

110TH CONGRESS
2^D SESSION

H. R. 5138

To amend title 11 of the United States Code to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2008

Ms. SHEA-PORTER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 11 of the United States Code to provide protection for medical debt homeowners, to restore bankruptcy protections for individuals experiencing economic distress as caregivers to ill or disabled family members, and to exempt from means testing debtors whose financial problems were caused by serious medical problems.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medical Bankruptcy
5 Fairness Act of 2008”.

1 **SEC. 2. DEFINITIONS.**

2 Section 101 of title 11, the United States Code, is
3 amended—

4 (1) by inserting after paragraph (39A) the fol-
5 lowing:

6 “(39B) the term ‘medically distressed debtor’
7 means a debtor who, in any consecutive 12-month
8 period during the 3 years before the date of the fil-
9 ing of the petition—

10 “(A) incurred or paid medical expenses for
11 the debtor or a dependent of the debtor that
12 were not paid by any third party payor and
13 were in excess of the lesser of—

14 “(i) 25 percent of the debtor’s house-
15 hold income for such 12-month period; or

16 “(ii) \$10,000.

17 “(B) was a member of a household in
18 which 1 or more members (including the debt-
19 or) lost all or substantially all of the member’s
20 employment or business income for 4 or more
21 weeks during such 12-month period due to a
22 medical problem of a member of the household
23 or a dependent of the debtor; or

24 “(C) was a member of a household in
25 which 1 or more members (including the debt-
26 or) lost all or substantially all of the member’s

1 alimony or support income for 4 or more weeks
2 during such 12-month period due to a medical
3 problem of a person obligated to pay alimony or
4 support.”.

5 **SEC. 3. EXEMPTIONS.**

6 (a) EXEMPT PROPERTY.—Section 522 of title 11, the
7 United States Code, is amended by adding at the end the
8 following:

9 “(r) For a debtor who is a medically distressed debt-
10 or, if the debtor elects to exempt property—

11 “(1) listed in subsection (b)(2), then in lieu of
12 the exemption provided under subsection (d)(1), the
13 debtor may elect to exempt the debtor’s aggregate
14 interest, not to exceed \$250,000 in value, in real
15 property or personal property that the debtor or a
16 dependent of the debtor uses as a residence, in a co-
17 operative that owns property that the debtor or a de-
18 pendent of the debtor uses as a residence, or in a
19 burial plot for the debtor or a *dependent* of the debt-
20 or; or

21 “(2) listed in subsection (b)(3), then if the ex-
22 emption provided under applicable law specifically
23 for such property is for less than \$250,000 in value,
24 the debtor may elect in lieu of such exemption to ex-
25 empt the debtor’s aggregate interest, not to exceed

1 \$250,000 in value, in any such real or personal
2 property, cooperative, or burial plot.”.

3 (b) CONFORMING AMENDMENTS.—Sections
4 104(b)(1) and 104(b)(2) of title 11, the United States
5 Code, are amended by inserting immediately after
6 “522(q),” “522(r),”.

7 **SEC. 4. DISMISSAL OF A CASE OR CONVERSION TO A CASE**
8 **UNDER CHAPTER 11 OR 13.**

9 Section 707(b) of title 11, the United States Code,
10 is amended by adding at the end the following:

11 “(8)(A) No judge, United States trustee (or
12 bankruptcy administrator, if any), trustee, or other
13 party in interest may file a motion under paragraph
14 (2) if the debtor is a medically distressed debtor or
15 an economically distressed caregiver.

16 “(B) In this paragraph, the term ‘economically
17 distressed caregiver’ means a caregiver who, within
18 3 years before the date of the filing of the petition—

19 “(i) experienced a downgrade in employ-
20 ment status that correlates to a reduction in
21 wages, work hours, business income or results
22 in unemployment, to care for a relative for not
23 less than 30 days; or

24 “(ii) in any consecutive 12-month period,
25 has incurred or paid medical expenses on behalf

1 of a relative that were not paid by any third
2 party payor and were in excess of the lesser
3 of—

4 “(I) 25 percent of the debtor’s house-
5 hold income for such 12-month period; or

6 “(II) \$10,000.”.

7 **SEC. 5. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

8 (a) **EFFECTIVE DATE.**—Except as provided in sub-
9 section (b), this Act and the amendments made by this
10 Act shall take effect on the date of the enactment of this
11 Act.

12 (b) **APPLICATION OF AMENDMENTS.**—The amend-
13 ments made by this Act shall apply only with respect to
14 cases commenced under title 11 of the United States Code
15 on or after the date of the enactment of this Act.

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