1(b), 72 Stat. 933; Oct. 5, 1961, Pub. L. 87-395, §8(b), (d), 75 Stat. 827; Oct. 17, 1962, Pub. L. 87-838, §4(b), 76 Stat. 1074; Sept. 24, 1963, Pub. L. 88-129, §§2(a), 3(a), 77 Stat. 164, 173; Aug. 9, 1965, Pub. L. 89-115, §2(b), 79 Stat. 448; Aug. 16, 1968, Pub. L. 90-490, title IV, §401(b), 82 Stat. 789; Nov. 18, 1971, Pub. L. 92-157, title I, §102(k)(1), (2)(A), 85 Stat. 437, related to applications for grants for construction of health research facilities, providing for time of filing, eligibility, recommendation and approval and requirement of findings, conditional approval, and matters considered, prior to repeal by Pub. L. 94-484, title II, §201(a), Oct. 12, 1976, 90 Stat. 2246.

A prior section 705 of act July 1, 1944, was classified to section 292e of this title prior to the general revision of this subchapter by Pub. L. 102-408.

AMENDMENTS

1998—Subsec. (a)(2)(C). Pub. L. 105-392 added cl. (x), redesignated former cl. (x) as (xi) and substituted “(x)” for “(ix)”, and substituted “(xi)” for “(x)” in concluding provisions.

Pub. L. 105-244 substituted “section 1002(a)” for “section 1088(a)” in cl. (i).

1993—Subsec. (a)(2)(H), (I). Pub. L. 103-43 redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: “notwithstanding the provisions of the Fair Debt Collection Practices Act, authorizes an institution or postgraduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, including providing

information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower’s loans; and”.

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105-392, title I, §141(a)(3), Nov. 13, 1998, 112 Stat. 3578, provided that: “The amendments made by this subsection [amending this section] shall apply with respect to services provided on or after the first day of the third month that begins after the date of the enactment of this Act [Nov. 13, 1998].”

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 Title 20, Education.

§ 292e. Certificate of loan insurance; effective date of insurance

(a) In general

(1) Authority for issuance of certificate

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 borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effective date of insurance

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 is made to a student described in section 292d(a)(1) of this title. 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 section 292g of this title.

(3) Certain agreements for lenders

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 section 292g of this title; and

(B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements 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) Authority regarding comprehensive insurance coverage

(1) In general

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