

**TITLE 11 - BANKRUPTCY**

**CHAPTER 13 - ADJUSTMENT OF DEBTS OF AN INDIVIDUAL WITH REGULAR INCOME  
SUBCHAPTER II - THE PLAN**

**§ 1328. Discharge**

(a) Subject to subsection (d), as soon as practicable after completion by the debtor of all payments under the plan, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid, unless the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan or disallowed under section 502 of this title, except any debt—

- (1) provided for under section 1322 (b)(5);
- (2) of the kind specified in section 507 (a)(8)(C) or in paragraph (1)(B), (1)(C), (2), (3), (4), (5), (8), or (9) of section 523 (a);
- (3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or
- (4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.

(b) Subject to subsection (d), at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

- (1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;
- (2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and
- (3) modification of the plan under section 1329 of this title is not practicable.

(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt—

- (1) provided for under section 1322 (b)(5) of this title; or
- (2) of a kind specified in section 523 (a) of this title.

(d) Notwithstanding any other provision of this section, a discharge granted under this section does not discharge the debtor from any debt based on an allowed claim filed under section 1305 (a)(2) of this title if prior approval by the trustee of the debtor's incurring such debt was practicable and was not obtained.

(e) On request of a party in interest before one year after a discharge under this section is granted, and after notice and a hearing, the court may revoke such discharge only if—

- (1) such discharge was obtained by the debtor through fraud; and
- (2) the requesting party did not know of such fraud until after such discharge was granted.

(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge—

- (1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or
- (2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

- (g) (1) The court shall not grant a discharge under this section to a debtor unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111.
- (2) Paragraph (1) shall not apply with respect to a debtor who is a person described in section 109 (h)(4) or who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).
- (3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.
- (h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—
- (1) section 522 (q)(1) may be applicable to the debtor; and
  - (2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522 (q)(1)(A) or liable for a debt of the kind described in section 522 (q)(1)(B).

(Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2650; Pub. L. 98–353, title III, § 532, July 10, 1984, 98 Stat. 389; Pub. L. 101–508, title III, § 3007(b)(1), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 101–581, §§ 2(b), 3, Nov. 15, 1990, 104 Stat. 2865; Pub. L. 101–647, title XXXI, §§ 3102(b), 3103, Nov. 29, 1990, 104 Stat. 4916; Pub. L. 103–394, title III, § 302, title V, § 501(d)(38), Oct. 22, 1994, 108 Stat. 4132, 4147; Pub. L. 109–8, title I, § 106(c), title II, § 213(11), title III, §§ 312(2), 314 (b), 330 (d), title VII, § 707, Apr. 20, 2005, 119 Stat. 38, 53, 87, 88, 102, 126.)

## Historical and Revision Notes

### legislative statements

Section 1328 (a) adopts a provision contained in the Senate amendment permitting the court to approve a waiver of discharge by the debtor. It is anticipated that such a waiver must be in writing executed after the order for relief in a case under chapter 13.

### senate report no. 95–989

The court is to enter a discharge, unless waived, as soon as practicable after completion of payments under the plan. The debtor is to be discharged of all debts provided for by the plan or disallowed under section 502, except a debt provided for under the plan the last payment on which was not due until after the completion of the plan, or a debt incurred for willful and malicious conversion of or injury to the property or person of another.

Subsection (b) is the successor to Bankruptcy Act Section 661 [section 1061 of former title 11]. This subsection permits the bankruptcy judge to grant the debtor a discharge at any time after confirmation of a plan, if the court determines, after notice and hearing, that the failure to complete payments under the plan is due to circumstances for which the debtor should not justly be held accountable, the distributions made to each creditor under the plan equal in value the amount that would have been paid to the creditor had the estate been liquidated under chapter 7 of title 11 at the date of the hearing under this subsection, and that modification of the plan is impracticable. The discharge granted under subsection (b) relieves the debtor from all unsecured debts provided for by the plan or disallowed under section 502, except nondischargeable debts described in section 523 (a) of title 11 or debts of the type covered by section 1322 (b)(5).

Subsection (d) excepts from any chapter 13 discharge a debt based on an allowed section 1305 (a)(2) postpetition claim, if prior trustee approval of the incurring of the debt was practicable but was not obtained.

A chapter 13 discharge obtained through fraud and before the moving party gained knowledge of the fraud may be revoked by the court under subsection (e), after notice and hearing, at the request of any party in interest made within 1 year after the discharge was granted.

## Amendments

2005—Subsec. (a). Pub. L. 109–8, § 330(d)(1), substituted “Subject to subsection (d), as” for “As” in introductory provisions.

Pub. L. 109–8, § 314(b), added pars. (1) to (4) and struck out former pars. (1) to (3) which read as follows:

“(1) provided for under section 1322 (b)(5) of this title;

“(2) of the kind specified in paragraph (5), (8), or (9) of section 523 (a) of this title; or

“(3) for restitution, or a criminal fine, included in a sentence on the debtor’s conviction of a crime.”

Pub. L. 109–8, § 213(11), inserted “, and in the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) have been paid” after “completion by the debtor of all payments under the plan” in introductory provisions.

Subsec. (a)(2). Pub. L. 109–8, § 707, substituted “section 507 (a)(8)(C) or in paragraph (1)(B), (1)(C),” for “paragraph”.

Subsec. (b). Pub. L. 109–8, § 330(d)(2), substituted “Subject to subsection (d), at” for “At” in introductory provisions.

Subsec. (f). Pub. L. 109–8, § 312(2), added subsec. (f).

Subsec. (g). Pub. L. 109–8, § 106(c), added subsec. (g).

Subsec. (h). Pub. L. 109–8, § 330(d)(3), added subsec. (h).

1994—Subsec. (a)(2). Pub. L. 103–394, § 501(d)(38)(A), substituted “(5), (8), or (9)” for “(5) or (8)”.

Subsec. (a)(3). Pub. L. 103–394, § 501(d)(38)(B), struck out last par. (3). See 1990 Amendment note below.

Pub. L. 103–394, § 302, inserted “, or a criminal fine,” after “restitution”.

1990—Subsec. (a)(1). Pub. L. 101–581, § 3(1), and Pub. L. 101–647, § 3103(1), made identical amendments striking “or” at end.

Subsec. (a)(2). Pub. L. 101–581, § 3(2), and Pub. L. 101–647, § 3103(2), made identical amendments substituting “; or” for period at end.

Pub. L. 101–581, § 2(b), and Pub. L. 101–647, § 3102(b), which directed identical insertions of “or 523(a)(9)” after “523(a)(5)”, could not be executed because of prior amendment by Pub. L. 101–508. See below.

Pub. L. 101–508 substituted “paragraph (5) or (8) of section 523 (a)” for “section 523 (a)(5)”.

Subsec. (a)(3). Pub. L. 101–581, § 3(3), and Pub. L. 101–647, § 3103(3), made identical amendments adding par. (3).

1984—Subsec. (e)(1). Pub. L. 98–353, § 532(1), inserted “by the debtor” after “obtained”.

Subsec. (e)(2). Pub. L. 98–353, § 532(2), substituted “the requesting party did not know of such fraud until” for “knowledge of such fraud came to the requesting party”.

## Effective Date of 2005 Amendment

Amendments by Pub. L. 109–8 effective 180 days after Apr. 20, 2005, with amendments by sections 106(c), 213(11), 312(2), 314(b), and 707 of Pub. L. 109–8 not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, and amendment by section 330(d) of Pub. L. 109–8 applicable with respect to cases commenced under this title on or after Apr. 20, 2005, see section 1501 of Pub. L. 109–8, set out as a note under section 101 of this title.

## Effective Date of 1994 Amendment

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of this title.

## Effective Date of 1990 Amendments

Amendment by Pub. L. 101–647 effective Nov. 29, 1990, but not applicable with respect to cases commenced under this title before Nov. 29, 1990, see section 3104 of Pub. L. 101–647, set out as a note under section 523 of this title.

Amendment by Pub. L. 101–581 effective Nov. 15, 1990, but not applicable with respect to cases commenced under this title before Nov. 15, 1990, see section 4 of Pub. L. 101–581, set out as a note under section 523 of this title.

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*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

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Section 3007(b)(2) of Pub. L. 101–508 provided that: “The amendment made by paragraph (1) [amending this section] shall not apply to any case under the provisions of title 11, United States Code, commenced before the date of the enactment of this Act [Nov. 5, 1990].”

### **Effective Date of 1984 Amendment**

Amendment by Pub. L. 98–353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98–353, set out as a note under section 101 of this title.