

TITLE 20 - EDUCATION**CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE****SUBCHAPTER IV - STUDENT ASSISTANCE****Part F - General Provisions Relating to Student Assistance Programs****§ 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 C (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 C (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 C (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 C (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 C 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

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 C (other than an excepted

NB: This unofficial compilation of the U.S. Code is current as of Jan. 8, 2008 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

PLUS loan or excepted consolidation loan), and such other procedures as are necessary to effectively implement income-based repayment under this section. The Secretary shall 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.

(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.

(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.)

References in Text

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Amendments

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).

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.