

March 26, 2020

CARES Act to Expand the Scope of the Small Business Reorganization Act

Following Wednesday night's late-night Senate passage of the Coronavirus Aid, Relief and Economic Security (CARES Act), the bill was sent to the House of Representatives. The House will convene Friday morning at 9:00 a.m. to begin consideration of the CARES Act (H.R. 748).

The CARES Act expands earlier versions of two pieces of legislation to help individuals and businesses harmed by the COVID-19 pandemic.

Notably, within a proposed Section 1113 of the CARES Act, certain bankruptcy code provisions are set to be amended that deal with subchapter V (affecting small businesses), as well as individual Chapter 7 and 13 filers. According to the American Bankruptcy Institute (ABI), some of the key changes include the following, with the first bullet-point being particularly relevant to businesses that have \$7.5M or less of debt:

- Amending the Small Business Reorganization Act of 2019 (SBRA) to increase the eligibility threshold for businesses filing under new subchapter V of Chapter 11 of the U.S. Bankruptcy Code. The eligibility threshold will increase from \$2,725,625 of debt to \$7,500,000 for one year. The increased debt limit for struggling small businesses to access subchapter V reflects recommendations of ABI's Commission to Study the Reform of Chapter 11.
- Amending the definition of "income" in the Bankruptcy Code for chapters 7 and 13, to exclude coronavirus-related payments from the federal government from being treated as "income" for purposes of filing bankruptcy.
- Clarifying that the calculation of disposable income for purposes of confirming a Chapter 13 plan shall

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not include coronavirus-related payments.

- Explicitly permitting individuals and families currently in Chapter 13 to seek payment plan modifications if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their payments for up to seven years after their initial plan payment was due.

If you have questions about business bankruptcy matters or need guidance during this turbulent period, please contact Justin Mertz, John Finerty, or Joe Brydges.

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