

90 Stat. 2081; Pub. L. 95-43, June 15, 1977, 91 Stat. 213; Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96-49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96-374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97-301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98-79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99-498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1439, without reference to such intervening amendments because of the extensive revision of this part by Pub. L. 99-498.

Part E of title IV of the Higher Education Act of 1965, Pub. L. 89-329, which comprises this part, was formerly classified to part D of this subchapter. See Codification note preceding section 1087a of this title.

#### PRIOR PROVISIONS

A prior part E, consisting of part F of title IV of Pub. L. 89-329, was redesignated part F of this subchapter.

### § 1087aa. Appropriations authorized

#### (a) Program authority

The Secretary shall carry out a program assisting in the maintenance of funds at institutions of higher education for the making of loans to undergraduate students in need to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as “Federal Perkins Loans”.

#### (b) Authority to make loans

##### (1) In general

##### (A) Loans for new undergraduate Federal Perkins Loan borrowers

Through September 30, 2017, an institution of higher education may make a loan under this part to an eligible undergraduate student who, on the date of disbursement of a loan made under this part, has no outstanding balance of principal or interest on a loan made under this part from the student loan fund established under this part by the institution, but only if the institution has awarded all Federal Direct Loans, as referenced under subparagraphs (A) and (D) of section 1087e(a)(2) of this title, for which such undergraduate student is eligible.

##### (B) Loans for current undergraduate Federal Perkins Loan borrowers

Through September 30, 2017, an institution of higher education may make a loan under this part to an eligible undergraduate student who, on the date of disbursement of a loan made under this part, has an outstanding balance of principal or interest on a loan made under this part from the student loan fund established under this part by the institution, but only if the institution has awarded all Federal Direct Stafford Loans as referenced under section 1087e(a)(2)(A) of this title for which such undergraduate student is eligible.

##### (C) Loans for certain graduate borrowers

Through September 30, 2016, with respect to an eligible graduate student who has received a loan made under this part prior to October 1, 2015, an institution of higher education that has most recently made such a loan to the student for an academic program

at such institution may continue making loans under this part from the student loan fund established under this part by the institution to enable the student to continue or complete such academic program.

#### (2) No additional loans

An institution of higher education shall not make loans under this part after September 30, 2017.

#### (3) Prohibition on additional appropriations

No funds are authorized to be appropriated under this chapter or any other Act to carry out the functions described in paragraph (1) for any fiscal year following fiscal year 2015.

(Pub. L. 89-329, title IV, §461, as added Pub. L. 99-498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102-325, title IV, §461(a)(2)-(c), July 23, 1992, 106 Stat. 576; Pub. L. 105-244, title IV, §461, Oct. 7, 1998, 112 Stat. 1720; Pub. L. 110-315, title IV, §461, Aug. 14, 2008, 122 Stat. 3265; Pub. L. 114-105, §2(a)(1), Dec. 18, 2015, 129 Stat. 2219.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1087aa, Pub. L. 89-329, title IV, §461, as added Pub. L. 92-318, title I, §137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 94-482, title I, §130(a), (b), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96-49, §5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96-374, title IV, §441, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1436, 1503, authorized a program to establish and maintain funds at institutions of higher education for making low-interest loans to students, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 461 of Pub. L. 89-329 amended former section 403 of this title.

##### AMENDMENTS

2015—Subsec. (a). Pub. L. 114-105, §2(a)(1)(A), substituted “assisting in the maintenance of funds at institutions of higher education for the making of loans to undergraduate students in need” for “of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof”.

Subsec. (b). Pub. L. 114-105, §2(a)(1)(B), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows:

“(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated \$300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years.

“(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 2015 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 2015, to continue or complete courses of study.”

Subsec. (c). Pub. L. 114-105, §2(a)(1)(C), struck out subsec. (c). Text read as follows: “Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.”

2008—Subsec. (b)(1). Pub. L. 110-315, §461(1), substituted “\$300,000,000 for fiscal year 2009 and for each of the five succeeding fiscal years” for “\$250,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years”.

Subsec. (b)(2). Pub. L. 110-315, §461(2), substituted “2015” for “2003” in two places.

1998—Subsec. (b)(1). Pub. L. 105-244, §461(1), substituted “1999” for “1993”.

Subsec. (b)(2). Pub. L. 105-244, §461(2), substituted “2003” for “1997” in two places.

1992—Subsec. (a). Pub. L. 102-325, §461(a)(2), (b), inserted “or while engaged in programs of study abroad approved for credit by such institutions” after “in such institutions” and substituted “Federal Perkins Loans” for “Perkins Loans”.

Subsec. (b). Pub. L. 102-325, §461(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated \$268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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.

##### CONSTRUCTION OF 2015 AMENDMENT

Pub. L. 114-105, §2(a)(2), Dec. 18, 2015, 129 Stat. 2220, provided that: “Notwithstanding the amendments made under paragraph (1) of this subsection [amending this section], an eligible graduate borrower who received a disbursement of a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) after June 30, 2016 and before October 1, 2016, for the 2016-2017 award year, may receive a subsequent disbursement of such loan by June 30, 2017, for which the borrower received an initial disbursement after June 30, 2016 and before October 1, 2016.”

#### § 1087bb. Allocation of funds

##### (a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1087aa(b)<sup>1</sup> of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by

(B) the institution’s default penalty, as determined under subsection (e),

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f), the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the pro-

gram under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) \$5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) \$5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution’s allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution’s default penalty, as determined under subsection (e),

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f), the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall

<sup>1</sup> See References in Text note below.