

gated under such amendments, see section 504 of Pub. L. 112-25, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 1860(a)(2) of Pub. L. 112-10 or to any regulations promulgated under such amendments, see section 1860(c) of Pub. L. 112-10, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by title IV of Pub. L. 111-39 or to any regulations promulgated under such amendments, see section 409 of Pub. L. 111-39, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by section 402(a) of Pub. L. 110-315 or to any regulations promulgated under such amendments, see section 402(b) of Pub. L. 110-315, set out as a note under section 1089 of this title.

This section inapplicable to amendments made by Pub. L. 110-227 or to any regulations promulgated under such amendments, see section 11 of Pub. L. 110-227, set out as a note under section 1089 of this title.

#### **§ 1098b. Authorization of appropriations for administrative expenses**

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89-329, title IV, § 493, as added Pub. L. 102-325, title IV, § 497, July 23, 1992, 106 Stat. 634.)

#### **§ 1098c. Repealed. Pub. L. 110-315, title IV, § 494E, Aug. 14, 2008, 122 Stat. 3324**

Section, Pub. L. 89-329, title IV, § 493A, as added Pub. L. 105-244, title IV, § 490E, Oct. 7, 1998, 112 Stat. 1756, related to Year 2000 requirements at the Department of Education.

#### **§ 1098d. Procedures for cancellations and deferments for eligible disabled veterans**

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this subchapter. Not later than 6 months after October 7, 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

(Pub. L. 89-329, title IV, § 493B, as added Pub. L. 105-244, title IV, § 490F, Oct. 7, 1998, 112 Stat. 1758.)

#### **Statutory Notes and Related Subsidiaries**

##### **EFFECTIVE DATE**

Section 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.

#### **§ 1098e. Income-based repayment**

##### **(a) Definitions**

In this section:

##### **(1) Excepted PLUS loan**

The term “excepted PLUS loan” means a loan under section 1078-2 of this title, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

##### **(2) Excepted consolidation loan**

The term “excepted consolidation loan” means a consolidation loan under section 1078-3 of this title, or a Federal Direct Consolidation Loan, if the proceeds of such loan were used to the discharge the liability on an excepted PLUS loan.

##### **(3) Partial financial hardship**

The term “partial financial hardship”, when used with respect to a borrower, means that for such borrower—

(A) the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan) to a borrower as calculated under the standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period; exceeds

(B) 15 percent of the result obtained by calculating, on at least an annual basis, the amount by which—

(i) the borrower's, and the borrower's spouse's (if applicable), adjusted gross income; exceeds

(ii) 150 percent of the poverty line applicable to the borrower's family size as determined under section 9902(2) of title 42.

##### **(b) Income-based repayment program authorized**

Notwithstanding any other provision of this chapter, the Secretary shall carry out a program under which—

(1) a borrower of any loan made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan) who has a partial financial hardship (whether or not the borrower's loan has been submitted to a guaranty agency for default aversion or had been in default) may elect, during any period the borrower has the partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed the result described in subsection (a)(3)(B) divided by 12;

(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan, next toward any fees due on the loan, and then toward the principal of the loan;

(3) any interest due and not paid under paragraph (2)—

(A) shall, on subsidized loans, be paid by the Secretary for a period of not more than 3 years after the date of the borrower's election under paragraph (1), except that such period shall not include any period during which the borrower is in deferment due to an economic hardship described in section 1085(o) of this title; and

(B) be capitalized—

(i) in the case of a subsidized loan, subject to subparagraph (A), at the time the borrower—

- (I) ends the election to make income-based repayment under this subsection; or
- (II) begins making payments of not less than the amount specified in paragraph (6)(A); or
- (ii) in the case of an unsubsidized loan, at the time the borrower—
  - (I) ends the election to make income-based repayment under this subsection; or
  - (II) begins making payments of not less than the amount specified in paragraph (6)(A);
- (4) any principal due and not paid under paragraph (2) shall be deferred;
- (5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;
- (6) if the borrower no longer has a partial financial hardship or no longer wishes to continue the election under this subsection, then—
  - (A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or D (other than an excepted PLUS loan or excepted consolidation loan) shall not exceed the monthly amount calculated under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period, when the borrower first made the election described in this subsection; and
  - (B) the amount of time the borrower is permitted to repay such loans may exceed 10 years;
- (7) the Secretary shall repay or cancel any outstanding balance of principal and interest due on all loans made under part B or D (other than a loan under section 1078-2 of this title or a Federal Direct PLUS Loan) to a borrower who—
  - (A) at any time, elected to participate in income-based repayment under paragraph (1); and
  - (B) for a period of time prescribed by the Secretary, not to exceed 25 years, meets 1 or more of the following requirements—
    - (i) has made reduced monthly payments under paragraph (1) or paragraph (6);
    - (ii) has made monthly payments of not less than the monthly amount calculated under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title, based on a 10-year repayment period, when the borrower first made the election described in this subsection;
    - (iii) has made payments of not less than the payments required under a standard repayment plan under section 1078(b)(9)(A)(i) or 1087e(d)(1)(A) of this title with a repayment period of 10 years;
    - (iv) has made payments under an income-contingent repayment plan under section 1087e(d)(1)(D) of this title; or
    - (v) has been in deferment due to an economic hardship described in section 1085(o) of this title;
- (8) a borrower who is repaying a loan made under part B or D pursuant to income-based

repayment may elect, at any time, to terminate repayment pursuant to income-based repayment and repay such loan under the standard repayment plan; and

(9) the special allowance payment to a lender calculated under section 1087-1(b)(2)(I) of this title, when calculated for a loan in repayment under this section, shall be calculated on the principal balance of the loan and on any accrued interest unpaid by the borrower in accordance with this section.

### (c) Eligibility determinations

#### (1) In general

The Secretary shall establish procedures for annually determining the borrower's eligibility for income-based repayment, including verification of a borrower's annual income and the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan or excepted consolidation loan), and such other procedures as are necessary to effectively implement income-based repayment under this section.

#### (2) Procedures for eligibility

The Secretary shall—

(A) consider, but is not limited to, the procedures established in accordance with section 1087e(e)(1) of this title or in connection with income sensitive repayment schedules under section 1078(b)(9)(A)(iii) or 1078-3(b)(1)(E) of this title; and

(B) carry out, with respect to borrowers of any loan made under part D (other than an excepted PLUS loan or excepted consolidation loan), procedures for income-based repayment plans that are equivalent to the procedures carried out under section 1087e(e)(8) of this title with respect to income-contingent repayment plans.

#### (d) Special rule for married borrowers filing separately

In the case of a married borrower who files a separate Federal income tax return, the Secretary shall calculate the amount of the borrower's income-based repayment under this section solely on the basis of the borrower's student loan debt and adjusted gross income.

#### (e) Special terms for new borrowers on and after July 1, 2014

With respect to any loan made to a new borrower on or after July 1, 2014—

(1) subsection (a)(3)(B) shall be applied by substituting “10 percent” for “15 percent”; and

(2) subsection (b)(7)(B) shall be applied by substituting “20 years” for “25 years”.

(Pub. L. 89-329, title IV, §493C, as added Pub. L. 110-84, title II, §203(a), Sept. 27, 2007, 121 Stat. 792; amended Pub. L. 110-153, §2, Dec. 21, 2007, 121 Stat. 1824; Pub. L. 110-315, title IV, §494F, Aug. 14, 2008, 122 Stat. 3324; Pub. L. 111-152, title II, §2213, Mar. 30, 2010, 124 Stat. 1081; Pub. L. 116-91, §4(b), Dec. 19, 2019, 133 Stat. 1193.)

### Editorial Notes

#### AMENDMENTS

2019—Subsec. (c)(1). Pub. L. 116-91, §4(b)(1), designated first sentence of existing provisions as par. (1) and inserted heading.

Subsec. (c)(2). Pub. L. 116-91, §4(b)(2), (3), designated second sentence of existing provisions as par. (2) and inserted heading, substituted “The Secretary shall—” for “The Secretary shall”, inserted subpar. (A) designation before “consider,”, substituted “; and” for period at end of subpar. (A), and added subpar. (B).

2010—Subsec. (e). Pub. L. 111-152 added subsec. (e).

2008—Subsec. (b)(1). Pub. L. 110-315 substituted “or had been in default” for “or is already in default”.

2007—Subsec. (d). Pub. L. 110-153 added subsec. (d).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective July 1, 2009, see section 203(c)(1) of Pub. L. 110-84, set out as an Effective Date of 2007 Amendment note under section 1078-3 of this title.

#### § 1098f. Deferral of loan repayment following active duty

##### (a) Deferral of loan repayment following active duty

In addition to any deferral of repayment of a loan made under this subchapter pursuant to section 1078(b)(1)(M)(iii), 1087e(f)(2)(C), or 1087dd(c)(2)(A)(iii) of this title, a borrower of a loan under this subchapter who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, and is enrolled, or was enrolled within six months prior to the activation, in a program of instruction at an eligible institution, shall be eligible for a deferment during the 13 months following the conclusion of such service, except that a deferment under this subsection shall expire upon the borrower's return to enrolled student status.

##### (b) Active duty

Notwithstanding section 1088(d) of this title, in this section, the term “active duty” has the meaning given such term in section 101(d)(1) of title 10, except that such term—

(1) does not include active duty for training or attendance at a service school; but

(2) includes, in the case of members of the National Guard, active State duty.

(Pub. L. 89-329, title IV, §493D, as added Pub. L. 110-84, title II, §204, Sept. 27, 2007, 121 Stat. 795.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

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

#### § 1098g. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law.

(Pub. L. 97-320, title VII, §701(b), Oct. 15, 1982, 96 Stat. 1538.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in text, is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Title IV of

the Act is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

##### CODIFICATION

Section was formerly classified to section 1099 of this title.

Section was enacted as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective both with respect to loans made prior to and after Oct. 15, 1982, see section 701(c) of Pub. L. 97-320, set out as an Effective Date of 1982 Amendment note under section 1603 of Title 15, Commerce and Trade.

#### § 1098h. Procedure and requirements for requesting tax return information from the Internal Revenue Service

##### (a) Notification and approval requirements

###### (1) Federal student financial aid

In the case of any written or electronic application under section 1090 of this title by an individual for Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D, the Secretary, with respect to such individual and any parent or spouse whose financial information, including return information, is required to be provided on such application, shall—

(A) notify such individuals that—

(i) if such individuals provide approval under subparagraph (B)—

(I) the Secretary will have the authority to request that the Secretary of the Treasury disclose return information of such individuals to authorized persons (as defined in section 6103(l)(13) of title 26) for the relevant purposes described in such section; and

(II) the return information of such individuals may be redisclosed pursuant to clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the Internal Revenue Code of 1986, for the relevant purposes described in such section; and

(ii) the failure to provide such approval for the disclosures described in subclauses (I) and (II) of clause (i) will result in the Secretary being unable to calculate eligibility for such aid to such individual; and

(B) require, as a condition of eligibility for such aid, that such individuals affirmatively approve the disclosures described in subclauses (I) and (II) of subparagraph (A)(i).

##### (2) Income-contingent and income-based repayment

###### (A) New applicants

In the case of any written or electronic application by an individual for an income-contingent or income-based repayment plan for a loan under part D, the Secretary, with respect to such individual and any spouse of such individual, shall—