

BANKRUPTCY LEGAL UPDATE

President Donald J. Trump signed the “Small Business Reorganization Act of 2019” (SBRA; H.R. 3311) into law. The law will take effect in February 2020. A new subchapter V will be added to Chapter 11 of the Bankruptcy Code.

This new subchapter would provide small businesses (companies including sole proprietorships with non-contingent, liquidated debts in an amount **not greater than \$2,566,050**) with an opportunity to restructure their liabilities through a streamlined and cost effective Chapter 11 bankruptcy process. The SBRA also offers small business owners the opportunity to retain their ownership interest in the reorganized company. The SBRA is also favorable when compared to receivership proceedings or Assignments for the Benefit of Creditors, which are tools for liquidating a company.

Small businesses will be able to successfully emerge from bankruptcy with a Court-approved plan of reorganization that must be filed not later than 90 days of a bankruptcy filing. The benefits offered to businesses that file Chapter 11 bankruptcies, including a debtor’s ability to right-size its balance sheet, reduce liabilities, reject or restructure burdensome leases and executory contracts, renegotiate funded debt, and sell its assets, will now be available for smaller companies without having to incur the costs associated with larger Chapter 11 filings.



The Chapter 11 plan of reorganization must provide the following:

- All projected disposable income of the debtor to be received within a 3-5-year period (i.e., 3 years “or such longer period not to exceed 5 years as the court may fix”), beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan; or
- The value of property to be distributed under the 3-5-year plan, beginning on the date on which the first distribution is due, is not less than the projected disposable income of the debtor.

A “standing trustee” will be appointed and will remain throughout the payment period set forth in a confirmed Chapter 11 plan to account for all of the property received by the debtor, examine and object to the allowance of claims, review the debtor’s financial condition and business operations, report fraud or misconduct, appear at hearings, prepare a final report and account, help facilitate a plan of reorganization, distribute property in accordance with a confirmed plan, and ensure a debtor’s compliance with the confirmed plan. The Chapter 11 trustee’s role is similar to that of a Chapter 13 trustee applicable to individual debtors.

We will be incorporating new Subchapter V of Chapter 11 training into our client training presentation and also looking into hosting a webinar. Please contact us and let us know if you are interested in onsite training and/or participating in a webinar.

To schedule training or for any questions:

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