

12, 1976, 90 Stat. 2106; Pub. L. 96-374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to insurability of loans made from funds owned by lender or held by lender in trust, prior to the general revision of this part by Pub. L. 99-498.

§ 1077. Eligibility of student borrowers and terms of federally insured student loans

(a) List of requirements

Except as provided in section 1078-3 of this title, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 1091 of this title, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

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

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost 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; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program ap-

proved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078-2 or 1078-3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(o) of this title, has caused or will cause the borrower to have an economic hardship; or

(iv) in which the borrower is receiving treatment for cancer and the 6 months after such period.¹

and provides that any such period shall not be included in determining the 10-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 in section 1077a of this title, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 1087 of this title;

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

(G)(i) contains a notice of the system,² of disclosure of information concerning such loan to consumer reporting agencies under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such consumer reporting agencies;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this

¹ So in original. The period probably should be a semicolon.

² So in original. The comma probably should not appear.

part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay 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;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this subchapter shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 1078-7 of this title.

(b) Special rules for multiple disbursement

For the purpose of subsection (a)(4)—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 1078-2 or 1078-3 of this title, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) Special repayment rules

Except as provided in subsection (a)(2)(H), the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than \$600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

(d) Borrower information

The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.

(Pub. L. 89-329, title IV, § 427, as added Pub. L. 99-498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1361; amended Pub. L. 100-50, § 10(b), (c), June 3, 1987, 101 Stat. 341; Pub. L. 100-369, §§ 5(b)(1), 7(c), 11(a), July 18, 1988, 102 Stat. 836-838; Pub. L. 101-239, title II, §§ 2002(a)(1), 2004(b)(2), Dec. 19,

1989, 103 Stat. 2111, 2116; Pub. L. 102-164, title VI, §§ 601(a), 602(a), Nov. 15, 1991, 105 Stat. 1065, 1066; Pub. L. 102-325, title IV, § 414, July 23, 1992, 106 Stat. 513; Pub. L. 103-208, § 2(c)(4), Dec. 20, 1993, 107 Stat. 2461; Pub. L. 110-315, title IV, § 432(b)(1), Aug. 14, 2008, 122 Stat. 3246; Pub. L. 115-245, div. B, title III, § 309(b), Sept. 28, 2018, 132 Stat. 3106.)

PRIOR PROVISIONS

A prior section 1077, Pub. L. 89-329, title IV, § 427, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 89-794, title XI, § 1101(b)(1), Nov. 8, 1966, 80 Stat. 1476; Pub. L. 90-460, § 2(a)(1), Aug. 3, 1968, 82 Stat. 635; Pub. L. 90-575, title I, §§ 113(b)(2), 116(b)(2), 117(c), 120(c)(2), Oct. 16, 1968, 82 Stat. 1021, 1023, 1026, 1027; Pub. L. 92-318, title I, §§ 132B(b), 132C(c), June 23, 1972, 86 Stat. 262, 263; Pub. L. 94-482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 95-43, § 1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95-566, § 5(a)(1), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96-374, title IV, §§ 413(a), (c), 415(a)(2), (b)(1), 416(a)(2), 423(a)(1), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1417-1421, 1432, 1503; Pub. L. 97-35, title V, § 537(b)(1), (d)(2), (e)(1), Aug. 13, 1981, 95 Stat. 456, 457; Pub. L. 98-79, § 10(a), Aug. 15, 1983, 97 Stat. 484; Pub. L. 99-272, title XVI, §§ 16012(a), 16013(b), 16017(b)(1), Apr. 7, 1986, 100 Stat. 339, 340, 347, set out conditions for Federal loan insurance, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2018—Subsec. (a)(2)(C)(iv). Pub. L. 115-245 added cl. (iv).

2008—Subsec. (a)(2)(G)(i). Pub. L. 110-315, § 432(b)(1)(A), substituted “consumer reporting agencies” for “credit bureau organizations”.

Subsec. (a)(2)(G)(ii). Pub. L. 110-315, § 432(b)(1)(B), substituted “consumer reporting agencies” for “organizations”.

1993—Subsec. (a)(2)(C)(i). Pub. L. 103-208 inserted “section” before “1078-2 or 1078-3”.

1992—Subsec. (a)(2)(A). Pub. L. 102-325, § 414(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

“(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of \$25 or the actual cost of obtaining the credit report; and

“(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or non-existent credit history may not be considered to be an adverse credit history;”.

Subsec. (a)(2)(C). Pub. L. 102-325, § 414(b), amended subpar. (C) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (a)(2)(G) to (I). Pub. L. 102-325, § 414(c)(1), struck out “and” at end of subpar. (G), added subpar. (H), and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 102-325, § 414(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and”.

Subsec. (c). Pub. L. 102-325, § 414(c)(2), (e), substituted “Special repayment rules” for “Minimum repayment

rate” in heading and in text “Except as provided in subsection (a)(2)(H), the total” for “The total” and “(but in no instance less than the amount of interest due and payable)” for “, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than \$600 or the balance of all such loans, whichever is less”.

1991—Subsec. (a)(2)(A). Pub. L. 102-164, §601(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;”.

Subsec. (d). Pub. L. 102-164, §602(a), added subsec. (d).
1989—Subsec. (a)(2)(C)(i). Pub. L. 101-239, §2002(a)(1), inserted before semicolon at end “, except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078-2 or 1078-3 of this title), while serving in a medical internship or residency program”.

Subsec. (a)(4). Pub. L. 101-239, §2004(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of \$1,000 or more, the proceeds of the loan will, subject to subsection (b) of this section, be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).”

1988—Subsec. (a)(2)(C)(v). Pub. L. 100-369, §7(c), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (a)(2)(C)(vii). Pub. L. 100-369, §11(a), inserted “after January 1, 1986,” after “service”.

Subsec. (b)(2). Pub. L. 100-369, §5(b)(1), substituted “section 1078-2 or 1078-3” for “section 1078-1, 1078-2, or 1078-3”.

1987—Subsec. (a)(2)(C)(vi). Pub. L. 100-50, §10(b)(1), inserted “nonprofit” before “private”.

Subsec. (a)(2)(C)(vii). Pub. L. 100-50, §10(b)(2), inserted “or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training” before semicolon at end.

Subsec. (a)(4). Pub. L. 100-50, §10(c), substituted “\$1,000 or more” for “more than \$1,000”.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-245, div. B, title III, §309(f), Sept. 28, 2018, 132 Stat. 3106, provided that: “The amendments made by this Act [probably means “this section”, amending this section and sections 1078, 1078-8, 1087e, and 1087dd of this title] shall apply with respect to loans—

“(1) made on or after the date of the enactment of this Act [Sept. 28, 2018]; or

“(2) in repayment on the date of the enactment of this Act.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective July 23, 1992, except that changes made in subsec. (a)(2)(C), relating

to deferments, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, and except that changes made in subsec. (a)(2)(H), relating to offering graduated or income sensitive repayment options, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, see section 432 of Pub. L. 102-325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title II, §2002(a)(4), Dec. 19, 1989, 103 Stat. 2111, provided that: “The amendments made by this subsection [amending this section and sections 1078 and 1087dd of this title] shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.], including a loan made before the enactment of this Act [Dec. 19, 1989], and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 [sections 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), 1087dd(c)(2)(A)(i) of this title] for service in a medical internship or residency program that is completed prior to the effective date of this section [Dec. 19, 1989].”

Pub. L. 101-239, title II, §2004(c), Dec. 19, 1989, 103 Stat. 2116, provided that: “The amendments made by this section [enacting section 1078-7 of this title and amending this section and section 1078 of this title] shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-369, §11(b), July 18, 1988, 102 Stat. 838, provided that: “The amendments made by subsection (a) [amending this section and section 1078 of this title] and section 10(b) of the Higher Education Technical Amendments Act of 1987 [section 10(b) of Pub. L. 100-50, amending this section and section 1078 of this title] shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965 [probably means part B of title IV of Pub. L. 89-329 which is classified to this part], on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987 [June 3, 1987].”

Amendment by section 5(b)(1) of Pub. L. 100-369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100-369 effective July 18, 1988, see section 13(b) of Pub. L. 100-369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10(b) of Pub. L. 100-50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100-369, set out as an Effective Date of 1988 Amendment note above.

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, except that subsec. (a)(2)(C) (other than cls. (viii), (ix), and (x) thereof) of this section shall apply only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, see section 402(b) of Pub. L. 99-498, set out as a note under section 1071 of this title.

§ 1077a. Applicable interest rates**(a) Rates to be consistent for borrower's entire debt**

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for new borrowers after decline in Treasury bill rates

If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

(c) Rates for supplemental loans for students and loans for parents**(1) In general**

Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 1078-1¹ or 1078-2 of this title on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in Treasury bill rates

If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 1078-1¹ or

1078-2 of this title on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) Increase of rate after increase in Treasury bill rates

If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 1078-1¹ or 1078-2 of this title on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) Availability of variable rates

(A) For any loan made pursuant to section 1078-1¹ or 1078-2 of this title and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 1078-1(d)¹ or 1078-2(d) of this title, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

- (I) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus
- (II) 3.25 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is equal to—

- (I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus
- (II) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 1078-1¹ of this title for which the first disbursement is made on or after October 1, 1992—

- (I) subparagraph (B) shall be applied by substituting “3.1” for “3.25”; and
- (II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 1078-2 of this title for which the first dis-

¹ See References in Text note below.