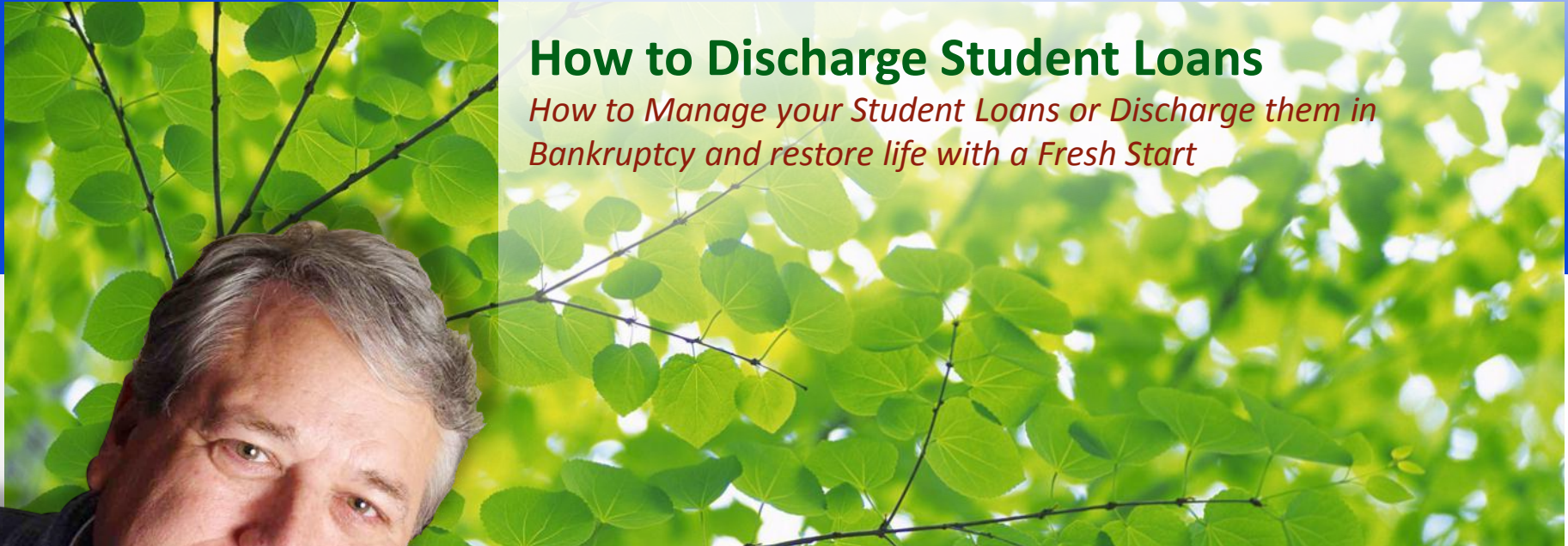


# Nick Thompson

Louisville Kentucky Bankruptcy and Foreclosure Attorney

## How to Discharge Student Loans

*How to Manage your Student Loans or Discharge them in Bankruptcy and restore life with a Fresh Start*



**Nick Thompson**

Former Assistant Attorney General for the State Tax Department  
Former Kentucky Assistant County Attorney



# Government vs. Private Student Loans

We are a small law office in Louisville but we file bankruptcy cases in both the Eastern and Western Districts of Kentucky and Southern Indiana.

Bankrupting student loans is hard not impossible. Pardo, and Lacey, [examined 115 cases](#) and found 57 percent of bankrupt debtors were able to get some or all of their loans discharged. Jason Iuliano [examined 207 proceedings](#), 39 percent received full or partial discharges. If you average the results studies it was found that about 48% of the time people filed bankruptcy and attempted to discharge their student loans they discharged the student loans in all or in part. Most people get some relief from their student loans when they combine filing a bankruptcy, and an IBR loan. However if you don't understand how it is done you may not get the relief you need. This PowerPoint was designed to help.

The first step in solving your Student Loan debt problem is in finding out which loans are private loans and which loans are Governmental Student Loans. If you don't know then check with the [National Student Loan Data System](#). Private student loans are much easier to defend and discharge than the Federal Student loans.



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# History of Bankruptcy and Student Loans

Prior to 1998 Student Loans were dischargeable in bankruptcy after they had been due for 7 years. On October 8<sup>th</sup> 1998 Congress passed a statute that required a bankruptcy judge to find that the loan would be an undue hardship in order to discharge a Student Loan. Only governmental student loans were meant to be non dischargeable. Most student loans were insured or originated by the federal government. However the few private loans often lied and claimed that they were exempt from being discharged and attempted to collect after being discharged.

In 2005 the law was changed again and private student loans were made non dischargeable unless they were found to be non dischargeable. In order to get this discharge an adversary proceeding must be filed in bankruptcy court. An adversary proceeding does not have a separate filing fee for the Debtor but there are separate attorney fees and this is a separate lawsuit that is adversarial often requiring producing separate documentation, and testimony through discovery and a trial. Student loan lenders will often vigorously defend these lawsuits because the agency that guarantees the loans will pay any attorney fee to defend the action while the poor debtor cannot afford trials and appeals. In 2009 the government started the IBR program. In 2012 private student loans were eliminated. We expect more changes in 2013.



**Nick Thompson**

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# Student Loan Default

Default normally occurs when a loan is 270 days overdue. Prior to 270 days it is delinquent but not in default. Once it enters default a 25% penalty or fee may be assessed. The originator is often the bank that issued the loan. The guarantee agency insures the debt normally at up to 97% of the value of the loan and will pay off the loan when it defaults. A servicer will collect the loan until it defaults. After the loan is in default a collector will take over the account. Collection agencies can be sued for untrue unfair tactics or disrespectful conduct.

Often collectors will offer to settle (for such high amounts that this is rarely a real option), rehabilitate the loan or consolidate the loan. If a debtor pays the collection agency the payment will be applied to late fees first then interest and last to interest. Collection agencies earn commissions from collecting these penalties and late fees. Often they will not service the account (send a bill or make a call) until after the account is 270 days old and they have assessed the 25% penalty. It is normally their goal to assess and collect as much as possible eternally keeping the account in default. At the same time they have to move some cases out of default by processing deferments, forbearances, settlements, consolidations and rehabilitations. If a school lender or servicer performs poorly they may lose funding. Private business schools perform very poorly, 4 year state universities perform best.



**Nick Thompson**

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# Government vs. Private Student Loans

## Private Student Loans

Private Student Loans are no different than credit card loans. In 2005 Congress made private student loans non dischargeable but if you are sued for the debt you have all the same defenses that you would have against any credit card debt such as fraud and the statute of limitations etc. If you fail to defend against lawsuits they obtain default judgments allowing collections for 20 years. Your defenses are the same defenses you would raise against any other unsecured debt and include the defenses of standing, jurisdiction, hearsay, evidence and literally hundreds of issues any unsecured debt has to prove to win a case. Federal student loans rarely have to prove these issues in a lawsuit but rarely sue to collect. With the IBR program and other ways to discharge federal student loans they are far less a problem.

State agency loans like Kentucky Higher Education have a mixture of Government and Private powers and defenses. State agencies have fewer powers than Department of Education loans. Debt collectors for private loans can be sued for violations of the Fair Debt Collection Practices Act. Bills have been introduced into Congress to again allow discharging private student loans. Many of my clients file Chapter 13 with minimal payments to wait out until private student loans die from the statute of limitations or until they can discharge federal student loans.

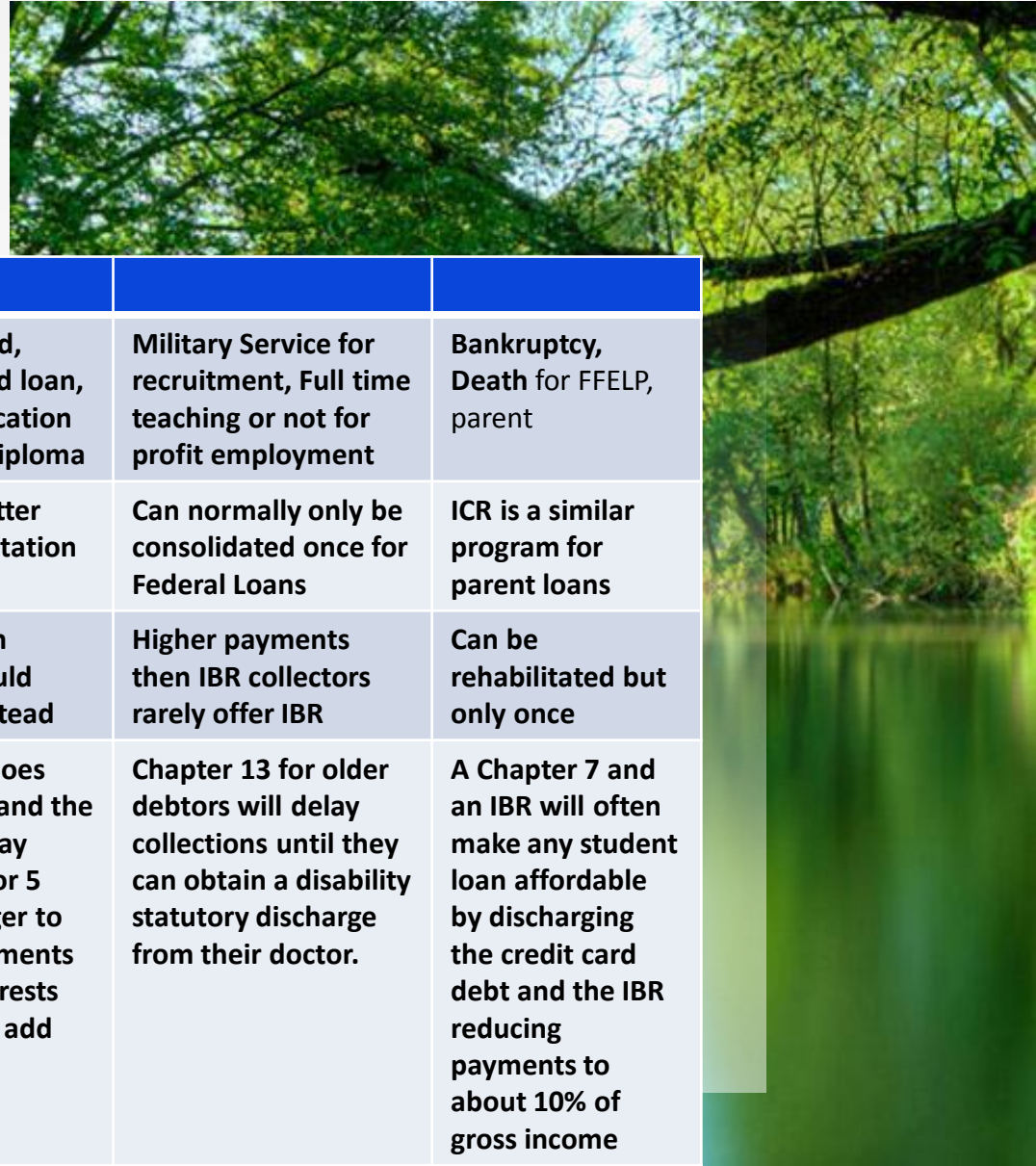


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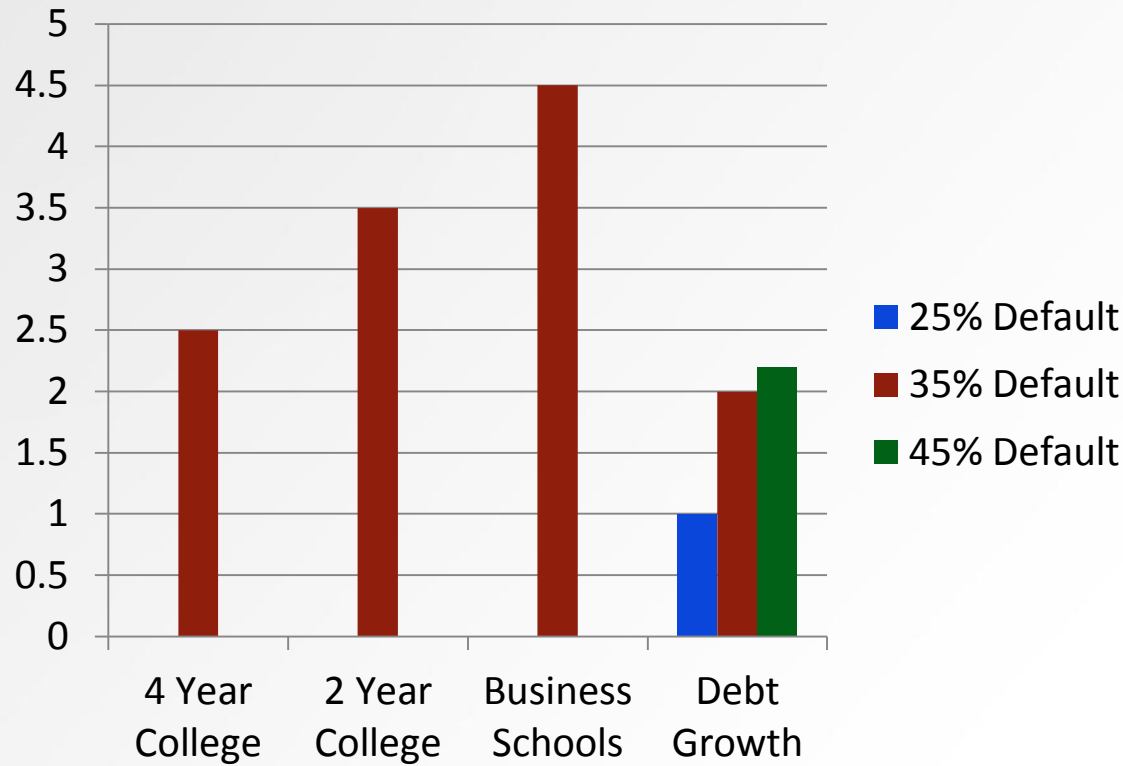


# The Federal Loans Defenses, Methods to cure default



<b>Federal Statutory Discharges</b>	<b>Disability</b> requires total & permanent disability signed by physician	<b>School Closed, Fraud, Forged loan, False Certification of GED, HS diploma</b>	<b>Military Service for recruitment, Full time teaching or not for profit employment</b>	<b>Bankruptcy, Death</b> for FFELP, parent
<b>Income Based Repayment Plan</b>	Normally required for a <b>Bankruptcy hardship discharge</b>	Normally better than rehabilitation	Can normally only be consolidated once for Federal Loans	ICR is a similar program for parent loans
<b>Rehabilitation</b>	Similar program to IBR but for defaulted loans	Student Loan Debtors should insist IBR instead	Higher payments than IBR collectors rarely offer IBR	Can be rehabilitated but only once
<b>Bankruptcy Discharge</b>	Must prove undue Hardship possible but difficult and may require the Debtor at least attempt IBR first Undue Hardship is often an option for disabled borrowers but will also help in processing an IBR	Chapter 13 does allow a stay and the ability to delay collections for 5 years or longer to stop garnishments etc. but interests continues to add	Chapter 13 for older debtors will delay collections until they can obtain a disability statutory discharge from their doctor.	A Chapter 7 and an IBR will often make any student loan affordable by discharging the credit card debt and the IBR reducing payments to about 10% of gross income
<i>Bankruptcy Hardship Discharge can be very difficult to prove/obtain and normally requires permanent and total disability or other proof of extreme hardship</i>				

# Reported (Default) Rates



20% of Student loans are in forbearance/deferment. This means as much as 70% of private school student loans and 50% of 4 year college loans are not repaid due to lack of responsibility on the part of lenders and schools.

*Student Loan Debt has grown from over one trillion in 2011 to over 1.1 in 2012 with slightly increasing default rates since 1998. Cohort government reports show that 4 year public colleges have a 25% default, 2 years public colleges have a 35% default and private business schools now have a 45% default. It is suggested that private-business schools especially fail to take responsibility for insuring students can repay from their degrees often concentrating on pushing students into deferments instead of finding jobs for them. Some private/for profit schools were given kickbacks from lenders to push higher rate private loans over affordable government loans and were sued in New York by the Attorney General for this fraud. Private Student Loans are no longer available after Obama closed such programs in 2011-2012.*

**Nick Thompson**

Louisville Kentucky Bankruptcy and Foreclosure Attorney

# The Average School Loan Borrower in Default

- Is 43 Years old, 15% never completed high school, 55% had children
- Has attempted to pay for the loan over 10 years and has given up
- African American borrowers were 7 times more likely to suffer a default (39%) than white (6.9%) and Asian was the lowest (4%). Almost all of the borrowers felt the school had defrauded them by selling them an educational program that failed to provide employment that could repay the loan. The system especially failed the young, uneducated, unsophisticated borrowers and minorities.
- Borrowers were not told about the options that most benefited them
- Borrowers that default are 80% unemployed and 85% receive public assistance 65 % attended a for profit school and 53% did not complete the school program and 69% had parents that did not attend.
- No reasonable attempts are made to settle these debts and normally the servicer demanded immediate repayment in full, which often only resulted in frustration on the part of the borrower and a response of refusing to answer any further mail or phone calls. Collection fees are often charged for work never done or at unreasonable rates.
- Every reported response stated the reason for default was poor training which resulted in no employment that could repay the loan .

Source [2012 NCLC survey Student loan Borrower survey](#)





# A Myth of Education as opportunity

## The Private School Loan Problem

Many student loans were sold upon promises to minors for high paying jobs. However these were often worthless degrees that could not repay the amount that was borrowed. This is most often the case with business and private school degree programs which have over 45% of their graduates unable to repay loans. But even with 4 year state colleges and universities the default rates runs over 25% due to low paying degree programs. Some of the problem comes from colleges having little or no incentive to avoid issuing degrees that wont repay the amount borrowed.

## More Private School Student Loan Problems

Many business schools receive kickbacks from lenders to push bank loans onto minorities and students which have little financial sophistication often withholding essential facts. In 2009-2010 the New York Attorney General, several colleges and lenders settled in New York but few or no other states filed cases. Cuomo's office investigated Drexel college Sallie Mae; Nelnet; Education Finance Partners; EduCap; and CIT. Because there seems to be no escape, possible for people with these loans they often quit working for a salary and work under the table. They become judgment proof, not paying taxes, have bank accounts in their children's name or real estate in a spouses name in order to live.



**Nick Thompson**

Louisville Kentucky Bankruptcy and Foreclosure Attorney

# Collection/Servicing Agencies

Collection agencies or servicing companies often handle the collection of student loans. They earn fees from the phone calls and letters they send to collect loans. They earn higher or more fees from an account that is in default than one that is paid on time. Also they will apply payments to fees first then interest and principle last. They will also fail to fully explain the options to students. It is not in the collection agency or servicing agency's best interest to have the loan in good standing. They do not have your best interest as their goal. Their goal is to make a profit from selling you on a rehabilitation program or in suing you. While in default they collect any money and apply it to fees first. This insures that the loan stays in default. They will often offer a rehabilitation program that requires 9 months of on time payments normally out of a 10 month period of payments. The IBR program is a much better program for your government student loans but an IBR pays the collection agency nothing.

If the collection agency is collecting for a private student loan, there are no programs to rehabilitate the loan they are simply collecting information on how to sue you. A collection agency that is collecting for a private student loan should be handled no differently than a call for a collection of a credit card. Never give them information.







# The Student Loan Collection Powers

*Private Loans have to sue to collect Government directly garnishes*

**Nick Thompson**

Louisville Kentucky Chapter 713 Bankruptcy and Foreclosure Attorney



# Governmental Statutory Collections

- The Government only has to send a 30 day letter which you may or may not receive in the mail to:
- Garnish Bank Accounts, Federal Benefits and Tax Refunds
- Garnish Wages even social security but they can only attach 15% above the first 750 of benefits including SDI but not SSI benefits

The Government is more likely send the case to DOJ and sue the self employed to attach assets but DOJ will often negotiate agreed orders allowing rehabilitation or other alternatives. There are very few defenses to Governmental Student Loans and the Statute of Limitations and infancy defenses do not apply. There are statutory discharges such as closed school and disability that will discharge the loan and make it uncollectible but collectors/servicers do not divulge these choices because servicers can't make a profit from those solutions.



# Government Student Loan Defenses

- The Government does have to follow due process guidelines to attach property
- Cancellations of Governmental loans through discharges is possible for Disability, Closed closing, and public service or 501 c 3 non profit employment. Repayment is reinstated if a disabled person returns to employment.
- Deferments for school, unemployment, economic hardship or military service and Forbearances are available but should not be used if IBR would allow a zero payment. Govt pays interest while in deferment not while in forbearance.

The standard government repayment is a 10 year plan. Graduated, 20 year extended, extended graduated, and Income based repayment plans are also available.

Consolidating government loans into IBR can cure default and IBR payments are 13% of any gross income above poverty level for 25 years. In 2014 IBR becomes 10% for 20 years. Loans in default may be rehabilitated once by making 9 payments in 10 months. Collectors push rehab to collect 18.5% fees. Consolidation cures default more cheaply and quickly.



# Private Student Loan Collections

The statute of limitations in Kentucky is 15 years. Just prior to this a private student loan will sue or offer to refinance the debt to prevent the statute of limitations running on the loan. If a creditor can obtain a judgment a judgment is collectible for 20 more years and can be renewed. Private student loans must sue and obtain judgments to garnish wages or seize bank accounts just like a credit card creditor and the same defenses apply. Private student loan lenders can be sued back, especially the collectors that violate the FDCPA or truth in lending and they have the same problems as credit cards in collecting. Private loans are securitized, insured and resold just like predatory mortgages and many of the same defenses apply.





# Private Student Loan Collections

Often the borrower only needs to age the account so it becomes old enough to be uncollectible under the statute or limitations. Filing a Chapter 13 will often do this if the Chapter 13 is filed before the lender gets a judgment. Otherwise the loan becomes collectible for another 20 years. Private student loans have no statutory discharges like a disability or closed school discharge. They cannot be consolidated into affordable loan programs like federal loans. The weakness private student loans have is that they can be sued back under the FDCPA and other statutes, delayed until they become uncollectible and have weaker abilities to collect than federal loans.





## The Chapter 13/20 Path to Discharge

*Bankruptcy can effectively manage student loan debt and in rare cases actually discharge the debt.*

**Nick Thompson**

Louisville Kentucky, Chapter 7, 13 Bankruptcy and Foreclosure Attorney



# Chapter 7

Chapter 7 will not normally discharge student loans but a Chapter 7 will discharge other unsecured debts often helps to make a student loan more affordable. A Chapter 13 can be filed the day after a Chapter 7 discharges so that a debtor may then make a minor payment through a Chapter 13 until

- the Statute of Limitations has run on Private Loans,
- The Debtor increases income and can afford repayment
- The Debtor can make the loans affordable through IBR, often the filing of a bankruptcy or undue hardship adversary will force DOE to process an IBR application
- The Debtor becomes disabled and can obtain a Disability or other statutory discharge of the Student Loans or find another method to make the loans affordable.





# Chapter 7

- Filing a Chapter 7 may be necessary to make a Chapter 13 feasible.
- Chapter 13 has debt limits 336,900 for unsecured debt and 1,010,650.00 for secured in 2012. If the Debtor has 200,000 in medical debt and 200,000 in student loans filing the Chapter 7 first and discharging the 200,000 in medical debt will lower the amount of unsecured debt so that a Chapter 13 can be filed. Otherwise the Chapter 13 would not be possible.
- Filing a Chapter 7 first will also increase the amount paid to the unsecured student loan debts so that they may be more fully repaid and don't have to share with the credit card and medical debt from the Debtors income for a 3-5 year plan. This can lower the Chapter 13 payment or at least increase the amount paid to the student loans.
- A Chapter 7 however will not protect a cosigner from collection like a Chapter 13 will under 1322 (b) 1.



# Making a Chapter 13 feasible and affordable

- Chapter 13 can allow a Debtor to pay long term governmental student loans directly with full regular payment as long as the student loan is over 60 months under 1322 (b) 5.
- The other unsecured debts such as credit cards and medical debts may be paid back at 10% or less after these deductions. This allows the debtor to pay the long term student loan debts in full at the expense of the short term credit card, medical and other unsecured debt.
- Section 1322 (b) 1 says that all non priority unsecured debt must normally be treated equally but an experienced bankruptcy lawyer will look for expense deductions so that a Chapter 13 can answer your student loan needs and give you a path to your fresh start.



# Repaying only important debts in Chapter 13

- Section 1322 (b) 1 normally requires the Debtor to treat all unsecured debt equally. But not all unsecured debt is repaid equally. Child Support, and Income Taxes less than 3 years old are often unsecured but the code requires priority debts to be paid in full, at the expense of general unsecured debts.
- The Debtor may have a simple 100 per month plan and still avoid collections by filing a Chapter 13. Although there is an IBR program, bankruptcy will avoid garnishments and may take far less than 15-25% of the debtors income as a garnishment will. Each creditor may take 15-25% so if the debtor owes Federal loans such as DOE, state agency loans such as Kentucky Higher Education and private student loans such as ECMC and all 3 are issuing garnishments bankruptcy may be a necessary tool.





# Chapter 13

While the Chapter 13 is in effect, the interest and fees on a student loan continues to inflate the balance of the account. However the Debtor is often merely waiting until they can obtain a discharge under a different program such as one of the statutory discharges. These include a statutory discharge for a school that closed within 120 days of the student quitting the school or the disability discharge. Although a Debtor may qualify and want to end the Chapter 13 in 36 months they may be better off delaying it for the full 5 years.





Loan Consolidation Options

# Income Based Repayment Consolidation and Rehabilitation Options for that Fresh Start

# The repayment options

## Repayment Options

A student may choose to have their federal loans consolidated and may choose from four payment options

- Standard 10 year repayment
- Extended 20 year repayment
- Graduated Increasing payments over time
- Extended and Graduated combines Extended and Graduated
- IBR repayment over 25 years with payments which are graduated from 0 to about 13% of any gross income above the poverty level. 2014 becomes 10% and 20 years. This allows affordable repayment of large balances, while working for low paying positions such as a teachers, working for a non profit etc. However it is only for federal loans.





# The IBR program is the major tool for managing Student Loans

## Income Based Repayment Plans

ICR for Parent Plus Loans and IBR for Students allow payments based on household income and use reported tax returns to determine the income used for payment. In some cases where the spouse has a high income the Debtor may want to file a separate tax return so income is figured separately. If both spouses have IBR's they especially should file separately. The AGI income is taken from your taxes for calculation purposes. File taxes jointly and repayment increases.

For many people the repayment may be zero if their income is below 30,000 (refer to the IBR income payment chart). After 25 years of payments the loan is forgiven. Payments should be affordable since they gradually become about 10% of income. There can only be one rehabilitation or IBR consolidation. ICR works very similarly to IBR but the formula is much more complicated.

# The IBR program is the major tool for managing Student Loans

## Income Based Repayment Plans

The IBR strives to make payments about 10% of a family income or less for lower income families. At poverty level or below the payments approach 0. IBR is possible for higher income student regardless of the amount of the loan. But IBR will only consolidate government loans.

	Family Size						
	1	2	3	4	5	6	7
10,000	0	0	0	0	0	0	0
20,000	47	0	0	0	0	0	0
30,000	172	102	32	0	0	0	0
40,000	297	227	157	87	16	0	0
50,000	422	352	282	212	141	71	0
60,000	547	477	407	337	266	196	126
70,000	672	602	532	462	391	321	251
80,000	797	727	657	587	516	446	376
90,000	922	852	782	712	641	571	501
100,000	1047	977	907	837	766	696	626

**Nick Thompson**

Louisville Kentucky Bankruptcy and Foreclosure Attorney



# Chapter 7 and Chapter 13 aren't your only tools.

## Income Based Repayment Plans

Public Service forgiveness of Federal Student Loan debt is available for 501 (c) 3 not for profit corporations or governmental agencies and counts towards the 25 years. Most hospitals are non-profit. A doctor or nurse may qualify for Public Service forgiveness of a student loan debt if they work for such a corporation. Even though payments are zero the account is reported as on time.

The IBR program is generally available to any Debtor struggling with Federal Student Loan Debt and should/must be applied for before attempting any undue hardship discharge in bankruptcy. The Bankruptcy Court will normally not allow someone a hardship discharge unless you have first exhausted all the other possible ways to manage your student loan debt. For many people however a Chapter 7 or Chapter 13 will still need to be filed to get them back on track.



A scenic autumn road lined with trees and a white fence. The road is paved and covered with fallen yellow and orange leaves. The trees on either side have vibrant autumn foliage. A white wooden fence runs along the edge of the road. The overall atmosphere is peaceful and picturesque.

The Path to a Hardship Discharge

The Brunner Test

Discharging Student Loan Debt in  
Bankruptcy

# Why does it seem impossible (Making it possible)

In 1983 New York Judge Haight invented the Brunner test to determine whether undue hardship can be granted. This test is very difficult to meet. In 1987 the Second Circuit only stated he did not abuse his authority using that standard.

Simply filing the adversary will often give a student loan debtor relief but requires a lot of extra work. That judge no longer sits on the bench and New York has gone to a different test looking at the total circumstances. However judges in the majority of districts still use the old Brunner test and fail to look at whether the loan is reasonably collectible balancing the needs of the debtor, ability to reasonably collect, whether collection would be an undue hardship and the essential purpose of bankruptcy which is to give the Debtor a fresh start. Still Rafel Pardo and Michelle Lacey found “More than half (57%) (of student loan debtors who filed an adversary proceeding were). . . granted some form of relief (through bankruptcy).” [U of C Law Review](#) 2005



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Louisville Kentucky Bankruptcy and Foreclosure Attorney

# The Undue Hardship Standard of 523 (a) (8)

A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt:

- (8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for--
- (i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or
- (ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or
- (B) any other educational loan that is a **qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code of 1986**, incurred by a debtor who is an individual;

The red section means a loan must have been for an educational purpose. Private loans taken out but which were not to educate the student are not for an educational purpose as defined by IRS 26 USC 221 (d) (1) and (d)(2) for the costs of attendance as defined under Higher Ed Act 20 USC 1087. **Mixed use** private school loans are dischargeable. See 26 CFR 1.221-1 (c)(4) and In Re Rogers 374 B.R. 510 Bankr ED N.Y. 2007 Loans paid directly to students and not through the school are probably dischargeable



# The Brunner Test part by part.

- First the debtor cannot maintain, based on current income and expenses, a minimal standard of living for the debtor and dependents if forced to repay the student loans;
- Second additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; and
- Third that the debtor has made good faith efforts to repay the loan.

This standard seems reasonable but it is very harshly and often unreasonably applied. If the Debtor is below the poverty and will never be able to repay the hardship discharge should normally be granted.



# The Brunner Test.

- First the debtor cannot maintain, based on current income and expenses, a minimal standard of living for the debtor and dependents if forced to pay off student loans;

This prong is probably the easiest of the factors to prove and satisfy. Either repayment is a hardship or it isn't. Normally living at the poverty level will satisfy this part of the test. To see if you qualify merely demonstrate the inability to pay for necessary expenses such as food, medical care, and that income is about poverty level. Prior to undue hardship the debtor only had to owe for 7 years in a standard very similar to income taxes that must be due for 3 years before they can be discharged.





# The Brunner Test.

- Second additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period of the student loans; This test is used to show that the person will never in the future be able to repay. It sounds simple. However it almost requires a finding that a debtor will be forever disabled to earn an income. For instance a paraplegic attorney in Nevada was granted a partial discharge eliminating half of the debt and was required to use an IBR to manage the remaining half. This seems harsh but the IBR payment would be zero. In *Re Nys* 446 F. 3<sup>rd</sup> 938 ( 9<sup>th</sup> Cir. 2009) shows the factors of age, peaked earnings and children are factors.





# The Brunner Test.

Third that the debtor has made good faith efforts to repay the loan. This standard seems easy to meet. The debtor does not need not be at poverty level or go without medical care to demonstrate he is entitled to discharge. See *In re Hornsby*, 144 F.3d 433 (6<sup>th</sup> Cir. 1998). But a creditor will often look at any luxury expense that the student has spent to prove that the debtor has not made good faith efforts. IBR makes this difficult for government loans since repayment can be 0. However a person may have an income and not be able to afford the IBR payment. Also IBR is not available for private student loans. This prong of the test is to insure that an undue hardship discharge is only granted for government loans only as a last resort after exhausting all of the other programs. IBR is not available for parent plus, private loans, loans in default that cant be consolidated or that have gone to judgment.



# The Partial discharges and other tests.

In some cases if the Debtor asks for a discharge in an adversary proceeding the judge may discharge part of the debt and leave the rest.



In other cases the judge may temporarily discharge the debt or require a nominal payment to wait and see to review the case a year or two later to see if conditions have changed.



The newest standard for a hardship discharge is the totality of the circumstances test. New York invented the Brunner test but now NY, the Eighth, First and other Circuits have replaced Brunner by this test which looks at all the factors to determine whether repayment is a hardship.





# The New Totality of the Circumstances Test.

- The totality of the circumstances seems to be gaining acceptance. This seems a lighter standard than Brunner.
- Presently several bills in Congress have been proposed to change the undue standard but none have been passed. Whenever the changes are suggested millions of dollars are spent by banks and insurance to defeat proposed changes. Over 128 million was spent to lobby Making private student loans non dischargeable in 2005. Consumers have little chance against such lobby spending.
- A different approach may be used by paying long-term Governmental student loans in full in Chapter 13 cases while paying private loans and credit cards partially as general unsecured debts. Debts that have obligations over paid directly in full under section 1322 but similar unsecured debts must not “unfairly” discriminate 1322 (b). Since the other debts are federal they are not similar.





A final Solution to achieve a Fresh Start  
**Combining the Tools**



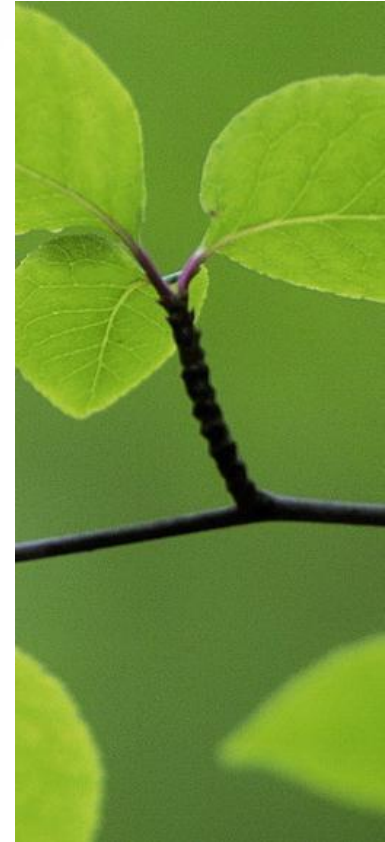
# A combination of IBR and Bankruptcy seems to be the most effective solution

IBR will lower the payments for Government Loans while Chapter 13 will allow a stay for Private loans.

Chapter 13 cases will often allow a 10% or less payback on credit card, medical debt and private student loans. It prevents the harassment. While the Debtor is in a Chapter 13 the clock continues to run on the statute or limitations and private student loans can't obtain judgments. The stay stops collections stops the harassment.

The danger in private student loans is they may obtain a judgment which will in some states, like Kentucky, extend collection an additional 20 years. Often student loan lenders claim that renewing the loan will give the debtor good credit. But their real objective is to start the Kentucky 15 year clock all over again on the statute or limitations by rewriting the loan into a new loan.

Your objective may be to simply allow the statute of limitations to run. In some states the statute of limitations is only 5 years in other states garnishment of wages is not allowed or severely limited. Even if the Debtor attempts to obtain a disability discharge it may be easier to achieve that discharge or an IBR while a person is in bankruptcy. Often a federal judge may order the DOE or student loan lender to work with you to obtain the IBR or face a hardship discharge.







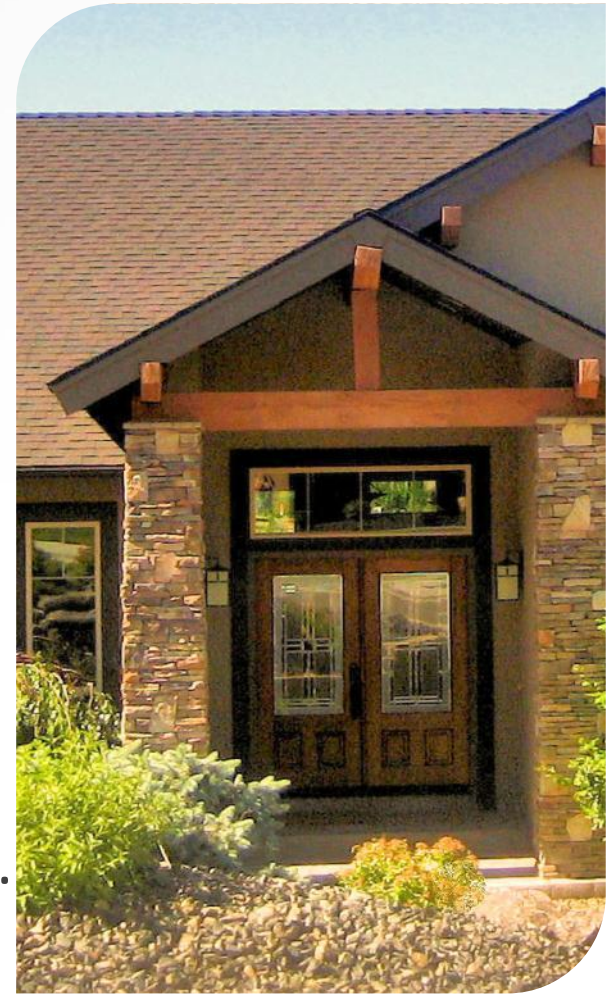
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# The Path to reestablishing credit



# Once the loans either discharged or in good standing credit can be repaired.

- If student loans are in default a person cannot qualify for a car or home mortgage with FHA VA or Kentucky Housing. It may be possible to purchase a home while you are in a Chapter 13 or within 2 years after discharge from bankruptcy.
- It is essential to repair your credit as a path to recovery. Until then insurance and credit will be denied or may be at such high rates that buying a car or home becomes impractical.





Re-establishing Credit and a fresh start is dependant on repaying on time after your bankruptcy discharge. Combining the IBR program, bankruptcy and statutory discharges into a plan should give anyone a workable plan to manage student loans.



Thank you!

**Nick Thompson**

Louisville Kentucky Bankruptcy and Foreclosure Attorney



# Other Resources

## [National Consumer Law Center](#)

Major resource and text manual for Lawyers and students on how to manage student loans and bankrupt student loan debt.

## [studentloanborrowerassistance.org](#)

Major assistance organization for student loan borrowers.

## [FinAid!—The SmartStudent Guide to Financial Aid](#)

Website dedicated to helping students with financial aid and discharge options.

## [Forgive Student Loan Debt to Stimulate the Economy](#)

Political organization to allow students to forgive some student loans as a way to stimulate the economy.

## [Student Loan Justice](#)

This is an activist organization that seeks a major overhaul of the student loan business.

## [The Project on Student Debt](#)

Organization of changes in student loan laws, and programs.

## [Student-Loan-Bankruptcy.com](#)

A list of resources to help iron out problems with major lenders

# Got Student Loan or Foreclosure Problems Get in touch with me, today!

**Nick C. Thompson**

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