RESOLVED, That American Bar Association urges Congress to enact legislation extending the administrative forbearance of federally-held student loans, as included in the Coronavirus Aid, Relief, and Economic Security Act, to September 30, 2021; and

FURTHER RESOLVED, That the American Bar Association urges federal, state, territorial, and tribal governments, bar associations, and commercial lenders to develop and implement programs to assist law students, recent graduates, and young lawyers experiencing financial hardship due to postponed bar exams and/or deferred or lack of employment during the COVID-19 pandemic.
REPORT

The COVID-19 pandemic has created unprecedented challenges across the country, crippling our economy and with it the legal profession. This report focuses on the needs of those who are the most heavily affected by the unprecedented downturn in legal sector employment—recent law school graduates, young lawyers, and law students carrying enormous law school debt. By encouraging the development of private or governmental programs to help alleviate the burden on these individuals and by extending a period of administrative forbearance for one additional year, these individuals will, in turn, be in a position to provide greater assistance to the increasing number of Americans with unmet legal needs due to the economic and health crisis.

Why Debt Relief is Needed Now

Because of the COVID-19 pandemic, the legal industry lost 68,000 jobs in April, and regained only approximately 14,500 jobs in May and June.1 Surveys of the legal profession show a more prolonged drought. On July 16, 2020, the National Association for Law Placement reported that 49% of the law schools surveyed reported rescinded employment offers.2 Additionally, half of law offices that hired 2020 law graduates have not yet established start dates for the new associates.3 Among offices that did have start dates, 62% have re-scheduled them to January 2021.4 Many new or young attorneys are most susceptible to furloughs or layoffs and often lack the experience and capital to start a successful solo practice during a recession.

Concurrently, recent law graduates face uncertainty about becoming practicing attorneys—there are currently at least seven different date permutations for the 2020 bar exam.5 For example, the Louisiana Supreme Court cancelled its July bar exam just twelve days before its administration and without clear postponement details.6 Similarly, New York cancelled its exam, the largest bar exam by number of annual test takers, without an announced alternative, announcing on July 24 that a remote exam will be administered in October.7 In all, more than 30 states or territories have postponed their bar exams, with more than 20 states or territories offering delayed, remotely administered exams.8 Later bar exam dates delay start dates for employed graduates and cripple employment prospects for others.

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3 Id.
4 Id.
6 Id.
7 Id.
8 Id.
Administrative Forbearance of Student Loans

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law. The CARES Act included a section suspending all payments due on federally held student loans for six months, among other emergency assistance measures. Specifically, debt payments are suspended through September 30, 2020, and interest charges do not accumulate in the interim. Further, borrowers aiming toward loan forgiveness — either by working in jobs that qualify for Public Service Loan Forgiveness (PSLF) or via income-driven repayment plans that reward 20 to 25 years of payments — are credited with six monthly payments during the suspended payment period. The federal suspension of payments happens automatically, requiring no action on the part of borrowers.

One important caveat about the CARES Act debt relief is that it applies only to several specific federal student loans. Many law school students and young lawyers also carry large amounts of private debts. Indeed, the Health and Economic Recovery Omnibus Emergency Solutions Act or HEROES Act (H.R. 6800), which passed the U.S. House of Representatives on May 15, 2020, but has not been voted on in the Senate, includes government payment of private loans through September 2021, at an estimated cost of $22 billion. The CARES Act only applied to federally-held public loans, and the CARES Act’s six-month forbearance is estimated by itself at $8 billion. Recognizing the high cost of applying debt relief to private loans, this Resolution focuses solely on public, federally-held loans.

An extension of the current policy of suspension of federally-held student loans, beyond the current sixth month forbearance period would provide relief while the pandemic is still in full-force. Critically, this extension would not increase student debt, as the forbearance is interest free, and it is not a grant of money to debtholders, as loan forgiveness is a distinct policy from the one-year forbearance.

Supplementing Existing Policies That Assist with Financial Hardship

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10 Id. at § 4513.
11 Id. at § 4513(b).
12 Id. at § 4513(c).
In the past, the American Bar Association has focused on relief of law school loan debt and Public Service Loan Forgiveness by advocating for the following federal policies: extending federal student loan repayment terms and federal student loan programs to those who used alternative sources of credit from commercial lenders;\textsuperscript{17} making repayment terms in federal law school loans as beneficial to the borrower as possible to allow as many law students and graduates as possible to qualify for such programs as income-based repayment, consolidation, and other forms of loan repayment assistance;\textsuperscript{18} and authorizing the use of federal funds to provide such individuals with temporary assistance to meet their obligations to lenders with a corresponding obligation to repay such assistance.\textsuperscript{19} This resolution aligns with the rationale outlined the ABA's other student debt relief policies: recognizing the crisis of student loans and attempting to provide support for managing the burden of those loans.

Conclusion

The ABA and the legal profession have long been concerned about the growing burden on young lawyers of student debt and its debilitating effect on prospects for public service. With the pandemic and recession exacerbating the impact of such debt on recent graduates, the need to advocate for relief is paramount. Passage of this resolution would allow the ABA to advocate for loan forbearance for law students and young lawyers dealing with mounting student debt during the pandemic.

Respectfully submitted,

Nesha R. Christian-Hendrickson, Esq.
President, Virgin Islands Bar Association

August 2020

\textsuperscript{17} See 11A111A, submitted by the ABA Young Lawyers Division.
\textsuperscript{18} See 10M301, submitted by the Commission on the Impact of the Economic Crisis on the Profession and Legal Needs.
\textsuperscript{19} Id.
1. Summary of the Resolution

This resolution urges Congress to extend the six-month administrative student loan forbearance included in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), for one year, to September 30, 2021. It further urges federal, state, territorial and tribal governments, bar associations, and/or commercial lenders to develop and implement programs to assist law students, recent graduates, and young lawyers experiencing financial hardship due to postponed bar exams and/or deferred employment or unemployment during the COVID-19 pandemic.

2. Approval by Submitting Entity.


3. Has this or a similar resolution been submitted to the House or Board previously?

No similar resolution has been submitted to the House as it pertains to the COVID-19 pandemic. At the 2010 Midyear meeting, the ABA House of Delegates adopted Resolution 301, submitted by the Commission on the Impact of the Economic Crisis on the Profession and Legal Needs. See 10M301.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The American Bar Association has adopted several policies concerning the repayment terms of student loans, including such terms as through pre-tax dollars, but the bulk of ABA policy focuses on public service lawyers only. See 88A123, 99A118, 10M113, 10M301, 11A111A, and 14A107. The present recommendation complements existing policy and seeks to extend flexibility in repayment to all who carry law school debt. Further, the resolution would authorize the Association to enter into more fluid conversations with policy and lawmakers concerning additional programs to assist those who are under- or unemployed by virtue of the economic recession.

5. If this is a late report, what urgency exists which requires action at this meeting of the House?

Law students and recent graduates are struggling with large student debts, and the current economic climate is making it extremely difficult for many graduates to find jobs that allow them to pay off their debts. Congress will look at economic plans and student loan programs this year, and this resolution would allow the ABA to advocate for lawyers struggling with high student debt.

The Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES Act), which includes extension of administrative forbearance of federally-held student loans as one of its many provisions, passed the House of Representatives on May 15, 2020. HR 6800 was received in the Senate on May 20, 2020, but has not been referred to committee or further considered.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The sponsors hope to work with partner entities in the ABA and the ABA’s Governmental Affairs Office to advocate for student loan relief related to the COVID-19 pandemic.


None.


The only disclosure of interest in this matter is that the Law Student Division consists of law students who, upon graduation, would benefit from the provisions of this Resolution.

10. Referrals.

ABA Section of Legal Education and Admissions to the Bar
ABA Law Practice Division
ABA Solo, Small Firm and General Practice Division (GPSolo)
ABA Civil Rights and Social Justice Section
ABA Government and Public Sector Lawyers Division
ABA Section on State and Local Government Law
ABA Business Law Section
ABA Section of Litigation
ABA Young Lawyers Division

11. Name and Contact Information (Prior to the Meeting. Please include name, telephone number and e-mail address).

Anthony M. Ciolli
Past President, Virgin Islands Bar
PO Box 590
St. Thomas, VI 00804
340-774-2237
aciolli@gmail.com
12. Name and Contact Information. (Who will present the Resolution with Report to the House?)

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340-774-2237  
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EXECUTIVE SUMMARY

1. Summary of the Resolution.

This resolution urges Congress to extend the six-month administrative student loan forbearance included in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), for one year, to September 30, 2021. It further urges federal, state, territorial and tribal governments, bar associations, and/or commercial lenders to develop and implement programs to assist law students, recent graduates, and young lawyers experiencing financial hardship due to postponed bar exams and/or deferred employment or unemployment during the COVID-19 pandemic.

2. Summary of the issue that the resolution addresses.

Because of the COVID-19 pandemic’s economic impacts, the legal industry lost 68,000 jobs in April, and only regained approximately 14,500 jobs in May and June. With the COVID-19 pandemic having no end in sight, it is likely that the legal industry (and the economy at large) will have a several sluggish months to come. On July 16, 2020, the National Association for Law Placement reported that 49% of the law schools surveyed reported rescinded employment offers. Additionally, half of law offices that hired 2020 law graduates have not yet established start dates for the new associates. Among offices that did have start dates, 62% scheduled them in January 2021. Many new or young attorneys do not have seniority in their practices to avoid furloughs or layoffs, nor the depth of experience to start a solo practice.

At the same time, recent law graduates are facing uncertainty about when and how they may sit for a bar exam to become a practicing attorney. As of July 16, 2020, there are currently seven different date permutations for the 2020 bar exam, with dates currently stretching as far as October 5-6, 2020. As recently as July 15, 2020, bar examiners are continuing to change the exam dates, with Louisiana cancelling its July exam and postponing the exam to a date to be determined. While, as of July 16, 2020, 18 states and territories have adopted some sort of supervised/provisional practice rule until a bar exam can be taken later, and another three states and territories have announced a diploma privilege. With a later bar exam dates, recent graduates may have delayed start dates if they already have employment. If a graduate does not have employment already, employment prospects dependent on bar passage are also delayed.

3. Please explain how the proposed policy position will address the issue.

In light of the above COVID-related economic reality faced by law students, law grads and young lawyers, asking Congress, the Executive Branch, and commercial lenders to develop and implement programs to counter financial hardship due to postponed bar exams and/or deferred employment or unemployment during the COVID-19 pandemic directly addresses the issue at hand. More specifically, a one-year
extension of administrative student loan forbearance would lessen the financial stress on the most financially vulnerable within the legal profession

4. **Summary of any minority views or opposition internal and/or external to the ABA which have been identified.**

The only known opposition is that of Senate Republicans to the Health and Economic Recovery Omnibus Emergency Solutions Act or HEROES Act (H.R. 6800), which is proposed legislation passed by the United States House Of Representatives on May 15, 2020, in response to the COVID-19 pandemic. Continued administrative forbearance of federally-held loans for one year is one of many provisions in that legislation.