

Public Law No: 116-52 (08/26/2019)

[116th Congress Public Law 52]

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Public Law 116-52

116th Congress

An Act

To exempt from the calculation of monthly income certain benefits paid by the Department of Veterans Affairs and the Department of Defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Honoring American Veterans in Extreme Need Act of 2019. 11 USC 101 note.>>

SECTION 1. SHORT TITLE.

This Act may be cited as the "Honoring American Veterans in Extreme Need Act of 2019" or the "HAVEN Act".

SEC. 2. DEFINITION OF CURRENT MONTHLY INCOME.

Section 101(10A) of title 11, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B)(i) includes any amount paid by any entity other than the debtor (or in a joint case the debtor and the debtor's spouse), on a regular basis for the household expenses of the debtor or the debtor's dependents (and in a joint case the debtor's spouse if not otherwise a dependent); and

"(ii) excludes--

"(I) benefits received under the Social Security Act (42 U.S.C. 301 et seq.);

"(II) payments to victims of war crimes or

crimes against humanity on account of their status as victims of such crimes;

“(III) payments to victims of international terrorism or domestic terrorism, as those terms are defined in section 2331 of title 18, on account of their status as victims of such terrorism; and

“(IV) any monthly compensation, pension, pay, annuity, or allowance paid under title 10, 37, or 38 in connection with a disability, combat-related injury or disability, or death of a member of the uniformed services, except that any retired pay excluded under this subclause shall include retired pay paid under chapter 61 of title 10 only to the extent that such retired pay exceeds the amount of retired pay to which the debtor would otherwise be entitled if retired under any provision of title 10 other than chapter 61 of that title.”.

Approved August 23, 2019.

Public Law 116-53

116th Congress

An Act

To exempt for an additional 4-year period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: National Guard and Reservists Debt Relief Extension Act of 2019. 11 USC 101 note.>>

SECTION 1. SHORT TITLE.

This Act may be cited as the ``National Guard and Reservists Debt Relief Extension Act of 2019''.

SEC. 2. NATIONAL GUARD AND RESERVISTS

DEBT RELIEF AMENDMENT.

Section 4(b) of the National Guard and Reservists Debt Relief Act of 2008 (Public Law 110-438; 122 Stat. 5000) is amended by striking ``11-year'' and inserting ``15-year''.

Approved August 23, 2019.

U.S. Code § 707. Dismissal of a case or conversion to a case under [chapter 11](#) or 13

(a) The court may dismiss a case under this chapter only after notice and a hearing and only for [cause, including](#)—

- (1) unreasonable delay by the [debtor](#) that is prejudicial to [creditors](#);
- (2) nonpayment of any fees or charges required under chapter 123 of title 28; and
- (3) failure of the [debtor](#) in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the [petition](#) commencing such case, the information required by paragraph (1) of section 521(a), but only on a motion by the [United States trustee](#).

(b)

(1) After notice and a hearing, the court, on its own motion or on a motion by the [United States trustee](#), trustee (or bankruptcy administrator, if any), or any party in interest, may dismiss a case filed by an individual [debtor](#) under this chapter whose [debts](#) are primarily [consumer debts](#), or, with the [debtor's](#) consent, convert such a case to a case under chapter [11](#) or [13](#) of this title, if it finds that the granting of relief would be an abuse of the provisions of this chapter. In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a [debtor](#) has made, or continues to make, charitable contributions (that meet the definition of “charitable contribution” under section 548(d)(3)) to any qualified religious or charitable [entity](#) or organization (as that term is defined in section 548(d)(4)).

(2) (A) (i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the [debtor's](#) [current monthly income](#) reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

(I) 25 percent of the [debtor's](#) nonpriority unsecured [claims](#) in the case, or \$6,000,^[1] whichever is greater; or

(II) \$10,000.¹

(ii) (I) The [debtor's](#) monthly expenses shall be the [debtor's](#) applicable monthly expense amounts specified under the National Standards and Local Standards, and the [debtor's](#) actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the [debtor](#) resides, as in effect on the date of the [order for relief](#), for the [debtor](#), the dependents of the [debtor](#), and the spouse of the [debtor](#) in a joint case, if the spouse is not otherwise a dependent. Such expenses shall include reasonably necessary health insurance, disability insurance, and health savings account expenses for the [debtor](#), the spouse of the [debtor](#), or the dependents of the [debtor](#). Notwithstanding any other provision of this clause, the monthly expenses of the [debtor](#) shall not include any payments for [debts](#). In addition, the [debtor's](#) monthly expenses shall include the [debtor's](#) reasonably necessary expenses incurred to maintain the safety of the [debtor](#) and the family of the [debtor](#) from family violence as identified under section 302 of the [Family Violence Prevention and Services Act](#), or other applicable Federal law. The expenses included in the [debtor's](#) monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the [debtor's](#) monthly expenses may

also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

(II) In addition, the [debtor](#)'s monthly expenses may include, if applicable, the continuation of actual expenses paid by the [debtor](#) that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the [debtor](#)'s immediate family ([including](#) parents, grandparents, siblings, children, and grandchildren of the [debtor](#), the dependents of the [debtor](#), and the spouse of the [debtor](#) in a joint case who is not a dependent) and who is unable to pay for such reasonable and necessary expenses. Such monthly expenses may include, if applicable, contributions to an account of a qualified ABLÉ program to the extent such contributions are not excess contributions (as described in section 4973(h) of the [Internal Revenue Code of 1986](#)) and if the designated beneficiary of such account is a child, stepchild, grandchild, or stepgrandchild of the [debtor](#).

(III) In addition, for a [debtor](#) eligible for chapter 13, the [debtor](#)'s monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the [debtor](#) resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for [United States Trustees](#).

(IV) In addition, the [debtor](#)'s monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed \$1,500¹ per year per child, to attend a private or public elementary or secondary school if the [debtor](#) provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

(V) In addition, the [debtor](#)'s monthly expenses may include an allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs if the [debtor](#) provides documentation of such actual expenses and demonstrates that such actual expenses are reasonable and necessary.

(iii) The [debtor](#)'s average monthly payments on account of secured [debts](#) shall be calculated as the sum of—

- (I) the total of all amounts scheduled as contractually due to secured [creditors](#) in each month of the 60 months following the date of the filing of the [petition](#); and
- (II) any additional payments to secured [creditors](#) necessary for the [debtor](#), in filing a plan under [chapter 13 of this title](#), to maintain possession of the [debtor](#)'s primary residence, motor vehicle, or other property necessary for the support of the [debtor](#) and the [debtor](#)'s dependents, that serves as collateral for secured [debts](#); divided by 60.

(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 60.

(B)(i) In any proceeding brought under this subsection, the presumption of abuse may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

(ii) In order to establish special circumstances, the debtor shall be required to itemize each additional expense or adjustment of income and to provide—

- (I) documentation for such expense or adjustment to income; and
- (II) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

(iv) The presumption of abuse may only be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than the lesser of—

- (I) 25 percent of the debtor's nonpriority unsecured claims, or \$6,000,¹ whichever is greater; or
- (II) \$10,000.¹

(C) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that show how each such amount is calculated.

(D) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case based on any form of means testing—

(i) if the debtor is a disabled veteran (as defined in section 3741(1) of title 38), and the indebtedness occurred primarily during a period during which he or she was—

- (I) on active duty (as defined in section 101(d)(1) of title 10); or**
- (II) performing a homeland defense activity (as defined in section 901(1) of title 32); or**

(ii) with respect to the debtor, while the debtor is—

- (I) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or**
- (II) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not**

less than 90 days; if after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.

(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in paragraph (2)(A)(i) does not arise or is rebutted, the court shall consider—

(A) whether the debtor filed the petition in bad faith; or

(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

February 2019 Revisions in Amounts Under 11 U.S.C.
§ 707(b)

Section 707(b)—dismissal of a chapter 7 case or
conversion to chapter 11 or 13 (means test)

(1)—in paragraph (2)(A)(i)(I)	7,700	8,175
(2)—in paragraph (2)(A)(i)(II)	12,850	13,650
(3)—in paragraph (2)(A)(ii)(IV)	1,925	2,050
(4)—in paragraph (2)(B)(iv)(I)	7,700	8,175
(5)—in paragraph (2)(B)(iv)(II)	12,850	13,650
(6)—in paragraph (5)(B)	1,300	1,375
(7)—in paragraph (6)(C)	700	750
(8)—in paragraph (7)(A)(iii)	700	750