



# Limits on Discharge in Bankruptcy Not Codified in the Bankruptcy Code, Title 11, United States Code

**name redacted**

Legislative Attorney

**name redacted**

Law Librarian

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## Summary

Article I, Section 8, clause 5 of the U.S. Constitution gives Congress the power to enact “uniform Laws on the subject of Bankruptcies throughout the United States.” Bankruptcy is a method through which financially troubled debtors can receive relief from financial pressures by discharging some or all of their debts under procedures designed to provide some protection to both debtors and creditors. Bankruptcy is often said to provide debtors with a “fresh start,” eliminating their debts and allowing them to move forward. However, some debts cannot be discharged in bankruptcy. To the extent that debts cannot be discharged, debtors may be hindered in their quest for a fresh start. Although Section 523 of the United States Bankruptcy Code (Title 11 of the U.S. Code) provides an extensive list of debts that cannot be discharged in bankruptcy, there are other debts whose discharge in bankruptcy is either limited or prohibited under legislation not codified in Title 11 of the United States Code.

This report provides a table of statutory limitations on discharge in bankruptcy that are not included in the Bankruptcy Code. Many of the limitations prohibit discharge of the obligation when the bankruptcy discharge order is entered into within a particular time period (frequently five years) after an event that triggered the repayment obligation, with many of them including the further condition that the court must also find that it would be unconscionable to not discharge the debt. However, four provisions prohibit discharge in bankruptcy at any time. Although most limitations and outright prohibitions on discharge in bankruptcy involve debts owed to the United States, support obligations that have been assigned to a state or municipality are debts whose discharge is completely prohibited.

In the 111<sup>th</sup> Congress, at least two bills have been introduced that include limitations on discharge of debts in bankruptcy but do not amend the Bankruptcy Code to include those limits. H.R. 3962, the Affordable Health Care for America Act, proposed amending the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.). H.R. 4364, the Citizen Participation Act of 2009, would prohibit discharge in bankruptcy for certain court-awarded fees or costs. Although the bill refers to both Section 523 and Section 1328, it does not provide that either be amended.

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## Introduction

Article I, Section 8, clause 5 of the U.S. Constitution gives Congress the power to enact “uniform Laws on the subject of Bankruptcies throughout the United States.” Generally, these laws are codified in Title 11 of the U.S. Code (Bankruptcy Code). Bankruptcy is a method through which financially troubled debtors can receive relief from financial pressures by discharging some or all of their debts under procedures designed to provide some protection to both debtors and creditors. Bankruptcy is often said to provide debtors with a “fresh start,” eliminating their debts and allowing them to move forward. However, some debts cannot be discharged in bankruptcy. To the extent that debts cannot be discharged, debtors may be hindered in their quest for a fresh start. Although Section 523 of the Bankruptcy Code provides an extensive list of debts that cannot be discharged in bankruptcy, there are other debts whose discharge in bankruptcy is either limited or prohibited under legislation not codified in Title 11 of the United States Code.

Some concern has been expressed that confusion may result from these exceptions to discharge being found only outside of the Bankruptcy Code. It would seem that bankruptcy attorneys and judges, as well as Members of Congress, might reasonably expect to find all limitations on discharge in bankruptcy in the Bankruptcy Code. This report may provide some assistance by identifying those debts whose discharge in bankruptcy is limited but for which no limitation is specified in the Bankruptcy Code.

## 111<sup>th</sup> Congress

Two bills introduced in the 111<sup>th</sup> Congress that do not propose to amend the Bankruptcy Code but would limit the dischargeability of certain debts in bankruptcy.

The first, H.R. 3962, the Affordable Health Care for America Act, would amend the Indian Health Care Improvement Act (25 U.S.C. § 1601 et seq.). In so doing, it would leave unchanged the limitations on discharge in bankruptcy that already exist under that act and would not amend the Bankruptcy Code to include those limitations. The limitations pertain to obligations to repay Indian Health Scholarships<sup>1</sup> and obligations to pay damages under the Indian Health Service Loan Repayment Program.<sup>2</sup>

H.R. 4364, the Citizen Participation Act of 2009, would make certain court-awarded fees or costs ineligible for discharge in bankruptcy under both Sections 523 and 1328 of the Bankruptcy Code.<sup>3</sup> Among the fees and costs excluded from discharge would be those awarded as the result of prosecution of any claim that was finally dismissed pursuant to the act. Additionally, where subpoenas or discovery requests were quashed pursuant to the act, any resultant award of fees or costs could not be discharged. The bill includes no specific provision to amend the Bankruptcy Code.

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<sup>1</sup> The limitation is codified at 25 U.S.C. § 1613a(b)(5)(F).

<sup>2</sup> The limitation is codified at 25 U.S.C. § 1616a(m)(4).

<sup>3</sup> H.R. 4364 § 9.

## General Nature of Provisions Limiting Discharge in Bankruptcy

Debts owed to the United States are the subject of nearly all of the limitations and outright prohibitions on discharge in bankruptcy found outside of the Bankruptcy Code. One exception to this general rule is support obligations that have been assigned to a state or municipality.

Prohibiting discharge within a five-year period is a common, though not universal, provision in these extra-Title 11 limitations on discharge in bankruptcy. However, two provisions for the Public Health Service (Title 42), which originally prohibited discharge in bankruptcy within a five-year period, have been changed to extend the prohibition for two additional years. While allowing discharge after the prescribed time has passed, the time-related provisions frequently limit such subsequent discharge to cases in which the court has found that nondischarge of the debt would be unconscionable.

Most of the extra-Title 11 provisions limit rather than prohibit discharge in bankruptcy. However, four of the provisions completely prohibit discharge in bankruptcy. These are 20 U.S.C. § 6674(f)(1)(C)(3), which pertains to the Troops-to-Teachers Program; 42 U.S.C. § 656(b), which pertains to support obligations that have been assigned to a state or municipality; 47 U.S.C. § 1104(p), which pertains to debt owed to the United States as a result of loan guarantees for local television through the Rural Utilities Service; and 50 U.S.C. app. § 547(b)(3), which pertains to debts owed to the United States as a result of life insurance premiums and interest guaranteed by the United States.

In 2006, a number of the identified provisions that relate to military pay were changed to reference the repayment provisions of 37 U.S.C. § 303a(e). This subsection reads as follows:

An obligation to repay United States under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after (A) the date of the termination of the agreement or contract on which the debt is based; or (B) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based.

## Data Collection

**Table 1** lists provisions that are not codified in the Bankruptcy Code but that nonetheless limit or prohibit discharge of debts in bankruptcy. The table was compiled through a series of searches using both Lexis-Nexis and Westlaw. The initial search was broad, using “bankruptcy or ‘title 11’” as the search parameters in the Lexis-Nexis version of the U.S. Code. This search produced 2,235 results, the majority of which were within Title 11. Initially, it appeared that all provisions outside the Bankruptcy Code were related to either the military or intelligence communities. Titles 10 (Armed Forces), 14 (Coast Guard), 32 (National Guard), 37 (Pay and Allowances of the Uniformed Services), 38 (Veterans’ Benefits), 42 (The Public Health and Welfare) and 50 (War and National Defense) were identified as the titles most likely to include such provisions; therefore the initial results were focused to search only those titles. Reviewing those results identified specific language pertaining to the effect of bankruptcy on particular types of indebtedness. Three more focused searches were performed and revealed ten additional

provisions outside the Bankruptcy Code. Five were found using “bankruptcy or ‘title 11’ and discharge w/s ‘not release’”; four were found using “bankruptcy or ‘title 11’ w/s nondischarge”; one was found using “bankruptcy or ‘title 11’ w/s released w/s ‘no obligation.’” These searches produced results in three additional titles of the U.S. Code: Titles 20 (Education), 25 (Indians), and 47 (Telegraphs, Telephones, and Radiotelegraphs).

These search strategies revealed 53 instances outside of title 11 in which the U.S. Code limits the effect of bankruptcy on discharge of indebtedness. Each of these is identified in **Table 1**. There may be other provisions that use different terms and, therefore, were not found by the searches.

## Guide to the Table

Generally, the provisions are listed in the numerical order of the title and section in which the provision is currently found. If a section was later redesignated as a different section number, the entry in the “code section” column includes both the original section number and the redesignated section number.

The first two columns of the table list the original title and code section for each provision. These are followed by the public law in which the provision was enacted and the enactment date. In some cases, the discharge limitation was included in legislation that added an entire code section. In others, the subsection limiting discharge was added at a later date. The “Date of Enactment” column indicates the date when the discharge limitation was added to the code. The “Comments” column shows the date when the code section itself was added. The existence of previous, unrelated code sections that bore the same number is noted in the “Comments” column as well.

The original language limiting discharge in bankruptcy is provided in the “Specific Language” column, even when that language has been changed by later legislation. Those changes are noted in the “Comments” column.

The subject of the relevant code section is noted at the beginning of each entry in the “Specific Language” column. Generally these notations are in brackets and are taken from either the United States Code Service or the United States Code Annotated—capitalization used is as provided in the online versions of those publications. Descriptions that do not come directly from those publications are enclosed in braces—{ }.

**Table I. Limitations on Discharge in Bankruptcy Found Outside of Title 11 U.S.C.**

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
10	510(i)(4)	P.L. 107-314, § 531(a)(1)	12/2/02	[Enlistment incentives for pursuit of skills to facilitate national service] “A discharge in bankruptcy under title 11 that is entered into less than five years after the termination of an agreement entered into under subsection (b) does not discharge the person signing the agreement from a debt arising under the agreement.... ”	10 U.S.C. § 510 was added 12/2/2002.  P.L. 109-163 (1/6/06) replaced this subsection (i) with a new subsection (i), making recipients “subject to the repayment provisions of section 303a(e) of title 37.”
10	511(e)(3)	P.L. 108-375, § 551(a)(1)	10/28/04	[College First Program] “A discharge in bankruptcy under title 11 that is entered into less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority ... does not discharge that person from a debt arising under paragraph (1).”	10 U.S.C. § 511 was added 10/28/2004.
10	513 note	P.L. 107-107, § 542(c)	12/28/01	[Enlistments: Delayed Entry Program] “A discharge in bankruptcy under title 11 that is entered into less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority ... does not discharge that person from a debt arising under paragraph (1).”	This is included as a note and pertains to the Army College First pilot program, which was established in P.L. 106-65, § 573 (10/5/1999).
10	2005(d)	P.L. 96-357, § 2(a)	9/24/80	[Advanced education assistance: active duty agreement; reimbursement requirements] “A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty.”	10 U.S.C. § 2005 was added 09/24/1980.  P.L. 109-163 (1/6/06) replaced this subsection (d) with a new subsection (c), making recipients “subject to the repayment provisions of section 303a(e) of title 37 ... without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107(f) and 2107a(f) of this title.”

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
10	2130a(d)(3)	P.L. 101-189, § 707(a)	11/29/89	[Financial assistance: nurse officer candidates] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection.”	10 U.S.C. § 2130a was added 11/29/1989.  P.L. 109-163 (1/6/06) replaced this subsection (d) with a new subsection (d), which reads: “Repayment. A person who does not complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under subsection (a), or having completed the nursing degree program, does not become an officer in the Nurse Corps of the Army or the Navy or an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service or does not complete the period of obligated active service required under the agreement, shall be subject to the repayment provisions of section 303a(e) of title 37.”
10	2192a(e)(4)	P.L. 109-163, § 1104(d)(1)	1/6/06	[Finance, Mathematics, and Research For Transformation (SMART) Defense Education Program] “A discharge in bankruptcy under title 11, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under this subsection.”	10 U.S.C. § 2192a was added 01/6/2006. This language was previously included in a note to 10 U.S.C. § 2192, which was added by P.L. 108-375, § 1105 (11/28/04).
10	2200a	P.L. 106-398, § 1	10/30/00	[Scholarship program] “Effect of discharge in bankruptcy. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under subsection (e).”	10 U.S.C. § 2200a was added 10/30/2000.  P.L. 109-163, § 687(c)(8) deleted this subsection and added a new subsection (e): “(1) A member of an armed force who does not complete the period of active duty specified in the service agreement under section (b) shall be subject to the repayment provisions of section 303a(e) of title 37. (2) A civilian employee of the Department of Defense who voluntarily terminates service before the end of the period of obligated service required under an agreement entered into under subsection (b) shall be subject to the repayment provisions of section 303a(e) of title 37 in the same manner and to the same extent as if the civilian employee were a member of the armed forces.”



Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
10	16135(c)(2)	P.L. 107-314, § 642	12/2/02	[Failure to participate satisfactorily; penalties {Selected Reserve members}] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, under this subsection.”	10 U.S.C. § 16135 was added 7/30/1977.  P.L. 109-163, § 687(c)(12) replaced the entire section with one that included the repayment provisions of 37 U.S.C. § 303a(e).
14	709a(g)(3)	P.L. 107-295, § 413(a)	11/25/02	[Reserve student pre-commissioning assistance program {Coast Guard Reserve}] “A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).”	14 U.S.C. § 709a was added 11/25/2002.
20	6674(f)(1)(C)(3)	P.L. 107-201, § 201	1/8/02	[Participation agreement and financial assistance {Troops-to-Teachers Program}] “The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11, United States Code, shall not release a participant from the obligation to reimburse the Secretary under this subsection.”	A previous § 6674, related to partnership plans, existed before P.L. 107-110’s revisions in 2002.
25	1613a(b)(5)(F)	P.L. 104-313, § 2(b)	11/19/96	[Indian health professions scholarships] “Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.”	25 U.S.C. § 1613a was added 9/30/76.

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
25	1616a(m)(4)	P.L. 100-713, § 108	11/23/88	[Indian Health Service Loan Repayment Program] “Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code, and only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.”	25 U.S.C. § 1616a was added 9/30/1976.
37	301b(d)(3)	P.L. 100-456, § 611	9/29/88	[Special pay: aviation career officers extending period of active duty] “A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.”	37 U.S.C. § 301b was added 9/8/1980.  P.L. 101-189, § 632(a) redesignated subsection (d) as (g). (11/29/89)  P.L. 106-65, § 615(f) struck out last sentence, “this paragraph applies... January 1, 1989.” (10/5/99) P.L. 109-163, § 687(b)(1) rewrote subsection (g): “An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a), shall be subject to the repayment provisions of section 303(a)(e) of this title.” (1/6/06)
37	301d(c)(3)	P.L. 101-510, § 611(a)(1)	11/5/90	[Multiyear retention bonus: medical officers of the armed forces] “A discharge in bankruptcy under title 11, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1).”	37 U.S.C. § 301d was added 11/5/1990.  P.L. 109-163, § 687(b)(2) rewrote subsection (c): “An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a), shall be subject to the repayment provisions of section 303(a)(e) of this title.” (1/6/06)
37	301e(d)(3)	P.L. 105-85, § 617(a)	11/18/97	[Multiyear retention bonus: dental officers of the armed forces] “A discharge in bankruptcy under title 11, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1).”	37 U.S.C. § 301e was added 11/18/1997.  P.L. 109-163, § 687(b)(3) rewrote subsection (d): “An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a), shall be subject to the repayment provisions of section 303(a)(e) of this title.” (1/6/06)

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	302(i)	P.L. 99-145, § 640	11/8/85	[Special pay: medical officers of the armed forces] “A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under subsection (c)(2) or (f).”	37 U.S.C. § 302 was added 9/7/1962.  P.L. 100-456, § 612 established the “medical officer retention bonus.” Its provisions were included as a note to 37 U.S.C. § 302. Subsection (e)(3), provides “A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under paragraph (1) [subsection (e)]. This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.”
37	302b(f)	P.L. 99-145, § 639(a)	11/8/85	[Special pay: dental officers of the armed forces] “A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (b) if the final decree of the discharge in bankruptcy was issued within the period of five years after the last day of the period which such person had agreed to serve on active duty.”	37 U.S.C. § 302b was added 5/6/1974.  P.L. 109-163, § 687(b)(6)(C) struck 37 U.S.C. § 302b(f). Subsection 687(b)(6)(B) of that law rewrote 37 U.S.C. § 302b(e): “An officer who does not complete the period of active duty referred to in subsection (b) shall be subject to the repayment provisions of section 303(a)(e) of this title.” (11/6/06)
37	302d(d)(4)	P.L. 101-189, § 705(a)(1)	11/29/89	[Special pay: accession bonus for registered nurses] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an amend under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection.”	37 U.S.C. § 302d was added 11/29/1989.  P.L. 109-163, § 687(b)(7) amended 37 U.S.C. § 302d(d) to read, “An officer who does not become and remain licensed as a registered nurse during the period for which the payment is made, or who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	302e(e)(3)	P.L. 101-189, § 706(a)(1)	11/29/89	[Special pay: nurse anesthetists] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection.”	37 U.S.C. § 302e was added 11/29/89.  P.L. 109-163, § 687(b)(8) amended 37 U.S.C. § 302e(e) to read, “An officer who does not complete the period of active duty specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”
37	302g(e)	P.L. 104-106, § 614(a)	2/10/96	[Special pay: Selected Reserve health care professionals in critically short wartime specialties] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person receiving special pay under the agreement from the debt arising under the agreement.”	37 U.S.C. § 302g was added 2/10/1996.  P.L. 109-163, § 687(b)(10)(A) struck 37 U.S.C. § 302g(e). Subsection 687(b)(10)(B) of that law amended 37 U.S.C. § 302g(d) to read, “An officer who does not complete the period of service in the Selected Reserve specified in the agreement entered into under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title.”
37	302h(d)(4)	P.L. 104-201, § 615(c)(1)	9/23/96	[Special pay: accession bonus for dental officers] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or the subsection.”	37 U.S.C. § 302h was added 9/23/1986.  P.L. 109-163, § 687(b)(11) amended 37 U.S.C. § 302h(d) to read, “A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become licensed as a dentist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”
37	302j(e)(4)	P.L. 106-398, § 1	10/30/00	[Special pay: accession bonus for pharmacy officers] “A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection.”	37 U.S.C. § 302j was added 10/30/2000.  P.L. 109-163, § 687(b)(12) amended 37 U.S.C. § 302j(e) to read, “A person who, after signing an agreement under subsection (a), is not commissioned as an officer of the armed forces, does not become and remain certified or licensed as a pharmacist, or does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	303a(e)(3)	P.L. 109-163, § 687(a)(1)	1/6/06	[Special pay: general provisions] "An obligation to repay the United States under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after (A) the date of the termination of the agreement or contract on which the debt is based; or (B) in the absence of such an agreement or contract, the date of the termination of the service on which the debt is based."	37 U.S.C. § 303a was added 6/28/1980.  37 U.S.C. § 303a(e)(3) was redesignated § 303a(e)(4) by P.L. 111-84 § 617(a).
37	307a(d)(3)	P.L. 109-163, § 628(c)	1/6/06	[Special pay: assignment incentive pay] "A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under paragraph (1)."	37 U.S.C. § 307a was added 12/2/2002.  P.L. 109-163 added 37 U.S.C. § 307a(d) (redesignating the former subsections (d) - (f) as (e) - (g). It then, in § 687(b)(13), amended the new subsection (d) to read, "A member who enters into an agreement under this section and received incentive pay under the agreement in a lump sum or in installments, but who fails to complete the period of service covered by the payment, whether voluntarily or because of misconduct, shall be subject to the repayment provisions of section 303 a(e) of this title."
37	308c(g)(3)	P.L. 109-163, § 631(a)	1/6/06	[Special pay: bonus for affiliation or enlistment in the Selected Reserve] "An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) or (c) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1)."	37 U.S.C. § 308c was added 10/20/1978.  P.L. 109-163, § 631(a) amended § 308c to include subsection (g)(3). Section 687(b)(16) of P.L. 109-163 (the same law) then amended subsection (g) to read, "A person who enters into an agreement under subsection (a) or (c) and receives all or part of the bonus under the agreement, but who does not commence to serve in the Selected Reserve or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title."

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	308g(f)	P.L. 98-94, § 1011(a)	9/24/83	[Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment for which a bonus was paid under this section does not discharge the person receiving such bonus from the debt or rising under subsection (d)."	37 U.S.C. § 308g was added 9/24/1993.  P.L. 109-163 deleted subsections (e) and (f) and rewrote subsection (d) to read, "A person who does not serve satisfactorily in the element of the Ready Reserve in a combat or combat support skill for the period for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e) of this title."
37	308h(e)	P.L. 98-94, § 1011(a)	9/24/83	[Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of a reenlistment, enlistment, or extension for which the bonus was paid under this section does not discharge the person receiving such bonus payment from the debt arising under subsection (c)."	37 U.S.C. § 308h was added 9/24/1983.  P.L. 109-163 deleted subsections (d) and (e) and rewrote subsection (c) to read, "A person who does not complete the period of enlistment or extension of enlistment for which the bonus was paid under this section shall be subject to the repayment provisions of section 303a(e)."
37	308i(g)	P.L. 99-145, § 644(a)(1)	11/8/85	[Special pay: prior service enlistment bonus] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment for which a bonus was paid under this section shall not discharge the person receiving such bonus payment from the debt arising under subsection (d)."	37 U.S.C. § 308i was added 11/8/1985.  P.L. 105-85, § 622(d)-(e) redesignated subsections (e)-(g) as paragraphs (2)-(4) of subsection (d) and substituted "paragraph (1)" for "subsection (g)" in subsection (4).  P.L. 109-163, § 687(b)(19) amended subsection (d) to read, "A person who received the bonus payment under this section and who, during the period for which the bonus was paid, does not serve satisfactorily in the element of the Selected Reserve with respect to which the bonus was paid shall be subject to the repayment provisions of section 303a(e) of this title."

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	308j(g)(3)	P.L. 108-375, § 619(a)	10/28/04	[Special pay: affiliation bonus for officers in the Selected Reserve] “An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under this section does not discharge a person from a debt arising under an agreement entered into under this subsection or a debt arising under paragraph (1).”	37 U.S.C. § 308j was added 10/28/2004.  P.L. 109-364, § 1071(c)(4) amended subsection (g) to read, “A person who enters into an agreement under this section and receives all or part of the bonus under the agreement, but who does not exempt the commission or an appointment as an officer or does not commence to participate or does not satisfactorily participate in any Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.” (10/17/2006)
37	309(b)(3)	P.L. 106-398, § 1	10/30/00	[Special pay: enlistment bonus] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment for which a bonus was paid under this section does not discharge the person receiving the bonus from the debt arising under paragraph (1).”	A previous § 309 was repealed in 1979. This § 309 was added 10/30/2000.  P.L. 109-163, § 687(b)(20) amended subsection (b) to read, “A member who does not complete the term of enlistment for which a bonus was paid to the member under this section, or a member who is not technically qualified in the skill for which a bonus was paid to the member under this section, shall be subject to the repayment provisions of section 303a(e) of this title.”
37	314(d)(4)	P.L. 105-85, § 625(a)(1)	11/18/97	[Special pay or bonus: qualified members extending duty at designated locations overseas] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement does not discharge the member signing the agreement from a debt arising under the agreement or under paragraph (1).”	37 U.S.C. § 314 was added 12/23/1980.  P.L. 109-163, § 687(b)(23) amended subsection (d) to read, “A member who, having entered into a written agreement to extend the tour of duty for a period under subsection (a), receives a bonus payment under subsection (b)(2) for a 12-month period covered by the agreement and ceases during that 12-month period to perform the agreed tour of duty shall be subject to the repayment provisions of section 303a(e) of this title.”

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	315(c)(4)	P.L. 97-60, § 120(a)	10/14/81	[Special pay: engineering and scientific career continuation pay] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection.”	<p>37 U.S.C. § 315 was added 10/14/1981.</p> <p>P.L. 102-25 (1991) deleted “of this subsection” following “paragraph (1)” in paragraph (4).</p> <p>P.L. 108-163, § 687(b)(24) amended subsection (c) to read, “An officer who, having entered into a written agreement under subsection (b) and having received all or part of a bonus under this section, does not complete the period of active duty as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title.”</p>
37	316(g)(2)	P.L. 108-375, § 620(a)(1)	10/28/04	[Special pay: bonus for members with foreign language proficiency] “An obligation to repay the United States imposed under paragraph (1) or subsection (f)(4) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered for the member less than five years after the expiration of the certification period does not discharge the member from a debt arising under this paragraph.”	<p>37 U.S.C. § 316 was added 11/14/1986.</p> <p>P.L. 109-163, § 639(b)(1) (2006) deleted subsections (e) and (g), each of which was added to § 316 in 2004. Subsection (d)(4) was amended to substitute “section 303a(e) of this title” for “subsection (g).”</p>
37	316(e)(3)	P.L. 109-163, § 639(c)	1/6/06	[Special pay: bonus for members with foreign language proficiency] “An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States. A discharge in bankruptcy under title 11 that is entered less than five years after the date on which the member received the bonus does not discharge the member from a debt arising under paragraph (1).”	<p>This subsection was substituted for an earlier subsection (e) [see above].</p> <p>After adding it, P.L. 109-163, § 687(b)(25) then rewrote it to read, “A member who receives a bonus under this section, but who does not satisfy an eligibility requirement specified in paragraph (1), (2), (3), or (4) of subsection (a) for the entire certification period, shall be subject to the repayment provisions of section 303a(e) of this title.”</p>



Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	317(f)(3)	P.L. 101-510, § 1203(a)(1)	11/5/90	[Special pay: officers in critical acquisition positions extending period of active duty] "A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1)."	37 U.S.C. § 317 was added 11/5/1990.  P.L. 109-163, § 687(b)(26) rewrote subsection (f) to read, "An officer who, having entered into a written agreement under subsection (a) and having received all or part of a bonus under this section, does not complete the period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title."
37	318(h)(3)	P.L. 106-65, § 626(a)(1)	10/5/99	[Special pay: special warfare officers extending period of active duty] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (b) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1)."	37 U.S.C. § 318 was added 10/5/1999.  P.L. 109-163, § 687(b)(27) rewrote subsection (h) to read, "An officer who, having entered into a written agreement under subsection (b) and having received all or part of the bonus under this section, does not complete the period of active duty in special warfare service as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title."
37	319(f)(3)	P.L. 106-65, § 627(a)(1)	10/5/99	[Special pay: surface warfare officer continuation pay] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under section (b) does not discharge the officer signing the agreement of a debt arising under such agreement or under paragraph (1)."	37 U.S.C. § 318 was added 10/5/1999.  P.L. 109-163, § 687(b)(28) rewrote subsection (f) to read, "An officer who, having entered into a written agreement under subsection (b) and having received all or part of the bonus under this section, does not complete the period of active duty as a department head on a surface vessel as specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title."
37	321(f)(3)	P.L. 106-65, § 629(a)(1)	10/5/99	[Special pay: judge advocate continuation pay] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under section (b) does not discharge the officer signing the agreement of a debt arising under such agreement or under paragraph (1)."	37 U.S.C. § 318 was added 10/5/1999.  P.L. 109-163, § 687(b)(29) rewrote subsection (f) to read, "An officer who has entered into a written agreement under subsection (b) and has received all or part of the amounts payable under the agreement but who does not complete the total period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title."

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	324(f)(2)	P.L. 107-107, § 621(a)	12/28/01	[Special pay: accession bonus for new officers and critical skills] "Subject to paragraph (3), an obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to United States. A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement entered into under subsection (a) does not discharge individual signing the agreement from a debt arising under such agreement or under paragraph (1)."	37 U.S.C. § 324 was added 12/28/2001.  P.L. 109-163, § 687(b)(32) rewrote subsection (f) to read, "An individual who, having received all or part of the bonus under an agreement referred to in subsection (a), is not thereafter commissioned as an officer or does not commence or complete the total period of active duty specified in the agreement shall be subject to the repayment provisions of section 303a(e) of this title."
37	325(g)(4)	P.L. 107-107, § 622(a)(1)	12/28/01	[Incentive bonus: savings plan for education expenses and other contingencies] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, or this subsection."	37 U.S.C. § 325 was added 12/28/2001.  P.L. 109-163, § 687(b)(33) rewrote subsection (g) to read, "If a person does not complete the qualifying service for which the person is obligated under commitment for which a benefit has been paid under this section, the person shall be subject to the repayment provisions of section 303a(e) of this title."
37	326(e)(3)	P.L. 108-136, § 625(a)	11/24/03	[Incentives bonus: conversion to military occupational specialty to ease personnel shortage] "A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement for which a bonus was paid under this section shall not discharge the person signing such agreement from the debt arising under paragraph (1)."	37 U.S.C. § 326 was added 11/24/2003.  P.L. 109-163, § 687(b)(34) rewrote subsection (e) to read, "A member who does not convert to and complete the period of service in the military occupational specialty specified in the agreement executed under subsection (a) shall be subject to the repayment provisions of section 303a(e) of this title."
37	327(f)(3)	P.L. 109-163, § 641(a)	1/6/06	[Incentive bonus: transfer between armed forces] "A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under paragraph (1)."	37 U.S.C. § 327 was added 1/6/2006.  The same law, P.L. 109-163, in § 687(b)(35) then rewrote subsection (f) to read, "A member who is paid a bonus under an agreement under this section and who, voluntarily or because of misconduct, fails to serve for the period covered by such agreement shall be subject to the repayment provisions of section 303a(e) of this title."

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	322(f)(4), which became 354(f)	P.L. 106-65, § 642(a)	10/5/99	[Special pay: 15-year career status bonus for members entering service on or after August 1, 1986] “A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under the agreement or this subsection.”	<p>37 U.S.C. 322 was added 10/5/1999.</p> <p>It was transferred to subchapter II of chapter 5 and redesignated as section 354 by P.L. 110-181, § 661(b)(1). (1/28/2008)</p> <p>P.L. 109-163, § 687(b)(30) rewrote subsection (f) to read, “If a person paid a bonus under this section does not complete a period of active duty beginning on the dates on which the election of the person under paragraph (1) of subsection (a) is received and ending on the date on which the person completes 20 years of active duty service as described in paragraph (2) of such subsection, a person shall be subject and repayment provisions section 303a(e) of this title.”</p> <p>When the section was redesignated § 354, P.L. 110-181, § 661(b)(2) substituted “373” for “303a(e).”</p>
37	323(g)(3), which became 355(g)	P.L. 106-398, § 1 (based on § 633(a)(1) of H.R. 5408 [106 <sup>th</sup> Congress])	10/30/00	[Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units] “A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the member from a debt arising under paragraph (2).”	<p>37 U.S.C. 323 was added 10/30/2000.</p> <p>It was transferred to subchapter II of chapter 5 and redesignated as section 355 by P.L. 110-181, § 662(c)(1). (1/28/2008)</p> <p>P.L. 109-163, § 687(b)(31) rewrote subsection (g) to read, “A member paid a bonus under this section who fails, during the period of service covered by the member’s agreement, reenlistment, or voluntary extension of enlistment under subsection (a), to remain qualified in a critical military skill or to satisfy the other eligibility criteria for which the bonus was paid shall be subject and repayment provisions section 303a(e) of this title.” When the section was redesignated § 355, P.L. 110-181, § 662(c)(2) substituted “373” for “303a(e).”</p>

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
37	373(c)	P.L. 110-181, § 661(a)	1/28/08	[Repayment of unearned portion of bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment not met] “An obligation to repay United States under this section is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after (1) the date of termination of the agreement or contract on which the debt is based; or (2) in the absence of such agreement or contract, the date of the termination of service on which the debt is based.”	37 U.S.C. § 373 was added 1/28/2008.
38	4334(c), which became 7634(c)	P.L. 100-322, § 216(b)	5/20/88	[Breach of agreement; waiver of liability {Veterans’ Benefits—Health Professionals Educational Assistance Program}] “An obligation of a participant under the Educational Assistance Program (or in agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first day the payment of such damages is due.”	38 U.S.C. § 4334 was added 5/20/1988. P.L. 102-40, § 402(b)(1) redesignated § 4334 as 7634.
38	7902(d)(3)	P.L. 109-461, § 903(a)(1)	12/22/06	[Scholarship program {Veterans’ Benefits—Information Security Education Assistance Program}] “An obligation to repay the Secretary under this subsection is, for all purposes, a debt owed the United States. A discharge in bankruptcy under title 11 does not discharge a person from such debt if the discharge order is entered less than five years after the date of the termination of the agreement or contract on which the debt is based.”	38 U.S.C. § 7902 was added 12/22/2006.

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
42	254o(d)(3)	P.L. 94-484, § 408(b)(1)	10/12/76	[Breach of scholarship contract or loan repayment contract {Public Health Service—Primary Health Care Scholarship Program and Loan Repayment Program}] “Any obligation of an individual under the Scholarship Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required.”	<p>This was originally codified as 42 U.S.C. § 294w (10/12/1976).</p> <p>P.L. 100-177, § 202(e)(5) added, “or the Loan Repayment Program (or a contract thereunder)” after “the Scholarship Program (or a contract thereunder).”</p> <p>Section 308(a) of the same law, P.L. 100-177, added, “, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable” after “the first date that payment of such damages is required.”</p> <p>P.L. 107-251, § 313(a)(4) substituted “only if such discharge is granted after the expiration of the 7-year period” for “only if such discharge is granted after the expiration of the five-year period.”</p>
42	292f(g)	P.L. 102-408, § 102	10/13/92	[Default of borrower {Public Health Service—Insured Health Education Assistance Loans to graduate students}] “A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under any chapter of title 11, United States Code, only if such discharge is granted (1) after the expiration of the five-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 705(a)(2), when repayment of such loan is required; (2) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and (3) upon the condition that the Secretary shall not have waived the Secretary’s rights to apply subsection (f) to the borrower and the discharge debt.”	<p>The current 42 U.S.C. § 292f is the third § 292f. A prior 42 U.S.C. § 292f was added to the U.S. Code in 1956. It was repealed and replaced in 1976. In 1992, that prior § 292f was repealed and replaced with the current one.</p> <p>P.L. 103-43, § 2014(a)(2) replaced “(1) after the expiration of the five-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 705(a)(2), when repayment of such loan is required” with “(1) after the expiration of the seven-year period beginning on the first date when repayment of such loan is required, exclusive of any period after such date in which the obligation to pay installments on the loan is suspended.”</p> <p>P.L. 105-392, § 144(a) replaced “A debt which is a loan insured ... ” with “Notwithstanding any other provision of Federal or State law, a debt that is a loan insured.... ”</p>

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
42	656(b)	P.L. 93-647, § 101(a)	1/4/75	[Support obligation as obligation to State; amount; discharge in bankruptcy] “A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.”	42 U.S.C. § 656 was added 1/4/1975.  P.L. 95-598, § 328 repealed subsection (b). (1978)  P.L. 97-35, § 2334(a) added subsection (b), which read, “A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11, United States Code.” (1981)  P.L. 104-193, § 374(b) amended 42 U.S.C. § 656(b) to read, “A debt (as defined in section 101 of title 11 of the United States Code) owed under State law to a State (as defined in such section) or municipality (as defined in such section) that is in the nature of support and that is enforceable under this part is not released by discharge in bankruptcy under title 11 of the United States Code.” (1996)
47	1104(p)	P.L. 106-553, § 1(a)(2)	12/21/00	[Administration of loan guarantees {local TV}] “(1) Notwithstanding any other provision of law, whenever any person or entity is indebted to the United States as a result of any loan guarantee issued under this chapter and such person or entity is insolvent or is a debtor in a case under title 11, the debts due to the United States shall be satisfied first. (2) A discharge in bankruptcy under title 11 shall not release a person or entity from an obligation to the United States in connection with the loan guarantee under this chapter.”	20 U.S.C. § 1104 was added 12/21/2000.  P.L. 106-553 enacted H.R. 5548 (106 <sup>th</sup> Congress). Section 1005 of that bill included the language in subsection 1104(p).
50	402 note	P.L. 99-569, § 505	10/27/86	{Amendment to National Security Agency Act of 1959 to allow additional compensation to NSA employees and officers.} “A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if a final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).”	P.L. 99-569 amended the National Security Agency Act of 1959 to add § 16. The bankruptcy language is in subsection (d)(3)(A).

Title	Code Section	Public Law	Date of Enactment	Specific Language	Comments
50	Appendix 547(b)(3)	P.L. 108-189, § 1	12/19/03	[Premiums and interest guaranteed by United States {life insurance}] “Such debt payable to the United States is not dischargeable in bankruptcy proceedings.”	50 U.S.C. app. § 547 was added 12/19/2003.

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## **Author Contact Information**

(name redacted)  
Legislative Attorney  
/redacted/@crs.loc.gov, 7-....

(name redacted)  
Law Librarian  
/redacted/@crs.loc.gov, 7-....



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