

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-315 effective for loans for which the first disbursement is made on or after July 1, 2008, see section 424(c) of Pub. L. 110-315, set out as a note under section 1078 of this title.

Amendment by section 3(a) of Pub. L. 110-227 effective for loans first disbursed on or after July 1, 2008, see section 3(c) of Pub. L. 110-227, set out as a note under section 1078 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 section 416(a)(2) of Pub. L. 105-244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078-3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105-244, set out as a note under section 1077a of this title.

Amendment by section 419 of 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 OF 1993 AMENDMENT

Pub. L. 103-66, title IV, §4109(c), Aug. 10, 1993, 107 Stat. 370, provided that: “The amendments made by this section [amending this section and section 1078-7 of this title] shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993.”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective July 23, 1992, except that changes made in subsec. (b), relating to annual and aggregate loan limits, are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, changes made in subsec. (a) with respect to use of credit histories are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, and subsec. (c), as added by Pub. L. 102-325, relating to disbursement of Federal PLUS Loans, is applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432 of Pub. L. 102-325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

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.

AMENDMENT OF NOTE OR OTHER WRITTEN EVIDENCE OF LOAN BY ELIGIBLE LENDER AT REQUEST OF BORROWER; CIRCUMSTANCES; DENIAL OF REQUEST

Pub. L. 100-50, §10(r)(2), June 3, 1987, 101 Stat. 344, provided that: “An eligible lender who has refinanced a loan or loans under section 428A(d) [former 20 U.S.C. 1078-1(d)] or 428B(d) [20 U.S.C. 1078-2(d)] between the date of enactment of the Higher Education Amendments of 1986 [Oct. 17, 1986] and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) [20 U.S.C. 1077a(c)(4)] as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes

of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).”

§ 1078-3. Federal consolidation loans**(a) Agreements with eligible lenders****(1) Agreement required for insurance coverage**

For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087-3 of this title;

(B) State agencies described in subparagraphs (D) and (F) of section 1085(d)(1) of this title; and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) Insurance coverage of consolidation loans

Except as provided in section 1079(e) of this title, no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 1078(c) of this title, but no payment shall be made with respect to such loans under section 1078(f) of this title to any such agency.

(3) Definition of eligible borrower

(A) For the purpose of this section, the term “eligible borrower” means a borrower who—

(i) is not subject to a judgment secured through litigation with respect to a loan under this subchapter or to an order for wage garnishment under section 1095a of this title; and

(ii) at the time of application for a consolidation loan—

(I) is in repayment status as determined under section 1078(b)(7)(A) of this title;

(II) is in a grace period preceding repayment; or

(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i)¹ An individual’s status as an eligible borrower under this section or under section 1087e(g) of this title terminates under both sections upon receipt of a consolidation loan under this section or under section 1087e(g) of this title, except that—

(I) an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan;

¹ So in original. No cl. (ii) has been enacted.

(II) loans received prior to the date of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(III) loans received following the making of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(IV) loans received prior to the date of the first consolidation loan may be added to a subsequent consolidation loan; and

(V) an individual may obtain a subsequent consolidation loan under section 1087e(g) of this title only—

(aa) for the purposes of obtaining income contingent repayment or income-based repayment, and only if the loan has been submitted to the guaranty agency for default aversion or if the loan is already in default;

(bb) for the purposes of using the public service loan forgiveness program under section 1087e(m) of this title; or

(cc) for the purpose of using the no accrual of interest for active duty service members benefit offered under section 1087e(o) of this title.

(4) “Eligible student loans” defined

For the purpose of paragraph (1), the term “eligible student loans” means loans—

(A) made, insured, or guaranteed under this part, and first disbursed before July 1, 2010, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part E of this subchapter;

(C) made under part D of this subchapter;

(D) made under subpart II of part A of title VII of the Public Health Service Act [42 U.S.C. 292q et seq.]; or

(E) made under part E of title VIII of the Public Health Service Act [42 U.S.C. 297a et seq.].

(b) Contents of agreements, certificates of insurance, and loan notes

(1) Agreements with lenders

Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section;

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not

less than the minimum amount required for eligibility of the borrower under subsection (a)(3), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994, and before July 1, 2010;

(F) that the lender shall disclose to a prospective borrower, in simple and understandable terms, at the time the lender provides an application for a consolidation loan—

(i) whether consolidation would result in a loss of loan benefits under this part or part D, including loan forgiveness, cancellation, and deferment;

(ii) with respect to Federal Perkins Loans under part E—

(I) that if a borrower includes a Federal Perkins Loan under part E in the consolidation loan, the borrower will lose all interest-free periods that would have been available for the Federal Perkins Loan, such as—

(aa) the periods during which no interest accrues on such loan while the borrower is enrolled in school at least half-time;

(bb) the grace period under section 1087dd(c)(1)(A) of this title; and

(cc) the periods during which the borrower’s student loan repayments are deferred under section 1087dd(c)(2) of this title;

(II) that if a borrower includes a Federal Perkins Loan in the consolidation loan, the borrower will no longer be eligible for cancellation of part or all of the Federal Perkins Loan under section 1087ee(a) of this title; and

(III) the occupations listed in section 1087ee of this title that qualify for Federal Perkins Loan cancellation under section 1087ee(a) of this title;

(iii) the repayment plans that are available to the borrower;

(iv) the options of the borrower to prepay the consolidation loan, to pay such loan on a shorter schedule, and to change repayment plans;

(v) that borrower benefit programs for a consolidation loan may vary among different lenders;

(vi) the consequences of default on the consolidation loan; and

(vii) that by applying for a consolidation loan, the borrower is not obligated to agree to take the consolidation loan; and

(G) such other terms and conditions as the Secretary or the guaranty agency may spe-

cifically require of the lender to carry out this section.

(2) Issuance of certificate of comprehensive insurance coverage

The Secretary shall issue a certificate of comprehensive insurance coverage under section 1079(b) of this title to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) Contents of certificate

A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) Terms and conditions of loans

A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is 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 or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid during any such period—

(I) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender before November 13, 1997, that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title;

(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 1087e of this title; or

(III) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I) or (II);

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

(E)(i) contains a notice of the system of disclosure 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.

(5) Direct loans

If, before July 1, 2010, a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms or income-based repayment terms acceptable to the borrower from such a lender, or chooses to obtain a consolidation loan for the purposes of using

the public service loan forgiveness program offered under section 1087e(m) of this title, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members program offered under section 1087e(o) of this title, the Secretary shall offer a Federal Direct Consolidation loan to any such borrower who applies for participation in such program. A direct consolidation loan offered under this paragraph shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part D of this subchapter, pursuant to income-based repayment under section 1098e of this title, or pursuant to any other repayment provision under this section, except that if a borrower intends to be eligible to use the public service loan forgiveness program under section 1087e(m) of this title, such loan shall be repaid using one of the repayment options described in section 1087e(m)(1)(A) of this title. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(6) Nondiscrimination in loan consolidation

An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

(A) based on the number or type of eligible student loans the borrower seeks to consolidate, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) or subsection (d)(1)(C)(ii);

(B) based on the type or category of institution of higher education that the borrower attended;

(C) based on the interest rate to be charged to the borrower with respect to the consolidation loan; or

(D) with respect to the types of repayment schedules offered to such borrower.

(c) Payment of principal and interest

(1) Interest rate

(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 1077a(k)(4) of this title; or

(ii) on or after July 1, 2006, and that is disbursed before July 1, 2010, the applicable interest rate shall be determined under section 1077a(l)(3) of this title.

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, and disbursed before July 1, 2010, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(D) A consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 1077a(f) of this title, except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.

(2) Repayment schedules

(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated, income-sensitive, or income-based repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive or income-based repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than \$7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than \$7,500 but less than \$10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than \$10,000 but less than \$20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than \$20,000 but less than \$40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than \$40,000 but less than \$60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than \$60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) Additional repayment requirements

Notwithstanding paragraph (2)—

(A) except in the case of an income-based repayment schedule under section 1098e of this title, a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest;

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of \$5, round the payment to the next highest whole dollar amount that is a multiple of \$5; and

(C) an income-based repayment schedule under section 1098e of this title shall not be available to a consolidation loan borrower who used the proceeds of the loan to discharge the liability on a loan under section 1078-2 of this title, or a Federal Direct PLUS loan, made on behalf of a dependent student.

(4) Commencement of repayment

Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

(5) Insurance premiums prohibited

No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) Special program authorized

(1) General rule and definition of eligible student loan

(A) In general

Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) for the consolidation of eligible student loans.

(B) Applicability rule

Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) “Eligible student loans” defined

For the purpose of this subsection, the term “eligible student loans” means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4); and

(ii) made under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(2) Interest rate rule

(A) In general

The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) Determination of the maximum interest rate

For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

(C) Publication of maximum interest rate

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 such determination.

(3) Special rules

(A) No special allowance rule

No special allowance under section 1087-1 of this title shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) No interest subsidy rule

No interest subsidy under section 1078(a) of this title shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) Additional reserve rule

Notwithstanding any other provision of this chapter, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) Insurance rule

Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.] with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance account established under section 710 of the Public Health Service Act [42 U.S.C. 292i].

(4) Regulations

The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e) Termination of authority

The authority to make loans under this section expires at the close of June 30, 2010. No loan may be made under this section for which the disbursement is on or after July 1, 2010. Nothing

in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 1074(a) of this title.

(f) Interest payment rebate fee

(1) In general

For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

(2) Special rule

For consolidation loans based on applications received during the period from October 1, 1998 through January 31, 1999, inclusive, the rebate described in paragraph (1) shall be equal to 0.62 percent of the principal plus accrued unpaid interest on such loan.

(3) Deposit

The Secretary shall deposit all fees collected pursuant to this subsection into the insurance fund established in section 1081 of this title.

(Pub. L. 89-329, title IV, § 428C, as added Pub. L. 99-498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1388; amended Pub. L. 100-50, § 10(s), June 3, 1987, 101 Stat. 345; Pub. L. 102-325, title IV, § 419, July 23, 1992, 106 Stat. 532; Pub. L. 102-408, title III, § 306(a), (b), Oct. 13, 1992, 106 Stat. 2084, 2086; Pub. L. 103-66, title IV, §§ 4046(a), (b)(2), 4106(a), Aug. 10, 1993, 107 Stat. 360, 363, 368; Pub. L. 103-208, § 2(c)(33)-(37), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 103-382, title III, § 356, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104-208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)(ii)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-283; Pub. L. 105-33, title VI, § 6104(3), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105-78, title VI, § 609(b)-(e), Nov. 13, 1997, 111 Stat. 1522, 1523; Pub. L. 105-244, title IV, §§ 416(b)(2), 420, Oct. 7, 1998, 112 Stat. 1682, 1695; Pub. L. 107-139, § 1(a)(2), Feb. 8, 2002, 116 Stat. 8; Pub. L. 109-171, title VIII, §§ 8004(b)(3), 8009(a), (b)(2), (c), Feb. 8, 2006, 120 Stat. 158, 163, 164; Pub. L. 109-234, title VII, § 7015(a), (c), (d), June 15, 2006, 120 Stat. 485; Pub. L. 110-84, title II, § 203(b)(1), (2), Sept. 27, 2007, 121 Stat. 794, 795; Pub. L. 110-315, title IV, §§ 425(a)-(b)(2), (c), (d)(1), (e), 432(b)(3), Aug. 14, 2008, 122 Stat. 3233-3235, 3246; Pub. L. 111-39, title IV, § 402(c)(1), (f)(3), July 1, 2009, 123 Stat. 1940, 1943; Pub. L. 111-152, title II, § 2206(a), Mar. 30, 2010, 124 Stat. 1075.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a)(4)(D), (E) and (d)(1)(C)(ii), (3)(D), is act July 1, 1944, ch. 373, 58 Stat. 682. Subparts I and II of part A of title VII of the Act are classified generally to subpart I (§ 292 et seq.) and subpart II (§ 292q et seq.), respectively, of part A of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part E of title VIII of the Act is classified generally to part E (§ 297a et seq.) of subchapter VI of chapter 6A of Title 42. For complete

classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

CODIFICATION

Amendments by section 2(c)(33), (36) of Pub. L. 103-208 (which were effective as if included in Pub. L. 102-325) were executed to this section as amended by Pub. L. 102-325 and Pub. L. 103-66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078-3, Pub. L. 89-329, title IV, § 428C, as added Pub. L. 99-272, title XVI, § 16017(a), Apr. 7, 1986, 100 Stat. 343, related to consolidation loans, prior to the general revision of this part by Pub. L. 99-498.

AMENDMENTS

2010—Subsec. (a)(4)(A). Pub. L. 111-152, § 2206(a)(1), inserted “, and first disbursed before July 1, 2010” after “under this part”.

Subsec. (b)(1)(E). Pub. L. 111-152, § 2206(a)(2)(A), inserted “, and before July 1, 2010” before semicolon.

Subsec. (b)(5). Pub. L. 111-152, § 2206(a)(2)(B), substituted “If, before July 1, 2010,” for “In the event that”.

Subsec. (c)(1)(A)(ii). Pub. L. 111-152, § 2206(a)(3)(A), inserted “and that is disbursed before July 1, 2010,” after “2006,”.

Subsec. (c)(1)(C). Pub. L. 111-152, § 2206(a)(3)(B), inserted “and disbursed before July 1, 2010,” after “1994,”.

Subsec. (e). Pub. L. 111-152, § 2206(a)(4), substituted “June 30, 2010. No loan may be made under this section for which the disbursement is on or after July 1, 2010.” for “September 30, 2014.”

2009—Subsec. (a)(4)(E). Pub. L. 111-39, § 402(f)(3)(A), substituted “part E” for “subpart II of part B”.

Subsec. (c)(2)(A). Pub. L. 111-39, § 402(f)(3)(B), in introductory provisions, substituted “subsection (b)(2)” for “subsection (b)(2)(F)” and inserted comma after “graduated”.

Subsec. (c)(3)(A). Pub. L. 111-39, § 402(c)(1), substituted “section 1098e of this title,” for “section 1098e of this title”.

Subsec. (d)(3)(D). Pub. L. 111-39, § 402(f)(3)(C), substituted “loan insurance account” for “loan insurance fund”.

Subsec. (f)(3). Pub. L. 111-39, § 402(f)(3)(D), substituted “this subsection” for “subsection (a) of this section”.

2008—Subsec. (a)(3)(B)(i)(V)(cc). Pub. L. 110-315, § 425(a), added item (cc).

Subsec. (b)(1)(F), (G). Pub. L. 110-315, § 425(b)(1), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (b)(4)(E)(i). Pub. L. 110-315, § 432(b)(3)(A), substituted “consumer reporting agencies” for “credit bureau organizations”.

Subsec. (b)(4)(E)(ii). Pub. L. 110-315, § 432(b)(3)(B), substituted “consumer reporting agencies” for “organizations”.

Subsec. (b)(5). Pub. L. 110-315, § 425(c), made technical correction to directory language of Pub. L. 110-84, § 203(b)(2)(C). See 2007 Amendment note below.

Pub. L. 110-315, § 425(b)(2), substituted “A direct consolidation loan offered under this paragraph” for “Such direct consolidation loan” and inserted after first sentence “In addition, in the event that a borrower chooses to obtain a consolidation loan for the purposes of using the no accrual of interest for active duty service members program offered under section 1087e(o) of this title, the Secretary shall offer a Federal Direct Consolidation loan to any such borrower who applies for participation in such program.”

Subsec. (c)(2)(A). Pub. L. 110-315, § 425(d)(1)(A), in introductory provisions, substituted “income-sensitive, or income-based” for “or income-sensitive” and inserted “or income-based” after “such income-sensitive”.

Subsec. (c)(3). Pub. L. 110-315, § 425(d)(1)(B), inserted “except in the case of an income-based repayment schedule under section 1098e of this title” before “a re-

payment schedule” in subpar. (A) and added subpar. (C).

Subsec. (e). Pub. L. 110-315, § 425(e), substituted “2014” for “2012”.

2007—Subsec. (a)(3)(B)(i)(V). Pub. L. 110-84, § 203(b)(1)(A), amended subcl. (V) generally. Prior to amendment, subcl. (V) read as follows: “an individual may obtain a subsequent consolidation loan under section 1087e(g) of this title only for the purposes of obtaining an income contingent repayment plan, and only if the loan has been submitted to the guaranty agency for default aversion.”

Subsec. (a)(3)(B)(i)(V)(aa). Pub. L. 110-84, § 203(b)(2)(A), substituted “income contingent repayment or income-based repayment,” for “an income contingent repayment plan,” and inserted “or if the loan is already in default” before semicolon.

Subsec. (b)(5). Pub. L. 110-84, § 203(b)(2)(C), as amended by Pub. L. 110-315, § 425(c), inserted “, pursuant to income-based repayment under section 1098e of this title,” after “part D of this subchapter” in third sentence.

Pub. L. 110-84, § 203(b)(2)(B), inserted “or income-based repayment terms” after “income-sensitive repayment terms” in first sentence.

Pub. L. 110-84, § 203(b)(1)(B), (C), inserted “or chooses to obtain a consolidation loan for the purposes of using the public service loan forgiveness program offered under section 1087e(m) of this title,” after “from such a lender,” in first sentence and “, except that if a borrower intends to be eligible to use the public service loan forgiveness program under section 1087e(m) of this title, such loan shall be repaid using one of the repayment options described in section 1087e(m)(1)(A) of this title” before period at end of second sentence.

2006—Subsec. (a)(3)(A)(ii)(I). Pub. L. 109-171, § 8009(b)(2), inserted “as determined under section 1078(b)(7)(A) of this title” after “repayment status”.

Subsec. (a)(3)(B)(i). Pub. L. 109-171, § 8009(a)(1)(A), (B), substituted “under this section or under section 1087e(g) of this title terminates under both sections upon receipt of a consolidation loan under this section or under section 1087e(g) of this title” for “under this section terminates upon receipt of a consolidation loan under this section”.

Subsec. (a)(3)(B)(i)(V). Pub. L. 109-171, § 8009(a)(1)(C)–(E), added subcl. (V).

Subsec. (a)(3)(C). Pub. L. 109-171, § 8009(c), struck out subpar. (C), which read as follows:

“(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple’s marital status.

“(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

“(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A) of this section; and

“(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4) of this section.”

Subsec. (b)(1)(A). Pub. L. 109-234, § 7015(a), struck out “and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan with income-sensitive repayment terms from the holders of the outstanding loans of that borrower (which are so selected for consolidation)” after “loan under this section”.

Subsec. (b)(5). Pub. L. 109-234, § 7015(c), reenacted heading without change and substituted in text “In the

event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. Such direct consolidation loan” for “In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) of this section, or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan”.

Pub. L. 109-171, § 8009(a)(2), which directed substitution of “In the event that a lender with an agreement under subsection (a)(1) of this section denies a consolidation loan application submitted to the lender by an eligible borrower under this section, or denies an application submitted to the lender by such a borrower for a consolidation loan with income-sensitive repayment terms, the Secretary shall offer any such borrower who applies for it, a Federal Direct Consolidation loan. The Secretary shall offer such a loan to a borrower who has defaulted, for the purpose of resolving the default.” for first sentence, was repealed by Pub. L. 109-234, § 7015(d). See Effective Date of 2006 Amendment note below.

Subsec. (e). Pub. L. 109-171, § 8004(b)(3), substituted “2012” for “2004”.

2002—Subsec. (c)(1)(A). Pub. L. 107-139 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, the applicable interest rate shall be determined under section 1077a(k)(4) of this title.”

1998—Subsec. (a)(3). Pub. L. 105-244, § 420(a), amended heading, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which defined the term “eligible borrower”, provided for termination of individual’s status as an eligible borrower, and provided for counting loans against certain limitations on aggregate indebtedness.

Subsec. (a)(4)(C). Pub. L. 105-244, § 420(b), added subpar. (C) and struck out former subpar. (C) which read as follows: “made under part D of this subchapter, except that loans made under such part shall be eligible student loans only for consolidation loans for which the application is received by an eligible lender during the period beginning on November 13, 1997, and ending on October 1, 1998;”

Subsec. (b)(1)(A)(i). Pub. L. 105-244, § 420(c)(1), inserted “except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part,” after “under this section,”.

Subsec. (b)(4)(C)(ii). Pub. L. 105-244, § 420(c)(2), inserted “during any such period” after “and be paid” in introductory provisions and struck out “, or on or after October 1, 1998,” before “that consolidated” in subcl. (I) and “and before October 1, 1998,” before “except that” in subcl. (II).

Subsec. (b)(6)(A). Pub. L. 105-244, § 420(c)(3), inserted before semicolon at end “, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) or subsection (d)(1)(C)(ii)”.

Subsec. (c)(1). Pub. L. 105-244, § 420(b)(2), amended heading, added subpar. (A), and struck out former subpar. (A) which read as follows: “Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B), (C), or (D). For the purposes of payment of special allowances under section 1087-1(b)(2) of this title, the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.”

Subsec. (e). Pub. L. 105-244, § 420(d), substituted “September 30, 2004” for “September 30, 2002”.

Subsec. (f)(2), (3). Pub. L. 105-244, § 420(e), added par. (2) and redesignated former par. (2) as (3).

1997—Subsec. (a)(4)(C) to (E). Pub. L. 105-78, § 609(b), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (b)(4)(C)(ii)(I). Pub. L. 105-78, § 609(c)(1), (2), inserted “for which the application is received by an eligible lender before November 13, 1997, or on or after October 1, 1998,” after “consolidation loan” and struck out “or” at end.

Subsec. (b)(4)(C)(ii)(II), (III). Pub. L. 105-78, § 609(c)(3)–(5), added subcl. (II) and redesignated former subcl. (II) as (III) and inserted “or (II)” before semicolon at end.

Subsec. (b)(6). Pub. L. 105-78, § 609(d), added par. (6).

Subsec. (c)(1)(A). Pub. L. 105-78, § 609(e)(1), substituted “subparagraph (B), (C), or (D)” for “subparagraph (B) or (D)”.

Subsec. (c)(1)(D). Pub. L. 105-78, § 609(e)(2), added subpar. (D).

Subsec. (e). Pub. L. 105-33 substituted “September 30, 2002.” for “September 30, 1998.”

1996—Subsec. (a)(1)(A). Pub. L. 104-208 inserted “or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087-3 of this title” after “Student Loan Marketing Association”.

1994—Subsec. (a)(4)(D). Pub. L. 103-382 added subpar. (D).

1993—Subsec. (a)(3). Pub. L. 103-66, § 4046(a)(1), amended heading.

Subsec. (a)(3)(A). Pub. L. 103-208, § 2(c)(33), substituted “defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans” for “delinquent or defaulted borrower who will reenter repayment through loan consolidation”. See Codification note above.

Pub. L. 103-66, § 4046(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “For the purpose of this section, the term ‘eligible borrower’ means a borrower who, at the time of application for a consolidation loan—

“(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than \$7,500; and

“(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.”

Subsec. (a)(3)(B)(ii). Pub. L. 103-66, § 4046(b)(2), struck out at end “Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under paragraph (4)) discharged by a borrower in receiving a consolidation loan.”

Subsec. (a)(4)(A). Pub. L. 103-208, § 2(c)(34), struck out before semicolon at end “, except for loans made to parent borrowers under section 1078-2 of this title as in effect prior to October 17, 1986”.

Subsec. (a)(4)(C). Pub. L. 103-208, § 2(c)(35), substituted “part A” for “part C” before “of title VII of the Public Health Service Act”.

Subsec. (b)(1)(A), (E), (F). Pub. L. 103-66, § 4046(a)(2)(A), inserted “with income-sensitive repayment terms” after “obtain a consolidation loan” in subpar. (A)(ii), added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(C). Pub. L. 103-66, § 4046(a)(2)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;”.

Subsec. (b)(5). Pub. L. 103-66, § 4046(a)(2)(C), added par. (5).

Subsec. (c)(1)(B), (C). Pub. L. 103-66, § 4046(a)(3)(A), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

“(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.”

Subsec. (c)(2)(A). Pub. L. 103-208, § 2(c)(36), inserted period at end of cl. (vi). See Codification note above.

Pub. L. 103-66, § 4046(a)(3)(B)(i), in introductory provisions substituted “income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms” for “income sensitive repayment schedules. Such repayment terms”, added cl. (i), and redesignated former cls. (i) to (v) as (ii) to (vi), respectively.

Subsec. (c)(2)(B), (C). Pub. L. 103-66, § 4046(a)(3)(B)(ii), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least \$5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).”

Subsec. (c)(3)(A). Pub. L. 103-208, § 2(c)(37), inserted “be an amount” before “equal to”.

Subsec. (c)(3)(B). Pub. L. 103-66, § 4046(a)(3)(C), inserted “except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5),” before “the lender”.

Subsec. (f). Pub. L. 103-66, § 4106(a), added subsec. (f). 1992—Pub. L. 102-325, § 419(a), substituted “Federal consolidation” for “Consolidation” in section catchline.

Subsec. (a)(3)(A)(i). Pub. L. 102-325, § 419(b)(1)(A), substituted “\$7,500” for “\$5,000”.

Subsec. (a)(3)(A)(ii). Pub. L. 102-325, § 419(b)(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days.”

Subsec. (a)(3)(B). Pub. L. 102-325, § 419(c), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “An individual’s status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to eligible student loans received after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this subchapter, be counted against the applicable limitations on aggregate indebtedness contained in sections 1075(a)(2), 1078(b)(1)(B), 1078-1(b)(2), and 1087dd(a)(2) of this title. Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under subsection (a)(4) of this section) discharged by a borrower in receiving a consolidation loan.”

Subsec. (a)(3)(C). Pub. L. 102-325, § 419(d), added subpar. (C).

Subsec. (a)(4)(A). Pub. L. 102-325, § 419(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “made, insured, or guaranteed under this part, except for loans made to parent borrowers under section 1078-2 of this title, including loans made to parent borrowers under section 1078-2 of this title as in effect prior to October 17, 1986;”.

Subsec. (b)(4)(C). Pub. L. 102-325, § 419(e), amended subpar. (C) generally. Prior to amendment, subpar. (C)

read as follows: “provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;”.

Subsec. (c)(2)(A). Pub. L. 102-325, §419(f), substituted “which shall include” for “which may include” in first sentence, inserted second sentence, and struck out former second sentence which read as follows: “Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

“(i) is equal to or greater than \$5,000 but less than \$7,500, then such consolidation loan shall be repaid in not more than 10 years;

“(ii) is equal to or greater than \$7,500 but less than \$10,000, then such consolidation loan shall be repaid in not more than 12 years;

“(iii) is equal to or greater than \$10,000 but less than \$20,000, then such consolidation loan shall be repaid in not more than 15 years;

“(iv) is equal to or greater than \$20,000 but less than \$45,000, then such consolidation loan shall be repaid in not more than 20 years; or

“(v) is equal to or greater than \$45,000, then such consolidation loan shall be repaid in not more than 25 years.”

Subsec. (d). Pub. L. 102-408, §306(a), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 102-325, §419(g), substituted “September 30, 1998” for “September 30, 1992”.

Subsec. (e). Pub. L. 102-408, §306(b), which directed the substitution of “1997” for “1992”, could not be executed because “1992” did not appear in text subsequent to the amendment by Pub. L. 102-325, §419(g). See above.

Pub. L. 102-408, §306(a)(1), redesignated subsec. (d) as subsec. (e).

1987—Subsec. (a)(1)(C). Pub. L. 100-50, §10(s)(1), which directed the amendment of subpar. (C) by substituting “(C), (E), and (J)” for “(C) and (E)”, was executed by substituting the new language for “(C), and (E)”, as the probable intent of Congress.

Subsec. (a)(3)(A). Pub. L. 100-50, §10(s)(2), struck out cl. (iii) which read as follows: “is not a parent borrower under section 1078-2 of this title.”

Subsec. (a)(3)(B). Pub. L. 100-50, §10(s)(3), substituted “eligible student loans received” for “loans received under this subchapter”, “under this subchapter” for “under this part”, and “, 1078(b)(1)(B), 1078-1(b)(2), and 1087dd(a)(2) of this title” for “and 1078(b)(1)(B) of this title”, and inserted provision that nothing in subpar. (B) should be interpreted to authorize Secretary to require lenders, holders, or guarantors of consolidation loans to make reports with respect to pre-existing records relating to eligible student loans discharged by a borrower in receiving a consolidation loan.

Subsec. (a)(4)(A). Pub. L. 100-50, §10(s)(4), inserted exception for loans made to parent borrowers under section 1078-2 of this title.

Subsec. (b)(1)(C). Pub. L. 100-50, §10(s)(5), in cl. (i), substituted “subsection (a)(3)” for “subsection (a)(2)” and, in cl. (ii), substituted “all eligible student loans received by the eligible borrower” for “all loans received by the eligible borrower under this subchapter”.

Subsec. (c)(2)(A)(v). Pub. L. 100-50, §10(s)(6), substituted “equal to or greater” for “more” the first time appearing, as the probable intent of Congress.

Subsec. (c)(5). Pub. L. 100-50, §10(s)(7), inserted “, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan” before period at end.

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), except as otherwise provided, see section 3 of Pub.

L. 111-39, set out as a note under section 1001 of this title.

Pub. L. 111-39, title IV, §402(c)(2), July 1, 2009, 123 Stat. 1941, provided that: “The amendment made by paragraph (1) [amending this section] shall be effective as if enacted as part of the amendments in section 425(d)(1) of the Higher Education Opportunity Act (Public Law 110-315), and shall take effect on July 1, 2009.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, §425(d)(2), Aug. 14, 2008, 122 Stat. 3235, provided that: “The amendments made by this subsection [amending this section] shall take effect on July 1, 2009.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-84, title II, §203(c), Sept. 27, 2007, 121 Stat. 795, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 1098e of this title and amending this section and section 1087e of this title] shall be effective on July 1, 2009.

“(2) EXCEPTION.—The amendments made by subsection (b)(1) [amending this section] shall be effective on July 1, 2008.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-234, title VII, §7015(b), June 15, 2006, 120 Stat. 485, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any loan made under section 428C of the Higher Education Act of 1965 (20 U.S.C. 1078-3) for which the application is received by an eligible lender on or after the date of enactment of this Act [June 15, 2006].”

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 section 416(b)(2) of Pub. L. 105-244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under this section for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105-244, set out as a note under section 1077a of this title.

Amendment by section 420 of 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 OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(e) [title VI, §602(b)(1)(B)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-284, provided that: “The amendments made by this paragraph [amending this section and section 1085 of this title] shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 [20 U.S.C. 1087-3(h)] (as added by subsection (a)).”

EFFECTIVE DATE OF 1993 AMENDMENTS

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 1051 of this title.

Pub. L. 103-66, title IV, §4046(c), Aug. 10, 1993, 107 Stat. 363, provided that: “The amendments made by this section [amending this section and section 1085 of this title] shall take effect on July 1, 1994, except that the amendments made by subsection (a)(2)(B) [amending this section] shall take effect upon enactment [Aug. 10, 1993].”

EFFECTIVE DATE OF 1992 AMENDMENTS

Pub. L. 102-408, title III, §306(c), Oct. 13, 1992, 106 Stat. 2086, provided that: "The amendments made by this section [amending this section] take effect 60 days after the date of enactment of this Act [Oct. 13, 1992]."

Amendment by Pub. L. 102-325 effective July 23, 1992, except that changes made in this section, relating to consolidation loans, applicable with respect to loans for which the application is received by an eligible lender on or after Jan. 1, 1993, see section 432, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

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.

SELECTION OF STUDENT LOAN SERVICER

Pub. L. 115-31, div. H, title III, May 5, 2017, 131 Stat. 549, which provided in part that the Secretary of Education must, no later than September 30, 2017, allow student loan borrowers who are consolidating Federal student loans to select from any student loan servicer to service their new consolidated student loan, was transferred and is classified as a note under section 1087f of this title.

PENDING APPLICANTS

Pub. L. 105-78, title VI, §609(f), Nov. 13, 1997, 111 Stat. 1523, provided that: "The consolidation loans authorized by the amendments made by this section [amending this section] shall be available notwithstanding any pending application by a student for a consolidation loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), upon withdrawal of such application by the student at any time prior to receipt of such a consolidation loan."

COST EVALUATION REPORT

Pub. L. 99-272, title XVI, §16017(d), Apr. 7, 1986, 100 Stat. 348, provided that: "The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section [enacting former section 1078-3 of this title and amending former sections 1077, 1085, 1087-1, and 1087-2 of this title] and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection."

§ 1078-4. Commingling of funds

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(Pub. L. 89-329, title IV, §428D, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1393.)

§ 1078-5. Repealed. Pub. L. 102-164, title VI, § 605(b)(1), Nov. 15, 1991, 105 Stat. 1068

Section, Pub. L. 89-329, title IV, §428E, as added Pub. L. 99-498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1393;

amended Pub. L. 100-50, §10(t), June 3, 1987, 101 Stat. 345, related to State garnishment law requirements.

§ 1078-6. Default reduction program**(a) Other repayment incentives****(1) Sale or assignment of loan****(A) In general**

Each guaranty agency, upon securing 9 payments made within 20 days of the due date during 10 consecutive months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 1078(c) of this title, shall—

(i) if practicable, sell the loan to an eligible lender; or

(ii) beginning July 1, 2014, assign the loan to the Secretary if the guaranty agency has been unable to sell the loan under clause (i).

(B) Monthly payments

Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts described in subparagraph (A) more than is reasonable and affordable based on the borrower's total financial circumstances.

(C) Consumer reporting agencies

Upon the sale or assignment of the loan, the Secretary, guaranty agency or other holder of the loan shall request any consumer reporting agency to which the Secretary, guaranty agency or holder, as applicable, reported the default of the loan, to remove the record of the default from the borrower's credit history.

(D) Duties upon sale

With respect to a loan sold under subparagraph (A)(i)—

(i) the guaranty agency—

(I) shall, in the case of a sale made on or after July 1, 2014, repay the Secretary 100 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(II) may, in the case of a sale made on or after July 1, 2014, in order to defray collection costs—

(aa) charge to the borrower an amount not to exceed 16 percent of the outstanding principal and interest at the time of the loan sale; and

(bb) retain such amount from the proceeds of the loan sale; and

(ii) the Secretary shall reinstate the Secretary's obligation to—

(I) reimburse the guaranty agency for the amount that the agency may, in the future, expend to discharge the guaranty agency's insurance obligation; and

(II) pay to the holder of such loan a special allowance pursuant to section 1087-1 of this title.

(E) Duties upon assignment

With respect to a loan assigned under subparagraph (A)(ii)—