

§ 60.15

(2) *Non-student borrowers.* For loans disbursed prior to July 22, 1986, the lender must calculate the insurance premium for nonstudent borrowers on the basis of the number of months beginning with the month following the month in which the loan proceeds are disbursed to the borrower and ending at the conclusion of the month preceding the month in which repayment of principal is expected to begin or resume on the borrower's previous HEAL loans. For loans disbursed on or after July 22, 1986, the insurance premium shall be calculated as a one-time flat rate on the principal of the loan at the time of disbursement.

(3) *Multiple installments.* In cases where the lender disburses the loan in multiple installments, the insurance premium is calculated for each disbursement.

[48 FR 38988, Aug. 26, 1983, as amended at 51 FR 30644 Aug. 28, 1986; 52 FR 746, Jan. 8, 1987; 56 FR 42700, Aug. 29, 1991; 57 FR 28795, June 29, 1992]

§ 60.15 Other charges to the borrower.

(a) *Late charges.* If the borrower fails to pay all of a required installment payment or fails to provide written evidence that verifies eligibility for the deferment of the payment within 30 days after the payment's due date, the lender or holder will require that the borrower pay a late charge. A late charge must be equal to 5 percent of the unpaid portion of the payment due.

(b) *Collection charges.* The lender or holder may also require that the borrower pay the holder of the note for reasonable costs incurred by the holder or its agent in collecting any installment not paid when due. These costs may include attorney's fees, court costs, telegrams, and long-distance phone calls. The holder may not charge the borrower for the normal costs associated with preparing letters and making personal and local telephone contacts with the borrower. A service agency's fee for normal servicing of a loan may not be passed on to the borrower, either directly or indirectly. No charges, other than those authorized by this section, may be passed on to the borrower, either directly or indirectly, without prior approval of the Secretary.

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(c) *Other loan making costs.* A lender may not pass on to the borrower any cost of making a HEAL loan other than the costs of the insurance premium.

[48 FR 38988, Aug. 26, 1983, as amended at 52 FR 747, Jan. 8, 1987; 57 FR 28795, June 29, 1992]

§ 60.16 Power of attorney.

Neither a lender nor a school may obtain a borrower's power of attorney or other authorization to endorse a disbursement check on behalf of a borrower. The borrower must personally endorse the check and may not authorize anyone else to endorse it on his or her behalf.

§ 60.17 Security and endorsement.

(a) A HEAL loan must be made without security.

(b) With one exception, it must also be made without endorsement. If a borrower is a minor and cannot under State law create a legally binding obligation by his or her own signature, a lender may require an endorsement by another person on the borrower's HEAL note. For purposes of this paragraph, an "endorsement" means a signature of anyone other than the borrower who is to assume either primary or secondary liability on the note.

§ 60.18 Consolidation of HEAL loans.

HEAL loans may be consolidated as follows provided that the lender or holder must first inform the borrower of the effect of the consolidation on the interest rate and explain to the borrower that he or she is not required to agree to the consolidation:

(a) If a lender or holder holds two or more HEAL loans made to the same borrower, the lender or holder and the borrower may agree to consolidate the loans into a single HEAL loan obligation evidenced by one promissory note.

(b) A HEAL loan may be consolidated with any other loan only if:

(1) The consolidation will not result in terms less favorable to the borrower than if no consolidation had occurred, and

(2) The Federal Government does not, as a result of the consolidation, become liable for any payment of principal or interest for a Guaranteed Student Loan under the provisions of section

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439(o) of the Higher Education Act of 1965.

(Approved by the Office of Management and Budget under control number 0915-0108)

[48 FR 38988, Aug. 26, 1983, as amended at 57 FR 28795, June 29, 1992]

§ 60.19 Forms.

All HEAL forms are approved by the Secretary and may not be changed without prior approval by the Secretary. HEAL forms shall not be signed in blank by a borrower, a school, a lender or holder, or an agent of any of these. The Secretary may prescribe who must complete the forms, and when and to whom the forms must be sent. All HEAL forms must contain a statement that any person who knowingly makes a false statement or misrepresentation in a HEAL loan transaction, bribes or attempts to bribe a Federal official, fraudulently obtains a HEAL loan, or commits any other illegal action in connection with a HEAL loan is subject to possible fine and imprisonment under Federal statute.

[52 FR 747, Jan. 8, 1987, as amended at 57 FR 28795, June 29, 1992]

§ 60.20 The Secretary's collection efforts after payment of a default claim.

After paying a default claim on a HEAL loan, the Secretary attempts to collect from the borrower and any valid endorser in accordance with the Federal Claims Collection Standards (4 CFR parts 101 through 105), the Office of Management and Budget Circular A-129, issued May 9, 1985, and the Department's Claims Collection Regulation (45 CFR part 30). The Secretary attempts collection of all unpaid principal, interest, penalties, administrative costs, and other charges or fees, except in the following situations:

(a) *The borrower has a valid defense on the loan.* The Secretary refrains from collection against the borrower or endorser to the extent of any defense that the Secretary concludes is valid. Examples of a valid defense include expiration of the statute of limitations and infancy.

(b) *A school owes the borrower a refund for the period covered by the loan.* In this situation, the Secretary refrains from

collection to the extent of the unpaid refund if the borrower assigns to the Secretary the right to receive the refund.

(c) *The school or lender or holder is the subject of a lawsuit or Federal administrative proceeding.* In this situation, if the Secretary determines that the proceeding involves allegations that, if proven, would provide the borrower with a full or partial defense on the loan, then the Secretary may suspend collection activity on all or part of a loan until the proceeding ends. The Secretary suspends collection activity only for so long as the proceeding is being energetically prosecuted in good faith and the allegations that relate to the borrower's defense are reasonably likely to be proven.

(d) *The borrower dies or becomes totally and permanently disabled.* In this situation, the Secretary terminates all collection activity against the borrower. If the borrower dies or becomes totally and permanently disabled, the Secretary also terminates all collection activity against any endorser.

[48 FR 38988, Aug. 26, 1983, as amended at 52 FR 747, Jan. 8, 1987; 57 FR 28795, June 29, 1992]

§ 60.21 Refunds.

(a) *Student authorization.* By applying for a HEAL loan, a student authorizes a participating school to make payment of a refund that is allocable to a HEAL loan directly to the original lender (or to a subsequent holder of the loan note, if the school has knowledge of the holder's identity).

(b) *Treatment by lenders or holders.* (1) A holder of a HEAL loan must treat a refund payment received from a HEAL school as a downward adjustment in the principal amount of the loan.

(2) When a lender receives a school refund check for a loan it no longer holds, the lender must transfer that payment to the holder of the loan and either inform the borrower about the refund check and where it was sent or, if the borrower's address is unknown, notify the current holder that the borrower was not informed. The current