



## S. 3197 – National Guard and Reservists Debt Relief Act of 2008

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### FLOOR SITUATION

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S. 3197 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Senator Richard Durbin (D-IL) on June 25, 2008. The Senate passed the bill, as amended, on September 30, 2008, by unanimous consent.

*Note: The House passed very similar legislation, H.R. 4044, on June 23, 2008, by voice vote.*

S. 3197 is expected to be considered on the floor on October 2, 2008.

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### SUMMARY

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National Guard and Reserve: The bill exempts Reservists and National Guard members from meeting the means testing requirements for filing Chapter 7 bankruptcy. In order to qualify for this exemption, Guard and Reservists must have served on active duty for at least 90 days since September 11, 2001. Under current law, this exemption is provided for disabled veterans.

Government Accountability Office Study: S. 3197 requires the GAO to complete a study within two years of enactment on the use of this bill's provisions by National Guard and Reservists as well as the prevalence of service-related bankruptcy filings.

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### BACKGROUND

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In a Chapter 7 bankruptcy, the debtor liquidates all assets in exchange for all debts being discharged, which is different from Chapter 13 bankruptcy filings where debtors agree to pay back some or all of their debt over a period of time. In order to reduce abuses of the Chapter 7 system, Congress enacted the Bankruptcy Abuse Prevention and Consumer Protection Act (P.L. 109-8) in 2005. This law significantly reformed the bankruptcy system, including instituting a means test for qualifying for Chapter 7 bankruptcy.

In order to determine a filer's ability to repay debts, the means test takes into account the filer's income and expenses in determining whether they are eligible to file for Chapter 7. Those who do not qualify for Chapter 7 bankruptcy can instead file for Chapter 11 or Chapter 13 bankruptcy, which provide a framework for repaying the debt over a period of time.

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### COST

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The Congressional Budget Office estimates that "implementing this bill would have no significant impact on the federal budget."

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### STAFF CONTACT

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