

**OTHER ISSUES
COHORT DEFAULT RATE**

Statutory links and language

Link to HEOA Sec. 427 amending Sec. 428G of the HEA:

http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp110&sid=cp110Q56vs&refer=&r_n=hr803.110&item=&sel=TOC_534546&

Link to HEOA Sec. 436 amending Sec. 435 of the HEA:

http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp110&sid=cp110LfrKb&refer=&r_n=hr803.110&item=&sel=TOC_595402&

SEC. 427. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

2. (a) Special Rule- Section 428G(a) (20 U.S.C. 1078-7(a)) is amended by adding at the end the following:

` (4) AMENDMENT TO SPECIAL RULE- Beginning on October 1, 2011, the special rule under paragraph (3) shall be applied by substituting `15 percent' for `10 percent'.

(b) Requirements for Disbursements to First Year Students- Section 428G(b) (20 U.S.C. 1078-7(b)) is amended by adding at the end the following:

` (3) AMENDMENT TO COHORT DEFAULT RATE EXEMPTION- Beginning on October 1, 2011, the exemption to the requirements of paragraph (1) in the second sentence of such paragraph shall be applied by substituting `15 percent' for `10 percent'.

SEC. 436. DEFINITIONS OF ELIGIBLE INSTITUTION AND ELIGIBLE LENDER.

2. (a) Participation Rate Index-

(1) AMENDMENTS- Section 435(a) (20 U.S.C. 1085(a)) is amended--

(A) in paragraph (2)--

(i) in subparagraph (A)(ii), by striking `paragraph (4)' and inserting `paragraph (5)'; and

(ii) in subparagraph (B)--

(I) by striking `and' at the end of clause (ii); and

(II) by striking clause (iii) and inserting the following:

`(iii) 25 percent for fiscal year 1994 through fiscal year 2011; and

`(iv) 30 percent for fiscal year 2012 and any succeeding fiscal year.';

(B) by redesignating paragraph (6) as paragraph (8), and redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

`(3) APPEALS FOR REGULATORY RELIEF- An institution whose cohort default rate, calculated in accordance with subsection (m), is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for any two consecutive fiscal years may, not later than 30 days after the date the institution receives notification from the Secretary, file an appeal demonstrating exceptional mitigating circumstances, as defined in paragraph (5). The Secretary shall issue a decision on any such appeal not later than 45 days after the date of submission of the appeal. If the Secretary determines that the institution demonstrates exceptional mitigating circumstances, the Secretary may not subject the institution to provisional certification based solely on the institution's cohort default rate.';

(D) in paragraph (5)(A) (as redesignated by subparagraph (B)), by striking `For purposes of paragraph (2)(A)(ii)' and all that follows through `following criteria:' and inserting `For purposes of this subsection, an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of paragraph (2) inequitable, and that provide for regulatory relief under paragraph (3), if such institution, in the opinion of an independent auditor, meets the following criteria:';

(E) by inserting after paragraph (6) (as redesignated by subparagraph (B)) the following:

`(7) DEFAULT PREVENTION AND ASSESSMENT OF ELIGIBILITY BASED ON HIGH DEFAULT RATES-

`(A) FIRST YEAR-

`(i) IN GENERAL- An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) in any fiscal year shall establish a default prevention task force to prepare a plan to--

`(I) identify the factors causing the institution's cohort default rate to exceed such threshold;

`(II) establish measurable objectives and the steps to be taken to

improve the institution's cohort default rate; and

`(III) specify actions that the institution can take to improve student loan repayment, including appropriate counseling regarding loan repayment options.

`(ii) TECHNICAL ASSISTANCE- Each institution subject to this subparagraph shall submit the plan under clause (i) to the Secretary, who shall review the plan and offer technical assistance to the institution to promote improved student loan repayment.

`(B) SECOND CONSECUTIVE YEAR-

`(i) IN GENERAL- An institution whose cohort default rate is equal to or greater than the threshold percentage specified in paragraph (2)(B)(iv) for two consecutive fiscal years, shall require the institution's default prevention task force established under subparagraph (A) to review and revise the plan required under such subparagraph, and shall submit such revised plan to the Secretary.

`(ii) REVIEW BY THE SECRETARY- The Secretary shall review each revised plan submitted in accordance with this subparagraph, and may direct that such plan be amended to include actions, with measurable objectives, that the Secretary determines, based on available data and analyses of student loan defaults, will promote student loan repayment.'; and

(F) in paragraph (8)(A) (as redesignated by subparagraph (B)) by striking `0.0375' and inserting `0.0625'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1)(F) shall take effect for fiscal years beginning on or after October 1, 2011.

...

(e) Cohort Default Rates-

(1) AMENDMENTS- Section 435(m) (20 U.S.C. 1085(m)) is amended--

(A) in paragraph (1)--

(i) in the first sentence of subparagraph (A), by striking `end of the following fiscal year' and inserting `end of the second fiscal year following the fiscal year in which the students entered repayment';

(ii) in subparagraph (B), by striking `such fiscal year' and inserting `such second fiscal year';

(iii) in subparagraph (C), by striking `end of the fiscal year immediately

following the year in which they entered repayment' and inserting `end of the second fiscal year following the year in which they entered repayment';

(B) in paragraph (2)(C)--

(i) by striking `end of such following fiscal year is not considered as in default for the purposes of this subsection' and inserting `end of the second fiscal year following the year in which the loan entered repayment is not considered as in default for purposes of this subsection'; and

(ii) by striking `such following fiscal year' and inserting `such second fiscal year'; and

(C) in paragraph (4)--

(i) by amending the paragraph heading to read as follows:
`COLLECTION AND REPORTING OF COHORT DEFAULT RATES AND LIFE OF COHORT DEFAULT RATES- ' ; and

(ii) by amending subparagraph (A) to read as follows:

`(A) The Secretary shall publish not less often than once every fiscal year a report showing cohort default data and life of cohort default rates for each category of institution, including: (i) four-year public institutions; (ii) four-year private nonprofit institutions; (iii) two-year public institutions; (iv) two-year private nonprofit institutions; (v) four-year proprietary institutions; (vi) two-year proprietary institutions; and (vii) less than two-year proprietary institutions. For purposes of this subparagraph, for any fiscal year in which one or more current and former students at an institution enter repayment on loans under section 428, 428B, or 428H, received for attendance at the institution, the Secretary shall publish the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) received for attendance at the institution in that fiscal year who default before the end of each succeeding fiscal year.'.

(2) EFFECTIVE DATE AND TRANSITION-

(A) EFFECTIVE DATE- The amendments made by paragraph (1) shall take effect for purposes of calculating cohort default rates for fiscal year 2009 and succeeding fiscal years.

(B) TRANSITION- Notwithstanding subparagraph (A), the method of calculating cohort default rates under section 435(m) of the Higher Education Act of 1965 as in effect on the day before the date of enactment of this Act shall continue in effect, and the rates so calculated shall be the basis for any sanctions imposed on institutions of higher education because of their cohort default rates, until three consecutive years of cohort default rates calculated in

accordance with the amendments made by paragraph (1) are available.

