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20 U.S. Code § 1087 - Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow

U.S. Code Notes

(a) REPAYMENT IN FULL FOR DEATH AND DISABILITY

(1) IN GENERAL

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), or if a student borrower who has received such a loan is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, has lasted for a continuous period of not less than 60 months, or can be expected to last for a continuous period of not less than 60 months then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan. The Secretary may develop such safeguards as the Secretary determines necessary to prevent fraud and abuse in the discharge of liability under this subsection. Notwithstanding any other provision of this subsection, the Secretary may promulgate regulations to reinstate the obligation of, and resume collection on, loans discharged under this subsection in any case in which—

(A) a borrower received a discharge of liability under this subsection and after the discharge the borrower—

(i) receives a loan made, insured, or guaranteed under this subchapter; or

(ii) has earned income in excess of the poverty line; or

(B) the Secretary determines the reinstatement and resumption to be necessary.

(2) DISABILITY DETERMINATIONS

A borrower who has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected condition and who provides documentation of such determination to the Secretary of Education, shall be considered permanently and totally disabled for the purpose of discharging such borrower's loans under this subsection, and such borrower shall not be required to present additional documentation for purposes of this subsection.

(3) AUTOMATIC INCOME MONITORING

(A) In general

The Secretary shall establish and implement, with respect to any borrower described in subparagraph (B), procedures to—

(i) use return information disclosed under section 6103(I)(13) of title 26, pursuant to approval provided under section 1098h of this title, to determine the borrower's continued eligibility for the loan discharge described in subparagraph (B);

(ii) allow the borrower, at any time, to opt out of disclosure under such section 6103(I)(13) and instead provide such information as the Secretary may require to determine the borrower's continued eligibility for such loan discharge; and

(iii) provide the borrower with an opportunity to update the return information so disclosed before determination of such borrower's continued eligibility for such loan discharge.

(B) Applicability

Subparagraph (A) shall apply—

(i) to each borrower of a loan that is discharged due to the

total and permanent disability (within the meaning of this subsection) of the borrower; and

(ii) during the period beginning on the date on which such loan is so discharged and ending on the first day on which such loan may no longer be reinstated.

(b) PAYMENT OF CLAIMS ON LOANS IN BANKRUPTCY

The Secretary shall pay to the holder of a loan described in section 1078(a)(1)(A) or (B), 1078-1,^[1] 1078-2, 1078-3, or 1078-8 of this title, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) DISCHARGE

(1) IN GENERAL

If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution or was falsely certified as a result of a crime of identity theft, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part H. In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of

the loan which should have been refunded. The Secretary shall report to the authorizing committees annually as to the dollar amount of loan discharges attributable to failures to make refunds.

(2) ASSIGNMENT

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE

The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter.

(4) SPECIAL RULE

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this subchapter for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title.

(5) REPORTING

The Secretary shall report to consumer reporting agencies with respect to loans which have been discharged pursuant to this subsection.

(d) REPAYMENT OF LOANS TO PARENTS

If a student on whose behalf a parent has received a loan described in section 1078-2 of this title dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(Pub. L. 89-329, title IV, § 437, as added Pub. L. 99-498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 102-325, title IV, § 428, July 23, 1992, 106 Stat. 551; Pub. L. 103-208, § 2(c)(63)-(65), Dec. 20, 1993, 107 Stat. 2469; Pub. L. 105-244, title IV, § 431, Oct. 7, 1998, 112 Stat. 1709; Pub. L. 109-171, title VIII, § 8012, Feb. 8, 2006, 120 Stat. 166; Pub. L. 110-315, title I, § 103(b)(7), title IV, §§ 432(b)(4), 437(a), (b), Aug.

14, 2008, [122 Stat. 3089, 3246, 3257, 3258](#); [Pub. L. 111-39, title IV, § 402\(e\)\(1\)](#), July 1, 2009, [123 Stat. 1942](#); [Pub. L. 116-91, § 5](#), Dec. 19, 2019, [133 Stat. 1193](#).)

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