

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To prohibit certain sales or leases of real property for a health care entity if the terms of such a sale or lease would lead to long-term weakened financial status of the health care entity or place the public health at risk, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY (for himself, Mr. BLUMENTHAL, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To prohibit certain sales or leases of real property for a health care entity if the terms of such a sale or lease would lead to long-term weakened financial status of the health care entity or place the public health at risk, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Stop Medical Profit-  
5       eering and Theft Act” or the “Stop MPT Act”.

1 **SEC. 2. LIMITATION ON THE USE OF REAL ESTATE INVEST-**  
2 **MENT TRUSTS IN HEALTH CARE.**

3 (a) IN GENERAL.—

4 (1) PROHIBITION.—No health care entity or  
5 covered firm may enter into agreement to sell to, or  
6 lease from, a real estate investment trust (as defined  
7 in section 856 of the Internal Revenue Code of  
8 1986) an interest in real property if the terms of  
9 such sale or lease would lead to long-term weakened  
10 financial status of the health care entity or place the  
11 public health at risk.

12 (2) REVIEW OF SALE OR LEASE TERMS.—

13 (A) IN GENERAL.—The Secretary of  
14 Health and Human Services (referred to in this  
15 section as the “Secretary”) shall require each  
16 health care entity, or the covered firm that  
17 owns such health care entity, seeking to enter  
18 into an agreement described in paragraph (1)  
19 to submit to the Secretary for review the terms  
20 of the sale or lease, as applicable.

21 (B) STANDARD.—In conducting a review  
22 of a sale or lease under subparagraph (A), the  
23 Secretary shall determine whether the terms of  
24 such sale or lease would lead to long-term  
25 weakened financial status of the health care en-  
26 tity or place the public health at risk.

1 (C) CONSULTATION.—The Secretary may  
2 consult with the relevant State attorney general  
3 in conducting a review under subparagraph (A).

4 (3) LITIGATION AUTHORITY.—Except as pro-  
5 vided in section 518 of title 28, United States Code  
6 (relating to litigation before the Supreme Court), at-  
7 torneys designated by the Secretary may appear for  
8 the Department of Health and Human Services and  
9 represent the Department in any civil action brought  
10 in connection with a violation of paragraph (1).

11 (b) ENFORCEMENT.—

12 (1) STATE ENFORCEMENT.—

13 (A) STATE AUTHORITY.—Each State may  
14 require a person subject to the requirements of  
15 this section to satisfy such requirements appli-  
16 cable to the person.

17 (B) FAILURE TO IMPLEMENT REQUIRE-  
18 MENTS.—In the case of a State that fails to  
19 substantially enforce the requirements of this  
20 section with respect to applicable persons in the  
21 State, the Secretary shall enforce the require-  
22 ments of this section under paragraph (2) to  
23 the extent that such requirements relate to ac-  
24 tions prohibited under this section occurring in  
25 such State.

1           (2) SECRETARIAL ENFORCEMENT AUTHOR-  
2           ITY.—If a person is found by the Secretary to be in  
3           violation of this section, the Secretary may apply a  
4           civil monetary penalty with respect to such person in  
5           an amount not to exceed \$10,000 per violation.

6           (3) CONTINUED APPLICABILITY OF STATE  
7           LAW.—This section shall not be construed to super-  
8           sede any provision of State law that establishes, im-  
9           plements, or continues in effect any requirement or  
10          prohibition except to the extent that such require-  
11          ment or prohibition prevents the application of a re-  
12          quirement or prohibition of this section.

13          (c) DEFINITIONS.—In this section:

14           (1) AFFILIATE.—The term “affiliate” means—

15           (A) a person that directly or indirectly  
16           owns, controls, or holds with power to vote, 20  
17           percent or more of the outstanding voting secu-  
18           rities of another entity, other than a person  
19           that holds such securities—

20           (i) in a fiduciary or agency capacity  
21           without sole discretionary power to vote  
22           such securities; or

23           (ii) solely to secure a debt, if such en-  
24           tity has not in fact exercised such power to  
25           vote;

1 (B) a corporation 20 percent or more of  
2 whose outstanding voting securities are directly  
3 or indirectly owned, controlled, or held with  
4 power to vote, by another entity (referred to in  
5 this subparagraph as a “covered entity”), or by  
6 an entity that directly or indirectly owns, con-  
7 trols, or holds with power to vote, 20 percent or  
8 more of the outstanding voting securities of the  
9 covered entity, other than an entity that holds  
10 such securities—

11 (i) in a fiduciary or agency capacity  
12 without sole discretionary power to vote  
13 such securities; or

14 (ii) solely to secure a debt, if such en-  
15 tity has not in fact exercised such power to  
16 vote;

17 (C) a person whose business is operated  
18 under a lease or operating agreement by an-  
19 other entity, or person substantially all of whose  
20 property is operated under an operating agree-  
21 ment with that other entity; or

22 (D) an entity that operates the business or  
23 substantially all of the property of another enti-  
24 ty under a lease or operating agreement.

1           (2) CORPORATION.—The term “corporation”  
2       means—

3           (A) a joint-stock company;

4           (B) a company or partnership association  
5       organized under a law that makes only the cap-  
6       ital subscribed or callable up to a specified  
7       amount responsible for the debts of the associa-  
8       tion, including a limited partnership and a lim-  
9       ited liability company;

10          (C) a trust; or

11          (D) an association having a power or privi-  
12       lege that a private corporation, but not an indi-  
13       vidual or a partnership, possesses.

14          (3) COVERED FIRM.—The term “covered firm”  
15       means a for-profit corporation that owns or is an af-  
16       filiate of a health care entity.

17          (4) HEALTH CARE ENTITY.—The term “health  
18       care entity” means an entity that consists of 1 or  
19       more of the following health care providers:

20           (A) A hospital.

21           (B) A physician practice.

22           (C) A skilled nursing facility.

23           (D) A hospice facility.

24           (E) A mental or behavioral health care  
25       provider.

1 (F) An opioid treatment program.

2 (G) A provider of services (as defined in  
3 section 1861(u) of the Social Security Act (42  
4 U.S.C. 1395x(u)) or a supplier (as defined in  
5 section 1861(d) of such Act (42 U.S.C.  
6 1395(d)) enrolled in the Medicare program.

7 (H) Any other entity the Secretary deter-  
8 mines appropriate.

9 **SEC. 3. TREATMENT OF RENTS FROM QUALIFIED HEALTH**  
10 **CARE PROPERTY.**

11 (a) IN GENERAL.—Section 856(d)(2) of the Internal  
12 Revenue Code of 1986 is amended by striking “and” at  
13 the end of subparagraph (B), by striking the period and  
14 inserting “, and” at the end of subparagraph (C), and by  
15 adding at the end the following new subparagraph:

16 “(D) notwithstanding paragraphs (4), (6),  
17 and (8), any amount received or accrued di-  
18 rectly or indirectly from qualified health care  
19 property (as defined in subsection  
20 (e)(6)(D)(i)).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 856(d)(8)(B) of the Internal Rev-  
23 enue Code of 1986 is amended—

1 (A) by striking “or a qualified health care  
2 property (as defined in subsection  
3 (e)(6)(D)(i))”, and

4 (B) by striking “qualified health care prop-  
5 erty or”.

6 (2) Section 856(d)(9) of such Code is amend-  
7 ed—

8 (A) by striking “or a qualified health care  
9 property (as defined in subsection  
10 (e)(6)(D)(i))” in subparagraph (A),

11 (B) by striking “or qualified health care  
12 property” each place it appears in subpara-  
13 graph (A) and (B), and

14 (C) by striking “or qualified health care  
15 properties” in subparagraph (A).

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