

National Guard and Reservists Debt Relief Act of 2008

On December 19, 2008, the [National Guard and Reservists Debt Relief Act of 2008 \(the "Act"\)](http://www.moeb.uscourts.gov/pdfs/Clean%20copy%20of%20Rule%201007%20with%20revised%20Int%20Rule%201007-1%2012-1-10.pdf) goes into effect, along with companion Interim Bankruptcy Rule 1007-1 [http://www.moeb.uscourts.gov/pdfs/Clean%20copy%20of%20Rule%201007%20with%20revised%20Int%20Rule%201007-1%2012-1-10.pdf](http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK%20Forms%201210/B_22A_1210.pdf). The Act exempts qualifying members of the National Guard and reserve components of the Armed Forces from the Chapter 7 "Means Test" for a certain period of time. The Act applies to reservists and Guard members who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for at least 90 days. Those who qualify for this Means Test exemption will be exempt from the Means Test for the duration of their military service or homeland defense activity plus an additional 540 days.

In conjunction with the Act, revised Official Form 22A (Means Test Form) http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/BK%20Forms%201210/B_22A_1210.pdf will also go into effect on December 19, 2008. As amended, Official Form 22A will include a new Part 1C where qualifying debtors may invoke the Act's exclusion from the Means Test. The following steps MUST be taken when filing a Chapter 7 case if a qualified person wishes to take advantage of the Means Test exemption under the Act.

- ▶ Check the box at the top of Official Form 22A next to "The presumption is temporarily inapplicable."
- ▶ Complete Section 1C on the same form.
- ▶ All external filers will then file, as a virtual CM/ECF event, the *Statement of Debtor's Temporary Exclusion from Means Test*.
- ▶ If the debtor has not been released from active duty or ceased his/her homeland defense activity at the time the petition is filed, but is so released during the pendency of the bankruptcy case, the debtor must, at the time of the debtor's release, file the *Release From Active Duty* as a CM/ECF virtual event.

The Clerk's Office will issue and docket what is called the *Notice of Temporary Exclusion from Presumption of Abuse* form after:

- 1) Official Form 22A is filed with "The presumption is temporarily inapplicable" marked;
- 2) the *Statement of Debtor's Temporary Exclusion from Means Test* has been filed; and

3) the 341 Meeting of Creditors event has been entered into the case.

The Clerk's Office will send the *Notice of Temporary Exclusion from Presumption of Abuse* to the debtor and debtor's counsel. If the *Notice of Temporary Exclusion from Presumption of Abuse* indicates that the debtor will need to complete the Means Test at a later date, the debtor MUST do so within the time indicated on the notice.

If you have any questions about filing as exempt under the Act, please call the Court's CM/ECF Help Desk at 1-866-803-9517 or the Court's Operations Manager, Donna Bard, at (314) 244-4800.