

116TH CONGRESS
2D SESSION

S. 4305

To amend title 11, United States Code, to provide bankruptcy protections for medically distressed debtors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2020

Mr. WHITEHOUSE (for himself, Mr. DURBIN, Mr. BROWN, Ms. BALDWIN, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 11, United States Code, to provide bankruptcy protections for medically distressed debtors, and for other purposes.

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 2020”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—Section 101 of title 11, United
8 States Code, is amended—

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

3 “(39B) The term ‘medical debt’ means any
4 debt incurred voluntarily or involuntarily—

5 “(A) as a result of the diagnosis, cure,
6 mitigation, or treatment of injury, deformity, or
7 disease of an individual; or

8 “(B) for services performed by a medical
9 professional for the prevention of disease or ill-
10 ness in an individual.

11 “(39C) The term ‘medically distressed debtor’
12 means—

13 “(A) a debtor who, during the 3-year pe-
14 riod preceding the date of the filing of the peti-
15 tion—

16 “(i) incurred or paid aggregate med-
17 ical debt for the debtor, a dependent of the
18 debtor, or a nondependent parent, grand-
19 parent, sibling, child, grandchild, or spouse
20 of the debtor that were not paid by any
21 third-party payor and were greater than
22 the lesser of—

23 “(I) 10 percent of the adjusted
24 gross income (as such term is defined

1 in section 62 of the Internal Revenue
2 Code of 1986) of the debtor; or

3 “(II) \$10,000;

4 “(ii) did not receive domestic support
5 obligations, or had a spouse or dependent
6 who did not receive domestic support obli-
7 gations, of at least \$10,000 due to a med-
8 ical issue of the individual obligated to pay
9 that would cause the obligor to meet the
10 requirements under clause (i) or (iii), if the
11 obligor was a debtor in a case under this
12 title; or

13 “(iii) experienced a change in employ-
14 ment status that resulted in a reduction in
15 wages, salaries, commissions, or work
16 hours or resulted in unemployment due
17 to—

18 “(I) an injury, deformity, or dis-
19 ease of the debtor;

20 “(II) care for an injured, de-
21 formed, or ill dependent or non-
22 dependent parent, grandparent, sib-
23 ling, child, grandchild, or spouse of
24 the debtor; or

1 “(III) the national emergency de-
 2 clared by the President under the Na-
 3 tional Emergencies Act (50 U.S.C.
 4 1601 et seq.) with respect to the
 5 coronavirus disease 2019 (COVID-
 6 19) or another emergency declared by
 7 a Federal, State, or local official relat-
 8 ing to a public health crisis; or

9 “(B) a debtor who is the spouse of a debt-
 10 or described in subparagraph (A).”.

11 (b) CONFORMING AMENDMENTS.—Section 104 of
 12 title 11, United States Code, is amended—

13 (1) in subsection (a), in the matter preceding
 14 paragraph (1), by inserting “101(39C)(A),” after
 15 “101(19A),”; and

16 (2) in subsection (b), by inserting
 17 “101(39C)(A),” after “101(19A),”.

18 **SEC. 3. EXEMPTIONS.**

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

22 “(r)(1) If a medically distressed debtor exempts prop-
 23 erty listed in subsection (b)(2), the debtor may, in lieu
 24 of the exemption provided under subsection (d)(1), elect
 25 to exempt the aggregate interest of the debtor, not to ex-

1 ceed \$250,000 in value, in property described in para-
2 graph (3).

3 “(2) If a medically distressed debtor exempts prop-
4 erty listed in subsection (b)(3) and the exemption provided
5 under applicable law for the kind of property described
6 in paragraph (3) is for less than \$250,000 in value, the
7 debtor may elect to exempt the aggregate interest of the
8 debtor, not to exceed \$250,000 in value, in any such prop-
9 erty.

10 “(3) The property described in this paragraph is—

11 “(A) real property or personal property that the
12 debtor or a dependent of the debtor uses as a resi-
13 dence;

14 “(B) a cooperative that owns property that the
15 debtor or a dependent of the debtor uses as a resi-
16 dence; or

17 “(C) a burial plot for the debtor or a dependent
18 of the debtor.”.

19 (b) CONFORMING AMENDMENTS.—Section 104 of
20 title 11, United States Code, is amended—

21 (1) in subsection (a), in the matter preceding
22 paragraph (1), by inserting “522(r),” after
23 “522(q),”; and

24 (2) in subsection (b), by inserting “522(r),”
25 after “522(q),”.

1 **SEC. 4. WAIVER OF ADMINISTRATIVE REQUIREMENTS.**

2 (a) CASE UNDER CHAPTER 7.—Section 707(b) of
3 title 11, United States Code, is amended by adding at the
4 end the following:

5 “(8) Paragraph (2) does not apply in any case
6 in which the debtor is a medically distressed debt-
7 or.”.

8 (b) CASE UNDER CHAPTER 13.—Section 1325(b)(1)
9 of title 11, United States Code, is amended—

10 (1) in subparagraph (A), by striking “or” at
11 the end;

12 (2) in subparagraph (B), by striking the period
13 at the end and inserting “; or”; and

14 (3) by adding at the end the following:

15 “(C) the debtor is a medically distressed
16 debtor.”.

17 **SEC. 5. CREDIT COUNSELING.**

18 Section 109(h)(4) of title 11, United States Code, is
19 amended by inserting “a medically distressed debtor or”
20 after “apply with respect to”.

21 **SEC. 6. STUDENT LOAN UNDUE HARDSHIP.**

22 Section 523(a)(8) of title 11, United States Code, is
23 amended by inserting “the debtor is a medically distressed
24 debtor, or” before “excepting”.

1 **SEC. 7. ATTESTATION BY DEBTOR.**

2 Section 521 of title 11, United States Code, is
3 amended by adding at the end the following:

4 “(k) If the debtor seeks relief as a medically dis-
5 tressed debtor, the debtor shall file a statement of medical
6 expenses relevant to the determination of whether the
7 debtor is a medically distressed debtor, which shall declare
8 under penalty of perjury that such medical expenses were
9 not incurred for the purpose of bringing the debtor within
10 the meaning of the term ‘medically distressed debtor.’”.

11 **SEC. 8. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

12 (a) EFFECTIVE DATE.—Except as provided in sub-
13 section (b), this Act and the amendments made by this
14 Act shall take effect on the date of enactment of this Act.

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

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