

LEGAL UPDATES

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# New Legislation Likely to Spur Increase in Bankruptcy Filings

On August 23, President Trump signed into law two new pieces of legislation—the Family Farmer Relief Act of 2019 and the Small Business Reorganization Act of 2019—that will likely lead to an increase in bankruptcy filings from both small businesses and family farm operators. Lenders and trade creditors with exposure to these enterprises need to be aware of the changes in the law and take precautionary measures by reassessing risk and heightening their vigilance.

## Family Farmer Relief Act of 2019

The Family Farmer Relief Act of 2019 raises the family farmer debt limit to \$10 million for Chapter 12 bankruptcy filings. This is significant because the old debt limit of \$4,411,400 had limited the availability of Chapter 12 for many family farmers due to their carrying debt in excess of the statutory limit.

Creditors of larger family farm operators now need to consider the practical impact of potential Chapter 12 filings, because they differ quite substantially from traditional Chapter 11 filings. Chapter 12—created in 1986 to assist family farmers—is much more akin to Chapter 13 proceedings for consumers. Chapter 12 allows family farmers to restructure their debt. Unlike a Chapter 11 process which requires a disclosure statement and voting by classes on a proposed plan, Chapter 12 is more streamlined. This faster process presents special challenges, and the new legislation makes Chapter 12 an option for more family farmers who were formerly ineligible for Chapter 12.

## Small Business Reorganization Act of 2019

The Small Business Reorganization Act of 2019 creates a new sub-part of

Chapter 11 under which small business debtors can reorganize using simplified and expedited procedures that make it easier for small business debtors to confirm a plan. The law goes into effect 180 days after signing.

The law defines a “small business” as either a company or an individual that has total non-contingent secured and unsecured debts of less than \$2,725,625 (this limit remains unchanged by the new amendments). Under the new amendments, a small business bankruptcy proceeding will now be more akin to Chapter 13 consumer bankruptcy proceedings.

### **What You Need to Know**

These changes in the law are anticipated to result in an increase in family farm and small-business bankruptcy filings by expanding the pool of eligible enterprises that qualify for expedited and less expensive bankruptcy. Lenders and trade creditors alike need to assess their exposures and risk in light of these changes.

If you have a question about the newly raised debt limit for Chapter 12 bankruptcy filings or the new Chapter 11 process for small businesses, contact Gary Barnes, Michael Fielding or your Husch Blackwell attorney.