§ 692. Education loans; special requirements. In any year in which fixed rate education loans are to be acquired using the proceeds of bonds issued by the state of New York mortgage agency or other public benefit corporation authorized to issue bonds for the purposes of this program, preference shall be given to education loans made to eligible borrowers for the benefit of students who demonstrate financial need based on such student's family gross income, pursuant to rules and regulations promulgated by the corporation after consultation with the state of New York mortgage agency or other public benefit corporation authorized to issue bonds for the purposes of this program. 1. Terms and conditions. (a) eligible borrowers shall apply for education loans under this program on forms prescribed by the corporation;

(b) except as may be provided by regulation, a student for whom an education loan is made shall be required to first apply for and exhaust: (i) their maximum eligibility of loans under the Federal Family Education Loan Program (FFELP) and the Federal Direct Student Loan Program (FDSLP), excluding PLUS loans; (ii) any other federal student aid, other than HEAL loans and other aid permitted by the corporation to be excluded; (iii) any state student aid; and (iv) any other student aid as prescribed by the corporation before being eligible for any education loan under this program;

(c) borrowers shall successfully complete a financial literacy course as prescribed by the corporation;

(d) student borrowers must apply for education loans under this program with an eligible co-signer;

(e) a borrower, or co-signer, who is in default on an education loan made under this program, the Federal Family Education Loan Program, the Williams D. Ford Program, or has failed to comply with the terms and conditions of any award under this article and has failed to satisfactorily cure such default or non-compliance as prescribed by applicable law or regulation shall be ineligible to receive a loan under this program, and shall further be ineligible for any other state student aid while in default on an education loan made under this program; and

(f) participating eligible colleges, lending institutions, and other participants in this program shall be required to enter into a participation agreement with the corporation and comply with all

reporting and processing requirements and procedures as established by the corporation. These participation agreements shall contain such other specific terms and conditions of the program as shall be determined by the corporation.

2. Citizenship. A borrower must be (a) a citizen of the United States, or

(b) a noncitizen lawfully admitted for permanent residence in the United States, or

(c) an individual of a class of refugees paroled by the attorney general of the United States under his or her parole authority pertaining to the admission of noncitizens to the United States.

3. Loan limits. Education loans made under this program shall have annual and cumulative loan limits as approved from time to time by the corporation, subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity.

4. Interest rates. The interest rate of loans made under this program shall be established in a manner that shall be approved at least annually by the corporation, subject to the approval of the state of New York mortgage agency, or other subject to public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity.

5. Default fee. A percentage of the education loan shall be paid as a default fee, by or on behalf of the borrower or the lender, in an amount to be established at least annually by the corporation subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity. The default fee established by the corporation, subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue

bonds under the public authorities law for purposes of this program, with respect to education loans that are expected to be financed by such entity, shall be a percentage of the principal amount of such loans, as determined by the corporation, that, together with other amounts on deposit in the applicable default reserve fund, shall not exceed an amount sufficient to ensure that the balance of such funds satisfies the obligations of such default reserve fund and permits such loans to be financed. This fee may be considered part of the cost of attendance for the purposes of calculating the loan amount for this program and shall be transmitted to the corporation in accordance with rules or regulations promulgated by the corporation. The corporation shall deposit these funds into a designated account within the New York higher education loan program variable rate default reserve fund, the New York higher education loan program fixed rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as applicable.

6. Consolidation. Education loans made pursuant to this program may be eligible for consolidation upon the terms and conditions established by the corporation. Any person consolidating education loans under this program shall be considered a borrower for purposes of this part.

7. Default reserve funds. (a) General provisions. One or more default reserve funds shall be established in the custody of the comptroller pursuant to sections seventy-eight-a and seventy-eight-b of the state finance law. One or more default reserve funds shall be established in the custody of the state of New York mortgage agency pursuant to subdivision six of section two thousand four hundred five-a of the public authorities law. These funds shall be used by the corporation to pay default claims to participating lenders and holders of education loans made pursuant to this program.

(b) Deposits. The corporation shall promptly deposit or transfer into the New York higher education loan program variable rate default reserve fund created by section seventy-eight-a of the state finance law, the New York higher education loan program fixed rate default reserve fund created by section seventy-eight-b of the state finance law or the state of New York mortgage agency New York higher education loan program

default reserve fund created by subdivision six of section two thousand four hundred five-a of the public authorities law, with respect to education loans, described in such provisions, any moneys received in connection with this program other than payments of principal and interest of education loans that are not in default status, including, but not limited to: (i) default fees; (ii) fees received from eligible colleges; (iii) funds received for the repayment of defaulted education loans, the unpaid principal, capitalized and unpaid accrued interest of which have been paid from the funds, including without limitation all such amounts received through the operation of voluntary collection activities, administrative wage garnishment or credit of tax overpayments less any amounts received for collection fees assessed by the corporation; (iv) contractual penalties and subsidy fees; (v) any amount that may be appropriated to the corporation; (vi) any amount received by the corporation or any agent from any other source for deposit therein; and (vii) interest and investment income earned by the funds.

8. Lender due diligence. Participating lenders shall be required to perform all due diligence requirements as prescribed by the corporation and incorporated into the participation agreement and into regulations promulgated by the corporation.

9. Eligible college requirements. (a) Participating eligible colleges shall be required to certify loan eligibility upon forms prescribed by the corporation and incorporated into the participation agreement and pursuant to regulations promulgated by the corporation.

(b) Participating eligible colleges shall be required to contribute a one percent fee prescribed by the corporation, subject to the approval of the state of New York mortgage agency, or other public benefit corporation authorized to issue bonds under the public authorities law for purposes of this program, with respect to loans that are expected to be financed by such entity, based upon the loan dollar volume or have the contribution made on its behalf, pursuant to the terms of the participation agreement. This fee shall be deposited into a designated account within the New York higher education loan program variable rate default reserve fund the New York higher education loan program fixed

rate default reserve fund, or the state of New York mortgage agency New York higher education loan program default reserve fund, as described in subdivision seven of this section as applicable. This fee, or any other college fee, shall not be assessed to the student or eligible borrower in connection with this program.