

## AMENDMENTS

2010—Subsec. (k)(3)(J)(i). Pub. L. 111-327, §2(a)(19)(A), in last undesignated par., substituted “property securing the lien” for “security property” and “amount of the allowed secured claim” for “current value of the security property” and inserted “must” before “make a single payment”.

Subsec. (k)(5)(B). Pub. L. 111-327, §2(a)(19)(B), substituted “that,” for “that”.

2005—Subsec. (a)(3). Pub. L. 109-8, §1210, substituted “section 523, 1228(a)(1), or 1328(a)(1), or that” for “section 523, 1228(a)(1), or 1328(a)(1) of this title, or that”.

Subsec. (c)(2). Pub. L. 109-8, §203(a)(1), added par. (2) and struck out former par. (2) which read as follows:

“(2)(A) such agreement contains a clear and conspicuous statement which advises the debtor that the agreement may be rescinded at any time prior to discharge or within sixty days after such agreement is filed with the court, whichever occurs later, by giving notice of rescission to the holder of such claim; and

“(B) such agreement contains a clear and conspicuous statement which advises the debtor that such agreement is not required under this title, under nonbankruptcy law, or under any agreement not in accordance with the provisions of this subsection;”.

Subsecs. (i), (j). Pub. L. 109-8, §202, added subsecs. (i) and (j).

Subsecs. (k) to (m). Pub. L. 109-8, §203(a)(2), added subsecs. (k) to (m).

1994—Subsec. (a)(3). Pub. L. 103-394, §501(d)(14)(A), substituted “1328(a)(1)” for “1328(c)(1)”. See 1986 Amendment note below.

Subsec. (c)(2). Pub. L. 103-394, §103(a)(1), designated existing provisions as subpar. (A), inserted “and” at end, and added subpar. (B).

Subsec. (c)(3). Pub. L. 103-394, §103(a)(2), struck out “such agreement” after “which states that” in introductory provisions, struck out “and” at end of subpar. (A), inserted “such agreement” in subpars. (A) and (B), and added subpar. (C).

Subsec. (c)(4). Pub. L. 103-394, §501(d)(14)(B), substituted “rescission” for “recission”.

Subsec. (d). Pub. L. 103-394, §103(b), inserted “and was not represented by an attorney during the course of negotiating such agreement” after “this section” in introductory provisions.

Subsec. (d)(1)(B)(i). Pub. L. 103-394, §501(d)(14)(C), inserted “and” at end.

Subsecs. (g), (h). Pub. L. 103-394, §111(a), added subsecs. (g) and (h).

1986—Subsec. (a)(1). Pub. L. 99-554, §257(o)(1), inserted reference to section 1228 of this title.

Subsec. (a)(3). Pub. L. 99-554, §257(o)(2), which directed the substitution of “, 1228(a)(1), or 1328(a)(1)” for “or 1328(a)(1)” was executed by making the substitution for “or 1328(c)(1)” to reflect the probable intent of Congress. See 1994 Amendment note above.

Subsec. (c)(1). Pub. L. 99-554, §257(o)(1), inserted reference to section 1228 of this title.

Subsec. (d). Pub. L. 99-554, §257(o)(1), inserted reference to section 1228 of this title.

Pub. L. 99-554, §282, substituted “shall” for “may” before “hold” in first sentence, inserted “any” after “At” in second sentence, and inserted “the court shall hold a hearing at which the debtor shall appear in person and” after “then” in third sentence.

Subsec. (d)(2). Pub. L. 99-554, §283(k), substituted “section” for “subsection” after “subsection (c)(6) of this”.

1984—Subsec. (a)(2). Pub. L. 98-353, §§308(a), 455, struck out “or from property of the debtor,” before “whether or not discharge”, and substituted “an act” for “any act”.

Subsec. (a)(3). Pub. L. 98-353, §455, substituted “an act” for “any act”.

Subsec. (c)(2). Pub. L. 98-353, §308(b)(1), (3), added par. (2). Former par. (2), which related to situations where the debtor had not rescinded the agreement within 30 days after the agreement became enforceable, was struck out.

Subsec. (c)(3), (4). Pub. L. 98-352, §308(b)(3), added pars. (3) and (4). Former pars. (3) and (4) redesignated (5) and (6), respectively.

Subsec. (c)(5). Pub. L. 98-353, §308(b)(2), redesignated former par. (3) as (5).

Subsec. (c)(6). Pub. L. 98-353, §308(b)(2), (4), redesignated former par. (4) as (6) and generally amended par. (6), as so redesignated, thereby striking out provisions relating to court approval of such agreements as are entered into in good faith and are in settlement of litigation under section 523 of this title or provide for redemption under section 722 of this title.

Subsec. (d)(2). Pub. L. 98-353, §308(c), substituted “subsection (c)(6)” for “subsection (c)(4)”.

Subsec. (f). Pub. L. 98-353, §308(d), added subsec. (f).

## EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, 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, except with respect to amendment by section 111(a) of Pub. L. 103-394, amendment by Pub. L. 103-394 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 1986 AMENDMENT

Amendment by section 257 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

Amendment by sections 282 and 283 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554.

## 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.

## CONSTRUCTION

Pub. L. 103-394, title I, §111(b), Oct. 22, 1994, 108 Stat. 4117, provided that: “Nothing in subsection (a), or in the amendments made by subsection (a) [amending this section], shall be construed to modify, impair, or supersede any other authority the court has to issue injunctions in connection with an order confirming a plan of reorganization.”

**§525. Protection against discriminatory treatment**

(a) Except as provided in the Perishable Agricultural Commodities Act, 1930, the Packers and Stockyards Act, 1921, and section 1 of the Act entitled “An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes,” approved July 12, 1943, a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under this title or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associ-

ated, solely because such bankrupt or debtor is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under this title, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such debtor or bankrupt, solely because such debtor or bankrupt—

(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.

(c)(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a student grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

(2) In this section, “student loan program” means any program operated under title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2593; Pub. L. 98-353, title III, § 309, July 10, 1984, 98 Stat. 354; Pub. L. 103-394, title III, § 313, title V, § 501(d)(15), Oct. 22, 1994, 108 Stat. 4140, 4145; Pub. L. 109-8, title XII, § 1211, Apr. 20, 2005, 119 Stat. 194.)

#### HISTORICAL AND REVISION NOTES

##### SENATE REPORT NO. 95-989

This section is additional debtor protection. It codifies the result of *Perez v. Campbell*, 402 U.S. 637 (1971), which held that a State would frustrate the Congressional policy of a fresh start for a debtor if it were permitted to refuse to renew a drivers license because a tort judgment resulting from an automobile accident had been unpaid as a result of a discharge in bankruptcy.

Notwithstanding any other laws, section 525 prohibits a governmental unit from denying, revoking, suspending, or refusing to renew a license, permit, charter, franchise, or other similar grant to, from conditioning such a grant to, from discrimination with respect to such a grant against, deny employment to, terminate

the employment of, or discriminate with respect to employment against, a person that is or has been a debtor or that is or has been associated with a debtor. The prohibition extends only to discrimination or other action based solely on the basis of the bankruptcy, on the basis of insolvency before or during bankruptcy prior to a determination of discharge, or on the basis of nonpayment of a debt discharged in the bankruptcy case (the *Perez* situation). It does not prohibit consideration of other factors, such as future financial responsibility or ability, and does not prohibit imposition of requirements such as net capital rules, if applied non-discriminatorily.

In addition, the section is not exhaustive. The enumeration of various forms of discrimination against former bankrupts is not intended to permit other forms of discrimination. The courts have been developing the *Perez* rule. This section permits further development to prohibit actions by governmental or quasi-governmental organizations that perform licensing functions, such as a State bar association or a medical society, or by other organizations that can seriously affect the debtors' livelihood or fresh start, such as exclusion from a union on the basis of discharge of a debt to the union's credit union.

The effect of the section, and of further interpretations of the *Perez* rule, is to strengthen the anti-reaffirmation policy found in section 524(b). Discrimination based solely on nonpayment could encourage reaffirmations, contrary to the expressed policy.

The section is not so broad as a comparable section proposed by the Bankruptcy Commission, S. 236, 94th Cong., 1st Sess. § 4-508 (1975), which would have extended the prohibition to any discrimination, even by private parties. Nevertheless, it is not limiting either, as noted. The courts will continue to mark the contours of the anti-discrimination provision in pursuit of sound bankruptcy policy.

#### REFERENCES IN TEXT

The Perishable Agricultural Commodities Act, 1930, referred to in subsec. (a), is act June 10, 1930, ch. 436, 46 Stat. 531, as amended, which is classified generally to chapter 20A (§ 499a et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 499a(a) of Title 7 and Tables.

The Packers and Stockyards Act, 1921, referred to in subsec. (a), is act Aug. 15, 1921, ch. 64, 42 Stat. 159, as amended, which is classified generally to chapter 9 (§ 181 et seq.) of Title 7. For complete classification of this Act to the Code, see section 181 of Title 7 and Tables.

Section 1 of the Act entitled “An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944, and for other purposes,” approved July 12, 1943, referred to in subsec. (a), is classified to section 204 of Title 7.

The Bankruptcy Act, referred to in text, is act July 1, 1898, ch. 541, 30 Stat. 544, as amended, which was classified generally to former Title 11.

The Higher Education Act of 1965, referred to in subsec. (c)(2), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of Title 20, Education, and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

#### AMENDMENTS

2005—Subsec. (c)(1). Pub. L. 109-8, § 1211(1), inserted “student” before “grant, loan.”

Subsec. (c)(2). Pub. L. 109-8, § 1211(2), substituted “any program operated under” for “the program operated under part B, D, or E of”.

1994—Subsec. (a). Pub. L. 103-394, § 501(d)(15), struck out “(7 U.S.C. 499a-499s)” after “Act, 1930”, “(7 U.S.C. 181-229)” after “Act, 1921”, and “(57 Stat. 422; 7 U.S.C. 204)” after “July 12, 1943”.

Subsec. (c). Pub. L. 103-394, §313, added subsec. (c). 1984—Pub. L. 98-353 designated existing provisions as subsec. (a), inserted “the” before “Perishable”, and added subsec. (b).

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#### 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.

### § 526. Restrictions on debt relief agencies

(a) A debt relief agency shall not—

(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue or misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

(A) the services that such agency will provide to such person; or

(B) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer a fee or charge for services performed as part of preparing for or representing a debtor in a case under this title.

(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bank-

ruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

(A) may bring an action to enjoin such violation;

(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorneys' fees as determined by the court.

(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

(A) enjoin the violation of such section; or

(B) impose an appropriate civil penalty against such person.

(d) No provision of this section, section 527, or section 528 shall—

(1) annul, alter, affect, or exempt any person subject to such sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency; or

(2) be deemed to limit or curtail the authority or ability—

(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.