

(2) At least eight more times during the remainder of the eight-month period that started on the date of delinquency for loans repayable in installments less frequent than monthly.

(c) *Skip-tracing assistance.* (1) If a lender does not know the borrower's current address, the lender promptly shall attempt to locate the borrower through normal commercial collection activities, including contacting all individuals and entities named in the borrower's loan application. If these efforts are unsuccessful, the lender promptly shall attempt to learn the borrower's current address through use of the Department's skip-tracing assistance.

(2) If the lender does not know the borrower's address when a borrower is first delinquent in making a payment, but subsequently obtains the borrower's address prior to the date on which the loan goes into default, the lender shall attempt to contact the borrower in accordance with paragraph (b) of this section, with the first contact occurring within 15 days of the date the lender obtained knowledge of the borrower's address, and shall attempt to contact the borrower at least once during each succeeding 30-day period until default.

(d) *Preclaims assistance.* When the borrower is 60 days delinquent in making a payment, the lender shall request preclaims assistance from the Department of Education. This preclaims assistance consists of sending a series of letters to the borrower, urging the borrower to contact the lender and begin or resume payments.

(e) *Final demand letter.* A lender shall send a final demand letter to the borrower at least 30 days before the lender files a default claim. The lender shall allow the borrower at least 30 days to respond to the final demand letter. However, a lender need not send a final demand letter to a borrower whose address is unknown to the lender.

(f) *Litigation.* (1) If a loan is in default and the lender determines that the borrower or an endorser has the ability to repay the loan, the lender may bring suit against the borrower or the endorser to recover the amount of the unpaid principal and interest, together

with reasonable attorneys' fees, late charges, and court costs.

(2) Prior to bringing suit the lender shall—

(i) Obtain the Secretary's approval; and

(ii) Notify the borrower or endorser in writing that it has received the Secretary's approval to bring suit on the loan, and that unless the borrower or endorser makes payments sufficient to bring the account out of default the lender will seek a judgment under which the borrower or endorser will be liable for payment of late charges, attorneys' fees, collection agency charges, court costs, and other reasonable collection costs in addition to the unpaid principal and interest on the loan. The lender shall mail the notice to the borrower or endorser by certified mail, return receipt requested.

(3) The lender may bring suit if the borrower or endorser does not make payments sufficient to bring the account out of default within 10 days following the date of delivery of the notice described in paragraph (f)(2)(ii) of this section to the borrower or endorser indicated on the receipt.

(4) A lender may first apply the proceeds of any judgment against its attorneys' fees, court costs, collection agency charges, and other reasonable collection costs, whether or not the judgment provides for these fees and costs.

(Approved by the Office of Management and Budget under control number 1845-0020)

(Authority: 20 U.S.C. 1078-1, 1078-2, 1078-3, 1079, 1080, 1081, 1082, 1085)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9119, Feb. 19, 1993; 59 FR 33358, June 28, 1994; 64 FR 18981, Apr. 16, 1999; 64 FR 58965, Nov. 1, 1999]

§ 682.508 Assignment of a loan.

(a) *General.* A Federal GSL loan may not be assigned except to another eligible lender. For the purpose of this paragraph, "assigned" means any kind of transfer of an interest in the loan, including a pledge of such an interest as security.

(b)(1) *Procedure.* If the assignment of a FISL Program loan is to result in a change in the identity of the party to whom the borrower must send subsequent payments, the assignor and the

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assignee of the loan shall, no later than 45 days from the date the assignee acquires a legally enforceable right to receive payment from the borrower on the assigned loan, provide separate notices to the borrower of—

- (i) The assignment;
- (ii) The identity of the assignee;
- (iii) The name and address of the party to whom subsequent payments must be sent; and
- (iv) The telephone numbers of both the assignor and the assignee.

(2) The assignor and assignee shall provide the notice required by paragraph (b)(1) of this section separately. Each notice must indicate that a corresponding notice will be sent by the other party to the assignment.

(c) *The Secretary's approval.* The approval of the Secretary is required prior to the assignment of a note to an eligible lender that has not entered into a contract of insurance with the Secretary under § 682.503.

(d) *Warranty.* (1) Nothing in this section precludes the buyer of a loan from obtaining a warranty from the seller covering certain future reductions by the Secretary in computing the amount of guaranteed loss, if any, on a claim filed on the loan.

(2) The warranty may cover only reductions that are attributable to an act or failure to act of the seller or other previous holder.

(3) The warranty may not cover matters the buyer is responsible for under the regulations in this part.

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(Authority: 20 U.S.C. 1078-1, 1078-2, 1078-3, 1079, 1080, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9120, Feb. 19, 1993; 64 FR 58965, Nov. 1, 1999]

§ 682.509 Special conditions for filing a claim.

(a) A lender shall cease collection activity on a loan and file a claim with the Secretary within the time specified in § 682.511(e)(3), if—

(1) In the case of a loan that was not made or originated by the school, the lender learns that while the student was enrolled at the school the school terminated its teaching activities for

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that student during the academic period covered by the loan; or

(2) The Secretary directs that the claim be filed.

(b) A lender may not as a result of a claim filed with the Secretary under this section report a borrower's loan as in default to any credit bureau or other third party.

(Authority: 20 U.S.C. 1078-1, 1078-2, 1078-3, 1079, 1080, 1082)

§ 682.510 Determination of the borrower's death, total and permanent disability, or bankruptcy.

(a) The procedures in § 682.402(a)-(d) for determining whether a borrower has died, become totally and permanently disabled, or filed a bankruptcy petition apply to the Federal GSL programs.

(b) For purposes of this section, references to the "guaranty agency" in § 682.402(d)(5) shall be understood to refer to the Secretary.

(Authority: 20 U.S.C. 1078-1, 1078-2, 1078-3, 1082, 1087)

§ 682.511 Procedures for filing a claim.

(a) *Filing a claim application.* (1) A lender may file a claim against the Secretary's guarantee on a Federal GSL loan for any of the following reasons:

(i) The loan is in default, as defined in § 682.200.

(ii) Any of the conditions exist for filing a claim without collection efforts, as set forth in § 682.412(e)(2) or § 682.509.

(iii) The borrower has died, become totally and permanently disabled, or filed a bankruptcy petition, as determined by the lender in accordance with § 682.510.

(2) If a Federal PLUS loan was obtained by two eligible parents as co-makers, or a Federal Consolidation loan was obtained jointly by a married couple, the reason for filing a claim must hold true for both applicants, or each applicant must have satisfied a claimable criterion at the time of the request for discharge of the loan.

(3) A lender may file a claim against the Secretary's guarantee only on a form provided by the Secretary. The lender shall attach to the claim all documents required by the Secretary.