

MILITARY DEFERMENT

On February 8, 2006, President Bush signed the Higher Education Reconciliation Act of 2005 (the HERA), Pub.L.109 171. One of the new provisions for Federal Perkins Student Loans is a military deferment.

Effective July 1, 2006, a new military deferment has been created, for Perkins loans for which the first disbursement is made on or after July 1, 2001. On or after July 1, 2006 a qualified borrower may receive a deferment for a period in which he or she meets the qualifications after July 1, 2001. The deferment shall not exceed a total of three years, and applies only to periods during which borrowers are serving on active duty during a war or other military operations, or national emergency, or performing qualifying National Guard duty during a war or other military operation or national emergency. As a result, not all active duty military personnel are eligible for this new deferment. The HERA does not authorize the refunding of any loan repayment already made by a borrower at the time the deferment is granted.

In some cases, a borrower may be eligible for a military deferment on loans first disbursed on or after July 1, 2001, but ineligible for the deferment on older loans.

For purposes of this new deferment, the following terms are defined in new section 481(d):

- *Active duty* has the meaning for that term included in section 101(d)(1) of title 10, United States Code, but does not include active duty for training or attendance at a service school.
- *Military operation* means a contingency operation as defined in section 101(a)(13) of title 10, United States Code.
- *National emergency* means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.
- *Serving on active duty during a war or other military operation or national emergency* means service by an individual who is a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed. This term also includes any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.
- *Qualifying National Guard duty during a war or other military operation or national emergency* means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.

Documentation establishing eligible active duty service for the new deferment may include a copy of the borrower's military orders, or a written statement from the borrower's commanding officer or personnel officer that the borrower is serving on active duty during a war or other military operation, or national emergency, or performing qualifying National Guard duty during a war or other military operation or national emergency, as those terms are defined above.