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National Association of Chapter 13 Trustees Supports Amendments to the Existing Bankruptcy Code To Address the Student Loan Crisis

Columbia, SC – (September XX) The National Association of Chapter 13 Trustees (NACTT) supports amending two statutes in the existing Bankruptcy Code and modifying the Department of Education’s “undue hardship” definition to address the student loan crisis.

Instead of revamping the entire Bankruptcy Code as presently proposed, the NACTT recommends removing the impediment to paying interest on student loans during a bankruptcy under 11 U.S.C. §1322, changing the undue hardship language in 11 U.S.C. §523(a)(8) to include a temporal requirement again, and requiring the U.S. Department of Education to modify the definition of “undue hardship.”

Bankruptcy has helped over 15.3 million Americans since 2005, with five million of those filings within Chapter 13. Modifying two statutes and changing the definition of “undue hardship” would allow this current system to assist more individuals to obtain a fresh start by modifying and resolving their student loans in Chapter 13 like others with outstanding tax debt or federal obligations.

Chapter 13 bankruptcy permits individuals to pay their disposable income over a period of three to five years, allowing them the opportunity to restructure debts, cure mortgage delinquencies, payoff automobiles, and pay delinquent real property and income taxes, while paying only the minimum amount required on medical bills and credit cards (from 0% to 100%). All of this allows a debtor to obtain a fresh start.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 modified the Bankruptcy Code so that those who file Chapter 13 can no longer get relief with student loan debt, resolve defaults, or pay the full amount due within three to five years. In most cases, debtors simply lack sufficient income to pay the student loan debt. This lack of relief also applies to the grandparents or parents who were required to co-sign or take out parent plus loans.

The Higher Education Act and Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 limited the ability to cure, pay or discharge student loans. Prior to this Act student loans could be paid, modified or discharged in Chapter 13 provided: (i) the individual had incurred the loan more the seven years before the bankruptcy or (ii) could prove paying the debt would create an undue hardship for the individual or their dependents. After the changes, individuals in bankruptcy had to prove an undue hardship to discharge the student loan and could not pay more to a student loan than to other general unsecured creditors under §1322(a)(10) unless paying all other general unsecured creditors in full.

About the NACTT

Founded in 1965, the National Association of Chapter 13 Trustees is a membership association comprised of more than 1,000 trustees, attorneys, certified public accountants, and other individuals interested in insolvency related issues. The association is dedicated to the highest standards of education related to Chapter 13 bankruptcy. For additional information visit <http://www.nactt.com>.

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