TITLE 20 - EDUCATION
CHAPTER 28 - HIGHER EDUCATION RESOURCES AND STUDENT ASSISTANCE
SUBCHAPTER IV - STUDENT ASSISTANCE
Part C - William D. Ford Federal Direct Loan Program

§ 1087i–1. Temporary authority to purchase student loans

(a) Authority to purchase

(1) Authority; determination required

Upon a determination by the Secretary that there is an inadequate availability of loan capital to meet the demand for loans under sections 1078, 1078–2, or 1078–8 of this title, whether as a result of inadequate liquidity for such loans or for other reasons, the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender, as defined by section 1085 (d)(1) of this title, loans first disbursed under sections 1078, 1078–2, or 1078–8 of this title on or after October 1, 2003, and before July 1, 2010, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this section shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(2) Federal Register notice

The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall jointly publish a notice in the Federal Register prior to any purchase of loans under paragraph (1) that—

(A) establishes the terms and conditions governing the purchases authorized by paragraph (1);
(B) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget, will jointly consider in evaluating the price at which to purchase loans made under section 1078, 1078–2, or 1078–8 of this title; and
(C) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(3) Temporary authority to purchase rehabilitated loans

(A) Authority

In addition to the authority described in paragraph (1), the Secretary, in consultation with the Secretary of the Treasury, is authorized to purchase, or enter into forward commitments to purchase, from any eligible lender (as defined in section 1085 (d)(1) of this title), loans that such lender purchased under section 1078–6 of this title on or after October 1, 2003, and before July 1, 2010, and that are not in default, on such terms as the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States, except that any purchase under this paragraph shall not result in any net cost to the Federal Government (including the cost of servicing the loans purchased), as determined jointly by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

(B) Federal Register notice

The Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget shall jointly publish a notice in the Federal Register prior to any purchase of loans under this paragraph that—
(i) establishes the terms and conditions governing the purchases authorized by this paragraph;
(ii) includes an outline of the methodology and factors that the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget will jointly consider in evaluating the price at which to purchase loans rehabilitated pursuant to section 1078–6 (a) of this title; and
(iii) describes how the use of such methodology and consideration of such factors used to determine purchase price will ensure that loan purchases do not result in any net cost to the Federal Government (including the cost of servicing the loans purchased).

(b) Proceeds
The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section be used—
(1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this subchapter; and
(2) (A) in the case of loans purchased pursuant to subsection (a)(1), to originate new Federal loans to students, as authorized under part B of this subchapter; or
(B) in the case of loans purchased pursuant to subsection (a)(3), to originate such new Federal loans to students, or to purchase loans in accordance with section 1078–6 (a) of this title.

(c) Maintaining servicing arrangements
The Secretary may, if agreed upon by an eligible lender selling loans under this section, contract with such lender for the servicing of the loans purchased, provided that—
(1) the cost of such servicing arrangement does not exceed the cost the Federal Government would otherwise incur for the servicing of loans purchased, as determined under subsection (a); and
(2) such servicing arrangement is in the best interest of the borrowers whose loans are purchased.

(d) Guaranty agency responsibilities and payments
Notwithstanding any other provision of this chapter and part C of subchapter I of chapter 34 of title 42, beginning on the date on which the Secretary purchases a loan under this section—
(1) the guaranty agency that insured such loan shall cease to have any obligations, responsibilities, or rights (including rights to any payment) under this chapter and part C of subchapter I of chapter 34 of title 42 for any activity related to the administration of such loan that is carried out or required to be carried out on or after the date of such purchase; and
(2) the insurance issued by such agency pursuant to section 1078 (b) of this title for such loan shall cease to be effective with respect to any default on such loan that occurs on or after the date of such purchase.

(e) Reports and cost estimates
The Secretary shall prepare, transmit to the authorizing committees, and make available to the public, the following:
(1) Quarterly reports
(A) Contents
Not later than 60 days after the end of each quarter during the period beginning July 1, 2008, and ending September 30, 2010, a quarterly report on—
(i) the number of loans the Secretary has agreed to purchase, or has purchased, using the authority provided under this section, and the total amount of outstanding principal and accrued interest of such loans, during such period; and
(B) Disaggregated information

For each quarterly report, the information described in clauses (i) and (ii) of subparagraph (A) shall be disaggregated by lender and, for each lender, by category of institution (using the categories described in section 1015a (d) of this title) and type of loan.

(2) Estimates of purchase program costs

Not later than February 15, 2011, an estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i) during the period beginning July 1, 2008, and ending September 30, 2010, and an estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii) during such period. Each such estimate shall—

(A) contain the same level of detail, and be reported in a similar manner, as the budget estimates provided for the loan program under part B and the direct student loan program under this part in the President’s annual budget submission to Congress, except that current and future administrative costs shall also be reported;

(B) include an estimate of the gross and net outlays that have been, or will be, incurred by the Federal Government (including subsidy and administrative costs, and any payments made by the Department to lenders, trusts, or other entities related to such activities) in purchasing such loans or purchasing a participation interest in such loans during such period (as applicable); and

(C) include a comparison of—

(i) the average amount of the gross and net outlays (including costs and payments) described in subparagraph (B) for each $100 of loans purchased or for which a participation interest was purchased (as applicable) during such period, disaggregated by type of loan; with

(ii) the average amount of such gross and net outlays (including costs and payments) to the Federal Government for each $100 of comparable loans made under this part and part B during such period, disaggregated by part and by type of loan.

(3) Annual cost estimates

Not later than February 15 of the fiscal year following each of the fiscal years 2008, 2009, 2010, and 2011, an annual estimate of the costs associated with the program of purchasing loans described in paragraph (1)(A)(i), and an annual estimate of the costs associated with the program of purchasing a participation interest in loans described in paragraph (1)(A)(ii), that includes the information described in paragraph (2) for such fiscal year.

(f) Expiration of authority

The Secretary’s authority to purchase loans under this section shall expire on July 1, 2010.


Amendments


Subsec. (b). Pub. L. 111–39, § 404(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary shall require, as a condition of any purchase under subsection (a), that the funds paid by the Secretary to any eligible lender under this section shall be used: (1) to ensure continued participation of such lender in the Federal student loan programs authorized under part B of this subchapter; and (2) to originate new Federal loans to students, as authorized under part B of this subchapter.”


Subsecs. (d), (e). Pub. L. 110–315, § 453(2), added subsecs. (d) and (e). Former subsec. (d) redesignated (f).


Effective Date of 2009 Amendment