

XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources."

§ 1091a. Statute of limitations, and State court judgments

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this subchapter that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part D or E of this subchapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this subchapter, or for the repayment of the amount due from a borrower on a loan made under this subchapter that has been assigned to the Secretary under this subchapter.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter shall be required to pay, in addition to other charges specified in this subchapter reasonable collection costs;

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy; and

(3) in collecting any obligation arising from a loan made under part E, an institution of higher education that has an agreement with the Secretary pursuant to section 1087cc(a) of this title shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) State court judgments

A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this subchapter that has been assigned or transferred to the Secretary under this subchapter may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(d) Special rule

This section shall not apply in the case of a student who is deceased, or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this subchapter, including interest paid on the student's behalf, collection costs, or other charges specified in this subchapter.

(Pub. L. 89-329, title IV, § 484A, as added Pub. L. 99-498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102-26, § 3(a), Apr. 9, 1991, 105 Stat. 124; Pub. L. 105-244, title IV, § 484, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 110-315, title IV, § 486, Aug. 14, 2008, 122 Stat. 3290.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89-329, title IV, § 484A, as added Pub. L. 99-272, title XVI, § 16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1091a, Pub. L. 89-329, title V, § 502, as added Pub. L. 90-35, § 2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91-230, title IV, § 401(h)(4), title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92-318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council, prior to repeal by Pub. L. 94-482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, effective Sept. 30, 1976.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-315, § 486(1), added par. (3).

Subsec. (d). Pub. L. 110-315, § 486(2), added subsec. (d). 1998—Pub. L. 105-244, § 484(1), inserted “, and State court judgments” after “limitations” in section catchline.

Subsec. (c). Pub. L. 105-244, § 484(2), added subsec. (c).

1991—Subsec. (a). Pub. L. 102-26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

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 1991 AMENDMENT

Pub. L. 102-26, § 3(c), Apr. 9, 1991, 105 Stat. 125, as amended by Pub. L. 102-325, title XV, § 1551, July 23,

1992, 105 Stat. 838, provided that: “The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991].”

§ 1091b. Institutional refunds

(a) Return of subchapter IV funds

(1) In general

If a recipient of assistance under this subchapter withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C) to be returned to the subchapter IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b).

(2) Leave of absence

(A) Leave not treated as withdrawal

In the case of a student who takes 1 or more leaves of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this subchapter that is to be returned in accordance with this section if—

- (i) the institution has a formal policy regarding leaves of absence;
- (ii) the student followed the institution's policy in requesting a leave of absence; and
- (iii) the institution approved the student's request in accordance with the institution's policy.

(B) Consequences of failure to return

If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this subchapter that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c)).

(3) Calculation of amount of subchapter IV assistance earned

(A) In general

The amount of grant or loan assistance under this subchapter that is earned by the recipient for purposes of this section is calculated by—

- (i) determining the percentage of grant and loan assistance under this subchapter that has been earned by the student, as described in subparagraph (B); and
- (ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) Percentage earned

For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this subchapter that has been earned by the student is—

- (i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or
- (ii) 100 percent, if the day the student withdrew occurs after the student has completed (as determined in accordance with subsection (d)) 60 percent of the payment period or period of enrollment.

(C) Percentage and amount not earned

For purposes of subsection (b), the amount of grant and loan assistance awarded under this subchapter that has not been earned by the student shall be calculated by—

- (i) determining the complement of the percentage of grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E, that has been earned by the student described in subparagraph (B); and
- (ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) Differences between amounts earned and amounts received

(A) In general

After determining the eligibility of the student for a late disbursement or post-withdrawal disbursement (as required in regulations prescribed by the Secretary), the institution of higher education shall contact the borrower and obtain confirmation that the loan funds are still required by the borrower. In making such contact, the institution shall explain to the borrower the borrower's obligation to repay the funds following any such disbursement. The institution shall document in the borrower's file the result of such contact and the final determination made concerning such disbursement.

(B) Return

If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b), to the programs under this subchapter in the order specified in subsection (b)(3).

(b) Return of subchapter IV program funds

(1) Responsibility of the institution

The institution shall return not later than 45 days from the determination of withdrawal,