

114TH CONGRESS  
2D SESSION

# S. 3385

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

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 22, 2016

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

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## A BILL

To amend title 11 of the 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 2016”.

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 in the prevention of disease or ill-  
10      ness of an individual.

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

13                 “(A) a debtor who, during the 3 years be-  
14      fore the date of the filing of the petition—

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

22                                 “(I) 10 percent of the debtor’s  
23      adjusted gross income (as such term  
24      is defined in section 62 of the Internal  
25      Revenue Code of 1986); or

1 “(II) \$10,000;

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

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

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

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

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

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

3 (1) in subsection (a), in the matter preceding  
 4 paragraph (1), by inserting “101(39C)(A),” after  
 5 “101(19)(A),”; and

6 (2) in subsection (b), by inserting  
 7 “101(39C)(A),” after “101(19)(A),”.

8 **SEC. 3. EXEMPTIONS.**

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

12 “(r)(1) If a medically distressed debtor exempts prop-  
 13 erty listed in subsection (b)(2), the debtor may, in lieu  
 14 of the exemption provided under subsection (d)(1), elect  
 15 to exempt the debtor’s aggregate interest, not to exceed  
 16 \$250,000 in value, in property described in paragraph (3)  
 17 of this subsection.

18 “(2) If a medically distressed debtor exempts prop-  
 19 erty listed in subsection (b)(3) and the exemption provided  
 20 under applicable law specifically for the kind of property  
 21 described in paragraph (3) is for less than \$250,000 in  
 22 value, the debtor may elect to exempt the debtor’s aggre-  
 23 gate interest, not to exceed \$250,000 in value, in any such  
 24 property.

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

1           “(A) real property or personal property that the  
2           debtor or a dependent of the debtor uses as a resi-  
3           dence;

4           “(B) a cooperative that owns property that the  
5           debtor or a dependent of the debtor uses as a resi-  
6           dence; or

7           “(C) a burial plot for the debtor or a dependent  
8           of the debtor.”.

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

11           (1) in subsection (a), in the matter preceding  
12           paragraph (1), by inserting “522(r),” after  
13           “522(q),”; and

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

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

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

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

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

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

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

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

6                   “(C) the debtor is a medically distressed  
7       debtor.”.

8   **SEC. 5. CREDIT COUNSELING.**

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

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

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

16   **SEC. 7. ATTESTATION BY DEBTOR.**

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

19       “(k) If the debtor seeks relief as a medically dis-  
20   tressed debtor, the debtor shall file a statement of medical  
21   expenses relevant to the determination of whether the  
22   debtor is a medically distressed debtor, which statement  
23   shall declare under penalty of perjury that such medical  
24   expenses were not incurred for the purpose of bringing the

1 debtor within the meaning of the term medically distressed  
2 debtor.”.

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

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

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

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