PRIOR PROVISIONS

A prior section 1066, Pub. L. 89–329, title III, § 351, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1302, and amended, which related to applications for assistance under this subchapter, was renumbered section 391 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068 of this title.

Another prior section 1066, Pub. L. 89–329, title III, § 341, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1396, related to applications for assistance, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1066, Pub. L. 89–329, title IV, § 406, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, § 101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allocation of allotted funds to institutions, filing dates for application, criteria for making allocations, additional allocations and payments, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1066a. Definitions

For the purposes of this part:

(1) The term ''eligible institution'' means a ''part B institution'' as that term is defined in section 1061(2) of this title.

(2) The term ''loan'' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term ''qualified bond'' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 1066b(b) of this title.

(4) The term ''funding'' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 1066b of this title.

(5) The term ''capital project'' means, subject to section 1066c(b) of this title, the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;

(C) instructional equipment, technology, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

(E) a facility designed to provide primarily outpatient health care for students or faculty;

(F) physical infrastructure essential to support the projects authorized under this paragraph, including roads, sewer and drainage systems, and water, power, lighting, telecommunications, and other utilities;

(G) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by an accrediting agency or association recognized by the Secretary under subpart 2 of part G of subchapter IV; and

(H) any real property or interest therein underlying facilities described in subparagraph (A) or (G).

(6) The term ''interest'' includes accredited value or any other payment constituting interest on an obligation.

(7) The term ''outstanding'', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term ''designated bonding authority'' means the private, for-profit corporation selected by the Secretary pursuant to section 1066d(1) of this title for the purpose of issuing taxable capital project construction bonds in furtherance of the purposes of this part.

(9) The term ''Advisory Board'' means the Advisory Board established by section 1066f of this title.

(Pub. L. 89–329, title III, § 342, formerly title VII, § 722, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 742; renumbered title III, § 342, and amended Pub. L. 105–244, title III, §§ 301(a)(3), (4), (c)(4), 306(a), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646; Pub. L. 110–315, title III, §§ 314(a), 320(1), Aug. 14, 2008, 122 Stat. 3180, 3187.)

CODIFICATION

Section was formerly classified to section 1132c–1 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 342 of Pub. L. 89–329 was classified to section 1067 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

2008—Par. (5). Pub. L. 110–315, § 320(1)(A), inserted a comma after ''1066c(b) of this title'' in introductory provisions.

Par. (5)(C). Pub. L. 110–315, § 320(1)(B), substituted ''equipment, technology,'' for ''equipment technology,,''.

Par. (5)(G). Pub. L. 110–315, § 314(a)(1), substituted ''by an accrediting agency or association recognized by the Secretary under subpart 2 of part G of subchapter IV'' for ''by a nationally recognized accrediting agency or association''.

Par. (8). Pub. L. 110–315, § 314(a)(2), inserted ''capital project'' after ''issuing taxable''.

1998—Par. (3). Pub. L. 105–244, § 301(c)(4)(A), substituted ''section 1066b(b)'' for ''section 1132c–2(b)''.

Par. (4). Pub. L. 105–244, § 301(c)(4)(B), substituted ''section 1066b'' for ''section 1132c–2''.

Par. (5). Pub. L. 105–244, § 301(c)(4)(C), substituted ''section 1066c(b)'' for ''section 1132c–3(b)'' in introductory provisions.

Par. (5)(B). Pub. L. 105–244, § 306(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Par. (5)(C). Pub. L. 105–244, § 306(a)(1), (3), redesignated subpar. (B) as (C) and inserted ''technology,'' after ''instructional equipment''. Former subpar. (C) redesignated (G).

Par. (5)(D) to (F). Pub. L. 105–244, § 306(a)(4), added subpars. (D) to (F). Former subpar. (D) redesignated (H).

Par. (5)(G). Pub. L. 105–244, § 306(a)(1), redesignated subpar. (C) as (G).

Par. (5)(H). Pub. L. 105–244, § 306(a)(1), (5), redesignated subpar. (D) as (H) and substituted ''(G)'' for ''(C)''.

Par. (8). Pub. L. 105–244, § 301(c)(4)(D), substituted ''section 1066d(1)'' for ''section 1132c–4(1)''.

Par. (9). Pub. L. 105–244, § 301(c)(4)(E), substituted ''section 1066f'' for ''section 1132c–6''.

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.

§ 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.

[1] See References in Text note below.