

CARES Act Expands Bankruptcy Relief for Small Businesses

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The CARES Act increases the debt limit for Subchapter V eligibility to \$7,500,000. It is designed to offer an expedited reorganization process for small businesses and individuals who operate as a sole proprietorship.

COVID-19 may have a devastating impact on small businesses. The CARES Act may present an opportunity for businesses with debts that do not exceed \$7,500,000 to take advantage of a new provision of Chapter 11 known as Subchapter V.

Small businesses, and those who rely on them or extend credit to them have long been frustrated by the one-size-fits-all approach to business reorganization. The provisions of Chapter 11 are generally perceived to be too complicated, slow and expensive for small businesses. In 2005 mandatory changes were enacted for most businesses with less than \$2,725,625 in debt. However, those provisions generally have not accomplished the goal of providing small businesses a meaningful opportunity to utilize Chapter 11 to reorganize.

Last year a bipartisan coalition that included representatives of borrowers and lenders passed the Small Business Reorganization Act of 2019 ("SBRA"). It provides a voluntary, alternative process for small businesses. SBRA creates Subchapter V to permit small businesses an opportunity to restructure their obligations in a simplified, expedited process. Subchapter V eliminates many technical requirements of traditional Chapter 11 that have increased costs and litigation in favor of focus on a resolution that is fair and equitable to all parties.

Subchapter V became effective February 19, 2020. It was limited to business whose debts did not exceed \$2,725,625. However in response to the COVID-19 national emergency, for one year, the CARES Act increases the debt limitation of Subchapter V to \$7,500,000 permitting many more small businesses to take advantage of its provisions.