**A** **BILL**

TO ENACT THE “FAMILY MEDICAL CRISIS DEBT RELIEF ACT”, TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 30 TO TITLE 37 SO AS TO PROVIDE THAT A CONTRACT ENTERED INTO FOR GOODS OR SERVICES MUST CONTAIN A PROVISION SUSPENDING FOR ONE HUNDRED AND EIGHTY DAYS THE INDIVIDUAL’S FINANCIAL OBLIGATION UNDER THE CONTRACT IF THE INDIVIDUAL, OR A FAMILY MEMBER OF THE INDIVIDUAL FOR WHOM THE INDIVIDUAL IS A CAREGIVER, HAS BEEN DIAGNOSED WITH A LIFE THREATENING OR TERMINAL ILLNESS OR A LIFE THREATENING MEDICAL EMERGENCY; TO PROVIDE THAT THE INDIVIDUAL MUST OBTAIN A CERTIFICATION FROM A PHYSICIAN THAT THIS MEDICAL REQUIREMENT HAS BEEN MET AND A CERTIFICATION FROM THE INDIVIDUAL’S EMPLOYER THAT THE PERSON HAS LOST TIME FROM WORK; TO PROVIDE THAT WHEN THESE CERTIFICATIONS ARE PROVIDED TO A CREDITOR, THE CREDITOR SHALL SUSPEND THE INDIVIDUAL’S FINANCIAL OBLIGATIONS UNDER THE CONTRACT FOR ONE HUNDRED EIGHTY DAYS AND MUST NOT CHARGE LATE FEES OR CHARGES, MUST NOT REPOSSESS OR FORECLOSE ON PROPERTY SUBJECT TO THE CONTRACT, MUST NOT REFER THE DEBT TO A COLLECTION AGENCY, AND MUST NOT MAKE AN ADVERSE REPORT TO A CREDIT REPORTING AGENCY.

Whereas, findings confirm that life threatening and terminal illnesses and medical emergencies can be financially devastating to families and that many bankruptcy filings are a result of such medical events; and

Whereas, such financial devastation often sends families into a downward spiral that many families never recover from; and

Whereas, although many individuals are able to meet their financial obligations after the occurrence of an overwhelming and life‑altering medical crisis, many families are not, and even though individuals in these families are, in most instances, gainfully employed, many struggle regularly to make ends meet; and

Whereas, in order to assist families that face such dire circumstances and aid them in preventing the financial ruin that could result from such a medical crisis, this act would allow individuals a temporary suspension of their financial obligations, without penalty, to afford them the opportunity to review and restructure their financial responsibilities without the loss of goods and services or the fear of ruined credit so that they may emerge from such a crisis with the ability to resume meeting the responsibilities of their financial obligations. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Family Medical Crisis Debt Relief Act”.

SECTION 2. Title 37 of the 1976 Code is amended by adding:

“CHAPTER 30

Family Medical Crisis Debt Relief Act

Section 37‑30‑10. Notwithstanding any other provision of law, a contract entered into for the purchase of goods or services by an individual must contain a provision, or in the absence of such a provision is deemed to contain a provision, suspending the individual’s financial obligations under the contract for one hundred eighty days when the requirements of this chapter are satisfied.

Section 37‑30‑20. To qualify for the one hundred eighty‑day suspension of contractual obligations pursuant to this chapter, the individual, or an immediate family member of the individual, for whom the individual is a caregiver, must be diagnosed with a life threatening or terminal illness or a life threatening medical emergency, and the individual obligated under the contract must be:

(1) the patient for whom certifications have been issued pursuant to Sections 37‑30‑40 and 37‑30‑50; or

(2) a caregiver:

(i) of the immediate family member for whom the certifications have been executed pursuant to Sections 37‑30‑40 and 37‑30‑50; and

(ii) who has executed the affidavit pursuant to Section 37‑30‑60.

Section 37‑30‑30. To obtain the one hundred eighty-day suspension of contractual obligations pursuant to this chapter, the individual shall provide to the individual’s creditor:

(1) a physician’s certification that the medical condition requirements of this chapter have been met, pursuant to Section 37‑30‑40;

(2) an employer’s certification that the individual’s pay has been reduced pursuant to Section 37‑30‑50; and

(3) an affidavit, if required pursuant to Section 37-30-60.

Section 37‑30‑40. (A) Upon request, a physician who has diagnosed an individual, or an immediate family member of an individual, with a life threatening or terminal illness or a life threatening medical emergency shall certify on a form developed by the Department of Consumer Affairs that the medical condition requirements of this chapter have been met.

(B) This certification must be executed by the physician, or the physician’s designee, and must be notarized. Additional copies must be provided to the individual and must be certified as true copies of the original certification.

Section 37‑30‑50. (A) Upon request, an employer shall certify on a form developed by the Department of Consumer Affairs an individual’s employment status and the individual’s absence, intermittent or ongoing, from work reportedly due to the individual’s, or an immediate family member of the individual’s, medical condition.

(B) This certification must be executed by the employer, or the employer’s designee, and must be notarized. Additional copies must be provided to the individual and must be certified as true copies of the original certification.

Section 37‑30‑60. If the individual seeking the one hundred eighty-day suspension of financial obligations pursuant to this chapter is not the patient but is a caregiver of the patient certified to have met the medical condition requirements of this chapter, the individual shall execute an affidavit on a form developed by the Department of Consumer Affairs, or an affidavit substantially equivalent to this form, attesting to the individual’s relationship to the patient and the facts supporting the individual as a caregiver of the patient.

Section 37‑30‑70. An individual must provide a certified true copy of the certifications executed pursuant to Sections 37‑30‑40 and 37‑30‑50 and an original affidavit, if required pursuant to Section 37-30-60, to any creditor with whom the individual is seeking to invoke the one hundred eighty‑day suspension of the individual’s financial obligations under a contract with that creditor. The certified true copies, and an original affidavit, if required, must be mailed to the creditor by registered mail, return receipt requested.

Section 37‑30‑80. (A) Contracts subject to this chapter include, but are not limited to, all existing lines of credit, mortgages, vehicle loans, all other collateralized and uncollateralized loans, electrical, household gas, water, and phone services and health and medical services.

(B) For one hundred eighty days following receipt of the certifications, and affidavit if required, the creditor:

(1) shall waive late fees and service charges that would otherwise have accrued on unpaid balances;

(2) must not increase interest rates under the contract;

(3) must not institute procedures to repossess or foreclose on property subject to the contract;

(4) must not refer the outstanding debt to a collection agency; and

(5) must not make any adverse report to a credit reporting agency.

(C) At the end of the one hundred eighty‑day suspension, the creditor:

(1) must not institute procedures to repossess or foreclose on property subject to the contract unless subsequent to the end of the suspension the individual fails to meet his obligations in such a manner and for such a period of time that would invoke the imposition of these procedures;

(2) must not refer the outstanding debt to a collection agency or make an adverse report to a credit reporting agency unless subsequent to the end of the suspension the individual fails to meet his obligations in such a manner and for such a period of time that would invoke this reporting.

Section 37‑30‑90. The Department of Consumer Affairs shall promulgate regulations necessary to carry out the provisions of this chapter including, but not limited to, the definition of a ‘life threatening or terminal illness or a life threatening medical emergency’ and forms required by this chapter.”

SECTION 2. This act takes effect July 1, 2010.

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