

MEDICAL DEBT RELIEF ACT OF 2010

SEPTEMBER 28, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FRANK, from the Committee on Financial Services,
 submitted the following

R E P O R T

[To accompany H.R. 3421]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3421) to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medical Debt Relief Act of 2010”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Medical debt is unique, and Americans do not choose when accidents happen or when illness strikes.

(2) Medical debt collection issues affect both insured and uninsured consumers.

(3) According to credit evaluators, medical debt collections are more likely to be in dispute, inconsistently reported, and of questionable value in predicting future payment performance because it is atypical and nonpredictive.

(4) Nevertheless, medical debt that has been completely paid off or settled can significantly damage a consumer’s credit score for years.

(5) As a result, consumers can be denied credit or pay higher interest rates when buying a home or obtaining a credit card.

(6) Healthcare providers are increasingly turning to outside collection agencies to help secure payment from patients and this comes at the expense of the consumer because medical debts are not typically reported unless they become assigned to collections.

(7) In fact, medical bills account for more than half of all non-credit related collection actions reported to consumer credit reporting agencies.

(8) The issue of medical debt affects millions.

(9) According to the Commonwealth Fund, medical bill problems or accrued medical debt affects roughly 72,000,000 working-age adults in America.

(10) For 2007, 28,000,000 working-age American adults were contacted by a collection agency for unpaid medical bills.

(b) PURPOSE.—It is the purpose of this Act to exclude from consumer credit reports medical debt that had been characterized as delinquent, charged off, or debt in collection for credit reporting purposes and has been fully paid or settled.

SEC. 3. AMENDMENTS TO FAIR CREDIT REPORTING ACT.

(a) MEDICAL DEBT DEFINED.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by section 1088(a)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203; 124 Stat. 2086), is amended by adding at the end the following:

“(z) MEDICAL DEBT.—The term ‘medical debt’ means a debt described in section 604(g)(1)(C).”

(b) EXCLUSION FOR PAID OR SETTLED MEDICAL DEBT.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following new paragraph:

“(7) Any information related to a fully paid or settled medical debt that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 days.”

PURPOSE AND SUMMARY

H.R. 3421, the “Medical Debt Relief Act of 2009,” amends the Fair Credit Reporting Act to require that fully paid or settled medical debt that has been characterized as delinquent, charged off or in collections, be removed from a consumer report within 45 days.

BACKGROUND AND NEED FOR LEGISLATION

Under the Fair Credit Reporting Act (FCRA), a “consumer report” generally includes four types of information: (1) identifying information such as the person’s name, date of birth, current and previous addresses; (2) trade account information that includes information on the type of credit being used such as whether it is revolving or installment credit; (3) information obtained from public records such as tax liens; and (4) a list of the number of “hard” in-

quiries. Under the FCRA, obsolete adverse information is prohibited from being reported. With certain exceptions, such as tax liens and bankruptcies, most adverse information may remain on a consumer report for at least seven years.

Proponents of the bill argue that medical debt is unique because, unlike other types of debt, consumers do not choose when accidents happen or when a health crisis occurs. As such, consumers' creditworthiness should not be adversely impacted because of information about fully paid or settled medical debt that is contained on their consumer report. The Commonwealth Fund found in its Biennial Health Insurance Surveys, 2001–2007, that about 79 million adults, including 7 million adults age 65 or more, report problems paying medical bills or have accumulated medical debt.

HEARINGS

The Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled, "Keeping Score on Credit Scores: An Overview of Credit Scores, Credit Reports and their Impact on Consumers," on March 24, 2010. The following witnesses testified:

- Mr. Evan Hendricks, Editor/Publisher, Privacy Times
- Mr. Stuart K. Pratt, President and CEO, Consumer Data Industry Association
- Mr. Tom Quinn, Vice President, Global Scoring Solutions, FICO
- Mr. Barrett Burns, President and CEO, VantageScore Solutions LLC
- Mr. Chet D. Wiermanski, Global Chief Scientist, Analytic Decision Services, TransUnion LLC
- Mr. Stan Oliai, Senior Vice President, Decision Sciences, Experian Decision Analytics, Experian
- Ms. Myra K. Hart, PhD, Senior Vice President, Analytical Services, Equifax Inc.
- Ms. Anne P. Fortney, Partner, Hudson Cook LLP
- Ms. Sandra Braunstein, Director, Division of Consumer and Community Affairs, Federal Reserve Board of Governors
- Mr. David Vladeck, Director, Bureau of Consumer Protection, Federal Trade Commission

The Subcommittee also held a hearing entitled "Use of Credit Information Beyond Lending: Issues and Reform Proposals," on May 12, 2010. The following witnesses testified:

- Mr. Michael T. McRaith, Director, Illinois Department of Insurance, on behalf of the National Association of Insurance Commissioners
- Mr. David Snyder, Vice President and Associate General Counsel, Public Policy, American Insurance Association
- Mr. John Wilson, Director, Analytics, LexisNexis Risk Solutions
- Ms. Chi Chi Wu, Staff Attorney, National Consumer Law Center
- Mr. Mark Rukavina, Executive Director, The Access Project
- Mr. Stuart K. Pratt, President and CEO, Consumer Data Industry Association
- Ms. Anne Fortney, Partner, Hudson Cook LLP

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 28, 2010, and ordered H.R. 3421, Medical Debt Relief Act of 2009, as amended, favorably reported to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote.

During the consideration of the bill, the following amendment was considered:

An amendment by Ms. Kilroy (and Mr. Frank), no. 1, a manager's amendment, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 3421 amends the Fair Credit Reporting Act to require that fully paid or settled medical debt that has been characterized as delinquent, charged off or in collections, be removed from a consumer report within 45 days, so that consumers' creditworthiness should not be adversely impacted.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

AUGUST 20, 2010.

Hon. BARNEY FRANK,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3421, the Medical Debt Relief Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 3421—Medical Debt Relief Act of 2009

H.R. 3421 would prohibit credit reporting agencies from listing medical debts that have been paid or settled in consumer credit reports if those debts were paid or settled more than 45 days before the credit report is issued.

Based on information from the Federal Trade Commission (FTC), CBO estimates that implementing H.R. 3421 would not significantly increase spending subject to appropriation. Enacting H.R. 3421 could increase the collection of civil penalties and thus could affect federal revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that such collections would not be significant in any year.

H.R. 3421 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 3421 would impose a private-sector mandate on consumer credit reporting agencies by requiring them to exclude certain debts from credit reports. Based on information from industry sources, CBO estimates that the cost of complying with this mandate would fall well below the annual threshold for private-sector mandates established in UMRA (\$141 million in 2010, adjusted annually for inflation).

The CBO staff contacts for this estimate are Susan Willie (for federal costs), and Brian Prest and Paige Piper/Bach (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Arti-

cle 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3421 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill as the “Medical Debt Relief Act of 2009.”

Section 2. Findings and purposes

This section outlines a number of congressional findings on the impact of medical debt on consumers, including that medical bills account for more than half of all non-credit related collection actions reported to consumer reporting agencies, and that medical debt issues affect millions of consumers.

Section 3. Amendments to the Fair Credit Reporting Act

This section prohibits the reporting of information on fully paid or settled medical debt that has been characterized as delinquent, charged off or in collections on a consumer report, which from the date of payment or settlement, antedates the report by more than 45 days.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

FAIR CREDIT REPORTING ACT

TITLE VI—CONSUMER CREDIT REPORTING

* * * * *

§ 603. Definitions and rules of construction

(a) * * *

* * * * *

(z) *MEDICAL DEBT.*—The term “medical debt” means a debt described in section 604(g)(1)(C).

* * * * *

§ 605. Requirements relating to information contained in consumer reports

(a) **INFORMATION EXCLUDED FROM CONSUMER REPORTS.**—Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information:

(1) * * *

* * * * *

(7) *Any information related to a fully paid or settled medical debt that had been characterized as delinquent, charged off, or in collection which, from the date of payment or settlement, antedates the report by more than 45 days.*

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