AMERICAN BANKRUPTCY INSTITUTE

Southeast Bankruptcy Workshop 2021

*Consumer Track*

# New Chapter 13 Legislation (Including Possible Chapter 10)


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CONCURRENT SESSION

2021



# A Year in Review of the COVID Legislation that Impacted Bankruptcy
# and
# What is on the Horizon for Future Bankruptcy Legislation


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## Overview of COVID in 2020/2021

- COVID-19 impact on the world
- COVID-19 Impact on the U.S. Economy
- COVID-19 Impact on Bankruptcy


## Coronavirus Aid, Relief, and Economic Security Act (CARES Act)(March 27, 2020)

- 11 U.S.C. § 101(10A)(B)(ii)(V) (payments received for recovery tax rebates and child tax credits are excluded from current monthly income CARES Act § 1113(b)(1)(A)) Sunsets March 27, 2022
- 11 U.S.C. § 1325(b)(2) (payments received for recovery tax rebates and child tax credits are excluded from current monthly income CARES Act § 1113(b)(1)(B)) Sunsets March 27, 2022


**Coronavirus Aid, Relief, and Economic Security Act (CARES Act)(March 27, 2020)**

- 11 U.S.C. § 1329(d)(1) (Plan modification for up to Seven years)CARES Act §1113 (b)(1)(C) sunsets March 27, 2022
  - A Chapter 13 debtor whose plan was confirmed prior to March 27, 2021, and who is experiencing a COVID-19-related hardship can move to modify his plan to allow for plan payments over a period of seven (7) years, rather than a period of three (3) or five (5) years
  - Case discussions


## Coronavirus Aid, Relief, and Economic Security Act (CARES Act)(March 27, 2020)

- Cares Act § 4022. FORECLOSURE MORATORIUM AND CONSUMER RIGHT TO REQUEST FORBEARANCE
- Cares Act § 4023 FORBEARANCE OF RESIDENTIAL MORTGAGE LOAN PAYMENTS FOR MULTIFAMILY PROPERTIES WITH FEDERALLY BACKED LOANS.
- Cares Act § 4024. TEMPORARY MORATORIUM ON EVICTION FILINGS


## Centers for Disease Control- Agency Order Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19

- Multiple Orders signed limiting evictions
- Cases discussed


## Consolidated Appropriations Act of 2021, (CAA)(Dec. 27, 2020)

- 11 U.S.C. § 366(d); CAA § 1001(h) Sunsets December 27, 2021
- Debtor may have utility service maintained or restored after filing bankruptcy without paying a deposit, as long as debtor pays for post-petition service


## Consolidated Appropriations Act of 2021,(CAA)(Dec. 27, 2020)

- 11 U.S.C. § 501(f) and §502(b)(9) CAA § 1001(d) Sunsets December 27, 2021
- Mortgage servicers can file a Supplemental Proof of Claim for forborne amounts pursuant to a CARES Act forbearance within 120 days of the expiration of the forbearance period.


## Consolidated Appropriations Act of 2021, (CAA)(Dec. 27, 2020)

- 11 U.S.C. § 525(d) CAA § 1001(c) Sunsets December 27, 2021
- Debtors in bankruptcy or individuals who have received bankruptcy discharges cannot be denied relief under the CARES Act or denied a mortgage forbearance or protection under foreclosure and eviction moratoria.


## Consolidated Appropriations Act of 2021,(CAA)(Dec. 27, 2020)

- 11 U.S.C. § 541(b)(11) CAA § 1001(a) Sunsets December 27, 2021
- COVID stimulus payments do not constitute property of the bankruptcy estate.


## Consolidated Appropriations Act of 2021,(CAA)(Dec. 27, 2020)

- 11 U.S.C. § 541(b)(11) CAA § 1001(a) Sunsets December 27, 2021
- COVID stimulus payments do not constitute property of the bankruptcy estate.


## Consolidated Appropriations Act of 2021, (CAA)(Dec. 27, 2020)

- 11 U.S.C. § 1328(i)(1) and (2) CAA § 1001(b) Sunsets December 27, 2021
- Chapter 13 debtors who have missed three (3) or fewer mortgage payments due to COVID-19 or have entered into a loan forbearance or mortgage modification agreement can seek an early bankruptcy discharge.


## Consolidated Appropriations Act of 2021, (CAA)(Dec. 27, 2020)

- 11 U.S.C. § 1329(e) CAA § 1001(e) Sunsets December 27, 2021
- Any party with standing, including a mortgage servicer, can file a motion to modify a Chapter 13 plan to provide for payment for a CARES Act Supplemental Proof of Claim.


## Current Proposed Legislation and Legislation on the Horizon

Chapter 10
Administrative Expenses
Asbestos Trusts
Bankruptcy Judges and Judgeships
Disclosure requirements for professionals
Exemptions
Medical Debt
Student Loans
Third Party releases
Bankruptcy Attorney fees in Chapter 7
Venue Reform


## CHAPTER 10 BANKRUPTCY

- Streamline the Bankruptcy Process and Make it Cheaper
  - Waives filing and administrative fees for some debtors
  - Repeals all of the BAPCA credit counseling requirements
  - Changes to discharge (immediate discharge if no minimum payment and discharge upon confirmation for debtors with minimum payment obligation)
- Provide Flexibility in Restructuring
  - Creates Multiple Options for Debtors – no-payment discharge, repayment plan, residence plan, and property plan
  - Increases federal exemptions and prohibits states from opting out of federal exemptions
- Correct the Preemption of State Usury and Consumer Protection Laws
  - Provides for modification of car loans to market value
  - Allows for discharge of student loan debt
  - Voids arbitration and joint action provisions upon plan confirmation


## CHAPTER 10 BANKRUPTCY

- Balance Racially Disparate Outcomes in Bankruptcy Cases
  - Allows all debtors to pay attorney fees through a plan
  - Makes certain criminal fines and fees dischargeable
  - Makes certain civil rights violations nondischargeable
- Close Bankruptcy Loopholes for Wealthy
  - Removes the “actual intent to hinder, delay or defraud” language from 548(e)(1) to eliminate the self-settled trust loophole
  - Closes loophole for spendthrift trusts, with an exception for bona fide disability trusts
- Reduce Abusive Creditor Behavior
  - Authorizes courts to disallow claims if the claimholder or its assignor engages in inequitable conduct in general or if claimholder or its assignor violates creditor consumer laws in connection with the specific claim
  - Allows for costs, fees, and punitive damages if a claim filed in bad faith outside the applicable statutory of limitations period


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# QUESTIONS??

# A YEAR IN REVIEW OF THE LEGISLATION IMPACTING BANKRUPTCY AND THE HORIZON FOR FUTURE BANKRUPTCY LEGISLATION

## I. Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Enacted March 27, 2020

- *Plan Modification § 1329(d)(1) CARES Act § 1113(b)(1)(C))- Sunset March 27, 2022 [11 U.S.C. § 1329 (d) (1) was provided for through the CARES Act. ]*
  The provision generally provides the following: 1) applicability is to all cases filed before, or the enactment of the CARES Act; 2) a Chapter 13 plan may be modified for no longer than seven years (84 months); 3) the debtor may request a modification of the plan if the debtor "is experiencing or has experienced" a "material financial hardship due, directly or indirectly to coronavirus disease 2019 (COVID-19) pandemic."; 4) a plan modification under this provision is still subject to sections 1322(a), 1322(b), 1323(c) and 1325(a); 5) the modification requires Notice and a Hearing in order to be approved; 6) the case must have a plan that was confirmed prior to March 27, 2020 (the date of commencement of the CARES Act). See CARES Act, § 1113(b)(1)(C).

  Case discussion:

  *In re Gilbert*, 622 B.R. 859 (Bankr. E.D. La. 2020) ("The Trustee objects to modification of confirmed plans under the CARES Act unless the Debtors fell behind after March 27, 2020, and the *sole* reason for the arrearages can be traced to the pandemic. For the reasons that follow, this Court finds that the CARES Act allows modification of a confirmed plan if a debtor is experiencing or has experienced a material financial hardship due to the coronavirus pandemic, regardless of whether the debtor was current in his or her payments prior to the pandemic or whether the material financial hardship is solely caused by the pandemic.").

  *In re Bridges*, Bk. No. 19-31012, 2020 WL 6927557, at *1 (Bankr. S.D. Ill. July 30, 2020)(Debtor did not have a plan that was confirmed prior to March 27, 2020 and therefore did not qualify for plan modification under §1329(d). The Court rejected the debtors argument to retroactively confirm the plan pursuant to the equitable powers under 11 U.S.C. §105(a).

  *In re Fowler*, No. 16-31791-WRS, 2020 WL 6701366, at *5 (Bankr. M.D. Ala. Nov. 13, 2020) (Trustee argued that because the debtors were delinquent in their payments and in arrears, they should not be permitted to modify and extend their respective plans; court disagreed with the trustee's position and allowed the debtors to proceed with their modification).

*In re Drews*, 617 B.R. 579 (Bankr. E.D. Mich. 2020) (Detor plan could not be extended as provided in §1329(d). Debtor plan was confirmed after the dates that the CARES Act was enacted).

*In re Robinson*, No. 19-22498-BEH, 2020 WL 7234031 (Bankr. E.D. Wis. Dec. 8, 2020) (The plan was confirmed four days after the enactment of the CARES Act. The court read the plain meaning of the statute and determined that the debtor was not able to extend the plan.

*In re Winnegrad*, No. 19-22700, 2021 WL 219519, at *2 (Bankr. D.N.J. Jan. 21, 2021) ("The issue before this Court is whether Congress, in crafting the CARES Act amendment to § 1329, intended to allow for lengthy moratoriums of chapter 13 plan obligations, as sought in this matter, without regard to feasibility.").
*In re Pressley*, No. CV 20-01397-HB, 2021 WL 625174 (Bankr. D.S.C. Feb. 2, 2021)(Court denied debtors request to modify the plan under §1329(d). Court denied the debtors request for several reasons: 1) the plan failed to meet the requirements of 11 U.S.C. §1323(c) and §1325(a)(5) and (6); 2) the plan failed to adequately provide for the creditor's claim and the creditor was prejudiced by interest accruing, without remedy; and 3) the Debtor's ability to repay was speculative).
*In re Roebuck*, 618 B.R. 730 (Bankr. W.D. Pa. 2020)(Debtor's plan was confirmed shortly after the CARES Act was passed. Debtor requested the court to honor her interim confirmation that was provided prior to March 27, 2020 was the equivalent to confirmation under 11 U.S.C. §1329. The Court denied debtors request, holding that an interim order does not satisfy §1325).

- *CARES Act § 4022. Foreclosure Moratorium and Consumer Right to Request Forbearance*

  Provision covers a nationwide foreclosure moratorium and the consumer's right to request a forbearance. The requirements in this section applies only to "Federally-backed mortgages", which are loans insured or guaranteed by FHA, VA, USDA, or loans that are owned or securitized by Fannie Mae or Freddie Mac. It does not apply to private loans. The time period for requesting forbearance coincides with the national emergency declaration concerning COVID-19.

- *CARES Act § 4023 Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans.*

  Provision covers multi-family rental real estate properties with 5 or more units, and are backed by a federal loan (HUD, Fannie Mae, or Freddie Mac). This section covers an apartment building with 6 units and an apartment complex with 150 units, but not a quadplex with 4 units.
  Allows mortgagees approximately 90 days of forbearance, requested in 30-day increments. These are the requirements to qualify:

  i. Be current on your loan as of Feb 1, 2020.
  ii. Submit a request to your loan servicer in writing or verbally.
  iii. Affirm that you have financial hardship because of COVID-19 emergency.

- *CARES Act § 4024. Temporary Moratorium on Eviction Filings.*
  i. Centers for Disease Control- Agency Order Temporary Halt in Residential Evictions to Prevent Further Spread of COVID-19
  ii. Multiple Orders signed limiting evictions
  iii. Case discussion:
  *Ala. Ass'n of Realtors v. United States HHS*, No. 20-cv-3377 (DLF), 2021 U.S. Dist. LEXIS 85568 (D.D.C. May 5, 2021)(Held that CDC did not have legal authority to impose nationwide eviction moratorium; eventually stayed by *Ala. Ass'n of Realtors v. United States HHS*, 2021 U.S. Dist. LEXIS 92104 (D.D.C. May 14, 2021) as aff'd by *Ala. Ass'n of Realtors v. United States HHS*, 2021 U.S. App. LEXIS 16630 (D.C. Cir. June 2, 2021).

## II. Consolidation Appropriations Act (CAA) Enacted December 7, 2020

- *Discharge § 1328(i)(1) and (2)(A) and(B) CAA § 1001(b)- Sunset December 27, 2021*

  "Section 1328 of title 11, United States Code, is amended by adding at the end the following:
  ''(i) Subject to subsection (d), after notice and a hearing, the court may grant a discharge of debts dischargeable under subsection (a) to a debtor who has not completed payments to the trustee or a creditor holding a security interest in the principal residence of the debtor if—
  ''(1) the debtor defaults on not more than 3 monthly payments due on a residential mortgage under section 1322(b)(5) on or after March 13, 2020, to the trustee or creditor caused by a material financial hardship due, directly or indirectly, by the coronavirus disease 2019 (COVID–19) pandemic; or
  ''(2)(A) the plan provides for the curing of a default and maintenance of

> payments on a residential mortgage under section 1322(b)(5)"; and ''(B) the debtor has entered into a forbearance agreement or loan modification agreement with the holder or servicer (as defined in section 6(i) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)) of the mortgage described in subparagraph (A)."

Some issues with drafting of 11 USC § 1328(i): 1) When can the discharge be issued?; 2) how does liquidation play into the discharge?; 3) in order to qualify, does the forbearance or the loan modification have to occurred during the bankruptcy case?; 4) does default have to be related to COVID 19?; 5) how does the fact that the opening sentence refers to "principal residence," and all the subsequent provisions refer to a "residential mortgage" impact this provision?.

Case discussion:

> *In re Ritter*, No. 1:19-BK-11838-MT, 2021 WL 864092 (Bankr. C.D. Cal. Mar. 5, 2021) (Debtor filed a plan that provided for the curing and maintenance of the mortgage payments and Debtor entered into a loan modification agreement. The court held that the debtor had met the requirements of § 1328(i). However, the court further held that the debtor still needed to meet the requirements of through §1328(a) through (h). The Court further stated that in evaluating whether a discharge should be entered, the court should consider the extent of financial hardship, good faith of the debtor, and whether a modification is the more appropriate solution).
>
> *In re: Campbell*, 624 B.R. 602 (Bankr. D.S.C. 2021)(Trustee filed the Notice of Final Cure. Creditor responded with arrears that were owing post-petition. Court relied upon the settlement that had been reached between the creditor and debtor, prior to the Notice of Final Cure. The court the settlement reached under 11 USC § 362 as an indication of the credotors prior agreement to postpone the amounts being cured in the agreement).

11 USC § 1328(b) Subject to subsection (d), at any time after confirmation of the plan and after notice and a hearing, the court may grant a discharge if to a debtor that has not completed payments under the plan only if (1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable; (2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and (3) modification of the plan under section 1329 of this title is not practicable. (Hardship discharge)

## III. Bankruptcy Administration Improvement Act

- Reduce the amount of quarterly fees paid in chapter 11 cases and simplify the fee structure.
- Extend all temporary bankruptcy judgeships five years from their current lapse date. The effect would be extending 8 judgeships through 2025, 14 through 2027, and 3 through 2029.
- Provide $5.4 million to offset the cost of extending the 25 bankruptcy judgeships.
- Ensure adequate funding of the U.S. Trustee Program by continuing to provide for the offset of its appropriations.
- Establish the Chapter 7 Trustee Fund and associated fees and use a portion of any surplus to provide the first increase in nearly 30 years of the fee paid to private trustees appointed in chapter 7 liquidation cases, including cases that convert from chapter 11 to chapter 7, and to pay the costs of the Administrative Office of the U.S. Courts in administering these payments; and
- Deposit any excess funds back into the U.S. Trustee System Fund.

## IV. Future Legislation- THE HORIZON

- Administrative Expenses
- Asbestos Trusts
- Bankruptcy Judges and Judgeships
- Disclosure requirements for professionals
- Exemptions
- Medical Debt
- Student Loans
- Third Party releases
- Bankruptcy Attorney fees in Chapter 7
- Subchapter V

## Bankruptcy Legislation Review – COVID and Other Impacts

### Legislation Introduced in 117th Congress Affecting the Bankruptcy System

| Issue | Bill(s) | Description | Status |
|---|---|---|---|
| **COVID-19 Relief** | COVID-19 Bankruptcy Relief Extension Act of 2021 H.R. 1651 | To amend the CARES Act to extend the sunset for one year for the provisions that provide relief to debtors in bankruptcy. Extends application of 1329(d) to plans confirmed prior to enactment of Extension Act. | ***Signed into law by the President 3/27/2021.*** ***Became Pub. L. No. 117-5, 135 Stat. 249.*** |
| **Administrative Expenses** | No Bonuses Ahead of Bankruptcy Filing Act of 2021 H.R. 428 | To amend title 11 of the United States Code to prohibit the payment of bonuses to highly compensated individuals employed by the debtor and insiders of the debtor to perform services during the bankruptcy case. | Introduced 1/21/2021; referred to Judiciary Committee. |
| **Asbestos Trusts** | PROTECT Asbestos Victims Act of 2021 S. 574 | To amend title 11 of the United States Code to promote the investigation of fraudulent claims against certain trusts and to amend title 18 of the United States Code to provide penalties against fraudulent claims against certain trusts. | Introduced 3/3/2021; referred to Judiciary Committee. |
| **Bankruptcy Judges and Judgeships** | Puerto Rico Federal Judicial Improvement Act H.R. 329 | To authorize an additional district judge and to convert to permanent status the temporary office of bankruptcy judge for the District of Puerto Rico. | Introduced 1/15/2021; referred to Judiciary Committee. |

## Legislation Introduced in 117th Congress Affecting the Bankruptcy System

| Issue | Bill(s) | Description | Status |
|---|---|---|---|
| **Disclosure Requirements for Professionals** | Puerto Rico Recovery Accuracy in Disclosures Act of 2021 (PRRADA) H.R. 1192<br><br>Also S. 375 | To require professional persons employed in voluntary cases commenced under the Puerto Rico Oversight Management and Economic Stability Act to disclose their connections with the debtor, creditors, and other interested parties before seeking compensation for their services. | Introduced 2/22/2021; passed by the House on 2/24/2021; pending in the Senate.<br><br>Introduced 2/23/2021; referred to Energy and Natural Resources Committee. |
| **Exemptions** | Protecting Homeowners in Bankruptcy Act of 2021 H.R. 242 | This bill amends 11 U.S.C. § 522(d)(1) to increase the federal homestead exemption from $25,150 to $100,000 and add a new subsection 522(r) to provide that section 522(d)(1), as amended, would effectively override state laws with lower homestead exemptions. | Introduced 1/11/2021; referred to Judiciary Committee. |
| | Health Savings Act of 2021 S. 380 | To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, to amend section 522 of title 11 of the United States Code to provide that health savings accounts are exempt from creditor claims. | Introduced 2/23/2021; referred to Finance Committee. |

## Bankruptcy Legislation Review – COVID and Other Impacts

**Legislation Introduced in 117th Congress Affecting the Bankruptcy System**

| Issue | Bill(s) | Description | Status |
|---|---|---|---|
| **Medical Debt** | Medical Bankruptcy Fairness Act of 2021<br>S. 146 | To amend title 11 of the United State Code to provide bankruptcy protections for medically distressed debtors. Included among its provisions for "medically distressed debtors" are a waiver of up-front credit counseling, waiver of the means test, discharge of student loans, and retention of $250,000 in home equity. | Introduced 2/2/2021; referred to Judiciary Committee. |
| **Student Loans** | Lenders Offer Assistance Now Act or the LOAN Act<br>H.R. 1143 | To require the discharge of private education loans in the event of the borrower's disability, to prohibit the automatic default of a private education loan due to the disability of a cosigner, and to amend title 11 of the United States Code to make student loans dischargeable. | Introduced 2/18/2021; referred to Financial Services Committee and others. |
| **Third Party Releases** | Stop Shielding Assets from Corporate Known Liability by Eliminating non-debtor Releases Act (the "Sackler Act")<br>H.R. 2096 | To amend 11 U.S.C. § 105 to prohibit a court from enjoining or releasing non-consensual release of claims by States, municipalities, federally recognized Tribes, or the United States against non-debtors. Allows a court to issue a temporary stay, for a period not to exceed 90 days, on legal actions against non-debtors by a State, municipality, federally recognized Tribe, or the United States. This temporary stay provides bankruptcy courts time to evaluate the assets of the debtors and non-debtors. | Introduced 3/19/2021; Referred to the House Judiciary Committee: However, hearings are being held by House Oversight and Reform |

## Legislation Introduced in 117th Congress Affecting the Bankruptcy System

| Issue | Bill(s) | Description | Status |
|---|---|---|---|
| **Venue Reform** | Bankruptcy Venue Reform Act of 2021 H.R. 4193 | To amend title 28 of the United States Code to modify venue requirements relating to bankruptcy proceedings. Requires venue in cases under title 11 to take place where the principal place of business or principal assets of Debtor are located. Challenges to venue place burden on entity commencing case to prove venue is proper by clear and convincing evidence. | Introduced 6/28/21; Referred to the House Judiciary Committee |

**Bankruptcy Legislation Review –**
**COVID and Other Impacts**

- Chapter 10
  i. *Chapter 10*

  On December 9, 2020- Senators Warren, Durbin and Whitehouse and Representatives Nadler and Cicilline introduced the Consumer Bankruptcy Reform Act of 2020 (the "CBRA"). The legislation was proposed towards the end of the 116th Congress and had no chance of going anywhere. However, submission during the 117th Congress may create some serious discussion and movement. The Act proposed a fundamental reform of the consumer bankruptcy process under the Bankruptcy Code, with the goal of making the process easier, less expensive and more equitable. Among other things, the Act proposes to replace chapter 13 and chapter 7 with a new chapter 10 that simplifies the consumer bankruptcy process and provides flexibility in terms of the consumers' retention of assets and commitment of income toward the repayment of claims.

  *Policy*

  - Streamline the Bankruptcy Process and Make it Cheaper
    - Waives filing and administrative fees for some debtors
    - Repeals all of the BAPCA credit counseling requirements
    - Changes to discharge (immediate discharge if no minimum payment and discharge upon confirmation for debtors with minimum payment obligation)
  - Provide Flexibility in Restructuring
    - Creates Multiple Options for Debtors – no-payment discharge, repayment plan, residence plan, and property plan
    - Increases federal exemptions and prohibits states from opting out of federal exemptions
  - Correct the Preemption of State Usury and Consumer Protection Laws
    - Provides for modification of car loans to market value
    - Allows for discharge of student loan debt
    - Voids arbitration and joint action provisions at confirmation
  - Balance Racially Disparate Outcomes in Bankruptcy Cases
    - Allows all debtors to pay attorney fees through a plan
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    - Makes certain civil rights violations nondischargeable
  - Close Bankruptcy Loopholes for Wealthy
    - Removes "actual intent to hinder, delay or defraud" language from 548(e)(1) to eliminate the self-settled trust loophole
    - Closes loophole for spendthrift trusts, with an exception for bona fide disability trusts
  - Reduce Abusive Creditor Behavior
    - Authorizes courts to disallow claims if the claimholder or its assignor engages in inequitable conduct in general or if claimholder or its assignor violates creditor consumer laws in connection with the specific claim
    - Allows for costs, fees, and punitive damages if a claim filed in bad faith outside the applicable statutory of limitations period

# APPENDIX

*Legislation Introduced in 117th Congress Affecting the Bankruptcy System*

CONGRESS.GOV

# H.R.1651 - COVID-19 Bankruptcy Relief Extension Act of 2021

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Nadler, Jerrold [D-NY-10] (Introduced 03/08/2021)
**Committees:** House - Judiciary
**Latest Action:** 03/27/2021 Became Public Law No: 117-5. (TXT | PDF) (All Actions)
**Roll Call Votes:** There has been 1 roll call vote
**Tracker:** Introduced Passed House Passed Senate Resolving Differences To President **Became Law**

Summary(5) **Text(6)** Actions(21) Titles(6) Amendments(1) Cosponsors(2) Committees(1) Related Bills(1)

There are 6 versions: Public Law (03/27/2021)

**Text available as:** TXT | PDF (209KB)

**Shown Here:**
**Public Law No: 117-5 (03/27/2021)**

[117th Congress Public Law 5]
[From the U.S. Government Publishing Office]

[[Page 135 STAT. 249]]

Public Law 117-5
117th Congress

An Act

To amend the CARES Act to extend the sunset for the definition of a small business debtor, and for other purposes. <<NOTE: Mar. 27, 2021 - [H.R. 1651]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: COVID-19 Bankruptcy Relief Extension Act of 2021. 11 USC 101 note.>>

SECTION 1. SHORT TITLE.

This Act may be cited as the ``COVID-19 Bankruptcy Relief Extension Act of 2021''.

SEC. 2. EXTENSIONS.

(a) In General.--Section 1113 of the CARES Act (Public Law 116-136) is amended--

(1) in subsection (a)(5) (11 U.S.C. 1182 note), by striking ``1 year'' and inserting ``2 years''; and

(2) in subsection (b)(2)(B) (11 U.S.C. 101 note), by striking ``1 year'' and inserting ``2 years''.

(b) Modification of Plan After Confirmation.--

(1) Section 1329(d)(1) of title 11, United States Code, is amended, in the matter preceding subparagraph (A), by striking ``this subsection'' and inserting ``the COVID-19 Bankruptcy

Relief Extension Act of 2021''.
(2) Section 1113(b)(1)(D)(ii) of the CARES Act (11 U.S.C. 1329 note) is amended by striking ``this Act'' and inserting ``the COVID-19 Bankruptcy Relief Extension Act of 2021''.

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ``Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Approved March 27, 2021.

LEGISLATIVE HISTORY--H.R. 1651:

CONGRESSIONAL RECORD, Vol. 167 (2021):
Mar. 16, 17, considered and passed House.
Mar. 24, considered and passed Senate, amended.
Mar. 26, House concurred in Senate amendment.

<all>

CONGRESS.GOV

## H.R.428 - No Bonuses Ahead of Bankruptcy Filing Act of 2021

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Steube, W. Gregory [R-FL-17] (Introduced 01/21/2021)
**Committees:** House - Judiciary
**Latest Action:** House - 03/05/2021 Referred to the Subcommittee on Antitrust, Commercial, and Administrative Law. (All Actions)
**Tracker:** **Introduced** Passed House Passed Senate To President Became Law

Summary(1) **Text(1)** Actions(3) Titles(2) Amendments(0) Cosponsors(0) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (6KB) | XML/HTML (new window) (6KB) | TXT (3KB) | PDF (267KB) (PDF provides a complete and accurate display of this text.)

**Shown Here:**
**Introduced in House (01/21/2021)**

117TH CONGRESS
1ST SESSION

# H. R. 428

To amend title 11 of the United States Code to prohibit the payment of bonuses to highly compensated individuals employed by the debtor and insiders of the debtor to perform services during the bankruptcy case, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2021

Mr. STEUBE 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 prohibit the payment of bonuses to highly compensated individuals employed by the debtor and insiders of the debtor to perform services during the bankruptcy case, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "No Bonuses Ahead of Bankruptcy Filing Act of 2021".

**SEC. 2. AMENDMENT.**

Section 503 of title 11 of the United States Code is amended by adding at the end the following:

"(d) (1) During the 2-year period ending 1 year after the date of the filing of the petition and notwithstanding any other provision of this section, there shall neither be allowed nor paid a bonus to—

"(A) an individual employed by the debtor at an annual rate of compensation exceeding $250,000;

"(B) an insider of the debtor; or

"(C) an individual employed by the debtor to the extent that such bonus would cause that individual's annual rate of compensation to exceed $250,000.

"(2) For purposes of this subsection, the term 'bonus' means a transfer to, or obligation incurred for the benefit of, an individual employed by the debtor or insider of the debtor as compensation for services in an amount that—

"(A) is in addition to the existing wages, salary, or base compensation of an insider of the debtor or individual employed by the debtor; and

"(B) can be construed as a form of retention, incentive, or reward related to the services provided to the debtor by the insider or the individual employed by the debtor.

The term 'bonus' does not include a sales commission. Nor does the term 'bonus' include any transfer or obligation pursuant to the terms of a collective bargaining agreement.

"(3) The term 'an individual employed by the debtor' includes, but is not limited to, an employee, consultant, or contractor.".

**SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENT.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendment made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENT.—The amendment made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

CONGRESS.GOV

## S.574 - PROTECT Asbestos Victims Act of 2021

117th Congress (2021-2022) | Get alerts

**Sponsor:** Sen. Tillis, Thom [R-NC] (Introduced 03/03/2021)
**Committees:** Senate - Judiciary
**Latest Action:** Senate - 03/03/2021 Read twice and referred to the Committee on the Judiciary. (All Actions)
**Tracker:** Introduced Passed Senate Passed House To President Became Law

Summary(0) **Text(1)** Actions(1) Titles(3) Amendments(0) Cosponsors(2) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (22KB) | XML/HTML (new window) (18KB) | TXT (15KB) | PDF (265KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in Senate (03/03/2021)**

117TH CONGRESS
1ST SESSION

# S. 574

To amend title 11, United States Code, to promote the investigation of fraudulent claims against certain trusts, to amend title 18, United States Code, to provide penalties against fraudulent claims against certain trusts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2021

Mr. TILLIS (for himself, Mr. GRASSLEY, and Mr. CORNYN) 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 promote the investigation of fraudulent claims against certain trusts, to amend title 18, United States Code, to provide penalties against fraudulent claims against certain trusts, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Providing Responsible Oversight of Trusts to Ensure

Compensation and Transparency for Asbestos Victims Act of 2021" or the "PROTECT Asbestos Victims Act of 2021".

**SEC. 2. REDUCTION OF FRAUDULENT CLAIMS AND DEMANDS RELATING TO CERTAIN TRUSTS.**

(a) IN GENERAL.—Section 524(g) of title 11, United States Code, is amended—

(1) in paragraph (4)(B)(i), by striking "the court appoints a legal representative" and inserting "the United States trustee or bankruptcy administrator appoints, under paragraph (10), a future claims representative"; and

(2) by adding at the end the following:

"(8) INVESTIGATION OF FRAUDULENT CLAIMS AND DEMANDS.—

"(A) IN GENERAL.—Notwithstanding section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note), rule 9035 of the Federal Rules of Bankruptcy Procedure, or any other provision of law, in any judicial district of the United States, the United States trustee may investigate the administration and operation of a trust described in paragraph (2)(B)(i), including a trust described in paragraph (2)(B)(i) that was created before the date of enactment of the PROTECT Asbestos Victims Act of 2021.

"(B) AUTHORITY OF THE UNITED STATES TRUSTEE.—In conducting an investigation under subparagraph (A), the United States trustee shall have the authority—

"(i) to conduct discovery, including by any means of discovery available to a trustee in an action under chapter 5 of title 11, relating to the trust, a claimant of the trust, or a claim against the trust, including a claim filed by a claimant against the trust in a bankruptcy court or other forum, notwithstanding the effect of any order purporting to limit the access of the United States trustee to any information relating to that discovery;

"(ii) to conduct an audit or contract for an audit of any claim or demand paid, or to be paid, in whole or in part by the trust;

"(iii) if the United States trustee has reasonable grounds to believe that a false claim or demand to be paid in whole or in part by a trust was made, to refer the matter to the United States attorney for the relevant judicial district, and, on the request of the United States attorney, assist the United States attorney in carrying out a prosecution based on that false claim or demand; and

"(iv) to request that the court exercise any authority and impose remedies available to it, including those—

"(I) under the terms of the plan of reorganization to prevent abuse or mismanagement of the trust; and

"(II) under section 105.

"(C) STANDING.—In carrying out this paragraph, the United States trustee

shall have standing to raise, to appear, and to be heard on any matter for which the court has jurisdiction or for which the court has reserved jurisdiction under the terms of the plan of reorganization.

"(9) ACCESSING TRUST INFORMATION.—

"(A) IN GENERAL.—Subject to section 107 and any appropriate protective order, a trust described in paragraph (2)(B)(i) shall, on written request, provide, in a timely manner, any information relating to any payment from, and any demand for payment from, the trust to a party to an action at law or equity if the action relates to liability for asbestos exposure.

"(B) COSTS.—A trust described in paragraph (2)(B)(i) may require, from the person making a request under subparagraph (A), payment of any reasonable cost incurred to comply with the requirements under subparagraph (A).

"(10) APPOINTMENT OF FUTURE CLAIMS REPRESENTATIVES.—

"(A) IN GENERAL.—On notification by a plan proponent of the intention of the plan proponent to seek an injunction under this subsection, the United States trustee or bankruptcy administrator, after consultation with parties in interest, shall appoint, subject to the approval of the court, a disinterested individual to serve as the future claims representative.

"(B) SUPPORT.—

"(i) IN GENERAL.—The future claims representative, subject to the approval of the court, may employ 1 or more attorneys, accountants, or other professional persons to represent the future claims representative or assist the future claims representative in carrying out the duties of the future claims representative under this subsection.

"(ii) QUALIFICATIONS.—An attorney, accountant, or other professional person employed under clause (i) to represent or assist the future claims representative—

"(I) shall be a disinterested person; and

"(II) may not represent any other entity having an adverse interest in connection with the case.

"(11) POWER OF THE COURT.—Notwithstanding any other provision of law, including paragraph (1)(B), sections 1127, 1141, and 1144 of this title, and section 157 of title 28, the court may issue any order, process, or judgment that is necessary and appropriate—

"(A) to carry out the provisions of paragraphs (8) and (9); or

"(B) to enforce or implement a court order or prevent an abuse of process relating to a trust described in paragraph (2)(B)(i).

"(12) BENEFITS UNDER MEDICARE.—

"(A) POTENTIAL ELIGIBLE CLAIMANTS.—Not later than 60 days after a claim is submitted to a trust described in paragraph (2)(B)(i), the administrator of

the trust shall determine whether the claimant is entitled to benefits under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(B) REQUIRED INFORMATION.—If a claimant is determined to be entitled to benefits under subparagraph (A), the administrator of the trust shall submit to the Secretary of Health and Human Services, in the form and manner (including frequency) specified by the Secretary of Health and Human Services, the information described in section 1862(b)(8)(B) of the Social Security Act (42 U.S.C. 1395y(b)(8)(B)).".

(b) COMPENSATION.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) by inserting "a future claims representative appointed under section 524(g)(10)(A)," after "section 333,"; and

(2) by inserting ", 524(g)(10)(B)," after "section 327".

(c) REOPENING CASES.—Section 350 of title 11, United States Code, is amended by adding at the end the following:

"(c) INVESTIGATIONS BY UNITED STATES TRUSTEE.—On the request of the United States trustee, a case shall be reopened in the court in which that case was closed in order to enable the United States trustee to conduct an investigation under section 524(g)(8).".

**SEC. 3. CRIMINAL PENALTIES.**

Section 152 of title 18, United States Code, is amended—

(1) in paragraph (8), by striking "or" after the semicolon;

(2) by striking the comma at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following:

"(10) knowingly and fraudulently makes a false representation to a trust described in section 524(g)(2)(B)(i) of title 11, or any official of a trust described in that section, in relation to an investigation conducted under section 524(g)(8)(A) of that title; or

"(11) knowingly and fraudulently makes a false claim or demand to be paid in whole or in part by a trust described in section 524(g)(2)(B)(i) of title 11,".

**SEC. 4. AUTHORITY OF UNITED STATES TRUSTEE.**

Section 586 of title 28, United States Code, is amended by adding at the end the following:

"(g) INVESTIGATION OF FRAUDULENT CLAIMS AND DEMANDS.—

"(1) IN GENERAL.—The United States trustee may investigate the administration and operation of a trust, including a trust that was created before the date of enactment of the PROTECT Asbestos Victims Act of 2021—

"(A) described in section 524(g)(2)(B)(i) of title 11; or

"(B) established under section 105(a) of title 11 for the purpose of assuming the asbestos-related liabilities of a debtor.

"(2) AUTHORITY OF THE UNITED STATES TRUSTEE.—In conducting an

investigation under subparagraph (A), the United States trustee shall have the authority—

"(A) to conduct discovery, including by any means of discovery available to a trustee in an action under chapter 5 of title 11, relating to the trust, a claimant of the trust, or a claim against the trust, including a claim filed by a claimant against the trust in a bankruptcy court or other forum, notwithstanding the effect of any order purporting to limit the access of the United States trustee to any information relating to that discovery;

"(B) to conduct an audit or contract for an audit of any claim or demand paid, or to be paid, in whole or in part by the trust;

"(C) if the United States trustee has reasonable grounds to believe that a false claim or demand to be paid in whole or in part by a trust was made, to refer the matter to the United States attorney for the relevant judicial district, and, on the request of the United States attorney, assist the United States attorney in carrying out a prosecution based on that false claim or demand; and

"(D) to request that the court exercise any authority and impose remedies available to it, including those—

"(i) under the terms of the plan of reorganization to prevent abuse or mismanagement of the trust; and

"(ii) under section 105.

"(3) STANDING.—In carrying out this subsection, the United States trustee shall have standing to raise, to appear, and to be heard on any matter for which the court has jurisdiction or for which the court has reserved jurisdiction under the terms of the plan of reorganization.

"(4) JUDICIAL DISTRICTS ESTABLISHED FOR ALABAMA AND NORTH CAROLINA.—Notwithstanding section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note), rule 9035 of the Federal Rules of Bankruptcy Procedure, or any other provision of law, the United States trustee for the appropriate region described in section 581(a) shall have the authority to carry out this subsection with respect to a trust described in paragraph (1) in a case that is filed in a judicial district established for the State of Alabama or North Carolina.".

CONGRESS.GOV

## H.R.329 - Puerto Rico Federal Judicial Improvement Act

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Gonzalez-Colon, Jenniffer [R-PR-At Large] (Introduced 01/15/2021)
**Committees:** House - Judiciary
**Latest Action:** House - 03/05/2021 Referred to the Subcommittee on Courts, Intellectual Property, and the Internet. (All Actions)
**Tracker:** **Introduced** Passed House Passed Senate To President Became Law

Summary(1) **Text(1)** Actions(3) Titles(2) Amendments(0) Cosponsors(0) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (7KB) | XML/HTML (new window) (6KB) | TXT (4KB) | PDF (267KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in House (01/15/2021)**

117TH CONGRESS
1ST SESSION

# H. R. 329

To authorize an additional district judge for the district of Puerto Rico and to convert to permanent status the temporary office of bankruptcy judge for the district of Puerto Rico.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 2021

Miss González-Colón introduced the following bill; which was referred to the Committee on the Judiciary

# A BILL

To authorize an additional district judge for the district of Puerto Rico and to convert to permanent status the temporary office of bankruptcy judge for the district of Puerto Rico.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Puerto Rico Federal Judicial Improvement Act".

**SEC. 2. DISTRICT JUDGESHIP FOR THE DISTRICT OF PUERTO RICO.**

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Puerto Rico.

(b) TECHNICAL AND CONFORMING AMENDMENT.—In order that the table contained in section 133(a) of title 28, United States Code, will reflect the change in the number of judgeships authorized by subsection (a), such table is amended by striking the item relating to Puerto Rico and inserting the following:

| | |
|---|---|
| Puerto Rico | 8 |

**SEC. 3. CONVERSION OF THE TEMPORARY OFFICE OF BANKRUPTCY JUDGE TO THE PERMANENT OFFICE OF BANKRUPTCY JUDGE FOR THE DISTRICT OF PUERTO RICO.**

(a) CONVERSION OF OFFICE TO PERMANENT STATUS.—

(1) The temporary office of bankruptcy judge authorized for the district of Puerto Rico by section 1223(b)(1)(P) of Public Law 109–8 (119 Stat. 197; 28 U.S.C. 152 note), and extended by section 2(a)(1)(M) of Public Law 112–121 (126 Stat. 346; 28 U.S.C. 152 note) and section 1002(a)(1)(G) of Public Law 115–72 (131 Stat. 1230; 28 U.S.C. 152 note), is converted hereby to the permanent office of bankruptcy judge and represented in the amendment made by subsection (b).

(2) The temporary office of bankruptcy judge authorized for the district of Puerto Rico by section 3(a)(7) of Public Law 102–361 (106 Stat. 966; 28 U.S.C. 152 note), and extended by section 1223(c)(1) of Public Law 109–8 (119 Stat. 198; 28 U.S.C. 152 note), section 2(b)(1) of Public Law 112–121 (126 Stat. 347; 28 U.S.C. 152 note), and section 1002(b)(1) of Public Law 115–72 (131 Stat. 1230; 28 U.S.C. 152 note), is converted hereby to the permanent office of bankruptcy judge and is represented in the amendment made by subsection (b).

(b) CONFORMING AMENDMENT.—To reflect the conversion of the temporary office of bankruptcy judge to the permanent office of bankruptcy judge made by the operation of subsection (a), section 152(a)(2) of title 28 of the United States Code is amended in the item relating to the district of Puerto Rico by striking "2" and inserting "4".

CONGRESS.GOV

## H.R.1192 - PRRADA

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Velazquez, Nydia M. [D-NY-7] (Introduced 02/22/2021)
**Committees:** House - Judiciary | Senate - Energy and Natural Resources
**Latest Action:** Senate - 02/25/2021 Received in the Senate and Read twice and referred to the Committee on Energy and Natural Resources. (All Actions)
**Roll Call Votes:** There has been 1 roll call vote
**Tracker:** Introduced **Passed House** Passed Senate To President Became Law

Summary(2) **Text(3)** Actions(10) Titles(5) Amendments(0) Cosponsors(8) Committees(2) Related Bills(1)

There are 3 versions: Referred in Senate (02/25/2021)

**Text available as:** XML/HTML (11KB) | XML/HTML (new window) (10KB) | TXT (6KB) | PDF (231KB) (PDF provides a complete and accurate display of this text.)

**Shown Here:**
**Referred in Senate (02/25/2021)**

117TH CONGRESS
1ST SESSION

# H. R. 1192

IN THE SENATE OF THE UNITED STATES
FEBRUARY 25, 2021
Received; read twice and referred to the Committee on Energy and Natural Resources

# AN ACT

To impose requirements on the payment of compensation to professional persons employed in voluntary cases commenced under title III of the Puerto Rico Oversight Management and Economic Stability Act (commonly known as "PROMESA").

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Puerto Rico Recovery Accuracy in Disclosures Act of 2021" or "PRRADA".

**SEC. 2. DISCLOSURE BY PROFESSIONAL PERSONS SEEKING APPROVAL OF COMPENSATION UNDER SECTION 316 OR 317 OF PROMESA.**

(a) REQUIRED DISCLOSURE.—

(1) IN GENERAL.—In a voluntary case commenced under section 304 of PROMESA (48

U.S.C. 2164), no attorney, accountant, appraiser, auctioneer, agent, consultant, or other professional person may be compensated under section 316 or 317 of that Act (48 U.S.C. 2176, 2177) unless prior to making a request for compensation, the professional person has submitted a verified statement conforming to the disclosure requirements of rule 2014(a) of the Federal Rules of Bankruptcy Procedure setting forth the connection of the professional person with—

(A) the debtor;

(B) any creditor;

(C) any other party in interest, including any attorney or accountant;

(D) the Financial Oversight and Management Board established in accordance with section 101 of PROMESA (48 U.S.C. 2121); and

(E) any person employed by the Oversight Board described in subparagraph (D).

(2) OTHER REQUIREMENTS.—A professional person that submits a statement under paragraph (1) shall—

(A) supplement the statement with any additional relevant information that becomes known to the person; and

(B) file annually a notice confirming the accuracy of the statement.

(b) REVIEW.—

(1) IN GENERAL.—The United States Trustee shall review each verified statement submitted pursuant to subsection (a) and may file with the court comments on such verified statements before the professionals filing such statements seek compensation under section 316 or 317 of PROMESA (48 U.S.C. 2176, 2177).

(2) OBJECTION.—The United States Trustee may object to compensation applications filed under section 316 or 317 of PROMESA (48 U.S.C. 2176, 2177) that fail to satisfy the requirements of subsection (e).

(3) RIGHT TO BE HEARD.—Each person described in section 1109 of title 11, United States Code, may appear and be heard on any issue in a case under this section.

(c) JURISDICTION.—The district courts of the United States shall have jurisdiction of all cases under this section.

(d) RETROACTIVITY.—

(1) IN GENERAL.—If a court has entered an order approving compensation under a case commenced under section 304 of PROMESA (48 U.S.C. 2164), each professional person subject to the order shall file a verified statement in accordance with subsection (a) not later than 60 days after the date of enactment of this Act.

(2) NO DELAY.—A court may not delay any proceeding in connection with a case commenced under section 304 of PROMESA (48 U.S.C. 2164) pending the filing of a verified statement under paragraph (1).

(e) LIMITATION ON COMPENSATION.—

(1) IN GENERAL.—In a voluntary case commenced under section 304 of PROMESA (48 U.S.C. 2164), in connection with the review and approval of professional compensation under section 316 or 317 of PROMESA (48 U.S.C. 2176, 2177), the court may deny allowance of compensation for services and reimbursement of expenses, accruing after the date of the enactment of this Act of a professional person if the professional person—

(A) has failed to file statements of connections required by subsection (a) or has filed inadequate statements of connections;

(B) except as provided in paragraph (3), is on or after the date of enactment of this Act not a disinterested person, as defined in section 101 of title 11, United States Code; or

(C) except as provided in paragraph (3), represents, or holds an interest adverse to, the interest of the estate with respect to the matter on which such professional person is employed.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the court may take into consideration whether the services and expenses are in the best interests of creditors and the estate.

(3) COMMITTEE PROFESSIONAL STANDARDS.—An attorney or accountant described in section 1103(b) of title 11, United States Code, shall be deemed to have violated paragraph (1) if the attorney or accountant violates section 1103(b) of title 11, United States Code.

Passed the House of Representatives February 24, 2021.

Attest: CHERYL L. JOHNSON,
Clerk

CONGRESS.GOV

## S.375 - PRRADA

117th Congress (2021-2022) | Get alerts

**Sponsor:** Sen. Menendez, Robert [D-NJ] (Introduced 02/23/2021)
**Committees:** Senate - Energy and Natural Resources
**Latest Action:** Senate - 02/23/2021 Read twice and referred to the Committee on Energy and Natural Resources. (All Actions)
**Tracker:** **Introduced** Passed Senate Passed House To President Became Law

Summary(1) **Text(1)** Actions(1) Titles(3) Amendments(0) Cosponsors(5) Committees(1) Related Bills(1)

There is one version of the bill.

**Text available as:** XML/HTML (11KB) | XML/HTML (new window) (10KB) | TXT (6KB) | PDF (259KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in Senate (02/23/2021)**

117TH CONGRESS
1ST SESSION

# S. 375

To impose requirements on the payment of compensation to professional persons employed in voluntary cases commenced under title III of the Puerto Rico Oversight Management and Economic Stability Act (commonly known as "PROMESA").

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2021

Mr. MENENDEZ (for himself, Ms. HIRONO, Mr. BLUMENTHAL, Mr. RUBIO, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

# A BILL

To impose requirements on the payment of compensation to professional persons employed in voluntary cases commenced under title III of the Puerto Rico Oversight Management and Economic Stability Act (commonly known as "PROMESA").

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Puerto Rico Recovery Accuracy in Disclosures Act of 2021" or "PRRADA".

**SEC. 2. DISCLOSURE BY PROFESSIONAL PERSONS SEEKING APPROVAL OF COMPENSATION UNDER SECTION 316 OR 317 OF PROMESA.**

(a) REQUIRED DISCLOSURE.—

(1) IN GENERAL.—In a voluntary case commenced under section 304 of PROMESA (48 U.S.C. 2164), no attorney, accountant, appraiser, auctioneer, agent, consultant, or other professional person may be compensated under section 316 or 317 of that Act (48 U.S.C. 2176, 2177) unless prior to making a request for compensation, the professional person has submitted a verified statement conforming to the disclosure requirements of rule 2014(a) of the Federal Rules of Bankruptcy Procedure setting forth the connection of the professional person with—

(A) the debtor;

(B) any creditor;

(C) any other party in interest, including any attorney or accountant;

(D) the Financial Oversight and Management Board established in accordance with section 101 of PROMESA (48 U.S.C. 2121); and

(E) any person employed by the Oversight Board described in subparagraph (D).

(2) OTHER REQUIREMENTS.—A professional person that submits a statement under paragraph (1) shall—

(A) supplement the statement with any additional relevant information that becomes known to the person; and

(B) file annually a notice confirming the accuracy of the statement.

(b) REVIEW.—

(1) IN GENERAL.—The United States Trustee shall review each verified statement submitted pursuant to subsection (a) and may file with the court comments on such verified statements before the professionals filing such statements seek compensation under section 316 or 317 of PROMESA (48 U.S.C. 2176, 2177).

(2) OBJECTION.—The United States Trustee may object to compensation applications filed under section 316 or 317 of PROMESA (48 U.S.C. 2176, 2177) that fail to satisfy the requirements of subsection (e).

(3) RIGHT TO BE HEARD.—Each person described in section 1109 of title 11, United States Code, may appear and be heard on any issue in a case under this section.

(c) JURISDICTION.—The district courts of the United States shall have jurisdiction of all cases under this section.

(d) RETROACTIVITY.—

(1) IN GENERAL.—If a court has entered an order approving compensation under a case commenced under section 304 of PROMESA (48 U.S.C. 2164), each professional person subject to the order shall file a verified statement in accordance with subsection (a) not later than 60 days after the date of enactment of this Act.

(2) NO DELAY.—A court may not delay any proceeding in connection with a case commenced under section 304 of PROMESA (48 U.S.C. 2164) pending the filing of a verified statement under paragraph (1).

(e) LIMITATION ON COMPENSATION.—

(1) IN GENERAL.—In a voluntary case commenced under section 304 of PROMESA (48 U.S.C. 2164), in connection with the review and approval of professional compensation under section 316 or 317 of PROMESA (48 U.S.C. 2176, 2177), the court may deny allowance of

compensation for services and reimbursement of expenses, accruing after the date of the enactment of this Act of a professional person if the professional person—

(A) has failed to file statements of connections required by subsection (a) or has filed inadequate statements of connections;

(B) except as provided in paragraph (3), is on or after the date of enactment of this Act not a disinterested person, as defined in section 101 of title 11, United States Code; or

(C) except as provided in paragraph (3), represents, or holds an interest adverse to, the interest of the estate with respect to the matter on which such professional person is employed.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the court may take into consideration whether the services and expenses are in the best interests of creditors and the estate.

(3) COMMITTEE PROFESSIONAL STANDARDS.—An attorney or accountant described in section 1103(b) of title 11, United States Code, shall be deemed to have violated paragraph (1) if the attorney or accountant violates section 1103(b) of title 11, United States Code.

CONGRESS.GOV

## H.R.242 - Protecting Homeowners in Bankruptcy Act of 2021

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Dean, Madeleine [D-PA-4] (Introduced 01/11/2021)
**Committees:** House - Judiciary
**Latest Action:** House - 03/04/2021 Referred to the Subcommittee on Antitrust, Commercial, and Administrative Law. (All Actions)
**Tracker:** **Introduced** Passed House Passed Senate To President Became Law

Summary(1) **Text(1)** Actions(3) Titles(2) Amendments(0) Cosponsors(1) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (4KB) | XML/HTML (new window) (4KB) | TXT (2KB) | PDF (266KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in House (01/11/2021)**

117TH CONGRESS
1ST SESSION

# H. R. 242

To amend title 11 of the United States Code to increase the amount of the allowable homestead exemption.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2021

Ms. DEAN (for herself and Mr. NADLER) 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 increase the amount of the allowable homestead exemption.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Protecting Homeowners in Bankruptcy Act of 2021".

**SEC. 2. INCREASING THE HOMESTEAD EXEMPTION.**

Section 522 of title 11 of the United States code, is amended—

(1) in subsection (d)(1) by striking "$15,000" and inserting "$100,000"; and

(2) by adding at the end the following:

"(r) Notwithstanding any other provision of applicable nonbankruptcy law, a debtor in any State may exempt from property of the estate the property described in subsection (d)(1) not to exceed the value in subsection (d)(1) if the exemption for such property permitted by applicable nonbankruptcy law is lower than that amount.".

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

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply to cases commenced under title of the United States Code before the effective date of this Act.

CONGRESS.GOV

## S.380 - Health Savings Act of 2021

117th Congress (2021-2022) | Get alerts

**Sponsor:** Sen. Rubio, Marco [R-FL] (Introduced 02/23/2021)
**Committees:** Senate - Finance
**Latest Action:** Senate - 02/23/2021 Read twice and referred to the Committee on Finance. (All Actions)
**Tracker:** **Introduced** Passed Senate Passed House To President Became Law

Summary(1) **Text(1)** Actions(1) Titles(2) Amendments(0) Cosponsors(1) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (79KB) | XML/HTML (new window) (67KB) | TXT (45KB) | PDF (315KB) (PDF provides a complete and accurate display of this text.) ?

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**Introduced in Senate (02/23/2021)**

117TH CONGRESS
1ST SESSION

# S. 380

To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2021

Mr. RUBIO (for himself and Mr. SCOTT of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Finance

# A BILL

To amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the "Health Savings Act of 2021".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or

repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents is as follows:



# TITLE I—RENAMING HIGH DEDUCTIBLE HEALTH PLANS

## SEC. 101. HIGH DEDUCTIBLE HEALTH PLANS RENAMED HSA-QUALIFIED HEALTH PLANS.

(a) IN GENERAL.—Section 223 is amended by striking "high deductible health plan" each place it appears and inserting "HSA-qualified health plan".

(b) CONFORMING AMENDMENTS.—

(1) The heading for paragraph (2) of section 223(c) is amended by striking "HIGH DEDUCTIBLE HEALTH PLAN" and inserting "HSA-QUALIFIED HEALTH PLAN".

(2) Section 408(d)(9) is amended—

(A) by striking "high deductible health plan" each place it appears in subparagraph (C) and inserting "HSA-qualified health plan"; and

(B) by striking "HIGH DEDUCTIBLE HEALTH PLAN" in the heading of subparagraph (D) and inserting "HSA-QUALIFIED HEALTH PLAN".

(3) Section 106(e) is amended—

(A) by striking "HIGH DEDUCTIBLE HEALTH PLAN" in the heading of paragraph (3) and inserting "HSA-QUALIFIED HEALTH PLAN"; and

(B) by striking "high deductible health plan" in paragraph (5)(B)(iii) and inserting "HSA-qualified health plan".

# TITLE II—ENHANCING ACCESS TO TAX-PREFERRED HEALTH ACCOUNTS

## SEC. 201. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CONTRIBUTIONS TO THE SAME HSA ACCOUNT.

(a) IN GENERAL.—Paragraph (5) of section 223(b) is amended to read as follows:

"(5) SPECIAL RULE FOR MARRIED INDIVIDUALS WITH FAMILY COVERAGE.—

"(A) IN GENERAL.—In the case of individuals who are married to each other, if both spouses are eligible individuals and either spouse has family coverage under an HSA-qualified health plan as of the first day of any month—

"(i) the limitation under paragraph (1) shall be applied by not taking into account any other HSA-qualified health plan coverage of either spouse (and if such spouses both have family coverage under separate HSA-qualified health plans, only one such coverage shall be taken into account),

"(ii) such limitation (after application of clause (i)) shall be reduced by the aggregate amount paid to Archer MSAs of such spouses for the taxable year, and

"(iii) such limitation (after application of clauses (i) and (ii)) shall be divided equally between such spouses unless they agree on a different division.

"(B) TREATMENT OF ADDITIONAL CONTRIBUTION AMOUNTS.—If both spouses referred to in subparagraph (A) have attained age 55 before the close of the taxable year, the limitation referred to in subparagraph (A)(iii) which is subject to division between the spouses shall include the additional contribution amounts determined under paragraph (3) for both spouses. In any other case, any additional contribution amount determined under paragraph (3) shall not be taken into account under subparagraph (A)(iii) and shall not be subject to division

between the spouses.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 202. PROVISIONS RELATING TO MEDICARE.**

(a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN MEDICARE PART A.—Paragraph (7) of section 223(b) is amended by adding at the end the following: "This paragraph shall not apply to any individual during any period for which the individual's only entitlement to such benefits is an entitlement to hospital insurance benefits under part A of title XVIII of such Act pursuant to an enrollment for such hospital insurance benefits under section 226(a) of such Act.".

(b) MEDICARE BENEFICIARIES PARTICIPATING IN MEDICARE ADVANTAGE MSA MAY CONTRIBUTE THEIR OWN MONEY TO THEIR MSA.—

(1) IN GENERAL.—Subsection (b) of section 138 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 138(c) is amended by striking "and paragraph (2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 203. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH SERVICE ASSISTANCE.**

(a) IN GENERAL.—Paragraph (1) of section 223(c), as amended by section 102(c)(4) of the No Surprises Act, is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR ASSISTANCE UNDER INDIAN HEALTH SERVICE PROGRAMS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual receives hospital care or medical services under a medical care program of the Indian Health Service or of a tribal organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 204. MEMBERS OF HEALTH CARE SHARING MINISTRIES ELIGIBLE TO ESTABLISH HEALTH SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Section 223 is amended by adding at the end the following new subsection:

"(i) APPLICATION TO HEALTH CARE SHARING MINISTRIES.—For purposes of this section, membership in a health care sharing ministry (as defined in section 5000A(d)(2)(B)(ii)) shall be treated as coverage under an HSA-qualified health plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 205. TREATMENT OF DIRECT PRIMARY CARE SERVICE ARRANGEMENTS.**

(a) IN GENERAL.—Section 223(c) is amended by adding at the end the following new

paragraph:

"(6) TREATMENT OF DIRECT PRIMARY CARE SERVICE ARRANGEMENTS.—An arrangement under which an individual is provided coverage restricted to primary care services in exchange for a fixed periodic fee or payment for primary care services—

"(A) shall not be treated as a health plan for purposes of paragraph (1)(A)(ii), and

"(B) shall not be treated as insurance for purposes of subsection (d)(2)(B).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 206. INDIVIDUALS ELIGIBLE FOR ON-SITE MEDICAL CLINIC COVERAGE.**

(a) IN GENERAL.—Paragraph (1) of section 223(c), as amended by sections 203, is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR ON-SITE MEDICAL CLINIC COVERAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual is eligible to receive health care benefits from an on-site medical clinic of the employer of the individual or the individual's spouse if such health care benefits are not significant benefits.

"(ii) INCLUDED BENEFITS.—For purposes of clause (i), the following health care benefits shall be considered to be benefits which are not significant benefits:

"(I) Physicals and immunizations.

"(II) Injecting antigens provided by employees.

"(III) Medications available without a prescription, such as pain relievers and antihistamines.

"(IV) Treatment for injuries occurring at the employer's place of employment or otherwise in the course of employment.

"(V) Tests for infectious diseases and conditions, such as streptococcal sore throat.

"(VI) Monitoring of chronic conditions, such as diabetes.

"(VII) Drug testing.

"(VIII) Hearing or vision screenings and related services.

"(IX) Other services and treatments of a similar nature to the services described in subclauses (I) through (VIII).

"(iii) AGGREGATION RULES.—For purposes of clause (i), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable

years beginning after the date of the enactment of this Act.

**SEC. 207. TREATMENT OF EMBEDDED DEDUCTIBLES.**

(a) IN GENERAL.—Paragraph (2) of section 223(c), as amended by section 102(c)(4) of the No Surprises Act, is amended by adding at the end the following new subparagraph:

"(G) TREATMENT OF EMBEDDED DEDUCTIBLE.—A health plan providing family coverage that has an annual deductible for all covered individuals under the plan of at least the amount described in subparagraph (A)(i)(II) shall not fail to be treated as an HSA-qualified health plan solely because it covers expenses with respect to an individual under that plan that exceed an embedded deductible which is equal to or in excess of the amount described in subparagraph (A)(i)(I).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

# TITLE III—IMPROVING COVERAGE UNDER TAX-PREFERRED HEALTH ACCOUNTS

**SEC. 301. PURCHASE OF HEALTH INSURANCE FROM HSA ACCOUNT.**

(a) IN GENERAL.—Paragraph (2) of section 223(d) is amended—

(1) by striking "and any dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual" in subparagraph (A) and inserting "any dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual, and any child (as defined in section 152(f)(1)) of such individual who has not attained the age of 27 before the end of such individual's taxable year";

(2) by striking subparagraph (B) and inserting the following:

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Except as provided in subparagraph (C), subparagraph (A) shall not apply to any payment for insurance."; and

(3) by striking "or" at the end of subparagraph (C)(iii) and by striking subparagraph (C)(iv) and inserting the following:

"(iv) an HSA-qualified health plan, or

"(v) any health insurance under title XVIII of the Social Security Act, other than a Medicare supplemental policy (as defined in section 1882 of such Act).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to insurance purchased after the date of the enactment of this Act in taxable years beginning after such date.

**SEC. 302. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.**

(a) IN GENERAL.—Paragraph (2) of section 223(d) is amended by adding at the end the following new subparagraph:

"(E) TREATMENT OF CERTAIN MEDICAL EXPENSES INCURRED

BEFORE ESTABLISHMENT OF ACCOUNT.—If a health savings account is established during the 60-day period beginning on the date that coverage of the account beneficiary under an HSA-qualified health plan begins, then, solely for purposes of determining whether an amount paid is used for a qualified medical expense, such account shall be treated as having been established on the date that such coverage begins.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to coverage beginning after the date of the enactment of this Act.

**SEC. 303. PREVENTIVE CARE PRESCRIPTION DRUG CLARIFICATION.**

(a) CLARIFY USE OF DRUGS IN PREVENTIVE CARE.—Subparagraph (C) of section 223(c)(2) is amended by adding at the end the following: "Preventive care shall include prescription and over-the-counter drugs and medicines which have the primary purpose of preventing the onset of, further deterioration from, or complications associated with chronic conditions, illnesses, or diseases.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2019.

# TITLE IV—MISCELLANEOUS PROVISIONS RELATING TO TAX-PREFERRED HEALTH ACCOUNTS

**SEC. 401. FSA AND HRA INTERACTION WITH HSAS.**

(a) ELIGIBLE INDIVIDUALS INCLUDE FSA AND HRA PARTICIPANTS. —Subparagraph (B) of section 223(c)(1) is amended—

(1) by striking "and" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting ", and"; and

(3) by inserting after clause (iii) the following new clause:

"(iv) coverage under a health flexible spending arrangement or a health reimbursement arrangement in the plan year a qualified HSA distribution as described in section 106(e) is made on behalf of the individual if, after the qualified HSA distribution is made and for the remaining duration of the plan year, the coverage provided under the arrangement is converted solely to one or more of the following:

"(I) POST-DEDUCTIBLE FSA OR HRA.—A health flexible spending arrangement or a health reimbursement arrangement that does not pay or reimburse any medical expense incurred before the minimum annual deductible under paragraph (2)(A)(i) (prorated for the period occurring after the qualified HSA distribution is made) is satisfied.

"(II) PREVENTATIVE CARE.—A health flexible spending arrangement or a health reimbursement arrangement that, after the qualified HSA distribution is made, does not pay or reimburse any medical expense incurred after the qualified HSA distribution is made other than preventive care as defined in paragraph (2)(C).

"(III) LIMITED PURPOSE HEALTH FSA.—A health flexible spending arrangement that, after the qualified HSA distribution is made, pays or reimburses benefits for coverage described in clause (ii) (but not through insurance or for long-term care services).

"(IV) LIMITED PURPOSE HRA.—A health reimbursement arrangement that, after the qualified HSA distribution is made, pays or reimburses benefits for permitted insurance or coverage described in clause (ii) (but not for long-term care services).

"(V) RETIREMENT HRA.—A health reimbursement arrangement that, after the qualified HSA distribution is made, pays or reimburses only those medical expenses incurred after an individual's retirement (and no expenses incurred before retirement).

"(VI) SUSPENDED HRA.—A health reimbursement arrangement that, after the qualified HSA distribution is made, is suspended, pursuant to an election made on or before the date the individual elects a qualified HSA distribution or, if later, on the date of the individual enrolls in an HSA-qualified health plan, that does not pay or reimburse, at any time, any medical expense incurred during the suspension period except as described in the preceding subclauses of this clause.".

(b) QUALIFIED HSA DISTRIBUTION SHALL NOT AFFECT FLEXIBLE SPENDING ARRANGEMENT.—Paragraph (1) of section 106(e) is amended to read as follows:

"(1) IN GENERAL.—A plan shall not fail to be treated as—

"(A) a health flexible spending arrangement under this section, section 105, or section 125,

"(B) a health reimbursement arrangement under this section or section 105, or

"(C) an accident or health plan,

merely because such plan provides for a qualified HSA distribution.".

(c) FSA BALANCES AT YEAR END SHALL NOT FORFEIT.—Paragraph (2) of section 125(d) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR QUALIFIED HSA DISTRIBUTIONS.—Subparagraph (A) shall not apply to the extent that there is an amount remaining in a health flexible spending account at the end of a plan year that an individual elects to contribute to a health savings account pursuant to a qualified HSA distribution (as defined in section 106(e)(2)).".

(d) SIMPLIFICATION OF LIMITATIONS ON FSA AND HRA ROLLOVERS.—Paragraph (2) of section 106(e) is amended to read as follows:

"(2) QUALIFIED HSA DISTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified HSA distribution' means a distribution from a health flexible spending arrangement or health reimbursement

arrangement directly to a health savings account of the employee to the extent that such distribution does not exceed the lesser of—

"(i) the balance in such arrangement as of the date of such distribution, or

"(ii) the amount determined under subparagraph (B).

Such term shall not include more than 1 distribution with respect to any arrangement.

"(B) DOLLAR LIMITATIONS.—

"(i) DISTRIBUTIONS FROM A HEALTH FLEXIBLE SPENDING ARRANGEMENT.—A qualified HSA distribution from a health flexible spending arrangement shall not exceed the applicable amount.

"(ii) DISTRIBUTIONS FROM A HEALTH REIMBURSEMENT ARRANGEMENT.—A qualified HSA distribution from a health reimbursement arrangement shall not exceed—

"(I) the applicable amount divided by 12, multiplied by

"(II) the number of months during which the individual is a participant in the health reimbursement arrangement.

"(iii) APPLICABLE AMOUNT.—For purposes of this subparagraph, the applicable amount is—

"(I) $2,250 in the case of an eligible individual who has self-only coverage under an HSA-qualified health plan at the time of such distribution, and

"(II) $4,500 in the case of an eligible individual who has family coverage under an HSA-qualified health plan at the time of such distribution.".

(e) ELIMINATION OF ADDITIONAL TAX FOR FAILURE TO MAINTAIN HSA-QUALIFIED HEALTH PLAN COVERAGE.—Subsection (e) of section 106, as amended by section 101, is amended—

(1) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(2) by striking subparagraph (A) of paragraph (3), as so redesignated, and redesignating subparagraphs (B) and (C) of such paragraph as subparagraphs (A) and (B) thereof, respectively.

(f) LIMITED PURPOSE FSAS AND HRAS.—Subsection (e) of section 106, as amended by this section, is amended by adding at the end the following new paragraph:

"(5) LIMITED PURPOSE FSAS AND HRAS.—A plan shall not fail to be a health flexible spending arrangement, a health reimbursement arrangement, or an accident or health plan under this section or section 105 merely because the plan converts coverage for individuals who enroll in an HSA-qualified health plan described in section 223(c)(2) to coverage described in subclause (I), (II), (III), (IV), (V), or (VI) of section 223(c)(1)(B)(iv). Coverage for such individuals may be converted as of the date of

enrollment in the HSA-qualified health plan, without regard to the period of coverage under the health flexible spending arrangement or health reimbursement arrangement, and without requiring any change in coverage to individuals who do not enroll in an HSA-qualified health plan.".

(g) DISTRIBUTION AMOUNTS ADJUSTED FOR COST-OF-LIVING.—Subsection (e) of section 106, as amended by this section, is amended by adding at the end the following new paragraph:

"(6) COST-OF-LIVING ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2019, each of the dollar amounts in paragraph (2)(B)(iii) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 2018' for 'calendar year 2016' in subparagraph (A)(ii) thereof.

"(B) ROUNDING.—If any increase under paragraph (1) is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.".

(h) DISCLAIMER OF DISQUALIFYING COVERAGE.—Subparagraph (B) of section 223(c)(1), as amended by this section, is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting ", and"; and

(3) by inserting after clause (iv) the following new clause:

"(v) any coverage (including prospective coverage) under a health plan that is not an HSA-qualified health plan which is disclaimed in writing, at the time of the creation or organization of the health savings account, including by execution of a trust described in subsection (d)(1) through a governing instrument that includes such a disclaimer, or by acceptance of an amendment to such a trust that includes such a disclaimer.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 402. EQUIVALENT BANKRUPTCY PROTECTIONS FOR HEALTH SAVINGS ACCOUNTS AS RETIREMENT FUNDS.**

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(r) TREATMENT OF HEALTH SAVINGS ACCOUNTS.—For purposes of this section, any health savings account (as described in section 223 of the Internal Revenue Code of 1986) shall be treated in the same manner as an individual retirement account described in section 408 of such Code.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to cases commencing under title 11, United States Code, after the date of the enactment of this Act.

**SEC. 403. ADMINISTRATIVE ERROR CORRECTION BEFORE DUE DATE OF RETURN.**

(a) IN GENERAL.—Paragraph (4) of section 223(f) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION FOR ADMINISTRATIVE ERRORS CORRECTED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply if any payment or distribution is made to correct an administrative, clerical, or payroll contribution error and if—

"(i) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(ii) such distribution is accompanied by the amount of net income attributable to such contribution.

Any net income described in clause (ii) shall be included in the gross income of the individual for the taxable year in which it is received.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 404. REAUTHORIZATION OF MEDICAID HEALTH OPPORTUNITY ACCOUNTS.**

(a) IN GENERAL.—Section 1938 of the Social Security Act (42 U.S.C. 1396u–8) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2) INITIAL DEMONSTRATION.—The Secretary shall approve States to conduct demonstration programs under this section for a 5-year period, with each State demonstration program covering one or more geographic areas specified by the State. With respect to a State, after the initial 5-year period of any demonstration program conducted under this section by the State, unless the Secretary finds, taking into account cost-effectiveness and quality of care, that the State demonstration program has been unsuccessful, the demonstration program may be extended or made permanent in the State."; and

(B) in paragraph (3), in the matter preceding subparagraph (A)—

(i) by striking "not"; and

(ii) by striking "unless" and inserting "if";

(2) in subsection (b)—

(A) in paragraph (3), by inserting "clause (i) through (vii), (viii) (without regard to the amendment made by section 2004(c)(2) of Public Law 111–148), (x), or (xi) of" after "described in "; and

(B) by striking paragraphs (4), (5), and (6);

(3) in subsection (c)—

(A) by striking paragraphs (3) and (4);

(B) by redesignating paragraphs (5) through (8) as paragraphs (3) through (6),

respectively; and

(C) in paragraph (4) (as redesignated by subparagraph (B)), by striking "Subject to subparagraphs (D) and (E)" and inserting "Subject to subparagraph (D)"; and

(4) in subsection (d)—

(A) in paragraph (2), by striking subparagraph (E); and

(B) in paragraph (3)—

(i) in subparagraph (A)(ii), by striking "Subject to subparagraph (B)(ii), in" and inserting "In"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) MAINTENANCE OF HEALTH OPPORTUNITY ACCOUNT AFTER BECOMING INELIGIBLE FOR PUBLIC BENEFIT.—Notwithstanding any other provision of law, if an account holder of a health opportunity account becomes ineligible for benefits under this title because of an increase in income or assets—

"(i) no additional contribution shall be made into the account under paragraph (2)(A)(i); and

"(ii) the account shall remain available to the account holder for 3 years after the date on which the individual becomes ineligible for such benefits for withdrawals under the same terms and conditions as if the account holder remained eligible for such benefits, and such withdrawals shall be treated as medical assistance in accordance with subsection (c)(4).".

(b) CONFORMING AMENDMENT.—Section 613 of Public Law 111–3 is repealed.

**SEC. 405. MAXIMUM CONTRIBUTION LIMIT TO HEALTH SAVINGS ACCOUNT INCREASED TO AMOUNT OF DEDUCTIBLE AND OUT-OF-POCKET LIMITATION.**

(a) SELF-ONLY COVERAGE.—Section 223(b)(2)(A) is amended by striking "$2,250" and inserting "the amount in effect under subsection (c)(2)(A)(ii)(I)".

(b) FAMILY COVERAGE.—Section 223(b)(2)(B) is amended by striking "$4,500" and inserting "the amount in effect under subsection (c)(2)(A)(ii)(II)".

(c) CONFORMING AMENDMENTS.—Section 223(g)(1) is amended—

(1) by striking "subsections (b)(2) and" both places it appears and inserting "subsection"; and

(2) by striking "determined by" in subparagraph (B) thereof and all that follows through "'calendar year 2003'." and inserting "determined by substituting 'calendar year 2003' for 'calendar year 2016' in subparagraph (A)(ii) thereof.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.

# TITLE V—OTHER PROVISIONS

**SEC. 501. CERTAIN EXERCISE EQUIPMENT AND PHYSICAL FITNESS PROGRAMS TREATED AS MEDICAL CARE.**

(a) IN GENERAL.—Subsection (d) of section 213 is amended by adding at the end the following new paragraph:

"(12) EXERCISE EQUIPMENT AND PHYSICAL FITNESS ACTIVITY.—

"(A) IN GENERAL.—The term 'medical care' shall include amounts paid—

"(i) for equipment for use in a program (including a self-directed program) of physical exercise or physical activity,

"(ii) to participate, or receive instruction, in a program of physical exercise, nutrition, or health coaching (including a self-directed program), and

"(iii) for membership at a fitness facility.

"(B) OVERALL DOLLAR LIMITATION.—

"(i) IN GENERAL.—Amounts treated as medical care under subparagraph (A) shall not exceed $1,000 with respect to any individual for any taxable year.

"(ii) EXCEPTION.—Clause (i) shall not apply for purposes of determining whether expenses reimbursed through a health flexible spending arrangement subject to section 125(i)(1) are incurred for medical care.

"(C) LIMITATIONS RELATED TO SPORTS AND FITNESS EQUIPMENT. —Amounts paid for equipment described in subparagraph (A)(i) shall be treated as medical care only—

"(i) if such equipment is utilized exclusively for participation in fitness, exercise, sport, or other physical activity programs,

"(ii) if such equipment is not apparel or footwear, and

"(iii) in the case of any item of sports equipment (other than exercise equipment), with respect to so much of the amount paid for such item as does not exceed $250.

"(D) FITNESS FACILITY DEFINED.—For purposes of subparagraph (A)(iii), the term 'fitness facility' means a facility—

"(i) providing instruction in a program of physical exercise, offering facilities for the preservation, maintenance, encouragement, or development of physical fitness, or serving as the site of such a program of a State or local government,

"(ii) which is not a private club owned and operated by its members,

"(iii) which does not offer golf, hunting, sailing, or riding facilities,

"(iv) whose health or fitness facility is not incidental to its overall function and purpose, and

"(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.".

(b) LIMITATION NOT TO APPLY FOR CERTAIN PURPOSES.—

(1) HEALTH SAVINGS ACCOUNTS.—Subparagraph (A) of section 223(d)(2) is

amended by inserting ", determined without regard to paragraph (12)(B) thereof" after "medical care (as defined in section 213(d)".

(2) ARCHER MSAS.—Subparagraph (A) of section 220(d)(2) is amended by inserting ", determined without regard to paragraph (12)(B) thereof" after "medical care (as defined in section 213(d)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 502. CERTAIN NUTRITIONAL AND DIETARY SUPPLEMENTS TO BE TREATED AS MEDICAL CARE.**

(a) IN GENERAL.—Subsection (d) of section 213, as amended by section 501, is amended by adding at the end the following new paragraph:

"(13) NUTRITIONAL AND DIETARY SUPPLEMENTS.—

"(A) IN GENERAL.—The term 'medical care' shall include amounts paid to purchase herbs, vitamins, minerals, homeopathic remedies, meal replacement products, and other dietary and nutritional supplements.

"(B) LIMITATION.—Amounts treated as medical care under subparagraph (A) shall not exceed $1,000 with respect to any individual for any taxable year.

"(C) MEAL REPLACEMENT PRODUCT.—For purposes of this paragraph, the term 'meal replacement product' means any product that—

"(i) is permitted to bear labeling making a claim described in section 403(r)(3) of the Federal Food, Drug, and Cosmetic Act, and

"(ii) is permitted to claim under such section that such product is low in fat and is a good source of protein, fiber, and multiple essential vitamins and minerals.

"(D) EXCEPTION.—Subparagraph (B) shall not apply for purposes of determining whether expenses reimbursed through a health flexible spending arrangement subject to section 125(i)(1) are incurred for medical care.".

(b) LIMITATION NOT TO APPLY FOR CERTAIN PURPOSES.—

(1) HEALTH SAVINGS ACCOUNTS.—Subparagraph (A) of section 223(d)(2), as amended by section 501, is amended by striking "paragraph (12)(B)" and inserting "paragraphs (12)(B) and (13)(B)".

(2) ARCHER MSAS.—Subparagraph (A) of section 220(d)(2), as amended by section 501, is amended by striking "paragraph (12)(B)" and inserting "paragraphs (12)(B) and (13)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 503. CERTAIN PROVIDER FEES TO BE TREATED AS MEDICAL CARE.**

(a) IN GENERAL.—Subsection (d) of section 213, as amended by sections 501 and 502, is amended by adding at the end the following new paragraph:

"(14) PERIODIC PROVIDER FEES.—The term 'medical care' shall include—

"(A) periodic fees paid to a primary care physician for a defined set of medical services or the right to receive medical services on an as-needed basis, and

"(B) pre-paid primary care services designed to screen for, diagnose, cure, mitigate, treat, or prevent disease and promote wellness.".

(b) EXCEPTION FOR FLEXIBLE SPENDING ACCOUNTS.—Section 125 is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) SPECIAL RULE WITH RESPECT TO HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of applying this with respect to any health flexible spending arrangement, amounts described in section 213(d)(14) shall not be considered insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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## S.146 - Medical Bankruptcy Fairness Act of 2021

117th Congress (2021-2022) | Get alerts

**Sponsor:** Sen. Whitehouse, Sheldon [D-RI] (Introduced 02/02/2021)
**Committees:** Senate - Judiciary
**Latest Action:** Senate - 02/02/2021 Read twice and referred to the Committee on the Judiciary. (All Actions)
**Tracker:** Introduced Passed Senate Passed House To President Became Law

Summary(0) **Text(1)** Actions(1) Titles(2) Amendments(0) Cosponsors(4) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (15KB) | XML/HTML (new window) (13KB) | TXT (8KB) | PDF (268KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in Senate (02/02/2021)**

117TH CONGRESS
1ST SESSION

# S. 146

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

FEBRUARY 2, 2021

Mr. WHITEHOUSE (for himself, Mr. BROWN, Mr. BLUMENTHAL, 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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medical Bankruptcy Fairness Act of 2021".

**SEC. 2. DEFINITIONS.**

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

(1) by inserting after paragraph (39A) the following:

"(39B) The term 'medical debt' means any debt incurred voluntarily or involuntarily—

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

"(B) for services performed by a medical professional for the prevention of disease or illness in an individual.

"(39C) The term 'medically distressed debtor' means—

"(A) a debtor who, during the 3-year period preceding the date of the filing of the petition—

"(i) incurred or paid aggregate medical debt for the debtor, a dependent of the debtor, or a nondependent parent, grandparent, sibling, child, grandchild, or spouse of the debtor that was not paid by any third-party payor and was greater than the lesser of—

"(I) 10 percent of the adjusted gross income (as such term is defined in section 62 of the Internal Revenue Code of 1986) of the debtor; or

"(II) $10,000;

"(ii) did not receive domestic support obligations, or had a spouse or dependent who did not receive domestic support obligations, of at least $10,000 due to a medical issue of the individual obligated to pay that would cause the obligor to meet the requirements under clause (i) or (iii), if the obligor was a debtor in a case under this title; or

"(iii) experienced a change in employment status that resulted in a reduction in wages, salaries, commissions, or work hours or resulted in unemployment due to—

"(I) an injury, deformity, or disease of the debtor;

"(II) care for an injured, deformed, or ill dependent or nondependent parent, grandparent, sibling, child, grandchild, or spouse of the debtor; or

"(III) the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the coronavirus disease 2019 (COVID–19) or another emergency declared by a Federal, State, or local official relating to a public health crisis; or

"(B) a debtor who is the spouse of a debtor described in subparagraph (A).".

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

(1) in subsection (a), in the matter preceding paragraph (1), by inserting "101(39C)(A)," after "101(19A),"; and

(2) in subsection (b), by inserting "101(39C)(A)," after "101(19A),".

**SEC. 3. EXEMPTIONS.**

(a) EXEMPT PROPERTY.—Section 522 of title 11, United States Code, is amended by

adding at the end the following:

"(r)(1) If a medically distressed debtor exempts property listed in subsection (b)(2), the debtor may, in lieu of the exemption provided under subsection (d)(1), elect to exempt the aggregate interest of the debtor, not to exceed $250,000 in value, in property described in paragraph (3).

"(2) If a medically distressed debtor exempts property listed in subsection (b)(3) and the exemption provided under applicable law for the kind of property described in paragraph (3) is for less than $250,000 in value, the debtor may elect to exempt the aggregate interest of the debtor, not to exceed $250,000 in value, in any such property.

"(3) The property described in this paragraph is—

"(A) real property or personal property that the debtor or a dependent of the debtor uses as a residence;

"(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

"(C) a burial plot for the debtor or a dependent of the debtor.".

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

(1) in subsection (a), in the matter preceding paragraph (1), by inserting "522(r)," after "522(q),"; and

(2) in subsection (b), by inserting "522(r)," after "522(q),".

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

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

"(8) Paragraph (2) does not apply in any case in which the debtor is a medically distressed debtor.".

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

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) the debtor is a medically distressed debtor.".

**SEC. 5. CREDIT COUNSELING.**

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

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

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

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

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

"(k) If the debtor seeks relief as a medically distressed debtor, the debtor shall file a statement of medical expenses relevant to the determination of whether the debtor is a medically distressed debtor, which shall declare under penalty of perjury that such medical expenses were not incurred for the purpose of bringing the debtor within the meaning of the term 'medically distressed debtor'.'.".

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

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

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

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## H.R.1143 - LOAN Act

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Kildee, Daniel T. [D-MI-5] (Introduced 02/18/2021)
**Committees:** House - Financial Services; Judiciary; Ways and Means
**Latest Action:** House - 04/28/2021 Referred to the Subcommittee on Antitrust, Commercial, and Administrative Law. (All Actions)
**Tracker:** Introduced Passed House Passed Senate To President Became Law

Summary(1) **Text(1)** Actions(5) Titles(3) Amendments(0) Cosponsors(6) Committees(3) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (10KB) | XML/HTML (new window) (9KB) | TXT (5KB) | PDF (259KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in House (02/18/2021)**

117TH CONGRESS
1ST SESSION

# H. R. 1143

To amend the Truth in Lending Act to modify obligations relating to private education loans due to the disability of a cosigner or borrower of the loan, to amend title 11 of the United States Code to make student loans dischargeable, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 18, 2021

Mr. KILDEE (for himself, Mr. CARSON, Mr. COHEN, Ms. DEAN, Ms. NORTON, Mr. PERLMUTTER, and Mr. VARGAS) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To amend the Truth in Lending Act to modify obligations relating to private education loans due to the disability of a cosigner or borrower of the loan, to amend title 11 of the United States Code to make student loans dischargeable, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Lenders Offer Assistance Now Act" or the "LOAN Act".

**SEC. 2. DISABILITY OF A COSIGNER OR A BORROWER OF A PRIVATE EDUCATION LOAN.**

(a) IN GENERAL.—Section 140(g) of the Truth in Lending Act (15 U.S.C. 1650(g)) is amended—

(1) in paragraph (1), by striking "bankruptcy or death" and inserting "bankruptcy, death, or disability"; and

(2) by adding at the end the following new paragraphs:

"(3) DISCHARGE IN CASE OF DISABILITY.—A lender that extends a private education loan shall discharge the student obligor's liability on the loan if a student obligor experiences a disability.

"(4) DISABILITY DEFINED.—In this subsection, the term 'disability' means a permanent and total disability, as determined in accordance with the regulations of the Secretary of Education under section 437(a) of the Higher Education Act of 1965 (20 U.S.C. 1087(a)), or a determination by the Secretary of Veterans Affairs that the individual is unemployable due to a service-connected condition.".

(b) TAX TREATMENT OF DISCHARGE.—Section 108(f)(5)(A) of the Internal Revenue Code of 1986 is further amended by striking "or" in clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following new clause:

"(iii) pursuant to paragraph (3) of section 140(g) of the Truth in Lending Act, or".

(c) IMPACT ON CERTAIN PROGRAMS.—Discharge of a private education loan due to disability of a borrower under paragraph (3) of section 140(g) of the Truth in Lending Act, as added by subsection (a), shall not be regarded as income and shall not be regarded as a resource for purposes of determining the eligibility of the borrower of such loan (or the borrower's spouse or family) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(d) APPLICABILITY.—The amendments made by this section shall apply to private education loan agreements entered into on or after the date that is 180 days after the date of enactment of this Act.

(e) PRIVATE EDUCATION LOAN DEFINED.—In this section, the term "private education loan" has the meaning given in section 140(a) of the Truth in Lending Act (15 U.S.C. 1650(a)).

**SEC. 3. EXCEPTION TO DISCHARGE.**

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking paragraph (8); and

(2) by redesignating paragraphs (9) through (14B) as paragraphs (8) through (14A), respectively.

(b) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in section 704(c)(1)(C)(iv)(I) by striking "(14A)" and inserting "(14)";

(2) in section 1106(c)(1)(C)(iv)(I) by striking "(14A)" and inserting "(14)";

(3) in section 1202(c)(1)(C)(iv)(I) by striking "(14A)" and inserting "(14)"; and

(4) in section 1328(a)(2) by striking "(8), or (9)" and inserting "or (8)".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

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## H.R.2096 - SACKLER Act

117th Congress (2021-2022) | Get alerts

**Sponsor:** Rep. Maloney, Carolyn B. [D-NY-12] (Introduced 03/19/2021)
**Committees:** House - Judiciary
**Latest Action:** 04/16/2021 Sponsor introductory remarks on measure. (CR H1879) (All Actions)
**Tracker:** **Introduced** Passed House Passed Senate To President Became Law

Summary(0) **Text(1)** Actions(3) Titles(3) Amendments(0) Cosponsors(58) Committees(1) Related Bills(0)

There is one version of the bill.

**Text available as:** XML/HTML (5KB) | XML/HTML (new window) (4KB) | TXT (3KB) | PDF (246KB) (PDF provides a complete and accurate display of this text.) ?

**Shown Here:**
**Introduced in House (03/19/2021)**

117TH CONGRESS
1ST SESSION

# H. R. 2096

To prohibit the non-consensual release of claims by States, municipalities, federally recognized Tribes, or the United States against non-debtors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2021

Mrs. CAROLYN B. MALONEY of New York (for herself and Mr. DESAULNIER) introduced the following bill; which was referred to the Committee on the Judiciary

# A BILL

To prohibit the non-consensual release of claims by States, municipalities, federally recognized Tribes, or the United States against non-debtors, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Stop shielding Assets from Corporate Known Liability by Eliminating non-debtor Releases Act" or the "SACKLER Act".

**SEC. 2. NON-DEBTOR RELEASES.**

(a) PROHIBITION ON CERTAIN NON-DEBTOR RELEASES.—Section 105(b) of title 11, United States Code, is amended by striking "a court may not" and all that follows, and inserting the following: a court may not—

"(1) appoint a receiver in a case under this title; or

"(2) except as provided by section 524(g) of this title, enjoin or release a claim against a non-debtor by a State, municipality, federally recognized Tribe, or the United States.".

(b) TEMPORARY STAY ON ACTIONS AGAINST NON-DEBTORS.—Section 105 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsection (b)(2), a court may issue an order staying, for a period not to exceed 90 days, the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding by a State, municipality, federally recognized Tribe, or the United States against a non-debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against a non-debtor that arose before the commencement of the case under this title.".

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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

# H. R. _____

To amend title 28, United States Code, to modify venue requirements relating to bankruptcy proceedings.

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IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN introduced the following bill; which was referred to the Committee on _____

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# A BILL

To amend title 28, United States Code, to modify venue requirements relating to bankruptcy proceedings.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Bankruptcy Venue Reform Act of 2021''.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) bankruptcy law provides a number of venue options for filing bankruptcy under chapter 11 of

title 11, United States Code, including, with respect to the entity filing bankruptcy—

(A) any district in which the place of incorporation of the entity is located;

(B) any district in which the principal place of business or principal assets of the entity are located; and

(C) any district in which an affiliate of the entity has filed a pending case under title 11, United States Code;

(2) the wide range of permissible bankruptcy venue options has led to an increase in companies filing for bankruptcy outside of their home States—the district in which the principal place of business or principal assets of the company is located;

(3) the practice described in paragraph (2) is known as ''forum shopping'';

(4) forum shopping has resulted in a concentration of bankruptcy cases in a limited number of districts;

(5) forum shopping—

(A) prevents small businesses, employees, retirees, creditors, and other important stakeholders from fully participating in bankruptcy

cases that have tremendous impacts on their lives, communities, and local economies; and

(B) deprives district courts of the United States of the opportunity to contribute to the development of bankruptcy law in the jurisdictions of those district courts; and

(6) reducing forum shopping in the bankruptcy system will strengthen the integrity of, and build public confidence and ensure fairness in, the bankruptcy system.

(b) PURPOSE.—The purpose of this Act is to prevent the practice of forum shopping in cases filed under chapter 11 of title 11, United States Code.

**SEC. 3. VENUE OF CASES UNDER TITLE 11.**

Title 28, United States Code, is amended—

(1) by striking section 1408 and inserting the following:

**"§ 1408. Venue of cases under title 11**

"(a) PRINCIPAL PLACE OF BUSINESS WITH RESPECT TO CERTAIN ENTITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for the purposes of this section, if an entity is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), the term 'principal

place of business', with respect to the entity, means the address of the principal executive office of the entity as stated in the last annual report filed under that Act before the commencement of a case under title 11 of which the entity is the subject.

''(2) EXCEPTION.—With respect to an entity described in paragraph (1), the definition of the 'principal place of business' under that paragraph shall apply for purposes of this section unless another address is shown to be the principal place of business of the entity by clear and convincing evidence.

''(b) VENUE.—Except as provided in section 1410, a case under title 11 may be commenced only in the district court for the district—

''(1) in which the domicile, residence, or principal assets in the United States of an individual who is the subject of the case have been located—

''(A) for the 180 days immediately preceding such commencement; or

''(B) for a longer portion of the 180-day period immediately preceding such commencement than the domicile, residence, or principal assets in the United States of the individual were located in any other district;

"(2) in which the principal place of business or principal assets in the United States of an entity, other than an individual, that is the subject of the case have been located—

"(A) for the 180 days immediately preceding such commencement; or

"(B) for a longer portion of the 180-day period immediately preceding such commencement than the principal place of business or principal assets in the United States of the entity were located in any other district; or

"(3) in which there is pending a case under title 11 concerning an affiliate that directly or indirectly owns, controls, or holds 50 percent or more of the outstanding voting securities of, or is the general partner of, the entity that is the subject of the later filed case, but only if the pending case was properly filed in that district in accordance with this section.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—For the purposes of paragraphs (2) and (3) of subsection (b), no effect shall be given to a change in the ownership or control of an entity that is the subject of the case, or of an affiliate of the entity, or to a transfer of the principal place of business or principal assets in the United

States of an entity that is the subject of the case, or of an affiliate of the person entity, to another district, that takes place—

''(A) within 1 year before the date on which the case is commenced; or

''(B) for the purpose of establishing venue.

''(2) PRINCIPAL ASSETS.—

''(A) PRINCIPAL ASSETS OF AN ENTITY OTHER THAN AN INDIVIDUAL.—For the purposes of subsection (b)(2) and paragraph (1) of this subsection—

''(i) the term 'principal assets' does not include cash or cash equivalents; and

''(ii) any equity interest in an affiliate is located in the district in which the holder of the equity interest has its principal place of business in the United States, as determined in accordance with subsection (b)(2).

''(B) EQUITY INTERESTS OF INDIVIDUALS.—For the purposes of subsection (b)(1), if the holder of any equity interest in an affiliate is an individual, the equity interest is located in the district in which the domicile or residence in the United States of the holder of

the equity interest is located, as determined in accordance with subsection (b)(1).

''(d) BURDEN.—On any objection to, or request to change, venue under paragraph (2) or (3) of subsection (b) of a case under title 11, the entity that commences the case shall bear the burden of establishing by clear and convincing evidence that venue is proper under this section.

''(e) OUT-OF-STATE ADMISSION FOR GOVERNMENT ATTORNEYS.—The Supreme Court shall prescribe rules, in accordance with section 2075, for cases or proceedings arising under title 11, or arising in or related to cases under title 11, to allow any attorney representing a governmental unit to be permitted to appear on behalf of the governmental unit and intervene without charge, and without meeting any requirement under any local court rule relating to attorney appearances or the use of local counsel, before any bankruptcy court, district court, or bankruptcy appellate panel.''; and

(2) by striking section 1412 and inserting the following:

**''§ 1412. Change of venue**

''(a) IN GENERAL.—Notwithstanding that a case or proceeding under title 11, or arising in or related to a case under title 11, is filed in the correct division or district,

a district court may transfer the case or proceeding to a district court for another district or division—

"(1) in the interest of justice; or

"(2) for the convenience of the parties.

"(b) INCORRECTLY FILED CASES OR PROCEEDINGS.—If a case or proceeding under title 11, or arising in or related to a case under title 11, is filed in a division or district that is improper under section 1408(b), the district court shall—

"(1) immediately dismiss the case or proceeding; or

"(2) if it is in the interest of justice, immediately transfer the case or proceeding to any district court for any district or division in which the case or proceeding could have been brought.

"(c) OBJECTIONS AND REQUESTS RELATING TO CHANGES IN VENUE.—Not later than 14 days after the filing of an objection to, or a request to change, venue of a case or proceeding under title 11, or arising in or related to a case under title 11, the court shall enter an order granting or denying the objection or request.".

# Faculty

**Hon. Paul M. Black** is a U.S. Bankruptcy Judge for the Western District of Virginia in Roanoke, appointed in 2014. He previously practiced law in Richmond for several years, then returned to Roanoke and joined Spilman Thomas & Battle, PLLC, where he co-chaired its Bankruptcy and Creditor's Rights practice group and focused his practice on commercial litigation, bankruptcy, and banking and finance law. Judge Black was named to *The Best Lawyers in America* in multiple areas related to finance and insolvency, to "Virginia's Legal Elite" by *Virginia Business* magazine in both Civil Litigation and Bankruptcy Law, and as a *Virginia Super Lawyer* in the field of Bankruptcy Law. For many years, he was an active participant in the Boyd-Graves Conference of the Virginia Bar Association, which studies and makes recommendations to the Virginia legislature on improvements to civil practice in Virginia. Judge Black is a past chair of the Litigation Section of the Virginia State Bar, and also chaired the Bankruptcy Section of the Virginia Bar Association. In addition, he served as a member of the Virginia State Bar Disciplinary Board from 2007-13. Judge Black is a frequent speaker to insolvency professionals on matters pertaining to bankruptcy, litigation and ethics. He received his undergraduate degree from Washington and Lee University in 1982, studied at Cambridge University in England, and received his J.D. from the University of Richmond in 1985, after which he clerked for Hon. Blackwell N. Shelley of the U.S. Bankruptcy Court for the Eastern District of Virginia.

**John R. Bollinger** is a shareholder with the Boleman Law Firm, P.C. and partner-in-charge of its Hampton, Va., office. The firm focuses exclusively in the area of consumer bankruptcy law and is the largest consumer bankruptcy practice in Virginia. He is a frequent speaker at local, regional and national organizations and is past president of the board of the Tidewater Bankruptcy Bar Association. Mr. Bollinger has spoken before ABI, J. Sargeant Reynolds Community College, T. C. Williams School of Law at the University of Richmond, Virginia Bar Association (VBA), Tidewater Bankruptcy Bar Association (TBBA), Virginia Governors Conference on Housing, the National Association of Chapter Thirteen Trustees and the Virginia Trial Lawyer's Association, as well as a number of civic and business organizations. Additionally, he has served as the past president of the board for the Tidewater Bankruptcy Bar Association. Mr. Bollinger most recently served on the 2019 ABI Strategic Planning Committee and the 2019 and 2020 ABI "40 Under 40" Steering Committees. He currently serves as the Education Director of ABI's Consumer Bankruptcy Committee and is an editor for ABI's VOLO project. Mr. Bollinger has been has been recognized by *Super Lawyers* as a "Virginia Rising Star" in the area of Consumer Bankruptcy Law. He received his J.D. from the University of Richmond T.C. Williams School of Law.

**Brian R. Walding** is the founder of Walding, LLC, a boutique bankruptcy law firm in Birmingham, Ala., that spans the Southeast representing distressed businesses and creditors. In his commercial practice, he represents both debtors and creditors, including banks and other financial institutions. Mr. Walding also serves in court-appointed and fiduciary roles; he serves on the subchapter V panel of trustees in the Northern District of Alabama, and is a chapter 7 trustee in the Middle District of Alabama. He previously worked at a large Birmingham law firm. Mr. Walding has been a member of ABI since 2003, has been rated AV by Martindale-Hubbell since 2009, and has achieved numerous other accolades and awards during his legal career. He is the Alabama editor for Thomson Reuters'

*Bankruptcy Exemption Manual* and also serves as adjunct professor at the University of Alabama, where he teaches an undergraduate course in negotiation. Mr. Walding received his undergraduate degree in industrial systems and engineering from Auburn University and his J.D. from the University of Alabama School of Law, both with honors.

**Nancy J. Whaley** is an attorney serving as a chapter 12 and 13 trustee for the Northern District of Georgia in Atlanta. She is a Fellow of the American College of Bankruptcy and is a past-chair for ABI's Southeast Bankruptcy Workshop. Ms. Whaley is a member of the Northern District of Georgia Bankruptcy Court's Bench and Bar Committee, and she served on the Executive Committee and co-chaired the Community Service Committee for the W. Homer Drake, Jr. Georgia Bankruptcy American Inn of Court. Ms. Whaley is a past chair of the Atlanta Bar Association's Bankruptcy Section and the Bankruptcy Section of the State Bar of Georgia. She also served as president of the Georgia Association for Women Lawyers and of the GAWL Foundation. Ms. Whaley has served on the State Bar of Georgia Executive Committee, is a member of the Board of Governors and currently chairs its Investment Committee. In addition, she is a director for the Association of Chapter 12 Trustees and a member of the National Association of Chapter 13 Trustees, for which she is their representative to its Advisory Committee on Bankruptcy Rules. She also serves as Treasurer for NACTT Foundation. Ms. Whaley retired from the Air Force Reserve as a Lieutenant Colonel. She received her B.A. *cum laude* from Eureka College, where she was a Ronald Reagan Scholar, and her J.D. from Emory Law School.