



# CARES ACT CONUNDRUMS

1

## THREE PRIMARY ISSUES

- Disposable income after 60 months and prepayment of a CARES modification.
- CARES Act forbearances and looming foreclosures.
- Dealing with defaults after March, 2022.

2

## ELIGIBILITY TO FILE AN 84 MONTH MODIFICATION

- A debtor who is or has experienced a material financial hardship due, directly or indirectly, to the COVID pandemic.

AND

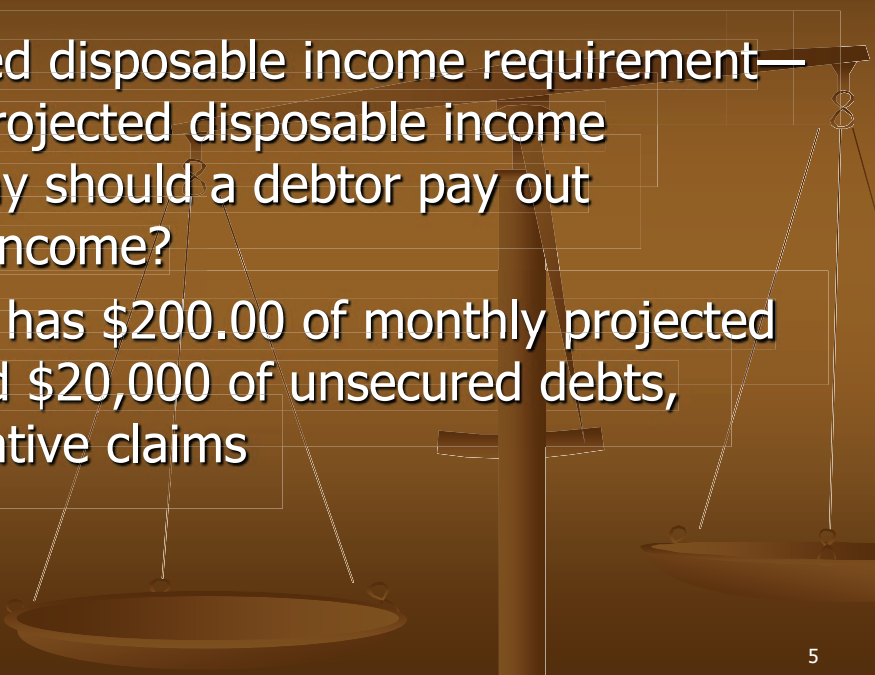
- A plan was confirmed prior to March 27, 2021.  
§ 1329(d).

3

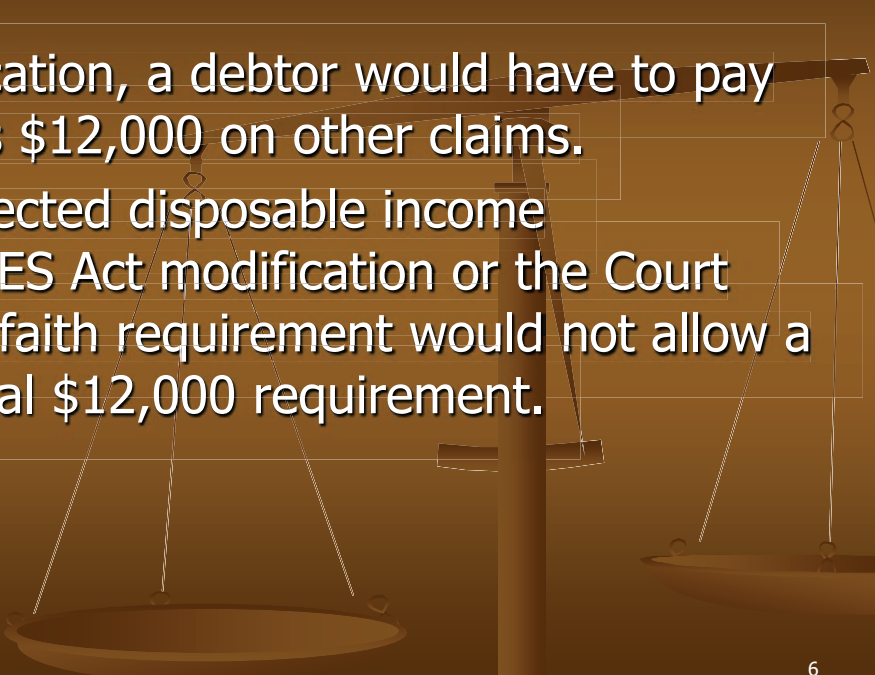
## HOW MUCH PROJECTED DISPOSABLE INCOME MUST BE INCLUDED?

- The Projected Disposable Income Requirement is in § 1325(b).
- Section 1325(b) is not included in § 1329(d).
- Even if it were applied, it only requires the application of 60 months of disposable income.

4

- 
- If there is NO projected disposable income requirement— or even a 60 month projected disposable income requirement—then why should a debtor pay out additional disposable income?
  - Assume that a Debtor has \$200.00 of monthly projected disposable income and \$20,000 of unsecured debts, priority and administrative claims

5

- 
- In a 60-month modification, a debtor would have to pay all secured claims plus \$12,000 on other claims.
  - There may be no projected disposable income requirement on a CARES Act modification or the Court may hold that a good faith requirement would not allow a reduction in the original \$12,000 requirement.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: CARES Act and other Tips for Debtor Representation

Also available as part of the eCourse

[2021 Jay L. Westbrook Bankruptcy eConference](#)

First appeared as part of the conference materials for the 40<sup>th</sup> Annual Jay L. Westbrook Bankruptcy Conference session "CARES Act and other Tips for Debtor Representation"