

“(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on such date) to part E [20 U.S.C. 1087aa et seq.] loans, provided that such institution—

- “(1) notify the borrower of such conversion;
- “(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and
- “(3) provide the borrower in writing with a description of all terms and conditions of the new loan.”

§ 1087b. Funds for origination of direct student loans

(a) In general

The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

- (1) directly to an institution of higher education that has an agreement with the Secretary under section 1087d(a) of this title to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 1087d(b) of this title to originate loans under this part; or
- (2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 1087d(a) of this title but that do not have an agreement with the Secretary under section 1087d(b) of this title.

(b) No entitlement to participate or originate

No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(c) Delivery of loan funds

Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of Federal Pell Grants under subpart 1 of part A of this subchapter.

(d) Institutions outside the United States

Loan funds for students (and parents of students) attending institutions outside the United States shall be disbursed through a financial institution located or operating in the United States and designated by the Secretary to serve as the agent of such institutions with respect to the receipt of the disbursements of such loan funds and the transfer of such funds to such institutions. To be eligible to receive funds under this part, an institution outside the United States shall make arrangements with the agent designated by the Secretary under this subsection to receive funds under this part.

(Pub. L. 89-329, title IV, § 452, as added Pub. L. 99-498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437;

amended Pub. L. 102-325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103-66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 105-33, title VI, § 6102, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105-244, title IV, § 401(g)(5), Oct. 7, 1998, 112 Stat. 1652; Pub. L. 111-152, title II, § 2209(a), Mar. 30, 2010, 124 Stat. 1077.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1087b, Pub. L. 89-329, title IV, § 452, as added Pub. L. 90-575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031, authorized grants for programs of cooperative education, prior to repeal by Pub. L. 94-482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

- 2010—Subsec. (d). Pub. L. 111-152 added subsec. (d).
- 1998—Subsec. (c). Pub. L. 105-244 substituted “Federal Pell Grants” for “basic grants”.
- 1997—Subsecs. (b) to (d). Pub. L. 105-33 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which required the Secretary to pay fees to institutions of higher education and alternative loan originators to assist in meeting the cost of loan origination.
- 1993—Pub. L. 103-66 amended section generally, substituting provisions relating to funds for origination of direct student loans for former provisions relating to payment rules.
- 1992—Pub. L. 102-325 amended section generally, substituting provisions relating to payment rules for former provisions authorizing demonstration projects.

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.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

§ 1087c. Selection of institutions for participation and origination

(a) General authority

The Secretary shall enter into agreements pursuant to section 1087d(a) of this title with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 1087d(b) of this title with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 1087f(b) of this title or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994-1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(b) Selection criteria

(1) Application

Each institution of higher education desiring to participate in the direct student loan

program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) Selection procedure

The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 1087d(a) of this title, from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe.

(c) Selection criteria for origination

(1) In general

The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection¹ 1087d(a) of this title;

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) Selection criteria

The Secretary may approve an institution to originate loans only if such institution—

(A) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E of this subchapter;

(B) is not overdue on program or financial reports or audits required under this subchapter;

(C) is not subject to an emergency action, or a limitation, suspension, or termination under section 1078(b)(1)(T), 1082(h), or 1094(c) of this title;

(D) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this subchapter, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(E) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(F) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(d) Eligible institutions

The Secretary may not select an institution of higher education for participation under this section unless such institution is an eligible institution under section 1085(a) of this title.

(e) Consortia

Subject to such requirements as the Secretary may prescribe, eligible institutions of higher

education (as determined under subsection (d)) with agreements under section 1087d(a) of this title may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) with respect to loan origination.

(Pub. L. 89-329, title IV, § 453, as added Pub. L. 99-498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 102-325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103-66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 342; Pub. L. 103-208, § 2(e), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 105-244, title IV, § 451, Oct. 7, 1998, 112 Stat. 1715; Pub. L. 111-39, title IV, § 404(b)(1), July 1, 2009, 123 Stat. 1946.)

Editorial Notes

CODIFICATION

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

PRIOR PROVISIONS

A prior section 1087c, Pub. L. 89-329, title IV, § 453, as added Pub. L. 90-575, title I, § 141, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 92-318, title I, § 136(b)(2), June 23, 1972, 86 Stat. 272, authorized grants and contracts for training and research in cooperative education programs, prior to repeal by Pub. L. 94-482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

2009—Subsec. (c)(3). Pub. L. 111-39 struck out par. (3). Text read as follows: “The Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 1087g(a)(2) of this title.”

1998—Subsec. (a). Pub. L. 105-244, § 451(a), amended heading, redesignated par. (1) as entire subsec., and struck out pars. (2) to (4) which provided for transition from loan programs under part B of this subchapter to direct student loan program under this part and defined term “new student loan volume”.

Subsec. (b)(2). Pub. L. 105-244, § 451(b), substituted “prescribe.” for “prescribe, by, to the extent possible—

“(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

“(ii) beginning in academic year 1995-1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

“(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.”

Subsec. (c)(2). Pub. L. 105-244, § 451(c)(1)(A), (B), substituted “Selection criteria” for “Transition selection criteria” in heading and “The Secretary” for “For academic year 1994-1995, the Secretary” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105-244, § 451(c)(1)(E), redesignated subpar. (B) as (A).

Pub. L. 105-244, § 451(c)(1)(C), struck out subpar. (A) which read as follows: “made loans under part E of this subchapter in academic year 1993-1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;”.

¹ So in original. Probably should be “section”.

Subsec. (c)(2)(B) to (D). Pub. L. 105-244, § 451(c)(1)(E), redesignated subpars. (C), (D), and (F) as (B) to (D), respectively. Former subpar. (B) redesignated (A).

Subsec. (c)(2)(E). Pub. L. 105-244, § 451(c)(1)(E), redesignated subpar. (G) as (E).

Pub. L. 105-244, § 451(c)(1)(D), struck out subpar. (E) which read as follows: “in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of this subchapter;”.

Subsec. (c)(2)(F) to (H). Pub. L. 105-244, § 451(c)(1)(E), redesignated subpars. (G) and (H) as (E) and (F), respectively. Former subpar. (F) redesignated (D).

Subsec. (c)(3). Pub. L. 105-244, § 451(c)(2), struck out “after transition” after “approval” in heading and substituted “The Secretary” for “For academic year 1995-1996 and subsequent academic years, the Secretary” in text.

1993—Pub. L. 103-66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103-208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.” See Codification note above.

1992—Pub. L. 102-325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

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 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.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

§ 1087d. Agreements with institutions

(a) Participation agreements

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part F of this subchapter for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 1078-8 of this title (except as otherwise pro-

vided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 1078-2 of this title (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the student aid index of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or 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 such student;

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

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(5) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(6) include such other provisions as the Secretary determines are necessary to protect the