

116TH CONGRESS
1ST SESSION

S. 72

To suspend the enforcement of certain civil liabilities of Federal employees and contractors during a lapse in appropriations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2019

Mr. SCHATZ (for himself, Mr. CARDIN, Mr. VAN HOLLEN, Ms. HASSAN, Mr. HEINRICH, Mr. BOOKER, Mr. MURPHY, Ms. BALDWIN, Ms. HIRONO, Mr. BROWN, Mr. WARNER, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To suspend the enforcement of certain civil liabilities of Federal employees and contractors during a lapse in appropriations, 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 “Federal Employees
5 Civil Relief Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to provide for the tem-
8 porary suspension of judicial and administrative pro-

ceedings and transactions that may adversely affect the
civil rights of Federal workers during a shutdown.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONSUMER REPORTING AGENCY.—The term
“consumer reporting agency” has the meaning given
the term in section 603(f) of the Fair Credit Report-
ing Act (15 U.S.C. 1681a(f)).

(2) CONTRACTOR.—The term “contractor” has
the meaning given the term in section 7101 of title
41, United States Code.

(3) COURT; JUDGMENT; STATE.—The terms
“court”, “judgment”, and “State” have the mean-
ings given those terms in section 101 of the
Servicemembers Civil Relief Act (50 U.S.C. 3911).

(4) COVERED PERIOD.—The term “covered pe-
riod” means the period beginning on the date on
which a shutdown begins and ending on the date
that is 30 days after the date on which that shut-
down ends.

(5) FEDERAL WORKER.—The term “Federal
worker”—

(A) means an employee of a Government
agency; and

(B) includes an employee of a contractor.

1 (6) GOVERNMENT AGENCY.—The term “Gov-
 2 ernment agency” means each authority of the execu-
 3 tive, legislative, or judicial branch of the Government
 4 of the United States.

5 (7) SHUTDOWN.—The term “shutdown” means
 6 any period in which there is more than a 24-hour
 7 lapse in appropriations for any Government agency
 8 or Federal department as a result of a failure to
 9 enact a regular appropriations bill or continuing res-
 10 olution.

11 **SEC. 4. JURISDICTION.**

12 (a) JURISDICTION.—This Act shall apply to—

13 (1) the United States;

14 (2) each of the States, including each political
 15 subdivision of a State; and

16 (3) all territory that is subject to the jurisdic-
 17 tion of the United States.

18 (b) APPLICABILITY TO PROCEEDINGS.—This Act—

19 (1) shall apply to any judicial or administrative
 20 proceeding that is commenced in any court or agen-
 21 cy in any jurisdiction that is subject to this Act; and

22 (2) shall not apply to criminal proceedings or
 23 with respect to child support payments.

24 (c) COURT IN WHICH APPLICATION MAY BE
 25 MADE.—When, under this Act, any application is required

1 to be made to a court in which no proceeding has already
2 been commenced with respect to a matter, that application
3 may be made to any court that would otherwise have juris-
4 diction over the matter.

5 (d) NOTIFICATION.—

6 (1) IN GENERAL.—The head of the Government
7 agency that employs a Federal worker, or at which
8 a Federal worker performs services, as applicable,
9 shall provide the Federal worker with written notice
10 regarding the benefits provided under this Act—

11 (A) on the date on which the individual be-
12 comes a Federal worker; and

13 (B) periodically after the date described in
14 subparagraph (A), including on the date on
15 which any shutdown begins.

16 (2) LEGISLATIVE AND JUDICIAL BRANCH.—

17 With respect to a Federal worker in a Government
18 agency in the legislative branch or judicial branch,
19 (or, in the case of a Federal worker who is an em-
20 ployee of a contractor, who provides services at a
21 Government agency in the legislative branch or judi-
22 cial branch), the officer or employee at the Govern-
23 ment agency who has the final authority to appoint,
24 hire, discharge, and set the terms, conditions, or
25 privileges of the employment of the Federal worker

1 shall provide the notice required under paragraph
2 (1).

3 **SEC. 5. ANTICIPATORY RELIEF.**

4 A Federal worker who is furloughed or required to
5 work without pay during a shutdown may apply to a court
6 for a temporary stay, postponement, or suspension with
7 respect to any payment of rent, mortgage, tax, fine, pen-
8 alty, insurance premium, student loan repayment, or other
9 civil obligation or liability that the Federal worker or indi-
10 vidual, as applicable, owes or would owe during the dura-
11 tion of the shutdown.

12 **SEC. 6. EVICTIONS.**

13 (a) COURT-ORDERED EVICTION.—Except by the
14 order of a court, a landlord may not, during a shutdown—

15 (1) evict a Federal worker from premises that
16 are occupied or intended to be occupied primarily as
17 a residence; or

18 (2) subject premises described in paragraph (1)
19 to a distress.

20 (b) STAY OF EXECUTION.—

21 (1) COURT AUTHORITY.—Upon an application
22 for eviction or distress with respect to premises de-
23 scribed in subsection (a)(1), a court may, upon mo-
24 tion of the court, and shall, if a request is made by
25 or on behalf of a Federal worker, the ability of

1 whom to pay the rent that is the subject of the ac-
 2 tion is materially affected by a shutdown—

3 (A) stay the proceedings for a period of 30
 4 days, unless, in the opinion of the court, justice
 5 and equity require a longer or shorter period of
 6 time; or

7 (B) adjust the obligation under the lease to
 8 preserve the interests of all parties.

9 (2) RELIEF TO LANDLORD.—If a court grants
 10 a stay under paragraph (1), the court may grant to
 11 the landlord (or other person with paramount title)
 12 such relief as equity may require.

13 (c) MISDEMEANOR.—Except as provided in sub-
 14 section (a), a person that knowingly takes part in an evic-
 15 tion or distress described in that subsection, or that know-
 16 ingly attempts to take part in an eviction or distress de-
 17 scribed in that subsection, shall be fined as provided in
 18 title 18, United States Code, or imprisoned for not more
 19 than 1 year, or both.

20 **SEC. 7. MORTGAGE PROTECTION AND FORECLOSURES.**

21 (a) DEFINITION.—In this section, the term “covered
 22 action” means an action relating to an obligation—

23 (1) with respect to real or personal property
 24 owned by a Federal worker; and

25 (2) that—

1 (A) originated before the date on which a
2 shutdown begins;

3 (B) is in effect on the date on which a
4 shutdown begins; and

5 (C) is secured by a mortgage, trust deed,
6 or other security in the nature of a mortgage.

7 (b) STAY OF PROCEEDINGS AND ADJUSTMENT OF
8 OBLIGATION.—If a covered action is filed in a court dur-
9 ing a covered period, the court may, after a hearing and
10 upon the motion of the court, and shall, upon application
11 by the Federal worker if the ability of the Federal worker
12 to comply with the covered obligation is materially affected
13 by the shutdown—

14 (1) stay the proceedings for a period of time as
15 justice and equity require; or

16 (2) adjust the obligation to preserve the inter-
17 ests of all parties.

18 (c) SALE OR FORECLOSURE.—A sale, foreclosure, or
19 seizure of property for a breach of an obligation described
20 in subsection (a) by a Federal worker shall not be valid
21 if made during a covered period except upon the order of
22 a court that is granted before that sale, foreclosure, or
23 seizure, as applicable, with a return made and approved
24 by the court.

1 (d) MISDEMEANOR.—A person that knowingly makes
 2 or causes to be made a sale, foreclosure, or seizure of prop-
 3 erty that is prohibited under subsection (c), or that know-
 4 ingly attempts to make or cause to be made a sale, fore-
 5 closure, or seizure of property that is prohibited under
 6 that subsection, shall be fined as provided in title 18,
 7 United States Code, or imprisoned for not more than 1
 8 year, or both.

9 **SEC. 8. LIENS.**

10 (a) LIENS.—

11 (1) DEFINITION.—In this subsection, the term
 12 “lien” includes—

13 (A) a lien—

14 (i) for storage, repair, or cleaning of
 15 the property or effects of a Federal work-
 16 er; and

17 (ii) on the property or effects de-
 18 scribed in clause (i) for any reason other
 19 than a reason described in that clause; and

20 (B) a loan that a Federal worker has ob-
 21 tained with respect to a motor vehicle.

22 (2) LIMITATION ON FORECLOSURE OR EN-
 23 FORCEMENT.—A person holding a lien on the prop-
 24 erty or effects of a Federal worker may not, during
 25 a covered period, foreclose on or enforce that lien

1 without the order of a court that was issued before
 2 the date on which that foreclosure or enforcement
 3 occurs.

4 (b) STAY OF PROCEEDINGS.—In a proceeding to
 5 foreclose on or enforce a lien that is subject to this section,
 6 a court may, upon the motion of the court, and shall, if
 7 requested by a Federal worker, the ability of whom to
 8 comply with the obligation resulting in the proceeding is
 9 materially affected by a shutdown—

10 (1) stay the proceeding for a period of time as
 11 justice and equity require; or

12 (2) adjust the obligation to preserve the inter-
 13 ests of all parties.

14 (c) MISDEMEANOR.—A person that knowingly takes
 15 an action that violates this section, or attempts to take
 16 an action that violates this section, shall be fined as pro-
 17 vided in title 18, United States Code, or imprisoned for
 18 not more than 1 year, or both.

19 **SEC. 9. STUDENT LOANS.**

20 (a) DEFINITION OF STUDENT LOAN.—In this sec-
 21 tion, the term “student loan” means the following:

22 (1) A loan made, insured, or guaranteed under
 23 title IV of the Higher Education Act of 1965 (20
 24 U.S.C. 1070 et seq.), including any Federal Direct
 25 Stafford Loan, Federal Direct Unsubsidized Staf-

1 ford Loan, Federal Direct PLUS Loan, or Federal
2 Direct Consolidation Loan.

3 (2) A private education loan, as such term is
4 defined in section 140(a) of the Truth in Lending
5 Act (15 U.S.C. 1650(a)).

6 (b) APPLICATION TO STUDENT LOANS.—This section
7 shall apply to any situation in which—

8 (1) the student loan payment of a Federal
9 worker falls due or remains unpaid during a shut-
10 down; and

11 (2) during the shutdown described in paragraph
12 (1), the Federal worker described in that paragraph
13 has been furloughed or required to work without
14 pay.

15 (c) DEFERMENT ELIGIBILITY.—During a covered pe-
16 riod, a Federal worker shall be eligible for deferment, dur-
17 ing which, with respect to a student loan, periodic install-
18 ments of principal need not be paid and interest shall not
19 accrue.

20 (d) LIMITATION ON DEFAULTS.—If the student loan
21 payment of a Federal worker falls due and remains unpaid
22 during a shutdown, the lender with respect to the student
23 loan may not place the loan in default without the order
24 of a court.

1 (e) LIMITATION ON COLLECTIONS.—If the student
2 loan of a Federal worker has been placed in default before
3 the date on which a shutdown begins, the lender with re-
4 spect to the student loan may not, without the order of
5 a court, perform any of the following activities during the
6 covered period with respect to the shutdown:

7 (1) Send the loan to collection.

8 (2) Report adverse information with respect to
9 the Federal worker to a consumer reporting agency.

10 (3) Garnish wages, tax refunds, or government
11 benefits.

12 (f) COURT STAY.—In a proceeding to collect a stu-
13 dent loan payment that is subject to this section, a court
14 may, upon the motion of the court, and shall, if requested
15 by a Federal worker, the ability of whom to comply with
16 the obligation resulting in the proceeding is materially af-
17 fected by a shutdown—

18 (1) stay the proceeding for a period of time as
19 justice and equity require; or

20 (2) adjust the obligation to preserve the inter-
21 ests of all parties.

22 (g) MISDEMEANOR.—A person that knowingly vio-
23 lates this section, or attempts to violate this section, shall
24 be fined as provided in title 18, United States Code, or
25 imprisoned for not more than 1 year, or both.

1 **SEC. 10. INCOME TAXES.**

2 (a) DEFERRAL OF TAX.—Upon notice to the Internal
3 Revenue Service, the collection of Federal income tax on
4 the income of a Federal worker falling due during a shut-
5 down shall be deferred for a period of not more than 90
6 days after the date on which the shutdown ends if the
7 ability of the Federal worker to pay the income tax is ma-
8 terially affected by the shutdown.

9 (b) ACCRUAL OF INTEREST OR PENALTY.—No inter-
10 est or penalty shall accrue during the period of deferment
11 under subsection (a) by reason of nonpayment on any
12 amount of tax deferred under this section.

13 (c) STATUTE OF LIMITATIONS.—The running of a
14 statute of limitations against the collection of tax deferred
15 under this section, by seizure or otherwise, shall be sus-
16 pended for the covered period with respect to the shut-
17 down to which the collection applies.

18 (d) APPLICATION LIMITATION.—This section shall
19 not apply to the tax imposed on employees under section
20 3101 of the Internal Revenue Code of 1986.

21 **SEC. 11. INSURANCE PROTECTION.**

22 (a) DEFINITION.—In this section, the term “covered
23 insurance policy” means a policy—

24 (1) for—

25 (A) health insurance;

26 (B) life insurance;

1 (C) disability insurance; or

2 (D) motor vehicle insurance; and

3 (2) that—

4 (A) a Federal worker enters into before the
5 date on which a shutdown begins; and

6 (B) is in effect during a shutdown.

7 (b) INSURANCE PROTECTION.—Without the order of
8 a court, a covered insurance policy shall not lapse or other-
9 wise terminate or be forfeited because a Federal worker
10 does not pay a premium, or interest or indebtedness on
11 a premium, under the policy that is due during a covered
12 period with respect to a shutdown.

13 **SEC. 12. PROTECTION OF RIGHTS.**

14 (a) EXERCISE OF RIGHTS UNDER CHAPTER NOT TO
15 AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.—

16 An application by a Federal worker for, or the receipt by
17 a Federal worker of, a stay, postponement, or suspension
18 under this Act with respect to the payment of a fine, pen-
19 alty, insurance premium, or other civil obligation or liabil-
20 ity of that Federal worker shall not itself (without regard
21 to other considerations) provide the basis for any of the
22 following:

23 (1) A determination by a lender or other person
24 that the Federal worker is unable to pay the civil ob-

1 ligation or liability, as applicable, in accordance with
2 the terms of the obligation or liability.

3 (2) With respect to a credit transaction between
4 a creditor and the Federal worker—

5 (A) a denial or revocation of credit by the
6 creditor;

7 (B) a change by the creditor in the terms
8 of an existing credit arrangement; or

9 (C) a refusal by the creditor to grant cred-
10 it to the Federal worker in substantially the
11 amount or on substantially the terms requested.

12 (3) An adverse report relating to the credit-
13 worthiness of the Federal worker by or to a person
14 engaged in the practice of assembling or evaluating
15 consumer credit information.

16 (4) A refusal by an insurer to insure the Fed-
17 eral worker.

18 (5) A change in the terms offered or conditions
19 required for the issuance of insurance.

20 (b) REDUCTION OR WAIVER OF FINES OR PEN-
21 ALTIES.—If a Federal worker fails to perform an obliga-
22 tion arising under a contract and a penalty is incurred
23 arising from that nonperformance, a court may reduce or
24 waive the fine or penalty if—

1 (1) the Federal worker was furloughed or re-
2 quired to work without pay during a shutdown on
3 the date on which the fine or penalty was incurred;
4 and

5 (2) the ability of the Federal worker to perform
6 the obligation was materially affected by the shut-
7 down described in paragraph (1).

8 (c) COURT ACTION UPON MATERIAL AFFECT DE-
9 TERMINATION.—If a court determines that a Federal
10 worker is materially affected by a shutdown in complying
11 with a judgment or an order of a court, the court may,
12 upon the motion of the court, and shall, on application
13 by the Federal worker—

14 (1) stay the execution of any judgment or order
15 entered against the Federal worker; and

16 (2) vacate or stay an attachment or garnish-
17 ment of property, money, or debts in the possession
18 of the Federal worker or a third party, whether be-
19 fore or after the entry of a judgment.

20 (d) DEPENDENTS.—Upon application to a court, a
21 dependent of a Federal worker is entitled to the protec-
22 tions under this Act if the ability of the dependent to com-
23 ply with a lease, contract, bailment, or other obligation
24 is materially affected by reason of the impact of a shut-
25 down on the Federal worker.

1 **SEC. 13. ENFORCEMENT.**

2 (a) CIVIL ACTION.—The Attorney General may com-
3 mence a civil action in any appropriate district court of
4 the United States against any person that engages in—

5 (1) a pattern or practice of violating this Act;

6 or

7 (2) a violation of this Act that raises an issue
8 of significant public importance.

9 (b) RELIEF.—In a civil action commenced under sub-
10 section (a), a court may—

11 (1) grant any appropriate equitable or declara-
12 tory relief with respect to the violation of this Act;

13 (2) award all other appropriate relief, including
14 monetary damages, to any person aggrieved by the
15 violation described in paragraph (1); and

16 (3) to vindicate the public interest, assess a civil
17 penalty—

18 (A) in an amount that is not more than
19 \$55,000 for a first violation; and

20 (B) in an amount that is not more than
21 \$110,000 for any subsequent violation.

22 (c) INTERVENTION.—Upon timely application, a per-
23 son that is aggrieved by a violation of this Act with respect
24 to which a civil action is commenced under subsection (a)
25 may—

26 (1) intervene in the action; and

1 (2) obtain such appropriate relief as the person
 2 could obtain in a civil action under subsection (d)
 3 with respect to that violation, along with costs and
 4 a reasonable attorney fee.

5 (d) PRIVATE RIGHT OF ACTION.—Any person that,
 6 after the date of enactment of this Act, is aggrieved by
 7 a violation of this Act may, in a civil action—

8 (1) obtain any appropriate equitable or declara-
 9 tory relief with respect to the violation; and

10 (2) recover all other appropriate relief, includ-
 11 ing monetary damages.

12 (e) COSTS AND ATTORNEY FEES.—A court may
 13 award to a person aggrieved by a violation of this Act that
 14 prevails in an action brought under subsection (d) the
 15 costs of the action, including a reasonable attorney fee.

16 (f) NO PREEMPTION.—Nothing in this section may
 17 be construed to preclude or limit any remedy otherwise
 18 available under other law, including consequential and pu-
 19 nitive damages.

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