

guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part.

**(e) Ownership and regulation of Operating Fund**

**(1) Ownership**

The Operating Fund, with the exception of funds transferred from the Federal Fund in accordance with section 1072a(f) of this title, shall be considered to be the property of the guaranty agency.

**(2) Regulation**

Except as provided in paragraph (3), the Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 1078(b)(2) of this title.

**(3) Exception**

Notwithstanding paragraphs (1) and (2), during any period in which funds are owed to the Federal Fund as a result of transfer under section 1072a(f) of this title—

(A) moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part; and

(B) the Secretary may regulate the uses or expenditure of moneys in the Operating Fund.

(Pub. L. 89-329, title IV, §422B, as added Pub. L. 105-244, title IV, §413(b), Oct. 7, 1998, 112 Stat. 1677.)

REFERENCES IN TEXT

Section 1078(c)(6)(B) of this title, referred to in subsec. (c)(5), was redesignated section 1078(c)(6)(A)(ii) of this title by Pub. L. 109-171, title VIII, §8014(d)(3)(A), (B), Feb. 8, 2006, 120 Stat. 170.

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.

**§ 1073. Effects of adequate non-Federal programs**

**(a) Federal insurance barred to lenders with access to State or private insurance**

Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 1079 of this title to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 1078(b) of this title.

**(b) Exceptions**

The Secretary may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(Pub. L. 89-329, title IV, §423, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1358.)

PRIOR PROVISIONS

A prior section 1073, Pub. L. 89-329, title IV, §423, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90-575, title I, §119(a), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 94-482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 95-43, §1(a)(14), June 15, 1977, 91 Stat. 214; Pub. L. 96-374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, limited participation in Federal loan insurance programs, prior to the general revision of this part by Pub. L. 99-498.

**§ 1074. Scope and duration of Federal loan insurance program**

**(a) Limitations on amounts of loans covered by Federal insurance**

The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 1085 of this title) to students covered by Federal loan insurance under this part shall not exceed \$2,000,000,000 for the period from July 1, 1976, to September 30, 1976, for each of the succeeding fiscal years ending prior to October 1, 2009, and for the period from October 1, 2009, to June 30, 2010, for loans first disbursed on or before June 30, 2010.

**(b) Apportionment of amounts**

The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(Pub. L. 89-329, title IV, §424, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1358; amended Pub. L. 102-325, title IV, §411(b)(1), July 23, 1992, 106 Stat. 510; Pub. L. 105-33, title VI, §6104(1), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105-244, title IV, §414, Oct. 7, 1998, 112 Stat. 1679; Pub. L. 109-171, title VIII, §8004(b)(1), Feb. 8, 2006, 120 Stat. 158; Pub. L. 110-315, title IV, §421, Aug. 14, 2008, 122 Stat. 3227; Pub. L. 111-152, title II, §2202, Mar. 30, 2010, 124 Stat. 1074.)