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Analysis Paper

Subj: COLLEGE COST REDUCTION AND ACCESS ACT OF 2007

Ref: (a) College Cost Reduction and Access Act of 2007 Conference Report, H.R. 2669, Secs. 203 and 401
(b) Federal Student Loan Repayment Assistance for Public Interest Service Lawyers and Other Employees of Governments and Nonprofit Organizations, 36 Hofstra L. Rev.____(forthcoming, Fall, 2007), Philip G. Schrag
(c) 2007 Federal Poverty Guidelines

Encl: (1) College Cost Reduction and Access Act of 2007 Conference Report, H.R. 2669, Secs. 203 and 401
(2) Federal Student Loan Repayment Assistance for Public Interest Service Lawyers and Other Employees of Governments and Nonprofit Organizations, 36 Hofstra L. Rev.____(forthcoming, Fall, 2007), Philip G. Schrag
(3) 2007 Federal Poverty Guidelines

1. **Background.** The College Cost Reduction and Access Act (CCRAA), H.R. 2669,[1] which was signed by the President on 27 Sep 07, allows for the reduction of monthly repayments on law student loans and provides partial forgiveness for eligible graduates who perform ten (10) years of public service.

Two provisions of the bill, Secs. 203 and 401, are particularly applicable to Marine Corps Judge Advocates.

Section 203, which goes into effect on 1 July 2009, reduces the amount of monthly repayments on student loans by creating a new income-based repayment(IBR) option for student loan repayment. The IBR option limits a borrower's monthly loan repayments to 15% of his or her discretionary income, where discretionary income is defined as adjusted gross income (AGI) minus 150% of the poverty level for the borrower's family size.[2] Therefore, discretionary income is:

$$15\% \times \frac{(\text{AGI} - 150\% \times \text{applicable poverty level})}{12}$$

Section 401 provides partial forgiveness for graduates who perform ten (10) years of full-time public service. If a

[1] The full text of the Act can be viewed at http://kennedy.senate.gov/imo/media/doc/HR2669_conf_report.pdf.
[2] Ferderal Poverty Level guidelines can be viewed at http://aspe.hhs.gov/poverty/07fedreg.htm.

borrower makes ten (10) years of IBR payments while engaged in full time public service, the remaining loan balance is forgiven. The law does not require that the ten (10) years of public service be continuous. However, before the borrower qualifies for forgiveness under Sec. 401, the borrower must make 120 payments under some combination of IBR, income-contingent repayment (ICR)[3], or standard repayment while serving full-time in a public service job, and must also hold such a job when forgiveness occurs (Sec. 401 defines the public service jobs eligible for ten (10) year partial forgiveness, and includes military service). Income-contingent repayment and standard repayment can also be used, however, the IBR option allows for the lowest monthly repayment which, consequently, provides for the greatest amount of forgiveness at the ten (10) year mark of public interest service.

To qualify for the reduced monthly repayment under sec. 203 and partial forgiveness under sec. 401, the borrower's loan(s) must either be federal direct student loan(s) or, the borrower must have a government-guaranteed loan(s)(Stafford and/or Grad Plus) and consolidate that/those loan(s) into a federal direct consolidation loan.[4]

The earliest date that a borrower may begin to work towards ten (10) years of repayment under Sec. 401 is 1 October 2007.

2. **Calculating Savings via IBR and Forgiveness.** To see the potential benefits of the CCRAA it is worthwhile to look at an example of a single borrower's repayment under a standard repayment plan and the income-based repayment plan afforded by the CCRAA:

> _Example_: A single borrower owes $100,000 at 6.8%(current Stafford Loan rate) and has an Adjusted Gross Income (AGI) of $40,000 in his first year after graduation.

- Under a standard repayment plan, the borrower would make monthly payments of _$1,151_ a month for 10 years.
  - Under the income-based repayment(IBR) plan, the borrower would make monthly payments of only _$309_ in the first year of repayment.
    - The IBR amount will rise as the borrower's income(AGI) rises—but that income increase will be mitigated by parallel increases in

[3] The ICR option calculates monthly student loan payments as 20% x (AGI – the applicable federal poverty level)/12. ICR has been available since 1993.

[4] Private and commercial loans are not eligible for ICR or IBR repayment or for forgiveness.

the Federal poverty level. Assuming a 3% increase in both AGI and federal poverty level guidelines, monthly payments in the subject example would be $318 in the second year and $403 in the tenth year.

- The total amount repaid by the borrower under the standard repayment plan would be *$138,096*.
    - The total amount repaid by the borrower under the income-based repayment (IBR) plan would be approximately *$42,448*, with approximately *$125,552* forgiven by the Federal Government after 10 years of public interest service.
        - Amounts would vary based on actual increases in AGI and Federal Poverty Level Guidelines over the subject 10 years.

As already noted, as income increases, the monthly payment amount increases and, consequently, the amount of forgiveness at the 10 year public interest service mark decreases. The below table illustrates this point (Highlighted in yellow is our above example using the IBR option).

Starting Income	Annual Increases	Monthly Payment, Year 1	Monthly Payments, Year 10	Total Amount Paid over 10 Years	Amount Forgiven After 10 Years
$35,000	3%	$246	$321	$33,850	$134,150
$40,000	3%	$309	$403	$42,448	$125,552
$40,000	4%	$309	$462	$45,701	$122,299
$40,000	5%	$309	$526	$49,132	$118,868
$50,000	3%	$434	$566	$59,644	$108,356
$50,000	4%	$434	$640	$63,710	$104,160
$55,000	4%	$496	$729	$72,715	$56,019

3. **Application.** Sections 203 and 401 are not fully effective until 1 July 2009. However, some of the benefits of Section 401 (working towards loan forgiveness after ten (10) years of public interest service) are available before then.

Borrowers who graduated and entered loan repayment before 1 October 2007. Borrowers who began to repay their government guaranteed loans/Stafford and Grad Plus loans before 1 October 2007, may receive partial benefits under the CCRAA. If the borrower already has federal direct loans (very few law schools are part of the federal direct lending program) and are employed in public service jobs, they may immediately elect to begin paying pursuant the income-contingent repayment (ICR) option and then switch to income-based repayment (IBR) on 1 July 2009.

Monthly repayments under this scenario (both ICR and IBR) will count toward the 120 months (10 years) of repayment, after which partial forgiveness will occur (assuming that the borrower has remained in public service through the date of forgiveness). After 1 October 2007, payments made under a standard repayment plan while a borrower is in the process of converting to income-contingent repayment (or after 1 July 2009, to IBR) will also count toward the 120 payments. However, payments made through any repayment method before 1 October 2007 will not count toward the 120 payments.

Borrowers who entered repayment before 1 October 2007, and have government-guaranteed loans rather than federal direct loans, must consolidate their loans into a federal direct consolidation loan and elect the income-contingent repayment option. Only payments made after this consolidation count toward the 120 payment requirement.

The right to consolidate into a federal direct loan in order to repay the loan through the income-contingent repayment option is guaranteed, except that a borrower who previously consolidated may not consolidate again unless 1) the loan has been submitted to a guarantee agency to prevent a default[5] or 2) the borrower waits until after 1 July 2008 to seek a second consolidation and wants to consolidate to use the program for accelerated forgiveness for public interest service employment.

Borrowers who graduate after 1 October 2007 but before 1 July 2008. Direct loan borrowers may elect the income-contingent repayment (ICR) option while waiting for the 1 July 2009 start date of income-based repayment (IBR). All ICR or IBR payments made after 1 October 2007 while in public service will qualify for the 120-month period after which forgiveness of the balance occurs. Borrowers with government-guaranteed loans must consolidate to a direct federal loan, as described above, before their payment will count.

Borrowers who graduate after 1 July 2008 but before 1 July 2009. Those with direct federal loans may elect ICR while awaiting for IBR to begin, and all payments pursuant to this plan will count toward the 120 month requirement. Those with government-guaranteed loans must first consolidate into a federal direct consolidation loan. May 2009 graduates will be able to elect IBR on 1 July 2009 so long as they have direct

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[5] This scenario is unlikely to apply to any Judge Advocates as the borrower would need to be in jeopardy of defaulting on his or her student loan.

federal loans or have consolidated their government-guaranteed loans into a federal direct consolidation loan.

Borrowers who graduate after 1 July 2009. The Act will be fully effective. Graduates with direct loans who plan to enter public service for ten years to qualify for forgiveness may simply elect income-based repayment (IBR). Those with government guaranteed loans who plan to use the new forgiveness provision must consolidate their loans into a federal direct consolidation loan and choose ICR or IBR; either type of repayment will qualify for the 120-payment public service forgiveness. They have a right to obtain federal direct consolidation loans for this purpose. Most borrowers will want to elect IBR because the monthly payment are lower and therefore the amount eventually forgiven will be higher.

4. **Looking Ahead.** There are two issues that have the potential to impact the application of the CCRAA to individual Marine Corps Judge Advocates: tax liability as a result of loan forgiveness and the adjusted gross income (AGI) calculation of married Judge Advocates.

Tax Liability. Currently, the forgiveness at the end of 10 years is a taxable event. Therefore, unless the law is changed, borrowers will incur a tax liability on the amount forgiven.[6] The tax liability issue was not addressed in the Act because the legislation was developed by education committees, and tax legislation must originate in tax committees.

Marriage Penalty. The amount of monthly repayment for married IBR borrowers is based on the combined adjusted gross income of the borrower and the borrower's spouse, even if they file separate tax returns. For two-IBR families, regulations are predicted to allow combining both the debt and the income for purposes of the calculation. However, where one spouse is an IBR borrower, and the second spouse is a non-IBR borrower, the IBR borrower's monthly payment has the potential to rise sharply. For example, a single borrower with an income of $35,000 and a debt of $100,000 would make first-year monthly repayments of $246, but if that borrower married a non-IBR spouse with income of $65,000, the borrower's monthly repayment would balloon to $993.

5. **Impact on Marine Corps Judge Advocates.** Many, but not all, Marine Corps Judge Advocates will benefit financially from taking advantage of the subject sections of the CCRAA. Whether

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[6] Some are confident that the law will be reformed such that the loan forgiveness will not trigger tax liability. See, *Federal Student Loan Repayment Assistance for Public Interest Lawyers and Other Employees of Governments and Nonprofit Organizations,* 36 Hofstra L. Rev. ___(forthcoming, Fall, 2007) Philip G. Schrag.

an individual Judge Advocate will benefit from the CCRAA must be determined on a case by case basis. In short, every Marine Corps Judge Advocate would be mindful to do a comparative analysis of their current loan repayment plan with the options offered under the CCRAA and, at the same time, consider their long-term public interest service plans, in order to determine whether participating in the program afforded by the CCRAA would be a financially sound decision.[7]

[7] Although this paper focused on the CCRAA's impact on Marine Corps Judge Advocates, the CCRAA's scope is much greater, applying to a wide group of students in varying circumstances.