Federal Register

Tuesday
June 3, 1997

Part IV

Department of Education

34 CFR Part 685
William D. Ford Federal Direct Loan Program; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AC42

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends § 685.212(c) of the William D. Ford Federal Direct Loan (Direct Loan) Program final regulations to correct a technical error. These regulations apply to loans under the Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) Program, the Federal Direct Unsubsidized Stafford/Ford Loan (Direct Unsubsidized Loan) Program, the Federal Direct PLUS Loan (Direct PLUS Loan) Program, and the Federal Direct Consolidation Loan (Direct Consolidation Loan) Program, collectively referred to as the Direct Loan Program. The Secretary is amending these regulations to require that an endorser of a Direct PLUS Loan or a Direct PLUS Consolidation Loan is obligated to repay that Direct Loan when the borrower's obligation to repay is discharged in bankruptcy.

EFFECTIVE DATE: These regulations take effect June 3, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Utz, Program Specialist, U.S. Department of Education, 600 Independence Avenue, S.W. (ROB–3, Room 3045), Washington, DC 20202–5400. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Direct Loan Program regulations at 34 CFR 685.212(c) provide that the Secretary does not require a borrower or any endorser to make any further payments on a loan if the borrower's obligation to repay that loan is discharged in bankruptcy. The Secretary has determined that the regulation is inconsistent with applicable statutory requirements. Section 455(a)(1) of the Higher Education Act of 1965, as amended (HEA), generally requires that loans made to student and parent borrowers under the Direct Loan and Federal Family Education Loan (FFEL) Programs have the same terms, conditions, and benefits, unless otherwise specified. Regulations governing the FFEL Program conform to the general rule that a bankruptcy discharge relieves the debtor of his or her personal liability to repay the debt but does not discharge the obligation of a cosigner or endorser to repay the discharged debt. The HEA does not suggest that a Direct Loan endorser should be treated differently than an endorser of a FFEL loan when the borrower declares bankruptcy, and it was not the Secretary's intent to establish different treatment. Accordingly, the Secretary is amending § 685.212(c) to ensure that endorsers in the Direct Loan Program are subject to the same rules that apply to endorsers in the FFEL Program.

Since this amendment merely makes a technical correction needed to conform the regulations with statutory requirements, it is not subject to a delayed effective date.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the regulatory changes in this document are necessary in order to amend a regulation that, as a result of a technical error, is inconsistent with a statutory requirement that Direct Loans have the same terms, conditions, and benefits as loans made to borrowers under the FFEL Program, unless otherwise specified by the statute. The Secretary did not intend or have discretion to exempt endorsers in the Direct Loan Program from a requirement that applies to endorsers in the FFEL Program. Since this regulatory amendment corrects an error in implementing a statutory requirement, the Secretary has determined that the publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on any small entities under the Regulatory Flexibility Act. These regulations amend current regulations that are inconsistent with a statutory requirement. The regulations will affect endorsers of loans that are discharged in bankruptcy. Endorsers are not considered to be small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: May 22, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Number: 84.268, William D. Ford, Federal Direct Loan Program.)

The Secretary amends part 685 of title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a et seq., unless otherwise noted.

2. Section 685.212, paragraph (c), is amended by removing the words ''or any endorser''.

[FR Doc. 97–14357 Filed 6–2–97; 8:45 am]

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