tion 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1066b. Federal insurance for bonds

(a) General rule

Subject to the limitations in section 1066c of this title, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d) of this section.

(b) Responsibilities of designated bonding authority

The Secretary may not enter into an insurance agreement described in subsection (a) of this section unless the Secretary designates a qualified bonding authority in accordance with sections 1066d(1) and 1066e[1] of this title and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 5 percent of the proceeds of any loan made under this part, with each eligible institution required to maintain in the escrow account an amount equal to 5 percent of the outstanding principal of all loans made to such institution under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 5 percent deposit of loan proceeds within 120 days following scheduled repayment of such institution's loan;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 1066c of this title;

(11) make loans only to eligible institutions under this part in accordance with conditions prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions; and

(12) limit loan collateralization, with respect to any loan made under this part, to 100 percent of the loan amount, except as otherwise required by the Secretary.

(c) Additional agreement provisions

Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8) of this section.

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repay-

[1] See References in Text note below.

ments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

(d) Full faith and credit provisions

Subject to subsection (c)(1) of this section the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(e) Sale of qualified bonds

Notwithstanding any other provision of law, a qualified bond guaranteed under this part may be sold to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.

(Pub. L. 89–329, title III, § 343, formerly title VII, § 723, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 743; amended Pub. L. 103–382, title III, § 360C, Oct. 20, 1994, 108 Stat. 3972; renumbered title III, § 343, and amended Pub. L. 105–244, title III, §§ 301(a)(3), (4), (c)(5), 306(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646; Pub. L. 110–315, title III, §§ 314(b), 320(2), Aug. 14, 2008, 122 Stat. 3181, 3187.)

REFERENCES IN TEXT

Section 1066e of this title, referred to in subsec. (b), was repealed by Pub. L. 105–244, title III, § 306(d), Oct. 7, 1998, 112 Stat. 1647.

CODIFICATION

Section was formerly classified to section 1132c–2 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 343 of Pub. L. 89–329 was classified to section 1068 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Subsec. (b)(8)(B)(ii). Pub. L. 110–315, § 314(b)(1)(B), inserted ''within 120 days'' after ''loan proceeds''.

Pub. L. 110–315, § 314(b)(1)(A), which directed the substitution of ''5'' for ''10'', could not be executed because ''10'' did not appear subsequent to amendment by Pub. L. 105–244, § 306(b)(1). See 1998 Amendment note below.

Subsec. (b)(12). Pub. L. 110–315, § 314(b)(2)–(4), added par. (12).

Subsec. (e). Pub. L. 110–315, § 320(2), inserted heading.

1998—Subsec. (a). Pub. L. 105–244, § 301(c)(5)(A), substituted ''section 1066c'' for ''section 1132c–3''.

Subsec. (b). Pub. L. 105–244, § 301(c)(5)(B)(i), substituted ''sections 1066d(1) and 1066e'' for ''sections 1132c–4(1) and 1132c–5'' in introductory provisions.

Subsec. (b)(8). Pub. L. 105–244, § 306(b)(1), substituted ''5 percent'' for ''10 percent'' wherever appearing.

Subsec. (b)(10). Pub. L. 105–244, § 301(c)(5)(B)(ii), substituted ''section 1066c'' for ''section 1132c–3''.

Subsec. (d). Pub. L. 105–244, § 301(c)(5)(B)(iii), made technical amendment to reference in original act which appears in text as reference to subsection (c)(1) of this section.

Subsec. (e). Pub. L. 105–244, § 306(b)(2), added subsec. (e).

1994—Subsec. (b)(8)(A). Pub. L. 103–382, § 360C(1)(A), inserted before semicolon '', with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part''.

Subsec. (b)(8)(B)(ii). Pub. L. 103–382, § 360C(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;''.

Subsec. (b)(11). Pub. L. 103–382, § 360C(2), substituted ''conditions'' for ''regulations''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1066c. Limitations on Federal insurance for bonds issued by designated bonding authority

(a) Limit on amount

At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $1,100,000,000, of which—

(1) not more than $733,333,333 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $366,666,667 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 123 of this title shall be eligible to receive assistance under this part.

(b) Limitation on credit authority

The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) Religious activity prohibition

No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) Discrimination prohibition

No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the