

“(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus
 “(ii) 3.75 percent.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as a note under section 1070a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective July 1, 2006, except as otherwise provided, see section 8001(c) of Pub. L. 109-171, set out as a note under section 1002 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-244, title IV, § 416(c), Oct. 7, 1998, 112 Stat. 1682, provided that: “The amendments made by this section [amending this section and sections 1078-2, 1078-3, and 1087-1 of this title] shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to any loan made under section 428C of such Act [20 U.S.C. 1078-3] for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(5) of Pub. L. 103-208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(6)-(10) of Pub. L. 103-208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, see section 5(a), (b)(2) of Pub. L. 103-208, set out as a note under section 1051 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.

§ 1078. Federal payments to reduce student interest costs

(a) Federal interest subsidies

(1) Types of loans that qualify

Each student who has received a loan for study at an eligible institution for which the first disbursement is made before July 1, 2010, and—

- (A) which is insured by the Secretary under this part; or
- (B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—
 - (i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) Additional requirements to receive subsidy

(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth the loan amount for which the student shows financial need; and

(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078-7 of this title;

(ii) meet the requirements of subparagraph (B); and

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, student aid index (as determined under part F), subject to the provisions of subparagraph (D).

(C) For the purpose of this paragraph—

(i) a student's cost of attendance shall be determined under section 1087ll of this title;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and parts C and E; plus

(II) other scholarship, grant, or loan assistance, but excluding—

(aa) any national service education award or post-service benefit under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.]; and

(bb) any veterans' education benefits as defined in section 1087vv(c) of this title; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 1078-1¹ or 1078-8 of this title or a parent under section 1078-2 of this title or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the student aid index of the student for that year.

(3) Amount of interest subsidy

(A)(i) Subject to section 1087-1(c) of this title, the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution), or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 1077(a)(2)(C) of this title.

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan;

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan; or

(III) in the case of a loan disbursed through an escrow agent, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b),

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after October 16, 1968, and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) Submission of statements by holders on amount of payment

Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) Duration of authority to make interest subsidized loans

The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on November 8, 1965, and end at the close of June 30, 2010.

(6) Assessment of borrower's financial condition not prohibited or required

Nothing in this chapter or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) Loans that have not been consummated

Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

¹ See References in Text note below.

(b) Insurance program agreements to qualify loans for interest subsidies

(1) Requirements of insurance program

Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year, as defined in section 1088(a)(2) of this title, or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) \$3,500, if such student is enrolled in a program whose length is at least one academic year in length; and

(II) if such student is enrolled in a program of undergraduate education which is less than 1 academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to 1 academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) \$4,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) \$5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive

may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree;

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, \$8,500; and

(vi) in the case of a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title—

(I) \$2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, \$5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

(II) in the case of a student who has obtained a baccalaureate degree, \$5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school or secondary school;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) \$23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078-1¹ or 1078-2 of this title; and

(ii) \$65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 1078-1¹ or 1078-2 of this title, except that the Secretary may increase the limit applicable to students who are pur-

suing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the student borrower may annually change the selection of a repayment plan under this part, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m);

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–8 of this title, the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations of the Secretary; and

(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7);

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 1077a of this title;

(G) insures 98 percent of the unpaid principal of loans insured under the program, except that—

(i) such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j);

(ii) for any loan for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2010, the preceding provisions of this subparagraph shall be applied by substituting "97 percent" for "98 percent"; and

(iii) notwithstanding the preceding provisions of this subparagraph, such program shall insure 100 percent of the unpaid principal amount of exempt claims as defined in subsection (c)(1)(G);

(H) provides—

(i) for loans for which the date of guarantee of principal is before July 1, 2006, for the collection of a single insurance pre-

mium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and ensures that the proceeds of the premium will not be used for incentive payments to lenders; or

(ii) for loans for which the date of guarantee of principal is on or after July 1, 2006, and that are first disbursed before July 1, 2010, for the collection, and the deposit into the Federal Student Loan Reserve Fund under section 1072a of this title of a Federal default fee of an amount equal to 1.0 percent of the principal amount of the loan, which fee shall be collected either by deduction from the proceeds of the loan or by payment from other non-Federal sources, and ensures that the proceeds of the Federal default fee will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a)(1) and (2);

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by borrower—

(i) except as otherwise provided by a repayment plan selected by the borrower under clause (ii), (iii), or (v) of paragraph (9)(A), 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, notwithstanding any payment plan under paragraph (9)(A)); and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of \$5, be rounded to the next highest whole dollar amount that is a multiple of \$5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, 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, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter in order to be eligible to receive a deferment under this clause; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or 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, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause;

(iii) during which the borrower—

(I) is serving on active duty during a war or other military operation or national emergency; or

(II) is performing qualifying National Guard duty during a war or other military operation or national emergency,

and for the 180-day period following the demobilization date for the service described in subclause (I) or (II);

(iv) 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

(v) during which the borrower is receiving treatment for cancer and the 6 months after such period;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student;

(ii) in the case of a 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, and only after verification of the student's enrollment by the lender or guaranty agency, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student, only after verification of the student's enrollment by the lender or guaranty agency by the means described in clause (i).²

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 1078-7 of this title;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 1078-1¹ and 1078-2 of this title;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

²So in original. The period probably should be a semicolon.

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 1085(d)(1) of this title under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender that originates or holds more than \$5,000,000 in loans made under this subchapter for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause), at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 1082(l) of this title;

(X) provides information to the Secretary in accordance with subsection (c)(9) and maintains reserve funds determined by the

Secretary to be sufficient in relation to such agency's guarantee obligations; and

(Y) provides that—

(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on—

(I) receipt of a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

(II) receipt of a newly completed loan application that documents the borrower's eligibility for a deferment;

(III) receipt of student status information documenting that the borrower is enrolled on at least a half-time basis; or

(IV) the lender's confirmation of the borrower's half-time enrollment status through use of the National Student Loan Data System, if the confirmation is requested by the institution of higher education;

(ii) the lender will notify the borrower of the granting of any deferment under clause (i)(II) or (III) of this subparagraph and of the option to continue paying on the loan; and

(iii) the lender shall, at the time the lender grants a deferment to a borrower who received a loan under section 1078-8 of this title and is eligible for a deferment under subparagraph (M) of this paragraph, provide information to the borrower to assist the borrower in understanding the impact of the capitalization of interest on the borrower's loan principal and on the total amount of interest to be paid during the life of the loan.

(2) Contents of insurance program agreement

Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 1087 of this title, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits

of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

- (I) the sale or other transfer;
- (II) the identity of the transferee;
- (III) the name and address of the party to whom subsequent payments or communications must be sent;
- (IV) the telephone numbers of both the transferor and the transferee;
- (V) the effective date of the transfer;
- (VI) the date on which the current servicer (as of the date of the notice) will stop accepting payments; and
- (VII) the date on which the new servicer will begin accepting payments; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

- (I) any sale or other transfer of the loan; and
- (II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 1077(a)(2)(B) of this title

or subsection (b)(7) or is in repayment status.

(3) Restrictions on inducements, payments, mailings, and advertising

A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, stock or other securities, prizes, travel, entertainment expenses, tuition payment or reimbursement, or other inducements to—

(i) any institution of higher education, any employee of an institution of higher education, or any individual or entity in order to secure applicants for loans made under this part; or

(ii) any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made as part of the guaranty agency's lender-of-last-resort program pursuant to subsection (j)), for the purpose of securing the designation of the guaranty agency as the insurer of such loans;

(B) conduct unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary schools or postsecondary educational institutions, or to the families of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans guaranteed under this part by the guaranty agency;

(C) perform, for an institution of higher education participating in a program under this subchapter, any function that such institution is required to perform under this subchapter, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 1092(b) or 1092(l) of this title;

(D) pay, on behalf of an institution of higher education, another person to perform any function that such institution is required to perform under this subchapter, except that the guaranty agency may perform functions on behalf of such institution in accordance with section 1092(b) or 1092(l) of this title; or

(E) conduct fraudulent or misleading advertising concerning loan availability, terms, or conditions.

It shall not be a violation of this paragraph for a guaranty agency to provide technical assistance to institutions of higher education comparable to the technical assistance provided to institutions of higher education by the Department.

(4) Special rule

With respect to the graduate fellowship program referred to in paragraph (1)(M)(i)(II), the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Ful-

bright grant) outside the United States shall be approved until completion of the period of the fellowship.

(5) Guaranty agency information transfers

(A) Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

- (i) the name and the social security number of the borrower; and
- (ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) State guaranty agency information request of State licensing boards

Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) Repayment period

(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).

(B) In the case of a loan made under section 1078–8 of this title, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 1078–2 or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to re-

sume enrollment at the borrower's next available regular enrollment period.

(8) Means of disbursement of loan proceeds

Nothing in this subchapter shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(9) Repayment plans

(A) Design and selection

In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than 5 years unless the borrower, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over of³ a shorter period. The borrower may choose from—

- (i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;
- (ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;
- (iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due;
- (iv) for new borrowers on or after October 7, 1998, who accumulate (after October 7, 1998) outstanding loans under this part totaling more than \$30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (1)(L)(i); and
- (v) beginning July 1, 2009, an income-based repayment plan that enables a borrower who has a partial financial hardship to make a lower monthly payment in accordance with section 1098e of this title, except that the plan described in this clause shall not be available to a borrower for a loan under section 1078–2 of this title made on behalf of a dependent student or for a consolidation loan under section 1078–3 of this title, if the proceeds of such loan were used to discharge the liability of a loan under section 1078–2 of this title made on behalf of a dependent student.

(B) Lender selection of option if borrower does not select

If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

³So in original.

(c) Guaranty agreements for reimbursing losses**(1) Authority to enter into agreements**

(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 30 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 85 percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 75 percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(D) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting “100 percent” for “95 percent”;¹

(ii) subparagraph (B)(i) by substituting “100 percent” for “85 percent”; and

(iii) subparagraph (B)(ii) by substituting “100 percent” for “75 percent”.

(E) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting “100 percent” for “95 percent”;

(ii) subparagraph (B)(i) by substituting “90 percent” for “85 percent”; and

(iii) subparagraph (B)(ii) by substituting “80 percent” for “75 percent”.

(F)(i) Notwithstanding any other provisions of this section, in the case of exempt claims, the Secretary shall apply the provisions of—

(I) the fourth sentence of subparagraph (A) by substituting “100 percent” for “95 percent”;

(II) subparagraph (B)(i) by substituting “100 percent” for “85 percent”; and

(III) subparagraph (B)(ii) by substituting “100 percent” for “75 percent”.

(ii) For purposes of clause (i) of this subparagraph, the term “exempt claims” means claims with respect to loans for which it is determined that the borrower (or the student on whose behalf a parent has borrowed), without the lender’s or the institution’s knowledge at the time the loan was made, provided false or erroneous information or took actions that caused the borrower or the student to be ineligible for all or a portion of the loan or for interest benefits thereon.

(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).

(2) Contents of guaranty agreements

The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including (i) a requirement that each beneficiary of insurance on the loan submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known) and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive proportion of guaranty agency recoveries on defaulted loans under this part;

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 1081 of this title) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)(A)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 1072(c) of this title;

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts, including contact with the institution, have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom default aversion assistance activities have been requested under subsection (l);

(ii) the guaranty agency shall not require the payment from the institution of any fee for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) Forbearance

A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to by the parties to the loan with the approval of the insurer and documented in accordance with paragraph (10), and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental 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 post-graduate training, provided that if the borrower qualifies for a deferment under section 1077(a)(2)(C)(vii) of this title or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 1077(a)(2)(C) of this title or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this subchapter that equals or exceeds 20 percent of income;

(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993; or

(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o);

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) or (IV) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a consumer reporting agency solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer;

(C) shall contain provisions that specify that—

(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled;

(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (o);

(iii) the lender shall, at the time of granting a borrower forbearance, provide information to the borrower to assist the borrower in understanding the impact of capitalization of interest on the borrower's loan principal and total amount of interest to be paid during the life of the loan; and

(iv) the lender shall contact the borrower not less often than once every 180 days during the period of forbearance to inform the borrower of—

(I) the amount of unpaid principal and the amount of interest that has accrued since the last statement of such amounts provided to the borrower by the lender;

(II) the fact that interest will accrue on the loan for the period of forbearance;

(III) the amount of interest that will be capitalized, and the date on which capitalization will occur;

(IV) the option of the borrower to pay the interest that has accrued before the interest is capitalized; and

(V) the borrower's option to discontinue the forbearance at any time; and

(D) shall contain provisions that specify that—

(i) forbearance for a period not to exceed 60 days may be granted if the lender reasonably determines that such a suspension of collection activity is warranted following a borrower's request for deferment, forbearance, a change in repayment plan, or a request to consolidate loans, in order to collect or process appropriate supporting documentation related to the request, and

(ii) during such period interest shall accrue but not be capitalized.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under subsection (b)(1)(M) or section 1077(a)(2)(C) of this title, and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) Definitions

For the purpose of this subsection, the terms "insurance beneficiary" and "default" have the meanings assigned to them by section 1085 of this title.

(5) Applicability to existing loans

In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) Secretary's equitable share

(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) an amount equal to 24 percent of such payments for use in accordance with section 1072b of this title, except that—

(I) beginning October 1, 2003 and ending September 30, 2007, this clause shall be applied by substituting "23 percent" for "24 percent"; and

(II) beginning October 1, 2007, this clause shall be applied by substituting "16 percent" for "24 percent".

(B) A guaranty agency shall—

(i) on or after October 1, 2006—

(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this subchapter; and

(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

(C) For purposes of subparagraph (B), the term “excess consolidation proceeds” means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this subchapter that exceed 45 percent of the agency’s total collections on defaulted loans in such Federal fiscal year.

(7) New programs eligible for 100 percent reinsurance

(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency’s insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) Assignment to protect Federal fiscal interest

If the Secretary determines that the protection of the Federal fiscal interest so requires,

a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(9) Guaranty agency reserve level

(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain in the agency’s Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent of the total attributable amount of all outstanding loans guaranteed by such agency. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency’s current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency’s Federal reimbursement payments are reduced to 85 percent pursuant to paragraph (1)(B)(i), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency’s continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 45 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency’s agreement under subparagraph (E), or assuming the guaranty agency’s functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency’s agreement under subparagraph (E), or assuming the guaranty agency’s functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency’s agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substan-

tially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest; or

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this chapter;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title, with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j);

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has ter-

minated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing that, if commenced after September 24, 1998, shall be on the record.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 6 months after the end of each fiscal year, shall submit to the authorizing committees a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system.

(10) Documentation of forbearance agreements

For the purposes of paragraph (3), the terms of forbearance agreed to by the parties shall be documented by confirming the agreement of the borrower by notice to the borrower from the lender, and by recording the terms in the borrower's file.

(d) Usury laws inapplicable

No provision of any law of the United States (other than this chapter and section 3937 of title 50) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) Repealed. Pub. L. 110-315, title IV, § 422(h), Aug. 14, 2008, 122 Stat. 3231

(f) Payments of certain costs

(1) ⁴ Payment for certain activities

(A) In general

The Secretary—

(i) for loans originated during fiscal years beginning on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

(ii) for loans originated on or after October 1, 2003, and first disbursed before July 1, 2010, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

(B) Payment

The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this paragraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application under this subparagraph.

(C) Requirement for payment

No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(g) Action on insurance program and guaranty agreements

If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and

(2) as provided in the application, undertakes to meet the requirements of section 1072(c)(6)(B)(i), (ii), and (iii) of this title,

the Secretary shall consider and act upon such application within 180 days, and shall forthwith

notify the authorizing committees of his actions.

(h) Repealed. Pub. L. 110-315, title IV, § 438(a)(2)(B), Aug. 14, 2008, 122 Stat. 3258

(i) Multiple disbursement of loans

(1) Escrow accounts administered by escrow agent

Any guaranty agency or eligible lender (hereafter in this subsection referred to as the “escrow agent”) may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the “lender”) for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 10 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) Authority of escrow agent

Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) Lenders-of-last-resort

(1) General requirement

In each State, the guaranty agency or an eligible lender in the State described in section 1085(d)(1)(D) of this title shall, before July 1, 2010, make loans directly, or through an agreement with an eligible lender or lenders, to eligible students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 1078-3 of this title) or who attend an institution of higher education in the State that is designated under paragraph (4). Loans made under this subsection shall not exceed the amount of the need of the borrower, as deter-

⁴ So in original. No par. (2) has been enacted.

mined under subsection (a)(2)(B), nor be less than \$200. No loan under section 1078, 1078-2, or 1078-8 of this title that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part. The guaranty agency shall consider the request of any eligible lender, as defined under section 1085(d)(1)(A) of this title, to serve as the lender-of-last-resort pursuant to this subsection.

(2) Rules and operating procedures

The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this subchapter in order to receive a loan under this part from an eligible lender, nor, in the case of students and parents applying for loans under this subsection because of an inability to otherwise obtain loans under this part (except for consolidation loans under section 1078-3 of this title), be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State; and

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation.

(3) Advances to guaranty agencies for lender-of-last-resort services

(A) In order to ensure the availability of loan capital, the Secretary is authorized to provide a guaranty agency designated for a State with additional advance funds in accordance with subparagraph (C) and section 1072(c)(7) of this title, with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of

the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part or designates an institution of higher education for participation in the program under this subsection under paragraph (4), and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency's obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are experiencing loan access problems or to eligible borrowers who attend an institution in the State that is designated under paragraph (4).

(4) Institution-wide student qualification

Upon the request of an institution of higher education and pursuant to standards developed by the Secretary, the Secretary shall designate such institution for participation in the lender-of-last-resort program under this paragraph.⁵ If the Secretary designates an institution under this paragraph, the guaranty agency designated for the State in which the institution is located shall make loans, in the same manner as such loans are made under paragraph (1), to students and parent borrowers of the designated institution, regardless of whether the students or parent borrowers are otherwise unable to obtain loans under this part (other than a consolidation loan under section 1078-3 of this title).

(5) Standards developed by the Secretary

In developing standards with respect to paragraph (4), the Secretary may require—

(A) an institution of higher education to demonstrate that, despite due diligence on the part of the institution, the institution has been unable to secure the commitment of eligible lenders willing to make loans under this part to a significant number of students attending the institution;

(B) that, prior to making a request under such paragraph for designation for participation in the lender-of-last-resort program, an institution of higher education shall demonstrate that the institution has met a minimum threshold, as determined by the Secretary, for the number or percentage of students at such institution who have received

⁵ So in original. Probably should be "subsection."

rejections from eligible lenders for loans under this part; and

(C) any other standards and guidelines the Secretary determines to be appropriate.

(6) Expiration of authority

The Secretary's authority under paragraph (4) to designate institutions of higher education for participation in the program under this subsection shall expire on June 30, 2010.

(7) Expiration of designation

The eligibility of an institution of higher education, or borrowers from such institution, to participate in the program under this subsection pursuant to a designation of the institution by the Secretary under paragraph (4) shall expire on June 30, 2010. After such date, borrowers from an institution designated under paragraph (4) shall be eligible to participate in the program under this subsection as such program existed on the day before May 7, 2008.

(8) Prohibition on inducements and marketing

Each guaranty agency or eligible lender that serves as a lender-of-last-resort under this subsection—

(A) shall be subject to the prohibitions on inducements contained in subsection (b)(3) and the requirements of section 1085(d)(5) of this title; and

(B) shall not advertise, market, or otherwise promote loans under this subsection, except that nothing in this paragraph shall prohibit a guaranty agency from fulfilling its responsibilities under paragraph (2)(C).

(9) Dissemination and reporting

(A) In general

The Secretary shall—

(i) broadly disseminate information regarding the availability of loans made under this subsection;

(ii) during the period beginning July 1, 2008 and ending June 30, 2011, provide to the authorizing committees and make available to the public—

(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection;

(II) quarterly reports on—

(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

(bb) any related payments by the Department, a guaranty agency, or an eligible lender; and

(III) a budget estimate of the costs to the Federal Government (including subsidy and administrative costs) for each 100 dollars loaned, of loans made pursuant to this subsection between May 7, 2008, and June 30, 2010, disaggregated by type of loan, compared to such costs to the Federal Government during such time period of comparable loans under this part and part D, disaggregated by part and by type of loan; and

(iii) beginning July 1, 2011, provide to the authorizing committees and make available to the public—

(I) copies of any new or revised plans or agreements made by guaranty agencies or the Department related to the authorities under this subsection; and

(II) annual reports on—

(aa) the number and amounts of loans originated or approved pursuant to this subsection by each guaranty agency and eligible lender; and

(bb) any related payments by the Department, a guaranty agency, or an eligible lender.

(B) Separate reporting

The information required to be reported under subparagraph (A)(ii)(II) shall be reported separately for loans originated or approved pursuant to paragraph (4), or payments related to such loans, for the time period in which the Secretary is authorized to make designations under paragraph (4).

(k) Information on defaults

(1) Provision of information to eligible institutions

Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) Public dissemination not authorized

Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(3) Borrower location information

Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

(4) Provision of information to borrowers in default

Each guaranty agency that has received a default claim from a lender regarding a borrower, shall provide the borrower in default, on not less than two separate occasions, with a notice, in simple and understandable terms, of not less than the following information:

(A) The options available to the borrower to remove the borrower's loan from default.

(B) The relevant fees and conditions associated with each option.

(l) Default aversion assistance

(1) Assistance required

Upon receipt of a complete request from a lender received not earlier than the 60th day of delinquency, a guaranty agency having an

agreement with the Secretary under subsection (c) shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

(2) Reimbursement

(A) In general

A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund under section 1072a of this title to the Agency Operating Fund under section 1072b of this title a default aversion fee. Such fee shall be paid for any loan on which a claim for default has not been paid as a result of the loan being brought into current repayment status by the guaranty agency on or before the 300th day after the loan becomes 60 days delinquent.

(B) Amount

The default aversion fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan at the time the request is submitted by the lender. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly. Such a fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless—

(i) at least 18 months has elapsed between the date the borrower entered current repayment status and the date the lender filed a subsequent default aversion assistance request; and

(ii) during the period between such dates, the borrower was not more than 30 days past due on any payment of principal and interest on the loan.

(C) Definition

For the purpose of earning the default aversion fee, the term “current repayment status” means that the borrower is not delinquent in the payment of any principal or interest on the loan.

(m) Income contingent and income-based repayment

(1) Authority of Secretary to require

The Secretary may require borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) to repay those loans under an income contingent repayment plan or income-based repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part D of this subchapter or an income-based repayment plan under section 1098e of this title, as the case may be.

(2) Loans for which income contingent or income-based repayment may be required

A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).

(n) Blanket certificate of loan guaranty

(1) In general

Subject to paragraph (3), any guaranty agency that has entered into or enters into any in-

surance program agreement with the Secretary under this part may—

(A) offer eligible lenders participating in the agency's guaranty program a blanket certificate of loan guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency of individual loans for eligible borrowers enrolled in eligible programs at eligible institutions; and

(B) provide eligible lenders with the ability to transmit electronically data to the agency concerning loans the lender has elected to make under the agency's insurance program via standard reporting formats, with such reporting to occur at reasonable and standard intervals.

(2) Limitations on blanket certificate of guaranty

(A) An eligible lender may not make a loan to a borrower under this section after such lender receives a notification from the guaranty agency that the borrower is not an eligible borrower.

(B) A guaranty agency may establish limitations or restrictions on the number or volume of loans issued by a lender under the blanket certificate of guaranty.

(3) Participation level

During fiscal years 1999 and 2000, the Secretary may permit, on a pilot basis, a limited number of guaranty agencies to offer blanket certificates of guaranty under this subsection. Beginning in fiscal year 2001, any guaranty agency that has an insurance program agreement with the Secretary may offer blanket certificates of guaranty under this subsection.

(4) Report required

The Secretary shall, at the conclusion of the pilot program under paragraph (3), provide a report to the authorizing committees on the impact of the blanket certificates of guaranty on program efficiency and integrity.

(o) Armed Forces and NOAA Commissioned Officer Corps student loan interest payment programs

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 or section 3078 of title 33 for the payment of interest and any special allowance on a loan to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

(3) Special allowance defined

For the purposes of this subsection, the term “special allowance”,⁶ means a special allowance that is payable with respect to a loan under section 1087–1 of this title.

(Pub. L. 89–329, title IV, § 428, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1367; amended Pub. L. 100–50, § 10(a)–(c), (e)–(m), June 3, 1987, 101 Stat. 341–343; Pub. L. 100–203, title III, §§ 3001(b), 3002(b), 3003, Dec. 22, 1987, 101 Stat. 1330–38, 1330–39; Pub. L. 100–369, §§ 5(b)(2), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§ 2002(a)(2), (b)(1), 2004(b)(1), (3), 2006(b), Dec. 19, 1989, 103 Stat. 2111, 2116, 2118; Pub. L. 101–508, title III, §§ 3002, 3004(b), Nov. 5, 1990, 104 Stat. 1388–25, 1388–27; Pub. L. 102–26, § 9, Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §§ 601(b), 602(b), 604, 605(b)(2), Nov. 15, 1991, 105 Stat. 1065, 1066, 1068; Pub. L. 102–325, title IV, §§ 411(b)(2), 416(a)–(e)(1), (f)–(p)(7), (q)–(t), July 23, 1992, 106 Stat. 510, 516–525, 527–529; Pub. L. 103–66, title IV, §§ 4041(a)(1), (2)(B), (b), 4043(a), 4044, 4045, 4102(c), 4107(a), (b), 4108(a), (b), 4110(a), 4112(a), 4201(a), Aug. 10, 1993, 107 Stat. 354, 355, 358, 359, 367–370; Pub. L. 103–82, title I, § 102(c)(1), Sept. 21, 1993, 107 Stat. 823; Pub. L. 103–208, § 2(c)(11)–(28), Dec. 20, 1993, 107 Stat. 2462–2465; Pub. L. 103–382, title III, § 355(a), Oct. 20, 1994, 108 Stat. 3967; Pub. L. 105–33, title VI, §§ 6101(b), 6104(2), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, § 417(a)–(c)(1)(A), (2)–(k), Oct. 7, 1998, 112 Stat. 1682–1690; Pub. L. 107–314, div. A, title VI, § 651(b), Dec. 2, 2002, 116 Stat. 2579; Pub. L. 109–171, title VIII, §§ 8004(b)(2), 8005(b), 8007(a), 8008(a), 8009(b)(1), 8014(a)(1), (b)(1), (c)(1), (d), (e), (j)(1)–(3), Feb. 8, 2006, 120 Stat. 158, 160, 162, 164, 168–171; Pub. L. 110–84, title II, § 202(a), title III, §§ 301, 302(b)(1), 303(a), Sept. 27, 2007, 121 Stat. 791, 796, 797; Pub. L. 110–227, §§ 3(b), 5(a), May 7, 2008, 122 Stat. 742, 743; Pub. L. 110–315, title I, § 103(b)(4), title IV, §§ 422(a)(1), (b)–(g)(1), (h)–(j), 424(b), 432(b)(2), 438(a)(2), Aug. 14, 2008, 122 Stat. 3088, 3227–3231, 3233, 3246, 3258; Pub. L. 110–350, § 2, Oct. 7, 2008, 122 Stat. 3947; Pub. L. 111–39, title IV, § 402(a)(1), (b)(1), (f)(1), July 1, 2009, 123 Stat. 1940, 1943; Pub. L. 111–152, title II, § 2204, Mar. 30, 2010, 124 Stat. 1075; Pub. L. 112–74, div. F, title III, § 309(d)(1), Dec. 23, 2011, 125 Stat. 1101; Pub. L. 114–113, div. H, title III, § 311, Dec. 18, 2015, 129 Stat. 2638; Pub. L. 115–245, div. B, title III, § 309(c), Sept. 28, 2018, 132 Stat. 3106; Pub. L. 116–259, title II, § 202(b)(1), Dec. 23, 2020, 134 Stat. 1163; Pub. L. 116–260, div. FF, title VII, § 704(1), (6), Dec. 27, 2020, 134 Stat. 3199, 3200.)

Editorial Notes**REFERENCES IN TEXT**

The National and Community Service Act of 1990, referred to in subsec. (a)(2)(C)(ii)(II)(aa), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Title I of the Act enacted subchapter I (§ 12511 et seq.) of chapter 129 of Title 42, The Public Health and Welfare, and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(2)(E) and (b)(1)(B), (Q), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364,

⁶So in original. The comma probably should not appear.

eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

The phrase “‘95 percent’”, referred to in subsec. (c)(1)(D)(i), (E)(i), and (F)(i)(I) as appearing in “the fourth sentence of subparagraph (A)”, no longer appears in subparagraph (A) of subsec. (c)(1) after the amendment by Pub. L. 114–113.

The Higher Education Amendments of 1992, referred to in subsec. (c)(3)(A)(i)(I), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

The National and Community Service Trust Act of 1993, referred to in subsec. (c)(3)(A)(i)(III), is Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Amendments by section 2(c)(17), (26), (27) 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, Pub. L. 103–66, and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078, Pub. L. 89–329, title IV, § 428, Nov. 8, 1965, 79 Stat. 1240; Pub. L. 90–460, §§ 1(a)(2), 2(a)(2), (b)(1), (2), 3(b), Aug. 3, 1968, 82 Stat. 634–636; Pub. L. 90–575, title I, § 111(a), (b)(1), 112(b), 113(b)(3), (4), 115(a)(1)–(3), (b), 116(b)(3), 117(a), (b), 120(a)(1), (b), (c)(1), Oct. 16, 1968, 82 Stat. 1020–1027; Pub. L. 92–318, title I, §§ 132(b), 132A(b), 132C(a), (b), 132D(b)–(d), June 23, 1972, 86 Stat. 261–264; Pub. L. 93–269, §§ 2–4, Apr. 18, 1974, 88 Stat. 87, 89; Pub. L. 94–328, § 2(b), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2108; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, § 1(a)(19)–(29), June 15, 1977, 91 Stat. 214–216; Pub. L. 95–566, § 5(a)(2), (b)(1), (c)–(5), Nov. 1, 1978, 92 Stat. 2403; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, § 5(b), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§ 411(b), 412(c), (d), (f), 413(b), (d), 414, 415(a)(3)–(5), (b)(2), 417, 423(a)(2), (b)–(d), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1416–1420, 1422, 1432, 1503; Pub. L. 97–35, title V, §§ 532(a), (b)(1), 535(c), (d), 536(b), 537(a)(1), (b)(2), (c), (d)(1), (e)(2), Aug. 13, 1981, 95 Stat. 451, 452, 455–457; Pub. L. 98–79, § 10(b), Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§ 16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b)(1), (2) formerly (1), (3) formerly (2), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), Apr. 7, 1986, 100 Stat. 340–343, 348, 349, 355, renumbered and amended, Pub. L. 99–320, § 2(a), (b), May 23, 1986, 100 Stat. 491, related to Federal interest subsidy payments, prior to repeal by Pub. L. 94–482, title I, § 127(c)(2), Oct. 12, 1976, 90 Stat. 2142.

AMENDMENTS

2020—Subsec. (a)(2)(B). Pub. L. 116–260, § 704(6), substituted “student aid index” for “expected family contribution”.

Subsec. (a)(2)(E). Pub. L. 116–260, § 704(1), substituted “the student aid index” for “the expected family contribution”.

Subsec. (o). Pub. L. 116–259, § 202(b)(1)(A), substituted “Armed Forces and NOAA Commissioned Officer Corps student loan interest payment programs” for “Armed Forces student loan interest payment program” in heading.

Subsec. (o)(1). Pub. L. 116-259, § 202(b)(1)(B), inserted “or section 3078 of title 33” after “section 2174 of title 10” and “or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively,” after “Armed Forces”.

2018—Subsec. (b)(1)(M)(v). Pub. L. 115-245 added cl. (v).

2015—Subsec. (c)(1)(A). Pub. L. 114-113, which directed substitution of “100 percent” for “95 percent” in subsec. (c)(1), was executed by making the substitution the first time “95 percent” appeared to reflect the probable intent of Congress.

2011—Subsec. (a)(3)(A)(i)(I). Pub. L. 112-74 amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: “which accrues prior to the beginning of the repayment period of the loan, or”.

2010—Subsec. (a)(1). Pub. L. 111-152, § 2204(a)(1)(A), inserted “for which the first disbursement is made before July 1, 2010, and” after “eligible institution” in introductory provisions.

Subsec. (a)(5). Pub. L. 111-152, § 2204(a)(1)(B), substituted “June 30, 2010.” for “September 30, 2014, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 2018.”

Subsec. (b)(1)(G). Pub. L. 111-152, § 2204(b), repealed Pub. L. 110-84, § 303. See 2007 Amendment note below.

Subsec. (b)(1)(G)(ii). Pub. L. 111-152, § 2204(a)(2)(A), inserted “and before July 1, 2010,” after “July 1, 2006.”

Subsec. (b)(1)(H)(ii). Pub. L. 111-152, § 2204(a)(2)(B), inserted “and that are first disbursed before July 1, 2010,” after “July 1, 2006.”

Subsec. (f)(1)(A)(ii). Pub. L. 111-152, § 2204(a)(3), struck out “during fiscal years beginning” after “originated” and inserted “and first disbursed before July 1, 2010,” after “October 1, 2003.”

Subsec. (j)(1). Pub. L. 111-152, § 2204(a)(4), inserted “, before July 1, 2010,” after “section 1085(d)(1)(D) of this title shall”.

2009—Subsec. (a)(2)(A)(i)(II). Pub. L. 111-39, § 402(f)(1)(A), struck out “and” after semicolon at end.

Subsec. (b)(1)(G)(i). Pub. L. 111-39, § 402(a)(1), which directed amendment of cl. (i), as amended by section 303 of Pub. L. 110-84, by striking “or 1087-2(q)”, could not be executed because of the repeal of section 303 by Pub. L. 111-152, § 2204(b). See 2010 Amendment note above and 2007 Amendment note below.

Subsec. (b)(1)(M)(i). Pub. L. 111-39, § 402(f)(1)(B)(i), inserted “section” before “1078-2” in concluding provisions.

Subsec. (b)(3)(A)(i). Pub. L. 111-39, § 402(f)(1)(B)(ii), substituted “any institution of higher education, any employee of an institution of higher education, or any individual or entity” for “any institution of higher education or the employees of an institution of higher education”.

Subsec. (b)(3)(C). (D). Pub. L. 111-39, § 402(b)(1), inserted “or 1092(l)” after “section 1092(b)”.

Subsec. (b)(4). Pub. L. 111-39, § 402(f)(1)(B)(iii), substituted “With respect to the graduate fellowship program referred to in paragraph (1)(M)(i)(II),” for “For the purpose of paragraph (1)(M)(i)(III) of this subsection.”

Subsec. (b)(7)(B). Pub. L. 111-39, § 402(f)(1)(B)(iv)(I), struck out “clause (i) or (ii) of” before “subparagraph (A)”.

Subsec. (b)(7)(D). Pub. L. 111-39, § 402(f)(1)(B)(iv)(II), substituted “subparagraph (A)” for “subparagraph (A)(i)”.

Subsec. (c)(9)(K). Pub. L. 111-39, § 402(f)(1)(C), substituted “6 months” for “3 months”.

2008—Subsec. (a)(2)(C). Pub. L. 110-315, § 422(a)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “For the purpose of subparagraph (B) and this paragraph—

“(i) a student’s cost of attendance shall be determined under section 1087ll of this title;

“(ii) a student’s estimated financial assistance means, for the period for which the loan is sought—

“(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and parts C and E;

“(II) any veterans’ education benefits paid because of enrollment in a postsecondary education institution, including veterans’ education benefits (as defined in section 1087vv(c) of this title, but excluding benefits described in paragraph (2)(E) of such section); plus

“(III) other scholarship, grant, or loan assistance, but excluding any national service education award or post-service benefit under title I of the National and Community Service Act of 1990; and

“(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.”

Subsec. (a)(5). Pub. L. 110-315, § 422(b), substituted “2014” for “2012” and “2018” for “2016”.

Subsec. (b)(1)(G)(i). Pub. L. 110-315, § 438(a)(2)(A), struck out “or section 1087-2(q) of this title” before semicolon at end.

Subsec. (b)(1)(L)(i). Pub. L. 110-315, § 422(e)(2), substituted “clause (ii), (iii), or (v)” for “clause (ii) or (iii)”.

Subsec. (b)(1)(Y)(i). Pub. L. 110-315, § 422(c)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: “the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on receipt of—

“(I) a request for deferment from the borrower and documentation of the borrower’s eligibility for the deferment;

“(II) a newly completed loan application that documents the borrower’s eligibility for a deferment; or

“(III) student status information received by the lender that the borrower is enrolled on at least a half-time basis; and”.

Subsec. (b)(1)(Y)(iii). Pub. L. 110-315, § 422(c)(1)(B), (C), added cl. (iii).

Subsec. (b)(2)(F)(i)(V) to (VII). Pub. L. 110-315, § 422(c)(2), added subcls. (V) to (VII).

Subsec. (b)(3). Pub. L. 110-315, § 422(d), amended par. (3) generally. Prior to amendment, text read as follows: “A guaranty agency shall not—

“(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

“(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 1078-8 of this title or a loan made as part of a guaranty agency’s lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;

“(C) conduct unsolicited mailings of student loan application forms to students enrolled in secondary school or a postsecondary institution, or to parents of such students, except that applications may be mailed to borrowers who have previously received loans guaranteed under this part by the guaranty agency; or

“(D) conduct fraudulent or misleading advertising concerning loan availability.

“It shall not be a violation of this paragraph for a guaranty agency to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.”

Subsec. (b)(7)(C). Pub. L. 110-315, § 424(b), substituted “section 1078-2 or 1078-3” for “section 1078-1 or 1078-3”.

Pub. L. 110-227, § 3(b), struck out “, 1078-2,” after “section 1078-1”.

Subsec. (b)(9)(A)(v). Pub. L. 110-315, § 422(e)(1), added cl. (v).

Subsec. (c)(2)(H)(i). Pub. L. 110-315, §422(f)(1), substituted “default aversion” for “preclaims”.

Subsec. (c)(3)(A)(iii). Pub. L. 110-315, §422(b)(2), substituted “consumer reporting agency” for “credit bureau organization”.

Subsec. (c)(3)(C)(iii), (iv). Pub. L. 110-315, §422(f)(2), added cl. (iii) and (iv).

Subsec. (c)(9)(K). Pub. L. 110-315, §103(b)(4)(A), substituted “authorizing committees” for “House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources”.

Subsec. (d). Pub. L. 110-315, §422(g)(1), inserted “and section 3937 of title 50” after “(other than this chapter” in introductory provisions.

Subsec. (e). Pub. L. 110-315, §422(h), struck out subsec. (e). Text read as follows: “At the time of offering a borrower a loan under this part, and at the time of offering the borrower the option of repaying a loan in accordance with this section, the lender shall provide the borrower with a notice that informs the borrower, in a form prescribed by the Secretary by regulation—

“(1) that all borrowers are eligible for income-sensitive repayment, including through loan consolidation under section 1078-3 of this title;

“(2) the procedures by which the borrower may elect income-sensitive repayment; and

“(3) where and how the borrower may obtain additional information concerning income-sensitive repayment.”

Subsec. (g). Pub. L. 110-315, §103(b)(4)(B), substituted “authorizing committees” for “Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives” in concluding provisions.

Subsec. (h). Pub. L. 110-315, §438(a)(2)(B), struck out subsec. (h) which related to lending by guaranty agencies.

Subsec. (j)(1). Pub. L. 110-227, §5(a)(1), after second sentence, inserted “No loan under section 1078, 1078-2, or 1078-8 of this title that is made pursuant to this subsection shall be made with interest rates, origination or default fees, or other terms and conditions that are more favorable to the borrower than the maximum interest rates, origination or default fees, or other terms and conditions applicable to that type of loan under this part.”

Pub. L. 110-227, §5(a)(1), in first sentence, substituted “eligible students and parents who are otherwise unable to obtain loans under this part (except for consolidation loans under section 1078-3 of this title) or who attend an institution of higher education in the State that is designated under paragraph (4)” for “students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part”.

Subsec. (j)(2)(B). Pub. L. 110-227, §5(a)(2), inserted “, in the case of students and parents applying for loans under this subsection because of an inability to otherwise obtain loans under this part (except for consolidation loans under section 1078-3 of this title),” after “lender, nor”.

Subsec. (j)(2)(C) to (E). Pub. L. 110-315, §438(a)(2)(C), inserted “and” at the end of subpar. (C), substituted period for “; and” at the end of subpar. (D), and struck out subpar. (E) which read as follows: “the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary’s authority under section 1087-2(q) of this title.”

Subsec. (j)(3)(C). Pub. L. 110-227, §5(a)(3), inserted “or designates an institution of higher education for participation in the program under this subsection under paragraph (4)” after “under this part” in first sentence and “or to eligible borrowers who attend an institution in the State that is designated under paragraph (4)” after “problems” in third sentence.

Subsec. (j)(4), (5). Pub. L. 110-227, §5(a)(4), added pars. (4) and (5).

Subsec. (j)(6). Pub. L. 110-350, §2(1), substituted “June 30, 2010” for “June 30, 2009”.

Pub. L. 110-227, §5(a)(4), added par. (6).

Subsec. (j)(7). Pub. L. 110-350, §2(2), substituted “June 30, 2010” for “June 30, 2009”.

Pub. L. 110-227, §5(a)(4), added par. (7).

Subsec. (j)(8), (9). Pub. L. 110-227, §5(a)(4), added pars. (8) and (9).

Subsec. (j)(9)(A)(ii). Pub. L. 110-350, §2(3)(A), substituted “June 30, 2011” for “June 30, 2010” in introductory provisions.

Pub. L. 110-315, §103(b)(4)(C), substituted “authorizing committees” for “Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives” in introductory provisions.

Subsec. (j)(9)(A)(ii)(III). Pub. L. 110-350, §2(3)(B), substituted “June 30, 2010” for “June 30, 2009”.

Subsec. (j)(9)(A)(iii). Pub. L. 110-350, §2(3)(C), substituted “July 1, 2011” for “July 1, 2010”.

Pub. L. 110-315, §103(b)(4)(C), substituted “authorizing committees” for “Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives” in introductory provisions.

Subsec. (k)(4). Pub. L. 110-315, §422(i), added par. (4).

Subsec. (m). Pub. L. 110-315, §422(j)(1), inserted “and income-based” after “Income contingent” in heading.

Subsec. (m)(1). Pub. L. 110-315, §422(j)(2), inserted “or income-based repayment plan” before “, the terms and conditions” and “or an income-based repayment plan under section 1098e of this title, as the case may be” before the period at end.

Subsec. (m)(2). Pub. L. 110-315, §422(j)(3), inserted “or income-based” after “income contingent” in heading.

Subsec. (n)(4). Pub. L. 110-315, §103(b)(4)(D), substituted “authorizing committees” for “Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate”.

2007—Subsec. (b)(1)(G). Pub. L. 110-84, §303(a), which directed the general amendment of subpar. (G), was repealed by Pub. L. 111-152, §2204(b).

Subsec. (b)(1)(M)(iii). Pub. L. 110-84, §202(a), struck out “not in excess of 3 years” before “during” in introductory provisions, substituted comma for “; or” at end of subcl. (II), and inserted concluding provisions.

Subsec. (c)(1)(D) to (H). Pub. L. 110-84, §302(b)(1), redesignated subpars. (E) to (H) as (D) to (G), respectively, and struck out former subpar. (D) which read as follows: “Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 1078-9 of this title shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.”

Subsec. (c)(6)(A)(ii). Pub. L. 110-84, §301, amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “an amount equal to 24 percent of such payments for use in accordance with section 1072b of this title, except that, beginning on October 1, 2003, this subparagraph shall be applied by substituting ‘23 percent’ for ‘24 percent.’”

2006—Subsec. (a)(3)(A)(v)(III). Pub. L. 109-171, §8014(j)(1), added subcl. (III).

Subsec. (a)(5). Pub. L. 109-171, §8004(b)(2), substituted “2012” and “2016” for “2004” and “2008”, respectively.

Subsec. (b)(1)(A)(i)(I). Pub. L. 109-171, §8005(b)(1), substituted “\$3,500” for “\$2,625”.

Subsec. (b)(1)(A)(ii)(I). Pub. L. 109-171, §8005(b)(2), substituted “\$4,500” for “\$3,500”.

Subsec. (b)(1)(G). Pub. L. 109-171, §8014(a)(1), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: “insures 98 percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087-2(q) of this title;”.

Subsec. (b)(1)(H). Pub. L. 109-171, § 8014(b)(1), amended subpar. (H) generally. Prior to amendment, subpar. (H) read as follows: “provides for collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders.”

Subsec. (b)(1)(M)(iii), (iv). Pub. L. 109-171, § 8007(a), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (b)(1)(N)(ii), (iii). Pub. L. 109-171, § 8008(a), added cl. (ii) and (iii) and struck out former cl. (ii), which read as follows: “in the case of a 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 or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney.”

Subsec. (b)(7)(A). Pub. L. 109-171, § 8009(b)(1), substituted “shall begin the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).” for “shall begin—

“(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

“(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.”

Subsec. (c)(1)(A). Pub. L. 109-171, § 8014(j)(2), substituted “30 days” for “45 days” in last sentence.

Subsec. (c)(1)(G), (H). Pub. L. 109-171, § 8014(c)(1), added subpar. (G) and redesignated former subpar. (G) as (H) and realigned margin.

Subsec. (c)(2)(A). Pub. L. 109-171, § 8014(d)(1), inserted “(i)” after “including” and added cl. (ii) before semicolon at end.

Subsec. (c)(2)(D). Pub. L. 109-171, § 8014(d)(2), substituted “paragraph (6)(A)” for “paragraph (6)”.

Subsec. (c)(3)(A)(i). Pub. L. 109-171, § 8014(e)(1), in introductory provisions, struck out “in writing” after “on terms agreed to” and inserted “and documented in accordance with paragraph (10)” after “approval of the insurer”.

Subsec. (c)(6). Pub. L. 109-171, § 8014(d)(3), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cl. (i) and (ii), respectively, of subpar. (A), and added subpars. (B) and (C).

Subsec. (c)(10). Pub. L. 109-171, § 8014(e)(2), added par. (10).

Subsec. (i)(1). Pub. L. 109-171, § 8014(j)(3), substituted “10 days” for “21 days” in third sentence.

2002—Subsec. (c)(3)(A)(i)(IV). Pub. L. 107-314, § 651(b)(1)(A), added subcl. (IV).

Subsec. (c)(3)(A)(ii)(II). Pub. L. 107-314, § 651(b)(1)(B), inserted “or (IV)” after “(i)(II)”.

Subsec. (c)(3)(C). Pub. L. 107-314, § 651(b)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: “shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and”.

Subsec. (o). Pub. L. 107-314, § 651(b)(2), added subsec. (o).

1998—Subsec. (a)(2)(A)(i). Pub. L. 105-244, § 417(a)(1)(A), added subcls. (I) and (II) and struck out former subcls. (I) to (III) which read as follows:

“(I) sets forth such student’s estimated cost of attendance (as determined under section 1087ll of this title);

“(II) sets forth such student’s estimated financial assistance; and

“(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078-7 of this title;”.

Subsec. (a)(2)(B). Pub. L. 105-244, § 417(a)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part F of this subchapter) and the amount of such need, subject to the provisions of subparagraph (D).”

Subsec. (a)(2)(C). Pub. L. 105-244, § 417(a)(1)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “For the purpose of paragraph (1) and this paragraph—

“(i) a student’s estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and parts C and E, and any veterans’ education benefits paid because of enrollment in a postsecondary education institution, including veterans’ education benefits (as defined in section 1087vv(c) of this title), plus other scholarship, grant, or loan assistance; and

“(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.”

Subsec. (a)(2)(F). Pub. L. 105-244, § 417(a)(1)(D), struck out subpar. (F) which read as follows: “Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student’s determination of need (as determined under part F of this subchapter), if the reason for such action is documented and provided in written form to each student so affected.”

Subsec. (a)(5). Pub. L. 105-244, § 417(a)(2), substituted “September 30, 2004” for “September 30, 2002” and “September 30, 2008” for “September 30, 2006”.

Subsec. (b)(1)(A). Pub. L. 105-244, § 417(b)(1)(A), inserted “, as defined in section 1088(a)(2) of this title,” after “academic year” in introductory provisions.

Subsec. (b)(1)(A)(i)(I). Pub. L. 105-244, § 417(b)(1)(B)(i), substituted “length; and” for “length (as determined under section 1088 of this title)”;”.

Subsec. (b)(1)(A)(i)(II). (III). Pub. L. 105-244, § 417(b)(1)(B)(ii), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

“(II) \$1,750, if such student is enrolled in a program whose length is less than one academic year, but at least $\frac{2}{3}$ of such an academic year; and

“(III) \$875, if such student is enrolled in a program whose length is less than $\frac{2}{3}$, but at least $\frac{1}{3}$, of such an academic year;”.

Subsec. (b)(1)(A)(vi). Pub. L. 105-244, § 417(b)(1)(C)-(E), added cl. (vi).

Subsec. (b)(1)(D)(ii). Pub. L. 105-244, § 417(b)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the repayment period of any insured loan may not exceed 10 years, and”.

Subsec. (b)(1)(E). Pub. L. 105-244, § 417(b)(3), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

“(i) not more than 6 months prior to the date on which the borrower’s first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078-1 of this title, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

“(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the stu-

dent, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;”.

Subsec. (b)(1)(G). Pub. L. 105-244, §417(b)(4), struck out “not less than” after “insures”.

Subsec. (b)(1)(L)(i). Pub. L. 105-244, §417(b)(5), inserted “except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A),” before “during any” and “, notwithstanding any payment plan under paragraph (9)(A)” after “due and payable”.

Subsec. (b)(1)(M)(i)(I). Pub. L. 105-244, §417(b)(6)(A), inserted before semicolon “, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter in order to be eligible to receive a deferment under this clause”.

Subsec. (b)(1)(M)(ii). Pub. L. 105-244, §417(b)(6)(B), inserted before semicolon “, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause”.

Subsec. (b)(1)(U)(i)(I), (ii). Pub. L. 105-244, §417(b)(7)(A), substituted “emergency action,” for “emergency action,,”.

Subsec. (b)(1)(U)(ii)(I). Pub. L. 105-244, §417(b)(7)(B), inserted “that originates or holds more than \$5,000,000 in loans made under this subchapter for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause),” before “at least once a year”.

Subsec. (b)(1)(X). Pub. L. 105-244, §417(b)(8)(B)(i), substituted “subsection (c)(9)” for “subsection (c)(10)”.

Subsec. (b)(1)(Y). Pub. L. 105-244, §417(b)(8)(A), (B)(ii), (C), added subpar. (Y).

Subsec. (b)(3). Pub. L. 105-244, §417(b)(9)(B), inserted concluding provisions.

Subsec. (b)(3)(C). Pub. L. 105-244, §417(b)(9)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: “conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or”.

Subsec. (b)(7)(D). Pub. L. 105-244, §417(b)(10), added subpar. (D).

Subsec. (b)(9). Pub. L. 105-244, §417(b)(11), added par. (9).

Subsec. (c)(1)(A). Pub. L. 105-244, §417(c)(1)(A)(i), substituted “95 percent” for “98 percent”.

Subsec. (c)(1)(B)(i). Pub. L. 105-244, §417(c)(1)(A)(ii), substituted “85 percent” for “88 percent”.

Subsec. (c)(1)(B)(ii). Pub. L. 105-244, §417(c)(1)(A)(iii), substituted “75 percent” for “78 percent”.

Subsec. (c)(1)(E)(i). Pub. L. 105-244, §417(c)(1)(A)(iv)(I), substituted “95 percent” for “98 percent”.

Subsec. (c)(1)(E)(ii). Pub. L. 105-244, §417(c)(1)(A)(iv)(II), substituted “85 percent” for “88 percent”.

Subsec. (c)(1)(E)(iii). Pub. L. 105-244, §417(c)(1)(A)(iv)(III), substituted “75 percent” for “78 percent”.

Subsec. (c)(1)(F)(i). Pub. L. 105-244, §417(c)(1)(A)(v)(I), substituted “95 percent” for “98 percent”.

Subsec. (c)(1)(F)(ii). Pub. L. 105-244, §417(c)(1)(A)(v)(II), substituted “85 percent” for “88 percent”.

Subsec. (c)(1)(F)(iii). Pub. L. 105-244, §417(c)(1)(A)(v)(III), substituted “75 percent” for “78 percent”.

Subsec. (c)(2)(A). Pub. L. 105-244, §417(c)(2)(A), substituted “proof that the institution was contacted and other reasonable attempts were made” for “proof that reasonable attempts were made”.

Subsec. (c)(2)(G). Pub. L. 105-244, §417(c)(2)(B), substituted “certifies to the Secretary that diligent attempts, including contact with the institution, have been made” for “certifies to the Secretary that diligent attempts have been made”.

Subsec. (c)(2)(H)(ii). Pub. L. 105-244, §417(c)(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the guaranty agency may require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and”.

Subsec. (c)(3)(A)(i). Pub. L. 105-244, §417(c)(4)(A), struck out “written” before “request” in introductory provisions.

Subsec. (c)(3)(D). Pub. L. 105-244, §417(c)(4)(B)-(D), added subpar. (D).

Subsec. (c)(6). Pub. L. 105-244, §417(c)(5), amended heading and text of par. (6) generally, revising and restating provisions relating to Secretary’s equitable share.

Subsec. (c)(8). Pub. L. 105-244, §417(c)(6), redesignated subpar. (A) as entire par. and struck out subpar. (B) which read as follows: “An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this subchapter shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary’s request.”

Subsec. (c)(9)(A). Pub. L. 105-244, §417(c)(7)(A), substituted “maintain in the agency’s Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent” for “maintain a current minimum reserve level of at least .5 percent”.

Subsec. (c)(9)(C). Pub. L. 105-244, §417(c)(7)(B), substituted “85 percent pursuant to paragraph (1)(B)(i)” for “80 percent pursuant to subsection (c)(1)(B)(ii) of this section”, struck out “, as appropriate,” after “Secretary shall require”, and substituted “45 working days” for “30 working days”.

Subsec. (c)(9)(E)(iv). Pub. L. 105-244, §417(c)(7)(C)(i), inserted “or” at end.

Subsec. (c)(9)(E)(v). Pub. L. 105-244, §417(c)(7)(C)(ii), substituted a period for “; or” at end.

Subsec. (c)(9)(E)(vi). Pub. L. 105-244, §417(c)(7)(C)(iii), struck out cl. (vi) which read as follows: “the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this subchapter.”

Subsec. (c)(9)(F)(vii). Pub. L. 105-244, §417(c)(7)(D), substituted “and to avoid disruption of the student loan program.” for “to avoid disruption of the student loan program, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.”

Subsec. (c)(9)(I). Pub. L. 105-244, §417(c)(7)(E), inserted “that, if commenced after September 24, 1998, shall be on the record” after “for a hearing”.

Subsec. (c)(9)(K). Pub. L. 105-244, §417(c)(7)(F), substituted “and the Workforce” for “and Labor” and struck out “and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this subchapter” after “guaranty agency system”.

Subsec. (e). Pub. L. 105-244, §417(d), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to payments for lender referral services.

Subsec. (f). Pub. L. 105-244, §417(e), amended heading and text of subsec. (f) generally. Prior to amendment, subsec. (f) authorized the Secretary to make payments to guaranty agencies for fiscal years prior to fiscal year 1994 for certain administrative and other costs and provided for applications for such payments.

Subsec. (g). Pub. L. 105-244, §417(f), substituted “and the Workforce” for “and Labor” in concluding provisions.

Subsec. (j)(3). Pub. L. 105-244, §417(g)(1), struck out “during transition to direct lending” after “services” in heading.

Subsec. (j)(3)(A). Pub. L. 105-244, §417(g)(2), struck out “during the transition from the Federal Family Education Loan Program under this part to the Federal Di-

rect Student Loan Program under part D of this subchapter" after "loan capital" and inserted "designated for a State" after "a guaranty agency" and "subparagraph (C) and" after "funds in accordance with".

Subsec. (j)(3)(C). Pub. L. 105-244, § 417(g)(3), added subpar. (C).

Subsec. (l). Pub. L. 105-244, § 417(h), amended heading and text of subsec. (l) generally. Prior to amendment, text read as follows:

"(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I) of this section) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C) of this section) with respect to each loan covered by such agreement.

"(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C) of this section) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan."

Subsec. (m)(1). Pub. L. 105-244, § 417(i), substituted "may require borrowers" for "shall require at least 10 percent of the borrowers".

Subsec. (n). Pub. L. 105-244, § 417(k), added subsec. (n).

Pub. L. 105-244, § 417(j), struck out heading and text of subsec. (n) which related to State share of default costs.

1997—Subsec. (a)(5). Pub. L. 105-33, § 6104(2), substituted "September 30, 2002," for "September 30, 1998," and "September 30, 2006." for "September 30, 2002."

Subsec. (c)(9)(A). Pub. L. 105-33, § 6101(b), struck out "for the fiscal year of the agency that begins in 1993" after "loans guaranteed by such agency" and struck out at end "The minimum reserve level shall increase to—

"(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

"(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

"(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996."

1994—Subsec. (c)(1)(G). Pub. L. 103-382 added subpar. (G).

1993—Subsec. (a)(2)(C)(i). Pub. L. 103-208, § 2(c)(11), substituted ";" and" for period at end.

Subsec. (a)(2)(E). Pub. L. 103-208, § 2(c)(12), inserted "or 1078-8" after "1078-1".

Subsec. (b)(1)(A)(ii), (iii). Pub. L. 103-208, § 2(c)(13)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

"(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

"(I) \$3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

"(II) \$2,325, if such student is enrolled in a program whose length is less than one academic year, but at least $\frac{2}{3}$ of such academic year; and

"(III) \$1,175, if such student is enrolled in a program whose length is less than $\frac{2}{3}$, but at least $\frac{1}{3}$, of such academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) \$5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

"(II) \$3,675, if such student is enrolled in a program whose length is less than one academic year, but at least $\frac{2}{3}$ of such an academic year; and

"(III) \$1,825, if such student is enrolled in a program whose length is less than $\frac{2}{3}$, but at least $\frac{1}{3}$, of such an academic year; and".

Subsec. (b)(1)(A)(iv), (v). Pub. L. 103-208, § 2(c)(13)(B), (C), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(1)(B). Pub. L. 103-208, § 2(c)(14), substituted a semicolon for period at end of closing provisions.

Subsec. (b)(1)(D). Pub. L. 103-66, § 4043(a)(1), substituted "be subject to income contingent repayment in accordance with subsection (m);" for "be subject to repayment in accordance with the regulations required by subsection (m) if the Secretary has published the finding required by paragraph (2) of such subsection;".

Subsec. (b)(1)(G). Pub. L. 103-66, § 4108(b), substituted "98 percent" for "100 percent" and inserted before semicolon at end "", except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087-2(q) of this title".

Subsec. (b)(1)(H). Pub. L. 103-66, § 4102(c), substituted "1.0 percent" for "3 percent".

Subsec. (b)(1)(N). Pub. L. 103-208, § 2(c)(15), amended subpar. (N) generally. Prior to amendment, subpar. (N) read as follows: "provides that 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 except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the 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;".

Subsec. (b)(1)(U). Pub. L. 103-208, § 2(c)(16), inserted a comma after "emergency action" in two places and substituted "this clause" for "this clause;" at end.

Subsec. (b)(1)(V). Pub. L. 103-208, § 2(c)(17), redesignated subpar. (X) as (V) and struck out former subpar. (V) which related to procedure and requirements for granting a forbearance while a borrower is enrolled in a medical or dental internship or residency program. See Codification note above.

Subsec. (b)(1)(W). Pub. L. 103-208, § 2(c)(17), redesignated subpar. (Y) as (W) and struck out former subpar. (W) which read as follows:

"(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

"(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;". See Codification note above.

Pub. L. 103-82, § 102(c)(1)(A), added subpar. (W) and redesignated former subpar. (W) as (X).

Subsec. (b)(1)(X). Pub. L. 103-208, § 2(c)(17)(B), redesignated subpar. (Z) as (X). Former subpar. (X) redesignated (V). See Codification note above.

Pub. L. 103-82, § 102(c)(1)(A)(i), redesignated subpar. (W) as (X). Former subpar. (X) redesignated (Y).

Subsec. (b)(1)(Y). Pub. L. 103-208, § 2(c)(17)(B), redesignated subpar. (Y) as (W). See Codification note above.

Pub. L. 103-82, § 102(c)(1)(A)(i), redesignated subpar. (X) as (Y). Former subpar. (Y) redesignated (Z).

Subsec. (b)(1)(Z). Pub. L. 103-208, § 2(c)(17)(B), redesignated subpar. (Z) as (X). See Codification note above.

Pub. L. 103-82, §102(c)(1)(A)(i), redesignated subpar. (Y) as (Z).

Subsec. (b)(2)(F)(i). Pub. L. 103-208, §2(c)(18), substituted “either jointly or separately to provide a notice” for “each to provide a separate notice”.

Subsec. (b)(2)(F)(ii). Pub. L. 103-208, §2(c)(19)-(21), substituted “transferee” for “transferor” in introductory provisions, struck out “to another holder” after “the loan” in subcl. (I), and substituted “the new” for “such other” in subcl. (II).

Subsec. (b)(7). Pub. L. 103-208, §2(c)(22), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

“(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall begin on the day immediately following the expiration of the 6-month period after the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

“(B) In the case of a loan made under section 1078-1 or 1078-8 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

“(C) In the case of a loan made under section 1078-2 or 1078-3 of this title, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance.”

Subsec. (b)(8). Pub. L. 103-208, §2(c)(23), added par. (8).

Subsec. (c)(1)(A). Pub. L. 103-208, §2(c)(24), substituted last sentence for former last sentence which read as follows: “In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon, or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.”

Pub. L. 103-66, §4108(a)(1), substituted “98 percent” for “100 percent” in fourth sentence.

Subsec. (c)(1)(B), (E), (F). Pub. L. 103-66, §4108(a)(2)-(4), in subpar. (B), substituted “88 percent” for “90 percent” in cl. (i) and “78 percent” for “80 percent” in cl. (ii), and added subpars. (E) and (F).

Subsec. (c)(2)(G). Pub. L. 103-208, §2(c)(25), substituted “certifies” for “demonstrates” before “to the Secretary”.

Subsec. (c)(3)(A). Pub. L. 103-208, §2(c)(26), added subpar. (A) and struck out former subpar. (A) which read as follows: “shall contain provisions providing for forbearance in accordance with subparagraphs (V) and (W) of subsection (b)(1) of this section for the benefit of the student borrower serving in a medical or dental internship or residency program;”. See Codification note above.

Pub. L. 103-82, §102(c)(1)(B), substituted “subparagraphs (V) and (W) of subsection (b)(1)” for “subsection (b)(1)(V)”.

Subsec. (c)(6)(A)(ii). Pub. L. 103-66, §4110(a), substituted “27 percent” for “30 percent”.

Subsec. (c)(8). Pub. L. 103-66, §4044, designated existing provisions as subpar. (A), struck out second and third sentences, and added subpar. (B). Prior to amendment, second and third sentences read as follows: “Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such agency has made adequate collections efforts. In determining whether a guaranty agency’s collection efforts have met such criteria, the Secretary shall consider the agency’s record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.”

Subsec. (c)(9). Pub. L. 103-66, §4107(a), redesignated par. (10) as (9) and struck out former par. (9) which required guaranty agencies to pay reinsurance fees to the Secretary.

Subsec. (c)(10). Pub. L. 103-66, §4107(a)(2), redesignated par. (10) as (9).

Subsec. (c)(10)(C). Pub. L. 103-66, §4045(1), inserted “, as appropriate,” after “the Secretary shall require”.

Subsec. (c)(10)(D). Pub. L. 103-66, §4045(2), designated existing provisions as cl. (i), substituted “If the Secretary is not seeking to terminate the guaranty agency’s agreement under subparagraph (E), or assuming the guaranty agency’s functions under subparagraph (F), a” for “Each”, and added cl. (ii).

Subsec. (c)(10)(E)(iv) to (vi). Pub. L. 103-66, §4045(3), added cl. (iv) to (vi).

Subsec. (c)(10)(F). Pub. L. 103-66, §4045(4)(A), substituted “If a guaranty” for “Except as provided in subparagraph (G), if a guaranty”.

Subsec. (c)(10)(F)(v). Pub. L. 103-66, §4045(4)(B), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds, as determined appropriate by the Secretary; or”.

Subsec. (c)(10)(F)(vi), (vii). Pub. L. 103-66, §4045(4)(C), (D), in cl. (vi), substituted “to avoid” for “and to avoid” before “disruption of the student” and inserted before period at end “, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this subchapter”, redesignated cl. (vi) as (vii), and added new cl. (vi).

Subsec. (c)(10)(G). Pub. L. 103-66, §4045(5), (7), added subpar. (G) and struck out former subpar. (G) which read as follows: “The Secretary may not take any action under subparagraph (E) or (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.”

Subsec. (c)(10)(H) to (J). Pub. L. 103-66, §4045(6), (7), added subpar. (H) and redesignated former subpars. (H) and (I) as (I) and (J), respectively. Former subpar. (J) redesignated (K).

Subsec. (c)(10)(K). Pub. L. 103-66, §4045(6), (8), redesignated subpar. (J) as (K) and substituted “system and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this subchapter.” for “system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system.”

Subsec. (e)(1). Pub. L. 103-66, §4041(b)(1), amended heading, designated existing provisions as subpar. (A) and substituted “with which the Secretary has an agreement under subparagraph (B)” for “in any State”, and added subpar. (B).

Subsec. (e)(2). Pub. L. 103-66, §4041(b)(2)(A), in introductory provisions, substituted “with which the Secretary has an agreement under paragraph (1)(B)” for “in a State”.

Subsec. (e)(2)(A). Pub. L. 103-208, §2(c)(27), redesignated former cl. (i), subcl. (I) as (i) and former cl. (i), subcl. (II) as (ii) and struck out cl. (i) designation following subpar. (A) designation. See Codification note above.

Pub. L. 103-66, §4041(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and”.

Subsec. (e)(3). Pub. L. 103-66, §4041(b)(3), substituted “From funds available for costs of transition under section 1087h of this title, the” for “The”.

Subsec. (e)(5). Pub. L. 103-66, §4041(b)(4), struck out par. (5) which related to authorization of appropriations.

Subsec. (f)(1)(A). Pub. L. 103-66, §4107(b)(1), substituted “For a fiscal year prior to fiscal year 1994, the Secretary” for “The Secretary”.

Subsec. (f)(1)(B). Pub. L. 103-66, §4107(b)(2), inserted “prior to fiscal year 1994” after “any fiscal year”.

Subsec. (j)(2). Pub. L. 103-208, §2(c)(28), substituted “lender-of-last-resort” for “lender of last resort” in introductory provisions.

Subsec. (j)(2)(A) to (E). Pub. L. 103-66, §4041(a)(2)(B), in subpar. (A) inserted before semicolon “and ensure a response within 60 days after the student’s original complete application is filed under this subsection”, added subpar. (B), and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (j)(3). Pub. L. 103-66, §4041(a)(1), added par. (3) consisting of subpars. (A) and (B), and struck out former par. (3) relating to limitation on lender-of-last-resort program, consisting of subpars. (A) to (C).

Subsec. (l)(2). Pub. L. 103-66, §4112(a), inserted second sentence and struck out former second sentence which read as follows: “Such payments shall be equal to \$50.00 for each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent.”

Subsec. (m). Pub. L. 103-66, §4043(a)(2), amended par. (1) generally, added par. (2), and struck out former pars. (2) to (4). Prior to amendment, former pars. (1) to (4) related to establishment of terms and conditions, collection mechanism, loans for which income contingent repayment is required, and additional authority, respectively.

Subsec. (n). Pub. L. 103-66, §4201(a), added subsec. (n). 1992—Subsec. (a)(2)(C). Pub. L. 102-325, §416(a)(1), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

“(i) a student’s estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 2 of part A of this subchapter, and parts C and E of this subchapter, and any amount paid the student under chapters 32, 34, and 35 of title 38, plus other scholarship, grant, or loan assistance; and

“(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.”

Subsec. (a)(3)(A)(v). Pub. L. 102-325, §416(a)(2), added cl. (v).

Subsec. (a)(5). Pub. L. 102-325, §411(b)(2), substituted “September 30, 1998” for “September 30, 1992” and “September 30, 2002” for “September 30, 1997”.

Subsec. (a)(7). Pub. L. 102-325, §416(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 102-325, §416(b)(1)(A), inserted “or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled” in introductory provisions.

Subsec. (b)(1)(A)(i) to (iv). Pub. L. 102-325, §416(b)(1)(B), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

“(i) \$2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

“(ii) \$4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

“(iii) \$7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);”.

Subsec. (b)(1)(B). Pub. L. 102-325, §416(b)(2), which directed the amendment of subpar. (B) by striking clauses (i) and (ii) and inserting language which contained new cls. (i) and (ii) followed by concluding provisions, was executed by substituting the new cls. (i) and (ii) and concluding provisions for former cls. (i) and (ii) and former concluding provisions to reflect the probable intent of Congress. Prior to amendment, cls. (i) and (ii) and concluding provisions read as follows:

“(i) \$17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078-1 or 1078-2 of this title; and

“(ii) \$54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 1078-1 or 1078-2 of this title; except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.”.

Subsec. (b)(1)(D), (E). Pub. L. 102-325, §416(c)(1), amended subpars. (D) and (E) generally. Prior to amendment, subpars. (D) and (E) read as follows:

“(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

“(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (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 least one-half the normal full-time academic workload as determined by the institution;”.

Subsec. (b)(1)(L)(i). Pub. L. 102-325, §416(d), substituted “(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”.

Subsec. (b)(1)(M). Pub. L. 102-325, §416(e)(1), amended subpar. (M) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (b)(1)(N). Pub. L. 102-325, §416(f), substituted “except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the 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;” for “except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;”.

Subsec. (b)(1)(T). Pub. L. 102-325, §416(g), amended subpar. (T) generally. Prior to amendment, subpar. (T) read as follows: “provides no restrictions with respect to eligible institutions (other than nonresidential correspondence schools) which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

“(i) that institution is ineligible under regulations for the emergency action, limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

“(ii) there is a State constitutional prohibition affecting the eligibility of such an institution;”.

Subsec. (b)(1)(U)(iii). Pub. L. 102-325, §416(h), added cl. (iii).

Subsec. (b)(1)(V). Pub. L. 102-325, §416(i)(4), (5), added cls. (ii) and (iii) and redesignated former cl. (ii) as (iv).

Pub. L. 102-325, §416(i)(3), which directed the amendment of cl. (ii) by substituting a semicolon for a period at end, could not be executed because the period had been stricken by Pub. L. 102-164, §601(b)(2).

Pub. L. 102-325, §416(i)(1), (2), struck out “and” at end of cl. (i) and inserted “or (ii)” after “clause (i)” in two places in cl. (ii).

Subsec. (b)(1)(W) to (Y). Pub. L. 102-325, §416(j), added subpars. (W) to (Y) and struck out former subpars. (W) and (X) which related to credit reports, credit worthy cosigners, and authorizations for entry of judgments against borrowers in the event of default.

Subsec. (b)(2)(C). Pub. L. 102-325, §416(k)(1), substituted “, including financial information, as the Secretary may reasonably require to carry out the Secretary’s functions under this part and protect the financial interest of the United States,” for “, as the Secretary may reasonably require to carry out the Secretary’s functions under this part.”

Subsec. (b)(2)(D)(i). Pub. L. 102-325, §416(k)(2)(A), substituted “on at least an annual basis” for “at least once every 2 years”.

Subsec. (b)(2)(E). Pub. L. 102-325, §416(k)(3), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(F). Pub. L. 102-325, §416(k)(2)(B), (4), added subpar. (F).

Subsec. (b)(3)(B) to (D). Pub. L. 102-325, §416(l), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (b)(4). Pub. L. 102-325, §416(n), inserted at end sentence relating to requests for deferment of repayment by students engaged in fellowship-supported study outside the United States.

Pub. L. 102-325, §416(m), redesignated par. (5) as (4) and struck out former par. (4) which related to targeted teacher deferment rule.

Subsec. (b)(5). Pub. L. 102-325, §416(m)(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 102-325, §416(o), added par. (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 102-325, §416(c)(2), added par. (7).

Subsec. (c)(1)(A). Pub. L. 102-325, §416(p)(1), substituted “, or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.” for period at end.

Subsec. (c)(1)(D). Pub. L. 102-325, §416(p)(2), added subpar. (D).

Subsec. (c)(2). Pub. L. 102-325, §416(p)(3), struck out “and” at end of subpar. (F), added subpars. (G) and (H), and redesignated former subpar. (G) as (I).

Subsec. (c)(3). Pub. L. 102-325, §416(p)(4), added subpar. (C) and concluding provisions and struck out former last sentence which read as follows: “Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.”

Subsec. (c)(7)(A). Pub. L. 102-325, §416(p)(5)(A), substituted “(1)(C)” for “(1)(B)” in introductory provisions and inserted “and ends before October 1, 1991” in cl. (i).

Subsec. (c)(7)(B). Pub. L. 102-325, §416(p)(5)(D), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(7)(C). Pub. L. 102-325, §416(p)(5)(B), (C), redesignated subpar. (B) as (C) and inserted “or (B)” after “(A)”.

Subsec. (c)(8). Pub. L. 102-325, §416(p)(6), inserted provisions at end directing Secretary to develop criteria to determine whether agency has made adequate collection efforts and directing Secretary to consider certain factors in making determination.

Subsec. (c)(10). Pub. L. 102-325, §416(p)(7), added par. (10).

Subsec. (f)(1)(A)(i). Pub. L. 102-325, §416(q)(1), substituted “eligible lender” for “commercial lender”.

Subsec. (f)(1)(C). Pub. L. 102-325, §416(q)(2), added subpar. (C).

Subsec. (j). Pub. L. 102-325, §416(r), designated existing provisions as par. (1), inserted par. heading, and added pars. (2) and (3).

Subsec. (k)(3). Pub. L. 102-325, §416(s), added par. (3). Subsec. (m). Pub. L. 102-325, §416(t), added subsec. (m).

1991—Subsec. (a)(2)(A)(iii). Pub. L. 102-164, §602(b)(1), added cl. (iii). Amendment was executed by striking “and” at end of cl. (i)(III) to reflect the probable intent of Congress notwithstanding directory language directing the striking of “and” at end of cl. (i)(I).

Subsec. (a)(2)(F). Pub. L. 102-26 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part, except that, in individual cases where the institution determines that the portion of the student’s expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement.”

Subsec. (b)(1)(W). Pub. L. 102-164, §601(b), added subpar. (W).

Subsec. (b)(1)(X). Pub. L. 102-164, §604, added subpar. (X).

Subsec. (c)(6)(D). Pub. L. 102-164, §605(b)(2), struck out subpar. (D) which read as follows: “In the case of a State which enacts and enforces a garnishment law that complies with the requirements of section 1078-5 of this title, subparagraph (A)(ii) shall be applied by substituting ‘35 percent’ for ‘30 percent’.”

1990—Subsec. (a)(2)(F). Pub. L. 101-508, §3004(b), inserted before period at end “, except that, in individual cases where the institution determines that the portion of the student’s expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement”.

Subsec. (c)(1)(A). Pub. L. 101-508, §3002(a)(1), struck out before period at end of first sentence “, including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)”.

Subsec. (c)(6)(C). Pub. L. 101-508, §3002(a)(2)-(5), in introductory provisions of cl. (i), substituted “subsection (l) of this section” for “this paragraph”, in cl. (i)(I), substituted “generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990” for “required or permitted under paragraph (2)(A) of this subsection and subsection (f) of this section”, in cl. (ii), substituted “payment under subsection (l) of this section” for “reimbursement” and “described in division (i)(I) of this subparagraph” for “which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f) of this section”, and in cl. (iv), struck out first sentence which read as follows: “The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or \$100, whichever is less.”

Subsec. (l). Pub. L. 101-508, §3002(b), added subsec. (l).

1989—Subsec. (a)(2)(A)(i)(III). Pub. L. 101-239, §2004(b)(1), added subcl. (III).

Subsec. (b)(1)(M)(i). Pub. L. 101-239, §2002(a)(2), inserted before semicolon at end “, except that no borrower shall be eligible for a deferment under this clause, or 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. (b)(1)(O). Pub. L. 101-239, §2004(b)(3), amended subpar. (O) generally, substituting requirement that student loans be disbursed in accordance with section

1078–7 of this title for provisions requiring that certain loans be disbursed directly by lender in 2 or more installments, none exceeding more than one-half of the loan, or in installments pursuant to escrow provisions in subsec. (i).

Subsec. (b)(1)(T)(i). Pub. L. 101–239, § 2006(b)(1), inserted “emergency action,” after “regulations for the”.

Subsec. (b)(1)(U). Pub. L. 101–239, § 2006(b), in cl. (i) inserted “emergency action,” after “regulations for the”, and in cl. (ii) inserted “take emergency action,” after “such program to”.

Subsec. (b)(1)(V). Pub. L. 101–239, § 2002(b)(1)(A), added subpar. (V).

Subsec. (c)(3). Pub. L. 101–239, § 2002(b)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.”

1988—Subsec. (b)(1)(M)(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. (b)(1)(M)(vii). Pub. L. 100–369, § 11(a), inserted “after January 1, 1986,” after “service”.

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

1987—Subsec. (a)(2)(D). Pub. L. 100–50, § 10(e), substituted “certifies the eligibility of any student” for “permits the student”.

Subsec. (b)(1)(A)(i). Pub. L. 100–50, § 10(f)(1), substituted “first and” for “first or”.

Subsec. (b)(1)(B)(i). Pub. L. 100–50, § 10(a)(1), inserted “, excluding loans made under section 1078–1 or 1078–2 of this title” after “undergraduate education”.

Subsec. (b)(1)(B)(ii). Pub. L. 100–50, § 10(a)(2), inserted “, excluding loans made under section 1078–1 or 1078–2 of this title” after “graduate or professional student”.

Subsec. (b)(1)(M)(vi). Pub. L. 100–50, § 10(b)(1), inserted “nonprofit” before “private”.

Subsec. (b)(1)(M)(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. (b)(1)(N). Pub. L. 100–50, § 10(f)(2), inserted “and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student” before semicolon at end.

Subsec. (b)(1)(O). Pub. L. 100–50, § 10(c), substituted “\$1,000 or more” for “more than \$1,000”.

Subsec. (b)(1)(O)(i). Pub. L. 100–50, § 10(f)(3), substituted “being disbursed” for “being dispensed”.

Subsec. (b)(1)(P). Pub. L. 100–50, § 10(f)(4), added subpar. (P) and struck out former subpar. (P) which read as follows: “requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;”.

Subsec. (b)(1)(T). Pub. L. 100–50, § 10(f)(5), inserted “(other than nonresidential correspondence schools)” after “eligible institutions”.

Subsec. (b)(5). Pub. L. 100–50, § 10(g), substituted “paragraph (1)(M)(i)(III)” for “paragraph (1)(M)”.

Subsec. (b)(6)(A). Pub. L. 100–50, § 10(h)(1), substituted “Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section” for “Prior to the implementation of section 1092b of this title”.

Subsec. (b)(6)(B)(ii). Pub. L. 100–50, § 10(h)(2), added cl. (ii) and struck out former cl. (ii) which read as follows:

“the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower.”

Subsec. (c)(1)(A). Pub. L. 100–203, § 3002(b)(1), substituted “shall be deemed” for “shall, subject to section 1072(e) of this title, be deemed”.

Pub. L. 100–203, § 3001(b)(1), substituted “shall, subject to section 1072(e) of this title, be deemed” for “shall be deemed”.

Subsec. (c)(6)(C)(iv). Pub. L. 100–50, § 10(i), inserted at end “In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.”

Subsec. (c)(6)(D). Pub. L. 100–50, § 10(j), inserted “and enforces” after “enacts”.

Subsec. (c)(9)(A). Pub. L. 100–203, § 3002(b)(2), substituted “an amount equal to” for “an amount, subject to section 1072(e) of this title, equal to” in introductory provisions.

Pub. L. 100–203, § 3001(b)(2), substituted “an amount, subject to section 1072(e) of this title, equal to” for “an amount equal to” in introductory provisions.

Subsec. (c)(9)(A)(i), (ii). Pub. L. 100–50, § 10(k)(1), inserted “covered” before “loans”.

Subsec. (c)(9)(D). Pub. L. 100–50, § 10(k)(2), added subpar. (D).

Subsec. (f)(1)(B). Pub. L. 100–203, § 3002(b)(3), substituted “shall be deemed” for “shall, subject to section 1072(e) of this title, be deemed”.

Pub. L. 100–203, § 3001(b)(3), substituted “shall, subject to section 1072(e) of this title, be deemed” for “shall be deemed”.

Subsec. (i)(1). Pub. L. 100–50, § 10(l), struck out “multiple” after “authorizing” and substituted “21 days” for “45 days”.

Subsec. (j). Pub. L. 100–50, § 10(m), inserted provision at end that the guaranty agency consider the request of an eligible lender to serve as the lender-of-last-resort pursuant to this subsection.

Subsec. (k)(1). Pub. L. 100–203, § 3003, substituted “Notwithstanding any other provision of law, in” for “In”, “guaranty agency shall” for “guaranty agency may”, and “subsection shall include” for “subsection may include”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–260 effective July 1, 2024, except as otherwise expressly provided, and applicable with respect to award year 2024–2025 and each subsequent award year, as determined under this chapter, see section 701(b) of Pub. L. 116–260, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–245 applicable with respect to loans made on or after Sept. 28, 2018, or in repayment on Sept. 28, 2018, see section 309(f) of Pub. L. 115–245, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–74, div. F, title III, § 309(d)(2), Dec. 23, 2011, 125 Stat. 1101, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to new Federal Direct Stafford Loans made on or after July 1, 2012 and before July 1, 2014.”

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(a)(2), July 1, 2009, 123 Stat. 1940, provided that: “The amendment made by

paragraph (1) [amending this section] shall be effective as if enacted as part of the amendment in [former] section 303(a) of the College Cost Reduction and Access Act (Public Law 110-84) [amending this section], shall take effect on October 1, 2012, and shall apply with respect to loans made on or after such date.”

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-315, title IV, § 422(a)(2), Aug. 14, 2008, 122 Stat. 3228, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on July 1, 2010.”

Pub. L. 110-315, title IV, § 422(g)(3), Aug. 14, 2008, 122 Stat. 3231, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on the date of enactment of this Act [Aug. 14, 2008], and the amendment made by paragraph (2) [amending section 1087-1 of this title] shall take effect for loans for which the first disbursement is made on or after July 1, 2008.”

Pub. L. 110-315, title IV, § 424(c), Aug. 14, 2008, 122 Stat. 3233, provided that: “The amendments made by this section [amending this section and section 1078-2 of this title] shall take effect for loans for which the first disbursement is made on or after July 1, 2008.”

Pub. L. 110-227, §3(c), May 7, 2008, 122 Stat. 742, provided that: “The amendments made by this section [amending this section and section 1078-2 of this title] shall be effective for loans first disbursed on or after July 1, 2008.”

Pub. L. 110-227, §5(b), May 7, 2008, 122 Stat. 746, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [May 7, 2008].”

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by sections 202(a), (d) and 301 of Pub. L. 110-84 effective Oct. 1, 2007, see section 1(c) of Pub. L. 110-84, set out as a note under section 1070a of this title.

Pub. L. 110-84, title III, §302(c), Sept. 27, 2007, 121 Stat. 796, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1087-1 of this title and repealing section 1078-9 of this title] shall be effective on October 1, 2007, except that section 428I of the Higher Education Act of 1965 [20 U.S.C. 1078-9] (as in effect on the day before the date of enactment of this Act [Sept. 27, 2007]) shall apply to eligible lenders that received a designation under subsection (a) of such section prior to October 1, 2007, for the remainder of the year for which the designation was made.”

Pub. L. 110-84, title III, §303(b), Sept. 27, 2007, 121 Stat. 797, which provided that amendment by former section 303(a) of Pub. L. 110-84 (amending this section) would be effective on Oct. 1, 2012, and applicable with respect to loans made on or after such date, was repealed by Pub. L. 111-152, title II, §2204(b), Mar. 30, 2010, 124 Stat. 1075.

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.

Amendment by section 8005(b) of Pub. L. 109-171 effective July 1, 2007, see section 8005(e) of Pub. L. 109-171, set out as a note under section 1075 of this title.

Pub. L. 109-171, title VIII, §8007(f), Feb. 8, 2006, 120 Stat. 161, as amended by Pub. L. 110-84, title II, §202(d), Sept. 27, 2007, 121 Stat. 792, provided that: “The amendments made by this section [amending this section and sections 1087e, 1087dd, and 1088 of this title] shall apply with respect to all loans under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.].”

Pub. L. 109-171, title VIII, §8014(a)(2), Feb. 8, 2006, 120 Stat. 168, provided that: “The amendment made by this subsection [amending this section] shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.”

Pub. L. 109-171, title VIII, §8014(c)(2), Feb. 8, 2006, 120 Stat. 170, provided that: “The amendments made by this subsection [amending this section] shall apply with respect to loans for which the first disbursement of principal is made on or after July 1, 2006.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-314 applicable with respect to interest, and any special allowance under section 1087-1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107-314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 417(a), (b), (c)(2)-(k) 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.

Pub. L. 105-244, title IV, §417(e)(1)(B), Oct. 7, 1998, 112 Stat. 1687, provided that: “The amendments made by subparagraph (A) of this paragraph [amending this section] apply to loans for which the first disbursement is made on or after October 1, 1998.”

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-382, title III, §355(b), Oct. 20, 1994, 108 Stat. 3967, provided that: “Subsection (a) [amending this section] and the amendment made by subsection (a) shall take effect on August 10, 1993.”

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(11), (12), (14)-(17), (22)-(28) of Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, amendment by section 2(c)(13)(A) of Pub. L. 103-208 effective on and after July 1, 1994, amendment by section 2(c)(13)(B), (C) and (18) of Pub. L. 103-208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(19)-(21) of Pub. L. 103-208 effective on and after 30 days after Dec. 20, 1993, see section 5(a), (b)(2), (3), (6) of Pub. L. 103-208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 123 of Pub. L. 103-82, set out as a note under section 1701 of Title 16, Conservation.

Pub. L. 103-66, title IV, §4043(b), Aug. 10, 1993, 107 Stat. 358, provided that: “The amendments made by this section [amending this section] shall take effect on July 1, 1994.”

Pub. L. 103-66, title IV, §4102(d), Aug. 10, 1993, 107 Stat. 367, provided that: “The amendments made by this section [amending this section and sections 1078-8 and 1087-1 of this title] shall take effect on July 1, 1994.”

Pub. L. 103-66, title IV, §4107(c), Aug. 10, 1993, 107 Stat. 369, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1993.”

Pub. L. 103-66, title IV, §4108(c), Aug. 10, 1993, 107 Stat. 369, provided that: “The amendments made by this section [amending this section] shall apply to any loan for which the first disbursement is made on or after October 1, 1993.”

Pub. L. 103-66, title IV, §4110(b), Aug. 10, 1993, 107 Stat. 370, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993.”

Pub. L. 103-66, title IV, §4112(b), Aug. 10, 1993, 107 Stat. 370, provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1993.”

Pub. L. 103-66, title IV, §4201(b), Aug. 10, 1993, 107 Stat. 371, provided that: “The amendment made by this section [amending this section] shall take effect on October 1, 1994.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-325, title IV, § 432, July 23, 1992, 106 Stat. 562, as amended by Pub. L. 103-208, § 2(k)(5), Dec. 20, 1993, 107 Stat. 2486, provided that:

“(a) IN GENERAL.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendments made by this part [part B (§§ 411-432) of title IV of Pub. L. 102-325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

“(1) as otherwise provided in such part B;

“(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b) [20 U.S.C. 1075(a), 1078(b)(1)(A), (B), 1078-1(b), 1078-2(b)], relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

“(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

“(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

“(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1) [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M), 1078-2(d)(1)], relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

“(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

“(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(B)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

“(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

“(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

“(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

“(9) that the changes made in section 428B(a) [20 U.S.C. 1078-2(a)] with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

“(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

“(11) that the changes made in section 428C [20 U.S.C. 1078-3], relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

“(12) that section 428H [20 U.S.C. 1078-8] as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

“(13) that the changes made in section 438 [20 U.S.C. 1087-1] shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

“(14) that the changes in section 439(d)(1) [20 U.S.C. 1087-2(d)(1)], relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

“(15) that the changes in the designation or names of loans or programs under part B is [sic] effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

“(b) NEW BORROWERS.—For purposes of the section, the term ‘new borrower’ means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 2002(a)(2) of Pub. L. 101-239 applicable to any loan made, insured, or guaranteed under this part or part E of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101-239, set out as a note under section 1077 of this title.

Pub. L. 101-239, title II, § 2002(b)(2), Dec. 19, 1989, 103 Stat. 2112, provided that: “The amendments made by this subsection [amending this section] shall apply with respect to loans made before, on, or after the date of enactment of this Act (Dec. 19, 1989).”

Amendment by section 2004(b)(1), (3) of Pub. L. 101-239 applicable with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101-239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 11(a) of Pub. L. 100-369 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 a note under section 1077 of this title.

Amendment by section 5(b)(2) 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 AMENDMENTS

Pub. L. 100-203, title III, § 3002(b)(1)-(3), Dec. 22, 1987, 101 Stat. 1330-38, provided in part that the amendments by section 3002(b)(1)-(3) of Pub. L. 100-203 are effective Sept. 30, 1989.

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 under section 1077 of this title.

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, 1987, with subsection (b)(1)(M) (except cl. (viii), (ix), and (x)) applicable 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, subsection (b)(1)(A) and (B) applicable with respect only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, and subsection (b)(1)(H) applicable with respect only to loans for which the borrower files an application 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.

CONSTRUCTION OF 2006 AMENDMENT

Pub. L. 109-171, title VIII, § 8007(e), Feb. 8, 2006, 120 Stat. 161, provided that: “Nothing in the amendments

made by this section [amending this section and sections 1087e, 1087dd, and 1088 of this title] shall be construed to authorize any refunding of any repayment of a loan.”

REVIEW OF INDUCEMENTS LIMITATIONS

Pub. L. 110-227, §5(c), May 7, 2008, 122 Stat. 746, provided that: “Within 90 days after the date of enactment of this Act [May 7, 2008], the Secretary of Education shall review, and as necessary revise, the Department of Education’s regulations concerning prohibited guaranty agency inducements to eligible lenders (34 CFR 682.401(e)) to ensure that such agencies do not engage in improper inducements in the expansion of operations of the lender-of-last-resort program as authorized by the amendments made by this section [amending this section]. The Secretary shall submit a report on the review and revision required by this subsection to the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 180 days after such date of enactment.”

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIODS OF INSTRUCTION BEGINNING AFTER JUNE 30, 1983

Pub. L. 97-301, §9, Oct. 13, 1982, 96 Stat. 1403, as amended by Pub. L. 98-79, §4(b), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98-511, title VII, §707(7), (8), Oct. 19, 1984, 98 Stat. 2407, 2408; Pub. L. 99-272, title XVI, §16018(b), Apr. 7, 1986, 100 Stat. 348; Pub. L. 99-498, title IV, §408(a)(6), (7), Oct. 17, 1986, 100 Stat. 1495, specified that the family contribution schedule for specific periods of instruction through June 30, 1988, for loans made, insured, or guaranteed under this part be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983, and required the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, to be modified by the Secretary of Education for use for each of the specific periods of instruction to reflect the most recent and relevant data, prior to repeal by Pub. L. 99-498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, effective with respect to any academic year beginning on or after July 1, 1988, Pub. L. 97-301.

§ 1078-1. Voluntary flexible agreements with guaranty agencies

(a) Voluntary agreements

(1) Authority

Subject to paragraph (2),¹ the Secretary may enter into a voluntary, flexible agreement with a guaranty agency under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 1078 of this title. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive—

- (A) any statutory requirement pertaining to the terms and conditions attached to student loans or default claim payments made to lenders;
- (B) the prohibitions on inducements contained in section 1078(b)(3) of this title; or
- (C) the Federal default fee required by section 1078(b)(1)(H) of this title and the second sentence of section 1078-8(h) of this title.

(2) Eligibility

During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty

agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 1078 of this title as of the day before October 7, 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a voluntary flexible agreement with the Secretary.

(3) Report required

(A) In general

The Secretary, in consultation with the guaranty agencies operating under voluntary flexible agreements, shall report on an annual basis to the authorizing committees regarding the program outcomes that the voluntary flexible agreements have had with respect to—

- (i) program integrity and program and cost efficiencies, delinquency prevention, and default aversion, including a comparison of such outcomes to such outcomes for each guaranty agency operating under an agreement under subsection (b) or (c) of section 1078 of this title;
- (ii) consumer education programs described in section 1083a of this title; and
- (iii) the availability and delivery of student financial aid.

(B) Contents

Each report described in subparagraph (A) shall include—

- (i) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;
- (ii) a list of—
 - (I) guaranty agencies operating under voluntary flexible agreements;
 - (II) the specific statutory or regulatory waivers provided to each such guaranty agency; and
 - (III) any other waivers provided to other guaranty agencies under paragraph (1);
- (iii) a description of the standards by which each guaranty agency’s performance under the guaranty agency’s voluntary flexible agreement was assessed and the degree to which each guaranty agency achieved the performance standards;
- (iv) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary flexible agreement; and
- (v) an identification of promising practices for program improvement that could be replicated by other guaranty agencies.

(b) Terms of agreement

An agreement between the Secretary and a guaranty agency under this section—

- (1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by-case basis;
- (2) may only include provisions—
 - (A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—
 - (i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

¹ See References in Text note below.