

(d) The Secretary of Education is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 1087-0. Repealed. Pub. L. 105-244, title IV, § 432, Oct. 7, 1998, 112 Stat. 1710

Section, Pub. L. 89-329, title IV, § 437A, as added Pub. L. 102-325, title IV, § 429, July 23, 1992, 106 Stat. 552; amended Pub. L. 103-208, § 2(c)(66)-(68), Dec. 20, 1993, 107 Stat. 2469, related to debt management options.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1087-1. Special allowances

(a) Findings

In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) Computation and payment

(1) Quarterly payment based on unpaid balance

A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) Rate of special allowance

(A) Subject to subparagraphs (B), (C), (D), (E), (F), (G), (H), and (I) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(i) of this title.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the hold-

er from the issuance of obligations, the income from which is exempt from taxation under title 26 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this clause, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent". Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under clause (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, or refunded after September 30, 2004, the income from which is excluded from gross income under title 26, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), (F), (G), (H), or (I) as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

(I) were made or purchased with funds—

(aa) obtained from the issuance of obligations the income from which is excluded from gross income under title 26 and which obligations were originally issued before October 1, 1993; or

(bb) obtained from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

(II) are—

(aa) financed by such an obligation that, after September 30, 2004, has matured or been retired or defeased;

(bb) refinanced after September 30, 2004, with funds obtained from a source other than funds described in subclause (I) of this clause; or

(cc) sold or transferred to any other holder after September 30, 2004.

(vi) Notwithstanding clauses (i), (ii), and (v), but subject to clause (vii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, as the case may be, for a holder of loans—

(I) that were made or purchased on or after February 8, 2006; or

(II) that were not earning a quarterly rate of special allowance determined under clauses (i) or (ii) of subparagraph (B) of this paragraph as of February 8, 2006.

(vii) Clause (vi) shall be applied by substituting “December 31, 2010” for “February 8, 2006” in the case of a holder of loans that—

(I) was, as of February 8, 2006, and during the quarter for which the special allowance is paid, a unit of State or local government or a nonprofit private entity;

(II) was, as of February 8, 2006, and during such quarter, not owned or controlled by, or under common ownership or control with, a for-profit entity; and

(III) held, directly or through any subsidiary, affiliate, or trustee, a total unpaid balance of principal equal to or less than \$100,000,000 on loans for which special allowances were paid under this subparagraph in the most recent quarterly payment prior to September 30, 2005.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 1078-1¹ or 1078-2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) Subject to subparagraphs (G), (H), and (I), in the case of loans disbursed on or after October 1, 1992, pursuant to section 1078-1¹ or 1078-2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under section 1077a(c)(4)(B) of this title exceeds—

(I) 11 percent in the case of a loan under section 1078-1¹ of this title; or

(II) 10 percent in the case of a loan under section 1078-2 of this title.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting “3.5 percent” for “3.10 percent”.

(ii) For the purpose of division (i) of this subparagraph, the term “qualified State obligation” means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South

Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 1077a(g)(2) of this title, subparagraph (A)(iii) shall be applied by substituting “2.5 percent” for “3.10 percent”.

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 1077a(h) of this title shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(i) of this title.

(G) LOANS DISBURSED BETWEEN JULY 1, 1998, AND OCTOBER 1, 1998.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “2.2 percent” for “2.8 percent”.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “3.1 percent” for “2.8 percent”, subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—This subparagraph shall not apply in the case of any consolidation loan.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078-2 of this title and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 1077a(j)(3) of this title, a special allowance shall not be paid for such

¹ See References in Text note below.

loan for such² unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.

(H) LOANS DISBURSED ON OR AFTER OCTOBER 1, 1998, AND BEFORE JANUARY 1, 2000.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “2.2 percent” for “2.8 percent”.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “3.1 percent” for “2.8 percent”, subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after October 1, 1998, and before January 1, 2000, and for which the applicable interest rate is determined under section 1077a(k)(4) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “3.1 percent” for “2.8 percent”, subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078-2 of this title and first disbursed on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(3) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 1078-3 of this title and for which the application is received on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(4) of this title, a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rate of 91-day Treasury bills auctioned for such 3-month period; plus

(II) 3.1 percent,

exceeds the rate determined under section 1077a(k)(4) of this title.

(I) LOANS DISBURSED ON OR AFTER JANUARY 1, 2000, AND BEFORE JULY 1, 2010.—

(i) IN GENERAL.—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and the following clauses of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, shall be computed—

(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from the rate determined under subclause (I) (in accordance with clause (vii));

(III) by adding 2.34 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title; or

(II) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2010, and for which the applicable rate of interest is described in section 1077a(l)(1) or (l)(4) of this title, but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title;

clause (i)(III) of this subparagraph shall be applied by substituting “1.74 percent” for “2.34 percent”.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1,

²So in original.

2010, and for which the applicable rate of interest is described in section 1077a(k)(3) or (l)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “2.64 percent” for “2.34 percent”.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and that is disbursed before July 1, 2010, and for which the applicable interest rate is determined under section 1077a(k)(4) or (l)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting “2.64 percent” for “2.34 percent”.

(v) RECAPTURE OF EXCESS INTEREST.—

(I) EXCESS CREDITED.—With respect to a loan on which the applicable interest rate is determined under subsection (k) or (l) of section 1077a of this title and for which the first disbursement of principal is made on or after April 1, 2006, and before July 1, 2010, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

(II) CALCULATION OF EXCESS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(cc) four.

(III) SPECIAL ALLOWANCE SUPPORT LEVEL.—For purposes of this clause, the term “special allowance support level” means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (II) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), (iv), (vi), and (vii) in determining such sum.

(vi) REDUCTION FOR LOANS DISBURSED ON OR AFTER OCTOBER 1, 2007, AND BEFORE JULY 1, 2010.—With respect to a loan on which the applicable interest rate is determined under section 1077a(l) of this title and for which the first disbursement of principal is made on or after October 1, 2007, and before July 1, 2010, the special allowance payment computed pursuant to this subparagraph shall be computed—

(I) for loans held by an eligible lender not described in subclause (II)—

(aa) by substituting “1.79 percent” for “2.34 percent” each place the term appears in this subparagraph;

(bb) by substituting “1.19 percent” for “1.74 percent” in clause (ii);

(cc) by substituting “1.79 percent” for “2.64 percent” in clause (iii); and

(dd) by substituting “2.09 percent” for “2.64 percent” in clause (iv); and

(II) for loans held by an eligible not-for-profit holder—

(aa) by substituting “1.94 percent” for “2.34 percent” each place the term appears in this subparagraph;

(bb) by substituting “1.34 percent” for “1.74 percent” in clause (ii);

(cc) by substituting “1.94 percent” for “2.64 percent” in clause (iii); and

(dd) by substituting “2.24 percent” for “2.64 percent” in clause (iv).

(vii) REVISED CALCULATION RULE TO REFLECT FINANCIAL MARKET CONDITIONS.—

(I) CALCULATION BASED ON LIBOR.—For the calendar quarter beginning on April 1, 2012³ and each subsequent calendar quarter, in computing the special allowance paid pursuant to this subsection with respect to loans described in subclause (II), clause (i)(I) of this subparagraph shall be applied by substituting “of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association” for “of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period”.

(II) LOANS ELIGIBLE FOR LIBOR-BASED CALCULATION.—The special allowance paid pursuant to this subsection shall be calculated as described in subclause (I) with respect to special allowance payments for the 3-month period ending June 30, 2012, and each succeeding 3-month period, on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2010, if, not later than April 1, 2012, the holder of the loan (or, if the holder acts as eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan), affirmatively and permanently waives all contractual, statutory, or other legal rights to a special allowance paid pursuant to this subsection that is calculated using the formula in effect at the time the loans were first disbursed.

(III) TERMS OF WAIVER.—

(aa) IN GENERAL.—A waiver pursuant to subclause (II) shall be in a form (printed or electronic) prescribed by the Secretary, and shall be applicable to—

(AA) all loans described in such subclause that the lender holds solely in its own right under any lender identification number associated with the holder (pursuant to section 1094b of this title);

³ So in original. Probably should be followed by a comma.

(BB) all loans described in such subclause for which the beneficial owner has the authority to make an election of a waiver under such subclause, regardless of the lender identification number associated with the loan or the lender that holds the loan as eligible lender trustee on behalf of such beneficial owner; and

(CC) all future calculations of the special allowance on loans that, on the date of such waiver, are loans described in subitem (AA) or (BB), or that, after such date, become loans described in subitem (AA) or (BB).

(bb) EXCEPTIONS.—Any waiver pursuant to subclause (II) that is elected for loans described in subitem (AA) or (BB) of item (aa) shall not apply to any loan described in such subitem for which the lender or beneficial owner of the loan demonstrates to the satisfaction of the Secretary that—

(AA) in accordance with an agreement entered into before the date of enactment of this section by which such lender or owner is governed and that applies to such loans, such lender or owner is not legally permitted to make an election of such waiver with respect to such loans without the approval of one or more third parties with an interest in the loans, and that the lender or owner followed all available options under such agreement to obtain such approval, and was unable to do so; or

(BB) such lender or beneficial owner presented the proposal of electing such a waiver applicable to such loans associated with an obligation rated by a nationally recognized statistical rating organization (as defined in section 78c(a)(62) of title 15), and such rating organization provided a written opinion that the agency would downgrade the rating applicable to such obligation if the lender or owner elected such a waiver.

(viii) REVISED CALCULATION RULE TO ADDRESS INSTANCES WHERE 1-MONTH USD LIBOR CEASES OR IS NON-REPRESENTATIVE.—

(I) SUBSTITUTE REFERENCE INDEX.—The provisions of this clause apply to loans for which the special allowance payment would otherwise be calculated pursuant to clause (vii).

(II) CALCULATION BASED ON SOFR.—For loans described in subclause (III) or (IV), the special allowance payment described in this subclause shall be substituted for the payment provided under clause (vii). For each calendar quarter, the formula for computing the special allowance that would otherwise apply under clause (vii) shall be revised by substituting “of the quotes of the 30-day Average Secured Overnight Financing Rate (SOFR) in effect for each of the days in such quarter as published by the Federal Reserve Bank of New York (or a successor administrator), ad-

justed daily by adding the tenor spread adjustment, as that term is defined in the Adjustable Interest Rate (LIBOR) Act, for 1-month LIBOR contracts of 0.11448 percent” for “of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association”. The special allowance calculation for loans subject to clause (vii) shall otherwise remain in effect.

(III) LOANS ELIGIBLE FOR SOFR-BASED CALCULATION.—Except as provided in subclause (IV), the special allowance payment calculated under subclause (II) shall apply to all loans for which the holder (or, if the holder acts as an eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan) at any time after the effective date of this clause notifies the Secretary that the holder or beneficial owner affirmatively and permanently elects to waive all contractual, statutory, or other legal rights to a special allowance paid under clause (vii) or to the special allowance paid pursuant to any other formula that was previously in effect with respect to such loan, and accepts the rate described in subclause (II). Any such waiver shall apply to all loans then held, or to be held from time to time, by such holder or beneficial owner; provided that, due to the need to obtain the approval of, demonstrated to the satisfaction of the Secretary—

(aa) one or more third parties with a legal or beneficial interest in loans eligible for the SOFR-based calculation; or

(bb) a nationally recognized rating organization assigning a rating to a financing secured by loans otherwise eligible for the SOFR-based calculation,

the holder of the loan (or, if the holder acts as an eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan) may elect to apply the rate described in subclause (II) to specified loan portfolios established for financing purposes by separate notices with different effective dates. The special allowance rate based on SOFR shall be effective with respect to a portfolio as of the first day of the calendar quarter following the applicable effective date of the waiver received by the Secretary from the holder or beneficial owner and shall permanently and irrevocably continue for all subsequent quarters.

(IV) FALLBACK PROVISIONS.—

(aa) In the event that a holder or beneficial owner has not elected to waive its rights to a special allowance payment under clause (vii) with respect to a portfolio with an effective date of the waiver prior to the first of—

(AA) the date on which the ICE Benchmark Administration (“IBA”) has permanently or indefinitely stopped providing the 1-month United

States Dollar LIBOR (“1-month USD LIBOR”) to the general public;

(BB) the effective date of an official public statement by the IBA or its regulator that the 1-month USD LIBOR is no longer reliable or no longer representative; or

(CC) the LIBOR replacement date, as defined in section 5802 of title 12,

the special allowance rate calculation as described in subclause (II) shall, by operation of law, apply to all loans in such portfolio.

(bb) In such event—

(AA) the last determined rate of special allowance based on 1-month USD LIBOR will continue to apply until the end of the then current calendar quarter; and

(BB) the special allowance rate calculation as described in subclause (II) shall become effective as of the first day of the following calendar quarter and remain in effect for all subsequent calendar quarters.

(3) Contractual right of holders to special allowance

The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) Penalty for late payment

(A) If payments of the special allowances payable under this section or of interest payments under section 1078(a) of this title with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) “Eligible loan” defined

As used in this section, the term “eligible loan” means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student’s account to the holder of the loan under section 1078(a) of this title;

(ii) which is made under section 1078-1,¹ 1078-2, 1078-3, 1078-8, or 1087-2(o) of this title; or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 1078(b) of this title.

(6) Regulation of time and manner of payment

The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) Use of average quarterly balance

The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) Origination fees from students

(1) Deduction from interest and special allowance subsidies

(A) Notwithstanding subsection (b), the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder; or

(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters’ payments until the total amount has been deducted.

(2) Amount of origination fees

(A) In general

Subject to paragraph (6) of this subsection, with respect to any loan (including loans

made under section 1078-8 of this title, but excluding loans made under sections 1078-3 and 1087-2(o) of this title) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after August 13, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.

(B) Subsequent reductions

Subparagraph (A) shall be applied to loans made under this part (other than loans made under sections 1078-3 and 1087-2(o) of this title)—

(i) by substituting “2.0 percent” for “3.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2006, and before July 1, 2007;

(ii) by substituting “1.5 percent” for “3.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2007, and before July 1, 2008;

(iii) by substituting “1.0 percent” for “3.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2008, and before July 1, 2009; and

(iv) by substituting “0.5 percent” for “3.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2009, and before July 1, 2010.

(3) Relation to applicable interest

Such origination fee shall not be taken into account for purposes of determining compliance with section 1077a of this title.

(4) Disclosure required

The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) Prohibition on department compelling origination fee collections by lenders

Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 1078(a)(3)(A) of this title or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before October 17, 1986, together with interest thereon.

(6) SLS and PLUS loans

With respect to any loans made under section 1078-1¹ or 1078-2 of this title on or after

October 1, 1992, and first disbursed before July 1, 2010, each eligible lender under this part shall charge the borrower an origination fee of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) Distribution of origination fees

All origination fees collected pursuant to this section on loans authorized under section 1078-1¹ or 1078-2 of this title shall be paid to the Secretary by the lender and deposited in the fund authorized under section 1081 of this title.

(8) Exception

Notwithstanding paragraph (2), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower’s adjusted gross family income.

(d) Loan fees from lenders

(1) Deduction from interest and special allowance subsidies

(A) In general

Notwithstanding subsection (b), the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b), respectively, to any holder of a loan; or

(ii) directly from the holder of the loan, if the lender—

(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

(II) withdraws from the program with unpaid loan fees.

(B) Special rule

If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b), respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted.

(2) Amount of loan fees

The amount of the loan fee which shall be deducted under paragraph (1), but which may not be collected from the borrower, shall be equal to—

(A) except as provided in subparagraph (B), 0.50 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was made on or after October 1, 1993; and

(B) 1.0 percent of the principal amount of the loan with respect to any loan under this part for which the first disbursement was

made on or after October 1, 2007, and before July 1, 2010.

(3) Distribution of loan fees

The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 1081 of this title.

(e) Nondiscrimination

In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under title 26, to be eligible to receive a special allowance under subsection (b)(2) on any such loans, the Authority shall 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, disability status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(f) Regulations to prevent denial of loans to eligible students

The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(g) Special Rule

With respect to any loan made under this part for which the interest rate is determined under the Servicemembers Civil Relief Act (50 U.S.C. App. 527) [now 50 U.S.C. 3937],¹ the applicable interest rate to be subtracted in calculating the special allowance for such loan under this section shall be the interest rate determined under that Act for such loan.

(Pub. L. 89-329, title IV, § 438, as added Pub. L. 99-498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 100-50, § 10(d)(2), (bb), (cc), June 3, 1987, 101 Stat. 342, 347; Pub. L. 100-369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102-325, title IV, § 430, July 23, 1992, 106 Stat. 553; Pub. L. 103-66, title IV, §§ 4102(a), 4103, 4105, 4111, Aug. 10, 1993, 107 Stat. 366, 367, 368, 370; Pub. L. 105-178, title VIII, § 8301(b), June 9, 1998, 112 Stat. 497; Pub. L. 105-244, title IV, §§ 416(b)(1), (3), 433(a)-(d)(1), Oct. 7, 1998, 112 Stat. 1680, 1682, 1710, 1711; Pub. L. 106-170, title IV, § 409(a), Dec. 17, 1999, 113 Stat. 1914; Pub. L. 107-139, § 2, Feb. 8, 2002, 116 Stat. 10; Pub. L. 108-409, § 2, Oct. 30, 2004, 118 Stat. 2299; Pub. L. 109-150, § 2(b), (c)(2), Dec. 30, 2005, 119 Stat. 2884; Pub. L. 109-171, title VIII, §§ 8006(b)(1), 8008(c)(1), 8013(a)-(c)(1), (d)(1), Feb. 8, 2006, 120 Stat. 159, 162, 166, 167; Pub. L. 110-84, title II, § 201(a)(2), title III, §§ 302(b)(2), 305, Sept. 27, 2007, 121 Stat. 791, 796, 799; Pub. L. 110-315, title IV, § 422(g)(2), Aug. 14, 2008, 122 Stat. 3230; Pub. L. 111-39, title IV, § 402(f)(11), July 1, 2009, 123 Stat. 1945; Pub. L. 111-152, title II, § 2208, Mar. 30, 2010, 124 Stat. 1077; Pub. L. 112-74, div. F, title III, § 309(e), Dec. 23, 2011, 125 Stat. 1101; Pub. L. 117-103, div. U, § 109, Mar. 15, 2022, 136 Stat. 832.)

Editorial Notes

REFERENCES IN TEXT

Section 1078-1 of this title, referred to in subsecs. (b)(2)(C), (5)(A)(ii) and (c)(6), (7), was repealed by Pub. L. 103-66, title IV, § 4047(b)-(d), Aug. 10, 1993, 107 Stat. 364, 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 date of enactment of this section, referred to in subsec. (b)(2)(I)(vii)(III)(bb)(AA), probably means the date of enactment of Pub. L. 112-74, which enacted subsec. (b)(2)(I)(vii) and was approved Dec. 23, 2011.

The Adjustable Interest Rate (LIBOR) Act, referred to in subsec. (b)(2)(I)(viii)(II), is div. U of Pub. L. 117-103, Mar. 15, 2022, 136 Stat. 825, which is classified principally to chapter 55 (§ 5801 et seq.) of Title 12, Banks and Banking. The term "tenor spread adjustment" is defined in section 5802 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 12 and Tables.

The effective date of this clause, referred to in subsec. (b)(2)(I)(viii)(III), probably means the date of enactment of Pub. L. 117-103, which was approved Mar. 15, 2022.

The Servicemembers Civil Relief Act, referred to in subsec. (g), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which was classified to section 501 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 50 (§ 3901 et seq.) of Title 50. The parenthetical reference to "(50 U.S.C. App. 527)" relates to section 207 of the Act, which is now classified to section 3937 of Title 50. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1087-1, Pub. L. 89-329, title IV, § 438, as added Pub. L. 92-318, title I, § 132E(a), June 23, 1972, 86 Stat. 264; amended Pub. L. 94-482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 95-43, § 1(a)(37), June 15, 1977, 91 Stat. 216; Pub. L. 96-49, § 5(c)(1), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96-374, title IV, §§ 420(a), 451(d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1425, 1458, 1503; Pub. L. 97-35, title V, §§ 532(b)(4), 534(b), 536(a), Aug. 13, 1981, 95 Stat. 452, 454, 455; Pub. L. 98-79, § 7(a), (c), Aug. 15, 1983, 97 Stat. 482, 483; Pub. L. 99-272, title XVI, §§ 16013(d), 16017(b)(3), (c), Apr. 7, 1986, 100 Stat. 340, 347, related to special allowances, prior to the general revision of this part by Pub. L. 99-498.

A prior section 1087-1a, Pub. L. 96-374, title IV, § 420(b), Oct. 3, 1980, 94 Stat. 1427, related to eligibility for special allowances covering loans made or purchased with funds obtained from Authorities issuing tax exempt obligations, and established requirement relating to plans for doing business, prior to repeal by Pub. L. 98-79, § 7(b), Aug. 15, 1983, 97 Stat. 483.

AMENDMENTS

2022—Subsec. (b)(2)(I)(viii). Pub. L. 117-103 added cl. (viii).

2011—Subsec. (b)(2)(I)(i)(II). Pub. L. 112-74, § 309(e)(2)(A), substituted "the rate determined under subclause (I) (in accordance with clause (vii))" for "such average bond equivalent rate".

Subsec. (b)(2)(I)(v)(III). Pub. L. 112-74, § 309(e)(2)(B), substituted "(iv), (vi), and (vii)" for "(iv), and (vi)".

Subsec. (b)(2)(I)(vii). Pub. L. 112-74, § 309(e)(1), added cl. (vii).

2010—Subsec. (b)(2)(I). Pub. L. 111-152, § 2208(1)(A), which directed amendment of subpar. (I) "in the subclause heading" by inserting ", and before July 1, 2010" after "2000", was executed in subpar. (I) heading to reflect the probable intent of Congress.

Subsec. (b)(2)(I)(i). Pub. L. 111-152, § 2208(1)(B), inserted "and before July 1, 2010," after "2000," in introductory provisions.

Subsec. (b)(2)(I)(ii)(II). Pub. L. 111-152, § 2208(1)(C), inserted “and before July 1, 2010,” after “2006.”

Subsec. (b)(2)(I)(iii). Pub. L. 111-152, § 2208(1)(D), inserted “and before July 1, 2010,” after “2000.”

Subsec. (b)(2)(I)(iv). Pub. L. 111-152, § 2208(1)(E), inserted “and that is disbursed before July 1, 2010,” after “2000.”

Subsec. (b)(2)(I)(v)(I). Pub. L. 111-152, § 2208(1)(F), inserted “and before July 1, 2010,” after “2006.”

Subsec. (b)(2)(I)(vi). Pub. L. 111-152, § 2208(1)(G), inserted “, and before July 1, 2010” after “2007” in heading and “and before July 1, 2010,” after “2007,” in introductory provisions.

Subsec. (c)(2)(B)(iii) to (v). Pub. L. 111-152, § 2208(2)(A), inserted “and” after semicolon in cl. (iii), substituted period for “; and” at end of cl. (iv), and struck out cl. (v), which read as follows: “by substituting ‘0.0 percent’ for ‘3.0 percent’ with respect to loans for which the first disbursement of principal is made on or after July 1, 2010.”

Subsec. (c)(6). Pub. L. 111-152, § 2208(2)(B), inserted “and first disbursed before July 1, 2010,” after “1992.”

Subsec. (d)(2)(B). Pub. L. 111-152, § 2208(3), inserted “, and before July 1, 2010” after “2007”.

2009—Subsec. (b)(2)(A). Pub. L. 111-39, § 402(f)(11)(A), substituted “1077a(i)” for “1077a(f)”.

Subsec. (b)(2)(B)(i). Pub. L. 111-39, § 402(f)(11)(B), which directed substitution of “1986” for “1954” in the first sentence, could not be executed because “1954” did not appear in original text subsequent to amendment by Pub. L. 100-369. See 1988 Amendment note below.

Subsec. (b)(2)(F). Pub. L. 111-39, § 402(f)(11)(C), substituted “1077a(i)” for “1077a(f)”.

2008—Subsec. (g). Pub. L. 110-315 added subsec. (g).

2007—Subsec. (b)(2)(I)(i). Pub. L. 110-84, § 305(a)(1), substituted “the following clauses” for “clauses (ii), (iii), and (iv)”.

Subsec. (b)(2)(I)(ii)(II). Pub. L. 110-84, § 201(a)(2), substituted “section 1077a(l)(1) or (l)(4)” for “section 1077a(l)(1)”.

Subsec. (b)(2)(I)(v)(III). Pub. L. 110-84, § 305(a)(2), substituted “clauses (ii), (iii), (iv), and (vi)” for “clauses (ii), (iii), and (iv)”.

Subsec. (b)(2)(I)(vi). Pub. L. 110-84, § 305(a)(3), added cl. (vi).

Subsec. (b)(5). Pub. L. 110-84, § 302(b)(2), struck out concluding provisions which read as follows: “As used in this section, the term ‘eligible loan’ includes all loans subject to section 1078-9 of this title.”

Subsec. (d)(2). Pub. L. 110-84, § 305(b), amended par. (2) generally. Prior to amendment, text read as follows: “With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.”

2006—Subsec. (b)(2)(B). Pub. L. 109-171, § 8013(d)(1), repealed Pub. L. 109-150, § 2(b), (c)(2). See 2005 Amendment note below.

Pub. L. 109-171, § 8013(c)(1), amended directory language of Pub. L. 108-409, § 2. See 2004 Amendment note below.

Subsec. (b)(2)(B)(iv). Pub. L. 109-171, § 8013(a)(1), struck out “and before January 1, 2006,” after “September 30, 2004.”

Subsec. (b)(2)(B)(v)(II)(aa), (bb). Pub. L. 109-171, § 8013(a)(2)(A), struck out “and before January 1, 2006,” after “September 30, 2004.”

Subsec. (b)(2)(B)(v)(II)(cc). Pub. L. 109-171, § 8013(a)(2)(B), struck out “, and before January 1, 2006” after “September 30, 2004”.

Subsec. (b)(2)(B)(vi), (vii). Pub. L. 109-171, § 8013(b), added cls. (vi) and (vii).

Subsec. (b)(2)(I)(iii). Pub. L. 109-171, § 8006(b)(1)(A), struck out “, subject to clause (v) of this subparagraph” before period at end.

Subsec. (b)(2)(I)(iv). Pub. L. 109-171, § 8006(b)(1)(B), struck out “, subject to clause (vi) of this subparagraph” before period at end.

Subsec. (b)(2)(I)(v) to (vii). Pub. L. 109-171, § 8006(b)(1)(C), added cl. (v) and struck out former cls.

(v) to (vii), which related to limitation on special allowances for plus loans before July 1, 2006, limitation on special allowances for consolidation loans, and limitation on special allowances for plus loans on or after July 1, 2006, respectively.

Subsec. (c)(2). Pub. L. 109-171, § 8008(c)(1), reenacted par. heading, designated existing provisions as subpar. (A), inserted subpar. (A) heading, and added subpar. (B).

2005—Subsec. (b)(2)(B). Pub. L. 109-150, § 2(c)(2), which directed amendment of directory language of Pub. L. 108-409, § 2, was repealed by Pub. L. 109-171, § 8013(d)(1). See 2004 Amendment note and Effective Date of 2006 Amendment note below.

Subsec. (b)(2)(B)(iv), (v)(II). Pub. L. 109-150, § 2(b), which directed substitution of “April 1, 2006” for “January 1, 2006” wherever appearing, was repealed by Pub. L. 109-171, § 8013(d)(1). See Effective Date of 2006 Amendment note below.

2004—Subsec. (b)(2)(B). Pub. L. 108-409, § 2, as amended by Pub. L. 109-171, § 8013(c)(1), substituted “this clause” for “this division” in cl. (i) and “clause (i) of this subparagraph” for “division (i) of this subparagraph” in cl. (ii), inserted “or refunded after September 30, 2004, and before January 1, 2006,” after “October 1, 1993,” in cl. (iv), and added cl. (v). Pub. L. 109-150, § 2(c)(2), which made an amendment to directory language of Pub. L. 108-409, § 2, identical to that made by Pub. L. 109-171, § 8013(c)(1), was repealed by Pub. L. 109-171, § 8013(d)(1). See Effective Date of 2006 Amendment note below.

2002—Subsec. (b)(2)(I). Pub. L. 107-139, § 2(1), struck out “, AND BEFORE JULY 1, 2003” after “JANUARY 1, 2000” in heading.

Subsec. (b)(2)(I)(i). Pub. L. 107-139, § 2(2), struck out “and before July 1, 2003,” after “January 1, 2000,” in introductory provisions.

Subsec. (b)(2)(I)(ii). Pub. L. 107-139, § 2(3), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: “In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ‘1.74 percent’ for ‘2.34 percent.’”

Subsec. (b)(2)(I)(iii). Pub. L. 107-139, § 2(2), (4), struck out “and before July 1, 2003,” after “January 1, 2000,” and inserted “or (l)(2)” after “section 1077a(k)(3)”.

Subsec. (b)(2)(I)(iv). Pub. L. 107-139, § 2(2), (5), inserted “or (l)(3)” after “section 1077a(k)(4)” and struck out “and before July 1, 2003,” after “January 1, 2000.”

Subsec. (b)(2)(I)(v). Pub. L. 107-139, § 2(6), inserted “BEFORE JULY 1, 2006” after “PLUS LOANS” in heading and substituted “July 1, 2006,” for “July 1, 2003,” in introductory provisions.

Subsec. (b)(2)(I)(vi). Pub. L. 107-139, § 2(2), (7), in introductory provisions, struck out “and before July 1, 2003,” after “January 1, 2000,” and inserted “or (l)(3)” after “section 1077a(k)(4)”, and in concluding provisions, substituted “section 1077a(k)(4) or (l)(3) of this title, whichever is applicable” for “section 1077a(k)(4) of this title”.

Subsec. (b)(2)(I)(vii). Pub. L. 107-139, § 2(8), added cl. (vii).

1999—Subsec. (b)(2)(A). Pub. L. 106-170, § 409(a)(1), substituted “(G), (H), and (I)” for “(G), and (H)” in first sentence.

Subsec. (b)(2)(B)(iv). Pub. L. 106-170, § 409(a)(2), substituted “(G), (H), or (I)” for “(G), or (H)” in first sentence.

Subsec. (b)(2)(C)(ii). Pub. L. 106-170, § 409(a)(3), substituted “(G), (H), and (I)” for “(G) and (H)” in introductory provisions.

Subsec. (b)(2)(H). Pub. L. 106-170, § 409(a)(4), (5), substituted “JANUARY 1, 2000” for “JULY 1, 2003” in subpar. heading and “January 1, 2000” for “July 1, 2003” in text wherever appearing.

Subsec. (b)(2)(I). Pub. L. 106-170, § 409(a)(6), added subpar. (I).

1998—Subsec. (b)(2)(A). Pub. L. 105-244, § 416(b)(3)(A), substituted “(F), (G), and (H)” for “(F), and (G)”.

Pub. L. 105-178, § 8301(b)(2)(A), substituted “(E), (F), and (G)” for “(E), and (F)”.

Subsec. (b)(2)(B)(iv). Pub. L. 105-244, §416(b)(3)(B), substituted “(F), (G), or (H)” for “(F), or (G)”.

Pub. L. 105-178, §8301(b)(2)(B), substituted “(E), (F), or (G)” for “(E), or (F)”.

Subsec. (b)(2)(C)(ii). Pub. L. 105-244, §416(b)(3)(C), substituted “subparagraphs (G) and (H)” for “subparagraph (G)”.

Pub. L. 105-178, §8301(b)(2)(C), substituted “Subject to subparagraph (G), in the case” for “In the case”.

Subsec. (b)(2)(G). Pub. L. 105-178, §8301(b)(1), added subpar. (G).

Subsec. (b)(2)(H). Pub. L. 105-244, §416(b)(1), added subpar. (H).

Subsec. (c)(1). Pub. L. 105-244, §433(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “Notwithstanding subsection (b) of this section, the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters’ payments until the total amount has been deducted.”

Subsec. (c)(2). Pub. L. 105-244, §433(b)(1), substituted “(including loans made under section 1078-8 of this title, but excluding” for “(other than” and inserted at end “Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.”

Subsec. (c)(8). Pub. L. 105-244, §433(b)(2), added par. (8).

Subsec. (d)(1). Pub. L. 105-244, §433(c), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “Notwithstanding subsection (b) of this section, the Secretary shall reduce the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters’ payments until the total amount has been deducted.”

Subsec. (e). Pub. L. 105-244, §433(d)(1), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to lending from proceeds of tax exempt obligations.

1993—Subsec. (b)(2)(A). Pub. L. 103-66, §4111(1), substituted “subparagraphs (B), (C), (D), (E), and (F)” for “subparagraphs (B), (C), and (D)” and “section 1077a(f)” for “section 1077a(e)”.

Subsec. (b)(2)(B)(iv). Pub. L. 103-66, §4105, added cl. (iv).

Subsec. (b)(2)(E), (F). Pub. L. 103-66, §4111(2), added subpars. (E) and (F).

Subsec. (c). Pub. L. 103-66, §4102(a)(1), inserted “from students” after “origination fees” in heading.

Subsec. (c)(2). Pub. L. 103-66, §4102(a)(2)(A), substituted “sections 1078-3 and 1087-2(o)” for “sections 1078-1, 1078-2, 1078-3, and 1087-2(o)” and “3.0 percent” for “5 percent”.

Subsec. (c)(6). Pub. L. 103-66, §4102(a)(2)(B), substituted “3.0 percent” for “5 percent”.

Subsecs. (d) to (f). Pub. L. 103-66, §4103, added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1992—Subsec. (b)(2)(A). Pub. L. 102-325, §430(a)(1), (2), substituted “3.10” for “3.25” and inserted at end “If such computation produces a number less than zero, such loans shall be subject to section 1077a(e) of this title.”

Subsec. (b)(2)(B)(i). Pub. L. 102-325, §430(a)(3), substituted “3.10” for “3.25”.

Subsec. (b)(2)(B)(ii). Pub. L. 102-325, §430(a)(4), added cl. (ii) and struck out former cl. (ii) which read as follows: “The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.”

Subsec. (b)(2)(C). Pub. L. 102-325, §430(a)(5), designated existing provision as cl. (i), inserted “before October 1, 1992,” after “made”, and added cl. (ii).

Subsec. (b)(2)(D)(i). Pub. L. 102-325, §430(a)(6), substituted “3.10” for “3.25”.

Subsec. (b)(5). Pub. L. 102-325, §430(c), inserted closing provision which defined “eligible loan” as used in this section to include all loans subject to section 1078-9 of this title.

Subsec. (b)(5)(A)(ii). Pub. L. 102-325, §430(b), inserted “1078-8,” after “1078-3.”

Subsec. (c)(2). Pub. L. 102-325, §430(d)(1), substituted “Subject to paragraph (6) of this subsection, with” for “With”.

Subsec. (c)(6), (7). Pub. L. 102-325, §430(d)(2), added pars. (6) and (7).

Subsec. (d)(2)(C). Pub. L. 102-325, §430(e), struck out “or discount” after “premium”.

1988—Subsecs. (b)(2)(B)(i), (d)(1), (3). Pub. L. 100-369 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.

1987—Subsec. (b)(2)(B)(iii). Pub. L. 100-50, §10(bb)(1), substituted “subsection (d) of this section” for “subsection (c) of this section”.

Subsec. (b)(2)(C). Pub. L. 100-50, §10(d)(2), substituted “12 percent” for “12.5 percent”.

Subsec. (b)(7). Pub. L. 100-50, §10(bb)(2), added par. (7).

Subsec. (d)(4)(C). Pub. L. 100-50, §10(cc), struck out “, as evidenced by the information submitted under paragraph (2)(G) of this subsection” after “fiscal year”.

Statutory Notes and Related Subsidiaries

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), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-315 effective for loans for which the first disbursement is made on or after July 1, 2008, see section 422(g)(3) of Pub. L. 110-315, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by sections 201(a)(2) and 305 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.

Amendment by section 302(b)(2) of Pub. L. 110-84 effective Oct. 1, 2007, see section 302(c) of Pub. L. 110-84, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

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

Pub. L. 109-171, title VIII, §8006(b)(2), Feb. 8, 2006, 120 Stat. 160, provided that: “The amendments made by this subsection [amending this section] shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087-1) before April 1, 2006.”

Pub. L. 109-171, title VIII, §8013(c)(3), Feb. 8, 2006, 120 Stat. 167, provided that: “The amendment made by

paragraph (1) [amending this section] shall be effective as if enacted on October 30, 2004, and the amendment made by paragraph (2) [amending provisions set out as a note under section 1078-10 of this title] shall be effective as if enacted on October 1, 2005.”

Pub. L. 109-171, title VIII, §8013(d)(2), Feb. 8, 2006, 120 Stat. 167, provided that: “The amendments made by subsections (a) and (c) of this section [amending this section and provisions set out as a note under section 1078-10 of this title] shall be effective as if the amendments made in subsections (b) and (c) of section 2 of the Second Higher Education Extension Act of 2005 [Pub. L. 109-150, amending this section and provisions set out as a note under section 1078-10 of this title] had not been enacted.”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-150, §2(d), Dec. 30, 2005, 119 Stat. 2884, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and provisions set out as notes under sections 1001 and 1078-10 of this title] are effective upon enactment [Dec. 30, 2005].

“(2) EXCEPTION.—The amendment made by subsection (c)(1) [amending provisions set out as a note under section 1078-10 of this title] shall take effect as if enacted on October 1, 2005.”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title IV, §409(b), Dec. 17, 1999, 113 Stat. 1916, provided that: “Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.”

EFFECTIVE DATE OF 1998 AMENDMENT

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

Amendment by section 433(a)-(c) 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, §433(d)(2), Oct. 7, 1998, 112 Stat. 1711, provided that: “The amendment made by paragraph (1) [amending this section] shall be effective as of the date the plan required by section 438(e)(1) [subsec. (e)(1) of this section] (as such section was in effect prior to such amendment) was approved by the Secretary or the Governor (whichever was the case). No Authority shall have a right or cause of action against the Secretary for any amounts paid to or offset by the Secretary pursuant to a final settlement agreement entered into prior to July 1, 1998, resolving any audit or program review findings alleging violations of any provision of section 438(e) (as in effect prior to such amendment).”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 4102(a) of Pub. L. 103-66 effective July 1, 1994, see section 4102(d) of Pub. L. 103-66, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432(a)(13) of Pub. L. 102-325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (b) of this section effective with respect to loans disbursed on or after 30 days after Oct. 17, 1986, or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after Oct. 17, 1986, and subsec. (d) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99-498, set out as a note under section 1071 of this title.

§ 1087-2. Student Loan Marketing Association

(a) Purpose

The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) Establishment

(1) In general

There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the “Association”). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) Exemption from State and local taxes

The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) Appropriations authorized for establishment

There is hereby authorized to be appropriated to the Secretary \$5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be